

## REAL ESTATE CONTRACT

SK10634  
 2-5-19-1400  
 2-5-5070

THIS REAL ESTATE CONTRACT made this day by and between E.A. PRICE and ROBERTA M. PRICE, his wife, hereinafter called "Sellers", and EDWARD C. WIEMKEN and BIRDIE WIEMKEN, as joint tenants as to an undivided one-half interest, and DAVID WIEMKEN, an unmarried man, as to an undivided one-half interest, hereinafter called "Purchasers",

## WITNESSETH:

1. DESCRIPTION OF REAL ESTATE CONTRACTED TO BE SOLD: The Sellers agree to sell to the Purchasers, and the Purchasers agree to buy of the Sellers, the following described real estate in Skamania County, Washinton:

The South half of the Southwest Quarter of Section 19, and the North half of the North half of the North half of the Northwest quarter of Section 30, Township 2 North, Range 5 E.W.M.

EXCEPT a strip of land 300 feet in width acquired by the United States of America for the Bonneville Power Administration's electric power transmission lines.

EXCEPT that portion of the Southwest quarter of Section 19, Township 2 North, Range 5 E.W.M., described as follows:

BEGINNING at a point on East line of said Southwest quarter of Section 19, that is North 613 feet from the Southeast corner thereof; thence West 400 feet; thence North 200 feet; thence East 400 feet; thence South 200 feet, to a point of beginning.

ALSO EXCEPT a tract of land located in Sections 19 and 30, Township 2 North, Range 5 E.W.M., described as follows:

BEGINNING at the section corner common to Sections 19 and 30 aforesaid; thence North 375 feet along the West line of the said Section 19; thence in a Southeasterly direction to intersection with the south line of the said Section 19 at a point 605 feet Easterly to the point of beginning; thence Westerly along said South line 605 feet to the point of beginning;

AND

ALL that portion of the West 605 feet of the Northwest quarter of the Northwest quarter of said Section 30, lying Northerly of the 300 foot strip of land acquired by the United States of America in Condemnation Proceedings, for the Bonneville Power Administration's electric power transmission lines.

SUBJECT to an easement and right-of-way for an electric power transmission line over and across the Southeast quarter of the Southwest quarter of Section 19, Township 2 North, Range 5 E.W.M., granted to Pacific Power & Light Company by Deed dated May 10, 1940, recorded May 24, 1940 at page 73 of Book 28 of Deeds, Auditor's File No. 28909, records of Skamania County, Washington.

SUBJECT to a Lease to Frederick V. Pratt and Patrick C. Allen dated January 30, 1970, recorded March 27, 1978, in the office of the recording officer of Skamania County, Washington under recording No. 86000.

2. PURCHASE PRICE: Total purchase price of said property is \$202,500.00 payable as follows:

A. 1978 Payments upon Principal: Purchasers shall pay to Sellers the sum of \$27,000.00 upon principal on or before November 25, 1978, as hereinafter described. Purchasers have deposited

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in escrow with Knapp, O'Dell & Pinkerton the sum of \$10,000.00 upon execution of this contract, receipt of which is acknowledged. Knapp, O'Dell & Pinkerton is authorized to immediately utilize up to \$3,500.00 as Purchasers' contribution towards the closing costs of this sale, as is further described in Paragraph 9 herein. The remaining \$6,500.00 shall be held by Knapp, O'Dell & Pinkerton in escrow until November 25, 1978 at which time it shall either be applied toward the payment upon principal of \$27,000.00 payable by that date, or refunded to Purchasers should Sellers so elect, as is explained in Paragraph 2-C herein.

**B. Balance of Purchase Price:** The balance of the purchase price in the amount of \$175,000.00, together with interest at the rate of 9% per annum which shall accrue from the date of execution of this contract, shall be payable as follows:

For the first five (5) years, Buyers shall pay to Sellers the sum of not less than \$24,000.00 which said payment shall be credited first to interest and then to principal. The first of said installment payments shall be made on the 25th day of December, 1979 and subsequent installments shall be paid on the 25th day of each December thereafter until December 25, 1990, upon which date all unpaid balance and accrued interest at the rate of 9% per annum shall become due and payable in full. The payment upon principal during the year 1978 shall not exceed \$27,000.00, and interest accruing during the year 1978 shall be paid with the payment due December 25, 1979. Payments upon principal due during the years 1979, 1980, 1981, 1982 and 1983 shall not exceed \$15,000.00. Commencing with the payment due December 25, 1984, Purchasers shall have the right to make larger payments upon principal or to pay the contract in full.

