

1271

CONTRACT—REAL ESTATE

Vol. 189 Page 10295

THIS CONTRACT, Made this 9th day of June, 1989, between  
 Robert E. Maloney, Jr. and Mara A. Chettle

and Jerry O. and Elizabeth Anderson, husband and wife, and  
 William J. and Betty Jane Easter, husband and wife

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:

Commonly known as 201, 203 and 205 Riverside Drive and described  
 and limited by Exhibit B, attached hereto and incorporated herein by  
 reference.

for the sum of One hundred thirty thousand Dollars (\$130,000.00)  
 (hereinafter called the purchase price) on account of which -0-  
 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: \$130,000.00) to the order of  
 the seller in monthly payments of not less than One thousand three hundred ninety-six and 99/100  
 Dollars (\$1,396.99) each,

payable on the 1st day of each month hereafter beginning with the month of July, 1989,  
 and continuing until said purchase price is fully paid. All of said purchase price may be paid at any time; all de-  
 ferred balances of said purchase price shall bear interest at the rate of 10 per cent per annum from closing  
 until paid, interest to be paid monthly and \* ~~being included in~~ 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. Buyers shall pay taxes and insurance when due and  
 provide written confirmation of same to Sellers \*

The buyer warrants to and covenants with the seller that the real property described in this contract is  
 (A) for an organization or (even if buyer is a natural person) is for business or commercial purposes.

The buyer shall be entitled to possession of said lands on closing, subject to existing leases/occupancy  
 thereon, in good condition and repair, and will not suffer or permit any waste or strip thereof; that buyer 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 seller in defending against any such liens; that  
 buyer 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, buyer 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 \$130,000.00.  
 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. Buyers shall maintain

liability limits of \$500,000 per person on premises naming Sellers as additional insured.  
 (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  
 fully paid and upon request and upon surrender of the deed hereof and free and clear of all encumbrances since said date placed, permitted or  
 buyer, buyer's heirs and assigns, 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, 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 buyer's assigns.

(Continued on reverse)

warranty

\* IMPORTANT NOTICE: Delete, by lining out, whichever phrase and whichever warranty (A) or (B) is not applicable. If warranty (A) is applicable and if the 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. 1319 or similar.

Robert E. Maloney, Jr. and Mara A. Chettle  
 800 Pacific Building, 520 S.W. Yamhill  
 Portland, OR 97204

Jerry O. & Elizabeth Anderson  
 519 Main Street, Klamath Falls, OR 97601  
 William J. & Betty Jane Easter  
 P.O. Box 115, Chilcoquin, OR 97624

Robert E. Maloney, Jr.  
 800 Pacific Building, 520 S.W. Yamhill  
 Portland, OR 97204

Until a change is requested all tax statements shall be sent to the following address.  
 Jerry O. Anderson & William J. Easter  
 c/o 519 Main St.  
 Klamath Falls, OR 97601

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 fee/file/instru-  
 ment/microfilm/reception No. \_\_\_\_\_,  
 Record of Deeds of said county.

Witness my hand and seal of  
 County affixed.

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

T053C

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 seller's option shall have the following rights:

- (1) To declare this contract cancelled for default and null and void, and to declare the purchaser's rights forfeited and the debt extinguished, and to retain any sums previously paid hereunder by the buyer;
- (2) To declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable; and/or
- (3) To foreclose this contract by suit 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 the right to the possession of the premises above described and all other rights acquired by the buyer hereunder shall revert to and be held 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 seller's 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.

**\*Sellers shall be responsible for unpaid taxes due as of date of closing and shall hold Buyers harmless therefrom. All of said unpaid taxes shall be paid in full within 18 months of closing.**

The true and actual consideration paid for this transfer, stated in terms of dollars, is **\$130,000.00**.

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 the 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 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 duplicate; 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.

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.

Robert E. Maloney, Jr.

Mara A. Chettle

Jerry O. Anderson

Elizabeth Anderson

\* BUYER: Comply with ORS 93.905 et seq prior to exercising this remedy.

