

106159

BOOK 111 PAGE 071



COMMONWEALTH LAND
TITLE INSURANCE COMPANY
OF PHILADELPHIA, PENNSYLVANIA

FILED FOR RECORD AT REQUEST OF

CCT 17261 JS

WHEN RECORDED RETURN TO

Name ROGER & DORENE MCCARTHYAddress 112 SOUTH DATE STREETCity, State, Zip TOPPENISH, WA 98948

FILED FOR RECORD
SKAMANIA CO. WASH
BY CLARK COUNTY TITLE

THIS SPACE PROVIDED FOR RECORDER'S USE

Nov 14 1 41 PM '88

AUDITOR
GARY M. OLSON

LPB-44

ANY OPTIONAL PROVISION NOT INITIALED BY ALL PERSONS SIGNING THIS CONTRACT - -
WHETHER INDIVIDUALLY OR AS AN OFFICER OR AGENT - - IS NOT A PART OF THIS
CONTRACT.

**REAL ESTATE CONTRACT
(RESIDENTIAL SHORT FORM)**

1. PARTIES AND DATE. This Contract is entered into on OCTOBER 26, 1988

between

ROGER MCCARTHY AND DORENE MCCARTHY, Husband and wife

as "Seller" and

GARY W. PHILLIPS AND SUSAN L. PHILLIPS, Husband and wife

as "Buyer."

2. SALE AND LEGAL DESCRIPTION. Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the
following described real estate in SKAMANIA County, State of Washington:

FOR LEGAL DESCRIPTION SEE EXHIBIT "A" ATTACHED AND BY THIS REFERENCE MADE A PART
HERETO.

12365

REAL ESTATE EXCISE TAX
NOV 10 1988

PAID 301.50

W.D. Deputy
SKAMANIA COUNTY TREASURER

3. PERSONAL PROPERTY. Personal property, if any, included in the sale is as follows:

NONE

No part of the purchase price is attributed to personal property.

4. (a) PRICE. Buyer agrees to pay:

\$ 22,500.00

Total Price

Less (\$ 372.11)

Down Payment

Less (\$ 9,627.89)~~XXXXXXXXXXXXXXXXXXXX~~Results in \$ 12,500.00PROMISSORY NOTE DUE ON 1/2/89 attached

(b)

ASSUMED OBLIGATIONS. Buyer agrees to pay the above Assumed Obligation(s) by assuming
and agreeing to pay that certain n/a dated recorded as

AF# n/a ^(Mortgage, Deed of Trust, Contract) Seller warrants the unpaid balance of said obligation is
\$ n/a which is payable \$ on or before

the n/a day of , 19 interest at the rate of
n/a % per annum on the declining balance thereof; and a like amount on or before the

n/a day of each and every thereafter until paid in full.

Note: Fill in the date in the following two lines only if there is an early cash out date.

NOTWITHSTANDING THE ABOVE, THE ENTIRE BALANCE OF PRINCIPAL AND INTEREST IS DUE IN
FULL NOT LATER THAN 11/4/95, 19 .

ANY ADDITIONAL ASSUMED OBLIGATIONS ARE INCLUDED IN ADDENDUM.

Registered \$
Inscribed
Inscribed
Filed
Mailed

(c) PAYMENT OF AMOUNT FINANCED BY SELLER.

Buyer agrees to pay the sum of \$ 12,500.00 as follows:
 \$ 204.31 or more at buyer's option on or before the 4th day of December,
 19 88 including interest from November 4, 1988 at the rate of 9.5 % per annum on the
 declining balance thereof; and a like amount or more on or before the 4th day of each and every
 month thereafter until paid in full.
(month year)

Note: Fill in the date in the following two lines only if there is an early cash out date.

NOTWITHSTANDING THE ABOVE, THE ENTIRE BALANCE OF PRINCIPAL AND INTEREST IS DUE IN
 FULL NOT LATER THAN NOVEMBER 11 1995.

Payments are applied first to interest and then to principal. Payments shall be made
 at ROGER AND DORENE MCCARTHY, 112 S DATE STREET, TOPPENISH WA 98948
 or such other place as the Seller may hereafter indicate in writing.

5. FAILURE TO MAKE PAYMENTS ON ASSUMED OBLIGATIONS. If Buyer fails to make any payments
 on assumed obligation(s) Seller may give written notice to Buyer that unless Buyer makes the delinquent payment(s)
 within fifteen (15) days, Seller will make the payment(s), together with any late charge, additional interest, penalties,
 and costs assessed by the Holder of the assumed obligation(s). The 15-day period may be shortened to avoid the exercise of
 any remedy by the holder of the assumed obligation. Buyer shall immediately after such payment by Seller reimburse
 Seller for the amount of such payment plus a late charge equal to five percent (5%) of the amount so paid plus all costs
 and attorneys' fees incurred by Seller in connection with making such payment.

