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SKAMANIA COUNTY WASH  
BY TRAMADIA CO. LLC

After recording return to:

Bradley W. Andersen  
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1111 Main Street, Suite 410  
Vancouver, WA 98660

REAL ESTATE EXCISE TAX  
22909

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by deputy

SKAMANIA COUNTY TREASURER

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J. MICHAEL J. JAYSON

By: ☒   
Recorded: ☒   
Index: ☒   
Filed: ☒   
Noted: ☒

SCC 25438

### REAL ESTATE CONTRACT

THIS CONTRACT made and entered into this 9 day of April, 2003, between Ottis T. Holwegner and Sylvia L. Holwegner, husband and wife, hereinafter "Sellers" and Skamania County Fire District #1, a municipal corporation in the State of Washington, hereinafter called "Purchasers."

### WITNESSETH:

That the Seller agrees to sell to the Purchasers and the Purchasers agree to purchase from the Seller unimproved real estate commonly known as and legally described as follows, consisting of approximately 2.40 acres:

A parcel of land located in the SW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 20, Township 3 North, Range 8 East, W.M., in Skamania County, Washington and described as:

Beginning at a point 122 rods South of the Northeast corner of the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of said Section 20, thence South, 368 feet thence West 295.71 feet; thence North, 151.48 feet; thence West, 32.09 feet; thence North, 216.52 feet; thence East, 327.81 feet to the point of beginning; SUBJECT TO the rights of the Public lying within Wind River Road; GRANTORS hereby reserve access and utility easements of 30 feet in width over, under and across the North 30 feet and the South 30 feet thereof, to benefit their remaining adjacent property to the West. This conveyance is subject to a restriction that for 30 years all new structures built on the above described property shall be limited in height to a single-story structure, excluding daylight or underground basements.

PARCEL NO. 03-08-20-3-1-0203-00

1 - REAL ESTATE CONTRACT  
PDX/110456/132183BWA/1078917.1

Gary H. Martin, Skamania County Assessor

Date 4/9/03

Parcel # 03-08-20-3-1-0203-00

1. The terms and conditions of this Contract are as follows:

(a) The total purchase price is EIGHTY THOUSAND AND NO/100 DOLLARS (\$80,000.00), payable as follows:

1. Purchaser to pay Seller \$40,000.00 in cash or other immediately available funds at closing as provided in the Purchase and Sale Agreement.
2. Purchasers shall pay Seller the remaining balance of \$40,000.00 to be paid on or before the end of the 12<sup>th</sup> month following the execution of this Agreement.
3. There shall be no interest on the remaining balance.
4. There shall be no penalty for early payoff.

2. **Taxes.** In addition to the purchase price payments provided for herein, the Purchasers assume and agree to pay before delinquency all taxes and assessments that become due and owing after the date this Contract is executed on said real estate.

3. **Care of Premises.** Purchasers will prevent the use of the property for any illegal purpose and will take such action and pay such amounts as are required to keep the property clean and in good repair.

4. **Insurance.** The Purchasers agree, until the purchase price is fully paid, to keep the building and improvements on said real estate insured to the actual cash value thereof against loss or damage by both fire and windstorm in a company acceptable to the Seller and for the Seller's benefit, as their interest may appear, and to pay all premiums therefore and to deliver all policies and renewals thereof to the Seller. Purchasers agree to name the Seller as an additional insured on the insurance policies described herein.

5. **Inspection.** The Purchasers agree that full inspection of said real estate has been made and that neither the Seller nor its assigns shall be held to any covenants respecting the condition of any improvements thereon nor shall the Purchasers or Seller or the assigns of either be held to any covenant or agreement for alterations, improvements or repairs unless the covenants or agreements relied on are contained herein or are in writing and attached to and made a part of this Contract.

6. **Risk of Loss, Condemnation.** The Purchasers assume all hazards of damage to or destruction of any improvements now on said real estate or hereafter placed thereon, and of the taking of said real estate or any part thereof for public use; and agree that no such damage, destruction or taking shall 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 elects to allow the Purchasers to apply all or a portion of such condemnation award to the rebuilding or restoration of any improvements damaged by such taking. In case of damage or destruction from a peril insured against, the proceeds of such insurance remaining after payment of the reasonable expenses of procuring the same shall be devoted to the restoration or rebuilding of such improvements within a reasonable time, unless Purchasers elect that said proceeds shall be paid to the Seller for application on the purchase price herein.

