

119738

GRANT OF OPTION

BOOK 143 PAGE 845

OPTIONORS, Edward J. Heffernan Sr. and Aurora Heffernan, his wife and Edward J. Heffernan Jr. and Eugenia Heffernan, his wife, all acting as to their respective marital communities in property held as tenants in common, each couple holding undivided 1/2 interests, do hereby grant to Clifford F. McNaire, a single person, the right, privilege and option to purchase all that certain real property as described on Exhibit A attached hereto according to the terms and conditions of those two certain "Real Estate Contract and Earnest Money Agreements" executed by the Optionors in favor of Optionee on May 18th, 1994, copies of which are attached and incorporated herein.

Dated June, 1994 according to the subjoined acknowledgments.

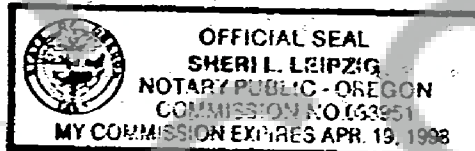
Edward J. Heffernan Sr. *Aurora M. Heffernan*
Edward J. Heffernan Jr. *Eugenia D. Heffernan*

Oregon
 STATE OF WASHINGTON)
 COUNTY OF Marion) ss.

THIS IS TO CERTIFY that on this day below written, before me, the undersigned a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared Edward J. Heffernan Sr. and Aurora Heffernan, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged to me that they signed said instrument as their free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed this 15th day of June 1994.

Sheri L. Leipzig
 Notary Public in and for the State of Washington residing at Salem Oregon



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

JUN 16 3 58 PM '94

Gary M. Olson
 AUDITOR
 GARY M. OLSON

REAL ESTATE EXCISE TAX

JUN 16 1994

PAID *NA*
 SKAMANIA COUNTY TREASURER

Registered
 Indexed, Dis
 Correct

Glenn J. Kimmel, Skamania County Auditor
 By: *Glenn J. Kimmel* Parcel # 3-8-29-502

EXHIBIT "A"

A tract of land in the Southwest Quarter of the Northeast Quarter of Section 29, Township 3 North, Range 8 East of the Willamette Meridian, in the County of Skamania, State of Washington, described as follows:

Lot 1 of the Beaudry Short Plat, recorded in Book 2 of Short Plats, Page 112, Skamania County Records.

Unofficial
Copy

Real Estate Contract and Earnest Money Agreement

This agreement, made this date below written by and between Edward J. Heffernan Sr. and Aurora Heffernan, his wife, and Edward J. Heffernan Jr. and Eugenia Heffernan, his wife, all acting as to their respective marital communities in property held as tenants in common each couple holding undivided 1/2 interests, hereafter referred to as "sellers" and Clifford F. McGuire, a single person, hereafter referred to as "Purchaser",

WITNESSETH: The parties hereto do hereby acknowledge the giving and receiving of consideration, the receipt and adequacy of which is hereby acknowledged in the obligations assumed, covenants and agreements hereinafter contained and other valuable consideration herein exchanged.

NOW THEREFORE, Sellers do hereby agree to sell and Purchaser does hereby agree to purchase, upon the following terms and conditions, all that certain real property, as more particularly described on the attached schedule, together with and subject to all of those certain restrictions of record as set forth on Columbia Title Insurance Company policy No. H 1177741. (The property is also known to the parties as parcel #502 of a short plat.) Provided however, that prior to closing an updated/preliminary title report shall be provided to Purchaser and the then state and condition of sellers' title shall be in a form and manner which are acceptable to Purchaser's attorney Ross R. Rakow.

This purchase and sale shall be upon the following terms and conditions:

Price and Terms Lot #502: The total purchase price of parcel #502 of the real property is Eighty Seven Thousand (\$87,000.00) Dollars. This purchase price of shall be paid at the rate of Nine Hundred (\$900.00 Dollars per month, or more, amortized over a period of 15 years with the first payment due on the 30th day after closing. Like payments shall be due on the like day of each month thereafter until the entire outstanding balance of the purchase price shall have been paid in full. The outstanding balance of the purchase price shall at all times, after the date of closing, bear interest at the rate of nine (9) per cent per annum. From each payment so made shall first be deducted the interest due upon the unpaid balance and the remainder shall be applied upon the principal. Payments that are received

by seller ten (10) days or more beyond the due date shall bear a penalty of five per cent of any and all such late payments in addition to all other remedies of seller herein. If purchaser shall elect to close this transaction purchaser shall reimburse to sellers the taxes, interest, and penalties as actually paid by sellers to the Skamania County Treasurer by reason of its removal from the special tax classification.

