

22418

T/A #M-38-25779-8 Vol. 483 Page 5610

CONTRACT OF SALE of the real property described in the attached Exhibit "A" (herein called "Real Property"), subject to the exceptions to title set forth in said Exhibit "A", and the Mobile Home described in the attached Exhibit "B" (herein called "Mobile Home"), made, as of the last date set opposite the signatures of the parties hereto, between WILLIAM T. McGAUGHEY and NELLIE C. McGAUGHEY, husband and wife (herein called "Seller"), and RONALD GENE TORRENCE and ROSALITA RAMONA TORRENCE, husband and wife (herein called "Buyer"), whose address is 810 Freemont Street, Eugene, Oregon 97404.

1. Seller agrees to sell to Buyer, and Buyer agrees to buy from Seller, the Real Property and the Mobile Home for the price and on the terms, covenants, conditions and provisions herein contained.

2. The sum of \$125,000.00 (hereinafter called "Deferred Balance"), shall be payable in installments as follows: \$1,343.26, inclusive of interest, on the 10th day of May, 1983, with a like installment on the 10th day of each month thereafter, until the full sum of principal, plus interest, of the Deferred Balance has been paid. All payments shall be inclusive of interest. Interest on the Deferred Balance shall commence on April 10, 1983. The rate of interest on the Deferred Balance is fixed at 10% per annum simple interest on declining principal balances of the Deferred Balance. Buyer may prepay all, or any part of, the principal or interest at any time. No partial payment nor increased installment shall be credited in lieu of any regular future installment, nor excuse Buyer from making the regular installments specified in this Contract.

3. All installments shall be paid, without demand, to Klamath First Federal Savings & Loan Association, 540 Main Street, Klamath Falls, Oregon 97601 (herein called "Escrow Holder").

4. In the event any governmental agency or entity having the power of eminent domain acquires by eminent domain or by negotiated sale in lieu of eminent domain, all, or any portion of, the Real Property described in this Contract, Buyer shall pay to the Escrow Holder all proceeds received by Buyer from such acquisition (remaining after payment by Buyer of attorney fees, appraiser fees, and related necessary and reasonable costs in connection with securing said proceeds, which proceeds are hereinafter called "Net Proceeds"), and which Net Proceeds shall be applied toward payment of the sums secured by this Contract; PROVIDED, HOWEVER, that the amount of said Net Proceeds to be applied pursuant to this provision shall not exceed the total of the principal plus accrued interest to the date of payment of said Net Proceeds to the Escrow Holder.

5. If Buyer shall sell Buyer's equity in the Real Property described herein and securing the unpaid balance of this Contract, Buyer shall notify Seller of such sale in writing, and Seller shall have 30 days from such notice to elect, in writing, to require Buyer to apply 90% of the net proceeds from such sale toward payment of the deferred balance (both principal and interest) secured by this Contract before Buyer receives and realizes any payment for his equity. The term "net proceeds" shall include both proceeds received by Buyer at the time of consummation of such sale and any installments received thereafter less reasonable commissions, title insurance, demands of prior lien holders, attorney fees, and escrow fees incurred in any such sale. Failure of Seller to elect to require application of such net proceeds as herein provided, shall constitute a conclusive election not to require application of such net proceeds; provided, however, that any subsequent Buyer shall be required to comply with this provision and that an election not to require application of net proceeds from any sale shall not be construed as constituting a waiver of this provision as to any subsequent Buyer. In addition, any such sale shall personally obligate the subsequent Buyer to Seller without relieving Buyer of Buyer's obligation to Seller under this Contract.

6. Buyer warrants and covenants that the Real Property is being purchased for an organization or business and/or commercial purpose other than agricultural.

7. Possession of the Real Property has been delivered.

8. The terms, covenants, conditions, and provisions set forth on the reverse hereof, and any exhibit attached hereto, is incorporated into this Contract as though fully set forth at the place in this Contract at which reference to them is made.

THIS DOCUMENT CONSTITUTES A BINDING CONTRACT. THE PARTIES HAVE READ BOTH SIDES AND ALL EXHIBITS.

DATE

4-1-83

4-1-83

4-4-83

4-5-83

SIGNATURES

William T. McGaughey

WILLIAM T. McGAUGHEY

(SELLER)

Nellie C. McGaughey

NELLIE C. McGAUGHEY

(SELLER)

Ronald Gene Torrence

RONALD GENE TORRENCE

(BUYER)

Rosalita Ramona Torrence

ROSALITA RAMONA TORRENCE

(BUYER)

(SEE ACKNOWLEDGEMENTS ON REVERSE SIDE HEREOF)

