

28-4077
THIS CONTRACT OF SALE of real property made this 22 day of December, 1972, between J. D. FINCHUM and BONNIE B. FINCHUM, husband and wife, (hereinafter called "Vendor"), and FRED W. KOEHLER, JR., and ALEX D. KRENTEL, general partners doing business under the firm name of SOUTH SIXTH STREET ASSOCIATES, a California Limited Partnership, (referred to herein as "Purchaser");

W I T N E S S E T H:

Vendor agrees to sell to Purchaser and Purchaser hereby agrees to buy from Vendor, at the price and on the terms, covenants, conditions and provisions hereinafter contained, all of the following described property situate in the County of Klamath, State of Oregon, more particularly described as follows:

The real property described in Exhibit "A" attached hereto and thereby made a part hereof as though fully set forth hereat.

SUBJECT TO: The exceptions set forth in Exhibit "A".

SPECIAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

The purchase price of the property, which Purchaser agrees to pay, is the sum of \$135,000.00, payable as follows:

(a) \$16,000.00 down payment, receipt of which is hereby acknowledged.

(b) Prepayment of interest from December 15, 1972, to and including December 15, 1973, receipt of which is hereby acknowledged, on the deferred balance of \$119,000.00.

(c) On or before December 15, 1973, a principal installment of \$5,000.00 together with prepayment of interest from December 15, 1973, to and including December 15, 1974, on the deferred balance of \$114,000.00

(d) On or before December 15, 1974, a principal installment of \$2,500.00 together with prepayment of interest from December 15, 1974, to and including December 15, 1975, on \$111,500.00

(e) On or before December 15, 1975, principal installment of \$2,500.00 together with a prepayment of interest from December 15, 1975, to and including December 15, 1976, on \$109,000.00

(f) On or before December 15, 1976, a prepayment of interest only from December 15, 1976, to and including December 15, 1977, on \$109,000.00

(g) On or before December 15, 1977, principal only of \$13,625, thereby reducing the then deferred balance secured

(G) ON or BEFORE DECEMBER 15, 1977, a PREPAYMENT OF
interest only from DEC 15 1977, to and including
DEC 15 1978 ON \$109,000 - FIVE
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by this contract to not more than \$95,375.00.

(H) On or before the 15th day of December, 1978, a principal
installment of \$13,625.00, plus interest on the declining
balances of the deferred balance at the rate of seven and
one-half (7.5%) percent per annum with a like installment on
the 15th day of each and every December thereafter until
the entire sums secured by said contract, including both
principal and interest are paid in full, the final install-
ment to be that sum of principal and interest, if any, due
on December 15, 1985. Interest to be paid pursuant to this
provision of this contract shall be computed from December 15,
1978.

The deferred balance shall bear interest at the rate of seven and
one-half (7.5%) percent per annum from the date of this contract
on declining balances thereof.

All installments due Vendor from Purchaser under this agree-
ment shall be paid without demand to the Escrow Holder hereinafter
named. All payments under the terms of this Contract shall be applied
first to interest due at the time of payment and then to principal.

After January 1, 1973, Purchaser shall have the privilege of in-
creasing any annual installment or paying off in full the entire
deferred balance of the purchase price together with interest due
thereon to the date of payment.

No partial payment, increased installment, nor payment for a
partial conveyance pursuant to the provisions of this agreement, shall
be credited in lieu of any regular future installment nor excuse
Purchase from making the regular installments specified in this
agreement.

Vendor agrees to pay and discharge, according to the terms
thereof, the mortgage in favor of First National Bank of Oregon,
a national banking association, and to hold Purchaser harmless
from the same, including any and all costs and expenses, including
attorney fees, which Purchaser may incur in the event Vendor shall
fail to pay and discharge said First National Bank of Oregon. It
is expressly understood and agreed that Purchaser does not assume
any part or all of Vendor's obligation to said First National Bank
of Oregon.

Purchaser acknowledges that Purchaser is entering into this

1 Contract subject to state and Federal laws and regulations relating
2 to subdivision and sale of real property by parcels or lots and
3 assessments and acres to be bound by such state and Federal laws
4 and regulations relating to such activity. Purchaser has declined
5 to disclose to Vendor the proposed use of said real property, and
6 Vendor is under no obligation to release any portion of the above
7 described real property from the lien of this contract until all
8 of the sums secured by this contract are paid in full.

9 Purchaser shall be entitled to possession of the above described
10 real property on the 1st day of October, 1973.

11 Purchaser has made an independent investigation and inspection
12 of the real property herein described and has entered into this con-
13 tract without relying on any statement or representation or covenant
14 not specifically embodied in this contract, and accepts the property
15 described in this agreement as is, in its present condition, and
16 requires no work of any kind to be done on said property by Vendor.

GENERAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

1 The real property above described hereby sold to Purchaser includes
2 all and singular. the tenements, hereditaments, rights, easements,
3 privileges and appurtenances thereunto belonging, or in anywise apper-
4 taining, improvements thereon, including, but not limited to, stationary
5 pumps, pumping stations, motors, engines, reservoirs, nonportable pipes
6 and flumes or other nonportable equipment now used for the production
7 of water thereon or for the irrigation or drainage thereof, and the
8 reversions, remainders, rents, issues and profits thereof, together
9 with all the rights to the use of water for irrigating said premises
10 and for domestic use thereon to which Vendor is now entitled, or which
11 are now used on said premises, however the same may be evidenced, and
12 together with all shares of stock or shares of water in any ditch or
13 irrigation company which, in any manner entitles the Vendor water
14 for irrigating or domestic purposes upon said real property. The
15 Vendor's lien created by this contract shall and does hereby include
16 the real property above described, together with, all and singular,
17 the tenements, hereditaments, rights, easements, privileges and
18 appurtenances thereunto belonging or in anywise appertaining, and
19 all improvements now or hereafter thereon, including, but not
20 limited to, stationary pumps, pumping stations, motors, engines,
21 reservoirs, nonportable pipes and flumes or other nonportable equip-
22 ment now or hereafter used for the production of water thereon for the
23 irrigation or drainage thereof, and the reversions, remainders, rents,
24 issues and profits thereof, and together with all the rights to the use
25 of water for irrigating said premises and for domestic use thereon to
26 which said real property is now or may hereafter become entitled, or
27 which now are or may hereafter be used on said premises, however the
28 same may be evidenced, and together with all shares of stock or shares
29 of water in any ditch or irrigation company which in any manner
30 entitles the legal or equitable owner thereof to water for irrigating
31 or domestic purposes upon said real property. In addition, Purchaser
32

1 hereby agrees that the Vendor's lien is superior to any and all rights
2 of Purchaser under and by virtue of any homestead, stay or exemption
3 laws now in force, or which may hereafter become laws and that no
4 timber will be cut from any of the real property subject to said lien.

5 Vendor hereby warrants that he has good and merchantable title
6 to the real property above described, subject to the exceptions above
7 set forth. Vendor will, upon execution hereof, make and execute in
8 favor of Purchaser, a good and sufficient Warranty Deed conveying
9 said premises free and clear as of this date of all encumbrances,
10 subject to the above set forth exceptions, and will place said deed,
11 together with the original of this agreement, and any other conveyances
12 or title or security instruments required hereby in escrow at Klamath
13 Falls Branch of First National Bank of Oregon, Klamath Falls, Oregon,
14 with instructions to said Escrow Holder that when and if the Purchaser
15 shall have paid the balance of the purchase money and interest as
16 above specified and shall have complied with all other terms and
17 conditions of this agreement, to deliver the same to Purchaser subject
18 to the usual printed conditions and provisions of the standard form
19 of escrow instructions provided by said Escrow Holder.

20 Vendor shall furnish, at his own expense, a Purchaser's
21 Title Insurance Policy issued by Transamerica Title Insurance Co.
22 under Order No. 28-4077 insuring Purchaser's title in the above
23 described real property in the amount of \$135,000.00 subject
24 to the above set forth exceptions and the printed conditions and
25 exceptions contained in the usual form of title policy issued by said
26 title insurance company and shall deposit said policy with the above
27 named Escrow Holder to be held in escrow for delivery to Purchaser
28 along with Vendor's Warranty Deed according to the terms herein
29 specified.

30 Purchaser shall be entitled to possession of the above described
31 real property on date hereof. Purchaser shall remain in possession
32 so long as Purchaser is not in default hereunder. Purchaser shall

1 and hereby agrees to keep said real property in clean, sanitary,
2 sightly, attractive condition; to commit no waste or otherwise damage
3 or injure said premises; to maintain said premises in accordance with
4 the laws and the ordinances and regulations of any constituted authority
5 applying to said premises and to make up no unlawful use thereof; to
6 pay regularly and seasonably, and before the same shall become delin-
7 quent, all taxes, assessments, and charges of whatever nature (including
8 additional charges by reason of change of use) levied and assessed
9 against said real property. and to pay and discharge all encumbrances
10 thereafter placed thereon by Purchaser; to permit no lien or other
11 encumbrances to be filed upon or placed against said premises without
12 the written consent of Vendor; and it is further understood and agreed
13 for the purposes of this provision that if Purchaser fails to pay or
14 discharge any taxes, assessments, liens, encumbrances, or charges,
15 Vendor, at his option and without waiver of default or breach of
16 Purchaser, and without being obliged to do so, may pay or discharge
17 all or any part thereof all of which said sums so paid by Vendor shall
18 become repayable by Purchaser, together with interest at the rate of
19 ten (10%) percent per annum, upon demand, payment of which is part of
20 the performance of this agreement by Purchaser and a condition precedent
21 to delivery of the Warranty Deed and other documents by the Escrow Holder.

