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MTC-1539K

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", made, as of the last date set opposite the signatures of the parties hereto, between **RAYMOND G. NELSON** aka **RAYMOND GORDON NELSON** and **FLORENCE C. NELSON**, as tenants by the entirety (herein called "Seller"), and **SUSAN R. WAGNER**, a single woman (herein called "Buyer"), whose address is 4691 Cannon Street, Klamath Falls, OR 97601.

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

B. Buyer agrees to pay Seller the sum of \$75,000.00 for the Real Property as follows: \$2,000.00 down (which Seller has received) and \$73,000.00 deferred balance payable as follows:

1. Monthly installments of not less than \$500.00 each, including interest, the first of such installments to be paid on the 1st day of October, 1985, and subsequent such installments shall be paid on the 1st day of each month thereafter, to and including September 2, 1990. All such installments received shall be applied first to interest accrued to the date of receipt and then applied to reduce principal.

2. On September 2, 1986, a principal payment of \$3,000.00 shall be made.

3. On September 2, 1987, a principal payment of \$2,000.00 shall be made.

4. Monthly installments of not less than \$610.00 each, including interest, the first of such installments to be paid on the 2nd day of October, 1990, and subsequent such installments shall be paid on the 2nd day of each month thereafter, to and including August 2, 1995. All such installments received shall be applied first to interest accrued to the date of receipt and then applied to reduce principal.

5. On September 2, 1995, the remaining balance of principal and interest then due shall be paid in full.

6. Until the lien in favor of Klamath First Federal Savings & Loan Association (First Federal) is satisfied, Buyer shall pay to Seller, together with the monthly installment specified above, sums equal to the real property tax reserves required by First Federal and, to the extent that there is a deficiency, Buyer shall pay the sum to Seller upon demand. Seller shall not be obligated to pay Buyer interest on such payments. Upon the First Federal lien being paid, Seller shall notify Buyer and Buyer shall not be obligated to make the payments specified in this paragraph but shall pay taxes as provided in Paragraph 2 on the reverse hereof.

7. Interest is fixed at 10% per annum simple interest on declining balances. Interest commences on August 30, 1985. Buyer may prepay all, or any part of, the principal or interest at any time. No partial payment, or increased installment, shall be credited in lieu of any regular future installment nor excuse Buyer from making regular installments specified in this Contract.

C. All installments shall be paid, without demand, to Mountain Title Co., Inc., 407 Main Street, Klamath Falls, OR 97601 (herein called "Escrow Holder").

D. Buyer does not assume the lien in favor of First Federal. Seller, therefore, covenants and agrees with Buyer, to hold Buyer harmless from, and indemnify Buyer against, any and all liability, loss, or damage Buyer might otherwise suffer by reason of said First Federal lien. This covenant shall include (without limiting the generality of the foregoing) the following: To pay the debt secured by the First Federal lien according to its terms, including payment in full of such debt contemporaneously with payment in full of the sums due Seller from Buyer under this Contract; not to increase the amount of the debt; to pay and/or discharge all claims, costs, attorney fees (both at trial and on appeal) or judgments arising out of or related to, the First Federal lien; and to defend Buyer from any claims brought, or suits or actions filed, against Buyer by reason of the First Federal lien. In addition to all remedies provided by law, or in equity, Buyer is hereby given the right of offset against the purchase price (principal and interest) all sums due Buyer under this covenant, together with interest at the rate of 25% per annum from date Buyer makes any expenditure to which this covenant applies.

E. Buyer warrants and covenants that the Real Property is being purchased primarily for personal, household or agricultural purposes.

F. Possession of the Real Property shall be delivered on the date hereof, subject to the reservation by Seller of the dwelling house for a period of 30 days at a cost of \$500.00 payable to Buyer.

G. In addition to the terms, covenants, conditions, and provisions set forth on the reverse hereof, Buyer also agrees with Seller that no major modifications to any structures on the Real Property shall be made without first obtaining the written consent of Seller.

H. In addition to the terms, covenants, conditions, and provisions set forth in Paragraph 5 on the reverse hereof, the following shall also constitute a default of Buyer: Insolvency of Buyer, appointment of a receiver of any part of the Real Property, assignment by Buyer for the benefit of Buyer's creditors of any of the Real Property, or the commencement of any proceeding under any bankruptcy or insolvency law by or against Buyer, or entry of any judgment against Buyer, or any one or more of the foregoing.