Provided further that if Purchasers shall make substantial pre-payments upon principal on or subsequent to December 25, 1984, effective with the payment of December 25, 1984, Purchasers shall have the right to reduce all subsequent payments to an amount equal to accrued interest plus principal that will be not less than an amount computed by dividing the amount of principal remaining to be paid by the number of years remaining within the twelve year payoff period.

All payments under this contract shall be made to the Sellers at Riverview Savings Association, Camas, Washington branch, or at such other place as the Sellers may from time to time in writing direct.

**C. Exchange Proposal:** It is acknowledged that Sellers and Purchasers have discussed a possible exchange of certain land owned by Purchasers in the City of Hayward, California for the \$27,000.00 payable by Purchasers to Sellers upon principal on or before November 25, 1978, as hereinbefore described. It is agreed that should Purchasers provide to Sellers prior to November 25, 1978 satisfactory assurance that such an exchange would not cause any detrimental income tax consequences to Sellers, that such an exchange could be approved by Sellers solely at Sellers' election, and if Sellers so elect their approval shall be made in writing on or before November 25, 1978. Should Sellers elect to accept such an exchange in lieu of the \$27,000.00 payment upon principal required by November 25, 1978 herein, in the event said exchange should at any time prevent Sellers from use of the installment method of reporting gain or should they suffer any other financial penalty or loss by virtue of the exchange, then Purchasers agree to indemnify and hold harmless Sellers from payment of all such resulting loss and detrimental consequences, which loss shall be

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equal to the difference between that amount of income tax liability which is computed as being owed by them as a consequence of the exchange, and the amount of income tax liability which Sellers would have owed had the \$27,000.00 payment upon principal been made in cash, plus all professional fees and negotiation and litigation costs resulting from an audit, recomputation of increased taxes or litigation with the Federal Government, or any other governmental unit, as a consequence of the exchange.

3. **DEED RELEASES:** At anytime when Purchasers shall not be in default in payments required herein and after payment of the \$27,000.00 which is payable on or before November 25, 1978, the Sellers shall at Purchasers' request convey a one (1) acre parcel to Purchasers, which parcel shall be located on the County Road and to be utilized for the construction of a residence for David Wienken. The cost of executing and recording such conveyance shall be paid by Purchasers. The conveyance and use of said parcel shall comply with all Skamania County planning ordinances and regulations and shall not be in derogation of Sellers' rights and property status pursuant to filing under the Open Space Law, RCW Chapter 84.34. Further deed releases shall be authorized, provided that Purchasers shall not be in default in payments required herein, as follows:

A. On payment of the total sum of \$50,625.00 toward principal, Sellers shall at Purchasers' request, convey a 15 acre parcel to Purchasers which parcel shall be designated by Purchasers, subject to the approval of Seller which shall not be unreasonably withheld.

B. On the payment of the further sum of \$50,625.00 toward principal, or a total of \$101,250.00, Sellers shall at Purchasers' request convey an additional 15 acre parcel to Purchasers, the location of such parcel to be specified by Purchasers subject to Sellers' approval which shall not be unreasonably withheld.

C. The cost of executing and recording the conveyance referred to in A, B and C above shall be paid by Purchasers. The conveyance and use of each said parcel shall comply with all Skamania County planning ordinances and regulations and shall not be derogation of Sellers' rights and property status pursuant to filing under the Open Space Law, RCW Chapter 84.34.

4. **POSSESSION:** Purchasers shall have possession of the afore-described premises upon the date of the execution of this contract.

No timber shall be harvested upon the aforescribed premises by Purchasers during the first five (5) years from date of execution of this contract, which restriction expressly excludes harvest of Christmas trees. Such restriction also expressly excludes provision for thinning and clearing of timber in keeping with good forestry management practices, and in order to provide for the maximum well-being of the stand. Purchasers shall not remove any large timber trees without the express agreement of Sellers.

