

100289

BOOK 85 PAGE 278

REAL ESTATE CONTRACT

THIS AGREEMENT, made and entered into this 8th day of November, 1985, by and between ALBERT H. MUHLY and MONNA LEE MUHLY, husband and wife, hereinafter called the "Sellers", and JOHN F. FORSBERG and ANA MARIA FORSBERG, husband and wife, hereinafter referred to as the "Purchasers", WITNESSETH:

That the Sellers agree to sell and the Purchasers agree to purchase the following described real estate, with the appurtenances thereon, situated in the County of Skamania, State of Washington:

A tract of land in the HENRY SHEPARD D.L.C., in Section 36, Township 3 North, Range 7 E.W.M., described as follows:

Beginning at a point marking the intersection of the South line of Stevenson Park Addition with the centerline of Strawberry Road as originally surveyed and as shown on the plat of said addition at page 38 of Book "A" of Plats, records of Skamania County, Washington, said point being 1,370.27 feet North and 1,095.2 feet East of the intersection of the West line of the Henry Shepard D.L.C., with the South line of the said Section 36; thence South 29 degrees, 18 seconds East 135.6 feet; thence South 81 degrees 10 seconds East 165 feet, more or less, to intersection with the Westerly right of way line of the county road known and designated as Strawberry Road as presently established and constructed; thence in a Southwesterly direction following the Westerly line of said Strawberry Road to its intersection with the Easterly right of way line of the county road known and designated as Kanaka Creek Road as presently existing and constructed; thence in a Northwesterly direction following the Easterly right of way line of said Kanaka Creek Road to the centerline of Strawberry Road as originally surveyed and located; thence Northeasterly along the centerline of Strawberry Road as originally surveyed and located to the point of beginning.

SUBJECT to easements and rights of way of record.

The terms and conditions of this contract are:

1. Purchase Price: The total purchase price is SIXTY THOUSAND DOLLARS (\$60,000.00), of which FIVE HUNDRED DOL-

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LARS (\$500.00) has been paid, the receipt of which is hereby acknowledged, and the balance of FIFTY-NINE THOUSAND FIVE HUNDRED DOLLARS (\$59,500.00) shall be paid as follows:

- A) \$14,500.00 on date of closing, as provided in paragraph 2 below; and
- B) The balance of \$45,000.00 shall be amortized over a twenty (20) year period and paid in monthly installments of \$434.26 each, beginning on the 15th day of December, 1985, and continuing on the 15th day of each and every month thereafter until the whole balance of the purchase price, both principal and interest, shall have been fully paid. The unpaid balance of the purchase price shall at all times bear interest at 10% per annum, and from each payment shall first be deducted interest to date and the balance shall be applied on principal. Permission is especially granted to Purchasers to make larger payments at any time, or to pay the contract in full without penalty and interest shall immediately cease on all payments so made.

All payments under this contract shall be made to the Sellers at _____.

2. Closing Date/Possession: This real estate transaction shall be closed on November 8, 1985 in the office of Robert K. Leick, Attorney at Law, Stevenson, Washington, and the Purchasers shall be entitled to physical possession of the premises no later than thirty (30) days thereafter.

3. Pro-rated Taxes and Insurance: Both taxes and insurance shall be pro-rated as between Sellers and Purchasers as of the date of possession.

4. Purchasers' Covenants: Purchasers covenant and agree to the following terms and conditions, to-wit: To make the payments above agreed upon promptly, in the manner and on the dates set out above; to make or permit no unlawful, offensive or improper use of said premises or any part thereof; to permit the Sellers, or their agents, to enter into or upon said premises at any reasonable time to inspect the same; to pay regularly and seasonably and before the same shall become delinquent, all

taxes, assessments, liens and encumbrances which may, as between Sellers and Purchasers, hereafter become a lien on the real estate. Purchasers further agree to keep the buildings on said premises insured to the full insurable value thereof against loss or damage by fire, with extended coverage in like amount for the benefit of the Sellers or Purchasers as their interest may appear; to assume all hazards of damage to or destruction of any improvements now on said premises or hereafter to be placed thereon; and to keep the buildings and all improvements on the premises in good condition and repair.

In the event Purchasers shall fail to make any payment hereinbefore provided, the Sellers may pay such taxes or assessments and effect such insurance, and any amount so paid by the Sellers shall be deemed a part of the purchase price and shall become payable forthwith, with interest at the rate of 10% per annum until paid, without prejudice to any other rights of Sellers by reason of such failure.