I. In addition to the cumulative rights set forth in Paragraph 6 on the reverse hereof, Seller shall also have the following right which Seller may, at Seller's election, exercise sequentially or contemporaneously therewith: To declare this Contract null and void provided Seller observes the following procedure: gives written notice to Buyer that, unless Buyer pays any or all delinquent payments within 60 days from the date of such notice, the Contract shall be null and void and Seller may retake possession of the Real Property without refund of any prior payments. Such notice may not be given unless Buyer is in default as provided in Paragraph E above and/or Paragraph 5 on the reverse hereof.

J. The GENERAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS set forth on the reverse hereof, and any exhibit attached hereto, are each incorporated into this Contract as though fully set forth at the place in this Contract at which reference to each is made.

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

DATE

8/30/85

8/30/85

SIGNATURE

Raymond G. Nelson
RAYMOND G. NELSON

Florence C. Nelson
FLORENCE C. NELSON
Seller

Susan R. Wagner
SUSAN R. WAGNER
Buyer

(SEE ACKNOWLEDGMENTS ON REVERSE SIDE)

THIS DOCUMENT IS BEING RE-RECORDED TO CORRECT THE LEGAL DESCRIPTION.

Ret MTC

SEP 4 1985
AUG 30 PM 4 07

Seller hereby warrants to Buyer that Seller has good and merchantable title to the real property described in this Contract, subject to the exceptions to title set forth in this Contract. Seller agrees that when the sums due Seller secured by this Contract have been fully paid, Seller shall, upon Buyer's request, deliver a good and sufficient warranty deed conveying said real property in fee simple unto Buyer and Buyer'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 Buyer. To the extent that this Contract designates an Escrow Holder, Seller 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 Buyer shall have paid the sums due Seller provided for in this Contract, to deliver said warranty deed to Buyer.

2. Buyer shall remain in possession of the real property so long as Buyer is, not in default hereunder. Buyer 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 Buyer; to permit no lien or other encumbrances to be filed upon or placed against the real property without the written consent of Seller; and it is further understood and agreed, for the purposes of this provision, that if Buyer fails to pay or discharge any taxes, assessments, liens, encumbrances or charges, Seller, at Seller's option and without waiver of default or breach of Buyer, and without being obliged to do so, may pay, or discharge all or any part thereof, all of which said sums so paid by Seller shall become repayable by Buyer, together with interest at the rate of 25% (25%) per annum, upon demand, payment of which is part of the performance of this Contract by Buyer.

3. Buyer 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 Buyer's expense, an endorsement thereon providing for loss payable to Seller, Buyer, 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 Seller and such third party. If a loss should occur for which insurance proceeds shall become payable, Buyer 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 Seller. If Buyer elects to rebuild or repair, Buyer shall sign such documents as may be required by Seller (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. Seller 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, Seller shall be allowed and paid, and Buyer 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 Seller may appear, which shall bear interest at 25% (25%) from date of demand therefor. Failure of Buyer to pay Seller 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 Buyer:

- a. Failure of Buyer to make payments 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 Seller's right either to require prompt payment when due or to seek any remedy provided for herein.
- b. Failure of Buyer 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 Buyer shall be in default as above provided, Seller shall have the following cumulative rights which Seller may, at Seller'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.

7. In the event any suit or action is commenced because of any default of Buyer, the following provisions shall apply:

- a. The Court having jurisdiction of the case may, upon motion by Seller, 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, suit or action; 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. Buyer shall pay to Seller, in addition to all statutory costs and disbursements, any amount Seller 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.

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 Seller as security for the performance of all covenants of Buyer and remedies of Seller contained herein and Buyer agrees with Seller that said lien is superior to any and all rights of Buyer hereunder or by reason of any homestead, stay, or exemption laws now in force or which may hereafter become law. **for the irrigation equipment described in Exhibit "A".**

9. 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 the Contract.

10. No waiver by Seller 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. The debts and obligations under this Contract of Seller and Buyer are both joint and several.

16. The State of Oregon County of Klamath ss: August 30, 1985

Before me appeared the Seller who acknowledged the foregoing Contract to be Seller's voluntary act and deed.