1. Vendor hereby warrants to Purchaser that Vendor has good and merchantable title to the real property described in this Contract, subject to the exceptions to title set forth in this Contract. Vendor agrees that when the sums due Vendor secured by this Contract have been fully paid, Vendor shall, upon Purchaser's request, deliver a good and sufficient warranty deed conveying said real property in fee simple unto Purchaser, and Purchaser's heirs and assigns, free and clear of encumbrances as of the date of the Contract, except those exceptions to title set forth in this Contract, and those exceptions to title permitted or created by Purchaser. To the extent that this Contract designates an Escrow Holder, Vendor will, upon execution of this Contract, execute the aforesaid warranty deed, and, within a reasonable time thereafter, place said warranty deed, together with an executed original of this Contract, in escrow with the designated Escrow Holder with instructions (subject to the usual printed conditions and provisions of the standard form of escrow instructions provided by said Escrow Holder) to said Escrow Holder that, when and if Purchaser shall have paid the sums due Vendor provided for in this Contract, to deliver said warranty deed to Purchaser.
2. Purchaser shall remain in possession of the real property so long as Purchaser is not in default hereunder. Purchaser shall and hereby agrees to keep the real property and improvements in good condition and repair at all times, reasonable wear and tear excepted; to commit no waste or otherwise damage or injure the real property; to maintain the real property in accordance with the laws and ordinances and regulations of any constituted authority applying to the real property and to make no unlawful use thereof; to pay regularly and seasonably, and before the same shall become delinquent, all taxes, assessments and charges of whatever nature levied and assessed against the real property and to pay and discharge all encumbrances thereafter placed thereon by Purchaser; to permit no lien or other encumbrances to be filed upon or placed against the real property without the written consent of Vendor; and it is further understood and agreed, for the purposes of this provision, that if Purchaser fails to pay or discharge any taxes, assessments, liens, encumbrances or charges, Vendor, at Vendor's option and without waiver of default or breach of Purchaser, and without being obliged to do so, may pay, or discharge all or any part thereof, all of which said sums so paid by Vendor shall become repayable by Purchaser, together with interest at the rate of twenty-five per cent (25%) per annum, upon demand, payment of which is part of the performance of this Contract by Purchaser.
3. Purchaser agrees to keep the building and improvements now on, or hereafter placed upon, the real property insured against loss by fire or other casualty in an amount not less than maximum insurable value as determined by the insurance carrier and shall obtain, at Purchaser's expense, an endorsement thereon providing for loss payable to Vendor, Purchaser, and any third party shown in this Contract as having an encumbrance upon the real property as an exception to the title as their respective interests may appear. A certificate of such insurance shall be delivered to Vendor and such third party. If a loss should occur for which insurance proceeds shall become payable, Purchaser may (subject to the rights of said third party encumbrance holder) elect to either rebuild or repair the portion of the building so destroyed, or apply the proceeds toward payment of the then unpaid balance of the sums due Vendor. If Purchaser elects to rebuild or repair, Purchaser shall sign such documents as may be required by Vendor (subject to the rights of said third party encumbrance holder) to guarantee the application of the insurance proceeds to the cost of such rebuilding or repair.
4. Vendor may appear in or defend any action or proceeding at law, in equity or in bankruptcy, affecting, in any way, the security hereof and, in such event, Vendor shall be allowed and paid, and Purchaser hereby agrees to pay, all costs, charges and expenses, including costs of evidence of title or validity and priority of the security and attorney fees in a reasonable sum, incurred in any such action or proceeding in which Vendor may appear, which shall bear interest at twenty-five per cent (25%) from date of demand therefor. Failure of Purchaser to pay Vendor for such costs, charges and expenses within thirty (30) days from the date of demand therefor shall constitute a breach of this Contract.
5. The following shall constitute a default of Purchaser:
 - a. Failure of Purchaser to make any payment as herein provided for more than thirty (30) days after the payment becomes due. The acceptance of any sum secured by this Contract after its due date shall not constitute a waiver of Vendor's right either to require prompt payment when due or to seek any remedy provided for herein.
 - b. Failure of Purchaser to perform any covenants or conditions of this Contract (other than failure to make payments as provided in the preceding sentence) after thirty (30) days' written notice of such failure and demand for performance.
6. If Purchaser shall be in default as above provided, Vendor shall have the following cumulative rights which Vendor may, at Vendor's election, exercise sequentially or contemporaneously:
 - a. To foreclose this Contract by strict foreclosure in equity;
 - b. To declare the full unpaid balance secured by this Contract immediately due and payable;
 - c. To specifically enforce the terms of this Contract by suit in equity;
 - d. To declare the Contract null and void provided Vendor observes the following procedure: gives written notice to Purchaser that, unless Purchaser pays any or all delinquent payments within sixty (60) days from the date of such notice, the Contract shall be null and void and Vendor may retake possession of the real property without refund of any prior payments. Such notice may not be given unless Purchaser is in default as provided in Paragraph 5, a, above.
7. In the event any suit or action is commenced because of any default of Purchaser, the following provisions shall apply:
 - a. The Court having jurisdiction of the case may, upon motion by Vendor, appoint a receiver to collect the rents and profits arising out of the real property and to take possession, management and control of the same during pendency of suit or action or until payment of the obligations hereby secured and apply said rents and profits to the payment of the amount due hereunder, first deducting all proper charges and expenses attending the execution of said receivership.
 - b. Purchaser shall pay to Vendor, in addition to all statutory costs and disbursements, any amount Vendor may incur or pay for any title report, title search, insurance of title or other evidence of title subsequent to the date of this Contract on the real property above described and this Contract shall be security for the payment thereof.
 - c. The prevailing party, at trial or on appeal, shall be entitled to such reasonable attorney fees as shall be fixed by the Court having jurisdiction of the case, in addition to statutory costs and disbursements.
8. This Contract creates a lien upon the real property in favor of Vendor as security for the performance of all covenants of Purchaser and remedies of Vendor contained herein. As additional security, Purchaser hereby assigns to Vendor any or all present or future lease or tenancy covering all, or any part, of the real property. Purchaser agrees with Vendor that each said lien is superior to any and all rights of Purchaser hereunder or by reason of any homestead, stay, or exemption laws now in force or which may hereafter become law.
9. Time is expressly made the essence of this Contract.
10. Where notice in writing is required by either party to the other, such notice shall be deemed given when the same is deposited in the United States Postal Service as certified mail, postage prepaid, and addressed to the address of such party set forth in this Contract.
11. No waiver by Vendor of any breach of any covenant of this Contract shall be construed as a continuing waiver of any subsequent breach of such covenant, nor as a waiver of any breach of any other covenant, nor as a waiver of the covenant itself.
12. All terms, covenants, conditions, and provisions contained in this Contract are severable and, in the event any of them shall be held to be invalid by any competent Court, this Contract shall be interpreted as though the same were not contained in this Contract.
13. All words used herein in the singular number shall extend to and include the plural. All words used in the plural number shall extend to and include the singular. All words used in any gender shall extend to and include all genders.
14. The term real property, when used in this Contract, includes, all and singular, the tenements, hereditaments, rights, easements, privileges, and appurtenances thereunto belonging, or in anywise appertaining, and improvements thereon, together with the reversions, remainder, rents, issues, and profits thereof.
15. This Contract shall bind and inure to the benefit of, as the circumstances may require, the parties hereto and their respective successors, heirs, personal representatives, or assigns.
16. The debts and obligations under this Contract of Vendor and Purchaser are both joint and several.

