

TMI

18460

**CONTRACT—REAL ESTATE**

Vol. 128 Page 17959

THIS CONTRACT, Made this 15th day of December, 1982, between  
Albert Grant, Eleanor K. Grant, and Wilda Grant

and Michael A. Hiatt and Rise Jeanette Hiatt, husband and wife, hereinafter called the seller,  
WITNESSETH, hereinafter called the buyer.

....., 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:

See attached description.

Subject, however, to the following:

1. Rights of the public in and to any portion of the herein described premises lying within the limits of streets, roads or highways.
2. Agreement, including the terms and provisions thereof, between Herbert Fleishhacker et ux and California Oregon Power Co., dated January 25, 1924, recorded February 15, 1924 in Deed Volume 63, page 459, Deed Records of Klamath County, Oregon.
3. Easement, including the terms and provisions thereof, from Olive M. Johnson, to the California Oregon Power Co., recorded November 8, 1955 in Deed Book 279 at page 99, Deed Records of Klamath County, Oregon.
4. Grant of Overhang Easement, including the terms and provisions thereof,  
Dated: May 13, 1959  
Recorded: May 15, 1959  
Volume: 312, page 440, Deed Records of Klamath County, Oregon  
In favor of: The California Oregon Power Company

5. Easement, including the terms and provisions thereof, for an overhang to Pacific  
(continued on reverse)

for the sum of SEVEN THOUSAND FOUR HUNDRED NINETEEN and no/100ths - - - - - Dollars (\$ 7,419.00 )  
(hereinafter called the purchase price) on account of which - - - - - Dollars (\$ 0 ) 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: \$ 7,419.00 ) to the order of  
the seller in monthly payments of not less than SEVENTY THREE DOLLARS and 96/100ths - - - - -  
Dollars (\$ 73.96 ) each, with no prepayment penalty.

payable on the 12 day of each month hereafter beginning with the month of January 12, 1983, 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 10 per cent per annum from December 15, 1982 until paid, interest to be paid monthly and \*  $\left\{ \begin{array}{l} \text{in addition to} \\ \text{being included in} \end{array} \right.$  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 an organization or (even if buyer is a natural person) is for business or commercial purposes other than agricultural purposes.

The buyer shall be entitled to possession of said lands on upon closing 19  , and may retain such possession so long as he is 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 \$75,000 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 such 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 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, save and except unto the buyer, with all liens and assignments, 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 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. If the contract becomes a first lien to finance the purchase of a dwelling use Stevens-Ness Form No. 1307 or similar.

Albert, Eleanor, and Wilda Grant

Rt. 2 Box 750  
Klamath Falls, OR 97601

**SELLER'S NAME AND ADDRESS**

Michael A. and Rise Jeanette Hiatt

Box 68 B Harriman Rt.  
Klamath Falls, OR 97601

**BUYER'S NAME AND ADDRESS**

**After recording return to:**

Mountain Title Company

407 Main Street

Klamath Falls, OR 97601

NAME ADDRESS ZIP

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

Same as Buyers

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/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.

**NAMES**

**TITLE**

By \_\_\_\_\_ Deputy

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 the interest thereon at once due and payable, (3) to withdraw said deed and all other 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 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 re-vested 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 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 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.

Buyers will take subject to Trust Deed, # 7 above, dated July 19, 1977, recorded July 21, 1977 at M77, page 13008 of Klamath County Records with Charles D. Whittmore and Bonnie J. Whittmore are Grantors and Klamath First Federal Savings and Loan is the Beneficiary. Sellers will hold Buyers harmless therefrom. Buyers will assume real estate contract, # 8 above, dated September 4, 1980, recorded September 17, 1980 at M80, page (continued on attached page)

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 7,419.00. ~~However, the actual consideration consists of or includes other property or value given or promised which is part of the whole consideration (indicate which).~~

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. X

X Michael Hiatt - Buyer X Albert Grant - Seller  
X Rise Jeanette Hiatt - Buyer X Eleanor K. Grant - Seller  
X Wilda Grant - Seller

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

STATE OF OREGON,

County of Klamath } ss.  
December 15, 1982

Personally appeared the above named Albert Grant, Eleanor K. Grant, Wilda Grant, Michael Hiatt, & Rise Jeanette Hiatt

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

Notary Public for Oregon  
My commission expires 6/19/83

STATE OF OREGON, County of \_\_\_\_\_ ) ss.  
\_\_\_\_\_, 19\_\_\_\_

Personally appeared \_\_\_\_\_ and \_\_\_\_\_

each for himself and not one for the other, did say that the former is the \_\_\_\_\_ who, being duly sworn, \_\_\_\_\_ president and that the latter is the \_\_\_\_\_ secretary of \_\_\_\_\_

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

(DESCRIPTION CONTINUED)

Power & Light Company, by an instrument recorded August 26, 1960 in Deed Book 323, page 590, Deed Records of Klamath County, Oregon.

6. Reservations, restrictions and easements, including the terms and provisions thereof as contained in instrument from Robert Sloan to John J. Ruger, et ux, recorded May 20, 1974 in Volume M72, page 6249, Microfilm Records of Klamath County, Oregon, to wit:

"Subject to the following building and use restrictions, to wit:  
(1) That grantees will not suffer or permit any unlawful, unsightly, or offensive use to be made of said premises nor will they suffer or permit anything to be done thereon which may be or become a nuisance or annoyance to the neighborhood.  
(2) That said premises will be developed, sold and used solely as a residence or summer home sites.

