

CONTRACT—REAL ESTATE

Vol. 779 Page

5447

63762

THIS CONTRACT, Made this 8th day of March, 1979, between
Harold E. Brown and Cheryl C. Brown, husband and wife,
and Louis C. Gilder

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:
A parcel of land situate in the NE $\frac{1}{4}$ of Section 13, Township 39 South, Range 8 East of the Willamette Meridian, in the County of Klamath, State of Oregon, and being a portion of the vacated portions of West Klamath, said portion being described as follows:

Beginning at a point in the centerline of the alley running through Block 31 of said map of West Klamath, being the intersection of the Northeasterly extension of the Northerly line of Lot 3 in said Block 31 with the centerline of said alley; thence from said point of beginning Southwesterly along said Northeasterly extension of said Northerly line to and along said Northerly line and the Southwesterly extension thereof South 73°02' West, 150.00 feet to the intersection of last mentioned line with the centerline of Second Street as shown on said map; thence along said centerline of Second Street South 16°58' East, 300.00 feet to the intersection of said centerline with the Northeasterly extension of the Southerly line of Lot 13, Block 28 of said map of West Klamath; thence Southwesterly along said Northeasterly extension to and along the Southerly line of said Lot 13 and the Southwesterly extension thereof South 73°02' West, 150.00 feet to

(For continuation of this document, see reverse side of this contract.)
for the sum of eight thousand five hundred and no/100 Dollars (\$8,500.00) (hereinafter called the purchase price), on account of which One thousand five hundred and no/100 Dollars (\$1,500.00) 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: \$7,000.00) to the order of the seller in monthly payments of not less than One hundred sixty and no/100 Dollars (\$160.00) each, or more, prepayment without penalty.

payable on the 9th day of each month hereafter beginning with the month of April, 1979, 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 9, 1979, until paid, interest to be paid monthly and *in addition to 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.

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

The buyer shall be entitled to possession of said lands on March 15, 1979, 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 liens 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 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 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-Neess 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-Neess Form No. 1307 or similar.

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

Transamerica Title Ins. Co.
3940 South 6th Street
Klamath Falls, Oregon 97601

NAME, ADDRESS, ZIP

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

Louis C. Gilder
2541 Madison
Klamath Falls, Oregon 97601

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.

Recording Officer

Deputy

By

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 30 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 interest 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 hereunder shall revert to and be vested in the 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 said 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 \$8,500.00. (However, the actual consideration paid or included other property or value given or promised which is the true consideration limited 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 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 contest 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 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.

Harold E. Brown
Cheryl C. Brown
Cheryl C. Brown

Louis C. Gilder
Louis C. Gilder

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

STATE OF OREGON,

County of Klamath } ss.
March 8, 1979

STATE OF OREGON, County of _____) ss.
Personally appeared _____, 19____)

Personally appeared the above named Harold E. Brown and Cheryl C. Brown, husband and wife, and Louis C. Gilder, and acknowledged the foregoing instrument to be their voluntary act and deed.

Personally appeared _____ 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 _____

Before me: _____
(OFFICIAL SEAL)
Notary Public for Oregon
My commission expires 3-22-81

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: _____
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 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)

the intersection of last mentioned line with the centerline of the alley running thru said Block 28; thence along last mentioned centerline North 16°58' West, 150.00 feet to the intersection of said centerline with the Northeastly extension of the Northerly line of Lot 6 in said Block 28, said intersection being also the most Northerly corner of that certain parcel of land conveyed to O'Neil Moseley, et ux., by deed recorded in Volume M-74 at page 8343, Microfilm Records of Klamath County, Oregon; thence along the Northerly line of last mentioned parcel of land South 73°02' West, 120.00 feet to the most Westerly corner of last mentioned parcel of land on the Easterly line of Third Street as shown on said map of West Klamath; thence along said Easterly line of Third Street North 16°58' West, 272.00 feet; thence leave last mentioned line and run Easterly in a straight line to the point of beginning.

Subject, however, to the following:

1. Regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Plovna District Improvement Company.
2. Rights of the public in and to any portion of said premises lying within the limits of roads and highways.
3. Grant of right of way for installation of two anchors and guys on the North 12 feet of vacated Lots 3, 4, 5, 6, 7, 8 and 9 Block 40 West Klamath Addition, SE1/4 Sec. 13, Twp 38 S., R 9 EWM. from R. J. Davis and Esther Davis to Pacific Power and Light Co., dated December 31, 1963, recorded December 31, 1963 in Book 350 at page 234, Deed Records.
4. An easement created by instrument, including the terms and provisions thereof,

(See attached Exhibit "A" and by this reference incorporated herein as if fully set forth herein.)

Dated : September 25, 1968
 Recorded : September 27, 1968 Book: M-68 Page: 8812
 In favor of : Richard L. Zwiener and Dorothy R. Zwiener
 For : Non-exclusive easement for roadway purposes for W $\frac{1}{2}$
 vacated Second Street and appurtenant to Lots 3-10
 Block 31

5. Contract, including the terms and provisions thereof,

Dated : October 1, 1976
 Recorded : October 15, 1976 Book: M-76 Page: 16385
 Vendor : Harvey F. Curtis and Lina Curtis, husband and wife,
 Vendee : Harold E. Brown and Cheryl C. Brown, husband and wife,
 which Buyer herein does not assume and agree to pay, and Sellers further
 covenant to and with Buyer 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 OREGON; COUNTY OF KLAMATH; ss.

Subscribed for record at request of Transamerica Title Co.

this 9th day of March A. D. 1979 at 10:57 o'clock A. M., and

fully recorded in Vol. M79, of Deeds on Page 5447

Wm D. MILNE, County Clerk

Fee \$9.00

By Suzanne Shetch

EXHIBIT 'A'