

7/15/77

33745

LAND SALE CONTRACT

ORIGINAL
Vol. ^m77 Page 14322
Highway Division
File 26080

THIS AGREEMENT, made and entered into this 3 day of August, 1977, by and between the STATE OF OREGON, by and through its DEPARTMENT OF TRANSPORTATION, Highway Division, hereinafter referred to as "State", and EDWARD G. HODGES and SANDRA J. HODGES, husband and wife, hereinafter referred to as "Purchasers".

WITNESSETH:

That State, for the consideration hereinafter mentioned, covenants and agrees to and with Purchasers to sell and convey unto Purchasers and Purchasers agree to purchase from State, the following described real property, to wit:

A parcel of land lying in Block 7, RIVERVIEW, Klamath County, Oregon and being a portion of that property described in that deed to the State of Oregon, by and through its State Highway Commission, recorded in Book 291, Page 444 of Klamath County Record of Deeds; the said parcel being that portion of said property lying Westerly of a line parallel with and 170 feet Westerly of the center line of the relocated The Dalles - California Highway, which center line is described in said deed.

The parcel of land to which this description applies contains 0.57 acre, more or less.

The above described property shall hereafter be referred to as "premises".

1. PAYMENTS. Purchasers agree to pay State therefor the sum of One Thousand Six Hundred and No/100 DOLLARS (\$1,600.00) payable as follows:

a. Three Hundred Twenty and No/100 DOLLARS (\$320.00) as the down payment, receipt of which is acknowledged, and

b. The balance of One Thousand Two Hundred Eighty and No/100 DOLLARS (\$1,280.00) to be paid in installments of not less than Fifty-eight and 77/100 DOLLARS (\$58.77) per month, which includes interest at the rate of 9½ percent per annum on the unpaid balance of the purchase price and subsequent tax advances, said monthly payments to commence on the 1st day of the month following the execution of this contract by

both parties, and continue monthly thereafter on the 1st day of each following month until the full amount of said principal and all tax and other advances, including all interest thereon, is paid.

2. UNPAID BALANCE. Purchasers may pay all or any part of the balance due on this contract at any time prior to the time herein specified and required.

3. IMPROVEMENTS. All buildings and improvements hereafter placed upon premises shall be kept in good repair by Purchasers and not be removed prior to final payment under this contract.

4. TAXES. State will pay all real property taxes assessed against premises and improvements thereon becoming due and payable after the date of this contract, as said real property taxes become due, or in advance of the due date thereof and add said taxes to the principal balance due on the purchase price of premises. The amount of the monthly payments under this contract will be adjusted on January 1, 1978 and on January 1st of each year thereafter to reflect the amount of the annual real property taxes assessed against premises and improvements thereon.

Except for the real property taxes as above provided herein, Purchasers agree to regularly and seasonably pay all other liens, assessments and charges, including local improvement assessments, which are or may be hereafter lawfully imposed or which constitute or will constitute liens or encumbrances against premises. Should Purchasers fail or refuse to pay and discharge any of the above-mentioned liens, assessments or charges prior to the time they are to become delinquent, State, at its option, may pay the same and add the amount expended to the balance of the purchase price.

5. DEED. In case Purchasers, their legal representative or assigns, shall pay the several sums of money aforesaid, punctually and at the time above specified, and

shall strictly and literally perform all and singular the agreements and stipulations aforesaid, according to the time, intent, and tenor thereof, then State will give unto Purchasers, their heirs or assigns, upon request and upon surrender of this contract, a bargain and sale deed of conveyance conveying premises.