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

(If executed by a corporation, affix corporate seal)

(If the signer of the above is a corporation, use the form of acknowledgment opposite.)

William J. Easter

Betty Jane Easter

STATE OF OREGON,

County of Multnomah

This instrument was acknowledged before me on

June 7, 1989, by

Robert E. Maloney, Jr.

Dusan Marmie  
Notary Public for Oregon

My commission expires: 3/19/93

STATE OF OREGON,

County of

This instrument was acknowledged before me on

19, by

as

of

Notary Public for Oregon

My commission expires:

(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.

(DESCRIPTION CONTINUED)

Buyers agree that Sellers may refinance the existing first mortgage on the property with U.S. National Bank and Buyers agree to subordinate this contract to any such refinancing, provided the amount of any refinanced loan is not greater than the amount of the indebtedness then due to U.S. National Bank. Buyers further acknowledge that Sellers are purchasing the subject property on contract from Mara Maloney and that upon payment in full of the purchase price in this contract, Sellers will convey title by warranty deed free and clear of said contract with Mara Maloney and any indebtedness to U.S. Bank between U.S. Bank and Sellers.

Buyers further agree to lease to Klamath Gas/Cal Gas the premises presently occupied and used for parking by Cal Gas for \$700 per month (total consideration) for the period July 1, 1989 to June 30, 1992, which Sellers hereby agree to cause Westco/Cal Gas to lease for said period and said payment.

Buyers agree to deposit payments into Sellers' account at U.S. Bank, Klamath Falls, and Sellers will provide, in each January, a record of payments paid and the amount applied to principal and interest.

EXHIBIT "A"  
TO CONTRACT OF SALE  
DATED June 7, 1989  
BETWEEN

JERRY O. AND ELIZABETH ANDERSON, HUSBAND AND WIFE, AND  
WILLIAM J. AND BETTY JANE EASTER, HUSBAND AND WIFE ("BUYERS")  
AND  
ROBERT E. MALONEY, JR. AND MARA A. CHETTLER ("SELLERS")

The following are additional terms and conditions  
agreed to by the parties:

1. The property description for the property commonly known as 201, 203 and 205 Riverside Drive, Klamath Falls, Oregon is as set forth on Exhibit "B" to this contract of sale which is incorporated herein by reference.
2. Buyers will pay a principal payment in addition to all other payments of Five Thousand Dollars (\$5,000.00) upon closing of sale of a home owned by Buyers on Wantland Street, provided that if said sale does not close within nine (9) months of closing of this transaction, Buyers will pay Twenty-Five Hundred Dollars (\$2,500.00) of said sum nine (9) months from closing hereof and the remaining balance of Twenty-Five Hundred Dollars (\$2,500.00) shall be due on the earliest of closing of the sale of the Wantland property or six (6) months after said additional Twenty-Five Hundred Dollar (\$2,500.00) payment. Following each of such payments, the principal balance will be reamortized so that the contract will be paid in full in essentially equal payments on or before fifteen (15) years of closing. Buyers further agree that if the transaction does not close for any reason contributed to by Buyers, Buyers will pay Nine Hundred Fifty Dollars (\$950.00) per month to Sellers until such time as the premises occupied by Klamath Tobacco are rented or six (6) months from closing, whichever occurs first, with the first payment being due June 1, 1989.
3. Sellers hereby assign all rights against Klamath Tobacco/Richard Mauro to have structural repair work completed on the damaged support in the front of the building. Buyers will cause the parapet wall on the roof to be repaired and will deduct up to \$1,900 of such cost from the \$5,000 payment referred to in item 2 above.
4. Buyers may not make structural changes or any change costing \$5,000 or more without prior written consent of Sellers, which consent will not unreasonably be withheld.

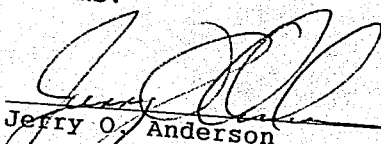
5. Buyers shall not permit any unlawful use of premises, or any use which increases the fire insurance rating.

