

9952

CONTRACT—REAL ESTATE

NTC 10220-K

Vol. 1087

3188

THIS CONTRACT, Made this 23rd day of February, 1982, between  
Douglas R. Phillips and Sharon C. Phillips, husband and wife,  
and Gerald H. Maddax and Ginger L. Maddax, husband and wife,  
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

An undivided 2 interest in the following described property: Klamath to-wit: 2  
That portion of the NW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 16 and the NE $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 17, Township 35 South, Range 13 East of the Willamette Meridian, Klamath County, Oregon, lying East of the main channel of Mill Creek.

Subject, however, to the following:  
1. Taxes, including the current fiscal year have been assessed with Veterans' Exemption. If the exempt status is terminated under the statute prior to the date on which the assessment roll becomes the tax roll in the year in which said taxes were assessed, an additional tax may be levied.

2. Rights of the public in and to any portion of the herein described premises lying within the limits of streets, roads or highways.

3. Reservations and restrictions as contained in Patent from United States of America, recorded in Volume 309, page 536, Records of Klamath County, Oregon, to-wit: (Affects W $\frac{1}{2}$  NW $\frac{1}{4}$  Sec. 16 & NE $\frac{1}{4}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  Sec. 17, T. 35 S., R. 13 E.)

"and there is reserved from the lands hereby allotted a right of way thereon for ditches or canals constructed by (for continuation of this contract see reverse side of this document)

for the sum of Eighteen Thousand and No/100ths Dollars (\$18,000.00) (hereinafter called the purchase price) on account of which Five Thousand and No/100ths Dollars (\$5,000.00) 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: \$13,000.00) to the order of the seller in monthly payments of not less than ONE HUNDRED SIXTY-FOUR and 68/100THS Dollars (\$164.68) each, or more, prepayment without penalty.

payable on the day of each month hereafter beginning with the month of 19, 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 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 an organization or for a natural person for business or commercial purposes other than agricultural purposes.

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

Mr. & Mrs. Douglas R. Phillips  
P.O. Box 199  
Beatty, OR

SELLER'S NAME AND ADDRESS:

Mr. & Mrs. Gerald H. Maddax  
214 5th Avenue  
Pacifi, WA 98047

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.

Same as Buyer

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 \_\_\_\_\_/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 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 terminate and the right 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 money 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 part of the consideration indicated which is:—

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.

*Douglas R. Phillips*  
 Douglas R. Phillips  
*Sharon C. Phillips*  
 Sharon C. Phillips

*Gerald H. Maddox*  
 Gerald H. Maddox  
*Ginger L. Maddox*  
 Ginger L. Maddox

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

STATE OF OREGON,

County of Klamath,  
March 15, 19 82

Personally appeared the above named  
 Douglas R. Phillips, Sharon C.  
 Phillips,

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

(OFFICIAL  
 SEAL)

*Kristi L. Garrison*  
 Notary Public for Oregon  
 My commission expires 6/19/83

STATE OF OREGON, County of \_\_\_\_\_, ss.

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 be-  
 half 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:

(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 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)

the authority of the United States.  
 4. Reservations and restrictions as contained in Land Status Report recorded in Volume 309, page 538, Records of Klamath County, Oregon, to-wit:

"The above described property is subject to any existing easements for public roads and highways, for public utilities and for railroads and pipe lines and for any other easements or rights of way of record; and there is hereby reserved any and all roads, trails, telephone lines, etc., actually constructed by the United States, with the rights of the United States to maintain, operate or improve the same so long as needed or used for or by the United States. (Dept. Instr., January 13, 1916, 44 L.D. 513)."  
 (Affects W $\frac{1}{2}$ NW $\frac{1}{2}$  Section 16, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$  Section 17, T. 35 S., R. 13 E.W.M.)

5. Transmission Line Easement, including the terms and provisions thereof,

Dated: September 17, 1965  
 Recorded: September 29, 1965  
 Volume: M65, page 2129, Microfilm Records of Klamath County, Oregon

In favor of: United States of America  
 For: electric power transmission structures

6. Electric Transmission Line Easement, including the terms and provisions thereof,

Dated: February 21, 1966  
 Recorded: April 20, 1966  
 Volume: M66, page 3508, Microfilm Records of Klamath County, Oregon

In favor of: Portland General Electric Company  
 (for continuation of this contract see attached Exhibit "A" and by this reference incorporated herein)

For: electric power transmission line  
 7. Real Estate Contract, including the terms and provisions thereof,  
 Dated: January 11, 1978  
 Recorded: January 23, 1978  
 Volume: M78, page 1407, Microfilm Records of Klamath County,  
 Oregon  
 Vendor: Robert Jackson and Isabel S. Jackson, husband and wife  
 Vendee: Richard L. Hanlin, Wilma L. Hanlin, Bob W. Cowbrough  
 and Lonnie L. Brooks

(With other property), and Sellers further covenant to and with Buyers 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.

8. Right of Way Option, including the terms and provisions thereof,  
 Dated: April 10, 1978  
 Recorded: July 25, 1978  
 Volume: M78, page 16179, Microfilm Records of Klamath County,  
 Oregon

In favor of: Pacific Power & Light Company  
 For: electric transmission lines  
 9. Real Estate Contract, including the terms and provisions thereof,  
 Dated: March 1, 1979  
 Recorded: March 20, 1979  
 Volume: M79, page 6327, Microfilm Records of Klamath County,  
 Oregon  
 Vendor: Richard L. Hanlin and Wilma L. Hanlin and Bob W.  
 Cowbrough and Lonnie L. Brooks  
 Vendee: Douglas R. Phillips and Sharon C. Phillips, husband  
 and wife

(with other property), which Buyers herein do not assume and agree to pay, and Sellers further covenant to and with Buyers 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.

10. Right of Way Easement, including the terms and provisions thereof  
 Dated: October 10, 1979  
 Recorded: December 13, 1979  
 Volume: M79, page 28723, Microfilm Records of Klamath County,  
 Oregon

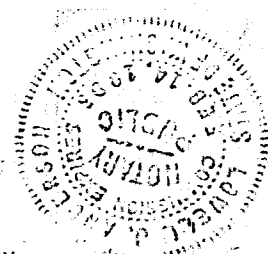
In favor of: Pacific Power & Light Company  
 For: Electric transmission and distribution lines.  
 11. Any uncertainty as to the exact location of the center line of the main channel of Mill Creek.

It is further agreed by and between the parties hereto that in the event Buyers herein sell the property in the future, it is understood and agreed that Sellers herein shall reserve the right and option to purchase the property from Buyers herein at the then market value of the property.

State of Washington, County of Pierce  
 February 23, 1982

Personally appeared Gerald H. Maddax and Ginger L. Maddax  
 and acknowledged the attached instrument to be their  
 voluntary act and deed.

Signed before me, Paul J. Palmer notary for Pierce County  
 commission expires 2/14/83



STATE OF OREGON; COUNTY OF KLAMATH; ss  
 I hereby certify that the within instrument was received and filed for  
 record on the 15 day of March A.D., 1982 at 11:26 o'clock A M  
 and duly recorded in Vol M 82, of Deeds on page 3188

EVELYN BIEHN COUNTY CLERK  
 by [Signature] Deputy

FEE \$ 12.00