

TN

5736

CONTRACT—REAL ESTATE

Vol 77/81 Page 48572



THIS CONTRACT, Made this 19th day of October, 1981, between
Charles L. Daniels, Jr.

and Robert A. Scott and Sharon A. Ziegler, Tenants In Common, 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: Beginning at the Southeast corner of Lot 57 of FAIR ACRES SUBDIVISION NO. 1, according to the official plat thereof on file in Klamath County, Oregon, running thence North along the Westerly line of Homedale Road a distance of 51 feet; thence West parallel to the South line of said Lot 57 a distance of 130 feet; thence South parallel with the East line of said Lot 57 a distance of 51 feet to the South line of said Lot 57; thence East along the South line of said Lot 57 a distance of 130 feet to the place of beginning, being a portion of said Lot 57 of Fair Acres Subdivision No. 1 in Klamath County, Oregon, EXCEPTING therefrom that portion conveyed to Klamath County by Deed Volume 347, page 511, Deed Records of Klamath County, Oregon for widening of Homedale Road.

Subject, however, to the following:

1. The premises herein described are within and subject to the statutory powers, including the power of assessment, of South Suburban Sanitary District.

2. The premises herein described are within and subject to the statutory powers, including the power of assessment, of South Suburban Sanitary District.

3. Assessments, if any, due to the City of Klamath Falls, for water use. (for continuation of this Contract see reverse side of this document)

for the sum of Twenty-Five Thousand and No/100ths-----Dollars (\$25,000.00) (hereinafter called the purchase price) on account of which Two Hundred Fifty and No/100ths-----Dollars (\$250.00) 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: \$24,750.00) to the order of the seller in monthly payments of not less than TWO HUNDRED SIXTY and 67/100THS-----Dollars (\$260.67) each, or more, prepayment without penalty,

payable on the 15th day of each month hereafter beginning with the month of November, 1981, 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 12% per cent per annum from 19th October 1981 until paid, interest to be paid monthly and * } in 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 the production of income or for business or commercial purposes other than agricultural purposes

October 19th 1981

The buyer shall be entitled to possession of said lands on 19th day of October, 1981, 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 and keep insured all buildings now or hereafter erected on said premises against loss or damage by fire (with extended coverage) in an amount not less than \$ full insurable value 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 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.

Charles L. Daniels, Jr.

STATE OF OREGON;

County of _____

SELLER'S NAME AND ADDRESS

Robert A. Scott and Sharon A. Ziegler
 P.O. Box 1452
 Klamath Falls, Oregon 97601

BUYER'S NAME AND ADDRESS

After recording return to:

MOUNTAIN TITLE COMPANY

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

Robert A. Scott and Sharon A. Ziegler
 P.O. Box 1452
 Klamath Falls, Oregon 97601

NAME, ADDRESS, ZIP

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 of _____.

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 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 de- termine 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 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 \$ 25,000.00 (However, the actual consideration consists of or includes other property or value given or promised which is the consideration indicated 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 under- signed 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 L. Daniels, Jr. Robert A. Scott
Sharon A. Ziegler

NOTE—The sentence between the symbols ⓐ if not applicable, should be deleted. See ORS 93.0303.

STATE OF OREGON, County of Klamath, ss. Personally appeared _____, 19____, and _____, 19____, 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 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.

Personally appeared the above named Charles L. Daniels, Jr. and Robert A. Scott and Sharon A. Ziegler and acknowledged the foregoing instrument to be their voluntary act and deed.

Notary Public for Oregon My commission expires 7/23/81
Notary Public for Oregon My commission expires _____ (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 con- veyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyor not later than 15 days after the instrument is executed and the par- ties 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. Subject to reservations, restrictions and easements as contained in Deed recorded November 13, 1928 in Volume 81 at page 407, Deed Records of Klamath County Oregon, to-wit:

"Excepting and reserving to the first parties, their heirs and assigns, the right at any time to construct, build and erect ditches, telephone lines, telegraph lines and electric power lines in and upon said premises, and to keep and maintain the same; said right to be for the benefit of the lands and premises adjoining the above described land."
(Affects Lots 56 and 57)

5. Subject to an unrecorded Contract, including the terms and provisions thereof dated March 10, 1971, wherein Rosie D. Carlson is Vendor and Charles L. Daniels and Jeanne H. Daniels, as tenants by the entirety, are Vendees, as disclosed by the following Assignment:

Assignment of Vendor's interest, including the terms and provisions thereof,
Dated: March 23, 1977
Recorded: March 24, 1977
Volume: M77, page 4950, Microfilm Records of Klamath County, Oregon
To: Marcene Robinson and Rudolph Carlson, each as to an undivided one-half interest. The interest of Jeanne H. Daniels was awarded to Charles L. Daniels, Jr. by Decree dated February 28, 1972, which Contract Buyer herein does not assume and agree to pay, and Seller herein further covenants to and with Buyer 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 in full of this Contract.
(for continuation of this Contract see attached Exhibit "B" and by this reference incorporated herein)

It is further agreed by and between the parties hereto that the taxes and fire insurance are the Buyer's obligation herein and the Buyer agrees to furnish Seller with proof of payment for taxes and fire insurance each year hereafter.

It is further understood and agreed between the parties hereto that Buyer has made an independent investigation and inspection of the premises herein described, and has entered into this Contract without relying on any statement or representation or covenant not specifically embodied in this Contract, and accepts the property described in this Contract "as is" in its present condition, and requires no work of any kind to be done on said property by Seller.

It is further agreed by and between the parties hereto unless otherwise expressly provided herein, no interest in this Contract, nor in and to the properties herein agreed to be sold and conveyed, or any part thereof, shall be sold, conveyed, or in any other manner transferred, assigned, or encumbered by the Buyer without the written consent of Seller first obtained in writing, but approval will not be withheld without due cause.

Buyer specifically agrees to pay the full Contract balance on or before October 1, 2007.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Mountain Title Co.

this 26th day of October A.D. 19 81 at 8:36 o'clock A.M., and

duly recorded in Vol. M81 of Deeds on Page 18572

By EVELYN BEHN, County Clerk

Fee \$12.00

Put MTC