

FILED FOR RECORD
SKAMANIA CO. WASH
BY *Kielinski & Larne*

MAR 21 11 28 AM '90

J. Lowry
AUDITOR

AMENDED REAL ESTATE CONTRACT GARY H. OLSON

That certain Real Estate Contract made and entered into on November 25, 1980 by and between William F. Larson and Mildred H. Larson, husband and wife, as Sellers, and Hubert D. Smith and Danna L. Smith, husband and wife, as Purchasers, the Sellers' interest therein being assigned to Mildred H. Larson, as her separate property, by Sellers' Assignment of Real Estate Contract and Deed dated October 31, 1988, is hereby amended to read as follows:

THIS CONTRACT, made and entered into this 12th day of February, 1990, between MILDRED H. LARSON, a married woman dealing in her separate property, hereinafter called the "Seller", and HUBERT D. SMITH and DANNA L. SMITH, husband and wife, hereinafter called the "Purchasers".

WITNESSETH; That the Seller agrees to sell to the Purchasers and the Purchasers agree to purchase from the Seller the following described real estate, with the appurtenances, in Skamania County, State of Washington:

Parcel 1 - The West 30 feet of Lot 1, and the West Half of the North Half of Lot 2, Block "A" of the Town of Carson according to the official plat thereof on file and of record at Page 23 of Book "A" of Plats, records of Skamania County, Washington.

Parcel 2 - Beginning at a point 15 feet South and 30 feet West of the Northeast corner of the Northwest Quarter of the Northeast Quarter of Section 29, Township 3 North, Range 8 East of the Willamette Meridian; thence West 100 feet; thence South 210 feet; thence East 100 feet; thence North 210 feet to the point of beginning.

TOGETHER WITH the garage equipment listed on Exhibit "A" attached hereto and made a part hereof by reference.

The terms and conditions of this contract are as follows:

Price and Payment Terms

1. The purchase price is Seventy-nine Thousand Five Hundred Fifty-five and 96/100 Dollars (\$79,555.96), and the balance of said purchase price shall be paid as follows:

a. \$715.83, or more at Purchasers' option, on or before the 25th day of February, 1990, and \$715.83 or more at Purchasers' option, on or before the 25th day of each succeeding calendar month thereafter until the balance of said purchase price shall have been fully paid.

b. The Purchasers further agree to pay interest on the diminishing balance of said purchase price at the rate of nine per cent (9%) per annum from the 25th day of February, 1990, which interest shall be deducted from each installment payment and the balance of each payment applied in reduction of principal.

c. Purchasers agree that the entire purchase price,

Registered p
Indexed, Dir p
Indirect p
Filed 3-23-90
Mailed _____

Glenda J. Kimmel, Skamania County Assessor
By: [Signature] Parcel # 7-8-29-1-1300
3-8-29-2-1-101

REAL ESTATE EXCISE TAX

APR 1 1990
[Handwritten notes and signatures]

together with interest as specified herein, shall be paid in full by February 25, 2010, and that the amount of the final payment shall be the total of the principal and interest remaining unpaid at the time of the final payment.

2. All payments to be made hereunder shall be made at 1st Independent Bank, PO Box 340, Stevenson, Washington 98648, Account No. 210-82608, or at such other place as the Seller may direct in writing.

3. Purchasers may at their option pay the entire balance of the purchase price remaining due, or any part of such balance, at any time before maturity, without notice to Seller.

4. The Purchasers assume and agree to pay before delinquency all taxes and assessments, including but not limited to any governmental improvement assessments or charges that may as between grantor and grantee hereafter become a lien on said real estate. Upon request by Seller, Purchasers will show proof of said payments.

Insurance

5. The Purchasers agree to keep any improvements or future improvements located on the property insured against loss or damage by fire, windstorm, and all other casualties covered by "all risk" or extended coverage endorsements available in the State of Washington in an amount equal to the full insurable value thereof, on the initial and renewal policy dates, with a company acceptable to the Seller and with loss payable first to Seller as her interest may appear, and to pay all premiums for such insurance and deliver all policies and renewals thereof to the Seller. All such policies shall provide that they cannot be amended or canceled without ten (10) days written notice to Seller.