Transmission of all payments called for to be made herein to sellers shall be by direct deposit to accounts at such depository as shall be designated by sellers in writing from time to time.

Closing: This transaction shall be closed within 30 days after the sale by Purchaser of 5 lots of the long plat expected to be filed and approved on parcel #500 or within one year, whichever shall occur the sooner. Closing shall occur through an escrow account at the Columbia Title Insurance Company, White Salmon, Washington. Costs of excise tax, title insurance policy, prorated real property taxes, one-half of the escrow fees and sellers' attorneys fees shall be paid by sellers. Costs of recording, prorated real property taxes, one-half of the escrow fees and Purchaser's attorneys fees shall be paid by Purchaser. Should Purchaser fail to close the purchase of lot #502 within one year then he shall have no further right, duty, or obligation in connection with this agreement.

Plat Application: Sellers understand that Purchaser will be undertaking the development and marketing of the subject premises. Sellers hereby agree to execute promptly upon ^{can} ~~sellers~~ ^{purchaser's} request any and all plat applications and instruments convenient thereto, including the dedication of easements, covenants, limitations and restrictions which may be agreed to by the parties and if purchaser shall have exercised his right to purchase both lots 500 and 502 then of Purchaser's sole choice, upon presentation by Purchaser, the costs of preparation and filing of which instruments the Purchaser shall pay. Purchaser hereby reserves the exclusive right to prepare and file such plat of a design and at a time of his discretion.

Provided However, that the uncertainty of platting proceedings, requirements, perk tests, and other practical considerations is such that in the event that Purchaser's application for long plat shall be rejected by the regulatory authorities or platting of the subject premises of this lot or of lot #500 shall at any time appear impractical or unprofitable, in the exclusive judgment of Purchaser, then at his sole election and upon Purchaser giving notice thereof in writing to

sellers then all further obligations of Purchaser hereunder to close and to purchase shall cease.

Deed Release Provisions: At any time or times after closing, if Purchaser have then made all payments herein above provided to be made, or if in default shall bring such defaults current, sellers shall make, issue and deliver to Purchaser, at any and all time and times thereafter, their good and sufficient warranty deeds in partial fulfillment of this contract to such parts, portions, and parcels of the subject premises as shall be requested in writing by Purchaser. Provided however, that Purchaser shall pay an additional sum of \$ 15,000.00 for each acre, or prorated to a fraction thereof, of land so released as the case may be, which payments shall be forthwith credited upon the outstanding balance of the principal.

Access: From date hereof Purchaser shall have the right of access to each and every part of the subject premises in person and by agents for all purposes including but not limited to prospective Purchaser, public officials, surveyors, etc. together with the right to invite or exclude third parties thereto and therefrom.

ASSESSMENTS & TAXES: -- In the event of closing Purchaser shall pay before delinquency all taxes and assessments. In the event any taxes or assessments to be paid by Purchaser are paid by Sellers, Purchaser shall promptly reimburse Sellers. Upon failure of Purchaser to pay any taxes or assessments, Sellers may, at their option, declare a forfeiture of this contract or pay and discharge any such tax, assessment, rent or charge and any amount so paid shall be added to and be secured in the same manner as the unpaid purchase price, and bear interest at the rate of twelve (12%) per annum, and be due immediately, or Sellers may, at his election, bring suit for the recovery of such sums, together with interest and attorney's fees as hereinafter provided.

IMPROVEMENTS: --In the event of closing, all improvements, if any, now existing, or as may hereafter be made to or placed on the property, shall become a part thereof and shall not be removed.

USE OF PROPERTY: -- Purchaser shall not make nor allow any unlawful use of the property.

CONDEMNATION: -- If the property or any part shall be taken and condemned, such taking shall not be a ground for rescission of this contract. The award made for the taking shall be deemed to be the property of Purchaser, but shall be paid to Sellers to apply upon the purchase price, not exceeding any

amounts then unpaid thereunder.

DEED: -- When Purchaser have fully performed this contract, Sellers shall cause to be delivered to Purchaser a statutory warranty deed conveying the property free and clear of all encumbrances save and except; any and all easements, limitations, and/or restrictions of record and as may be visually apparent; those encumbrances as herein above set forth; and/or as agreed to by Purchaser. Warranties of title by Sellers are limited to the date of closing except for affirmative acts of Sellers thereafter.

