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BOOK 120 PAGE 448

FILED FOR RECORD  
SKAMANIA CO. WASH  
BY *Kulinski & Lowne*

AUG 31 11 56 AM '90

*P. Lowry*  
AUDITOR  
GARY H. OLSON

## REAL ESTATE CONTRACT

THIS CONTRACT, made and entered into this 27th day of August, 1990, between **DARRELL TILLOTSON** and **MARY LAVELLE TILLOTSON**, husband and wife, (hereinafter "Seller"), and **TRACY PRICE** and **ADRIENNE PRICE**, husband and wife, (hereinafter "Purchaser").

**WITNESSETH;** That the Seller agrees to sell to the Purchaser and the Purchaser agrees to purchase from the Seller the following described real estate in Skamania County, State of Washington:

That portion of the East half of the West half of the Northeast quarter of the Southeast quarter of Section 26, Township 4 North, Range 7 East of the Willamette Meridian, described as follows:

Beginning at the Northwest corner of the East half of the West half of the Northeast quarter of the Southwest quarter of the said Section 26; thence South 132 feet to the initial point of the tract hereby described; thence East 330 feet, more or less, to intersection with the center of the county road known and designated as the Trout Creek Road; thence in a Southwesterly direction following the center of said road to intersection with the West line of the East half of the West half of the Northeast quarter of the Southwest quarter of the said Section 26; thence North to the initial point;

EXCEPT right of way for the county road known and designated as Trout Creek Road.

ALSO EXCEPT a tract of land in the East one-half of the Northwest one-quarter of the Northeast one-quarter of the Southwest one-quarter of Section 26, Township 4 North, Range 7 East Willamette Meridian, more particularly described as follows: Beginning at the intersection of the Northerly right-of-way line of Trout Creek Road, County Road Number 2270 as constructed in 1972, with the West line of the East one-half of the Northwest one-quarter of the Northeast one-quarter of the Southwest one-quarter of Section 26, Township 4 North, Range 7 East Willamette Meridian; thence North along said West line 260 feet; thence East to the Westerly right-of-way line of said Trout Creek Road; thence Southwesterly along said right-of-way line to the point of beginning.

The terms and conditions of this contract are as follows:

Price and Payment Terms

1. The purchase price is Ten Thousand and No/100 Dollars (\$10,000.00), of which Five Hundred and No/100 Dollars (\$500.00) has been paid, the receipt whereof is hereby acknowledged. The balance of said purchase price shall be paid as follows:

a. Two Thousand and No/100 Dollars (\$2,000.00) within sixty (60) days after closing.

b. The balance of \$7,500.00 and interest thereon at the

Registered	<i>p</i>
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Glenda J. Kimmel, Skamania County Assessor  
By: *MC* Parcel # 4-7-26-3-700

13819

REAL ESTATE EXCISE TAX

AUG 31 1990

PAID 138.00

SKAMANIA COUNTY TREASURER

rate of ten percent (10%) per annum shall be paid in monthly installments at the rate of Eighty and 60/100 Dollars (\$80.60), commencing on September 1, 1990, and continuing on the same day of each succeeding month until the balance of said purchase price shall have been fully paid.

c. The Purchaser further agrees that interest shall be deducted from each installment payment and the balance of each payment applied in reduction of principal.

d. Purchaser agrees that the entire purchase price, together with interest as specified herein, shall be paid in full by August 27, 2005 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.

3. All payments to be made hereunder shall be made to Seller at P.O. Box 248, White Salmon, Washington 98672, or at such other place as the Seller may direct in writing.

4. As referred to in this contract, "date of closing" shall be on or before August 27, 1990.

5. Purchaser 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 penalty and without notice to Sellers.

#### Closing Costs

6. Purchaser's Closing Costs. Purchaser shall pay the following closing costs:

- a. The recording fees for the real estate contract;
- b. One-half (1/2) of closing fee charged by KIELPINSKI & LOURNE, P.C., the total amount of which shall be Two Hundred and No/100 Dollars (\$200.00); and
- c. One-half (1/2) of the fee for a title report.