5. Title Insurance: The Sellers have procured, or agree to procure within ten days of the date hereof, a purchasers' policy of title insurance, insuring the purchaser to the full amount of the purchase price against loss or damage by reason of defect in the title of the Sellers to the real estate herein described or by reason of prior liens not assumed by the Purchasers in this contract.

6. Sellers' Covenants: The Sellers have deposited with Robert K. Leick, Attorney at Law, Stevenson, Washington, a Warranty Deed in fulfillment of this real estate contract and agree that upon full payment of the purchase price and interest in the manner hereinbefore specified that said deed can be delivered to the Purchasers; that said Warranty Deed excepts any part of the property which may hereafter be condemned and is free and clear of all encumbrances, except those mentioned herein and

any that may accrue hereafter through any person, or persons, other than the Sellers.

7. Inspection of Premises and Miscellaneous Provisions: Purchasers agree that a full inspection of the premises

has been made and both parties agree that prior to date of

W. Possession
Ant. closing
m.e.m.
AKM the Sellers will perform the following maintenance and construction items:

- (1) Complete the upstairs bathroom by installing tub, shower, sink, and floor covering;
- (2) Have all moldings in place;
- (3) Complete the insulation of the attic; and
- (4) Lay carpeting now on site in the basement bedroom.

That in addition to the foregoing provisions the parties agree that all venetian blinds are to stay on the subject premises.

8. Transfer: The Purchasers shall not mortgage, sell, or otherwise transfer interest in this real estate contract without the written consent of the Sellers; provided that Sellers shall not unreasonably withhold said consent.

9. Purchasers' Default: The Purchasers shall be in default under this contract if they (a) fail to observe or perform any term, covenant or condition herein set forth or those of any prior encumbrances, or (b) fail or neglect to make any payment of principal or interest or any other amount required to be discharged by the Purchasers precisely when obligated to do so, or (c) become or are declared insolvent or make an assignment for the benefit of creditors, or file any debtors' petition or any petition is filed against them under any bankruptcy, wage earner's, reorganization or similar act, or (d) permit the property or any part thereof or their interest therein to be attached or in any manner restrained or impounded by process of

any court, or (e) abandon the property for more than thirty (30) consecutive days (unless the property is otherwise occupied), or (f) convey the property or a portion thereof without any prior written consent required herein of the Sellers.

10. Sellers' Remedies: In the event the Purchasers are in default under this contract the Sellers may, at their election, take the following courses of action:

(a) Suit for Delinquencies. The Sellers may institute suit for any installment amounts or other sums due and payable under this contract as of the date of the judgment and any sums which have been advanced by Sellers as of said date pursuant to the provisions of this contract, together with interest on all of said amounts at the default rate from the date each such amount was advanced or due, as the case may be, to and including the date of collection;

(b) Acceleration. Upon giving the Purchasers not less than fifteen (15) days' written notice of their intent to do so (within which time any monetary default may be cured without regard to the acceleration), and if the default is in the nature of a failure to timely pay any principal, interest, insurance premium, tax, or other sum of money required to be paid herein or any failure to obtain any consent of the Sellers herein required for a conveyance of the Purchasers' title to the property, or if the Purchasers commit waste on the property, the Sellers may declare the entire unpaid balance of the purchase price and all interest then due thereon, and the prepayment premium, to be immediately due and payable and institute suit to collect such amounts, together with any sums advanced by the Sellers pursuant to the provisions of this contract, and together with interest on all of said sums at the default rate from the due date or date of each such advance to and including the date of collection;

(c) Forfeiture and Repossession. The Sellers may cancel and render void all rights, titles and interests of the Purchasers and their successors in this contract and in the property (including all of Purchasers' then existing rights, interests and estates therein and improvements thereon) by giving a Notice of Intent to Forfeit pursuant to RCW 61.30.040-070, and said cancellation and forfeiture shall become effective if the default therein specified has not been fully cured within ninety (90) days thereafter and the Sellers record a Declaration of Forfeiture pursuant to RCW 61.30.040-070. Upon the forfeiture of this contract the Sellers may retain all payments made hereunder by the Purchasers and may take possession of the property ten (10) days following the date this contract is forfeited and summarily eject the Purchasers and any person or persons having possession of the said property by,

through or under the Purchasers who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture. In the event the Purchasers or any person or persons claiming by, through or under the Purchasers who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture remain in possession of the property more than ten (10) days after such forfeiture, the Purchasers, or, such person or persons, shall be deemed tenants at will of the Sellers and the Sellers shall be entitled to institute an action for summary possession of the property, and may recover from the Purchasers or such person or persons in any such proceedings the fair rental value of the property for the use thereof from and after the date of forfeiture, plus costs, including the Sellers' reasonable attorneys' fees;