Sellers' Remedies: After closing in the event the Purchaser are in default under this contract, the Sellers may at their election, take the following course of action:

(a) **Suit for Delinquencies:** The Sellers may institute suit for any installment amount or other sums due and payable under this contract as of the date of the judgment and any sums which have been advanced by Sellers as of said date pursuant to the provisions of this contract, together with interest on all of said amount at the default rate from the date each such amount was advanced or due, as the case may be, to and including the date of collection.

(b) **Acceleration:** Upon giving the Purchaser not less than fifteen (15) days written notice of its intent to do so (within which time any monetary defaults may be cured without regard to the acceleration), and if the default is in the nature a failure to timely pay any principal, interest, insurance premium, tax, assessment, or other sum of money required to be paid herein required for a conveyance of the Purchaser's title to the property, or if the Purchaser commit waste on the property, the Sellers may declare the entire unpaid balance of the purchase price and all interest then due and payable and institute suit to collect such amounts, together with any sums advanced by the Sellers pursuant to the provisions of this contract, and together with interest on all of said sums at the default rate from the due date or date of each such advance to and including the date of collection.

(c) **Forfeiture and Repossession:** The Sellers may cancel and render void all rights, titles and interest of the Purchaser and Purchaser, its successors in this contract and in the property (including all of Purchaser's then existing rights, interest and estates therein (and timber, crops and improvements thereon) by giving a Notice of Intent to Forfeit pursuant to R.C.W. 6.30.040-070. Upon the forfeiture of this contract the Sellers 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 and all persons holding by, through or under the Purchaser who were properly given Notice of Intent to Forfeit and the Declaration of Forfeiture. In such event that Purchaser or any person or persons holding by through or under them 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 Sellers and the Sellers shall be entitled to institute an action for summary possession of the property, and may recover from the Purchaser, and/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 the Sellers' reasonable attorney's fees.

(d) Specific Performance: The Sellers may institute suit to specifically enforce any of the Purchaser's covenants hereunder, and the same may include redress by mandatory or prohibitive injunction.

(e) Receivership: The parties hereto recognize and agree that in the event of default by the Purchaser in making any payments or in the performance of any of the other terms and conditions of this contract, the period of time involved in repossessing the property, forfeiting this contract, or in obtaining possession of the property by judicial process could cause irreparable damage to the Sellers and to the property or the possible acceleration of the debts secured by the prior encumbrances. Therefore, the Purchaser hereby expressly agree that in the event of any default under this contract which is not cured, the Sellers shall have the right to apply to the Superior Court of the county in which the real property is situated for the appointment of a receiver under Chapter 7.60 of the Revised Code of Washington (or any chapter supplemental thereto) to take charge of and maintain control of, manage, farm, or operate the property, to evict tenants therefrom who are not then in compliance with his leases, to lease any portion of all of the property in the name of the Purchaser on such terms as the receiver may deem advisable, to make such alterations, repairs and improvements to the property as the receiver may deem advisable, and to receive all rents and income that are so received, to apply all of the debts and obligations for which the Purchaser are liable hereunder prior to or during the period of the receivership, including, without limitation, payments on or for this contract, prior encumbrances, taxes, assessments, insurance premiums, utility bills and costs of operating, maintaining, repairing and managing the property. Any sums received by the receiver in excess of said amounts shall be

retained by the receiver to discharge all remaining liabilities of the Purchaser under this contract until the entirety of such obligations have been satisfied, at which point any remaining excess shall be paid to the Purchaser without interest.

(f) **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 the Sellers, and the Purchaser shall thereafter remain in possession of the property beyond any period otherwise permitted by law, the Purchaser agree that they will occupy the property as tenants-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, in an amount equal to two (2) times the installment as and when proved for in the specific terms hereof, and the Sellers shall have, in addition to all other remedies for the collection of rentals and the recovery of possession for the collection of rentals and the recovery of possession that are available to the landlords under the laws of the State of Washington, the right to institute and maintain any action for summary possession of the property as provided by law.

Purchaser's REMEDIES- After closing and in the event the Sellers should default in any of their obligations under this contract and such default continues for fifteen (15) days after the Purchaser give the Sellers written notice specifying the nature thereof and the acts Sellers are required to cure the same, the Purchaser shall have the right to specifically enforce this contract, institute suit for its damages caused by such default, or pursue any other remedy which may be available to the Purchaser at law or in equity. If Purchaser elects to pay, or has specifically assumed any underlying obligation of Sellers to third parties which is in any manner an encumbrance against this property, then after giving the notice as above Sellers' forth, such payments may be made by Purchaser to such third party to the extent necessary to avoid a default in such encumbrance and when so made shall be credited upon the unpaid balance of the purchase price.

