

38169

THIS CONTRACT, Made this 17th day of October, 1977, between Robert E. Benjamin and Ruby E. Benjamin, husband and wife, hereinafter called the seller, and William H. Dungan and Bette Dungan, husband and wife, hereinafter called the buyer,

WITNESSETH: That in consideration of the mutual covenants and agreements herein contained, the seller agrees to sell unto the buyer and the buyer agrees to purchase from the seller all of the following described lands and premises situated in Klamath County, State of Oregon, to-wit:

**PARCEL 1**

A portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 35, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point 30 feet North and 20 feet East of the Southwest corner of said Section 35; thence North and parallel with the West line of said Section, 148 feet; thence East and parallel with the South line of said Section, 90.5 feet; thence South and parallel with the West line of said Section, 148 feet, to a point on the North right of way line of Shasta Way; thence West parallel to and 30 feet North of the South line of said Section, 90.5 feet, more or less, to the Point of Beginning.

**PARCEL 2**

A portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 35, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point 30 feet North and 112.5 feet East of the Southwest corner of said Section 35; thence North and parallel with the West line of (for continuation of this contract see reverse side of this document)

for the sum of Fifty-five thousand and 00/100th - - - - Dollars (\$55,000.00) (hereinafter called the purchase price), on account of which Twelve thousand and 00/100th - - - - Dollars (\$12,000.00) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller); the buyer agrees to pay the remainder of said purchase price (to-wit: \$43,000.00) to the order of the seller in monthly payments of not less than Four hundred and 00/100th - - - - Dollars (\$400.00) each, or more, prepayment without penalty.

payable on the 1st day of each month hereafter beginning with the month of December, 1977, and continuing until said purchase price is fully paid. All of said purchase price may be paid at any time; all deferred balances of said purchase price shall bear interest at the rate of 8% per cent per annum from November 1, 1977 until paid, interest to be paid monthly and \* ~~being included in~~ the minimum monthly payments above required. Taxes on said premises for the current tax year shall be prorated between the parties hereto as of the date of this contract.

The buyer warrants to and covenants with the seller that the real property described in this contract is

\* (A) primarily for buyer's personal, family, household or agricultural purposes.

The buyer shall be entitled to possession of said lands on 19 77, and may retain such possession so long as he is not in default under the terms of this contract. The buyer agrees that at all times he will keep the buildings on said premises, now or hereafter erected, in good condition and repair and will not suffer or permit any waste or strip thereof; that he will keep said premises free from mechanic's and all other liens and save the seller harmless therefrom and reimburse seller for all costs and attorney's fees incurred by him in defending against any such liens; that he will pay all taxes hereafter levied against said property, as well as all water rents, public charges and municipal liens which hereafter lawfully may be imposed upon said premises, all promptly before the same or any part thereof become past due; that at buyer's expense, he will insure and keep insured all buildings now or hereafter erected on said premises against loss or damage by fire (with extended coverage) in an amount

not less than \$ full insurable value. In compliance with the provisions of the Uniform Fidelity Guaranty Act, the seller, with loss payable first to the seller and then to the buyer as their respective interests may appear and all policies of insurance to be delivered to the seller as soon as insured. Now if the buyer shall fail to pay any such liens, water rents, taxes, or charges or to procure and pay for such insurance, the seller may, to and any payment so made shall be added to and become a part of the debt secured by this contract and shall bear interest at the rate aforesaid, without waiver, however, of any right arising to the seller for buyer's breach of contract.

The seller agrees that at his expense and within 30 days from the date hereof, he will furnish unto buyer a title insurance policy insuring (in an amount equal to said purchase price) marketable title in and to said premises in the seller on or subsequent to the date of this agreement, save and except the usual printed exceptions and the building and other restrictions and easements now of record, if any. Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement, he will deliver a good and sufficient deed conveying said premises free and clear unto the buyer, his heirs and assigns, free and clear of encumbrances as of the date hereof and free and clear of all encumbrances since said date placed, permitted or arising by, through or under seller, excepting, however, the said easements and restrictions and the taxes, municipal liens, water rents and public charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer or his assigns.

(Continued on reverse)

IMPORTANT NOTICE: Delete, by lining out, whichever phrase and whichever warranty (A) or (B) is not applicable. If warranty (A) is applicable and if the seller is a creditor, as such word is defined in the Truth-in-Lending Act and Regulation Z, the seller MUST comply with the Act and Regulation by making required disclosures for this purpose, use Stevens-Ness Form No. 1306 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens-Ness Form No. 1307 or similar.

BENJAMIN

SELLER'S NAME AND ADDRESS

William H. Dungan  
Bette Dungan

BUYER'S NAME AND ADDRESS

MOUNTAIN TITLE COMPANY So. 6th St.