7. Seller's Closing Costs. Seller shall pay the following closing costs:

- a. Real estate excise tax;
- b. One-half (1/2) of the fee for a title report; and
- c. One-half (1/2) of the closing fee charged by KIELPINSKI & LOURNE, P.C., the total amount of which is Two Hundred and No/100 Dollars (\$200.00).

#### Pro-Rated Items

8. The following shall be pro-rated as of the date of closing:

- a. 1990 real property taxes;
- b. Insurance, interest, mortgage insurance, water and other utilities constituting liens, if applicable.

9. The Purchaser assumes and agrees 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, Purchaser will show proof of said payments.

**Inspection**

10. The Purchaser agrees that full inspection of said real estate has been made and that neither the Seller nor their assigns shall be held to any covenant respecting the condition of any improvements thereon nor shall the Purchaser or Seller or the assigns of either be held to any covenant or agreement for alterations, improvements or repairs unless the covenant or agreement relied on is contained herein or is in writing and attached to and made a part of this contract.

Purchaser is acquiring the property "as is" and Seller makes no representations or warranties except as to title as set forth herein. Without limiting the generality of the foregoing, Purchaser acknowledges that they have made their own independent investigation respecting the property and will be relying entirely thereon and on the advice of any consultant they may retain. Purchaser may not rely upon any representation of any party whether or not such party purports to act on behalf of Seller, unless the representation is expressly set forth therein or in a subsequent document executed by Seller. All representations, warranties, understandings and agreements between Purchaser and Seller are merged herein and shall not survive closing.

**Taking**

11. The Purchaser assumes all risk hereafter placed on said real estate or of the taking of said real estate or any part thereof for public use and agrees that any such taking shall not constitute a failure of consideration. In case any part of said real estate is taken for public use, the portion of the condemnation award remaining after payment of reasonable expenses of procuring the same shall be paid to the Seller and applied as payment on the purchase price herein unless the Seller agrees in writing to allow the Purchaser to apply all or a portion of such condemnation award to the rebuilding or restoration of any improvements damaged by such taking.

**Timber**

12. Purchaser shall not be entitled to cut or remove any timber from the property without Seller's prior written permission.

**Title Insurance**

13. The Seller has delivered a purchaser's policy of title insurance in standard form, or a commitment therefor, issued by Skamania County Title Company, insuring the Purchaser to the full amount of said purchase price against loss or damage by reason of defect in Seller's title to said real estate as of the date of closing and containing no exceptions other than the following:

- a. Printed general exceptions appearing in said policy form; and
- b. Liens or encumbrances which by the terms of this contract the Purchaser is to assume, or as to which the conveyance hereunder is to be made subject; and

**Deed**

14. The Seller agrees, upon receiving full payment of the purchase price and interest in the manner above specified, to execute and deliver to Purchaser a statutory warranty fulfillment deed to said real estate, excepting any part thereof hereafter taken for public use, free of encumbrances except any that may attach after date of closing through any person other than the Seller, and subject to the exceptions noted in Paragraph 13 hereof.



**Possession**

15. Unless a different date is provided for herein, the Purchaser shall be entitled to possession of said real estate on the date of closing and to retain possession so long as Purchaser is not in default hereunder. The Purchaser covenants to keep any improvements on said real estate in good repair, not to permit waste and not to use, or permit the use of, the real estate for any illegal purpose. The Purchaser covenants 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 Purchaser is entitled to possession.

**Use of Premises**

16. Purchaser covenants and agrees to make or permit no unlawful, offensive or improper use of the premises or any part thereof.

**Assignment**

17. The rights hereby granted are personal to the Purchaser and Seller's reliance upon Purchaser's 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 Purchaser, nor shall Purchaser make or enter into any contract for the sale of the property or any interest therein, without the prior written consent of Seller, which consent shall not be unreasonably withheld by Seller.

