

## REAL ESTATE CONTRACT

THIS AGREEMENT made this day between TERRY D. HEINZ and MELANIE A. HEINZ, husband and wife as to an undivided one-quarter interest hereinafter called "Seller", and JAMES O. HOLCROFT, a single person hereinafter called "Buyer",

## WITNESSETH:

Section 1. PREMISES SOLD: That the Seller will sell to the Buyer, and Buyer will buy of the Seller, the following described real property situate in ~~Skamania~~ Skamania County, Washington, with appurtenances thereunto belonging on the following terms and conditions:

SEE EXHIBIT "A" HERETO ATTACHED

FILED FOR RECORD  
SKAMANIA CO. WASH.  
BY SKAMANIA CO. TITLE

JUL 2 11 44 AM '91

GARY E. NELSON

Registered  
Indexed, vlr  
Indirect  
Filmed  
Mailed

14385

REAL ESTATE EXCISE TAX

JUL 2 1991

PAID \$1,088.00

*[Signature]*

SKAMANIA COUNTY TREASURER

Glenda J. Kimmel, Skamania County Assessor  
By: *[Signature]* 2-5-33-1700  
7/2/91

Section 2. PURCHASE PRICE: The purchase price for said real property is the sum of EIGHTY FIVE THOUSAND AND NO/100's DOLLARS, of which the Buyer has paid unto the Seller the sum of \$ 34,100.00, receipt of which is hereby acknowledged by the Seller, and the balance of \$ 50,900.00 shall be paid in monthly installments of \$ 507.13, or more, commencing on the 15th day of August, 1991, with a like installment due on the 15th day of each month thereafter until the balance of the purchase price, together with interest, shall be paid in full.

All payments shall include interest on the unpaid balance owed from time to time at the rate of Nine (9%) percent per annum computed from July 2, 1991, until said purchase price, together with interest is paid in full.

Buyer reserves the right to pay the balance due on this contract in full at any time without penalty.

All payments under this contract shall be made to Seller's order at, or at such other place as the Seller shall in writing direct.

Section 3. LATE CHARGE: In the event the Buyer shall be delinquent more than fifteen (15) days in making any payment, a late charge of Five (5%) percent of the delinquent payment or payments shall be made. The late charge will be computed monthly on all sums which are delinquent.

Section 4. POSSESSION: Buyer shall be entitled to possession to said premises on July 2, 1991 and during his full and proper performance of the covenants and conditions hereof.

Section 5. BUYER'S COVENANTS: Buyer covenants and agrees to the following terms and condition, to-wit: To make the payments above agreed to promptly, in the manner and on the dates above named; to take the property hereby in the condition as it stands as of the date of this contract, and to pay the consideration agreed upon, regardless of any loss, destruction or damage to any of the

improvements thereon by fire, condemnation proceedings or from any other cause after said date; to make or permit no unlawful, offensive or improper use of said premises or any part thereof; to permit the Seller, 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 utility charges, taxes, assessments, liens and encumbrances whatsoever having or taking precedence over the rights of the Seller in and to said property; and to make no alterations which would materially affect the general structure of the premises sold herein nor remove any of said fixtures from said buildings without the written consent of the Seller.

**Section 6. INSURANCE:** Buyer covenants and agrees to keep the buildings on the premises constantly insured in companies acceptable to the Seller against loss or damage by fire or other casualty to the full insurable value thereof, with loss payable to Seller and Buyer as their respective interest may appear, all policies on the buildings to be delivered to the Seller, if requested, who may retain same until the balance of the purchase price is paid in full; Buyer further covenants and agrees in the event of destruction or damage to said property and the payment of insurance proceeds to Seller, any insurance so paid to Seller shall be credited upon the unpaid balance of this contract, except, that in the event of a partial loss, the proceeds of such insurance may be applied, at Buyer's option, to the actual expenses incurred by the Buyer in making necessary repairs resulting to the damaged premises.

**Section 7. ADVANCES:** In case the Buyer fails to make any payments herein provided or to maintain insurance, as herein required, the Seller may make such payment or effect such insurance, and any amounts so paid by the Seller, together with interest at the rate of ( %) percent per annum thereon from date of payment until repaid, shall be repayable by Buyer on Seller's demand, all without prejudice to any other right the Seller might have by reason of such default.

**Section 8. SELLER'S COVENANTS:** The Sellers agree that when the Buyer shall have paid the balance of the purchase price and all interest due and shall have repaid any and all payments or advancements made by the Seller to or for the benefit of the Buyer or for the protection of the property or of this contract, together with interest thereon, and shall have, in all other respects, fully complied with all of the terms and conditions of this contract to make, execute and deliver to the Buyer or assigns a good and sufficient Warranty Deed, conveying title to said premises free and clear of all encumbrances, except those of record mentioned herein, and it is understood and agreed that the warranties of said deed shall, after the date of this contract, apply only to the acts of the Seller and shall not include any taxes or assessments which may have become a lien after the date of this contract. Seller agrees to furnish to Buyer a policy of title insurance insuring his legal title to said real estate within ninety (90) days of the date of this agreement. Upon delivery of said policy to Buyer, Seller shall have no further obligation to insure Buyer's title to said premises.