6. (a) OBLIGATIONS TO BE PAID BY SELLER. The Seller agrees to continue to pay from payments received
 hereunder the following obligation, which obligation must be paid in full when Buyer pays the purchase price in
 full:

That certain n/a dated _____, recorded as AF # _____
(Mortgage, Deed of Trust, Contract)

ANY ADDITIONAL OBLIGATIONS TO BE PAID BY SELLER ARE INCLUDED IN ADDENDUM.

(b) EQUITY OF SELLER PAID IN FULL. If the balance owed the Seller on the purchase price herein becomes
 equal to the balances owed on prior encumbrances being paid by Seller, Buyer will be deemed to have assumed said
 encumbrances as of that date. Buyer shall thereafter make payments direct to the holders of said encumbrances and
 make no further payments to Seller. Seller shall at that time deliver to Buyer a fulfillment deed in accordance with the
 provisions of Paragraph 8.

(c) FAILURE OF SELLER TO MAKE PAYMENTS ON PRIOR ENCUMBRANCES. If Seller fails to make any
 payments on any prior encumbrance, Buyer may give written notice to Seller that unless Seller makes the delinquent
 payments within 15 days, Buyer will make the payments together with any late charge, additional interest, penalties,
 and costs assessed by the holder of the prior encumbrance. The 15-day period may be shortened to avoid the exercise
 of any remedy by the holder of the prior encumbrance. Buyer may deduct the amounts so paid plus a late charge of 5%
 of the amount so paid and any attorneys' fees and costs incurred by Buyer in connection with the delinquency from
 payments next becoming due Seller on the purchase price. In the event Buyer makes such delinquent payments on
 three occasions, Buyer shall have the right to make all payments due thereafter direct to the holder of such prior
 encumbrance and deduct the then balance owing on such prior encumbrance from the then balance owing on the
 purchase price and reduce periodic payments on the balance due Seller by the payments called for in such prior
 encumbrance as such payments become due.

7. OTHER ENCUMBRANCES AGAINST THE PROPERTY. The property is subject to encumbrances
 including the following listed tenancies, easements, restrictions and reservations in addition to the obligations
 assumed by Buyer and the obligations being paid by Seller:

SUBJECT TO: Easement recorded June 23, 1938 under AFN 26028.

SUBJECT TO: Easement for electric transmission recorded May 20, 1913 in
 Book 0, page 266.

SUBJECT TO: Coal and mineral reservation recorded November 3, 1949, AFN 40047,
 Book 32, page 554.

ANY ADDITIONAL NON-MONETARY ENCUMBRANCES ARE INCLUDED IN ADDENDUM.

8. FULFILLMENT DEED. Upon payment of all amounts due Seller, Seller agrees to deliver to Buyer a Statutory
 Warranty Deed in fulfillment of this Contract. The covenants of warranty in said deed shall not apply to any
 encumbrances assumed by Buyer or to defects in title arising subsequent to the date of this Contract by, through or
 under persons other than the Seller herein. Any personal property included in the sale shall be included in the
 fulfillment deed.

9. LATE CHARGES. If any payment on the purchase price is not made within ten (10) days after the date it is due,
 Buyer agrees to pay a late charge equal to 5% of the amount of such payment. Such late payment charge shall be in
 addition to all other remedies available to Seller and the first amounts received from Buyer after such late charges are
 due shall be applied to the late charges.

10. NO ADVERSE EFFECT ON PRIOR ENCUMBRANCES. Seller warrants that entry into this Contract will
 not cause in any prior encumbrance (a) a breach, (b) accelerated payments, or (c) an increased interest rate; unless (a),
 (b) or (c) has been consented to by Buyer in writing.

11. POSSESSION. Buyer is entitled to possession of the property from and after the date of this Contract,
 or recording _____, 19____, whichever is later, subject to any tenancies described in
 Paragraph 7.

