

1-1-74

44533

CONTRACT—REAL ESTATE

Vol. 18 Page 4761

THIS CONTRACT, Made this 13th day of March, 19 78, between
Ray A. Dunn, Personal Representative of the Estate of Carroll
Eugene Dunn R.A.D. of R.A.D., hereinafter called the seller,
and Terry L. Small, Sharon L. Small and Miracle Builders, Co.,
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: The SE $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 9, Township 39 South, Range 10 East of the Willamette Meridian, in the County of Klamath, State of Oregon, EXCEPTING THEREFROM the following described parcels of land:

- 1) That portion conveyed to Terry L. Small and Sharon L. Small by Deed recorded February 6, 1974 in Book M-74 at page 1267, Microfilm Records.
- 2) That portion conveyed to D. L. Eayrs and Joan K. Eayrs by Deed recorded August 27, 1973 in Book M-73 at page 11545, Microfilm Records.
3. That portion conveyed to Loyd K. Throp and Linda Throp by Deed recorded March 23, 1976 in Book M-76 at page 4147, Microfilm Records.
4. That portion conveyed to Buster R. Newlun by Deed recorded April 20, 1972 in Book M-72 at page 4180, Microfilm Records.

Subject, however, to the following:

1. Regulations, including levies, liens and utility assessments of the City of Klamath Falls.
2. The rights of the public in and to that portion of the above

property lying within the limits of roads and highways.
(for continuation of this document see reverse side of this document)

for the sum of Eighty-Three Thousand and No/100ths Dollars (\$ 83,000.00)
(hereinafter called the purchase price) on account of which Twenty-one Thousand and No/100ths Dollars (\$ 21,000.00) is paid on the execution hereof (the receipt of which is

hereby acknowledged by the seller), and the remainder to be paid to the order of the seller at the times and in amounts as follows, to-wit: Sixty-Two Thousand and No/100ths (\$62,000.00) Dollars shall be paid in equal annual installments of Fifteen Thousand Four Hundred Forty-Five and 36/100ths (\$15,445.36) Dollars, or more, the first installment being due and payable on the 13th day of March, 1979, and a like installment being due and payable on the 13th day of March of each year thereafter until the whole of the balance of the purchase price is fully paid.
There is no prepayment penalty.

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 (even if buyer is a natural person) is for business or commercial purposes other than agricultural purposes.

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 13, 1978, until paid, interest to be paid annually and being included in the minimum regular 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 shall be entitled to possession of said lands on closing 1978, and may retain said 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 \$15,000.00 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 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 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.

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 aforesaid.

Recording Officer

By _____ Deputy

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

TIA
Attn: Marlene

NAME, ADDRESS, ZIP

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

Miracle Builders, Inc.
Box 121
Maddox,

NAME, ADDRESS, ZIP

96058

SPACE RESERVED
FOR
RECORDER'S USE

778 MAR 13 PM 3 28

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 ten 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 and/or; (3) to foreclose this contract by suit in equity, and in any of such cases, possession of the premises above described and all other rights acquired by the buyer hereunder shall revert to and remain in said seller 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 such breach or of any other breach of any provision hereof.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$83,000.00. However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration (indicate which) (1)

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 judge 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 judge 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, 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 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. **Miracle Builders Co.**

By Patrick J. Robinson (Pres)

Ray A. Dunn
Ray A. Dunn - Personal
Representative of the Estate of Carroll
Eugene Dunn, deceased.

Terry L. Small

Sharon L. Small

NOTE—The sentence between the symbols (1), if not applicable, should be deleted. See ORS 93.030.

STATE OF OREGON, ss. STATE OF OREGON, County of _____, ss.

County of Klamath

March 13, 19 77

Personally appeared _____

and

Personally appeared the above named _____

each for himself and not one for the other, did say that the former is the

president and that the latter is the

Ray A. Dunn, Terry L. Small

and Sharon L. Small

secretary of _____

and acknowledged the foregoing instrument to be their voluntary act and deed.

_____ 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:

(OFFICIAL SEAL)

Patrick J. Robinson

Notary Public for Oregon

My commission expires 3-22-81

Notary Public for Oregon

My commission expires _____

(OFFICIAL SEAL)

(DESCRIPTION CONTINUED)

(for continuation of this document see attached Exhibit "A" and by this reference incorporated herein)

STATE OF OREGON,

County of Klamath

FORM NO. 23 — ACKNOWLEDGMENT
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

BE IT REMEMBERED, That on this 13th day of March, 19 78, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Patrick J. Robinson and Rodney Leo Allen, who are the President and Secretary, respectively, of MIRACLE BUILDERS, INC., and have acknowledged and signed this instrument for said corporation known to me to be the identical individuals described in and who executed the within instrument and acknowledged to me that the y executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Patrick J. Robinson
Notary Public for Oregon
My Commission expires 3-22-81

3. An easement created by instrument, including the terms and provisions thereof,

Dated : June 23, 1942
 Recorded : August 1, 1942 Book: 149 Page: 42
 In favor of : Pacific Telephone and Telegraph Co.
 For : Pole line over the SE $\frac{1}{4}$ NW $\frac{1}{4}$.

4. An easement created by instrument, including the terms and provisions thereof,

Dated : July 15, 1958
 Recorded : July 23, 1958 Book: 301 Page 222
 In favor of : California Oregon Power Company
 For : Right of way over E $\frac{1}{4}$ NW $\frac{1}{4}$

5. An easement created by instrument, including the terms and provisions thereof,

Dated : June 10, 1960
 Recorded : June 24, 1960 Book: 322 Page 250
 In favor of : The California Oregon Power Company
 For : Right of way over E $\frac{1}{4}$ NW $\frac{1}{4}$

6. An easement created by instrument, including the terms and provisions thereof,

Dated : March 16, 1977
 Recorded : March 16, 1977 Book: M-77 Page 4490
 In favor of : General public
 For : 30 foot road easement.

Deed Releases

It is agreed by and between the parties hereto that Buyers may, from time to time and prior to payment in full of all sums due hereunder, sell portions of the property hereinabove described and may, in order to consummate such sale, require partial fulfillment deeds to the portions so sold. Seller agrees to release five (5) lots to Buyers on subdivision plat approval. Additional lots to be released for the sum of \$4,000 per lot. The \$4,000 per lot shall apply toward the annual payment required by the terms of this Contract. It is further agreed that in the event only the annual payment is made by Buyers that one-fifth of the remaining lots will be released.

It is further hereby agreed by and between the parties hereto that access, acceptable to Sellers, to any remaining portion of the property shall remain directly to a public street or roadway so that the security of Sellers in such remaining portion of the property is not adversely affected.

All cost of such partial fulfillment deeds and any expenses of engineering, survey and attorney's fees incident thereto shall be paid by Buyers.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Transamerica Title Co.

this 13th day of March A. D. 19 78 at 3:28 o'clock P. M., or

fully recorded in Vol. M78, of Deeds on Page 4761

Wm D. MILNE, County Clerk

By Suzanne A. Helich

Fee \$9.00