In the event of loss or damage to the property which is required to be insured hereunder, and except as otherwise required by any prior encumbrance and the then holder thereof, the insurance proceeds shall, at the option of the Purchasers, be used to repair, rebuild, or replace all improvements and personal property which may have been destroyed or damaged to the extent necessary to restore and replace them to substantially the same condition which existed immediately prior to the casualty, subject to such modifications as may then be required by law or to which the Seller agrees in writing. Immediately upon receipt, all insurance proceeds, together with any other sums required to complete the repairs and restorations, shall be placed in a construction disbursement account with an escrow agent or other person jointly designated by the Seller and the Purchasers and shall be disbursed periodically in amounts corresponding to the percentage of completion of repairs; provided, however, that in the event this contract is forfeited, any portion of such replacement costs due as of the date of such forfeiture shall be immediately paid to the Seller. No construction may be commenced until all sums required to pay the costs thereof have been deposited in the disbursement account. The expenses of said disbursement account and the expenses of obtaining percentage completion certificates shall be paid by the Purchasers, and the Purchasers shall be responsible for depositing in the disbursement account the amounts necessary to pay all costs of repairs, reconstruction and replacements which are not covered by the insurance proceeds. In the event the Purchasers desire to construct improvements which are materially different from those so damaged or destroyed, they shall first obtain the Seller's written consent. All repairs and replacements shall be commenced within sixty (60) days following the date the Purchasers elect to reconstruct and shall be continuously pursued with due diligence. Subject to the terms of any prior encumbrances, any casualty insurance proceeds which are not used to pay for repairs or replacements permitted by the terms of this paragraph shall be paid to the Seller and applied against the principal balance last

due hereunder.

If (a) the Purchasers do not elect to repair the damage, or (b) the Seller's consent to different improvements is not waived or given, or (c) the Purchasers do not deposit into the disbursement account all sums in excess of available insurance proceeds required for reconstruction by the date construction is required to commence, or (d) construction is not commenced when required or not continuously pursued (subject to delays beyond the reasonable control of the Purchasers, the Seller may require that all casualty insurance proceeds be immediately paid to the Seller or to the holder of a prior encumbrance having a valid claim thereto which is prior to the Seller's. The Purchasers shall make the elections provided for in this paragraph within sixty (60) days following the date of the casualty, and the Seller shall respond in writing to a written request to construct materially different improvements within twenty (20) days after said request. Any failure of the Purchasers to timely make any such election shall enable the Seller to apply the insurance proceeds against the principal last due under this contract, and any failure of the Seller to timely respond to any such request shall be deemed an approval thereof.

Damage to or destruction of the property or any portion thereof shall not constitute a failure of consideration or provide a basis for the rescission of this contract, nor shall such circumstances relieve the Purchasers of their obligation to pay the remaining installment amounts when due. In the event of any failure of the Purchasers to obtain or timely pay any premiums for any insurance required by this paragraph, the Seller may require the Purchasers to deposit with each installment amount an amount reasonably estimated by the Seller to be necessary to discharge the next ensuing premiums for said policies, said estimates to be adjusted by the Seller upon receipt of the premium invoices to reflect the actual amount of such liabilities. The payments so made which have not been applied against such liabilities shall be returned to the Purchasers with the delivery of a statutory warranty fulfillment deed to the Purchasers at such time as the purchase price and interest requested hereunder has been paid in full. The Seller shall not be liable for interest on said deposits. If not retained in an escrow or collection account, said funds shall be maintained by the Seller in a segregated account and expended for no other purpose, with interest thereon, if any, being added to the sums so held.

