

Doc # 2005159070
Page 1 of 10
Date: 10/13/2005 10:35A
Filed by: SKAMANIA COUNTY TITLE
Filed & Recorded in Official Records
of SKAMANIA COUNTY
J. MICHAEL GARVISON
AUDITOR
Fee: \$41.00

AFTER RECORDING MAIL TO:

Name James & Barbara Bailey
Address PO Box 5
City/State Carson, WA 98610
SLC 28071

Document Title(s): (or transactions contained therein)

1. REAL ESTATE CONTRACT
- 2.
- 3.
- 4.

Reference Number(s) of Documents assigned or released:

☐ Additional numbers on page _____ of document

Grantor(s): (Last name first, then first name and initials)

1. JAMES C. BAILEY AND BARBARA L. BAILEY, AS CO-TRUSTEES OF THE BAILEY TRUST
2. DATED OCTOBER 15, 2003
- 3.
- 4.
5. ☐ Additional names on page _____ of document

Grantee(s): (Last name first, then first name and initials)

1. HENNALU, LLC, AN OREGON LIMITED LIABILITY COMPANY
- 2.
- 3.
- 4.
5. ☐ Additional names on page _____ of document

Abbreviated Legal Description as follows: (i.e. lot/block/plat or section/township/range/quarter/quarter)

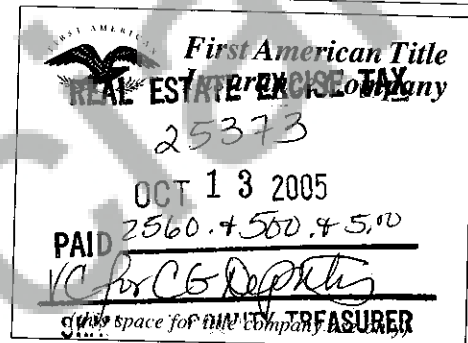
Lots 3,4,5,6, and 7 of Block 6, TOWN OF STEVENSON, according to the recorded plat thereof, recorded in Book A of Plats, Page 11, in the County of Skamania State of Washington.

☐ Complete legal description is on page _____ of document

Assessor's Property Tax Parcel / Account Number(s): 02-07-01-1-1-1800-00

WA-1

NOTE: The auditor/recorder will rely on the information on the form. The staff will not read the document to verify the accuracy or completeness of the indexing information provided herein.



REAL ESTATE EXCISE TAX

15373

OCT 13 2005

PAID 2560.00 + 500.00 + 5.00

Setc 28071

Cy dep HAY

SKAMANIA COUNTY TREASURER

REAL ESTATE CONTRACT

THIS CONTRACT, made and entered into this 13th day of October, 2005, between **James C. Bailey and Barbara L. Bailey, as Co-Trustees of The Bailey Trust** dated **October 15, 2003**, hereinafter called the "Seller" and **Heenalu, LLC, an Oregon Limited Liability Company**, hereinafter called the "Purchaser".

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

Lots 3, 4, 5, 6, 7 of Block 6 of the Plat of Stevenson, File of record Pg. 11, Book A of Plats.

Tax Lot No. 02-07-01-1-1-1800-00

NOW, THEREFORE, the parties agree to the terms and conditions of this contract as follows:

Gary H. Martin, Skamania County Assessor

Price and Payment Terms

Date 10-13-05 Parcel # 2-7-1-1-1-1800

1. The purchase price is Two Hundred Thousand and 00/100 Dollars (\$200,000.00), of which Thirty Thousand and 00/100 Dollars (\$30,000.00) has been paid, the receipt whereof is hereby acknowledged, and the balance of said purchase price in the amount of One Hundred Seventy Thousand and 00/100 Dollars (\$170,000.00) shall be paid as follows:

a. Purchaser agrees to pay an additional lump sum payment of Twenty Thousand and 00/100 Dollars (\$20,000.00) on or before January 15, 2006. On or before October 1, 2008, the remaining balance of said purchase price, together with interest as specified herein, shall be paid in full. The amount of the final payment shall be the total of the principal and interest remaining unpaid plus any unpaid late charges, at the time of the final payment.

b. The Purchaser further agrees to pay interest on the diminishing balance of the purchase price at the rate of eight point zero per cent (8.0%) per annum from the date of closing. Interest shall be due and payable on the first day of each month beginning November 1, 2005 upon the principal balance plus any accrued and unpaid interest and/or late charges.

