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1 THIS CONTRACT OF SALE of real property made this 7th day of  
2 May, 1973, between JOHN C. HORTON, as to an undivided one-half  
3 interest, and ROBERT L. HORTON and LOUISA L. HORTON, husband and  
wife, as to an undivided one-half interest, hereinafter called  
"Vendor", and MINERVA DEVELOPMENT CORPORATION, an Oregon corpora-  
tion, hereinafter called "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, con-  
ditions 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 \$45,000.00, payable as follows:

(a) \$4,500.00 down payment, receipt of which is hereby  
acknowledged.

(b) \$40,500.00 deferred balance payable as follows: On  
January 2, 1974, \$4,500.00 plus interest; on the second  
day of January, 1975, and the second day of each January  
thereafter, annual installments of not less than \$6,679.80,  
inclusive of interest, until the full sum of principal and  
interest due and owing on the deferred balance due under  
the terms of this contract has been paid.

Interest on the deferred balance of the purchase price is fixed  
at the rate of seven (7%) percent per annum simple interest on  
the declining balances of the deferred balance. Interest commences  
on the 5th day of June, 1973.

All installments due Vendor from Purchaser under this agree-  
ment shall be paid without demand to the Escrow Holder hereinafter  
named. All such installments received shall be applied first to  
interest accrued to the date of receipt and then applied to reduce



1 principal.

2 From and after January 2, 1974, Purchaser may prepay interest  
3 for any one year, and may increase any installment or prepay all  
4 or any part of the whole consideration at any time, together with  
5 interest thereon to the date of receipt of any such payment by  
6 the Escrow Holder. Except for prepayment of interest, no partial  
7 payment, increased installment, nor payment for a partial conveyance  
8 by reason of the eminent domain provisions of this agreement, shall  
9 be credited in lieu of any regular future installment nor excuse  
10 Purchaser from making the regular installments specified in this  
11 agreement.

12 Purchaser represents that he will continue the present use of  
13 the subject property, but this representation shall not be con-  
14 strued as limiting Purchaser's use of the subject property to  
15 its present use. If Purchaser elects to change the present use  
16 of the real property herein described to another use, such change  
17 shall be at the full risk and expense of Purchaser. Purchaser  
18 acknowledges that he has entered into this contract subject to  
19 state and federal laws and regulations relating to the subdivision  
20 and sale of real property by parcels or lots and assumes and agrees  
21 to be bound by such state and federal laws and regulations relating  
22 to such activity. Purchaser agrees to assume and pay, and hold  
23 Vendor harmless from, any expenses or obligations incurred as a  
24 consequence of, or connected with, any subdivision activity,  
25 including, but not limited to, any additional sums due to Klamath  
26 County for deferred real property taxes by reason of change from  
27 farm use to nonfarm use.

28 Purchaser has made an independent investigation and inspection  
29 of the real property herein described and has entered into this con-  
30 tract without relying on any statement or representation or cove-  
31 nant not specifically embodied in this contract, and accepts the  
32 property described in this agreement as is, in its present condition,

Contract of Sale

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1 and requires no work of any kind to be done on said property by  
2 Vendor.

3 GENERAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

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



1 shares of stock or shares of water in any ditch or irrigation company  
2 which in any manner entitles the legal or equitable owner thereof  
3 to water for irrigating or domestic purposes upon said real property.  
4 In addition, Purchaser hereby agrees that the Vendor's lien is superior  
5 to any and all rights of Purchaser under and by virtue of any home-  
6 stead, stay or exemption laws now in force, or which may hereafter  
7 become laws and that no timber will be cut from any of the real  
8 property subject to said lien.