5. **REAL PROPERTY TAXES:** The 1978 real property taxes shall be pro-rated between Purchasers and Sellers as of the date of execution of this contract.

6. **DEED AND TITLE INSURANCE:** Sellers agree, on full payment of the purchase price and interest in the manner hereinbefore specified, to execute and deliver to Purchasers a Warranty Deed as to the balance of the property, excepting any part which may hereafter be condemned, free and clear of encumbrances, except



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those mentioned herein and any that may accrue hereafter through any person other than the Sellers.

The Sellers have procured, or agree to procure, within ten (10) days of the date hereof, a Purchaser's Policy of Title Insurance insuring the Purchasers to the full amount of the purchase price against loss by 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.

7. PRICE-PRATT, ALLEN LEASE: Both parties acknowledge that a portion of the above-described premises is subject to a recorded Lease Agreement dated January 30, 1970 between Sellers as Lessors and Frederick V. Pratt and Patrick C. Allen as Lessees which Lease expires December 25, 1978. Both parties further acknowledge that there is currently pending a legal action between the parties to the above Lease, Clark County Superior Court Civil Cause No. 73005, the outcome of which is uncertain. Sellers indemnify and hold Purchasers harmless with respect to any and all liability for claims incurred by Sellers or Purchasers which are founded upon the January 30, 1970 Lease Agreement which are litigated in Clark County Civil Action No. 73005 and should any such claims result in judgment in favor of the Lessees Pratt and/or Allen in said lawsuit, the Sellers agree to pay such judgment and attorney fees and Court costs necessarily incurred therein, and to indemnify and hold harmless the Purchasers from payment thereof.

8. PREVENTION OF 1978 HARVEST: It is contemplated by Purchasers and Sellers that Purchasers will have the unrestricted right to harvest all marketable Christmas trees located on the subject property during the 1978 season, provided that such activities do not substantially impair Sellers' equity. If, because of the pending litigation hereinbefore referred to, Purchasers are prevented from harvesting by November 25, 1978 a substantial portion of the marketable Christmas trees, Purchasers shall have the option of declaring the provisions respecting the purchase price contained in Paragraph 2 to be cancelled. In such event, Sellers grant to Purchasers the exclusive right to purchase the property at the price and under the terms and conditions as set forth in Paragraph 2 above, except that such terms of payment, with the exception of the \$10,000.00 deposit, shall extend to the calendar year 1979 with all sums due and payable one (1) year later than provided in Paragraph 2 above. This option is granted in consideration of Purchasers' deposit of the sum of \$10,000.00, and if Purchasers exercise said option, that amount shall be applied towards the purchase price. If Purchasers do not exercise their option to purchase on or before November 25, 1979 and otherwise performing all terms and conditions hereinbefore stated the \$10,000.00 sum paid shall be retained by Sellers in consideration of the granting of this option.

9. CLOSING COSTS: Purchasers shall pay all closing costs customarily associated with the sale of real property in the State of Washington, and closing costs related thereto, up to a maximum of \$3,500.00, said costs to include attorneys' fees, title insurance premium, 1% Excise Tax and recording fee.

10. PURCHASERS' COVENANTS: Purchasers covenant and agree as follows:

- (a) To make the payments above mentioned in the manner and on the dates named.
- (b) The Purchasers agree to pay before delinquency all taxes and assessments which may arise between Sellers and Purchasers

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hereafter become a lien on the real estate.

(c) To pay the consideration agreed upon and named herein regardless of any loss, destruction or damage to any of said property or the improvement thereon by fire, or from any other cause.

(d) To make or permit no unlawful or improper use of said property or any part thereof.

(e) To keep the said property at all times in as good condition as the same now is, and not to permit waste.

(f) To permit the Sellers or their agents to enter into or upon the said property at any reasonable time to inspect the same.

(g) To pay regularly and seasonably and before the same shall become delinquent, all taxes, assessments, liens and encumbrances of whatsoever nature and kind, which may hereafter be lawfully imposed on said property or which may have been assumed by the Purchasers in this contract; in the event the Purchasers shall fail to make any payments 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 nine (9%) percent per annum until paid, without prejudice to any other rights of the Sellers by reason of such failure.

