

32811

THIS AGREEMENT, made and entered into this 1st day of July, 1977, by and between MERVIN C. HILEY and LEONA M. HILEY, husband and wife, hereinafter called Sellers; and JOHN R. KELLEY, SR. and HESTER JANE KELLEY, husband and wife, JOHN R. KELLEY, JR. and GERALYNN P. KELLEY, husband and wife, and JERRY LEE FANN and HESTER JANE FANN, husband and wife, hereinafter called Buyers,

## W I T N E S S E T H:

That the Sellers agree to sell to Buyers, and Buyers agree to buy from Sellers all of the following-described real property, situate in Klamath County, Oregon, to-wit:

Lots 1 and 29 in Block 29 of KLAMATH FALLS FOREST ESTATES HIGHWAY 66 UNIT, Plat No. 2.

Subject to: The interest of Charles E. Drew in and to a reservoir, as disclosed by a Deed recorded December 23, 1910, in Deed Volume 30 at page 529, Records of Klamath County, Oregon, (Affects SW $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$  Section 4, and SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$  Section 5, Twp. 38 S., R. 11, EWM); An undivided one-half interest in oil, gas, and mineral rights as reserved in deed recorded August 19, 1933, in Deed Vol. 101 at page 346, Records of Klamath County, Oregon, (Affects Section 5, Twp. 38 S., R. 11, EWM); Restrictions, but omitting restrictions, if any, based on race, color, religion or national origin, as shown on the recorded plat of Klamath Falls Forest Estates, Highway 66 Unit Plat No. 2; Easements and rights of way of record and those apparent on the land, if any; and to 1977-78 real property taxes which are now a lien but not yet payable.

TOGETHER WITH the following-described personal property:

Living Quarters: Tappan Gas 30" Range; Draperies; Signature 18" Washer, Copertone; Signature 18" Dryer, Copertone.

Unit 1: 1 Double Bed w/Springs and Mattress; 1 3-Drawer Chest and Desk Combo; 1 Luggage Stand; 1 Night Stand; 1 Table - 4 Chairs; 1 Coldspot Apt. Size Refrigerator; 1 Apt. size 3-Burner Frigidaire Range; 2 Wastepaper Baskets; 2 Table Lamps - 1 Wall Lamp; Shower Curtain; Drapes, Misc. Linens and Utensils.

Unit 2: 1 Double Bed w/Springs and Mattress; 2 Single Beds w/Springs and Mattresses; 2 Chairs; 1 Floor Lamp; 1 Table Lamp; 1 4-Drawer Chest and Desk Combo; Drapes; Misc. Blankets, Spreads, Sheets, Towels and Washcloths; Shower Curtain; 1 Night Stand; 1 Luggage Rack; 1 Mirror; 2 Wastepaper Baskets.

Unit 3: 2 Single Metal Motel Beds complete with Box Springs and Mattresses; 1 Night Stand; 1 4-Drawer Chest and Desk Combo, with Chair; Floor Lamp; Table Lamp; 1 Table - 2 Chairs; Compact Kitchen Unit, Stove, Sink, Refrigerator; Shower Curtains; Drapes; Mirror; Misc. Towels, Wash Cloths, Sheets, Blankets and Spreads; Misc. Kitchen Utensils; 1 Luggage Stand; 2 Wastepaper Baskets; 1 Pot-Bellied Stove; 1 Trash Burner.

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1 ALSO TOGETHER WITH the assumed business name "HIDDEN PINES MOTEL".

2 SUBJECT TO: Personal property taxes which became a lien on January 1, 1977;

3 ALL at and for a total purchase price of \$40,000.00, payable as follows:

4 \$11,000.00 on exercise hereof, receipt of which is hereby acknowledged,

5 29,000.00 with interest at the rate of 8% per annum from July 15, 1977,  
6 payable in monthly installments of not less than \$271.42  
7 each, inclusive of interest, with first payment due August 15,  
8 1977, and a like installment on the 15th day of every month  
9 thereafter until the balance and interest are fully paid.

10 After January 2, 1978, any or all of said purchase price  
11 may be prepaid without penalty.

12 Of the \$40,000.00 purchase price, \$3,500.00 is allocable to personal  
13 property and \$36,500.00 is allocable to real property.

