

REAL ESTATE CONTRACT

THIS AGREEMENT, made this 1st day of July, 1963, between John Carroll and Jessie Carroll, et ux., hereinafter called the Seller, and William D. Setser and Betty R. Setser, et ux., hereinafter called the Buyer.

WITNESSETH. That in consideration of the stipulations herein contained, and the payments to be made as hereinafter specified, the Seller agrees to sell unto the Buyer, and the Buyer agrees to purchase from the Seller the following described real property situated in the County of Skamania, State of Washington, and more particularly known and described as follows, to-wit:

The east one-third of the following described tract of land: The North Half of the Northeast Quarter, ($N\frac{1}{2} NE\frac{1}{4}$), and the North Half of the Northwest Quarter ($N\frac{1}{2} NW\frac{1}{4}$), of Section 4, Township 1 North, Range 5 E. W. M.

ALSO, The east one-third of the following described tract of land: The South Half of the Southeast Quarter ($S\frac{1}{2} SE\frac{1}{4}$), and the South Half of the Southwest Quarter ($S\frac{1}{2} SW\frac{1}{4}$), of Section 33, Township 2 North, Range 5 E. W. M.

EXCEPTING, however, the following described tract of land: Commencing at the northeast corner of the South Half of the Southeast Quarter ($S\frac{1}{2} SE\frac{1}{4}$) of the said Section 33; thence south 1320 feet; thence west 330 feet; thence north 1320 feet; thence east 330 feet to the place of beginning.

for the sum of \$24,000.00, payable as follows:

(a) The sum of Two Hundred (\$200.00) Dollars, which has been previously paid as earnest money;

(b) The sum of Eighteen Hundred (\$1800.00) Dollars, which is paid upon execution hereof; and

(c) The remaining balance of \$22,000.00 shall be paid in monthly installments of One Hundred twenty-five (\$125.00) Dollars, including interest at the rate of 6 per cent per annum on the unpaid balances, the first of such installments to be paid on the

first day of August, 1963, and subsequent installments to be paid on or before the first day of each and every month thereafter until the entire purchase price, including both principal and interest is paid in full.

All taxes levied against the above described property for the current tax year and insurance shall be prorated between Seller and Buyer as of the date of this agreement. Buyer agrees to pay when due all taxes which are hereafter levied against the property and all public, municipal and statutory liens or assessments which may be hereafter lawfully imposed upon the premises. In the event that the Buyer shall fail to pay the aforesaid taxes, the Seller may pay the same and upon depositing the receipt for payment thereof with the Escrow Agent (hereinafter provided for) said amount so paid by Seller shall be added to the principal amount due on this agreement.

Interest on all unpaid balance shall commence on the date of execution of this agreement.

Buyer shall have the privilege of increasing any monthly payment or pre-paying the whole consideration at any time, provided that no additional payments shall be credited as regular future payments nor excuse Buyer from making regular monthly payments provided for in this agreement.

Buyer agrees to keep the buildings on said premises insured against loss by fire or other casualty in an amount not less than \$10,000.00 on the house and \$3,000.00 on the barn, with loss payable to the parties hereto as their interests appear at the time of loss with priority in payment to Seller. Any amount received by Seller under the insurance in payment of a loss shall be applied upon the unpaid balance of the purchase price and shall reduce said unpaid balance to the extent of the amount of the insurance payment

received by Seller, except if prior to delivery of Deed hereunder there be a partial loss or damage by fire or other casualty of or to any improvements upon said premises and there is insurance covering such casualty and Buyer shall within a reasonable time repair, rebuild or restore said improvements, Seller shall upon completion of said repairs, rebuilding or restoration endorse and authorize payment to Buyer, Buyer's agent or Buyer's assigns of Seller's interest to any or all of any bill of exchange or other payment received by Seller from any source covering such partial loss or damage to said improvements. All uninsured losses shall be borne by Buyer on or after the date of this agreement.

Buyer shall be entitled to possession of the premises immediately upon execution of this agreement by the parties.

Buyer agrees that all improvements now located or which shall hereafter be placed on the premises 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 commit or suffer any waste of the property or of any improvements thereof, and shall maintain the property and all improvements thereof and all alterations thereof in good condition and repair. Buyer shall not otherwise make or cause to be made any major alterations to the property without first obtaining the written consent of Seller.

Seller shall furnish at his expense a Purchaser's title insurance policy in the amount of \$24,000.00 within ten days from the date hereof insuring Buyer against loss or damage sustained by him by reason of the unmarketability of Seller's title, or liens or encumbrances thereon, excepting matters contained in usual printed exceptions in such title insurance policies, easements, conditions and restrictions of record and encumbrances herein specified, if any.

Seller covenants that he is the owner of the above described property free of all encumbrances, except those of public record, as of the date of this agreement.

Upon payment of the entire purchase price for the property, as provided herein and performance by Buyer of all other terms, conditions and provisions hereof, Seller shall forthwith execute and deliver to Buyer a good and sufficient warranty deed conveying said property free and clear of all liens and encumbrances except as above provided and those placed upon property or suffered by Buyer subsequent to the date of this agreement.

As soon as practicable following the execution of this agreement, Seller shall deliver in escrow to the Camas Branch of the National Bank of Commerce of Seattle at 325 N. E. Fourth Avenue, Camas, Washington:

- (a) A warranty deed to the property free and clear of all encumbrances, except as specified herein, said deed to be executed by Seller with Buyer as the grantee.
- (b) An executed copy of this agreement.
- (c) An unexpired policy or policies of fire insurance on the described property.

