

593835

CONTRACT—REAL ESTATE

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THIS CONTRACT, Made the 10th day of October, 1978, between George A. Pondella, Jr. and Donald E. Bailey

of the County of Klamath and State of Oregon, hereinafter called the seller, and WELCO INDUSTRIES, INC.

of the County of California and State of California, hereinafter called the buyer,

WITNESSETH, That in consideration of the stipulations herein contained and the payments to be made as hereinafter specified, the seller hereby agrees to sell, and the buyer agrees to purchase, the following described real estate, situate in the County of Klamath, State of Oregon, to-wit:

That part of Government Lots 2 and 3, lying East of the thread of Sprague River in Section 4, Township 36 South, Range 10 East of the Willamette Meridian, in the County of Klamath, State of Oregon.

Subject, however, to the following:

1978-1979 taxes, a lien in an amount to be determined, but not yet payable.

Rights of the public in and to any portion of said premises lying within the limits of public roads and highways.

(For continuation of this document, see reverse side of this contract.)

for the sum of Thirty-six thousand and no/100-----Dollars (\$36,000.00) on account of which Two thousand five hundred and no/100-----Dollars (\$2,500.00) 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 with interest at the rate of 8-----per cent per annum from October, 1978 on the dates and in amounts as follows:

\$33,500.00 shall be paid in equal semi-annual installments of \$1,600.00, each, plus int., prepayment without penalty, the semi-annual installments shall be paid as follows: \$1,600.00 on the day of November, 1978, and \$1,600.00 on the 5th day of May, 1979, and \$1,600.00 on the 5th day of November and the 5th day of May of each year thereafter, until the whole of the balance of the purchase price is fully paid. In addition to regular semi-annual installments, buyers herein agree to pay a payment of \$4,700.00 on January 1, 1979. Each payment shall be applied first to interest to date of the payment and the balance to principal.

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

Taxes for the current tax year shall be prorated between the parties hereto as of the date of this contract. The buyer, in consideration of the premises, hereby agrees to pay all taxes hereafter levied and all public and municipal liens and assessments hereafter lawfully imposed upon said premises, all promptly and before the same or any part thereof become past due, that he will keep all buildings now or hereafter erected on said premises insured in favor of the seller against loss or damage by fire (with extended coverage) in an amount not less than \$50,000. The buyer shall also insure the company or companies satisfactory to seller, and will have all policies of insurance on said premises made payable to the seller as seller's interest may appear and will deliver all policies of insurance on said premises to the seller as soon as insured. All improvements placed thereon shall remain, and shall not be removed before final payment be made for said above described premises.

(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.

Pondella
SELLER'S NAME AND ADDRESS
Welco Industries, Inc.
BUYER'S NAME AND ADDRESS
After recording return to:
Mountain Title Company
407 Main Street
City, 97601 Attn: Collection Department
NAME, ADDRESS, ZIP

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

Welco Industries, Inc.
2910 E. 55th Way
Long Beach, California
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

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The seller agrees that at his expense and within 30 days from the date hereof, he will furnish unto buyer a title insurance (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 and except the usual printed exceptions and other restrictions and easements now of record, if any. Seller also agrees that when price is fully paid and upon request and upon surrender of this agreement, he will deliver a good and sufficient deed conveying said premises 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 omitted or arising by, through or under seller, excepting, however, the said easements and restrictions and the taxes, municipal liens, water rents charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer or his assigns.

But in case the buyer shall fail to make the payments aforesaid, or any of them, punctually and upon the strict terms and at the times above or fail to keep any of the other terms or conditions of this agreement, time of payment and strict performance being declared to be of the essence of this agreement, then the seller 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, all the right and interest hereby created or then existing in favor of the buyer derived under this agreement, shall utterly cease and determine, and the premises aforesaid shall revert and re-vest in the seller without any declaration of forfeiture or act of re-entry, or without any other act by seller to be performed and without any right of the seller of reclamation or compensation for money paid or for improvements made as absolutely fully and perfectly as if this agreement had never been made.

