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21887

CONTRACT—REAL ESTATE

Vol. 76 Page 18506

THIS CONTRACT, Made this 19th day of November, 1976, between
Patricia M. Thomas

and Dennis M. Achten and Anne S. Achten, husband and wife, hereinafter called the seller,

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: The East $\frac{1}{2}$ Northwest $\frac{1}{2}$ Southwest $\frac{1}{2}$ East $\frac{1}{2}$ West $\frac{1}{2}$ Northwest $\frac{1}{2}$ Southwest $\frac{1}{2}$, East $\frac{1}{2}$ Southwest $\frac{1}{2}$, and the East $\frac{1}{2}$ West $\frac{1}{2}$ Southwest $\frac{1}{2}$ Southwest $\frac{1}{2}$, all in Section 33, Township 40 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon. EXCEPTING THEREFROM that portion of the South $\frac{1}{2}$ Southwest $\frac{1}{2}$ heretofore conveyed for Railroad Right of Way, more particularly described in Deed Volume 25, page 398, Records of Klamath County, Oregon. Reserving unto grantor a 30 foot road easement on the West side and South side of Parcel No. 4. (said parcel 4 being all of above described property) ALSO RESERVING an access road easement beginning at the intersection of the Northern boundary line of the Railroad Right of Way with the most Westerly property line; thence Northerly along the property line a distance of 50 feet; thence Easterly along a line parallel to the Right of way boundary line a distance of 500 feet; thence South a distance of 50 feet to the Railroad Right of Way; thence Westerly along the Northern boundary line of the Railroad Right of Way to the point of beginning.

Subject, however, to the following:

1. Right of way, created by instrument, including the terms and for the sum of Twenty-Nine Thousand Seventy Five and No/100ths Dollars (\$29,075.00) (hereinafter called the purchase price), on account of which Five Thousand Three Hundred Forty Dollars (\$5,340.00) 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: \$23,735.00) to the order of the seller in monthly payments of not less than TWO HUNDRED THIRTEEN and 70/100ths Dollars (\$213.70) each, or more, prepayment without penalty, after the first five (5) years for which time there shall be a 3 percent penalty of the unpaid balance payable on the 19th day of each month hereafter beginning with the month of December, 1976, 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 9% per cent per annum from November 19, 1976 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.

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 association, or a natural person, for business or commercial purposes or other agricultural purposes.

The buyer shall be entitled to possession of said lands on closing 1976 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 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.

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 easements now of record, if any. Seller also agrees that when said purchase price is fully paid and upon request and 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 easements 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-Ness Form No. 1308 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens-Ness Form No. 1307 or similar.

SELLER'S NAME AND ADDRESS	
BUYER'S NAME AND ADDRESS	
After recording return to:	
Mountain Title Company	
NAME, ADDRESS, ZIP	
Until a change is requested all tax statements shall be sent to the following address:	
Mr. and Mrs. Achten	
Ashland Star Route	
Klamath Falls, Oregon 97601	
NAME, ADDRESS, ZIP	

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 ten 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 and/or (3) to foreclose this contract by suit in equity, and in any of such cases, possession of the premises above described and all other rights acquired by the buyer hereunder shall revert to and remain 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 \$ 29,075.00

In case suit or action is instituted to foreclose this contract or to enforce any of the provisions hereof, the buyer agrees to pay such sum as the court may adjudge reasonable as attorney's fees to be allowed plaintiff in said suit or action and if an appeal is taken from any judgment or decree of the trial court, the buyer further promises to pay such sum as the appellate court shall adjudge reasonable as plaintiff'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; 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.

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.

Patricia M. Thomas
Patricia M. Thomas

Dennis M. Achten
Dennis M. Achten
Anne S. Achten
Anne S. Achten

NOTE—The sentence between the symbols (), if not applicable, should be deleted. See ORS 93.0301.

STATE OF OREGON,

County of Klamath } ss.
November 19, 1976

Personally appeared the above named
Patricia M. Thomas, Dennis M.
Achten and Anne S. Achten

and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:
(OFFICIAL SEAL) *W. Arlene D. Haddington*
Notary Public for Oregon
My commission expires 3-21-77

STATE OF OREGON, County of _____) ss.
_____, 19____

Personally appeared _____ and _____

each for himself and not one for the other, did say that the former is the _____ who, being duly sworn, president and that the latter is the secretary of _____

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 behalf 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:
Notary Public for Oregon
My commission expires: _____ (OFFICIAL SEAL)

Section 4 of Chapter 618, Oregon Laws 1975, provides:
“(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 owner of the title being 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.
“(2) Violation of subsection (1) of this section is a Class B misdemeanor.”