**Default**

18. In case the Purchaser fails 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 Purchaser on Seller's demand, all without prejudice to any other right the Seller/sellers might have by reason of such default.

19. Time and the covenants of Purchaser are of the essence of this contract, and it is agreed that in case the Purchaser 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 Sellers may at their option exercise any of the following alternative remedies upon giving Purchaser thirty (30) days written notice specifying the default and the remedy to be exercised should Purchaser 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 Purchaser's 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 Purchaser and may take possession of the property ten (10) days following the date this contract is forfeited and summarily eject the Purchaser and any person or persons having possession of the said property by, through or under the Purchaser who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture. In the event the Purchaser or any person or persons claiming by, through or under the Purchaser 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 Purchaser, 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 Purchaser 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 Purchaser's 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 Purchaser and Seller, and the Purchaser 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 Purchaser 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 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.

20. In the event Sellers should default in any of their obligations under this contract and such default continues for fifteen (15) days after the Purchaser gives 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.

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 Purchaser 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, Purchaser agrees to pay Seller's costs and reasonable attorneys' fees incurred in

such proceeding and any appeal thereof.

**Notice**

21. 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:

Tracy Price  
Adrienne Price  
P. O. Box 508  
Stevenson WA 98648

To Seller:

Darrell Tillotson  
Mary Lavelle Tillotson  
P. O. Box 248  
White Salmon WA 98672

Either party may change its address by giving written notice to the other party in the manner provided above, provided that in no event shall Seller be required to send any notice to more than two (2) addresses. The mailing and registering or certifying of any such notice as herein provided shall be sufficient service thereof. Service shall be complete when such notice is registered or certified and placed in the United States mail as shown by the cancellation stamp or postage meter stamp, as the case may be.

**Costs and Attorneys' Fees**

22. 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 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, notice expenses, title search expenses, and reasonable attorneys' fees (with or without arbitration or litigation). In the event either party hereto institutes any action to enforce the provisions of this contract, the prevailing party in such action shall be entitled to reimbursement by the losing party for its court costs and reasonable attorneys' fees, including such costs and fees as 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.

**Succession**

23. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.

**Governing Law**

24. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington.

**Use of Pronouns**

25. Unless the context requires otherwise, references to the singular shall include the plural and references to the plural shall include the singular. Unless some other meaning or intent is apparent from the context, masculine, feminine and neuter pronouns are used interchangeably herein.



Entire Agreement

26. This Agreement supersedes any prior agreement and contains the entire agreement of the parties as to the matter covered. No other agreement, statement or promise made by any party or to any employee or agent of any party shall be binding unless made in writing and signed by both parties to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first written above.

## SELLERS:

Darrell Tillotson  
Darrell Tillotson

Mary Lavelle Tillotson  
Mary Lavelle Tillotson

## PURCHASERS:

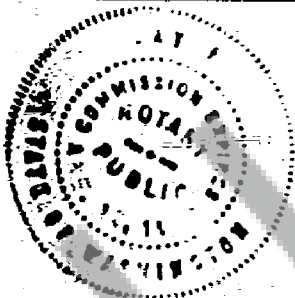
Tracy K Price  
Tracy Price

Adrienne Price  
Adrienne Price

STATE OF WASHINGTON )  
County of Skamania ) ss

On this day personally appeared before me Darrell Tillotson and Mary Lavelle Tillotson, husband and wife, to me known to be the individuals 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 this 27th day of August, 1990.



Jay Ford  
Notary Public in and for the  
State of Washington, residing  
at Carson, Wa.

Commission expires 8-15-93

STATE OF WASHINGTON )  
County of Skamania ) ss

On this day personally appeared before me Tracy Price and Adrienne Price, husband and wife, to me known to be the individuals 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 this 27th day of August, 1990.



Jay Ford  
Notary Public in and for the  
State of Washington, residing  
at Carson, Wa.

Commission expires 8-15-93