

50641

CONTRACT—REAL ESTATE

Vol. m85 Page 10305

THIS CONTRACT, Made this 2nd day of July, 1985, between
HERBERT J. SEARS and DOROTHY A. SEARS, husband and wife
and CHRISTOPHER PAUL TIPTON, hereinafter called the seller,

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:

Lot 19, Block 3, STEWART ADDITION, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

The said property is free of encumbrances except:

- (1) Mortgage, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein, Dated: June 15, 1978 Recorded: June 21, 1978 Volume: M78, page 13257, Microfilm Records of Klamath County, Oregon Amount: \$8,000.00 Mortgagor: Clifford Honeycutt Mortgagee: John M. Brehm and Bertha M. Brehm, husband and wife
- (2) Real Estate Contract, including the terms and provisions thereof, Dated: December 18, 1979 Recorded: December 18, 1979 Volume: M79, page 29068, Microfilm Records of Klamath County, Oregon Vendor: Clifford Honeycutt and Patricia Honeycutt, husband and wife Vendee: Herbert J. Sears and Dorothy A. Sears, husband and wife

for the sum of Fourteen Thousand Five Hundred Dollars (\$14,500.00) (hereinafter called the purchase price) on account of which Five Hundred Fifty Dollars (\$550.00) 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: \$13,900.00) to the order of the seller in monthly payments of not less than Two Hundred Fifty Three Dollars (\$253.00) each,

payable on the 8th day of each month hereafter beginning with the month of August, 1985, 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 August 1, 1985 until paid, interest to be paid monthly and * ~~XXXXXX~~ 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 (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 August 1, 1985, 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 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. 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.

HERBERT J. and DOROTHY A. SEARS

SELLER'S NAME AND ADDRESS

CHRISTOPHER PAUL TIPTON
4143 Douglas
Klamath Falls OR 97601

BUYER'S NAME AND ADDRESS

After recording return to:

Mountain Title Co., Inc.
407 Main St.
Klamath Falls, Oregon 97601

NAME, ADDRESS, ZIP

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

Christopher Paul Tipton

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of ss.

I certify that the within instrument was received for record on the day of , 1985, at o'clock M., and recorded in book/reel/volume No. on page or as fee/file/instrument/microfilm/reception 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 interest created and all other rights acquired by the buyer hereunder shall utterly cease and de- termine, and the right to the possession of the premises above described and without any right of the buyer to 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.

Buyer shall assume the City of Klamath Falls improvement lien..

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 14,500.00

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.

THIS INSTRUMENT DOES NOT GUARANTEE THAT ANY PARTICULAR USE MAY BE MADE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT. A BUYER SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

HERBERT J. SEARS

DOROTHY A. SEARS

CHRISTOPHER PAUL TIPTON

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

STATE OF OREGON,

County of Klamath,

July 2, 1985

Personally appeared the above named HERBERT J. SEARS, DOROTHY A. SEARS, and CHRISTOPHER PAUL TIPTON

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

(OFFICIAL SEAL)

Notary Public for Oregon

My commission expires 11/16/87

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

Personally appeared _____ and _____

each for himself and not one for the other, did say that the former is the _____ who, being duly sworn, _____ 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 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)

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record

this 3rd day of July A.D. 1985 at 1:40 o'clock P.M., and

duly recorded in Vol. M85 of Deeds on Page 10305

EVELYN BIEHN, County Clerk

By *Pam Smith*

Fee: \$9.00