6. RESTRICTION. The property sold shall be subject to the following conditions, restrictions and reservations and the deed of conveyance shall contain the following provisions with regards thereto:

"This conveyance is made upon the following conditions, restrictions and reservations:

"1. That there is reserved to Grantor, its successors, and assigns, all minerals, as defined in ORS 273.775(1), and all geothermal resources, as defined in ORS 273.775(2), together with the right to make such use of the surface as may be reasonably necessary for prospecting for, exploring for, mining, extracting, reinjecting, storing, drilling for and removing such minerals and geothermal resources; provided, however, that the rights hereby reserved to use the surface for any of the activities shall be subordinate to that use of the surface of the premises deeded herein, or any part thereof, being made by the owner thereof on the date the State of Oregon leases its reserved minerals or geothermal resources; in the event such use of the premises by a surface rights owner would be damaged by one of the activities described above, then such owner shall be entitled to compensation from the State's lessee to the extent of the diminution in value of the surface rights owner's interest."

"2. That there is reserved to Grantor, and waived by Grantees, all access rights between the above described real property and the right of way of the The Dalles - California Highway abutting on said parcel, which public highway is further identified as State Highway No. 4. This reservation shall run with the land and shall not be subject to modification, cancellation or destruction by adverse user or estoppel, no matter how long continued. Nothing in this conveyance contained shall be construed as conveying any estate, right, title or interest in and to said public highway right of way or any rights of reversion therein or thereto.

Grantees, their heirs and assigns, shall have access to the frontage road on the Westerly side of said highway for any lawful purpose upon obtaining a permit from Grantor under applicable statutes and regulations governing same.

"3. a. That the above described land shall never be used for the placing or maintenance of any advertising sign, display or device, except such sign, display or device used to advertise the activities on said land, or the lease of said land or any portion thereof. In the event of violation of this condition, Grantor shall have the right, through its authorized officers, agents or employees to enter upon said land and remove, destroy or obliterate any unauthorized sign, display or device, without liability for damage or injury thereto, and to recover the cost of such removal, destruction or obliteration from the owner of said land.

b. That no junk, scrap, junked motor vehicles or parts thereof, debris, trash, waste or other such materials shall be placed on said land for whatever purpose in any manner so as to be visible from a state highway, provided that such items as listed above can otherwise be placed on said land without violating any applicable law, ordinance or regulation. In the event of violation of this condition, Grantor shall have the right, through its authorized officers, agents or employees to enter upon said land and remove or destroy any unauthorized junk, scrap or other material mentioned above and recover the cost of such removal or destruction from the owner of said land.

c. This property shall not be used for the operation of any garbage dump or sanitary land fill. If such use is made of the property, Grantor may, at its election, upon 30 days written notice to Grantees, declare this deed to be forfeited and thereupon all right, title and interest herein granted shall revert to and vest in Grantor, without necessity of re-entry by Grantor.

The rights and remedies herein reserved or provided shall not be exclusive and shall not be in derogation of any other right or remedy which Grantor may have. The restrictions, rights, and conditions herein contained shall run with said land and shall forever bind Grantees, their heirs, successors, and assigns. Where any action is taken to enforce the above mentioned conditions, Grantor shall not be liable for any trespass or conversion as to any real or personal property.

"4. That this conveyance is made upon the further condition, which shall constitute a covenant running with the land, that Grantor shall not at any time become liable to Grantees, their heirs, assigns or successors in interest for damages to land herein described or any buildings, structures, improvements or property of any kind or character now or hereafter located upon said land or for any injuries to any owner, occupant or any person in or upon said land or for any interference with the use and enjoyment of said land or for damages which except for this covenant might constitute a nuisance caused directly or indirectly by noise or air pollutant emissions from transportation vehicles using the highway or transportation facility adjacent to said land. Any reference in this covenant to the highway or transportation facility adjacent to said land refers to the highway or transportation facility as it now exists and also as it will exist with future improvements.

Grantees for themselves and for those who may hold title to any of said land under or through them, hereby covenant not to sue Grantor for any of said injuries or damages.

It is understood that the conditions, restrictions, covenants and reservations herein set out have been considered in determining the amount of consideration of this conveyance."

7. ASSIGNMENT. Purchasers shall not sell, assign, or transfer this contract unless the written consent of State is first obtained. In case such sale, assignment, or transfer is so authorized by State, the assignees thereof shall be entitled to

all the rights and privileges and shall be under all the obligations and duties of Purchasers as specified herein.