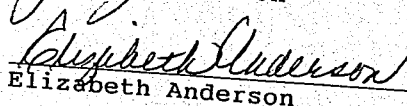
6. Buyers take property as is and subject to existing leases and occupancy of Klamath Tobacco/Richard Mauro, without warranty concerning square footage of building or land being purchased.

7. Buyers will pay an additional \$5,000 principal payment upon any resale of the property to a third party.

8. If Sellers do not pay any property taxes to be paid by Sellers, Buyers may pay such taxes and deduct such payment from the principal balance hereunder.

BUYERS:

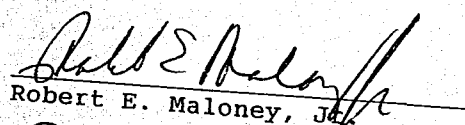
  
Jerry O. Anderson

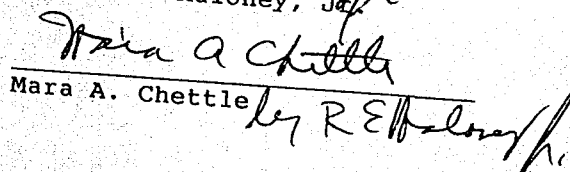
  
Elizabeth Anderson

  
William J. Easter

  
Betty Jane Easter

SELLERS:

  
Robert E. Maloney, Jr.

  
Mara A. Chettle by R E Maloney, Jr.

STATE OF OREGON,

County of Klamath

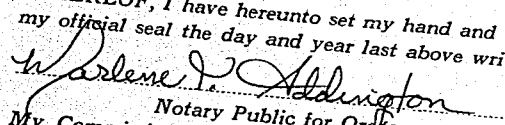
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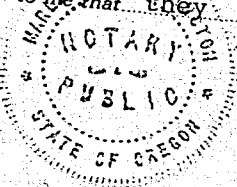
FORM NO. 23 — ACKNOWLEDGMENT  
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

BE IT REMEMBERED, That on this 9th day of June, 1989, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named JERRY O. ANDERSON and ELIZABETH ANDERSON and WILLIAM J. EASTER and BETTY JANE EASTER

known to me to be the identical individual(s) described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

  
Notary Public for Oregon.  
My Commission expires March 22, 1993



**PARCEL 1:**

A parcel of land being a portion of Lots 3, 4, and 5, Block 3, WEST KLAMATH FALLS ADDITION TO THE CITY OF KLAMATH FALLS, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at the Southwesterly corner of Lot 5, Block 3 and running North 06 degrees 45' 00" West 214.58 feet; thence North 83 degrees 15' 00" East 128.87 feet; thence South 43 degrees 47' 09" East 67.99 feet; thence North 83 degrees 15' 00" East 10.00 feet; thence South 8 degrees 57' 40" East 80.07 feet; thence South 06 degrees 46' 55" East 80.18 feet; thence South 83 degrees 12' 50" West 182.95 feet to the point of beginning.

EXCEPTING THEREFROM the South 50 feet of above described parcel.

**PARCEL 2:**

The South 50 feet of the following described parcel:

A parcel of land being a portion of Lots 3, 4, and 5, Block 3, WEST KLAMATH FALLS ADDITION TO THE CITY OF KLAMATH FALLS, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning at the Southwesterly corner of Lot 5, Block 3 and running North 06 degrees 45' 00" West 214.58 feet; thence North 83 degrees 15' 00" East 128.87 feet; thence South 43 degrees 47' 09" East 67.99 feet; thence North 83 degrees 15' 00" East 10.00 feet; thence South 8 degrees 57' 40" East 80.07 feet; thence South 06 degrees 46' 55" East 80.18 feet; thence South 83 degrees 12' 58" West 182.95 feet to the point of beginning.