Possession

6. Unless a different date is provided for herein, the Purchasers shall be entitled to possession of said real estate on date of closing and to retain possession so long as Purchasers are not in default hereunder. The Purchasers covenant to keep any improvements on said real estate in good repair and not to permit waste and not to use, or permit the use of, the real estate for any illegal purpose. The Purchasers covenant to pay all service, installation or construction charges for water, sewer, electricity, garbage or other utility services furnished to said real estate after the date Purchasers are entitled to possession.

Use of Premises

7. Purchasers covenant and agree to make or permit no unlawful, offensive or improper use of the premises or any part thereof.

Assignment

8. The rights hereby granted are personal to the Purchasers and Seller's reliance upon Purchasers' ability and integrity is a part of the consideration for this contract. Neither this contract nor any interest therein, nor the possession of the property, may

be assigned or transferred by Purchasers, nor shall Purchasers make or enter into any contract for the sale of the property or any interest therein, without the prior written consent of Seller.

Default

9. In case the Purchasers fail to make any payment herein provided, the Seller may make such payment, and any amounts so paid by Seller, together with interest at the rate of 12% per annum thereon from date of payment until repaid, shall be repayable by Purchasers on Seller's demand, all without prejudice to any other right the Seller might have by reason of such default.

10. Time and the covenants of Purchasers are of the essence of this contract, and it is agreed that in case the Purchasers shall fail to comply with or perform any condition or agreement hereof or to make any payment required hereunder promptly at the time and in the manner herein required, the Seller may at her option exercise any of the following alternative remedies upon giving Purchasers thirty (30) days written notice specifying the default and the remedy to be exercised should Purchasers fail to secure all defaults at the expiration of the 30-day period:

- a. **Suit for Delinquencies.** Seller may institute suit for any installments or other sums then due and payable under this agreement together with any sums advanced by Seller for and the amount of any delinquencies for items such as water assessments, taxes, insurance, payments and underlying obligations and lienable items, together with interest thereon at the rate of 12% per annum from the date each such payment was advanced or due, as the case may be.
- b. **Forfeiture and Repossession.** The Seller may cancel and render void all rights, title 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 Seller records a Declaration of Forfeiture pursuant to RCW 61.30.040-070. Upon the forfeiture of this contract, the Seller 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 Seller and the Seller 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 proceeding the fair rental value of the property for the use thereof from and after the date of forfeiture, plus costs, including the Seller's reasonable attorneys' fees.

- c. Specific Performance. Seller may institute suit to specifically enforce any of the Purchasers' covenants hereunder.
- d. 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 Seller, 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 be 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 Seller 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. a. In the event Seller should default in any of her obligations under this contract and such default continues for fifteen (15) days after the Purchasers give the Seller 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 Purchasers at law or in equity.

b. The waiver of Seller to elect to pursue any of the above remedies at any time upon a breach of any of the terms of this contract by the Purchasers shall be deemed only an indulgence by the Seller with regard to that particular breach and shall not be construed, in any manner whatsoever, to be a waiver of any right of Seller to pursue any of the above remedies for the same or a different breach at a subsequent time; election of the Seller to utilize any particular remedy to enforce a breach of this contract shall not preclude Seller from electing to use an alternate remedy to enforce a subsequent breach. The remedies stated herein are cumulative and not mutually exclusive. Any delay or failure of Seller to take action upon default shall not be construed as a waiver of said default. If Seller is required to institute legal action to enforce any of the remedies indicated, Purchasers agree to pay Seller's costs and reasonable attorneys' fees incurred in such proceeding and any appeal thereof.

Notice

12. Any notice, declaration, demand, consent or communication to be given by any party to this contract to any other party shall be in writing and transmitted to the other party by either personally delivering the notice or by certified or registered mail, return receipt requested, addresses as follows:

To Purchasers:

P.O. Box 100
Carson, WA 98610

Hubert D. & Danna L. Smith

Hubert D. Smith
Danna L. Smith

To Seller:

Mildred H. Larson
Carson
Washington 98610

Either party may change its address by giving written notice to the other party in the manner provided above, provided that in no event

