

TN

95169

CONTRACT—REAL ESTATE

Vol. 181 Page 1300

THIS CONTRACT, Made this 14th day of November, 1980, between
PHOENIX REFORESTATION, INC., an Oregon corporation
 and **ERNEST L. OLEMAN**, 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:
N1/2, N1/2, SW1/4, NE1/4 of Section 17, Township 24 South, Range 10, E.W.M.
 SUBJECT TO:

1. 1980-81 taxes, a lien but not yet due and payable; buyer shall pay the same when due as hereinbelow provided.
2. Reservations and restrictions in patent, dated May 12, 1921, recorded June 8, 1964, in Volume 353, page 342, Deed Records of Klamath County, Oregon, as follows: "subject to any vested and accrued water rights for mining, agriculture, manufacturing or other purposes and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted a right of way thereon for ditches or lands constructed by authority of the United States."
3. Easement, including the terms and provisions thereof, as disclosed by deed recorded January 27, 1976, in Volume M-76, page 1287; January 27, 1976, in Volume M-76, page 1288; May 17, 1976, in Volume M-76, page 7282; September 27, 1976, in Volume M-76, page 15145; (CONT. ON REVERSE) for the sum of FIVE THOUSAND, ONE HUNDRED AND NO/100 Dollars (\$5,100.00), (hereinafter called the purchase price) on account of which NINE HUNDRED FORTY NINE AND 73/100 Dollars (\$949.73) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller), and the remainder to be paid to the order of the seller at the times and in amounts as follows, to-wit:

The contract balance of \$4,150.27, together with interest thereon at the rate of 11% per annum from the date hereof until paid, shall be payable in regular monthly installments of not less than \$50.00 each, including interest on the unpaid balance as aforesaid. The first such monthly payment shall be due on or before the 7th day of October, 1980, with a like payment due on or before the same day of each month hereafter until the entire balance be paid in full. If not sooner paid, the entire balance shall be paid in full upon the expiration of 120 months from the due date of the first monthly payment as hereinabove provided.

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 business or commercial purposes, other than agricultural purposes.

All said purchase price may be paid at any time; all delinquent balances of said purchase price shall bear interest at the rate of _____ per cent per annum from _____ until paid; interest to be paid _____ and _____ in addition to _____ being included in the minimum regular payments above required. Taxes on said premises for the current year shall be prorated between the parties hereto as of _____, 19_____.

The buyer shall be entitled to possession of said lands on the date hereof, 19____, 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 premises and the buildings, now or hereafter erected thereon, in good condition and repair and will not suffer or permit any waste or strip thereof; that he 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 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 said improvements and all buildings now or hereafter erected on said premises against loss or damage by fire with an extended coverage in an amount not less than _____ in a company or companies selected by the seller, and he will pay the first to the seller and then to the buyer as their respective interests may appear and all policies of insurance so hereinafter to the seller as soon as they are issued. 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 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 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 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. If the contract becomes a first lien to finance the purchase of a dwelling use Stevens-Ness Form No. 1307 or similar.

Phoenix Reforestation, Inc.

Rt. 1, Box 208

Eddyville, OR 97343

SELLER'S NAME AND ADDRESS

Ernest L. Oleman

814 N. Coast Hwy.

Newport, OR 97365

BUYER'S NAME AND ADDRESS

After recording return to:

Phoenix Reforestation

Rt. 1, Box 208

Eddyville, Or 97343

NAME, ADDRESS, ZIP

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

Ernest L. Oleman

814 N. Coast Hwy.

Newport, Or 97365

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/reel/volume No. _____ on page _____ or as document/fee/file/instrument/microfilm No. _____, Record of Deeds of said county.

Witness my hand and seal of County affixed.

NAME

TITLE

By _____ 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 20 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 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 terminate and the right to the possession of the premises above described and all other rights acquired by the buyer hereunder shall revert to and vest 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 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 property is sold "as is," based on buyer's personal inspection and knowledge, and not in reliance upon any warranty or representation of seller or seller's agents, except as may be expressly set forth herein, and except as may be expressly provided in this contract, the same are waived, which is a material part of the consideration. The buyer, by execution hereof, acknowledges fulfillment of or hereby waives any agreements, conditions or contingencies contained in earnest money receipt agreement executed preliminary hereto.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$5,100.00. However, the actual consideration consists of or includes other property or value given or promised which is part of 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. PHOENIX REFORESTATION, INC.

Ernest L. Oleman

By: *[Signature]*

By: *[Signature]*

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

STATE OF OREGON,

County of Lincoln

Not 14

1980

Personally appeared the above named

Ernest L. Oleman

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

Before me:

(OFFICIAL SEAL)

[Signature]

Notary Public for Oregon

My commission expires April 16, 1982

STATE OF OREGON, County of Lincoln

11-14

1980

Personally appeared Bob Zybach

Pamela Zybach

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

Phoenix Reforestation, Inc.

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 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:

[Signature]

Notary Public for Oregon

My commission expires April 16, 1982

(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 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)

September 27, 1976, in Volume M-76, page 15146; January 18, 1977, in Volume M-77, page 894; April 18, 1977, in Volume M-77, page 6533; and April 18, 1977, in Volume M-77, page 6534, Deed Records of Klamath County, Oregon. 4. Contract of sale, including the terms and provisions thereof, as recorded September 18, 1980, in Volume M-80, page 17766, Deed Records of Klamath County, Oregon, pursuant to which seller is itself purchasing. The buyer does not assume same, and seller agrees and warrants the same shall be kept current and not in default so that seller shall be able to convey free and clear thereof upon completion of buyer's obligations hereunder. 5. Declaration of covenants, conditions and restrictions, option of first refusal and easements imposed, reserved and created by instrument recorded the 10th day of December, 1980, in Book 1180, Page 2358, Film Records of Klamath County, Oregon.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Klamath County Title Co.

this 27th day of January A.D. 1981 at 2:29 o'clock P.M. and duly recorded in Vol. M81 of Deeds on Page 1300

By *[Signature]* EVELYN BIEHN, County Clerk

Fee \$7.00

32-008

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