(d) Specific Performance. The Sellers may institute suit to specifically enforce any of the Purchasers' covenants hereunder, and the same may include redress by mandatory or prohibitive injunction;

(e) Property Rental. In the event this contract is forfeited as herein provided, or in any other manner permitted by law, or by mutual agreement of the Purchasers and the Sellers, and the Purchasers shall thereafter remain in possession of the property beyond any period otherwise permitted by law, the Purchasers agree that they will occupy the property as a tenant at will, and the Purchasers shall be obligated to pay, and hereby promise to pay, during the period of such tenancy at will, a fair market rental in the amount then agreed to by the parties or, in the absence of such agreement or until such agreement is reached, an amount equal to two (2) times the installment amount as and when provided for in the specific terms hereof, and the Sellers shall have, in addition to all other remedies for the collection of rentals and the recovery of possession that are available to landlords under the laws of the State of Washington, the right to institute an action for summary possession of the property as provided by law.

11. Purchasers' Remedies. In the event the Sellers should default in any of their obligations under this contract and such default continues for fifteen (15) days after the Purchasers give the Sellers written notice specifying the nature thereof and the acts required to cure the same, the Purchasers shall have the right to specifically enforce this contract, institute suit for their damages caused by such default, or pursue any other remedy which may be available to the Purchasers at law or in equity.

12. Remedial Advances. If either party to this contract shall fail to timely pay and discharge any payments or sums for which they have agreed to be responsible herein and said failure constitutes a default under this contract, or shall by any other act or neglect violate the terms and any conditions of this contract or of any prior encumbrance, the other party hereto may pay, effect or discharge such sums as are necessary to cure such default. Upon affording the party required to make such payment not less than fifteen (15) days' prior written notice (except in any instance in which the Purchasers fail to obtain or maintain any insurance required herein or when immediate payment is required to avoid immediate hazards to persons or property or any foreclosure of or a similar action against or affecting any portion of the property, in which cases such notice may be given concurrently with or immediately following such payment). The party making such payment may recover from the defaulting party, upon demand, or through offsetting the same against existing or future debts, the full cost and expense of so doing, including their reasonable attorneys' fees and together with interest on said expenditures and fees at the default rate from the date of expenditure to and including the date of collection or the due date of any sum against which such offset is effected.

13. Cumulative Remedies; Waivers. The remedies stated herein are cumulative and not mutually exclusive and the Sellers or the Purchasers may pursue any other or further remedies to enforce their respective rights under this contract; provided, however, except as provided in this contract with respect to the Purchasers' transfer of the property, the Sellers shall not have the right to accelerate the remaining balance of the purchase price in the event the Sellers elect to forfeit the Purchasers interest in the property and such forfeiture is being enforced or is completed. In any action or proceeding to recover any sum or

to enforce any remedy provided for herein, no defense of adequacy of security or that resort must first be taken against any particular security or any other person shall be asserted, and the Purchaser hereby expressly waives any legal or equitable rights that the Purchasers may have with respect to marshaling of assets. The Sellers shall not be required to tender their deed or bill of sale as a condition precedent to the enforcement of any remedy hereunder. In the event any check is tendered which is not honored upon first presentation because of any stop payment directive or insufficient funds, the payees' rights shall be reinstated as if such check had not been delivered. No waiver of any rights of either party under this contract shall be effective unless specifically evidenced in a written agreement executed by the waiving party. Any forbearance, including, without limitation, a party's acceptance of any payment after the due date or any extension thereof, shall not be considered a waiver of such party's right to pursue any remedy hereunder for subsequent defaults of the same or a different nature or for breach of any other term, covenant or condition hereof.