2. Purchaser agrees to pay \$100.00 as reasonable liquidated damages, and not as a penalty, in the event that any regularly scheduled payment is made after the fifth day after the payment is due. Such amounts shall be added to the principal balance remaining unpaid.

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3. All payments to be made hereunder shall be made to Riverview Community Bank, 225 SW Second St., or at such other place as the Seller may direct in writing.

4. As referred to in this contract, "date of closing" shall be the day after closing. "Closing" shall be the date that the sale documents are recorded and escrow is prepared to disburse funds.

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.

Closing Costs

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

- a. All closing escrow charges;
- b. All collection escrow charges;
- c. All Recording fee for this contract;
- d. Charge for standard policy of Title Insurance;
- e. Copper West brokerage fee;
- f. Excise taxes for this sale.

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

The sale price shall be net to Seller, except as is necessary to satisfy liens and encumbrances that appear on the Preliminary Title Report except as prorated below.

Pro-Rated Items

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

- a. Real Property Taxes
- b. Insurance, interest, mortgage insurance, water and other utilities constituting liens, if applicable.

Taxes

9. The purchaser assumes and agrees to pay when due all taxes and assessments, including but not limited to any governmental improvement assessments or charges that may 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. Seller represents and warrants that Seller has no knowledge, and has not received any notice from any government agency, of a threat of condemnation of the real estate.

Insurance and Indemnification

12. The property being purchased is bare land only, and purchaser agrees to assume all risks associated with the property after closing. In the event Purchaser later builds upon or otherwise constructs improvements to the property, Purchaser shall maintain public liability and property damage insurance with single premium policy liability limits of not less than \$1,000,000.00. Such insurance shall cover all risks arising directly or indirectly out of Purchaser's activities on or any condition of the property, whether or not related to an occurrence caused or contributed by Seller's negligence, shall protect Seller and Purchaser against claims of third persons. Such policies shall be written in such form, with such terms and by such insurance companies reasonably acceptable to Seller

Purchaser shall forever defend, indemnify and hold Seller harmless from any claim, loss or liability arising out of or in any way connected with Purchaser's possession or use of the property, Purchaser's conduct with respect to the property or any condition of the property. In the event of any litigation or proceeding brought against Seller and arising out of or in

anyway connected with any of the above events or claims, Purchaser shall, upon notice from Seller, vigorously resist and defend Seller against such actions or proceedings through legal counsel reasonably satisfactory to Seller.

Title Insurance

13. The seller has delivered, or agrees to deliver within fifteen (15) days of the date of closing a purchasers/owners policy of title insurance in standard form, or a commitment therefor, issued by Skamania Title Co., insuring the purchaser to the full amount of said purchase price against loss or damage by reason of defect in seller 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;
- 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.

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.

Seller Covenants

15. The seller has deposited with Riverview Community Bank, Stevenson, Washington, a Warranty Deed in Fulfillment of this real estate contract and agrees that upon full payment of the purchase price and interest in the manner herein before specified that said deed can be delivered to the purchaser; that said Warranty Deed excepts any part of the property which may hereafter be condemned and is free and clear of all encumbrances, except those the Purchaser has agreed to assume and any that may accrue hereafter through any person, or persons, other than the seller.

Possession

16. Purchaser shall be entitled to possession of said real estate one day after closing and shall retain possession so long as purchaser is not in default hereunder. The purchaser agrees 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 agrees 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

17. Purchaser agrees not to permit any unlawful, offensive or improper use of the premises or any part thereof.

Assignment

18. This contract may be assigned or transferred by purchaser with Seller's prior written consent, which consent shall not be unreasonably withheld. Purchaser shall not in any way encumber the property or allow any liens to attach to the property without the prior written consent of seller.