7. **Title Insurance.** The Purchasers have delivered a Preliminary Commitment for a Purchaser's Policy of Title Insurance on standard form, issued by Fidelity National Title Company of Washington, Battle Ground branch, insuring the Purchasers 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 form;
- (b) Liens or encumbrances which by the terms of this Contract the Purchasers are to assume, or as to which the conveyance hereunder is to be made subject;
- (c) Any existing contract or contracts under which Seller is purchasing said real estate, and any mortgage or other obligation, which Seller by this Contract agrees to pay, none of which for the purpose of this paragraph 7 shall be deemed defects in Seller's title; and
- (d) Any and all easements, covenants, conditions and restrictions of record.

8. **Deed.** The Seller agrees, upon receiving full payment of the purchase price and interest in the manner above specified, to execute and deliver to Purchasers a Statutory Warranty Fulfillment Deed on the form which is attached as Exhibit "A" 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 following:

Easements, covenants, conditions and restrictions of record and liens or encumbrances which by the terms of this Contract the Purchasers are to assume, or as to which the conveyance hereunder is to be made subject.

9. **Possession.** 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 the buildings and other 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.

10. **Free from Liens.** Purchasers shall pay when due and before they become delinquent all public charges, municipal liens, assessments and any other charges levied against the real property which may become a lien upon the real property or any improvement thereon. Purchasers shall keep the real property free from mechanics and other liens and will hold Seller harmless from and reimburse Seller for all costs and attorneys fees incurred in defending against any such liens.

11. **Use and Alterations.** Purchasers shall comply with all laws, ordinances, regulations and private restrictions affecting the real property. As long as Purchasers are not in default under this Contract, Seller shall give reasonable notice and obtain Purchasers' consent prior to inspection of the real property. Said consent shall not be unreasonably withheld. In the event Purchasers are in default under this Contract, Seller shall have the right to inspect the real property at all reasonable times. Purchasers shall not make or cause to be made any structural improvements or alterations to the real property without first obtaining the written consent of Seller. Seller's consent to such alterations or improvements shall not be unreasonably withheld. Purchasers shall not commit nor suffer any waste of the real property or any improvements thereon or to be placed thereon, and shall maintain the real property and all such improvements in good condition and repair except for reasonable wear and tear.

12. **Successors.** The covenants, conditions and terms of this Agreement shall extend to and be binding upon and incur to the benefit of the successors and assigns of the parties hereto, provided, however, that nothing contained in this section shall alter the restrictions relating to the sale or transfer.

13. **Default and Cure Period.** Upon Purchasers failure to make any payment when due or breach any term or provision of this Contract ("Default"), the Seller shall deliver written notice of the Default to Purchasers. Purchasers shall have the right to cure, within sixty days ("the Cure Period"), any Default of this Contract. If Purchaser cures the Default within the Cure Period, Purchaser shall nonetheless remain liable for any late charge properly assessed pursuant to this Contract.

14. **Alternative Remedies.**

(a) **Time is of the essence of this Agreement.** Upon the first event of Default and expiration of any applicable Cure Period, Seller may, at its option, exercise any of the following alternative remedies:

(i) **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 twelve (12%) percent per annum from the date each such payment was advanced or due, as the case may be.

(ii) **Forfeiture.** Seller may elect to declare a forfeiture of and cancellation of this Contract pursuant to RCW 61.30 and upon such election being made and the statutory procedure followed, all rights of Purchasers hereunder shall cease and terminate and Seller shall be entitled to take possession of the property in accordance with the law, and all payments made by Purchasers hereunder shall be retained by Seller in liquidation of all damages sustained by said default. Seller shall be entitled to recover from Purchasers any and all costs and attorney's fees incurred by Seller in connection with any forfeiture proceeding including any and all judicial proceedings arising out of or relating to said forfeiture action including but not limited to the cost of any title search, court costs and reasonable attorney's fees. Should Purchasers pay Seller an amount less than all sums required to reinstate the Contract, Seller's acceptance of such sum shall not be deemed a waiver of any defaults or a reinstatement of the Contract, and any such sums shall be retained by Seller as further liquidated damages, should Purchasers remain in default in any respect during the statutory forfeiture period.

