

59533

CONTRACT—REAL ESTATE

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THIS CONTRACT, Made this 4TH day of DECEMBER, 1978, between Charles C. Short and Eunice J. Short, husband and wife, and Erich J. Walter and Beverly A. Walter, husband and wife, hereinafter called the seller, hereinafter called the buyer,

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:

That portion of the W1E1SW1SE1 of Section 24, Township 32 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, lying North of the center thread of the Williamson River.

Subject, however, to the following:

1. Taxes for the fiscal year 1978-1979, due and payable.
  2. Rights of the public in and to any portion of the herein described premises lying within the limits of streets, roads or highways.
  3. Rights of the public and of governmental bodies in and to that portion of the premises herein described lying below the high water mark of the Williamson River.
  4. Subject to all subsurface rights except water, to the heirs of Virgil Wilson, their heirs and assigns as set forth in that certain instrument dated September 3, 1957, recorded November 1, 1971 in Volume M71, page 11459, Microfilm Records of Klamath County, Oregon.
- (For continuation of this document, see reverse side of this contract.)

for the sum of Sixteen thousand and no/100----- Dollars (\$16,000.00) (hereinafter called the purchase price), on account of which Seven thousand and no/100----- Dollars (\$7,000.00) 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: \$9,000.00) to the order of the seller in monthly payments of not less than One hundred eleven and 59/100----- Dollars (\$111.59) each, or more, prepayment without penalty,

payable on the 15th day of each month hereafter beginning with the month of January, 1979, and continuing until said purchase price is fully paid. All of said purchase price may be paid at any time; all deferred balances of said purchase price shall bear interest at the rate of 8 1/2 per cent per annum from December 15, 1978, until paid, interest to be paid monthly and \* the addition to 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.

The buyer warrants to and covenants with the seller that the real property described in this contract is

\* (A) primarily for buyer's personal, family, household or agricultural purposes,

(B) for an organization or a natural person for business or commercial purposes other than agricultural purposes.

The buyer shall be entitled to possession of said lands on December 15, 1978 and may retain such possession so long as he is not in default under the terms of this contract. The buyer agrees that at all times he will keep the buildings on said premises, now or hereafter erected, in good condition and repair and will not suffer or permit any waste or strip thereof; that he will keep said premises free from mechanic's and all other liens and save the seller harmless therefrom and reimburse seller for all costs and attorney's fees incurred by him in defending against any such liens; that he 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, he 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

full insurable value not less than \$\_\_\_\_\_ in a company or companies satisfactory to the seller, with loss payable first to the seller and then to the buyer as 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.

The seller agrees that at his expense and within 30 days from the date hereof, he will furnish unto buyer a title insurance policy insuring (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 except the usual printed exceptions and the building and other restrictions and covenants now of record, if any. Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement, he will deliver a good and sufficient deed conveying said premises in fee simple unto the buyer, his 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 covenants and 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 his assigns.

(Continued on reverse)

\*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. 1305 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens-Neess Form No. 1307 or similar.

Charles C. and Eunice J. Short  
1450 Bonsella  
Walla Walla, WA 99362

SELLER'S NAME AND ADDRESS

Erich J. and Beverly A. Walter  
General Delivery  
Chiloquin, OR 97624

After recording return to:

Winema Real Estate  
Box 376  
Chiloquin, OR 97624

NAME, ADDRESS, ZIP

Until a change is requested all tax statements shall be sent to the following address:

Erich J. and Beverly A. Walter  
General Delivery  
Chiloquin, OR 97624

STATE OF OREGON,

County of \_\_\_\_\_

I certify that the within instrument was received for record on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and recorded in book \_\_\_\_\_ on page \_\_\_\_\_ or as file/reel number \_\_\_\_\_, Record of Deeds of said county.

Witness my hand and seal of County affixed.

By \_\_\_\_\_

Recording Officer  
Deputy

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 the days of the time limited therefor, or fail to keep any agreement herein contained, then the seller at his option shall have the following rights: (1) to declare this contract null and void, (2) to declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable, (3) to withdraw said deed and other documents from escrow and/or (4) to foreclose this contract by suit in equity, and 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 rest 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 his 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.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 16,000.00 ~~for the same, the actual consideration consists of or includes other property or value given or promised to which is hereby acknowledged (indicate which)~~

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 such 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, the masculine, the feminine 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 triplicate; 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.

*Charles C. Short*  
Charles C. Short  
*Eunice J. Short*  
Eunice J. Short

*Erich J. Walter*  
Erich J. Walter  
*Beverly A. Walter*  
Beverly A. Walter

NOTE—The sentence between the symbols (1), if not applicable, should be deleted. See ORS 93.030).

STATE OF WASHINGTON )  
County of *Nalla Nalla* ) ss.  
*December 4, 1978*  
Personally appeared the above named *Charles C. Short and Eunice J. Short,*  
husband and wife,

STATE OF OREGON, County of \_\_\_\_\_ ) ss.  
\_\_\_\_\_, 19\_\_\_\_  
Personally appeared \_\_\_\_\_ and  
\_\_\_\_\_, who, being duly sworn,  
each for himself and not one for the other, did say that the former is the  
president and that the latter is the  
secretary of \_\_\_\_\_

\_\_\_\_\_, a corporation,  
and that the seal affixed to the foregoing instrument is the corporate seal  
of said corporation and that said instrument was signed and sealed in be-  
half of said corporation by authority of its board of directors; and each of  
them acknowledged said instrument to be its voluntary act and deed.  
Before me:

(SEAL)

*George Schuler*  
Notary Public for Washington  
My commission expires *April 25-1982*

Notary Public for Oregon  
My commission expires:

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 conveyor 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)

5. Subject to such rights as the Pacific Telephone and Telegraph Company may have under the Act of March 3, 1901 as set forth in that certain instrument dated September 3, 1957, recorded November 1, 1971 in Volume M71, page 11459, Microfilm Records of Klamath County, Oregon.
6. An easement created by instrument, including the terms and provisions thereof,
- Dated : July 17, 1972  
Recorded : January 22, 1976  
Volume : M76, page 1098, Microfilm Records of Klamath County, Oregon  
For : 60 foot roadway for ingress and egress over the Northerly boundary.

STATE OF CALIFORNIA OREGON )  
County of *KLAMATH* ) ss.

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

BE IT REMEMBERED, That on this *30TH* day of *NOVEMBER*, 1978,  
before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within  
named *Erich J. Walter and Beverly A. Walter, husband and wife.*

known to me to be the identical individuals 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.

*Sharon Allen*  
SHARON ALLEN  
NOTARY PUBLIC — OREGON  
My Commission Expires *10-5-82*

*Sharon Allen*  
Notary Public for California OREGON  
Commission expires *10-5-82*

27231

STATE OF OREGON; COUNTY OF KLAMATH; ss.

11:02

filed for record ~~XXXXXX~~ A. D. 19 78 at — o'clock AM., and

December

Deeds

on Page 27779

this 11th day of —, of M-78, of

Wm D. MILNE, County Clerk

duly recorded in Vol. —

BY *Frederick J. Mettler*

Fee \$9.00