

TN

18782

THIS CONTRACT, Made this 28th day of December, 1982, between
Kerry Smith and Cynthia E. Smith, husband and wife, hereinafter called the seller,
and Paul J. Carney and Patricia A. Carney, 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 Oregon, to-wit:
Klamath County, State of Oregon, and premises situated in

The Easterly 5.05 feet off the Easterly side of Lot 7 and the Westerly 32½ feet off the Westerly side of Lot 8, Block 8 in the Original Town of Linkville, now City of Klamath Falls, Oregon, according to the supplemental plat of Original Town, and more particularly described as follows:

Beginning at a point on the Southerly side of High Street a distance of 5.05 feet Southwesterly from the Corner common to Lots 7 and 8, of Block 8; thence Northeasterly along said line of High Street 37.55 feet; thence Southeasterly and at right angles with High Street 120 feet; thence Northwesterly westerly and parallel with High Street 37.55 feet; thence Northwesterly and at right angles with High Street 120 feet to the point of beginning, RESERVING from the tract above conveyed for use as an alley, the Southeasterly 10 feet of said tract.

Subject, however, to the following:

1. Sewer and water use charges, if any, due to the City of Klamath Falls.
2. Reservations and restrictions as contained in Deed recorded in Volume 184, page 121, Deed Records of Klamath County, Oregon, to wit: "reserving from the tract above conveyed, for use as an alley, the Southeasterly 10 feet of said tract." (continued on reverse)

for the sum of THIRTY ONE THOUSAND FIVE HUNDRED DOLLARS and no/100ths Dollars (\$31,500.00) (hereinafter called the purchase price) on account of which THREE THOUSAND and no/100ths Dollars (\$3,000.00) 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: \$28,500.00) to the order of the seller in monthly payments of not less than TWO HUNDRED FIFTY and 23/100ths Dollars (\$250.23) each, with no prepayment penalty.

payable on the 10th day of each month hereafter beginning with the month of April 10, 1983, 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 per cent per annum from April 1, 1983 until paid, interest to be paid monthly and * in addition to 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 (even if buyer is a natural person) is for business or commercial purposes other than agricultural purposes. The buyer shall be entitled to possession of said lands on April 10, 1983, 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 turnish 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, at 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.

Kerry and Cynthia E. Smith

432 High St.
Klamath Falls, OR 97601

SELLER'S NAME AND ADDRESS

Paul J. and Patricia A. Carney

333 N. 10th
Klamath Falls, OR 97601

BUYER'S NAME AND ADDRESS

After recording return to:

Mountain Title Company

407 Main Street

Klamath Falls, OR 97601

NAME, ADDRESS, ZIP

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

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 _____ of volume No. _____ on page _____ of 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 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 interests 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 be vested 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.

Sellers further agree that Buyers will not be assuming the obligations, numbers 3-4, listed under the "exceptions" to the description above, and will hold the buyers harmless therefrom.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 31,500.00. ~~It is further agreed that the consideration herein stated is the full and complete consideration for the property herein described, and that the seller shall not be bound to refund any part of the same.~~ ~~THE ACTUAL CONSIDERATION CONSISTS OF OR INCLUDES OTHER PROPERTY OR VALUE GIVEN OR PROMISED WHICH IS PART OF THE CONSIDERATION (Indicate which is true)~~

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 contest 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.

X (Seller) - Kerry Smith
X (Seller) - Cynthia E. Smith

X (Buyer) - Paul J. Carney
X (Buyer) - Patricia A. Carney

NOTE—The sentence between the symbols (), if not applicable, should be deleted. See ORS 93.0301.

STATE OF OREGON,

County of Klamath } ss.
December 28, 19 82

Personally appeared the above named Kerry Smith, Cynthia E. Smith, Paul J. Carney, and Patricia A. Carney

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

(OFFICIAL SEAL) Kristin L. Garrison
Notary Public for Oregon
My commission expires 6/19/83

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

_____ 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 _____

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.

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.

3. Real Estate Contract, including the terms and provisions thereof,
Dated: July 17, 1968
Recorded: March 18, 1978

Volume: M78, page 5041, Microfilm Records of Klamath County, Oregon
Vendor: Kenneth H. Duncan and Evelyn R. Duncan, husband and wife
Vendee: June Raymond, a single woman

The effect of a Deed Creating Estate by Entirety, dated March 16, 1978 and recorded March 16, 1978 in Volume M78, page 5043, Microfilm Records of Klamath County, Oregon, June House, who acquired title as June Raymond as Grantor, to Tom House as Grantee.

4. Real Estate Contract, including the terms and provisions thereof,
Dated: May 14, 1979
Recorded: May 16, 1979
Volume: M79, page 11171, Microfilm Records of Klamath County, Oregon
Vendor: June Raymond, aka June House and Tom House, husband and wife
Vendee: Kerry Smith and Cynthia E. Smith, husband and wife

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record _____ Mountain Title Co.
this 28th day of December A.D. 1982 at 3:26 o'clock P.M., and
duly recorded in Vol. M82, of Deeds _____ on Page 18465

By Evelyn Biehn, County Clerk

Fee \$8.00