

CONTRACT—REAL ESTATE

Vol. 1082 Page 2894

THIS CONTRACT Made this 28th day of July 1981, between WILLIAM L. GALLAGHER and NADINE F. GALLAGHER, husband and wife, and HAROLD DEAN MUNDY and VICKIE MUNDY, husband and wife, hereinafter called the seller,

WITNESSETH: That in consideration of the mutual covenants and agreements herein contained, the buyer, 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 6 in Block 1, as shown on the map entitled "WHISKEY CREEK ACRES-TRACT 1162", filed in the office of the County Clerk of Klamath County, Oregon.

SUBJECT TO: 1) 1981-82 taxes, a lien in an amount to be determined, but not yet payable. 2) The rights of the public in and to that portion of the herein described premises lying within the limits of streets, roads or highways. 3) Reservations as contained in Deed of Tribal Property, recorded in Volume 312, Page 353, Klamath County Records. 4) Reservations as contained in Contract recorded in Volume 313, Page 300, Klamath County Records. 5) Mortgage, including the terms and provisions thereof and such future advances as may be provided (CONTINUED ON REVERSE) for the sum of Fifteen thousand and no/100— Dollars (\$ 15,000.00), hereinafter called the purchase price, of which \$ 1,000.00 has been paid at the time of the execution hereof, the receipt whereof hereby is acknowledged by the seller; the buyer agrees to pay the balance of said purchase price to the order of the seller at the times and in the amounts as follows, to-wit: \$159.13, or more, per month; payments due on the first day of each month; first payment due September 1, 1981, all due and payable on or before August 1 1996.

In the event the herein described property is sold or any interest conveyed by the buyers herein, the entire principal and interest are immediately due and payable.

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.

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 _____ per cent per annum from August 1, 1981 until paid, interest to be paid _____ monthly and _____ 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 July 31, 1981.

The buyer shall be entitled to possession of said lands on August 1, 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 \$ _____ 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 said described premises are now subject to a contract or a mortgage (the word mortgage as used herein includes within its meaning a trust deed) recorded in the Deed*, Mortgage*, Miscellaneous* Records of said county in book/reel/volume No. M77 & M78 on page 22267 & 11861 thereof or as document/fee/file/instrument/microfilm No. _____ (reference to which hereby is made) on which the unpaid principal balance thereof at this time is \$ 5,000.00 and no more, with interest paid to _____ 19 _____, payable in installments of not less than \$ 5,000.00 per year _____, the seller agrees to pay all sums due and to become due on said contract or mortgage promptly at the times required for said payments and to keep said contract or mortgage free from default; should any of the installments on said mortgage so paid by the seller include taxes or insurance premiums on said described premises, the buyer agrees on seller's demand forthwith to repay to the seller that portion of said installments so paid applicable to taxes and insurance premiums; should the seller for any reason permit said contract or mortgage to be or become in default, the buyer may pay any sums required by said contract or mortgage to be paid or otherwise perform said contract or mortgage and the buyer shall be entitled to credit for all sums so paid by him against the sums next to become due on the above purchase price pursuant to the terms of this contract.

The seller agrees that at his expense and within _____ 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, and the said contract or mortgage. Seller also agrees that when said purchase price is fully paid 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 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 secures a first lien to finance the purchase of a dwelling use Stevens-ness Form No. 1307 or similar.

SELLER'S NAME AND ADDRESS

BUYER'S NAME AND ADDRESS

After recording return to:

Frontier
P.O. Box 5197
Klamath Falls, Or 97604

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

Harold D. & Vickie Mundy
P.O. Box 374, Bonanza, Or 97623
NAME, ADDRESS, ZIP

STATE OF OREGON,

County of _____ ss.

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 fixed 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- 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 \$15,000.00. However, the actual consideration consists of or includes other property or value given or promised which is part of the whole 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.

William F. Gallagher
Nadine F. Gallagher

Harold Dean Mundy
Vickie Mundy

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

STATE OF OREGON,
 County of Klamath } ss.
 July 30, 19 81

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

Personally appeared the above named William F. Gallagher, Nadine F. Gallagher, Harold Dean Mundy, and Vickie Mundy, and acknowledged the foregoing instrument to be their voluntary act and deed.

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 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: *Carol Stuss*
 (OFFICIAL SEAL)
 Notary Public for Oregon
 My commission expires 5-6-84

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 conveyer of the title to be 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.

ORS 93.990(3) Violation of ORS 93.635 is punishable, upon conviction, by a fine of not more than \$100.

(DESCRIPTION CONTINUED)
 therein, given to secure the payment of \$100,000.00, recorded November 15, 1977 in Volume M77, Page 2267, Klamath County Microfilm Records (includes additional property). 6) Mortgage, including the terms and provisions thereof, with interest thereon and such future advances as may be provided therein, given to secure the payment of \$260,312.00 (includes additional property). 7) Restrictions, but omitting restrictions, if any, based on race, color, religion or national origin, as shown on the recorded plat. 8) Covenants, easements and restrictions, but omitting restrictions, if any, based on race, color, religion or national origin, imposed by instrument, including the terms thereof, recorded February 29, 1979 in Volume M79, Page 4397, Klamath County Microfilm Records. 9) Subject to a non-exclusive roadway easement as shown on dedicated plat.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record and recording fee
 this 8 day of March A.D. 19 82 at 11:40 o'clock A.M. and
 duly recorded in Vol. M 82 of Deeds on or 2894
 Fee \$8.00
 By *Joyce McArthur* EVLLYN BIEHN County Clerk