STATE OF Oregon County of Klamath ss: April 1, 1983
 Before me appeared the Vendor who acknowledged the foregoing Contract to be Vendor's voluntary act and deed.
KIRSTINE L. PROCK
 NOTARY PUBLIC — OREGON
 My Commission Expires: 12/16/84

STATE OF Oregon County of Klamath ss: April 4, 1983
 Before me appeared the Purchaser who acknowledged the foregoing Contract to be Purchaser's voluntary act and deed.
Ronald Gene Torrence
KIRSTINE L. PROCK
 NOTARY PUBLIC — OREGON
 My Commission Expires: 12/16/84

MACCHINI, JONES & ASSOC., Attorneys at Law, a Professional Corporation
 P.O. Box 21961

STATE OF OREGON
Department of Transportation
MOTOR VEHICLES DIVISION

EXHIBIT "B"

Certificate of Title to a Vehicle

5612

The MOTOR VEHICLES DIVISION of Oregon hereby certifies that the applicant named herein has been duly registered as owner of the herein described vehicle pursuant to ORS Chapter 481 and that documents filed with the department show said vehicle to be subject to the ownership and interests herein specified.

LICENSE NUMBER X 13385 2 TITLE NUMBER 7130065257 LICENSE DATE 10/27/74
YEAR MAKE BODY SERIAL OR ID NUMBER 101471
1972 FLEET CA S13086 CLASS 037 1 FEE \$2.00

OWNER
MC GAUGHEY, W T
MC GAUGHEY, NELLIE C
3328 CROSBY ST
KLAMATH FALLS

SECURITY INTEREST HOLDER/LESSOR IF NOT SHOWN ABOVE

OREGON 97401

100815
121013
KLAMATH

This is your certificate of title. If vehicle is sold or any interest assigned or released, this document properly endorsed must be presented to the MOTOR VEHICLES DIVISION WITHIN THIRTY DAYS. FEE \$2.00.
410 B (REV. 7-71)

EXHIBIT "A"

- PARCEL 1: The East 100 feet of Lot 1, Block 1, FIRST ADDITION TO ALTAMONT ACRES, in the County of Klamath, State of Oregon.
- PARCEL 2: The West 50 feet of East 150 feet of Lot 1, Block 1, FIRST ADDITION TO ALTAMONT ACRES, in the County of Klamath, State of Oregon.

State of Oregon
County of Lane

4-5, 1983

Before me personally appeared Rosalita Ramona Torrence who acknowledged the foregoing instrument to be her voluntary act and deed.



Judy D. Friend
Judy D. Friend, Notary Public
My commission expires: 4/12/84

Return to:
TA - Marlene

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record

this 13 day of April A.D. 19 83 at 3:29'clock P.M., and
duly recorded in Vol. M83, of Deeds on Page 5610.

12.00

By EVELYN BIEHN, County Clerk