14 Buyers covenant and agree as follows: That they will make said payments  
15 promptly on the dates above named to the order of the Sellers at Klamath First  
16 Federal Savings and Loan Association; that they will not suffer or permit any  
17 of said property to become subject to any assessments, liens, charges or encumb-  
18 rances whatsoever having precedence over the rights of Sellers in and to said  
19 property. That they will keep all of said real and personal property insured  
20 for the full amount of their insurable value in companies approved by the Sellers  
21 and with loss payable to the parties as their interests may appear. Said poli-  
22 cies shall be held by the Sellers until this Agreement has been completely per-  
23 formed; that they will pay regularly and seasonably as the same shall become  
24 payable and before the same shall become delinquent, all taxes.

25 Sellers covenant and agree as follows: That said real property is free and  
26 clear of all liens and encumbrances, except as set forth above, and that said  
27 personal property is free and clear of all liens and encumbrances, except said  
28 1977 personal property taxes; that they have good right to sell said real and  
29 personal property to Buyers, and that they will furnish Buyers with a good and  
30 sufficient bulk sales affidavit that they have no creditors. Sellers covenant  
31 and agree to indemnify and hold Buyers harmless with respect to any and all in-  
32 debtedness of Sellers.

It is expressly understood and agreed that this is a conditional sales agree-  
ment and that full title to all of said real and personal property, including  
said assumed business name, shall remain in Sellers until said balance and interest

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1 are paid in full. It is further understood and agreed that any and all equipment,  
2 furnishings, fixtures and inventory which may at any time hereafter be placed  
3 upon said premises by the Buyers shall become subject to the lien of this Agree-  
4 ment as further security to the Sellers for the payment and performance of this  
5 Agreement, and that any replacements to present equipment when the same wears  
6 out will also be secured hereby. It is also further understood and agreed that  
7 any replacements of equipment, furnishings and fixtures or additions thereto  
8 which shall be placed on the premises by the Buyers shall be purchased by the  
9 Buyers and not leased or rented, which said replacements or additions shall be-  
10 come subject to the lien of this Agreement.

11 It is further expressly understood and agreed that upon the execution of  
12 this Agreement, Sellers shall make and execute in favor of Buyers a good and suf-  
13 ficient Warranty Deed conveying said real property free and clear of all liens  
14 and encumbrances, except as set forth above, and a good and sufficient Bill of  
15 Sale conveying said personal property free and clear of all liens and encumb-  
16 rances, except said 1977 personal property taxes; that Buyers and Sellers shall  
17 join in executing a Financing Statement, and Sellers shall execute a Termination  
18 of Financing Statement; and that Buyers shall execute their Certificate of With-  
19 drawal of the Assumed Business Name, Hidden Pines Motel; and that said Deed,  
20 Bill of Sale, Termination of Financing Statement and Certificate of Withdrawal  
21 of Assumed Business Name, together with the original of this Agreement and a  
22 purchasers' policy of title insurance covering said real property shall be placed  
23 in escrow with Klamath First Federal Savings and Loan Association, at Klamath  
24 Falls, Oregon; and the Sellers and Buyers shall enter into written escrow in-  
25 structions with said escrow holder instructing it that when and if the Buyers  
26 shall have paid said balance of said purchase price and interest in full, it  
27 shall deliver all of said instruments to Buyers, but if the Buyers shall become  
28 delinquent in any installment or interest due under this Agreement for more than  
29 30 days, said instruments are to be returned to Sellers, or their order, upon  
30 written demand for the same, thereby terminating said escrow.

31 The real and personal property taxes on the premises will be prorated by  
32 and between Sellers and Buyers as of July 1, 1977. Personal property taxes will

1 be prorated based on the 1976 rate, and Buyers will assume the 1977 taxes when  
2 payable.

3 Buyers shall be entitled to possession of said real and personal property  
4 on or about August 15, 1977.

5 Sellers shall record their Certificate of Withdrawal of Assumed Business  
6 Name of "Hidden Pines Motel" forthwith upon transfer of possession of said prop-  
7 erty to said Buyers.

8 In case Buyers shall fail to make the payments aforesaid, or any of them,  
9 punctually and upon the strict terms and at the times above specified, or fail  
10 to keep any of the other terms or conditions of this Agreement, time of payment  
11 and strict performance being declared to be the essence of this Agreement, then  
12 Sellers shall have the following rights: (1) To foreclose this contract by  
13 strict foreclosure in equity; (2) To declare the full unpaid balance immediately  
14 due and payable; (3) To specifically enforce the terms of this Agreement by suit  
15 in equity; (4) To declare this contract null and void; and in any of such cases,  
16 except exercise of the right to specifically enforce this Agreement by suit in  
17 equity, all of the right and interest hereby created or then existing in favor  
18 of Buyers derived under this Agreement shall utterly cease and determine, and  
19 the premises aforesaid shall revert and revest in Sellers without any declaration  
20 of forfeiture or act of re-entry, and without any other act by Sellers to be per-  
21 formed and without any rights of Buyers of reclamation or compensation for money  
22 paid or for improvements made, as absolutely, fully and perfectly as if this  
23 Agreement had never been made.