Kristi L. Redd
NOTARY PUBLIC FOR OREGON
My Commission Expires: 11/16/87

STATE OF Oregon County of Klamath ss: August 30, 1985

Before me appeared the Buyer who acknowledged the foregoing Contract to be Buyer's voluntary act and deed.

Kristi L. Redd
NOTARY PUBLIC FOR OREGON
My Commission Expires: 11/16/87

EXHIBIT "A"

14131
13960

The following described real property situate in Klamath County, Oregon, to-wit:

A portion of Tract 17, ENTERPRISE TRACTS, located in the E½SW¼SE¼ of Section 34, Township 38 South, Range 9 East of the Willamette Meridian, described as follows: Beginning at an iron pin located in the Northeast corner of said Tract 17, Enterprise Tract; thence S.1°48'W. a distance of 955.9 feet to an iron pin on the corner of "Fehlen Shopping Center Lots" and the West line of "Bryant Tracts No. 2"; thence N.39°36'W. along the Northeasterly boundary of "Fehlen Shopping Center Lots" a distance of 538.8 feet to an iron pin; thence N.85°30'W. along the North boundary of "Fehlen Shopping Center Lots" a distance of 305.7 feet to an iron pin the West line of said Tract 17; thence N.0°24'E. along said West line of Tract 17 a distance of 184.55 feet to an iron pin in the West bank of a creek; thence in a Northeasterly direction along the West bank of said creek to the intersection of said West bank of the creek and the North line of said Tract 17; thence S.89°36'E. along the North line of said Tract 17 a distance of 469.2 feet, more or less, to the point of beginning.

Also, a portion of Tract 17, ENTERPRISE TRACTS, located in the E½SW¼SE¼ of Section 34, Township 38 South, Range 9 East of the Willamette Meridian, and more particularly described as follows: Beginning at an iron pin axle located in the Northwest corner of said Tract 17, Enterprise Tracts; thence South 89°36'E. a distance of 193.8 feet to an iron pin; thence along the Westerly bank of a creek in a Southwesterly direction to an iron pin located on the intersection of the West bank of the creek with the West line of said Tract 17; thence North 0°24'E. along the West line of said Tract 17 a distance of 336.0 feet, more or less, to the point of beginning.

EXCEPTING THEREFROM a parcel of land situated in the E½SW¼SE¼ of Section 34, Township 38 South, Range 9 East of the Willamette Meridian, more particularly described as follows: Beginning at the intersection of the West line of Bryant Tracts No. 2, a subdivision of record in Klamath County, Oregon, and the Northeasterly line of Fehlen Shopping Lots, a subdivision of record in Klamath County, Oregon, said point being evidenced by a ½-inch iron pipe; thence N.01°48'00"E. along the West line of said Bryant Tracts No. 2 to a point which is the intersection of said West line with the Northeasterly extension of the Northwesterly boundary of that certain tract of land recorded in Book 72 at Page 12231 of the Official Records of Klamath County, Oregon, as shown on the record of survey number 1578 filed with the Klamath County Surveyor, said point being evidenced by a ½-inch iron pin; thence S.57°04'25"W. along said Northeasterly extension 182.97 feet to the intersection of said extension with the Northeasterly line of said Fehlen Shopping Center Lots, said point being evidenced by a ½-inch iron pin; thence S.39°36'00"E. along said Northeasterly line of said Fehlen Shopping Center Lots 227.39 feet to the point of beginning. In addition, the following is declared part of the hereditaments and appurtenances thereunto belonging or in anywise appertaining: Irrigation Pipes: 2 in. and 4 in. with connection, elbows, and everything to complete system.

SUBJECT TO:

1. Taxes of Klamath County, Oregon, for the fiscal year 1985-1986, a lien, not yet due and payable.
2. City water use charges, if any, due to the City of Klamath Falls, Oregon.
3. The premises herein described are within and subject to the statutory powers, including the power of assessment, of Enterprise Irrigation District.
4. The premises herein described are within and subject to the statutory powers, including the power of assessment, of South Suburban Sanitary District.
5. An easement created by instrument, including the terms and provisions thereof, dated January 31, 1949, recorded February 8, 1949, in Vol. 228, Page 442, Deed Records of Klamath County, Oregon, in favor of the California-Oregon Power Company for electric transmission line.
6. Restrictions contained in Warranty Deed dated June 6, 1955, recorded June 10, 1955, in Vol. 275, Page 121, Deed Records of Klamath County, Oregon, to State of Oregon, by and through its State Highway Commission.
7. Mortgage, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein, dated October 8, 1963, recorded October 18, 1963, in Vol. 220, Page 6, Deed Records of Klamath County, Oregon, in the amount of \$15,600.00, wherein Raymond G. Nelson and Catherine L. Nelson, husband and wife, are mortgagor, and Klamath First Federal Savings and Loan Association are mortgagee.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the _____ 30th day of August A.D. 19 85 at 4:07 o'clock P. M., and duly recorded in Vol. M85 of Deeds on Page 13958

FEE \$13.00

INDEXED
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Evelyn Biehn, County Clerk
By *Ram Smith*

14132
13360

EXHIBIT "A"

The following described real property situated in Klamath County, Oregon, to-wit:

A portion of Tract 17, ENTERPRISE TRACTS, located in the EASTWEST of Section 34, Township 38 South, Range 2 East of the Willamette Meridian, described as follows: Beginning at an iron pin located in the Northeast corner of said Tract 17, Enterprise Tract; thence S. 71° 18' W. a distance of 552.0 feet to an iron pin on the corner of "Lehman Shopping Center Lots" and the West line of "Bryant Tracts No. 2"; thence N. 37° 36' W. along the Northeastern boundary of "Lehman Shopping Center Lots" a distance of 538.8 feet to an iron pin; thence N. 85° 30' W. along the North boundary of "Lehman Shopping Center Lots" a distance of 302.7 feet to an iron pin; the West line of said Tract 17, Enterprise Tract; thence N. 0° 24' E. along said West line of Tract 17 a distance of 180.55 feet to an iron pin in the West bank of a creek; thence in a Northerly direction along the West bank of said creek to the intersection of said West bank of the creek and the North line of said Tract 17; thence S. 88° 36' E. along the North line of said Tract 17 a distance of 469.5 feet, more or less, to the point of beginning.

14132

Also, a portion of Tract 17, ENTERPRISE TRACTS, located in the EASTWEST of Section 34, Township 38 South, Range 2 East of the Willamette Meridian, and more particularly described as follows: Beginning at an iron pin located in the Northwest corner of said Tract 17, Enterprise Tract; thence South 89° 36' E. a distance of 193.8 feet

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the 4th day
of September A.D., 19 85 at 4:16 o'clock P M., and duly recorded in Vol. M85
of Deeds on Page 14129
By Evelyn Biehn, County Clerk
Ram Smith

FEE \$17.00

advised by a 1-inch iron pipe, thence N. 0° 24' E. along said West line of Tract 17, Enterprise Tract; thence S. 88° 36' E. a distance of 469.5 feet, more or less, to the point of beginning. The following is a list of the hereditaments and appurtenances thereto belonging or in anywise appertaining: Irrigation Pipes: 2 in. and 4 in. with connection, elbows, and everything in complete system.

- SUBJECT TO:
1. Taxes of Klamath County, Oregon, for the fiscal year 1985-1986, a lien, not yet due and payable.
 2. City water use charges, if any, due to the City of Klamath Falls, Oregon.
 3. The premises herein described are within and subject to the statutory powers, including the power of assessment, of Enterprise Irrigation District.
 4. The premises herein described are within and subject to the statutory powers, including the power of assessment, of South Suburban Sanitary District.
 5. An easement created by instrument, including the terms and provisions thereof, dated January 31, 1949, recorded February 8, 1949, in Vol. 228, Page 442, Deed Records of Klamath County, Oregon, in favor of the California-Oregon Power Company for electric transmission line.
 6. Restrictions contained in Warranty Deed dated June 6, 1958, recorded June 10, 1958, in Vol. 258, Page 121, Deed Records of Klamath County, Oregon, to State of Oregon, by and through its State Highway Commission.
 7. Mortgage, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein, dated October 18, 1963, recorded October 18, 1963, in Vol. 320, Page 6, Deed Records of Klamath County, Oregon, in the amount of \$15,000.00, wherein Raymond E. Nelson and Catherine L. Nelson, husband and wife, are mortgagor, and Klamath First Federal Savings and Loan Association are mortgagee.