12. **TAXES, ASSESSMENTS AND UTILITY LIENS.** Buyer agrees to pay by the date due all taxes and assessments becoming a lien against the property after the date of this Contract. Buyer may in good faith contest any such taxes or assessments so long as no forfeiture or sale of the property is threatened as the result of such contest. Buyer agrees to pay when due any utility charges which may become liens superior to Seller's interest under this Contract. If real estate taxes and penalties are assessed against the property subsequent to date of this Contract because of a change in use prior to the date of this Contract for Open Space, Farm, Agricultural or Timber classifications approved by the County or because of a Senior Citizen's Declaration to Defer Property Taxes filed prior to the date of this Contract, Buyer may demand in writing payment of such taxes and penalties within 30 days. If payment is not made, Buyer may pay and deduct the amount thereof plus 5% penalty from the payments next becoming due Seller under the Contract.
13. **INSURANCE.** Buyer agrees to keep all buildings now or hereafter erected on the property described herein continuously insured under fire and extended coverage policies in an amount not less than the balances owed on obligations assumed by Buyer plus the balance due Seller, or full insurable value, whichever is lower. All policies shall be held by the Seller and be in such companies as the Seller may approve and have loss payable first to any holders of underlying encumbrances, then to Seller as their interests may appear and then to Buyer. Buyer may within 30 days after loss negotiate a contract to substantially restore the premises to their condition before the loss. If the insurance proceeds are sufficient to pay the contract price for restoration or if the Buyer deposits in escrow any deficiency with instructions to apply the funds on the restoration contract, the property shall be restored unless the underlying encumbrances provide otherwise. Otherwise the amount collected under any insurance policy shall be applied upon any amounts due hereunder in such order as the Seller shall determine. In the event of forfeiture, all rights of Buyer in insurance policies then in force shall pass to Seller.
14. **NONPAYMENT OF TAXES, INSURANCE AND UTILITIES CONSTITUTING LIENS.** If Buyer fails to pay taxes or assessments, insurance premiums or utility charges constituting liens prior to Seller's interest under this Contract, Seller may pay such items and Buyer shall forthwith pay Seller the amount thereof plus a late charge of 5% of the amount thereof plus any costs and attorney's fees incurred in connection with making such payment.
15. **CONDITION OF PROPERTY.** Buyer accepts the property in its present condition and acknowledges that Seller, his agents and subagents have made no representation or warranty concerning the physical condition of the property or the uses to which it may be put other than as set forth herein. Buyer agrees to maintain the property in such condition as complies with all applicable laws.
16. **RISK OF LOSS.** Buyer shall bear the risk of loss for destruction or condemnation of the property. Any such loss shall not relieve Buyer from any of Buyer's obligations pursuant to this Contract.
17. **WASTE.** Buyer shall keep the property in good repair and shall not commit or suffer waste or willful damage to or destruction of the property. Buyer shall not remove commercial timber without the written consent of Seller.
18. **AGRICULTURAL USE.** If this property is to be used principally for agricultural purposes, Buyer agrees to conduct farm and livestock operations in accordance with good husbandry practices. In the event a forfeiture action is instituted, Buyer consents to Seller's entry on the premises to take any reasonable action to conserve soil, crops, trees and livestock.
19. **CONDEMNATION.** Seller and buyer may each appear as owners of an interest in the property in any action concerning condemnation of any part of the property. Buyer may within 30 days after condemnation and removal of improvements, negotiate a contract to substantially restore the premises to their condition before the removal. If the condemnation proceeds are sufficient to pay the contract price for restoration or if the Buyer deposits in escrow any deficiency with instructions to apply the funds on the restoration contract, the property shall be restored unless underlying encumbrances provide otherwise. Otherwise, proceeds of the award shall be applied in payment of the balance due on the purchase price, as Seller may direct.
20. **DEFAULT.** If the Buyer fails to observe or perform any term, covenant or condition of this Contract, Seller may:
- (a) **Suit for Installments.** Sue for any delinquent periodic payment; or
 - (b) **Specific Performance.** Sue for specific performance of any of Buyer's obligations pursuant to this Contract; or
 - (c) **Forfeit Buyer's Interest.** Forfeit this Contract pursuant to Ch. 61.30, RCW, as it is presently enacted and may hereafter be amended. The effect of such forfeiture includes: (i) all right, title and interest in the property of the Buyer and all persons claiming through the Buyer shall be terminated; (ii) the Buyer's rights under the Contract shall be cancelled; (iii) all sums previously paid under the Contract shall belong to and be retained by the Seller or other person to whom paid and entitled thereto; (iv) all improvements made to and unharvested crops on the property shall belong to the Seller; and (v) Buyer shall be required to surrender possession of the property, improvements, and unharvested crops to the Seller 10 days after the forfeiture.
 - (d) **Acceleration of Balance Due.** Give Buyer written notice demanding payment of said delinquencies and payment of a late charge of 5% of the amount of such delinquent payments and payment of Seller's reasonable attorney's fees and costs incurred for services in preparing and sending such Notice and stating that if payment pursuant to said Notice is not received within thirty (30) days after the date said Notice is either deposited in the mail addressed to the Buyer or personally delivered to the Buyer, the entire balance owing, including interest, will become immediately due and payable. Seller may thereupon institute suit for payment of such balance, interest, late charge and reasonable attorneys' fees and costs.
21. **RECEIVER.** If Seller has instituted any proceedings specified in Paragraph 20 and Buyer is receiving rental or other income from the property, Buyer agrees that the appointment of a receiver for the property is necessary to protect Seller's interest.