24 Should Buyers, while in default, permit the premises to become vacant,  
25 Sellers may take possession of same for the purpose of protecting and preserving  
26 the property and their security interest therein, and in the event possession  
27 is so taken by Sellers they shall not be deemed to have waived their right to  
28 exercise any of the foregoing rights.

29 In case suit or action is instituted to foreclose this contract or to en-  
30 force any of the provisions hereof, the parties agree to pay reasonable cost of  
31 title report and title search and such sum as the trial court may adjudge reason-  
32 able as attorney's fees to be allowed the prevailing party in said suit or action,

1 and if an appeal is taken from any judgment or decree of such trial court, such  
2 sum as the appellate court shall adjudge reasonable as attorney's fees on such  
3 appeal.

4 Buyers further agree that failure by Sellers at any time to require perform-  
5 ance by Buyers of any provision hereof shall in no way affect Sellers' right  
6 hereunder to enforce the same, nor shall any waiver by Sellers of any breach of  
7 any provision hereof be held to be a waiver of any succeeding breach of any such  
8 provision, or as a waiver of the provision itself.

9 PROVIDED FURTHER, that the personal property herein sold is subject to terms  
10 and provisions of Uniform Commercial Code of the State of Oregon, and that all  
11 of the terms herein, and the rights, duties and remedies of the parties shall be  
12 governed by the laws of the State of Oregon. Buyers agree to join with Sellers  
13 in executing and filing a financing statement as required by said Uniform Com-  
14 mercial Code to protect and continue Sellers' security interest.

15 That Buyers take title to said real property as tenants by the entirety and  
16 as joint tenants with right of survivorship in the personal property; each  
17 couple as to an undivided one-third interest.

18 Buyers acknowledge that they have personally inspected the property and ac-  
19 cept it in AS IS condition. Buyers further acknowledge that Sellers have made  
20 no representation as to the amount of income that can be realized from the opera-  
21 tion of this business.

22 Buyers agree to keep said property at all times in as good condition as the  
23 same now are, that no improvement now on or which may hereinafter be placed on  
24 said property shall be removed or destroyed before the entire purchase price  
25 has been paid. Buyers shall not remove any trees without the written consent  
26 of the Sellers.

27 Buyers acknowledge that the sign on Highway 140 is subject to a non-conforming  
28 use permit issued by the State Highway Department. Sellers make no representa-  
29 tions as to the ability to continue the use of the sign.

30 This Agreement shall bind and inure to the benefit of, as the circumstances  
31 may require, the parties hereof and their respective heirs, executors, adminis-  
32 trators, successors and assigns.

12925

WITNESS the hands of the parties the day and year first herein written.

Mervin C. Hiley  
Mervin C. Hiley  
Leona M. Hiley  
Leona M. Hiley  
SELLERS

John R. Kelley, Sr.  
John R. Kelley, Sr.  
Hester Jane Kelley  
Hester Jane Kelley  
John Richard Kelley, Jr.  
John R. Kelley, Jr.  
Geraldynn P. Kelley  
Geraldynn P. Kelley  
Jerry Lee Fann  
Jerry Lee Fann  
Hester Jane Fann  
Hester Jane Fann  
BUYERS

STATE OF OREGON,

County of Klamath

ss.

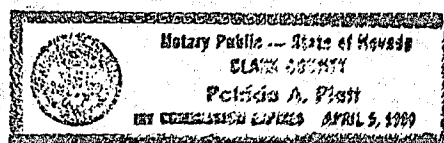
FORM NO. 23 — ACKNOWLEDGMENT  
STEVENS-NESS LAW PUB. CO., PORTLAND, ORE.

BE IT REMEMBERED, That on this 5th day of July, 1977, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Mervin C. Hiley and Leona M. Hiley, husband and wife,

known to me to be the identical individual s described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

William A. Smith  
Notary Public for Oregon.  
My Commission expires Oct 8, 1978



Patricia A. Platt  
July 16, 1977

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record of request

Agreement - Page 6 This 21 day of July A. D. 1977. at 11:22 o'clock AM., and

duly recorded in Vol. M 77, of Deeds on Page 12920

Fee \$18.00

W. D. MILNE, County Clerk  
By Hazel B. Bunch

GANONG & SISEMORE  
Attorneys at Law  
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KLAMATH FALLS, ORE.  
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