Default

19. In case the purchaser fails to make any payment herein provided, the seller may make such payment (but shall have no obligation to do so), 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 demand, all without prejudice to any other right the seller might have by reason of such default.

20. Time and the covenants of purchaser are of the essence of this contract. In the event payment is not made within ten (10) days of the due date it shall constitute a default hereunder. It is agreed that in case the purchaser shall fail make payment after the ten-day grace period or to comply with or perform any condition or agreement hereof (other than payment) required hereunder within twenty days of Seller's written notice to Purchaser setting forth the nature of the default in the manner herein required, the seller may at his option exercise any of the following alternative remedies:

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 purchaser 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 seller 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 seller and purchaser, and the purchaser shall thereafter remain in possession of the property beyond any period otherwise permitted by law, the purchaser agrees to 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 one and one-half (1½) 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.

Purchaser's Remedies

21. In the event seller should default in any of seller's 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 purchaser shall have the right to specifically enforce this contract, institute suit for purchaser's damages caused by such default, or pursue any other remedy which may be available to purchaser at law or in equity.

Notice

22. No notice shall be required for default of any payment required under this Contract, but as to any other default Seller shall provide purchaser thirty (30) days written notice and opportunity to cure specifying the nature of the default. 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, addressed as follows:

To: Seller

To: Purchaser

The Bailey Trust dtd 10/15/03
PO Box 5
Carson, WA 98610

Heenalu, LLC
PO Box 22
Hood River, OR 97031

Physical Address:

14 508 Oak St.
Hood River, OR 97031

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 two (2) days after 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

23. 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

24. 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, Venue, Consent to Jurisdiction

25. This Agreement shall be construed and enforced in accordance with the laws of the State of Washington and venue shall be in Superior Court, Skamania County, Washington.

Purchaser is an Oregon Limited Liability Company not registered as a Foreign Limited Liability Company in the State of Washington, and consents agrees to be subject to jurisdiction in the State of Washington in any action or proceeding arising out of this transaction.

Use of Pronouns

26. 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

27. 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.

Seller's Consent

28. Whenever in this Contract Seller's consent is required, unless otherwise specifically stated herein, such consent shall not be unreasonable withheld or delayed.

Waiver

29. 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.

Representation

30. Kenneth B. Woodrich, Attorney at Law, of Woodrich & Archer LLP, represents only Seller's interests in this transaction. Purchaser is encouraged to seek independent legal advice to be informed on Purchaser's rights and responsibilities in this transaction and acknowledge they have had an opportunity to consult counsel.

[Signatures appear on following page]

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

SELLERS:

THE BAILEY TRUST dtd 10/15/03

James C. Bailey Trustee
By James C. Bailey, Trustee

Barbara L. Bailey Trustee
By Barbara L. Bailey, Trustee

PURCHASERS:

HEENALU, LLC

Mani Meyer
by Mani Meyer, Member
Its Member/Manager

STATE OF WASHINGTON

County of Skamania

I certify that I know or have satisfactory evidence James C. Bailey and Barbara L. Bailey, as Co-Trustees of the Bailey Trust dated October 15, 2003, who appeared before me, and said persons acknowledged that they signed this instrument as duly authorized and acknowledged it to be the free and voluntary act of the Trust for the uses and purposes mentioned in the instrument.

Dated this 28th day of September, 2005.

STATE OF WASHINGTON

County of Skamania

I certify that I know or have satisfactory evidence that Mani Meyer as Manager/Member [indicate which] of Heenalu, LLC, an Oregon Limited Liability Company, who appeared before me, and said persons acknowledged that they signed this instrument as duly authorized and acknowledged it to be the free and voluntary act of the Limited Liability Company for the uses and purposes mentioned in the instrument.

Dated this 12 day of October, 2005.