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CONTRACT—REAL ESTATE

Vol. 17 Page 4691

THIS CONTRACT Made this 3rd day of March, 1978, between Joseph W. Mercer and Beryl Lillian Mercer, husband and wife, and Victor L. Alexander and Andrea L. Alexander, hereinafter called the seller, and 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, 000.

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, with

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 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 Klamath Falls, a Federal corporation, and Buyers

(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, and 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, and (B) not primarily for business or commercial purposes other than agricultural purposes.

The buyer shall be entitled to possession of said lands on March 15, 1978, 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 cause the same to be kept so.

He will also keep the same free from all liens, taxes, charges and encumbrances, and will cause the same to be kept so. He will also keep the same free from all liens, taxes, charges and encumbrances, and will cause the same to be kept so.

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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 set forth, or any of them, punctually within 20 days of the time limited therefor, or fail to declare the whole unpaid principal balance of said purchase price with interest thereon at once due and payable, (1) to declare this contract null and void, (2) to declare the whole unpaid principal balance of said purchase price with interest thereon at once due and payable, (3) to withdraw said deed and other documents from escrow, and (4) to foreclose this contract by suit in equity, and in any of such cases, all rights and interest created or then existing in favor of the buyer as against the seller hereunder shall utterly cease and determine 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 in case of such default of said payments therefor made on this contract are to be released by the seller as if the contract and such payments had never been made; and in the event of such default, the said seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon and take possession of the premises, without any process of law, and take immediate possession thereof, together with all the improvements and appurtenances thereon or thereon belonging.

The buyer further agrees that failure by the seller at any time to perform 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 of any breach of the provisions hereof.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$44,000.00. However, the actual consideration paid for this transfer is property or value given or promised which is the consideration claimed by the seller.

In case suit or action is instituted to foreclose this contract or to enforce any provision hereof, the losing party in said suit or action agrees to pay such 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 may be more than one person or a corporation; that if the contract 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 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, Victor L. Alexander, Beryl Lillian Mercer, and Inez W. Hunter, 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

and acknowledged the foregoing instrument to be its voluntary act and deed, 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.

Notary Public for Oregon My commission expires 7-21-81. Notary Public for Oregon My commission expires

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 conveyer of the title to be conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyer not later than 15 days after the instrument is executed and the parties are bound thereby.

ORS 93.690 (a) Violation of ORS 93.635 is punishable, upon conviction, by a fine of not more than \$100.

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. Mortgagee: Inez W. Hunter. Mortgageor: Joseph W. Mercer.

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 receipts 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 Bernice Deputy