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mic-17182
LAND SALE CONTRACT Vol. MSK Page 18595

THIS CONTRACT, made and entered into this 10th day of October, 1986, by and between LOUISE F. MITCHELL hereinafter called Seller, and DONALD W. and MICKIE A. TALBURT, husband and wife, hereinafter called Buyer (it being understood that the singular shall include the plural if there are two or more sellers and/or buyers).

W I T N E S S E T H:

Seller agrees to sell to the Buyer and the Buyer agrees to buy from the Seller for the price and on the terms and conditions set forth hereafter all of that certain real property located in the County of Klamath, State of Oregon, legally described as follows, to wit:

"Lot 8 in Block 1 of SUNNYLAND, according to the official plat thereof, on file in the office of the County Clerk of Klamath County, Oregon."

SUBJECT TO contracts and/or liens for irrigation and/or drainage, the schedule of exclusions from coverage, together with any schedules contained in standard title policies, reservations, easements, restrictions and rights of way of record and those apparent on the land.

ALSO SUBJECT TO the statutory powers, including the power of assessment, of Klamath Irrigation District.

ALSO SUBJECT TO the right to take irrigation water along the east end of said lot for the benefit of other lands in Sunnyland, as contained in Deed, including the terms and provisions thereof, from E. M. Chilcote, et ux, et al to J.E. Book and Lena Book, husband and wife, recorded May 10, 1940 in Volume 129 at page 189, Deed Records of Klamath County, Oregon.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

It is mutually agreed as follows:

1. **Possession:** Buyer shall be entitled to possession of the property as of the date hereof;
2. **Prepayment Privileges:** After the date hereof, Buyer shall have the privilege of increasing any payment or prepaying the entire balance provided for hereinafter with interest due thereon to the date of payment;
3. **Payment of Liens and Taxes:** Buyer shall pay promptly all indebtedness incurred by their acts which may become a lien or purported lien, upon said property, and shall regularly and before the same shall become delinquent, pay all taxes, including

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adjustment of same for any reason, assessments, liens, and encumbrances of whatsoever kind affecting said property after this date, provided, all such taxes, assessments and charges for the current year shall be pro-rated as of the date hereof, and in the event Buyer shall fail to so pay, when due, any such matters or amounts required by Buyer to be paid hereunder, or to procure and pay seasonably for insurance, Seller may pay any or all such amounts and any such payment shall be added to the purchase price of said property on the date such payments are made by Seller and such amount shall bear interest at the same rate as provided herein, without waiver, however, of any right arising to Seller for Buyer's breach of contract, and, in such event or events, the escrow holder is hereby directed and authorized to so add such amounts to the contract balance upon being tendered a proper receipt therefore;

4. **Insurance:** Buyer shall keep any buildings on said property insured against loss or damage by fire or other casualty in an amount not less than the full insurable value thereof, with loss payable to the parties hereto, and the interests herein reflected, if any, all as their interests appear at the time of loss; all uninsured losses shall be borne by the Buyer on or after the date Buyer becomes entitled to possession; Buyer shall furnish Seller proof of such insurance coverage;

5. **Waste Prohibited:** Buyer agrees that all improvements now located or which shall hereafter be placed on the property, shall remain a part of the real property and shall not be removed at any time prior to the expiration of this agreement without the written consent of Seller. Buyer shall not cut or remove any timber, trees or shubbery without Sellers prior written consent. Buyer shall not commit or suffer any waste of the property, or any improvements thereon, or alteration thereof, and shall maintain the property, improvements and alterations thereof, in good condition and repair, provided, Buyer shall not make or cause to be made any major improvements or alterations to the property without first obtaining the written consent of Seller;

6. **Transfer of Title:** Seller shall upon the execution hereof make and execute in favor of Buyer a good and sufficient deed conveying said property free and clear of all liens and encumbrances, except as provided hereinbefore, and will place said document, together with one of these agreements, in escrow at Mountain Title Company, 407 Main Street, Klamath Falls, Oregon 97601 and shall enter into written escrow instructions in form satisfactory to said escrow holder and the parties hereto, instruct said escrow holder that when, and if, Buyer shall have paid the balance of the purchase price in accordance with the terms and conditions of this contract, said escrow holder shall deliver said documents to Buyer, but in case of default by Buyer said escrow holder shall, on demand, surrender said documents to Seller;

7. **Tax Payment Procedures:** Until a change is requested, all tax statements shall be sent to the address designated by Seller hereinafter. Seller shall then forward such tax statements to Buyer who shall be required to pay the same and provide proof of such payment to Seller within thirty (30) days of the date of Seller's mailing to the said tax statement.