(DESCRIPTION CONTINUED)

provisions thereof:

Recorded: October 5, 1907 in Volume 23, page 205 and recorded January 11, 1909 in Volume 25, page 398, Deed Records of Klamath County, Oregon
In Favor Of: California Northeastern Railroad Company
For: Construction and maintenance.

2. An easement, created by instrument, including the terms and provisions thereof:
Recorded: December 15, 1937 in Volume 113, page 376, Deed Records of Klamath County, Oregon

In Favor Of: The Pacific Telephone and Telegraph Company, a California corporation
For: Poles and Anchors
Affects: No location disclosed

3. An easement, created by instrument, including the terms and provisions thereof:
Dated: May 18, 1951

Recorded: In Volume 247 at page 686, Deed Records of Klamath County, Oregon

In Favor Of: The California Oregon Power Company, a California corporation
For: Transmission and distribution lines - installation of guys and anchors

Affects: No location given

4. The interest of Patricia M. Thomas as disclosed by Quitclaim Deed recorded June 15, 1976 in Volume M-76, page 8852, Microfilm Records of Klamath County, Oregon, Theodore A. Thomas to Patricia M. Thomas.

5. Unrecorded Contract of Sale dated December 27, 1963, wherein Jack N. Martin and Vanelia LaVon Martin, husband and wife, are Sellers, (for continuation of this document see attached Exhibit "A" and incorporated herein.

Exhibit "A"

14363
18508

to James Stanley Head and Dorothy E. Head, husband and wife, as Buyers, and Sellers covenant to and with Buyers herein that the said prior Contract shall be paid in full prior to, or at the time this Contract is fully paid and that said above described real property will be released from the lien of said Contract upon payment of this Contract.

6. Unrecorded Contract of Sale dated July 27, 1965, wherein James Stanley Head and Dorothy E. Head, husband and wife, are Sellers, to Nitco Builders, a partnership, as Buyers, and Seller covenantsto and with Buyers herein that the said prior Contract shall be paid in full prior to, or at the time this Contract is fully paid and that said above described real property will be released from the lien of said Contract upon payment of this Contract.

7. Unrecorded Contract of Sale dated January 29, 1969 wherein Nitco Builders, a partnership, consisting of C. W. Langeberg and T. A. Thomas, Sellers, to Louis Albert Moglich, Jr. and Beverly Ann Moglich, husband and wife, as to an undivided one-half interest, and Allen Wayne Stevens and Beverly Ann Stevens, husband and wife, as to an undivided one-half interest, as Buyers, and Seller further covenantsto and with Buyers herein that the said prior Contract shall be paid in full prior to, or at the time this Contract is fully paid and that said above described real property will be released from the lien of said Contract upon payment of this Contract.

8. Assignment of Contract dated April 16, 1973 wherein Louis Albert Moglich, Jr. and Beverly Ann Moglich, husband and wife, and Allen Wayne Stevens and Beverly Ann Stevens, husband and wife, as Assignors, assigned their interest to T. A. Thomas in that certain Contract of Sale dated December 27, 1963 set forth above, which Vendees' interest in said contract was on July 15, 1965, assigned to Nitco Builders, a partnership; and which Vendee's interest in said contract was then assigned to Assignors herein by instrument dated January 29, 1969 set forth above.

9. Unrecorded Contract of Sale dated April 16, 1973, by and between Louis Albert Moglich, Jr. and Beverly Ann Moglich, husband and wife, and Allen Wayne Stevens and Beverly Ann Stevens, husband and wife, as Sellers, to T. A. Thomas, as Buyer, and Seller covenants to and with Buyers herein that the said prior Contract shall be paid in full prior to, or at the time this Contract is fully paid and that said above described real property will be released from the lien of said Contract upon payment of this Contract.

THIS CONTRACT IS BEING RE-RECORDED FOR THE PURPOSE OF CLARIFYING THE DESCRIPTION OF PARCEL 4.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

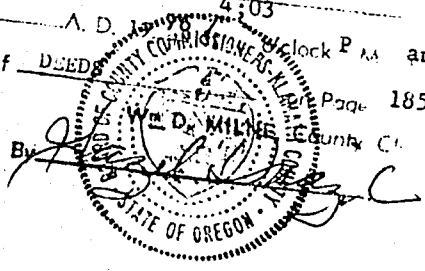
for record at request of MOUNTAIN TITLE CO

this 19th day of November

A. D. 1979

4:03
clock P. M. and
July recorded in Vol. E 76, of DEEDS Page 18506
County Cl.

FEE \$ 9.00



INDEXED

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 19th day of June A.D., 1979 at 10:41 o'clock P. M., and duly recorded in Vol. 14361 of Deeds on Page 14361

FEE \$9.00

WM. D. MILNE, County Clerk

By Berntha Sholoch Deputy