

TN

66056

CONTRACT—REAL ESTATE



THIS CONTRACT, Made this 5th day of April, 1979, between  
 Robert D. Lyells, 2943 Hostetter Road, San Jose, Calif. 95132  
 and William W. McKinley, 3872 Vineyard Ave, Pleasanton, Calif.  
 hereinafter called the seller,  
 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 Alamath County, State of Oregon, to-wit:

township 35 South, Range 12 East, Willamet Meridian Section 19; Northeast 1/4  
 of Northeast 1/4. All subsurface rights have been reserved. Seller retains  
 a 60 foot wide meandering nonexclusive roadway easement for ingress and egress  
 for mining, timbering, and agriculture and all other roadway uses.

for the sum of twelve thousand Dollars (\$12,000.00),  
 hereinafter called the purchase price, of which \$750.00 has been paid at the time of the execution  
 hereof, the receipt whereof hereby is acknowledged by the seller; the buyer agrees to pay the balance of said purchase  
 price to the order of the seller at the times and in the amounts as follows, to-wit: \$117.48 or more per  
 month beginning May 15, 1979 and monthly thereafter.

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 12% per  
 cent per annum from this date until paid, interest to be paid monthly and \*1 in addition to being included in  
 the minimum regular payments above required. Taxes on said premises for the current year shall be prorated between the parties hereto as of the  
 date of contract, 1979.

The buyer shall be entitled to possession of said lands on or before the date of recording contract, 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 premises and the buildings, now or hereafter erected  
 thereon, in good condition and repair and will not suffer or permit any waste or strip thereof; that he will keep said premises free from construction 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 \$  
 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 said described premises are now subject to a contract or a mortgage (the word mortgage as used herein includes within its meaning a trust deed)  
 recorded in the Deed\*, Mortgage\*, Miscellaneous\* Records of said county in book/reel/volume No. 19, on page 11 thereof or as  
 document/file/instrument/microfilm No. 66056 (reference to which hereby is made) on which the unpaid principal balance thereof at this  
 time is \$12,000.00 and no more, with interest paid to 1979, payable in installments of not

less than \$117.48 per month; the seller agrees to pay all sums due and to become due on said contract or mortgage promptly at  
 the times required for said payments and to keep said contract or mortgage free from default; should any of the installments on said mortgage so paid by  
 the seller include taxes or insurance premiums on said described premises, the buyer agrees on seller's demand forthwith to repay to the seller that portion of  
 said installments so paid applicable to taxes and insurance premiums; should the seller for any reason permit said contract or mortgage to be or become in  
 default, the buyer may pay any sums required by said contract or mortgage to be paid or otherwise perform said contract or mortgage and the buyer shall  
 be entitled to credit for all sums so paid by him against the sums next to become due on the above purchase price pursuant to the terms of this contract.

The seller agrees that at his expense and within 60 days from the date hereof, he will furnish unto buyer a title insurance policy in-  
 suring (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 encumbrances now of record, if any, and the said contract or mortgage. 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 con-  
 veying said premises in fee simple unto the buyer, his heirs and assigns, 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 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. If the contract becomes a first lien to finance the purchase of a dwelling use Stevens-Neess Form No. 1307 or similar.

STATE OF OREGON,

County of \_\_\_\_\_

I certify that the within instru-  
 ment was received for record on the  
 day of \_\_\_\_\_, 19\_\_\_\_,  
 at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded  
 in book/reel/volume No. \_\_\_\_\_ on  
 page \_\_\_\_\_ or as document, fee/file/  
 instrument microfilm No. \_\_\_\_\_.  
 Record of Deeds of said county.  
 Witness my hand and seal of  
 County affixed.

NAME

TITLE

By

Deputy

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

South Valley State Bank  
 S. 6th Street  
 Alamath Falls, Oregon

NAME, ADDRESS, ZIP

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

William McKinley  
 3872 Vineyard Ave.  
 Pleasanton, Calif.

NAME, ADDRESS, ZIP

SPACE RESERVED  
 FOR  
 RECORDER'S USE

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 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 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 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 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 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.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 12,000.00. However, the actual consideration consists of or includes other property or value given or promised which is ~~part of the~~ the whole consideration (indicate which).<sup>①</sup>

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 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 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.

*William W. McKinley*  
William W. McKinley

*Robert D. Lyells*  
Robert D. Lyells

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

STATE OF ~~OREGON~~, California)

County of Santa Clara ) ss.

April 18, 1979

Personally appeared the above named  
Robert D. Lyells

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

Before me:  
(OFFICIAL SEAL) *Victoria Bruce*

Notary Public for Oregon

My commission expires 4.30.82

STATE OF OREGON, County of ) ss.

Personally appeared \_\_\_\_\_, 19\_\_\_\_, 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 \_\_\_\_\_


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:

(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.

 VICTORIA BRUCE  
NOTARY PUBLIC-CALIFORNIA  
SANTA CLARA COUNTY  
My commission expires Apr. 30, 1982

(DESCRIPTION CONTINUED)

STATE OF CALIFORNIA )  
COUNTY OF Santa Clara ) ss.

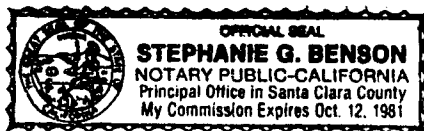
On April 17, 1979

*William W. McKinley*

known to me to be the person(s) whose name(s) \_\_\_\_\_  
subscribed to the within instrument and acknowledged that he executed the same.

WITNESS my hand and official seal.

(Seal)



*Stephanie G. Benson*  
(Notary Public's Signature)  
Stephanie G. Benson

023200 12-76 \* 25 PS Individual Notarial Acknowledgment

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 23rd day of April A.D., 1979 at 4:11 o'clock P M., and duly recorded in Vol. M79 of Deeds on Page 9151.

FEE \$6.00

WM. D. MILNE, County Clerk

By *Richard D. Welch* Deputy