NAME, ADDRESS, ZIP

Until a change is requested all tax statements shall be sent to the following address:

Mr. and Mrs. William H. Dungan

10829 Owens Place

Tunjunga, California 91402

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of

I certify that the within instrument was received for record on the

day of 19

at o'clock M., and recorded

in book on page or as

file/reel number

Record of Deeds of said county.

Witness my hand and seal of

County affixed.

By Recording Officer

Deputy



And it is understood and agreed between said parties that time is of the essence of this contract, and in case the buyer shall fail to make the payments above required, or any of them, punctually within the time limited hereunder, or fail to keep any agreement herein contained, then the seller at his option shall have the following rights: (1) to declare this contract null and void; (2) to declare the whole unpaid principal balance of the purchase price with the interest thereon at once due and payable and/or (3) to foreclose this contract by suit in equity, and in any of such cases, the seller shall retain the right to sell the premises described and all other rights acquired by the seller hereunder shall survive and be binding upon the buyer and his heirs, assigns and assigns without any act of re-entry, or any other act of said seller to be performed and without any right of the buyer of return, reclamation or compensation for moneys paid on account of the purchase of said property as absolutely, fully and perfectly as if this contract and such payments had never been made; and in case of such default all payments theretofore made on this contract are to be retained by and belong to said seller as the agreed and reasonable rent of said premises up to the time of such default. And the said seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all the improvements and appurtenances thereon or thereto belonging.

The buyer further agrees that failure by the seller at any time to require performance by the buyer of any provision hereof shall in no way affect his right hereunder to enforce the same, nor shall any waiver by said seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself.

State of Oregon, County of Klamath

October 31, 1977

Personally appeared Robert E. Benjamin and Ruby E. Benjamin, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

My commission expires: 7/19/78

Notary Public for Oregon

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$55,000.00. In case suit or action is instituted to foreclose this contract or to enforce any of the provisions hereof, the buyer agrees to pay such sum as the court may adjudge reasonable as attorney's fees to be allowed plaintiff in said suit or action and if an appeal is taken from any judgment or decree of the trial court, the buyer further promises to pay such sum as the appellate court shall adjudge reasonable as plaintiff's attorney's fees on such appeal. In construing this contract, it is understood that the seller or the buyer may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

IN WITNESS WHEREOF, said parties have executed this instrument in duplicate; if either of the undersigned is a corporation, it has caused its corporate name to be signed and its corporate seal affixed hereto by its officers duly authorized thereunto by order of its board of directors.

Robert E. Benjamin  
Ruby E. Benjamin  
Ruby E. Benjamin

William H. Dungan  
Bette Dungan

STATE OF CALIFORNIA

COUNTY OF Los Angeles

On Oct. 17, 1977

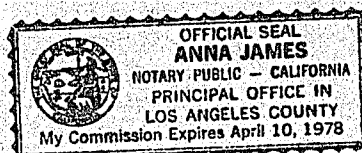
SS.

before me,  
the undersigned, a Notary Public in and for said County and State,  
personally appeared William H. Dungan and  
Bette Dungan

known to me  
to be the person whose names are subscribed to the  
within instrument and acknowledged that I executed the  
same.

Anna James

FOR NOTARY SEAL OR STAMP



(DESCRIPTION CONTINUED)

said Section, 148 feet; thence East and parallel with the South line of said Section, 110.5 feet; thence South and parallel with the West line of said Section 148 feet; thence West and parallel to and 30 feet North of South line of said Section, 110.5 feet, more or less, to the Point of Beginning. EXCEPTING THEREFROM the Easterly 60 Feet thereof.

Subject, however, to the following:

1. Taxes for the fiscal year 1977-78, a lien but not yet due and payable.
2. The premises herein described are within and subject to the statutory powers, including the power of assessment, of Enterprise Irrigation District.
3. The premises herein described are within and subject to the statutory powers, including the power of assessment, of South Suburban Sanitary District.
4. Rights of the public in and to any portion of the herein described premises lying within the limits of Shasta Way and Summers Lane.
5. Right-of-way, as contained in deed from Joseph Kraus, recorded June 3, 1938 in Volume 116, page 53, Deed Records of Klamath County, Oregon, which recites as follows:

"Save and except a right-of-way for existing irrigation ditches now on said premises."

6. Subject to the requirements and provisions of ORS Chapter 481 pertaining to the registration and transfer of ownership of a Mobile Home, and any interest or liens disclosed thereby.
7. Unrecorded Contract of Sale dated May 22, 1973, by and between Katherine Rawlins, Seller, and Robert E. Benjamin, Buyer, which contract Buyers herein do not assume and agree to pay, and Sellers further covenant to and with Buyers that the said prior contract shall be paid in full prior to, or at the time this contract is fully paid and that said above described real property will be released from the lien of said contract upon payment of this contract.