22 Purchaser agrees to keep the buildings now on or hereafter placed
23 upon the above described real property insured against loss by fire
24 or other casualty in an amount not less than total insurable value
25 total insurance and shall obtain, at his own expense, said insurance
26 in the name of Vendor as the primary insured with an endorsement
27 thereon providing for loss payable to Vendor and Purchaser as
28 their respective interests may appear. The policy or policies
29 of insurance shall be delivered to Vendor, or, in lieu thereof, a
30 certificate of such insurance may be provided by Purchaser and
31 delivered to Vendor. If a loss should occur for which insurance
32 proceeds shall become payable, the Purchaser may elect to either

1 rebuild or repair the portion of the building so destroyed, or apply
2 the proceeds to payment of the then unpaid balance of the purchase
3 money. If the Purchaser elects to rebuild, he shall sign such docu-
4 ments as may be required by Vendor to guarantee the application of
5 the insurance proceeds to the cost of such rebuilding or repair.

6 In the event any governmental agency or entity having the power
7 of eminent domain acquires by eminent domain, or by negotiated sale
8 in lieu of eminent domain, all, or any portion, of the real property
9 described in this contract, Vendor may require Purchaser to apply all
10 proceeds received by Purchaser from such acquisition (remaining after
11 payment by Purchaser of attorney fees, appraiser fees, and related
12 necessary and reasonable costs in connection with securing said pro-
13 ceeds) which proceeds are hereinafter called "net proceeds" toward
14 the payment of the sums secured by this contract. Upon receipt of
15 said net proceeds, Purchaser shall notify Vendor of the amount of said
16 net proceeds and Vendor shall, within ten (10) days after such notifi-
17 cation, notify Purchaser in writing if Vendor elects to have said net
18 proceeds applied toward payment of the sums secured by this contract.
19 If Vendor fails to so notify Purchaser of such election, Vendor shall
20 conclusively be deemed to have elected not to require Purchaser to
21 apply said net proceeds toward the sums secured by this contract. If
22 Vendor elects to have said net proceeds applied toward payment toward
23 the sums secured by this contract, the amount to be received by Vendor
24 shall not exceed the total of the principal plus accrued interest to
25 the date of receipt thereof by Vendor, and all such sums shall be paid
26 to the Escrow Holder named herein. Regardless of whether Vendor elects
27 to have said net proceeds applied to the sums secured by this contract,
28 Vendor will join in any conveyance required by the governmental agency
29 or entity acquiring a portion or all of the real property described
30 herein by eminent domain, but Vendor shall not be required to partially
31 convey more property than that which is acquired by such governmental
32 agency or entity. Vendor shall not be obligated to participate in.

1 any negotiations with such governmental agency or entity. Any
2 notice or notices required to be given by Purchaser to Vendor pur-
3 suant hereto shall be in writing, and shall be deemed given when
4 the same is deposited in the United States Mail, as Registered Mail,
5 postage prepaid, addressed to Vendor at the last address of Vendor
6 shown on the records of the Escrow Holder.

7 If Purchaser shall sell said real property described herein and
8 securing the unpaid balance of this contract, Vendor may elect to
9 permit the subsequent Purchaser to assume the balance of Purchaser's
10 obligation secured hereby, or to demand the then unpaid balance of
11 principal and interest from Purchaser, or the transferee of said
12 Purchaser, or both, at the option of Vendor. This clause cannot be
13 waived, unless Purchaser gives Vendor notice of such sale in writing
14 and Vendor, after receipt of such written notice, accepts a payment
15 from the subsequent Purchaser. The written notice provided for
16 herein shall be deemed given when the same is deposited in the
17 United States Mail as registered mail, addressed to the last address
18 of Vendor shown on the records of the Escrow Holder.

19 Vendor may appear in or defend any action or proceeding at law,
20 in equity, or in bankruptcy, affecting in any way the security
21 hereof, and in such event, Vendor shall be allowed and paid, and
22 Purchaser hereby agrees to pay, all costs, charges and expenses,
23 including costs of evidence of title or validity and priority of
24 the security and attorney fees in a reasonable sum, incurred in any
25 such action or proceeding in which Vendor may appear, which shall
26 bear interest at ten (10%) percent from date of demand therefor.
27 Failure of Purchaser to pay Vendor for such costs, charges and
28 expenses within 90 days from date of demand therefor shall con-
29 stitute a breach of this contract.

30 If Purchaser shall fail to perform any of the terms of this
31 agreement, time of payment and performance being of the essence,
32 Vendor shall, at his option, subject to the requirements of notice