(b) Upon a second or other additional event of Default and expiration of any applicable Cure Period, Seller may, at its option, exercise any of the above remedies and the following alternative remedies :

(i) **Acceleration.** Seller may declare the entire unpaid balance of the purchase price to be immediately due and payable and institute suit to collect such amounts, together with any sums advanced by the Seller for and the amount of any delinquencies for items such as water assessments, taxes, insurance, payments on underlying obligations, lienable items and other expenses incurred to protect Seller's interest in the property, together with interest thereon at the rate of twelve (12%) percent per annum from the date of each such advance. Payment by Purchasers of any judgment obtained by Seller pursuant to this paragraph shall be a condition precedent to the delivery of a deed to said property by Seller or by the escrow agent, if any.

(ii) **Specific Performance.** Seller may institute suit to specifically enforce any of the Purchasers' covenants hereunder.

(c) **Miscellaneous.** The failure 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. Purchasers

covenant to pay the accelerated balance and/or any intermediate installments and/or any other payments made by Seller and repayable by Purchasers in event of default are independent of the covenant to make a deed and every action is an action arising on a contract for the recovery of money only, as if the promise to pay had been expressed in a different instrument.

Any delay or failure of Seller to take action upon default shall not be construed as a waiver of said default, nor as a waiver by Seller of its right to enforce Seller's remedies against such defaults in the future. If Seller is required to institute legal action to enforce any of the remedies indicated, Purchasers agree to pay Seller's costs and reasonable attorney's fees incurred in such proceeding and any appeal thereof.

**15. Notice.** Service upon Purchasers of all demands, notices or other papers with respect to forfeiture and termination of Purchasers' rights may be made by United States Mail, postage prepaid, return receipt requested, directed to the Purchasers at their address last known to Seller. Any demand, notice or paper so sent shall be deemed to have been given or made on the date the same was deposited with the United States Postal Service as certified matter with postage thereon full prepaid.

**16. Attorney's Fees.** 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 a reasonable cost for searching records to determine the condition of title at the time suit is commenced.

If this Contract or any obligation contained in it is referred to an attorney for collection or realization, or for the adjudication of the termination of the Purchasers' rights hereunder, the Purchasers agree to pay a reasonable attorney's fee (including fees incurred with or without legal suit), expenses of title search and all other legal expenses.

**17. Items Included In Sale.** None.

**18. Miscellaneous.**

(a) As used in this Contract, the masculine, feminine or neuter gender, and the singular or plural number, shall be deemed to include the others whenever the context so indicates.

(b) Each person signing below executes this Contract in his or her individual capacity and on behalf of any marital community of which he or she is a member.

(c) Paragraph headings have been included for the convenience of the parties and shall not be considered a part of this agreement for any purpose relating to construction or interpretation of the terms of this Contract.



(f) If Purchasers or Seller institute suit concerning this Contract, this Contract shall be construed pursuant to the laws of the State of Washington and the venue of any suit shall be Clark County.

**PURCHASERS:**

*Robert Callahan*  
Robert Callahan

Gary Blaisdell  
Gary Blaisdell

John Nelson

**SELLER:**

Ottis D. Holwegner  
Ottis D. Holwegner

Sylvia L. Holwegner  
Sylvia L. Holwegner

STATE OF WASHINGTON )  
County of Skamania ) ss.

On this 7<sup>th</sup> day of April, 2003, before me, the undersigned, a Notary Public in and for the state of Washington, duly commissioned and sworn, personally appeared ROBERT CALLAHAN, GARY BLAISDELL and JOHN NELSON, known to be the COMMISSIONERS OF THE SKAMANIA COUNTY FIRE DISTRICT #1, a municipal corporation in the State of Washington, that executed the foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of that corporation for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute the instrument on behalf of the corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.

James A. Michel  
PO Box 415 Camano, WA 98280  
 NOTARY PUBLIC for the State of Washington  
 My Commission Expires: June 1, 2006

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**Notary Public  
State of Washington  
JAMES A. MICKEL  
My Appointment Expires Jan 1, 2006**

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STATE OF WASHINGTON )  
 ) ss.  
County of Skamania )

On this day personally appeared before me OTTIS D. HOLWEGNER and SYLVIA L. HOLWEGNER, 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 8<sup>th</sup> day of April, 2003.



Julie A. Andersen  
NOTARY PUBLIC for the State of Washington  
My Commission Expires: 7-17-2006