The descriptions to Parcel 1 and Parcel 2 are expressly conditioned and limited, and subject to the following:

1. Perpetual right, privilege and easement, to keep, maintain, regulate and control the waters of Lake Ewauna and Klamath River, as shown in Easement given by Central Pacific Railway Co. to the California Oregon Power Company, recorded in Book 96 at page 162, Deed Records of Klamath County, Oregon.

2. Reservations, recitals and conditions as shown in deed from the City of Klamath Falls, a municipal corporation, to Central Pacific Railway Company, a Utah Corporation, recorded May 18, 1926 in Book 69 at page 361, Deed Records of Klamath County, Oregon.

Continued on next page



3. Easement, including the terms and provisions thereof:  
For: Sewer line  
Granted to: City of Klamath Falls  
Recorded: January 13, 1931  
Book: 93  
Page: 412

4. Reservations, recitals and conditions as shown in deed from Central Pacific Railway Company, a corporation, to Payton and Company, a corporation, dated November 28, 1945, recorded December 20, 1945 in Book 183 at page 227, Deed Records of Klamath County, Oregon.

5. Reservations and restrictions, including the terms and provisions thereof, contained in deed to the State of Oregon, recorded November 20, 1962 in Book 341 at page 442, Deed Records, relating to statutory abutters easements.

6. Reservations and restrictions, contained in deed from the State of Oregon, by and through its State Highway Commission to Burlington Northern, Inc., a Delaware corporation, dated April 23, 1964, recorded May 8, 1964 in Book 352 at page 633, Deed Records.

7. Reservation of all iron, natural gas, coal, oil and all minerals as contained in deed from Burlington Northern, Inc., a Delaware Corporation, to Malco Properties, Inc., an Oregon Corporation, dated July 18, 1972, recorded August 1, 1972 in Book M-72 at Page 8495, Microfilm Records.

8. Subject to zoning ordinances, covenants, conditions and restrictions, building and use restrictions, utility and other easements of records, and all other matters of record affecting the title.

Form 668(Z)

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Department of Treasury - Internal Revenue Service

(Rev. April 1984)

## Certificate of Release of Federal Tax Lien

District

Portland, OR

Serial Number

938920913

For Optional Use by Recording Office

I Certify that as to the following-named taxpayer, the requirements of section 6325 (a) of the Internal Revenue Code have been satisfied for the taxes listed below and for all statutory additions. Therefore, the lien provided by Code section 6321 for these taxes and additions has been released. The proper officer in the office where, the notice of internal revenue tax lien was filed on May 17, 1985, is authorized to note the books to show the release of this lien for these taxes and additions.

Name of Taxpayer WILLIAM J EASTER JR  
DBA EASTER'S ROOFING SERVICE

Residence P O BOX 115  
CHILOQUIN, OR 97624

COPY

## COURT RECORDING INFORMATION:

Liber Page UCC No. Serial No.  
M85 7384 n/a 48879

Kind of Tax (a)	Tax Period Ended (b)	Identifying Number (c)	Date of Assessment (d)	Last Day of Refiling (e)	Unpaid Balance of Assessment (f)
940	12/31/80	95-2919531	10/21/81	11/20/87	2885.38
*****	*****	*****	*****	*****	*****
Place of Filing					
OFFICE OF COUNTY CLERK KLAMATH COUNTY KLAMATH FALLS, OR 97601					
Total					\$ 2885.38

This certificate was prepared and signed at Portland, OR, on this,

the 5th day of May, 1989

Signature

*Carol F. Green*

Title

Chief CSF

(NOTE: Certificate of officer authorized by law to take acknowledgements is not essential to the validity of Certificate of Release of Federal Tax Lien  
Rev. Rul. 71-466, 1971 - 2 C.B. 409)

Form 668(Z) (Rev. 4-84)

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title Co. the 9th day  
of June A.D., 19 89 at 10:55 o'clock A.M., and duly recorded in Vol. M89  
of Deeds on Page 10295.

Evelyn Biehn County Clerk

By *Pauline Mullendore*

FEE \$38.00