8. DEFAULTS. Time and the prompt and punctual payment of all sums payable hereunder, and the exact performance and observance of each and all of the agreements and provisions herein contained, are in each and every case of the essence of this contract.

If Purchasers shall fail to pay, when the same becomes due as herein provided, any installment specified herein, or shall become delinquent in the payment of said installments or any of them or in the payment of any assessments levied or assessed or becoming payable against premises, or shall fail to keep premises free from liens and encumbrances accruing after this date, or shall otherwise fail to keep and perform the agreements herein, State may at its option, terminate this contract by giving Purchasers thirty (30) days notice in writing of its intentions to do so, and upon the expiration of said thirty (30) day period and the continued default in any covenant or condition by Purchasers during such period, then State may, without tender of performance, or suit or action, declare this contract null and void, and all the rights of Purchasers in said contract and all their estate, equity, interest, or right of possession in premises shall cease and terminate, and all payments made by Purchasers to State, whether on principal or interest, or for taxes, liens or assessments, and including any and all buildings and improvements upon premises, shall be forfeited to State the same being considered liquidated damages for the non-performance of this contract, and State shall have the right of immediate possession of premises without the necessity of court action; or State may elect to consider this contract existing, and, in case of a continued default by Purchasers for a period of thirty (30) days after notice to Purchasers calling attention to

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such default, State may declare the whole of the unpaid purchase price, together with all accrued interest, immediately due and payable. In the event any suit or action is brought by State to enforce the collection of the said unpaid purchase price and interest, or to obtain possession of premises in the event Purchasers fail to surrender the same peaceably on default or for the collection of any unpaid installment or installments, Purchasers agree to pay such reasonable attorney's fees as the court may allow to State.

Whenever the word "Purchasers" is used herein the same shall be deemed to include Purchasers, their heirs, administrators, executors, personal representatives, successors or assigns.

The real property hereinabove described is no longer needed or required by State for highway, scenic or park purposes.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures the day and year first above written.

Edward G. Hodges
Edward G. Hodges
Sandra J. Hodges
Sandra J. Hodges

STATE OF OREGON, by and through its
DEPARTMENT OF TRANSPORTATION,
Highway Division

APPROVED AS TO FORM:

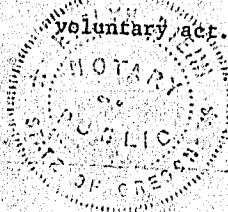
James L. Loefer
Asst. Attorney General and Counsel

By *B. Boyd*
B. Boyd, Right of Way Engineer
8/3/77

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STATE OF OREGON, County of Klamath

July 29, 1977. Personally appeared the above named Edward G. Hodges and Sandra J. Hodges, who acknowledged the foregoing instrument to be their voluntary act. Before me:

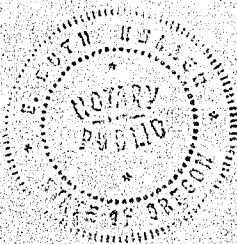


Paula Baker
Notary Public for Oregon

My Commission expires 9-18-79

STATE OF OREGON, County of Marion

August 3, 1977. Personally appeared J. B. Boyd, who being sworn, stated that he is the Right of Way Engineer for the State of Oregon, Department of Transportation, Highway Division, and this document was voluntarily signed on behalf of the State of Oregon, by authority delegated to him. Before me:



E. Ruth Keller
Notary Public for Oregon

My Commission expires Feb. 8, 1977

STATE OF OREGON; COUNTY OF KLAMATH; ss.
Filed for record at request of STATE OF OREGON HIGHWAY DIVISION
this 2th day of AUGUST 8:48 A. D. 1977 at 8:48 o'clock A.M. and
duly recorded in Vol. M77, of DEEDS on Page 14322

FEE \$ 21.00

W. D. MILNE, County Clerk
Hazel Brazil

dk/s