

75368

CONTRACT—REAL ESTATE

Vol. ^m 79 Page 24121



and Robert H. Smith III and Mary Ellen C. Smith, husband and wife, 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:

Lot 19, Block 7, TRACT 1140, LYNNEWOOD FIRST ADDITION, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

Subject, however, to the following:

- Subject, however, to the following:
1. Taxes for the fiscal year 1979-1980, a lien, not yet due and payable.
 2. Sewer and water use charges, if any, due to the City of Klamath Falls.
 3. Reservations as set forth on plat dedication, to-wit:

Reservations as set forth on plat dedication, to-wit:
 "Subject to: All building restrictions of the R-75 Zone of the City of Klamath Falls as of the date of recording; Easements as shown on annexed map are dedicated to the City of Klamath Falls for regulation and placement of utilities, said easements to provide ingress and egress for construction and maintenance of said utilities with any planting or structures placed thereon by the lot owner to be at his own risk; Additional restrictions as provided in any recorded protective covenants."

(For continuation of this document, see reverse side of this contract.)

for the sum of Eighteen thousand and no/100-----Dollars (\$18,000.00..)
(hereinafter called the purchase price), on account of which Five thousand two hundred twenty
Dollars (\$ 5,220.00) 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: \$12,780.00.....) to the order
of the seller in monthly payments of not less than Three hundred twenty-seven and 77/100
Dollars (\$ 327.77.....) each, or more, prepayment without penalty.

payable on the 1st day of each month hereafter beginning with the month of November, 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 10 1/2 per cent per annum from October 13, 1979, until paid, interest to be paid monthly and * (in addition to being included in the future payments)

the minimum monthly payments above required. Taxes on said premises for the current tax year shall be pro-rated 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, or for any combination of (even if buyer is not the present or future owner of the property) is for business or commercial purposes other than agricultural purposes.~~

[illegible]

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, saving (in an amount equal to said purchase price) 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 upon surrender of this agreement, he will deliver to buyer a good and sufficient deed conveying said premises in fee simple unto the buyer, his heirs and assigns, free and clear of all encumbrances and of all taxes and assessments now or hereafter levied or assessed against said premises and 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)

(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.

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

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

O. W. GOAKEY
ATTORNEY AT LAW
431 Main Street
Nath Falls, Oregon 97601

NAME ADDRESS, ZIP

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

935 New Castle
Hamata Falls, Or. 97601

NAME, ADDRESS, ZIP

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 30 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 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 \$18,000.00. However, the actual consideration consists of or includes other property or value given or promised which is the consideration (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.

Harry H. Carrick
June G. Carrick
Robert H. Smith III
Mary Ellen C. Smith

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

STATE OF OREGON,) ss.) STATE OF OREGON, County of _____) as
County of Klamath)
October 12, 1979) Personally appeared _____ and

Personally appeared the above named Harry H. Carrick and June G. Carrick, husband and wife, and Robert H. Smith III and Mary Ellen C. Smith, husband and wife and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me, Thurgood L. Looney
(OFFICIAL SEAL)
Notary Public for Oregon
My commission expires 3-19-81

Before me: _____
(SEAL)
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 conveyor 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)
4. Covenants, conditions and restrictions, but omitting restrictions, if any, based on race, color, religion or national origin, imposed by instrument, including the terms and provisions thereof, recorded June 9, 1976 in Volume M76, page 8487, Microfilm Records of Klamath County, Oregon.

5. Trust Deed, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein.

Dated : October 14, 1977
Recorded : November 29, 1977
Volume : M77, page 23123, Microfilm Records of Klamath County, Oregon

Amount : \$10,305.00
Grantor : Harry H. Carrick and June G. Carrick, husband and wife
Trustee : B. J. Matzen, City Attorney
Beneficiary : City of Klamath Falls, a municipal corporation, which Buyers herein do not assume and agree to pay, and Sellers further covenant to and with Buyers that the said prior trust deed 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 trust deed upon payment of this contract.

Buyers specifically agree to pay the full contract balance on or before November 1, 1983.
STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 12th day of October A.D., 1979 at 2:43 o'clock P.M., and duly recorded in Vol M79 of Deeds on Page 24121.

FEE \$7.00
WM. D. MILNE, County Clerk
By Bernetha Shetch Deputy