REMEDIAL ADVANCES -- If either party to this contract shall fail to timely pay and discharge any payments of sums for which it has agreed to be responsible herein and said failure constitutes a default under this contract, or shall by any other act or neglect violate the terms and any conditions of this contract or of any prior encumbrances, the other party hereto may pay, effect or discharge such sums as are necessary to cure such default. Upon affording the party required to make

such payment not less than fifteen (15) days' prior written notice (except in any instance in which the Purchaser fail to obtain or maintain any insurance required herein or when immediate payment is required to avoid immediate hazards to person or property or any foreclosure of or a similar action against or affecting any portion of the property, in which cases such notice may be given concurrently with or immediately following such payment) the party making such payment may recover from the defaulting party, upon demand, or through offsetting the same against existing or future debts, the full cost and expense of so doing, including its reasonable attorneys' fees together with interest on said expenditures and fees at the default rate from the date of expenditure to and including the date of collection or the due date of any sum against which such offset is affected.

CUMULATIVE REMEDIES, - WAIVERS: -- The remedies stated herein are cumulative and not mutually exclusive and the Sellers or the Purchaser may pursue any other further remedies to enforce his respective rights under this contract; provided however, except as provided in his contract with respect to the Purchaser's transfer of the property, the Sellers shall not have the right to accelerate the remaining balance of the purchase price in the event the Sellers elect to forfeit the Purchaser's interest in the property and such forfeiture is being enforced or is completed. In any action or proceeding to recover any sum or to enforce any remedy provided for herein, no defense of adequacy of security or that resort must first be taken against any particular security Sellers' or any other person shall be asserted, and the Purchaser waive any legal and equitable rights that the Purchaser may have with respect to the marshalling of assets. The Sellers shall not be required to tender his deed or bill of sale as a condition precedent to the enforcement of any remedy hereunder. In the event any check is tendered which is not honored upon first presentation because of any stop payment directive or insufficient funds, the payee's rights shall be reinstated as if such check had not been delivered. No waiver of any rights of either party under this contract shall be effective unless specifically evidenced in a written agreement executed by the waiving party. Any forbearance, including, without limitation, a party's acceptance of any payment after the due date or any extension there, shall not be considered a waiver of such party's rights to pursue any remedy hereunder for subsequent defaults of the same or a different nature or for breach of any other term, covenant or condition hereof.

COSTS & ATTORNEY'S FEES: -- If either party shall be in default under

this contract, the non-defaulting party shall have the right, at the defaulting party's expense, to retain an attorney or collection agency 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, increased costs of expert witnesses, collection agency charges, notice expenses, title search expenses, and reasonable attorneys' fees (with or without litigation), and the failure of the defaulting party to promptly pay the same shall in itself constitute a further and additional default. In the event either party hereto institutes any action to enforce any provisions of this contract, the prevailing party in such action shall be entitled to reimbursement by the losing party for its' court costs, increased costs of expert witnesses and reasonable attorneys' fees, including such costs and fees that 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 Sellers 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.

NOTICES -- Any notices required or permitted by law or under this contract shall be in writing and shall be sent by first class certified or registered mail, return receipt requested, with postage prepaid, to the parties' addresses set forth in the specific terms of the contract. Either party may change such address for giving and receiving notices and, unless payments are to be made to an escrow or collection account, the Sellers may change the address for payments, by designating the same to the other party hereto in the manner herein above set forth and by causing a copy of such change to be properly recorded. All notices which are so addressed and paid for shall be deemed effective two (2) business days following the deposit thereof in the U. S. Mail, regardless of the actual date of receipt of such notice by the addressee. The addresses of the parties are set forth under his signatures affixed hereto. Purchaser agree that his failure to notify of a change of address as herein called for shall conclusively entitle Sellers to rely upon the address hereafter set forth for any and all purposes.

TIME OF PERFORMANCE -- Time is specifically declared to be of the essence of this contract and of all acts required to be done and performed by the parties hereto, including, but not limited to, the proper tender of each of the sums required by the terms hereof to be paid.

LEGAL RELATIONSHIPS: -- The parties to this contract execute the same solely as a sellers and as buyers. No partnership, joint venture or joint undertaking shall be construed from these presents, and except as herein specifically provided, neither party shall have the right to make any representations for, act on behalf of, or be liable for the debts of the other. All terms, covenants and conditions to be observed and performed by either of the parties hereto shall be joint and several if entered into by more than one person on behalf of such party, and a default by any one or more of such persons shall be deemed a default on the part of the party with whom said person or persons are identified. No third party is intended to be benefitted by this contract. Any married person executing this contract hereby pledges his or her separate property and marital communities, if any, in satisfaction hereof, unless by the terms hereof are expressly set forth on page one.

