

MTC 4379-M
A G R E E M E N T

THIS AGREEMENT, Made and entered into this 20 day of
October, 1977, by and between JAMES L. AKINS and ANITA
L. AKINS, husband and wife, hereinafter called SELLERS, and
WILLIAM T. FORD and WANDA L. FORD, husband and wife, hereinafter
called BUYERS.

W I T N E S S E T H:

1. PROPERTY: Sellers have agreed to sell to Buyers and Buyers have agreed to buy from Sellers the real and personal property comprising the SHASTA VIEW GROCERY, 4079 Shasta Way, Klamath Falls, Oregon, including the trade name, fixtures, equipment and inventory. A description of the real property is attached hereto as Exhibit "A", a description of the inventory is attached as Exhibit "B", and a description of the equipment is attached as Exhibit "C" and by this reference made a part hereof.

2. PURCHASE PRICE: The purchase price reserved and which Purchasers agree to pay is SIXTY-FIVE THOUSAND AND NO/100ths, (\$65,000.00) payable as follows:

(a) The sum of Three Thousand (\$3,000.00) has been paid as earnest money, and the sum of Five Thousand (\$5,000.00) paid as balance of down payment, the receipt of which is hereby acknowledged.

(b) Buyers shall convey a 19 $\frac{1}{2}$ foot "Aljo" self-contained travel trailer to Sellers and Buyers to receive a credit of \$3,500.00 on the purchase price.

(c) The balance of the purchase price, to-wit: The sum of \$53,500.00 shall be paid in monthly installments of not less than \$425.00 which includes interest at the rate of EIGHT AND ONE-FOURTH (8 $\frac{1}{4}$) percent per annum on the unpaid balance, the first of such monthly installments to be paid on or before the 21st day of December, 1977, and subsequent installments on or before the 21st day of each and every month thereafter until the said \$53,500.00 has been paid in full.

AGREEMENT - 1.

23372

(d) In addition to the purchase price of \$65,000.00 the sum of Fifteen Thousand (\$15,000.00) is payable to the Sellers in cash at the time of closing for the inventory which is described on Exhibit "B".

As long as Buyers are without default, they may at any time reduce the unpaid purchase price by payments in addition to but without waiver of the minimum installment payments.

All payments of principal and interest shall be made to Sellers at First Federal Savings and Loan Association, 540 Main, Klamath Falls, Oregon.

3. CONVEYANCE: Sellers have concurrently herewith delivered to First Federal Savings and Loan Association, Klamath Falls, Oregon, their duly executed and acknowledged Warranty Deed conveying said real property to Buyers and their good and sufficient Bill of Sale transferring title to said equipment to Buyers, both of said instruments to be held by said escrow agent as an escrow. Upon completion of this contract, without default, this deed and Bill of Sale shall be delivered to Buyers, but if Buyers default, they shall be returned to Sellers.

4. TITLE: Sellers' deed shall convey marketable title, free and clear of all liens and encumbrances except as listed in Exhibit "A" attached hereto and made a part hereof.

Sellers shall forthwith furnish at their expense a Purchaser's Policy of Title Insurance to be placed in escrow in the amount of Sixty-Five Thousand Dollars (\$65,000.00) showing a marketable title in James L. Akins and Anita L. Akins, subject only to the usual printed exceptions of the title insurance company and the items set forth in Exhibit "A" of this contract.

Sellers' Bill of Sale to the equipment shall transfer title free of all liens and encumbrances.

5. It is understood that the obligations of Buyers hereunder are contingent upon the Oregon Liquor Control Commission granting
AGREEMENT - 2.

to Buyers a liquor license for beer and wine package sales. If said liquor license is not granted to Buyers, all sums paid hereunder by Buyers shall be refunded and this agreement shall be null and void.

6. TAXES, INTEREST AND PAYMENTS: Buyers covenant that they will pay on or before the due dates all taxes and assessments against said property hereafter becoming due or payable. Real property taxes for the 1977-78 fiscal year are to be prorated as between Sellers and Buyers as of the date of Buyers' possession. Personal property taxes assessed as of January 1, 1977, which will be payable November 15, 1977, which were assessed to Sellers shall be prorated as of the date of Buyers' possession hereunder on a calendar year basis. The personal property taxes shall be paid by Sellers who shall notify Buyers of their prorated portion thereof and the Buyers shall immediately reimburse the Seller for their prorated portion.

7. Sellers covenant to and with the Buyers that they are the owners of all the equipment which they are agreeing to sell, that said property is free and clear of all liens and encumbrances; that they have a good right to sell the same and that they will pay out of the first proceeds of this sale all of their current indebtedness forthwith so that there will be a full compliance with the bulk sales law of the State of Oregon. Sellers further covenant and warrant to and with the Buyers that they will save and hold the Buyers harmless from all indebtedness now owed by them other than as specifically assumed by Buyers and will further indemnify Buyers against any liability or loss or expense which may be imposed upon the Buyers under the Oregon Bulk Sales Law.