(h) Not to permit or suffer any part of said property to become subject to any assessment, lien, charge or encumbrances whatsoever having or taking precedence over the rights of the Sellers in and to the said property.

11. **ASSIGNMENT:** It is agreed that no assignment of this contract shall be valid unless the same shall be consented to by the Sellers in writing, and in the event such consent is given it is agreed that Purchasers shall remain obligated under the terms of this contract. Consent shall not be unreasonably withheld.

12. **FORFEITURE:** Time is of the essence of this contract and if the Purchasers 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 Purchasers to be performed, then the Sellers shall have the right to declare this contract null and void; and if the Purchasers shall fail to make good such default within sixty (60) days after the Sellers shall have served a written Notice of Intention to Declare Contract Forfeited by certified mail to said Purchasers at their last known address, at the Sellers' option, then and in that event all of the Purchasers' rights under this contract shall immediately and utterly cease and determine and the property described herein shall revert to and re-vest in the Sellers without further action on the part of the Sellers and without any right of the Purchasers to reclamation or compensation for money paid or for improvements made on the premises, as fully, perfectly and absolutely as if this Agreement had never been made and all money theretofore paid to the Sellers under this contract shall thereupon be forfeited without process of law and shall be retained by and belong to the Sellers in full satisfaction of all claims as accrued and reasonable rent of said property from this date to the time of such forfeiture and as the liquidated damages to the Sellers for the Purchasers' failure to complete this contract.

13. **DESTRUCTION, PUBLIC TAKING:** In the event of the taking of any part of the property for public use, or of the destruction of

any of the improvements on the property by fire or other casualty, all of the monies received by the Sellers by reason thereof shall be applied as a payment on account of the purchase price of the property, less any sum which the Sellers may be required to expend in procuring such money, or, at the election of the Sellers, to the rebuilding or restoration of the premises.

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

Or Sellers 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.

15. COURT COSTS AND ATTORNEYS' FEES: Should Sellers be required to seek the assistance of attorneys by reason of Purchasers' failure to make timely payments required herein or to enforce any other provision of this contract, Purchasers shall pay Sellers their attorney fees so incurred. In any suit or action by any party to procure an adjudication of rights under this contract, or to recover any intermediate overdue installments or any advances repayable to Sellers, the losing party shall pay the expense of title search together with all costs and reasonable attorney fees to be established by the Court.

16. REPRESENTATIONS: Purchasers agree that a full inspection of the premises have been made and that neither the Sellers nor assigns shall be liable under any covenants respecting the condition of the land or Christmas trees and timber growing thereon, unless the covenant or agreement relied upon is in writing and is attached to and made a part hereof. Purchasers agree that no promises, representations, statements or warranties, expressed or implied, shall be binding upon the Sellers unless expressly contained herein. Purchasers expressly acknowledge that they have placed no reliance whatever upon any representations not expressed in this contract.

17. WAIVER: No assents, expressed or implied, by Sellers to any breach of Purchasers' covenants or agreements 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 22 day of OCTOBER, 1978, 1978.

E. A. Price  
E. A. Price

Roberta M. Price  
Roberta M. Price

Edward C. Wiemken  
Edward C. Wiemken

Birdie Wiemken  
Birdie Wiemken

David Wiemken  
David Wiemken

SELLERS

PURCHASERS



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STATE OF WASHINGTON )  
COUNTY OF CLARK ) ss.

On this day personally appeared before me E. A. PRICE and ROBERTA M. 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.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 21st day of September 1978.

*Angela S. [Signature]*  
Notary Public in and for the State of Washington, Residing at Camas.

No. 6292  
TRANSACTION EXCISE TAX

NOV 13 1978  
Amount Paid 2,208.10

Skamania County Treasurer  
By [Signature]



87570

STATE OF WASHINGTON ) ss  
COUNTY OF SKAMANIA )

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT OF WRITING FILED BY Angela S. [Signature] OF Skamania County, Wash AT 11:50 AM Nov 13, 1978 WAS RECORDED IN BOOK 75 OF Deeds AT PAGE 674 COUNTY OF SKAMANIA COUNTY, WASH  
[Signature]  
COUNTY AUDITOR  
DEPT. 1

REGISTERED   
INDEXED DIR.   
INDEXED   
RECORDED   
COMPARED   
MAILED