32. **OPTIONAL PROVISION -- PERIODIC PAYMENTS ON TAXES AND INSURANCE.** In addition to the periodic payments on the purchase price, Buyer agrees to pay Seller such portion of the real estate taxes and assessments and fire insurance premium as will approximately total the amount due during the current year based on Seller's reasonable estimate.

The payments during the current year shall be \$ _____ per _____
Such "reserve" payments from Buyer shall not accrue interest. Seller shall pay when due all real estate taxes and insurance premiums, if any, and debit the amounts so paid to the reserve account. Buyer and Seller shall adjust the reserve account in April of each year to reflect excess or deficit balances and changed costs. Buyer agrees to bring the reserve account balance to a minimum of \$10 at the time of adjustment.

SELLER

INITIALS:

BUYER

PARAGRAPH 32 DOES NOT APPLY

33. **ADDENDA.** Any addenda attached hereto are a part of this Contract.

34. **ENTIRE AGREEMENT.** This Contract constitutes the entire agreement of the parties and supercedes all prior agreements and understandings, written or oral. This Contract may be amended only in writing executed by Seller and Buyer.

IN WITNESS WHEREOF the parties have signed and sealed this Contract the day and year first above written.

SELLER
Roger McCarthy
Roger McCarthy

Dorene McCarthy
Dorene McCarthy

BUYER
Gary W. Phillips
Gary W. Phillips
Susan L. Phillips
Susan L. Phillips

STATE OF WASHINGTON)
COUNTY OF CLALLAM) ss.

On this day personally appeared before me
GARY W. PHILLIPS + SUSAN L. PHILLIPS
Roger McCarthy and Dorene McCarthy

to me know to be the individual described in
and who executed the within and foregoing
instrument, and acknowledged that
they

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

Cheryl A. Black
Notary Public in and for the State of
Washington, residing at *Battle Ground*
My Commission expires *2/1/90*

STATE OF WASHINGTON)
COUNTY OF _____) ss.

On this _____ day of _____, 19 _____
before me, the undersigned, a Notary Public in and for the State of
Washington, duly commissioned and sworn, personally
appeared _____

and _____
to me known to be the _____ President and _____ Secretary,
respectively, of _____
the corporation that executed the foregoing instrument, and
acknowledged the said instrument to be the free and voluntary act
and deed of said corporation, for the uses and purposes therein
mentioned, and on oath stated that _____ authorized to execute
the said instrument.

Witness my hand and official seal hereto affixed the day and year
first above written.

Notary Public in and for the State of Washington, residing at _____

My Commission expires on _____

ORDER No. 17261SK

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EXHIBIT "A"

A tract of land located in the James M. Findley D.L.C., in Section 31, Township 3 North, Range 9 East of the Willamette Meridian, described as follows:

BEGINNING at the Southwesterly corner of the Glen E. Kidner property, as more particularly described by deed dated May 15, 1964, and recorded at page 499 of Book 52 of Deeds, records of Skamania County, Washington; thence Northerly along the Easterly line of said Kidner tract 486 feet; thence West 325 feet; thence South parallel to the West line of said Kidner tract to the Northerly right of way line of State Road No. 14; thence in a Northerly direction following the Northerly line of State Road No. 14, to the Point of Beginning.

EXCEPT that portion thereof, conveyed to the State of Washington by deed dated February 16, 1950, and recorded at page 8, of Book 33 of Deeds, records of Skamania County, Washington.

Promissory Note

(STRAIGHT)

\$ 9,627.89 NOVEMBER 4, 19 88
 59 days after date, without grace, for value received,
 GARY W. PHILLIPS AND SUSAN L. PHILLIPS, husband and wife
 promise to pay to
 ROGER MCCARTHY AND DORENE MCCARTHY, husband and wife
 or order, at 112 SOUTH DATE STREET, TOPPENISH, WA 98948
 the sum of NINE THOUSAND SIX HUNDRED TWENTY SEVEN, 89/100 DOLLARS,
 with interest thereon at the rate of -0- per cent per annum from date hereof, payable on JANUARY 2, 1989
 Principal and interest payable at the office of

If any interest shall remain unpaid after due, this note shall become due and payable at once without further notice, at the option of the holder thereof. THIS NOTE IS NOT TO BE PAID OFF BEFORE JANUARY 2, 1989. DUE JANUARY 2, 1989

This note shall bear interest at the rate of twelve per cent per annum after maturity or after failure to pay any interest payment, and if this note shall be placed in the hands of an attorney for collection or if suit shall be brought to collect any of the principal or interest of this note I promise to pay a reasonable attorney's fee. Each maker of this note executes the same as a principal and not as a surety.

APPROVED AND ACCEPTED AS TO CONTENT:

x *Roger McCarthy*
 x *Dorene McCarthy*

Gary W. Phillips
 Gary W. Phillips, note maker
Susan L. Phillips
 Susan L. Phillips