**Section 9. CHANGE IN TITLE OR OCCUPANCY:** The rights to purchase granted by this Real Estate Contract are personal to the Buyer, and Seller's reliance upon Buyer's ability and integrity is a part of the condition for this contract. Neither this contract, nor any interest therein, nor the possession of the property may be assigned or transferred by the Buyer, nor shall Buyer make or enter into any contract for the sale of the property or any interest therein, without the prior written consent of the Seller. Any

attempt at assignment and transfer by Buyer in violation of the foregoing provisions may, at Seller's option, be deemed a default by Buyer and Seller may declare the remaining contract balance, accrued interest and other sums owing by the Buyer to Seller hereunder, immediately due and payable.

**Section 10. FORFEITURE:** Time is of the essence of this contract and if the Buyer shall fail, refuse or neglect to pay either or any of the installments or interest or any other payment due, or shall fail to keep and/or perform any of the covenants and agreements herein contained on the part of the Buyer to be performed, then the Seller may cancel and render void all rights, titles and interests of the Buyer and his successors in this contract and in the real estate which is the subject of this contract 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 record 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 Buyer and may take possession of the property ten (10) days following the date this contract is forfeited and summarily eject the Buyer and any person or persons having possession of the said property by, through or under the Buyer who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture. In the event the Buyer or any person or persons claiming by, through or under the Buyer 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 Buyer, 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 Buyer 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 Seller's reasonable attorney's fees.

**Section 11. OTHER REMEDIES:** As an alternative to declaring a forfeiture for any such default, Seller may, at their election, bring an action or actions, on any intermediate overdue installment, or on any payment or payments made by the Seller and repayable by the Buyer, it being stipulated and agreed that the covenant to pay intermediate installments or to repay items repayable by the Buyer, is independent of the covenant to make a deed.

Or Seller may, in the event of such default, at their election declare the entire unpaid balance immediately due and payable and bring such action or actions as they may deem appropriate to effect collection thereof.

It is agreed that any such action is an action arising on contract for the recovery of money only, as if the promise to pay had been expressed in a different instrument, and that no such action shall constitute an election not to proceed otherwise as to any subsequent default.

**Section 12. COURT COSTS AND ATTORNEY'S FEES:**

(a) If this contract or any obligation contained in it is referred to any attorney for collection, forfeiture or realization, Buyer agrees to pay to Seller a reasonable attorney's fee, (including fees incurred with or without legal suit), expenses of title search and all other legal expenses. If any such fee is not paid within thirty (30) days after Buyer is billed, said amount shall be added to the balance of the unpaid purchase price then due.



(b) In the event litigation arises out of this contract, the losing party agrees to pay the prevailing party a reasonable attorney's fee, together with all costs and expenses incurred in connection with such action, including the reasonable cost of searching the records to determine the condition of title at the time suit is commenced.

**Section 13. REPRESENTATIONS:** Buyer has inspected the property sold herein and has found the same to be to his satisfaction and he agrees that no promises, representations, statements or warranties, expressed or implied, as to any improvements thereon or repairs thereto, or as to the location of boundary lines, shall be binding upon the Seller unless expressly contained herein.

**Section 14. WAIVER:** No assent, expressed or implied, by Seller to any breach of Buyer's covenant or agreement shall be deemed or taken to be a waiver of any succeeding breach of the same or other covenants.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed in duplicate this 28 day of JUNE, 1991.

Terry D. Heinz  
Melanie Heinz

James O. Hedcraft

SELLER

BUYER

STATE OF WASHINGTON )  
                                  ) ss.  
COUNTY OF ~~COCONINO~~ SKAMANIA )

On this day personally appeared before me  
Terry D. Heinz and Melanie A. Heinz, 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 28 day of June, 1991.

Janine Heggen  
Notary Public in and for the State of  
Washington, Residing at Stevenson  
My appointment expires: 06-01-94



EXHIBIT "A"

A tract of land in the Southwest quarter of the Northeast quarter of Section 33, Township 2 North, Range 5 East of the Willamette Meridian in the County of Skamania and State of Washington described as follows:

Lots 1,2 and 3 of the Terry Heinz Short Plat recorded in Book 3 of Plats, Page 195, Skamania County Short Plat Records.

**SUBJECT TO:**

1. Rights of others thereto entitled in and to the continued uninterrupted flow of Washougal River, and rights of upper and lower riparian owners in and to the use of the waters and natural flow thereof.
2. Rights, if any, of property owners, abutting the Washougal River in and to the waters of the Washougal River and in and to the bed thereof; also boating and fishing rights of property owners abutting the Washougal River or the stream of water leading thereto and therefrom.
3. Any adverse claims based upon the assertion that Washougal River has moved.
4. Right of Way including the terms and provisions thereof recorded September 22, 1969 in Book 61, Page 211, Skamania County Deed Records.
5. Deed of Trust, including the terms and provisions thereof, executed by Terry Heinz and Melanie Heinz, husband and wife, AND Thomas Aspitarte and Rae A. Hansen, husband and wife as grantor, to Skamania County Title Company, as trustee for Louise Little, as beneficiary, dated August 9, 1990, Recorded August 10, 1990, in Book 120, Page 160, Auditors File No. 109840, Skamania County Mortgage Records, given to secure payment of \$60,000.00. (Affects Additional Property).
6. Private Roadway Agreement including the terms and provisions thereof recorded on June 26, 1991 in Book 123, Page 882, Skamania County Deed Records.
7. Conditions, Restrictions and Easements as shown on the recorded Short Plat thereof.