9 Vendor hereby warrants that he has good and merchantable title  
10 to the real property above described, subject to the exceptions  
11 above set forth. Vendor will, upon execution hereof, make and  
12 execute in favor of Purchaser, a good and sufficient warranty deed  
13 conveying said premises free and clear as of this date of all encum-  
14 brances, subject to the above set forth exceptions, and will place  
15 said deed, together with the original of this agreement, and any  
16 other conveyances of title or security instruments required hereby  
17 in escrow at Klamath Falls Branch of First National Bank of Oregon,  
18 P. O. Box 608, Klamath Falls, Oregon 97601, with instructions to  
19 said Escrow Holder that when and if the Purchaser shall have paid  
20 the balance of the purchase money and interest as above specified  
21 and shall have complied with all other terms and conditions of this  
22 agreement, to deliver the same to Purchaser subject to the usual  
23 printed conditions and provisions of the standard form of escrow  
24 instructions provided by said Escrow Holder.

25 Vendor shall furnish, at his own expense, a Purchaser's Title  
26 Insurance Policy issued by Klamath County Title Co. under Order  
27 No. A-23068 insuring Purchaser's title in the above described real  
28 property in the amount of \$45,000.00 subject to the above set  
29 forth exceptions and the printed conditions and exceptions contained  
30 in the usual form of title policy issued by said title insurance  
31 company.

32 Purchaser will be entitled to possession of the above described



1 real property on the date this contract is recorded. Purchaser  
2 shall remain in possession so long as Purchaser is not in default  
3 hereunder. Purchaser shall and hereby agrees to keep said real  
4 property in clean, sanitary, sightly, attractive condition; to commit  
5 no waste or otherwise damage or injure said premises; to maintain  
6 said premises in accordance with the laws and the ordinances and  
7 regulations of any constituted authority applying to said premises  
8 and to make no unlawful use thereof; to pay regularly and season-  
9 ably, and before the same shall become delinquent, all taxes, assess-  
10 ments and charges of whatever nature (including additional charges  
11 by reason of change of use) levied and assessed against said real  
12 property and to pay and discharge all encumbrances thereafter placed  
13 thereon by Purchaser; to permit no lien or other encumbrances to  
14 be filed upon or placed against said premises without the written  
15 consent of Vendor; and it is further understood and agreed for the  
16 purposes of this provision that if Purchaser fails to pay or dis-  
17 charge any taxes, assessments, liens, encumbrances or charges, Vendor,  
18 at his option and without waiver of default or breach of Purchaser,  
19 and without being obliged to do so, may pay or discharge all or any  
20 part thereof, all of which said sums so paid by Vendor shall become  
21 repayable by Purchaser, together with interest at the rate of ten  
22 (10%) percent per annum, upon demand, payment of which is part of  
23 the performance of this agreement by Purchaser and a condition pre-  
24 cedent to delivery of the warranty deed and other documents by  
25 the Escrow Holder.

26 In the event any governmental agency or entity having the power  
27 of eminent domain acquires by eminent domain, or by negotiated sale  
28 in lieu of eminent domain, all, or any portion, of the real property  
29 described in this contract, Vendor may require Purchaser to apply all  
30 proceeds received by Purchaser from such acquisition (remaining  
31 after payment by Purchaser of attorney fees, appraiser fees, and  
32 related necessary and reasonable costs in connection with securing



1 said proceeds) which proceeds are hereinafter called "net proceeds"  
 2 toward the payment of the sums secured by this contract. Upon  
 3 receipt of said net proceeds, Purchaser shall notify Vendor of the amount  
 4 of said net proceeds and Vendor shall, within ten (10) days after  
 5 such notification, notify Purchaser in writing if Vendor elects to  
 6 have said net proceeds applied toward payment of the sums secured  
 7 by this contract. If Vendor fails to so notify Purchaser of such  
 8 election, Vendor shall conclusively be deemed to have elected not  
 9 to require Purchaser to apply said net proceeds toward the sums  
 10 secured by this contract. If Vendor elects to have said net  
 11 proceeds applied toward payment toward the sums secured by this  
 12 contract, the amount to be received by Vendor shall not exceed the  
 13 total of the principal plus accrued interest to the date of receipt  
 14 thereof by Vendor, and all such sums shall be paid to the Escrow  
 15 Holder named herein. Regardless of whether Vendor elects to have  
 16 said net proceeds applied to the sums secured by this contract,  
 17 Vendor will join in any conveyance required by the governmental  
 18 agency or entity acquiring a portion or all of the real property  
 19 described herein by eminent domain, but Vendor shall not be  
 20 required to partially convey more property than that which is  
 21 acquired by such governmental agency or entity. Vendor shall  
 22 not be obligated to participate in \_\_\_\_\_

