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DEC 27 4 04 PM 1973  
JAN 14 3 35 PM 1974

THIS CONTRACT OF SALE OF REAL PROPERTY Made this 21 day of December, 1973, between M. G. BURK, also known as MILBURN BURK and MILBURN G. BURK, and WINIFRED E. BURK, also known as WINIFRED BURK, husband and wife, hereinafter called "Vendor", and STANLEY C. MASTEN and PATRICIA A. MASTEN, husband and wife, tenants by the entirety, 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, 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) \$15,000.00 down payment, receipt of which is hereby acknowledged.
- (b) \$120,000.00 deferred balance payable as follows: \$20,000.00, without interest, on January 10, 1974; equal annual installments of principal and interest of \$8,581.00, inclusive of interest, the first such installment to be paid on the 10th day of January, 1975, and a like installment on the 10th day of each January thereafter through and including January 10, 1998, with the balance of principal and interest due and owing on the deferred balance pursuant to the terms of this Contract on the 10th day of January, 1999, being paid in full.

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 10th day of January, 1974.

All installments due Vendor from Purchaser under this agreement shall be paid without demand to the Escrow Holder hereinafter named. All such installments received shall be applied first to interest

Contract of Sale  
Page -1-

THIS INSTRUMENT IS BEING RE-RECORDED TO CORRECT THE DESCRIPTION.

107.5 Lender Lease-  
107.4 Any Policy  
107.2 Any Policy  
107.1 Any Policy  
106.2C ) State Highway  
106.2C ) Policies per  
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1 accrued to the date of receipt and then applied to reduce principal.

2 From and after January 1, 1975, Purchaser may, at any time,  
3 prepay all or any part of the deferred balance, principal or  
4 interest. To the extent that Purchaser shall make a prepayment of  
5 principal, such principal prepayment shall be credited against the  
6 subsequent regular future installment of principal, and to the extent  
7 that Purchaser should prepay interest, such prepayment of interest  
8 shall be credited against subsequent regular interest payments.  
9 To the extent that any prepayment of principal or interest should  
10 cause Vendor to incur any additional income tax liability over that  
11 which Vendor would experience if there were no such prepayment,  
12 Purchaser shall indemnify and hold Vendor harmless of and from  
13 such increased income tax liability.

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

29 Purchaser has made an independent investigation and inspection of  
30 the real property herein described and has entered into this contract  
31 without relying on any statement or representation or covenant not  
32 specifically embodied in this contract, and accepts the property



1 described in this agreement as is, in its present condition and requires  
2 no work of any kind to be done on said property by Vendor.

3 GENERAL TERMS, COVENANTS, CONDITIONS AND PROVISIONS

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

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

6 Vendor hereby warrants that he has good and merchantable  
7 title to the real property above described, subject to the excep-  
8 tions above set forth. Vendor will, upon execution hereof, make  
9 and execute in favor of Purchaser, a good and sufficient warranty  
10 deed conveying said premises free and clear as of this date of  
11 all encumbrances, subject to the above set forth exceptions, and  
12 will place said deed, together with the original of this agree-  
13 ment, and any other conveyances of title or security instruments  
14 required hereby in escrow at Klamath Falls Branch of United States  
15 National Bank of Oregon, P. O. Box 789, Klamath Falls, Oregon 97601,  
16 with instructions to said Escrow Holder that when and if the  
17 Purchaser shall have paid the balance of the purchase money and  
18 interest as above specified and shall have complied with all  
19 other terms and conditions of this agreement, to deliver the same  
20 to Purchaser subject to the usual printed conditions and provi-  
21 sions of the standard form of escrow instructions provided by  
22 said Escrow Holder.

23 Vendor shall furnish, at his own expense, a Purchaser's  
24 Title Insurance Policy issued by Transamerica Title Insurance Co.  
25 under Order No. 28-6225 insuring Purchaser's title in the above  
26 described real property in the amount of \$135,000.00 subject to  
27 the above set forth exceptions and the printed conditions and  
28 exceptions contained in the usual form of title policy issued  
29 by said title insurance company.

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

Contract of Sale  
Page -4-

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J. ANTHONY GIACOMINI, ATTORNEY AT LAW, KLAMATH FALLS, OREGON  
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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 maximum 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 pay-  
11 ment by Purchaser of attorney fees, appraiser fees, and related necessary  
12 and reasonable costs in connection with securing said proceeds) which pro-  
13 ceeds are hereinafter called "net proceeds" toward the payment of the sums  
14 secured by this contract. Upon receipt of said net proceeds, Purchaser  
15 shall notify Vendor of the amount of said net proceeds and Vendor shall,  
16 within ten (10) days after such notification, notify Purchaser in writing  
17 if Vendor elects to have said net proceeds applied toward payment of the  
18 sums secured by this contract. If Vendor fails to so notify Purchaser  
19 of such election, Vendor shall conclusively be deemed to have elected  
20 not to require Purchaser to apply said net proceeds toward the sums  
21 secured by this contract. If Vendor elects to have said net proceeds  
22 applied toward payment of the sums secured by this contract, the amount to  
23 be received by Vendor shall not exceed the total of the principal plus  
24 accrued interest to the date of payment thereof to the Escrow Holder named  
25 herein, and Purchaser shall not, in such event, be obligated to hold Vendor  
26 harmless from increased income tax liabilities. Regardless of whether  
27 Vendor elects to have said net proceeds applied to the sums secured by this  
28 contract, Vendor will join in any conveyance required by the governmental  
29 agency 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 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

Contract of Sale  
Page -7-

as herein provided, have the following rights:

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

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

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

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

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

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

No waiver by Vendor of any breach of any covenant of this agreement shall be construed as a continuing waiver of any subsequent breach of such covenant nor as a waiver of any breach of any other covenant nor as a waiver of the covenant itself.