The parties hereto hereby instruct said escrow agent to receive for the Seller's account the balance of the installment payments provided for herein. Upon full payment of the principal and interest provided for herein, the escrow agent shall deliver to Buyer the instruments specified above. If Buyer fails to pay any installment before the expiration of 60 days after the due date thereof, the escrow agent is authorized to surrender to Seller upon demand and without notice to Buyer all of the documents specified in the preceding paragraphs, thereby terminating the escrow.

In the event that Buyer shall fail to perform any of the terms of this agreement, time of payment and performance being of the essence, Seller shall, at his option, subject to the requirements of notice as herein provided, have the following rights:

- (a) To foreclose this contract by strict foreclosure in equity.
- (b) To declare the full unpaid balance of the purchase price immediately due and payable.
- (c) To specifically enforce the terms of this agreement by suit in equity.
- (d) To declare this agreement null and void as of the date of the breach and to retain as liquidated damages the amount of the payment theretofore made upon said premises. (Under this option all of the right, title and interest of Buyer shall revert and revest in Seller without any act of re-entry or without any other act by Seller to be performed, and Buyer agrees to peaceably surrender the premises to Seller, or in default thereof Buyer may, at the option of Seller, be treated as a tenant holding over unlawfully after the expiration of a lease and may be ousted and removed as such.

Buyer shall not be deemed in default for failure to perform any covenant or condition of this contract, other than the failure to make payments as provided for herein, until notice of said default has been given by Seller to Buyer and Buyer shall have failed to remedy said default within sixty days after the giving of the notice. Notice for this purpose shall be deemed to have been given by the deposit in the mails of a certified letter containing said notice

and addressed to Buyer at 5932 N. E. Glisan Street, Portland, Oregon, or such other address that Buyer shall furnish Seller in writing. Provided that in the event there is a disagreement between the Buyer and the Seller as to whether there has been a breach of any covenant or condition of this contract, (except failure to make payments as provided for herein), within five days after the aforesaid sixty-day notice has expired, the Seller and Buyer will arbitrate this disagreement under the following terms and conditions: It shall be submitted to two arbitrators, one to be appointed by each of the parties to this contract, and the arbitrators so chosen shall if themselves unable to agree choose a third within forty-eight hours, and on failure to agree as to who the third arbitrator shall be the Senior Judge of the Superior Court of the County of Skamania, State of Washington, shall appoint the third arbitrator, and the decision of the arbitrators must be submitted within five days unless the parties so stipulate that a longer period of time shall be needed; and the decision in writing signed by those assenting thereto of any two of the arbitrators shall be final and binding on the parties hereto; and in the event the decision is in favor of the Seller that Seller may then exercise any option that he may so choose as provided herein. Each party shall pay the cost of his own arbitrator, and on the appointment of a third arbitrator his cost shall be shared by each of the parties hereto, except as hereinafter provided.

Buyer certifies that this contract of purchase is accepted and executed on the basis of his own examination and personal knowledge of the premises and opinion of the value thereof; that no attempt has been made to influence his judgment; that no representations as to the condition or repair of said premises have been made by Seller or by any agent of Seller; that no agreement or

promise to alter, repair, or improve said premises has been made by Seller or by any agent of Seller; and that Buyer takes said property and the improvements thereon in the condition existing at the time of this agreement.

Seller is aware that Buyer is a licensed real estate broker in Oregon and is purchasing this property for his own account. Seller agrees that there is no agency or confidential or fiduciary relationship existing between Seller and Buyer and that in the event the Buyer should re-sell for a profit the Seller shall make no claims thereto.

Failure by Seller at any time to require performance by Buyer of any of the provisions hereof shall in no way affect Seller's rights hereunder to enforce the same, nor shall any waiver by Seller of any breach hereof be held to be a waiver of any succeeding breach, or a waiver of this non-waiver clause.

Any assignment of this agreement or any or all of his rights thereunder or any part thereof shall be inoperative and void, unless Seller shall assent thereto in writing, provided that after the Buyer has reduced the principal balance due to \$17,000.00, he may thereafter assign his interest to an assignee with a good credit rating without the assent of the Seller.

The covenants, conditions, and terms of this agreement shall extend to and be binding upon and inure to the benefit of the heirs, administrators, executors and assigns of the parties hereto, provided, however, that nothing contained in this paragraph shall alter the restrictions hereinabove contained relating to assignment.

In case suit, action, or arbitration is instituted to foreclose this contract or to enforce any of the provisions thereof, Buyer and Seller agree to pay such sum as the Court or arbitrators

may adjudge reasonable as expenses, court costs, and attorneys' fees in said suit, action or arbitration to the prevailing party.

IN WITNESS WHEREOF, the parties hereto have executed this agreement in triplicate as of the day and year first above written.

No. 4050

TRANSACTION EXCISE TAX

JUL 11 1963

Amount Paid 240.00

Michael O'Connell

Skamania County Treasurer

By

John Carroll
Jessie Carroll
SELLER

William D. Setser
Betty R. Setser
BUYER

STATE OF OREGON)
County of Multnomah) ss.
July 1, 1963.

Personally appeared the above-named John Carroll and Jessie Carroll and William D. Setser and Betty R. Setser and acknowledged the foregoing instrument to be their voluntary act.

Before me:

Beverly Jean Repp
Notary Public for Oregon
My Commission expires 2-4-66