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1 any negotiations with such governmental agency or entity. Any notice  
2 or notices required to be given by Purchaser to Vendor pursuant hereto  
3 shall be in writing, and shall be deemed given when the same is depo-  
4 sited in the United States mail as registered mail, postage prepaid,  
5 addressed to Vendor at the last address of Vendor shown on the records  
6 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 payment from Purchaser, or  
11 the transferee of said Purchaser, or both (at the option of the Ven-  
12 dor) of such portion of the deferred balance as Vendor may consider  
13 satisfactory, or declare the entire balance of the deferred balance  
14 due and payable. This clause cannot be waived, unless Purchaser gives  
15 Vendor notice of such sale in writing and Vendor, after receipt of such  
16 written notice, accepts a payment from the subsequent Purchaser. The  
17 written notice provided for herein shall be deemed given when the same  
18 is deposited in the United States mail as registered mail, addressed  
19 to the last address of Vendor shown on the records of the Escrow Holder.

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

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



1 as herein provided, have the following rights:

2 (a) To foreclose this contract by strict foreclosure  
3 in equity;

4 (b) To declare the full unpaid balance of the purchase  
5 price immediately due and payable; and

6 (c) To specifically enforce the terms of this agreement  
7 by suit in equity.  
8

9  
10 Purchaser shall not be deemed in default for failure to per-  
11 form any covenant or condition of this contract, other than the  
12 failure to make payments as provided for herein, until notice of  
13 said default has been given by Vendor to Purchaser and Purchaser  
14 shall have failed to remedy said default within thirty (30) days  
15 after the giving of the notice.

16 If Purchaser shall fail to make payments as herein provided  
17 and said failure shall continue for more than thirty (30) days  
18 after the payment becomes due, Purchaser shall be deemed to be  
19 in default and Vendor shall not be obligated to give notice to  
20 Purchaser of a declaration of said default.

21 Where notice in writing is required by Vendor to the Pur-  
22 chaser, such notice shall be deemed given when the same is  
23 deposited in the United States mail as registered mail,  
24 addressed to the last address of Purchaser shown on the records  
25 of the Escrow Holder.

26 No waiver by Vendor of any breach of any covenant of this  
27 agreement shall be construed as a continuing waiver of any sub-  
28 sequent breach of such covenant nor as a waiver of any breach  
29 of any other covenant nor as a waiver of the covenant itself.

30 In the event any suit or action is commenced to foreclose this

31 -----  
32 -----



contract, the court having jurisdiction of the case may, upon motion by Vendor, appoint a receiver to collect the rents and profits arising out of the above described real property and to take possession, management and control of the same during pendency of such foreclosure proceeding or until payment of the obligations hereby secured, and apply said rents and profits to the payment of the amount due hereunder, first deducting all proper charges and expenses attending the execution of said receivership.

Upon the commencement of any suit or action to collect the indebtedness or disbursements, secured hereby, or any part thereof, or to enforce any provision of this contract by specific performance, foreclosure, or otherwise, there shall become due, and Purchaser agrees to pay to Vendor, in addition to all statutory costs and disbursements, any amount Vendor may incur or pay for any title report, title search, insurance of title, or other evidence of title subsequent to the date of this contract on any of the real property above described and this contract shall be security for the payment thereof.

thereof.

In the event any suit or action is instituted to collect the indebtedness or disbursements secured hereby, or any part thereof, or to enforce any provision of this contract by specific performance, or foreclosure, or otherwise, the prevailing party, at trial, or on appeal, shall be entitled to such reasonable attorney's fees as shall be fixed by the court having jurisdiction of the case, in addition to statutory costs and disbursements.

This agreement contains the full understanding of the parties with respect to the subject hereof and no modification hereof shall be given effect unless the same be in writing subscribed by the parties hereto or their successors in interest.

This agreement shall bind and inure to the benefit of, as the circumstances may require, the parties hereto, and their respective successors, heirs, executors, administrators and assigns.