(3) That the foregoing restrictions shall run with and bind the above described real property for the benefit of all lots in Sportsman Park, First Addition to Sportsman Park, Second Addition to Sportsman Park, Third Addition to Sportsman Park, and Pelican Acres and for the benefit of all other lands in Sec. 3, Twp. 34 S., R. 6 E.W.M., Klamath County, Oregon, now owned by grantors or grantees or by both of them, and the grantees, their heirs, or assigns covenant and agree to observe and comply with said restrictions."

7. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.  
Dated: July 19, 1977  
Recorded: July 21, 1977

Volume: M77, page 13008, Microfilm Records of Klamath County, Oregon  
Amount: \$12,500.00  
Grantor: Charles D. Whittmore and Bonnie J. Whittmore, husband and wife  
Trustee: William L. Sisemore  
Beneficiary: Klamath First Federal Savings and Loan Association  
(continued on attached page)

(description/exceptions, continued)

8. Real Estate Contract, including the terms and provisions thereof,  
 Dated: September 4, 1980, a Memorandum of which was  
 Recorded: September 17, 1980  
 Volume: M80, page 17616, Microfilm Records of Klamath County, Oregon  
 Vendor: Certified Mortgage Company, an Oregon Corporation  
 Vendee: Kenneth Grant  
 (With other property)

The Vendee's interest in said Contract was assigned by  
 instrument,  
 Dated: January 12, 1982  
 Recorded: February 8, 1982  
 Volume: M82, page 1588, Microfilm Records of Klamath  
 County, Oregon  
 To: Wilda Grant, as to an undivided  $\frac{1}{2}$  interest and Albert  
 Grant and Eleanor Grant, as to an undivided  $\frac{1}{2}$  interest.

The effect of a Quitclaim Deed from Kenneth Grant to Wilda  
 Grant as to an undivided  $\frac{1}{2}$  interest and Albert Grant and Eleanor  
 Grant, as to an undivided  $\frac{1}{2}$  interest, recorded February 8, 1982  
 in Volume M82, page 1589, Microfilm Records of Klamath County,  
 Oregon. (Affects only the herein described property).

-continued below \*\*-

\* \* \* \* \*

(Additional provisions, continued)

17616 of the Klamath County Records, with Certified Mortgage as the Seller.  
 Buyer will hold Seller harmless therefrom.

\*\* 9. An Easement created by instrument, including the terms and provisions thereof,  
 Dated: November 17, 1917  
 Recorded: May 23, 1922  
 Volume: 58, page 541, Deed Records of Klamath County, Oregon  
 In favor of: United States  
 For: Regulation of level of Upper Klamath Lake  
 Affects: Parcel 2

10. Covenants, conditions, and restrictions, but omitting restrictions if any  
 based on race, color, religion, or national origin, as contained in Deed  
 recorded in Volume M77, page 18866, Microfilm Records of Klamath County, Oregon,  
 to wit:  
 "Subject to the following building restrictions: (a) No chickens, goats, or  
 livestock shall ever be housed, kept or maintained on said premises; (b) No temporary  
 structures shall be erected or maintained on said premises for a period of longer  
 than 3 months; (c) Any trailer house brought on said premises must be maintained  
 in a reasonable condition." (Affects Parcel 2)

17961 A

## DESCRIPTION

## PARCEL 1:

A tract of land situated in the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 3, Township 36 South, Range 6 East of the Willamette Meridian, Klamath County, Oregon, described as follows:

Starting from the Northwest corner NE $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 3, Township 36 South, Range 6 East of the Willamette Meridian; thence South 89° 50' East, a distance of 596.39 feet; thence South a distance of 223.26 feet to an iron pin, the point of beginning; thence South, a distance of 74.83 feet to an iron pin; thence South 69° 26' 53" East, a distance of 131.65 feet to an iron pin; thence Northerly, on the Westerly side of the County Road, along a curve left having a radius of 543 feet, a distance of 100 feet to an iron pin; thence North 80° 37' 11" West a distance of 151.61 feet more or less to the point of beginning.

## PARCEL 2:

A portion of the SE $\frac{1}{4}$  of Section 10, Township 36 South, Range 6 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point which is East along the center line of Section 10, Township 36 South, Range 6 East of the Willamette Meridian, a distance of 330 feet from the center of said Section 10 and thence South at right angles to said center line and parallel to the North-South center line a distance of 275 feet for the true point of beginning; thence East parallel to the East-West centerline a distance of 150 feet to a point; thence South parallel to the North-South centerline a distance of 150 feet; thence West parallel to the East-West centerline a distance of 150 feet; thence North parallel to the North-South centerline a distance of 150 feet to the point of beginning.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record . . . 1:23  
this 16 day of Dec A.D. 19 82 at 1:23 o'clock P.M. and  
duly recorded in Vol. M82, of Deeds on page 17959

Fee \$16.00

EVELYN BIEHN County Clerk

By Joy McArthur