

44491

CONTRACT—REAL ESTATE

Vol. <sup>m</sup> 78 Page 4631

THIS CONTRACT, Made this 3rd day of March, 19 78, between  
 Joseph W. Mercer and Beryl Lillian Mercer, husband  
 and wife  
 and Victor L. Alexander and Andrea L. Alexander, hereinafter called the seller,  
 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 de-  
 scribed lands and premises situated in Klamath County, State of Oregon, to-wit:  
 Lot 9, Block 303, DARROW ADDITION TO THE CITY OF KLAMATH FALLS, in the  
 County of Klamath, State of Oregon.

Subject, however, to the following:

1. Regulations, including levies, liens and utility assessments of the  
 City of Klamath Falls.

2. Covenants, easements and restrictions, but omitting restrictions,  
 if any, based on race, color, religion or national origin, imposed  
 by instrument, including the terms thereof,

Recorded : July 20, 1926 Book: 72 Page: 172

3. Mortgage, including the terms and provisions thereof, with  
 interest thereon and such future advances as may be provided therein,  
 given to secure the payment of \$15,000.00

Dated : August 4, 1959

Recorded : August 5, 1959 Book: 191 Page: 661

Mortgagor : Andrew A. Silani and Alice E. Silani, husband  
 and wife

Mortgagee : First Federal Savings and Loan Association of

(for continuation of this document see reverse side of this contract)

for the sum of Forty-Four Thousand and No/100ths-----Dollars (\$ 44,000.00 )  
 (hereinafter called the purchase price), on account of which Six Thousand Eight Hundred  
 Dollars (\$ 6,800.00 ) 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: \$ 37,200.00 ) to the order  
 of the seller in monthly payments of not less than THREE HUNDRED TWELVE and No/100THS  
 Dollars (\$ 312.00 ) each, or more, prepayment without penalty,

payable on the 15th day of each month hereafter beginning with the month of April, 1978.,  
 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 9% per cent per annum from  
March 15th, 1978, 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 pro-  
 rated 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,

(B) for an organization or event if buyer is a natural person for business or commercial purposes other than agricultural purposes.

The buyer shall be entitled to possession of said lands on March 15, 19 78, 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 here-  
 after 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  
 full insurable value

not less than \$ \_\_\_\_\_ in a company or companies satisfactory to 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, costs, water rents, taxes, or charges or to procure and pay for such insurance, the seller may do so 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 insur-  
 ing (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 in fee simple 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. 1308 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.

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

TIA

NAME, ADDRESS, ZIP

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

Klamath First Federal  
 540 Main  
 Klamath Falls

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of \_\_\_\_\_

I certify that the within instru-  
 ment 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 20 days of the time limited therefor, 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 said purchase price with the interest thereon at once due and payable, (3) to withdraw said deed and other documents from escrow and/or (4) to foreclose this contract by suit in equity, and in any of such cases, all rights and interests created or then existing in favor of the buyer as against the seller hereunder shall utterly cease and terminate and the right to the possession of the premises above described and all other rights acquired by 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 made on this contract are to be retained by and belong to the seller, and the seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon the 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.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$44,000.00. However, the actual consideration consideration includes other property or value given or promised which is the actual consideration indicated which is the sum as the trial court may adjudge reasonable as attorney's fees to be allowed the prevailing party in said suit or action and if an appeal is taken from any judgment or decree of such trial court, the losing party further promises to pay such sum as the appellate court shall adjudge reasonable as the prevailing party'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 or a corporation; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine 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 triplicate; 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.

*Joseph W. Mercer*  
*Beryl Lillian Mercer*  
*Victor L. Alexander*  
*Andrea L. Alexander*

STATE OF OREGON, County of Klamath, ss. STATE OF OREGON, County of \_\_\_\_\_, ss.  
March 3, 1978

Personally appeared the above named \_\_\_\_\_ and \_\_\_\_\_ who, being duly sworn, each for himself and not one for the other, did say that the former is the \_\_\_\_\_ president and that the latter is the \_\_\_\_\_ secretary of \_\_\_\_\_, a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me: *Martha L. Lohs*  
(OFFICIAL SEAL)  
Notary Public for Oregon  
My commission expires 7-21-81

Before me: \_\_\_\_\_  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_ (SEAL)

ORS 93.635 (1) All instruments contracting to convey fee title to any real property, at a time more than 12 months from the date that the instrument is executed and the parties are bound, shall be acknowledged, in the manner provided for acknowledgment of deeds, by the conveyor of the title to be conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyor not later than 15 days after the instrument is executed and the parties are bound thereby.

ORS 93.990(3) Violation of ORS 93.635 is punishable, upon conviction, by a fine of not more than \$100.

(DESCRIPTION CONTINUED)

herein do not assume and agree to pay, and Sellers further covenant to and with Buyers that the said prior mortgage 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 mortgage upon payment of this contract.

4. Mortgage, including the terms and provisions thereof, with interest thereon and such future advances as may be provided therein, given to secure the payment of \$15,074.38.

Dated: April 3, 1974  
Recorded: April 16, 1974 Book: M-74 Page: 4701  
Mortgagor: Joseph W. Mercer  
Mortgagee: Inez W. Hunter

and agree to pay, and Sellers further covenant to and with Buyers that the said prior mortgage 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 mortgage upon payment of this contract.

It is understood and agreed by the parties hereto that the property taxes are included in the monthly payments.

It is further understood and agreed by the parties hereto that if the taxes increase the monthly payments are to be adjusted accordingly.

It is further understood and agreed that the taxes will be paid by Sellers on Buyers' behalf as they become due and the escrow agent is authorized to add the taxes back to the balance of the Contract upon presentation of paid receipt to the escrow holder. Said amounts so added to bear interest at the rate provided herein.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 13th day of March A.D., 1978 at 10:58 o'clock A M., and duly recorded in Vol. M78 of Deeds on Page 4691.

FEE \$6.00

WM. D. MILNE, County Clerk  
By *Burnel* Deputy