

CONTRACT - REAL ESTATE

Vol. M78 Page 7357

A-29203 46756

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THIS CONTRACT, Made this 20 day of April, 1978, between
 GERALD ASKE James E. Rogers and Cora B. Rogers, husband and wife
 and THEODORE J. EWARD and Dorothy L. Eward, husband and wife,
 hereinafter called the seller,
 and FRED R. EWARD and Dorothy L. Eward, 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:

As per the following abstracted survey made in 1941:

South, Range 17, Section 28, Township 35
 described as follows: Beginning at a point of beginning, corner of Section 28, Township 35, South, Range 17, and running North along the East line of said Section 28, Township 35, to the North line of Lot 17; thence North along the North line of Lot 17 to a point on the North line of said lot; thence West along the South line of said lot to the point of beginning. (See abstracted survey, page 22 of record)

Subject to the following grants:

1. Agreement between Klamath Shallow California-Oregon Power Company, dated January 26, 1941, recorded February 11, 1941, for the construction, operation and maintenance of a powerline for delivery of electricity. (See abstracted survey, page 23 of record)

2. Agreement including the terms and provisions thereof, by and between Jones Agency, Inc. Products Corporation, and James E. Rogers for construction of bridge (see reverse side of this contract), for the sum of \$165.00

(hereinafter called the purchase price), on account of which ~~\$165.00~~ Thousand Five Hundred and Dollars (\$4,500.00) 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: \$13,000.00) to the order of the seller in monthly payments of not less than ONE HUNDRED SIXTY-FIVE AND NO/100THS Dollars (\$165.00) each, or more, prepayment without penalty.

payable on the 1st day of each month hereafter beginning with the month of June, 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 April 20, 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 prorated between the parties hereto as of the date of this contract.

AGREEMENTS: It is agreed by and between the seller that the real property described in this contract is

1. A residence for buyer's personal, family, household or agricultural purposes, in distinction from unoccupied or otherwise agricultural purposes.

The buyer shall be entitled to possession of said lands on closing, 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 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, his heirs and assigns, from and against all costs and attorney's fees incurred by him in defending against any such liens; that he will fully pay 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 fire or damage by fire (with extended coverage) in an amount

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 issued. Now if the buyer shall fail to pay any to said buyer, he will be entitled to possession of said premises as and any payment so made shall be added to the debt for buyer's breach of contract.

2. 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's name or subsequent to the date of this agreement, save and except the usual printed exceptions and the building and other restrictions and encumbrances now or 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 to 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 items, water rents and public charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer or his assigns.

IN WITNESS WHEREOF, the parties have signed this instrument as follows:

*IMPORTANT NOTICE: Default, by filing suit, whichever party and whenever warranty (A) or (B) is not applicable. If warranty (A) is applicable and if the seller is in default, on 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, see Stevens-Ness Form No. 1308 or similar unless the contrary 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

SPACE RESERVED

FOR

RECORDING USE

STATE OF OREGON,

I certify that the within instrument was received for record on the day of 15, 1978, 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.

Recording Officer
Deputy

ROBERT E. EWARD
 Chiloquin, Or 97624
 NAME, ADDRESS, ZIP

And it is understood and agreed between said parties that none 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 once due and payable; (3) to withdraw said deed and all 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 determine, and the right to the 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 money paid or received for 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 thereafter 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 thereto or thereon 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

1978

On the day of April 1978, at the city of Klamath Falls, Oregon,

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$17,500.00. However, the actual consideration consists entirely of personal property given or received which is the whole consideration, including which is

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 adjudicate reasonable to the prevailing party, and that if the trial court does not award reasonable attorney's fees to the prevailing party, the losing party further promises to pay such sum as the appellate court shall adjudicate 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 thereof apply equally to corporations and to individuals.

This agreement shall bind and sure to the benefit of, on the circumstances may require, not only the immediate parties hereto but their respective heirs, executors, administrators, personal representatives, successors in interest and assigns as well.

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 thereto, by order of its board of directors.

James E. Rogers *John E. Rogers*

Theodore N. Emard *Dorothy L. Emard*

Corra B. Rogers
Note: In existence before the signing of this instrument, the word "Note" in the margin, on page 1, line 11, should be deleted. See ORS 93.900.

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STATE OF OREGON,

STATE OF OREGON, County of

County of Klamath

April 1978

1978

Personally appeared the above named

James E. Rogers, Corra B. Rogers, Theodore N. Emard and Dorothy L. Emard

and acknowledged the foregoing instrument to be their

voluntary act and deed.

Notary Public for Oregon

(SEAL)

My commission expires:

CDAY 314200

OR 1979

ORS 63.630 (1) All instruments contracting to convey fee title to buy 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 conveyee not later than 15 days after the instrument is executed and the parties are bound thereby.

ORS 93.900 (4) Violation of ORS 63.630 is punishable, upon conviction, by a fine of not more than \$100.

(DESCRIPTION CONTINUED)

and Corra B. Rogers (dated October 29, 1957 and recorded November 4, 1967 in Deed Volume 295, on page 366, Records of Klamath County, Oregon, setting boundary lines).

Right of Way, including the terms and provisions thereof executed by James Rogers and Corra Rogers, husband and wife, to The California Power & Light Company dated January 26, 1960 and recorded May 19, 1960 in Volume 324, page 305, Deeds Records of Klamath County, Oregon.

Right of Way, including the terms and provisions thereof, given by James Rogers and Corra Rogers to The California Power & Light Company dated November 2, 1960 and recorded November 9, 1960 in Volume 325 on page 270, Records of Klamath County, Oregon.

Easement, including the terms and provisions thereof, as disclosed by conveyance from Klamath County to U.S.A., recorded in Volume 344 on page 160, Deeds Records of Klamath County, Oregon, for a strip of

Right of Way, including the terms and provisions thereof, given by James E. Rogers and Corra B. Rogers to United States of America, dated March 6, 1964 and recorded March 11, 1964 in Volume 2351 on page 484.

Easement, including the terms and provisions thereof, given by James and Corra Rogers and Erma Mae and Robert Gates, aet al, dated May 28, 1966 and recorded August 2, 1977 in Microfilm records M-77 on page 34, 14275, records of Klamath County, Oregon.

It is agreed by and between the parties hereto that Buyers specifically agree to pay the full contract balance on or before April 1, 1997.

It is further agreed by and between the parties hereto that Buyers shall furnish Sellers with a paid receipt for taxes and fire insurance each year.

STATE OF OREGON, COUNTY OF KLAMATH, ss.

I hereby certify that the within instrument was received and filed for record on the 24th day of April A.D. 1978 at 12:00 o'clock P.M., and duly recorded in Vol M78, of Deeds on Page 7947.

FEE \$6.00

WM. D. MILNE, County Clerk

By Bernetha M. Fetsch

Deputy