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 seller's 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 thereof or as a waiver of the provision itself.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$36,000.00. However, the actual consideration consists of or includes other property or value given or promised which is ~~the whole~~ consideration (indicate which is) (1) And in case suit or action is instituted to foreclose this contract or to enforce any provision thereof, 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 in said suit or action 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 as well as 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.

This agreement shall bind and inure to the benefit of, as 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 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.

George A. Pondella, Jr.
George A. Pondella, Jr.
Donald E. Bailey
Donald E. Bailey

X *Richard A. Wells*
Richard A. Wells
X *Carol D. Wells*
Carol D. Wells

NOTE—The sentence between the symbols (), if not applicable, should be deleted. See ORS 93.0301.

STATE OF OREGON,) ss.
County of Klamath)
October 12, 1978

CALIFORNIA) ss.
STATE OF OREGON, County of Los Angeles)
November 22, 1978

Personally appeared, the above named George A. Pondella, Jr. and Donald E. Bailey, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me, *Barbara J. Addington*
(OFFICIAL SEAL) Notary Public for Oregon
My commission expires 3-22-81

Personally appeared *Richard A. Wells* who, being duly sworn, each for himself and not on for the other, did say that he is the president and that the latter is the secretary of WELCO INDUSTRIES, INC., 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, *Mark L. Sorenson*
(OFFICIAL SEAL) Notary Public for California
My commission expires: August 31, 1980

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

(DESCRIPTION CONTINUED)

3. Rights of governmental bodies, if any, in and to that portion of the herein described property lying below the high water mark of the Sprague River.
4. No liability is assumed if a financing statement is filed in the office of the County Clerk covering growing crops of fixtures wherein the land is described other than by metes and bounds, the rectangular survey system or by recorded lot and block.
5. 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 \$140,000.00
Dated : October 26, 1964
Recorded : October 27, 1964 Book: 226 Page: 597
Mortgagor : Glenger Enterprises, Inc., an Oregon Corporation
Mortgagee : Leroy J. Glenger and Elvine Glenger, husband and wife.
(Covers additional property), which Buyers 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.
6. Unrecorded contract, including the terms and provisions thereof, and such other exceptions as may appear necessary upon the recording thereof.
Dated : June 18, 1973
Vendor : Howard E. Palmer
Vendee : Gilbert V. Willhite and Norman J. Willhite as disclosed by the following assignment.
(See attached Exhibit "A" fully set forth herein.) by this reference incorporated herein as if

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The vendees interest in said contract was assigned by instrument,
 Dated : December 16, 1975
 Recorded : December 17, 1975 Book: M-75 Page: 15850

To : Leroy A. Gienger and Pauline H. Gienger, which 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.

7. Contract, including the terms and provisions thereof,
 Dated : November 20, 1977
 Recorded : February 27, 1978 Book: M-78 Page: 3593

Vendor : Leroy A. Gienger and Pauline H. Gienger
 Vendee : George A. Pondella, Jr. and Donald E. Bailey, which
 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.

STATE OF CALIFORNIA

County of _____

} ss.

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

BE IT REMEMBERED, That on this _____ day of October, 1978,
 before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within
 named WELCO INDUSTRIES, INC.

known to me to be the identical individuals described in and who executed the within instrument and
 acknowledged to me that they executed the same freely and voluntarily.

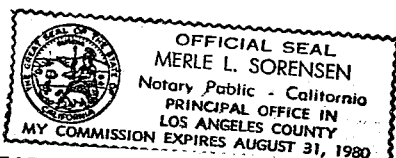
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed
 my official seal the day and year last above written.

STATE OF CALIFORNIA

County of Los Angeles

BE IT REMEMBERED, That on this 22nd day of November, 1978
 before me, the undersigned, a Notary Public in and for said County and State,
 personally appeared the within named Richard A. Wells, one of the
 officers of the corporation of Welco Industries, Inc., known to me to be the
 identical individual described in and who executed the within instrument
 and acknowledged to me that he 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



Merle L. Sorensen
 Notary Public for California

My Commission expires August 31, 1980

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 6th day of
December A.D., 19 78 at 10:45 o'clock A M., and duly recorded in Vol. M78
 of Deeds on Page 27441

FEE \$9.00

WM. D. MILNE, County Clerk

By Bernetha B. Helton

Deputy