14. Costs and Attorneys' Fees. If either party shall be in default under this contract, the nondefaulting party shall have the right, at the defaulting party's expense, to retain an attorney or collection agency to make any demand, enforce any remedy, or otherwise protect or enforce its rights under this contract. The defaulting party hereby promises to pay all costs and expenses so incurred by the nondefaulting party, including, without limitation, court costs, collection agency charges, notice expenses, title search expenses, and reasonable attorneys' fees (with or without arbitration or litigation), and the failure of the defaulting party to promptly pay the same shall in itself constitute a further and additional default. In the event either party hereto institutes any action to en-

force the provisions of this contract, the prevailing party in such action shall be entitled to reimbursement by the losing party for their court costs and reasonable attorneys' fees, including such costs and fees that are incurred on appeal. All reimbursements required by this paragraph shall be due and payable on demand, may be offset against any sum owed to the party so liable in order of maturity, and shall bear interest at the default rate from the date of demand to and including the date of collection or the due date of any sum against which the same is offset.

15. Notices. Any notices required or permitted by law or under this contract shall be in writing and shall be sent by first class certified mail, return receipt requested, with postage prepaid, to the parties' addresses set forth in the specific terms of this contract. Either party may change such address for notice and, if payments are not made to an escrow or collection account, the Sellers may change the address for payments, by designating the same to the other party hereto in the manner hereinabove set forth and by causing a copy of such change to be properly recorded. All notices which are so addressed and paid for shall be deemed effective two (2) business days following the deposit thereof in the U.S. Mail, irrespective of actual receipt of such notice by the addressee..

16. Time of Performance. Time is specifically declared to be of the essence of this contract and of all acts required to be done and performed by the parties hereto, including, but not limited to, the proper tender of each of the sums required by the terms hereof to be paid.

17. Invalidity. In the event any portion of this contract should be held to be invalid by any court of competent jurisdiction, such holding shall not affect the remaining provisions hereof. The intention of the Sellers is to charge the

Purchasers a lawful rate of interest, and in the event it is determined by any court of competent jurisdiction that any rate herein provided for exceeds the maximum permitted by law for a transaction of the character evidenced by these presents, the amount so determined to be above the legal rate shall be applied against the last installments of principal due hereunder or, if such principal has been paid, or otherwise at the discretion of the then holder of this contract, said excess shall be refunded to the Purchasers on demand without interest, and the interest rates specified hereunder shall be reduced to the maximum rate then permitted by law for the type of transaction to which this contract pertains. The intention of the parties hereto is to assess a legal rate of interest on default, and if the default rate is determined by any court of competent jurisdiction to exceed the maximum rate of interest permitted by law for such purposes, the default rate shall be reduced to the highest rate so permitted, with any excess theretofore paid being applied against any debt of the defaulting party in inverse order of maturity, or if in excess of such debt, being refunded upon demand without interest.

18. Entire Agreement. This contract contains the entire agreement of the parties hereto and, except for any agreements or warranties otherwise stated in writing to survive the execution and delivery of this contract, supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. Neither the Sellers nor the Purchasers shall be liable to the other for any representations made by any person concerning the property or regarding the terms of this contract, except to the extent that the same are expressed in this instrument. This contract may be amended only by written instrument executed by the Purchasers and the Sellers subsequent to the date hereof.

IN WITNESS WHEREOF, the parties hereto have set their hands the date and year first set out hereinabove.

SELLERS:

(Albert H. Muhly
ALBERT H. MUHLY
(Monna Lee Muhly
MONNA LEE MUHLY

PURCHASERS:

(John F. Forsberg
JOHN F. FORSBERG
(Ana Maria Forsberg
ANA MARIA FORSBERG

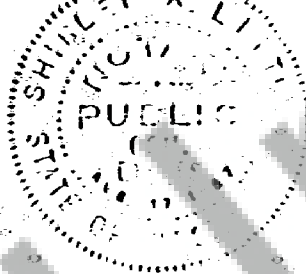
STATE OF WASHINGTON)

County of Skamania)

SS.

" On this day personally appeared before me ALBERT H. MUHLY and MONNA LEE MUHLY, husband and wife, and JOHN F. FORSBERG and ANA MARIA FORSBERG, husband and wife, to be known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they each signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 8th day of November, 1985.



Shirley A. Rittler
Notary Public in and for the State of Washington, residing at Stevenson

STATE OF WASHINGTON)
COUNTY OF SKAMANIA)
I HEREBY CERTIFY THAT THE WITHIN

INSTRUMENT OF RECORD IS

Bob Leek
OF Stevenson, WA
AT 1:50 11-12-85

WAS RECORDED

Deed
RE Gray M. Leek
Stevenson, WA

10557

REAL ESTATE EXCISE TAX
NOV 12 1985

PAID 642.00
Shirley A. Rittler, D.P.
SKAMANIA COUNTY TREASURER