8. **Property Taken "As Is":** Buyer certifies that this contract of purchase is accepted and executed on the basis of their own examination and personal knowledge of the premises and opinion of the value thereof; that Buyer has made a personal inspection of the property so as to determine its acceptability, and is specifically aware of the deteriorating condition of the foundation and other defects; that no attempt has been made to influence their judgment; that no representations as to the condition or repair of said premises have been made by Seller or by an agent of Seller; and that Buyer takes said property and the improvements thereon in the condition existing at the time of this agreement, specifically in its "AS IS" condition;

9. **Time of Essence:** It is understood that and agreed between the parties that time is of the essence of this contract;

10. **Default:** In case Buyer shall fail to make the payments aforesaid, or them punctually and upon the strict terms and at the times above-specified or fail to keep any of the terms or conditions of this agreement, then the Seller at his option shall have the following rights;

a) To declare this contract null and void, after giving such notice as is then required by Oregon Revised Statutes; and/or

b) To declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable; and/or

c) To withdraw said deed and other documents from the escrow and/or;

d) To foreclose this contract by suit or by strict foreclosure in equity.

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, and the right to the possession of the premises above-described and all other rights acquired by the Buyer hereunder shall revert to and revert in said Seller without any act of re-entry, or any other act of said Seller to be performed and without any right of Buyer of return, reclamation or compensation for monies 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. The said Seller, in case of such default, shall have the right immediately, or any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all of the improvements thereon; and alternatively, Buyer shall have the right to apply to the Court for appointment of a receiver as a matter of right and nothing in this contract shall preclude appointment of the Seller as such receiver;

11. **Abandonment:** Should Buyer, while in default, permit the premises to become vacant for a period in excess of 20 days,

Seller may take possession of same individually or by appointment of a receiver by self-help or by Court order for the purpose of protecting and preserving the property and his security interest herein, and in the event possession is so taken by Seller he shall not be deemed to have waived his right to exercise any of the foregoing rights;

12. **Attorney Fees:** In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law;

13. **No Waiver:** Buyer further agrees that failure by Seller at any time to require performance by Buyer of any provision hereof shall in no way affect Seller's right hereunder to enforce the same, nor shall any waiver by 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;

14. **Consent to Assignment:** Buyer shall not assign this agreement, his rights thereunder, or in the property covered thereby, without written consent of Seller first having been given. Any such attempted assignment shall constitute a default in the terms of the within agreement. Such consent shall not be unreasonably withheld;

15. **Binding on Successors:** This agreement shall bind and inure to the benefit of, as the circumstances may require, the parties hereto and their respective heirs, executors, administrators, successors and assigns, subject to the foregoing;

16. **Purchase Price and Payments:** The purchase price for the interest conveyed is the sum of Twenty-Five Thousand Dollars (\$25,000.00) payable as follows:

(a) The sum of Five Thousand Dollars (\$5,000.00) to be payable to Seller upon closing, receipt of which sum is hereby acknowledged; and

(b) The remaining balance of Twenty Thousand Dollars (\$20,000.00) shall be payable in monthly installments of One Hundred Sixty Dollars and Ninety-Two Cents (\$160.92) per month, including interest at the rate of Nine Percent (9%) per annum on the unpaid balance, which said sum includes principal and interest; the first of such payments shall be payable on the 10th day of November, 1986, with a further and like installment payable on the 10th day of each of every month thereafter until the 31st day of October, 1991, when the entire balance, including the full amount of principal and interest, if not sooner paid, shall be fully due and payable;

17. **Inclusion of Personal Property Items:** The parties agree that certain personal property items are included as a part of the within sale, and that the security interest represented by the within Land Sale Contract shall extend to such personal property items, including specifically the following:

- a. Electric oven;
- b. Range;
- c. Dishwasher;
- d. Washer and dryer;
- e. Disposal;
- f. Smoke detector.

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IN WITNESS WHEREOF, the parties have caused this agreement to be executed this 10th day of October, 1986.

BUYER:

Donald W. Talburt
DONALD W. TALBURT

SELLER:

Louise F. Mitchell
LOUISE F. MITCHELL

Mickie A. Talburt
MICKIE A. TALBURT

STATE OF OREGON/County of Klamath) ss.

PERSONALLY APPEARED the above-named DONALD W. TALBURT and MICKIE A. TALBURT, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.
Dated before me this 10th day of October, 1986.

Pamela Spencer
NOTARY PUBLIC FOR OREGON
My Commission Expires: 8/16/88

STATE OF OREGON/County of Klamath) ss.

PERSONALLY APPEARED the above-named LOUISE F. MITCHELL, and acknowledged the foregoing instrument to be her voluntary act and deed.
Dated before me this 10th day of October, 1986.

Pamela Spencer
NOTARY PUBLIC FOR OREGON
My Commission Expires: 8/16/88

Grantor's Name and Address:
LOUISE F. MITCHELL

18600

Grantee's Name and Address:

DONALD W. TALBURT

MICKIE A. TALBURT

PO Box 8101

Klamath Falls OR 97601

After Recording, Return To:

Mountain Title Company

407 Main

Klamath Falls, OR 97601

Until a Change is Requested

Tax Statements Should be

Sent To:

Donald W + Mickie A Talburt

PO Box 8101, KIAMATH FALLS OR 97601

STATE OF OREGON/County of Klamath) ss.

I certify that the within instrument was received for record on the 10th day of October, 1986, at 4:23 o'clock P.M, and recorded in Book N86 on Page 18595 or as File/Reel number 67010, Record of Deeds of said County.

WITNESS my hand and seal of County affixed.

Evelyn Biehn, County Clerk
Recording Officer

BY: *Agm Smith*

Fee: \$25.00