8. WASTE; REPAIRS; LIENS; INSURANCE: Buyers covenant and agree that they will: (a) neither commit nor suffer to be committed any waste upon the premises; (b) keep the premises and

28374

the equipment free and clear from all mechanics' and other liens or charges incurred by or through Buyers that may become a charge against the premises superior to the rights or Sellers' lien of the Sellers; (c) keep the improvements and personal property now on the premises or that may be placed upon the premises in good condition and repair; keep all such improvements and personal property insured against loss by fire in an amount not less than the unpaid balance of purchase price to the extent such coverage is available, with loss, if any, payable to Sellers as their interest may appear.

9. LOSS OR DESTRUCTION: No loss or destruction by fire or otherwise of any of the improvements or personal property now upon or which may be placed upon said premises, either in whole or in part, shall abrogate this contract, but the same shall continue in full force regardless of any such destruction, Buyers assuming all risk of loss or damage.

10. REPRESENTATIONS: No representation as to quality, quantity, or any other physical matter or fact relating to said material property shall be deemed a material representation between the parties hereto unless the same is included in this contract in writing. All other representations of whatsoever nature are agreed to be immaterial and not actionable by or in favor of either party.

11. DEFAULT PROVISIONS: All of Buyers' promises and agreements herein contained are conditions of continuance of Buyers' rights hereunder. Time is in all things of the essence of this contract. No forbearance upon the part of the Sellers to exact strict or timely performance of any covenant, payment, condition or other provision upon the part of the Buyers to be performed, shall in declaring a default or forfeiture shall be deemed to be time as the essence of this contract, or the self-executing provisions hereof upon forfeiture or termination, or require a new time

24575

to be fixed for performance upon default, or waive any rights existing in the Sellers upon such default,

All of the provisions herein contained shall apply to and include the heirs, executors, administrators and assigns of each of the parties hereto wherever the context so admits or requires. In the event Buyers fail to make the payments above named, and each and every one of them, including the payment of taxes, within fifteen (15) days of the time specified therefor, or shall fail, for a period of thirty (30) days after having received written notice of any other default hereunder, to remedy said default, the Sellers may:

(a) Elect to declare all of the Buyers' rights hereunder terminated, and upon their doing so, all payments made by the Buyers hereunder and all improvements placed upon the premises shall be forfeited to Sellers as liquidated damages for the use and rental of said premises and the Sellers shall have the right to re-enter and take possession of all real and personal property subject hereof; or

(b) Sellers may declare the entire unpaid balance of purchase price immediately due and payable, fix a time and place for the payment thereof, and in the event the same be not paid as required, Sellers may foreclose by a suit in equity all the right, title and interest of Buyers, or,

(c) Sellers may declare the entire balance of the purchase price immediately due and payable and if the same is not paid on demand, may commence an action at law to collect the full amount thereof and all amounts due hereunder; or,

(d) Sellers may sue for specific performance or exercise other remedy permitted at law or in equity, including any remedies available to him under the Uniform Commercial Code, Oregon.

In the event of termination by forfeiture or foreclosure the

Sellers may at any time after such termination, or by institution of any suit to foreclose, re-enter and take possession of the premises and personal property and all of the tenements, hereditaments and appurtenances without being liable for trespass and all such property shall revert to the Sellers automatically and no right of emblements shall be vested in the Buyers and none of the fixtures nor personal property subject hereof shall be removed from the premises but the same shall be deemed to be held and owned by the Sellers. Upon any suit for foreclosure of any equity of redemption that may be vested in the Buyers hereunder, the Court shall, immediately upon the commencement of such suit if required by the Sellers, enter an interlocutory decree granting the sellers immediate possession of the premises and requiring the Sheriff to place it in such immediate possession and, upon any final decree of foreclosure, shall make such interlocutory decree perpetual.

12. ATTORNEY FEES: In the event suit or action is instituted to foreclose this agreement or to enforce any of the provisions hereof, the prevailing party shall be entitled to reasonable attorney's fees as the same shall be adjudged by the Court in said suit or action and if any appeal is taken from any decision of the trial court, such further sum as may be fixed by the appellate court, as reasonable attorneys' fees in the appellate court.

13. RESCISSON: No election or conduct of the Sellers shall be deemed to constitute a rescission hereof unless expressly so stated.

14. CONSTRUCTION: In construing this contract, it is understood that the Sellers or Buyers may be more than one person; that if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provision hereof apply equally to

corporations and to individuals.

15. The parties hereto agree that title to the personal property, as well as the real, is retained by Sellers and shall not pass until the purchase price is paid in full.

Buyers further agree to join with the Sellers as the secured party herein, in executing, filing and doing whatever may be necessary under applicable law to perfect and continue the Sellers' interest in said collateral.

16. The parties hereto agree that Buyers shall take possession of that business known as Shasta View Grocery on the date of closing, and that Buyers shall take possession of the home five (5) days after the date of closing.

The parties hereto also agree that the Sellers will stay for two weeks after the Buyers take possession of the business known as Shasta View Grocery to acquaint Buyers with the business. Sellers will not earn any wages during said period of time.

17. Notwithstanding anything to the contrary set out herein above, the Purchasers shall pay the actual invoice value of inventory which said inventory shall be taken the day store possession is given to the Purchasers. Parties understand said inventory may be different than the \$15,000.00 set forth in Paragraph 2(d) of this contract and agree that the balance of the purchase price shall be adjusted to reflect any difference in inventory. In the event the inventory is greater than \$15,000.00, the amounts in excess of \$15,000.00 shall be added to the unpaid balance of the purchase price of \$53,500.00 and in the event said inventory is less than \$15,000.00, the difference shall be a credit and subtracted from the unpaid balance of the purchase price of \$53,500.00.

18. INTERGRATION: This contract contains and sets forth the entire agreement between the parties and any and all matters, statements or representations not herein set forth and contained

233p

are to be deemed immaterial and not a part of the transaction, save and except as same shall be reduced to writing and likewise subscribed by the parties or ratified by them in writing.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals in triplicate the day and year first hereinabove written, and one part hereof deposited with the First Federal Savings and Loan Association, Klamath Falls, Oregon, as escrow holder, as and for instructions to said escrow agent hereunder.

James L. Akins
JAMES L. AKINS

Anita L. Akins
ANITA L. AKINS

Tax statements to:
William T. Ford
4079 Shasta Way
Klamath Falls, Ore
after recording returns:
Return to MTC

SELLERS

William T. Ford
WILLIAM T. FORD

Wanda L. Ford
WANDA L. FORD

BUYERS

FORM NO. 23 — ACKNOWLEDGMENT
STEVENS-HESS LAW FIRM CO., PORTLAND, ORE.

STATE OF OREGON,
County of Klamath } ss.

BE IT REMEMBERED, That on this 20th day of October, 1977, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named, James L. Akins, Anita L. Akins, William T. Ford and Wanda L. Ford,

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.

Judy Blubach
Notary Public for Oregon.
My Commission expires 8-23-81

AGREEMENT - 8.

23370
EXHIBIT "A"

The South 100 feet of Lot 1 in Block 1, BRYANT TRACTS #2, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

SUBJECT TO:

- 1) The premises herein described are within and subject to the statutory powers, including the power of assessment, of South Suburban Sanitary District.
- 2) The premises herein described are within and subject to the statutory powers, including the power of assessment, of Enterprise Irrigation District.
- 3) Reservations and restrictions as contained in deed recorded March 31, 1939 in Volume 121 at page 257, Deed Records of Klamath County, Oregon to wit:

"excepting and reserving to the first parties their heirs and assigns, the right at any time to construct, build and erect ditches, telephone lines, telegraph lines and electric power lines in and upon said premises, and to keep and maintain the same, said right to be for the benefit of the lands and premises adjoining the above described land."

23380

Inventory of equipment in the Shasta View Grocery
Located at 4079 Shasta Way, Klamath Falls, Oregon

Walk in cooler *1/2a. W.M.*
1- dairy cooler *W.M.*
1- cash register *1/2a*
1- upright freezer
2- shopping carts
1- electric heater
1- large sump pump hose
All signs
1- vacuum cleaner
All book racks

3- refrig. cases
1- check-out counter
1- electric add. mach. (Olymoc)
1- chest freezer
1- meat slicer
1- fire extinguisher
2- butcher paper racks and rollers
1- set of scales (meat & veg.)
1- hand (Spring) scale
1- butcher tape dispenser

1- meat counter
All shelving
1- round mirror
2- air conditioners
2- electric clocks
1- door mat
1- thermometer
Various cleaning equi
2- sump pumps

STATE OF OREGON, COUNTY OF KLAMATH, ss.

Filed for record at request of Mountain Title Co.

This 2nd day of December

A.D. 1977 at 1:45 o'clock A.M. and

fully recorded in Vol. M77 of Deeds on Page 23371

Wm D. MILNE, County Clerk

By *Bernetta S. Felsch*

Fee \$30.00

EXHIBIT "B"



FORM NO. 810 - HANDY PAD
Stevens Nease Law Publishing Co.
Portland, Oregon 97204