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

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2 by Vendor, app  
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10 indebtedness or disbur  
11 or to enforce any provi  
12 foreclosure, or otherwis  
13 agrees to pay to Vendor,  
14 disbursements, any amount  
15 port, title search, insuranc  
16 subsequent to the date  
17 above describ  
18 then



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

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

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

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

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

Contract of Sale  
 Page -9-

J. ANTHONY GACOURT, ATTORNEY AT LAW, KILMATH 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 WITNESS the hands of the parties hereto the day and year first  
5 above written.

6 M. G. Burk Stanley C. Masten  
7 M. G. Burk Stanley C. Masten  
8

9 Winifred E. Burk Patricia A. Masten  
10 Winifred E. Burk Patricia A. Masten  
11 Vendor Purchaser

12 STATE OF OREGON )  
13 County of Klamath ) ss.

14 On the 21<sup>st</sup> day of December, 1973, personally appeared the  
15 above named M. G. Burk and Winifred E. Burk, husband and wife, and  
16 acknowledged the foregoing instrument to be their voluntary act and  
17 deed.

18 Before me:

19 Helen D. Goodhue  
20 Notary Public for Oregon  
21 My commission expires: 11/25/76

22 STATE OF OREGON )  
23 County of Klamath ) ss.

24 On the 21<sup>st</sup> day of December, 1973, personally appeared the  
25 above named Stanley C. Masten and Patricia A. Masten, husband and wife,  
26 and acknowledged the foregoing instrument to be their voluntary act  
27 and deed.

28 Before me:

29 Helen D. Goodhue  
30 Notary Public for Oregon  
31 My commission expires: 11/25/76  
32



## EXHIBIT "A"

The following described real property in Klamath County, Oregon:

The SE 1/4 SW 1/4, and SW 1/4 SE 1/4 of Section 33, Township 38 South, Range 11 East of the Willamette Meridian, and Lots 2, 3, 4 and SW 1/4 NE 1/4, S 1/2 NW 1/4, SW 1/4 and W 1/2 SE 1/4 of Section 4; the N 1/2 NE 1/4, SW 1/4 NE 1/4 and NW 1/4 of Section 9, excepting right of way conveyed to Horsefly Irrigation District, by deed recorded at page 218 of Volume 49 of Deeds, and right of way conveyed to Klamath County, Oregon, by deed recorded on page 83 of Volume 64 of Deeds; (said Sections 4 and 9 being in Township 39 South, Range 11 East of the Willamette Meridian.)

Beginning at the point of intersection of the East and West center line of Section 9, Township 39 South, Range 11 East of the Willamette Meridian with the Northeasterly boundary line of the right of way of the Dairy-Bonanza Highway as the same is now located and constructed; thence North 89° 50' East along the said East West center line of said Section 9, 384.50 feet; thence Southerly and parallel with the Easterly boundary of said Section 9, 249.2 feet, more or less, to a point in the Northeasterly boundary line of said right of way of the Dairy-Bonanza Highway; thence Northwesterly along said right of way line to the point of beginning, and also

Beginning at a point in the East and West center line of Section 9, Township 39 South, Range 11 East of the Willamette Meridian, from which the point of intersection of the said East and West center line of Section 9 with the Northeasterly boundary line of the right of way of the Dairy-Bonanza Highway as the same is now located and constructed bears South 89° 50' West 384.5 feet distant and running thence Southerly and parallel with the Easterly boundary of the said Section 9, 249.2 feet, more or less to a point in the Northeasterly boundary line of the right of way of the Dairy-Bonanza Highway; thence Southeasterly along said right of way line 849.3 feet, more or less, to its intersection with the West line of Bowne Ave., (now vacated) of Bowne Addition to Bonanza, Oregon, the plat whereof is on file and of record in the office of the County Clerk of Klamath County, Oregon; thence North along the said West line of Bowne Ave. (now vacated) 711.8 feet, more or less, to its intersection with the said East and West center line of the said Section 9; thence South 89° 50' West 713.6 feet, along the said East and West center line to the point of beginning.

A tract of land in the E 1/2 NE 1/4 of Section 8, Township 39 South, Range 11 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at a point on the East line of said NE 1/4, said point being North a distance of 239 feet from the Southeast corner thereof; thence Northwest, in a straight line to a point on the North line of the SE 1/4 NE 1/4, said point being West a distance of 660 feet from the Northeast corner thereof; thence North a distance of 885 feet to the center line of the Dairy-Bonanza Highway; thence South 56° 52' East, along said center line, a distance of 789 feet to a point on the East line of said NE 1/4, said point

EXHIBIT "A"