ANTHONY GIACOMINI. ATTORNEY AT LAW, KLAMATH FALLS, OREGON



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1 In construing this agreement, the singular shall include both  
2 the singular and the plural and the masculine both the masculine  
3 and feminine.  
4

5 John C. Horton (SEAL)  
6 John C. Horton

7 Robert L. Horton (SEAL)  
8 Robert L. Horton

9 Louisa L. Horton (SEAL)  
10 Louisa L. Horton  
11 Vendor

12 MINERVA DEVELOPMENT CORPORATION

13 (SEAL)  
14 By Donald H. Kelly  
15 President

16 By Lynne Teasdale Kelly  
17 Secretary  
18 Purchaser

19  
20 STATE OF OREGON )  
21 County of Klamath ) ss.

22 On the 5th day of June, 1973, personally appeared  
23 the above named John C. Horton and acknowledged the foregoing  
24 instrument to be his voluntary act and deed.

25 Before me:

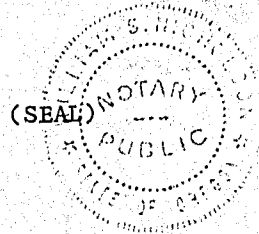
26 (SEAL)  
27 William J. D. Kelly  
28 Notary Public for Oregon  
29 My commission expires: 2/28/77  
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1 STATE OF OREGON )  
2 County of Klamath ) ss.

3 On the 5th day of June, 1973, personally appeared the  
4 above named Robert L. Horton and Louisa L. Horton, husband and  
5 wife, and acknowledged the foregoing instrument to be his voluntary  
6 act and deed.

7 Before me:

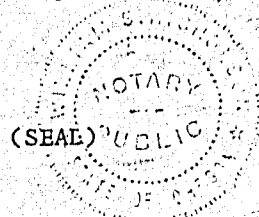


William J. Dunsen  
Notary Public for Oregon  
My commission expires: 2/28/77

12 STATE OF OREGON )  
13 County of ) ss.

14 On the 5th day of June, 1973, personally appeared  
15 Donald J. Kelley and Lynne Teasdel Kelley who, being duly sworn,  
16 each for himself and not one for the other, did say that the former  
17 is the President and the latter is the Secretary of Minerva Development  
18 Corporation, an Oregon corporation, and that the seal affixed to the  
19 foregoing instrument is the corporate seal of said corporation and  
20 that said instrument was signed and sealed in behalf of said corpora-  
21 tion by authority of its board of directors; and each of them acknow-  
22 ledged said instrument to be its voluntary act and deed.

19 Before me:



William J. Dunsen  
Notary Public for Oregon  
My commission expires: 2/28/77

23 For valuable consideration, the receipt of which is hereby  
24 acknowledged, the undersigned, jointly and severally, do hereby  
25 guarantee unconditionally the payment and faithful performance  
26 of the foregoing contractual obligations of Minerva Development  
27 Corporation and the Purchaser therein. The undersigned, jointly  
28 and severally, further expressly waive presentment for payment,  
29 notice of nonpayment, and protest to any extensions of time of  
30 payment guaranteed by us. This guarantee is to remain in full  
31 force and effect during the term of said contract and until it  
32 is fully paid and performed. It is understood and agreed that

Contract of Sale  
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there are no conditions or limitations to this understanding and that after execution, no alteration, change or modification shall be made except in writing signed by all the parties hereto and the undersigned.

Dated this 5<sup>TH</sup> day of JUNE, 1973.

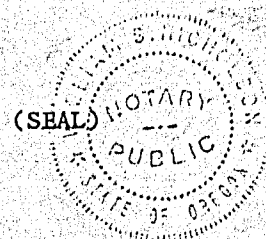
Donald J. Kelley  
Donald J. Kelley

Lynne Teasdel Kelley  
Lynne Teasdel Kelley

STATE OF OREGON )  
County of ) ss.

On the 5th day of June, 1973, personally appeared the above named Donald J. Kelley and Lynne Teasdel Kelley and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:



William J. Muelich  
Notary Public for Oregon  
My commission expires: 2/28/77



## DESCRIPTION OF PROPERTY

The following described real property situate in Klamath County, Oregon:

Lots 1, 2, 58, and that portion of Lot 59 of Lakeshore Gardens, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, more particularly described as follows: Beginning at the Northeast corner of said Lot 59; thence North  $84^{\circ}24'-1/2'$  West 213.6 feet; thence South parallel to East line of said Lot 59 to the Southerly line of said Lot 59; thence Northeasterly along the Southerly line of said Lot 59 to the East line of said Lot 59; thence North along the East line of said Lot 59, 546.5 feet, more or less, to the point of beginning.

Also that portion of Lot 59 of Lakeshore Gardens, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, more particularly described as follows: Beginning at the Southwesterly corner of Lot 59; thence North 731.5 feet to the Northwesterly corner of said Lot 59; thence North  $84^{\circ}09'$  East 455.5 feet; thence South  $84^{\circ}24'-1/2'$  East, 1.4 feet, more or less; thence South to the Southerly line of said Lot 59; thence Southwesterly along the Southerly line of said Lot 59 to the point of beginning, SAVING AND EXCEPTING therefrom that portion thereof more particularly described as follows: Beginning at the Southwesterly corner of Lot 59; thence Northerly 731.5 feet to the Northwesterly corner of said Lot 59; thence Northerly  $84^{\circ}09'$  East along the Northerly line of said Lot 59, a distance of 120 feet; thence Southerly parallel to the Westerly line of said Lot 59 to the Southerly line of Lot 59; thence Southwesterly along the Southerly line of said Lot 59 to the point of beginning.

SUBJECT TO: Terms and conditions of special assessment as farm use and the right of Klamath County, Oregon, to additional taxes in the event said use should be changed, which obligation Purchaser assumes and agrees to pay and perform; levies, assessments, easements and regulations of Lakeshore Gardens Drainage District; reservations and restrictions contained in deed from Arthur M. Geary to Colman O'Loughlin dated August 19, 1931, recorded August 20, 1931, in Volume 96, page 46, Deed Records of Klamath County, Oregon, and in deed from E. A. Geary, et al., to Arthur M. Geary dated July 31, 1931, recorded August 20, 1931, Volume 96, page 47, Deed Records of Klamath County, Oregon, as follows: "1st. Reserving to grantor his heirs and assigns, a right of way 10 feet in width over and across said premises for purpose of establishing and maintaining irrigation and drainage ditches and right to go on said premises for purpose of constructing and maintaining said ditches at location thereof as shown by approved and adopted plan of reclamation of Lakeshore Gardens Drainage District on file with the Secretary of the Board of Supervisors of said District. . . . third. The grantor grants, bargains, sells and conveys above described premises subject to terms of that certain stipulation between grantor hereto and/or his respective predecessors in interest dated July 19, 1920, heretofore filed in District Court of United States for the District of Oregon in that certain suit in equity No. E8479 entitled Geary Investment Company, an Oregon corporation, et al., Complainants, vs. California Oregon Power Company, a corporation, Respondent, insofar as said stipulation relates to premises hereinabove described."; easement and agreement, including the terms and provisions thereof, relative to raising and/or lowering the waters of Upper Klamath Lake between Crater Lake Seed Company, a corporation, first party, The California Oregon Power Company, a corporation, second party, and California-Oregon Power Company, a corporation, third party, dated October 28, 1937, recorded November 8, 1937, Vol. 113, page 15, Deed Records of Klamath County, Oregon; and easements and rights of way of record and apparent thereon.

EXHIBIT "A"

Return  
 Wm. D. Milne & Co.  
 323 Main  
 Klamath Falls, Oregon

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of KIAMATH COUNTY TITLE CO

this 7th day of June A. D., 1973 at 2:29 o'clock P.M., and duly recorded in

Vol. M 73 of DEEDS on Page 7025

FEE \$ 26.00

WM. D. MILNE, County Clerk

By

Razul Drazil

FILED  
 JUN 7 2 28 PM '73  
 CLERK OF DISTRICT COURT  
 Klamath Falls, Oregon