SUCCESSORS -- Subject to the restrictions contained herein, the rights and obligations of the Sellers and the Purchaser shall inure to the benefit of and be binding upon the respective estates, heirs, executors, administrators, successors, successors in trust and assigns; PROVIDED HOWEVER, no person to whom this contract is pledged or assigned for security purposes by either party hereto shall, in the absence of an express written assumption by such party, be liable for the performance of any covenant herein. Any assignee of any interest in this contract, or any holder of any interest in the property, shall have the right to cure any default in the manner permitted and between the time periods required of the defaulting party, but except as otherwise required by law, no notices in addition to those provided for in this contract need to be given.

APPLICABLE LAW -- This contract shall be governed and interpreted in accordance with the laws of the State of Washington and the venue of any action brought to interpret or enforce any provision of this contract shall be laid in the county in which the real property is situated. All sums herein referred to shall be calculated by and payable in the lawful currency of the United States.

ENTIRE AGREEMENT: This contract contains the entire agreement of the parties hereto and, except for any agreements or warranties otherwise stated in writing to survive the execution and delivery of this contract, supercedes all of his previous understandings and agreements, written or oral, with respect to this transaction (including but not limited to earnest money agreements, if any). Neither the Sellers nor the Purchaser shall be liable to the other for any representations made by any person concerning the property or regarding the

terms of this contract, except to the extent that the same are expressed in this instrument. This contract may be amended only by written instrument executed by the Purchaser and the Sellers subsequent to the date hereof.

IN WITNESS WHEREOF, the parties have hereunto set their hands as is below written by the Notaries Public with this agreement to have immediate force and effect from the date last signed by the last of the parties. Purchaser agrees to be bound upon the transmission to sellers of this last page showing his signature as evidenced by fax.

Sellers

Purchaser

Edward J. Heffernan, Sr.

Edward J. Heffernan, Sr.

Aurora M. Heffernan

Aurora M. Heffernan

Whose Present Addresses Are:

MP 2.00 R. Duncan Crk. Rd.

Skamania, Wa. 98648

509-327-5851

Edward J. Heffernan, Jr.

Edward J. Heffernan, Jr.

Eugenia Heffernan

Eugenia Heffernan

Whose Present Addresses Are:

1250 Vista Avenue Southeast

Salem, Or. 97302

503-581-7523

Clifford F. McGuire

Clifford F. McGuire

1 Underhill Rd.

Mill Valley, Ca. 94941

415 383 4532

415 383 4535 FAX

STATE OF WASHINGTON)

COUNTY OF Multnomah)
SS.

This is to certify that on this day personally appeared before me

Edward J. Heffernan Sr. and Aurora Heffernan,

his wife, to me known to be the individuals described in and who executed the within and foregoing, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this _____ day of May, 1994.

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

STATE OF OREGON)

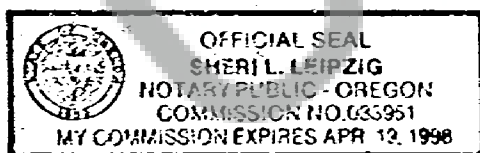
COUNTY OF Marion)
SS.

This is to certify that on this day personally appeared before me

Edward J. Heffernan Jr. and Eugenia Heffernan,

his wife, to me known to be the individuals described in and who executed the within and foregoing, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 15th day of May, 1994.



Sheri L. Leipzig

Notary Public in and for the State of
Oregon, residing at Salem

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

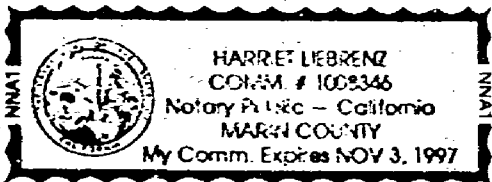
NS 5907

State of California
County of Marin

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On May 20, 1994 before me, Harriet Liebrecht
DATE NAME/TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"
personally appeared Clifford F. McQuinn
NAME(S) OF SIGNER(S)

☐ personally known to me - OR - ☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Harriet Liebrecht
SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☒ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

Real Estate Contract & Earnest Money Agreement
TITLE OR TYPE OF DOCUMENT

11
NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE