

CONTRACT OF SALE

THIS CONTRACT is made as of this 17 day of February, 1978, by HENLEY LAND COMPANY, INC., whose address is 7408 Keller Road, Klamath Falls, Oregon 97601, herein called "Sellers," and GREEN SPRINGS LAND & DEVELOPMENT CO., a Partnership consisting of DONALD N. GAIL and GARY T. WHITTLE, whose address is 820 South Central, Medford, Oregon 97501, herein called "Purchasers."

W I T N E S S E T H :

Sellers agree to sell to Purchasers and Purchasers agree to purchase from Sellers for the price and on the terms and conditions set forth below that certain real property situated in Klamath County, State of Oregon, described as follows:

See attached Exhibit "A" and by this reference incorporated herein as if fully set forth herein.

TOTAL PURCHASE PRICE: The total purchase price is the sum of TWO HUNDRED SIXTEEN THOUSAND AND NO/100THS (\$216,000.00) DOLLARS.

DOWN PAYMENT: Purchasers shall pay to Sellers as a down payment on said total purchase price the sum of SIXTY-TWO THOUSAND SIX HUNDRED FORTY AND NO/100THS (\$62,640.00) DOLLARS to be paid concurrently with the execution of this agreement, and the execution hereof shall be deemed an acknowledgment of the receipt of said down payment by Sellers. It is understood that this down payment includes any money paid by Purchasers as earnest money for the purpose of binding this transaction.

PAYMENT OF BALANCE: The balance of the purchase price, being the sum of ONE HUNDRED FIFTY-THREE THOUSAND THREE HUNDRED SIXTY AND NO/100THS (\$153,360.00) DOLLARS, shall be paid in semi-annual installments as follows:

July 1, 1978	-	\$5,112.00
January 1, 1979	-	\$7,668.00
July 1, 1979	-	\$7,668.00
January 1, 1980	-	\$7,668.00
July 1, 1980	-	\$14,150.47
January 1, 1981	-	\$14,150.47

Commencing July 1, 1980, the semi-annual payments shall increase to the sum of \$14,150.47, inclusive of interest at the rate of 10%, and thereafter semi-annual installments to be paid on the first day of July, and the first day of January each year thereafter until the full balance of principal and interest are paid. Purchasers shall have the privilege of increasing any semi-annual payment or prepaying the entire balance at any time after October 1, 1978. Interest at the rate of 10% per annum on all unpaid balances shall commence on March 1, 1978.

In the event Purchasers fail to pay, when due, any amounts required of Purchasers to be paid to third parties hereunder, Sellers may pay any or all such amounts. If Sellers make any such payments, the amounts thereof shall be immediately due and payable.

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Until paid, such amounts shall be secured by this contract and shall bear interest at the rate of 10 percent per annum. Sellers' election to make any payments pursuant to this paragraph shall not constitute a waiver of Sellers' right to declare Purchasers to be in default of this contract.

All payments to Sellers hereunder shall be made to Sellers' address as set forth above until further notice has been given in writing by Sellers to Purchasers. In the event, however, a judgment lien is entered against Sellers at any time during the term of this contract, until such time as the lien is satisfied Purchasers may elect to make payments hereunder directly to the judgment creditor for Sellers' account, in which case such payments shall be credited toward the balance of the purchase price hereunder.

TAXES AND LIENS: All taxes levied against the property for the current tax year shall be prorated between Sellers and Purchasers as of March 1, 1978. Purchasers agree to pay when due all taxes and assessments which are hereafter levied against the property, but may elect to pay assessments in accordance with any available installment method. If Purchasers object in good faith to the validity or amount of any such tax or assessment, Purchasers, at their sole expense, may contest the validity or amount of the tax or assessment. Purchasers shall otherwise keep the property free from all public, municipal and statutory liens which may be hereafter lawfully imposed upon the property.

POSSESSION: The Purchasers shall be entitled to possession of the premises on March 1, 1978, and may retain such possession so long as they are not in default under the terms of this contract.

MAINTENANCE: Commencing with the possession date and thereafter at all times during the term of this contract, Purchasers shall with respect to the property do the following:

Purchasers shall take good and proper care of the subject real property, preventing the value of same from deteriorating through neglect and lack of care. Purchasers further covenant and agree that they will commit no waste nor utilize the property in such a manner as to constitute a nuisance, wrongful or unlawful use. Purchasers reserve the right to improve the subject real property in any manner they shall see fit without obtaining prior consent from the Sellers; PROVIDED, HOWEVER, that the improvements so made shall be and become part of the real property and shall belong to the Sellers subject to this contract.

Promptly comply with all laws, ordinances, regulations, directions, rules and requirements of all governmental authorities applicable to the use or occupancy of the property, and in this connection promptly make all required repairs, alterations and additions.

COVENANTS OF SELLERS: Sellers covenant that Sellers are the owners of good and marketable title to the property free of all liens and encumbrances.

TITLE INSURANCE: Sellers shall furnish at Sellers' expense a Purchasers' title insurance policy in the amount of \$216,000.00 within 10 days from the date of closing insuring Purchasers against loss or damage sustained by Purchasers by reason of the unmarketability of Sellers' title, or liens or encumbrances thereon, excepting matters contained in the usual printed exceptions in such title insurance policies.

DEED: Upon payment of the total purchase price for the

property as provided herein, and performance by Purchasers of all other terms, conditions and provisions hereof. Sellers shall forthwith deliver to Purchasers a good and sufficient warranty deed conveying the property free and clear of all liens and encumbrances, excepting those placed upon the property or suffered by Purchasers subsequent to the date of this contract.

DEFAULT: It is understood and agreed between the parties that time is of the essence of this contract and in case the Purchasers fail to make the payments above required, or any of them, punctually within thirty (30) days of the time limited therefor, or fail to keep any agreement herein contained, then the Sellers at their option shall have the following rights:

A. To declare this contract null and void;
 B. To declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable; and/or

C. To foreclose this contract by suit in equity; and in any of such cases, all rights and interest created or then existing in favor of the Purchasers as against the Sellers hereunder shall utterly cease and determine and the right of possession of the premises above described and all other rights acquired by the Purchasers hereunder shall revert to and revest in the Sellers without any act of re-entry, or any other act of Sellers to be performed and without any right of the Purchasers of return, reclamation or compensation for monies paid on account of the purchase price as absolutely, fully and perfectly as if this contract and such payments had never been made; and in case of such default, all payments theretofore made on this contract are to be retained by and belong to the Sellers as the agreed and reasonable rent of said property up to the time of such default. The Sellers in case of such default shall have the right immediately or at any time thereafter, to enter upon the land aforesaid and take immediate possession thereof, together with all of the improvements and appurtenances thereon or thereto belonging.

Sellers shall be entitled to the appointment of a receiver as a matter of right whether or not the apparent value of the property exceeds the amount of the balance due hereunder, and any receiver appointed may serve without bond. Employment by Sellers shall not disqualify a person from serving as receiver. Upon taking possession of all or any part of the property the receiver may:

A. Use, operate, manage, control and conduct business on the property and make expenditures for all maintenance and improvements as in its judgment are proper;

B. Collect all rents, revenues, income, issues and profits from the property and apply such sums to the expenses of use, operation and management;

C. At Sellers' option, complete any construction in progress on the property, and in that connection pay bills, borrow funds, employ contractors and make any changes in plans or specifications as Sellers deem appropriate.

If the revenues produced by the property are insufficient to pay expenses, the receiver may borrow, from Sellers or otherwise, such sums as it deems necessary for the purposes stated in this paragraph, and repayment of such sums shall be secured by this contract. The amounts borrowed or advanced shall bear interest at the same rate as the balance of the purchase price hereunder from the date of expenditure until repaid and shall be payable by Purchasers on demand.

Purchasers accept the land, improvements and all other

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aspects of the property in their present condition, AS IS, including latent defects, without any representations or warranties, expressed or implied, unless they are in writing signed by Sellers. Purchasers agree that they have ascertained, from sources other than Sellers, the applicable zoning, building, housing and other regulatory ordinances and laws and that they accept the property with full awareness of these ordinances and laws as they may affect the present use or any intended future use of the property, and Sellers have made no representations with respect thereto.

NOTICE: Any notice under this contract shall be in writing and shall be effective when actually delivered or when deposited in the mail, registered or certified, addressed to the parties at the addresses stated in this contract or such other addresses as either party may designate by written notice to the other.

WAIVER: Failure of Sellers at any time to require performance of any provision of this contract shall not limit the right of Sellers to enforce the provision, nor shall any waiver by Sellers of any breach of any provision be a waiver of any succeeding breach of that provision or a waiver of that provision itself or any other provisions.

COSTS AND ATTORNEYS' FEES: In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable at attorneys' fees at trial or on appeal of such suit or action, in addition to all other sums provided by law.

SUCCESSOR INTERESTS: This contract shall be binding upon and inure to the benefit of the parties, their successors and assigns.

PRIOR AGREEMENTS: This document is the entire, final and complete agreement of the parties pertaining to the sale and purchase of the property, and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the property is concerned.

ESCROW ARRANGEMENTS: As soon as practicable following the execution of this contract, Transamerica Title Insurance Company shall deliver in escrow to Mountain Title Company, 407 Main Street, 407 Main Street, Klamath Falls, Oregon, the following:

- A. The original recorded and executed Contract of Sale.
- B. An unrecorded warranty deed to the property free and clear of any and all encumbrances, except as hereinabove set forth.

The parties hereby instruct said escrow agent to receive for Sellers' account the balance of the installment payments provided herein. Said escrow agent is further authorized and instructed that it is to close the escrow and deliver the documents to the parties entitled thereto at such time as all sums called for herein, including interest, have been fully and completely paid by Purchasers.

RELEASE OF ACREAGE: It is understood and agreed that Sellers will release additional acreage to Purchasers on and after October 1, 1978 at \$4,500.00 per acre. All costs of such partial fulfillment deeds and any expense of engineering, survey and attorneys' fees incident thereto shall be paid by Purchasers.

PARAGRAPH HEADINGS: Paragraph headings in this contract are inserted for convenience only and are not to be construed as restricting the meaning of the paragraphs to which they refer.

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IN WITNESS WHEREOF, the parties have caused this contract to be executed in duplicate as of the day and year first above written.

HENLEY LAND COMPANY, INC.

by Wm T. McLaughlin

by David L. Boyd

by _____

SELLERS

GREEN SPRINGS LAND & DEVELOPMENT CO.

by Donald N. Gail
Donald N. Gail

by Gary T. Whittle
Gary T. Whittle

PURCHASERS

STATE OF OREGON)
County of Klamath) ss.

February 17, 1978

Personally appeared Wm T. McLaughlin and David L. Boyd who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of HENLEY LAND COMPANY, INC., a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me:

Donna K. Rick
DONNA K. RICK
NOTARY PUBLIC FOR OREGON
My Commission Expires 7-21-79

STATE OF OREGON)
County of Klamath) ss.

February 22, 1978

Personally appeared the above named DONALD N. GAIL and GARY T. WHITTLE and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

Dale Williams
NOTARY PUBLIC FOR OREGON
My Commission Expires 7-2-79

The following described real property in Klamath County, Oregon:

A tract of land situated in the NE $\frac{1}{4}$ of Section 13, Township 39 South, Range 9 East of the Willamette Meridian, more particularly described as follows:

Beginning at a point on the Southerly right of way line of Keller road, said point being South 00° 23' 49" West 15.82 feet from the brass cap monument marking the NE $\frac{1}{4}$ corner of said Section 13; thence South 00° 23' 49" West along the center section line of said Section 13, 792.02 feet to a 5/8 inch iron pin on the Northeasterly right of way line of the U.S.B.R. "A" Canal; thence Southerly along said Northeasterly right of way line on the arc of a curve to the right 166.96 feet (long chord is South 25° 52' 03" East 166.83 feet) to a 5/8 inch iron pin; South 21° 57' 00" East 560.20 feet to a 5/8 inch iron pin; Southerly on the arc of a curve to the left 210.69 feet (long chord is South 34° 04' 15" East 209.12 feet) to a 5/8 inch iron pin; thence leaving the Northeasterly right of way line of said "A" Canal North 72° 58' 03" East 699.66 feet to a 5/8 inch iron pin; thence South 75° 46' 50" East 128.10 feet to a 5/8 inch iron pin on the Northerly line of that tract of land described in deed Volume 308 at page 618 of the Klamath County Deed Records; thence North 72° 58' 03" East along the Northerly line of said tract 1269.45 feet to a 5/8 inch iron pin; thence North 29° 19' 47" East 344.20 feet to a 5/8 inch iron pin; thence on the arc of a curve to the left 96.16 feet (radius = 75 feet) to a 5/8 inch iron pin; thence North 44° 07' 47" West 165.75 feet to a 5/8 inch iron pin; thence on the arc of a curve to the right 108.00 feet (radius = 125 feet) to a 5/8 inch iron pin; thence North 05° 22' 23" East 116.17 feet to a 5/8 inch iron pin; thence on the arc of a curve to the right 57.65 feet (radius = 175 feet) to a 5/8 inch iron pin; thence North 24° 14' 57" East 52.69 feet to a 5/8 inch iron pin; thence on the arc of a curve to the right 106.42 feet (radius = 92.58 feet) to a 5/8 inch iron pin; thence South 89° 53' 30" East 52.51 feet to a 5/8 inch iron pin; thence North 59° 46' 00" East 47.97 feet to a 5/8 inch iron pin on the Westerly right of way line of the State Highway; thence North 00° 12' 57" East along said highway right of way line 156.35 feet to a 5/8 inch iron pin on the Southerly right of way line of Keller Road, from which the Northeast corner of said Section 13 as marked by a bolt in the center line of the said State Highway is North 00° 12' 57" East 46.47 feet and North 89° 57' 28" East 30.00 feet; thence North 89° 22' 32" West along the Southerly right of way line of said Keller Road 2634.15 feet to the point of beginning. The bearings of the above described tract is based on Tract 1020 - Third Addition to Sunset Village.

EXCEPTING THEREFROM all that portion lying within the Country Green Subdivision and the Irrigation Canal.

Subject, however, to the following:

1. Regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Enterprise Irrigation District.

2. An easement created by instrument, including the terms and provisions thereof,

Dated: : March 3, 1932
Recorded : March 18, 1932 Book: 97 Page: 155
In favor of : The California Oregon Power Company, a California Corporation
For : 10 feet, over the NE $\frac{1}{4}$ of said Section 13, for power and telephone lines.

3. An easement created by instrument, including the terms and provisions thereof,

Dated : February 15, 1956
Recorded : February 20, 1956 Book: 281 Page: 132
In favor of : The California Oregon Power Company, a California Corporation
For : Two anchors and guys, including rights of ingress and egress on the SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 13.

4. Agreement, including the terms and provisions thereof, dated April 10, 1974, recorded May 2, 1974 in Book M-74 at page 5514, Microfilm Records, between Oregon Water Corporation and Henley Land Company, a Corporation for well use.

5. An easement created by instrument, including the terms and provisions thereof,

Dated: : May 6, 1974
 Recorded : May 23, 1974 Book: M-74 Page: 6422
 In favor of : Pacific Northwest Bell Telephone
 For : Underground communications.

5. Mortgage, including the terms and provisions thereof, with interest thereon and such future advances as may be provided therein, given to secure the payment of \$275,000.00

Dated : July 9, 1974
 Recorded : July 12, 1974 Book: M-74 Page: 8503
 Mortgagor : Henley Land Company, Inc., an Oregon Corporation
 Mortgagee : First Service Corporation of Southern Oregon,
 an Oregon Corporation, which Purchasers do not assume and agree to pay, and Sellers further covenant to and with Purchasers that the said prior mortgage shall be paid in full prior to, or at the time this contract is fully paid and that said above described real property will be released from the lien of said mortgage upon payment of this contract.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Subscribed for record at request of Transamerica Title Co.

this 1st day of March A. D. 1978 at 3:29 P. M., at

truly recorded in Vol. M78, of Deeds on Page 3874

Wm D. MILNE, County Clerk

By *Bernetha J. Helock*

Fee \$21.00

*Return
T-16*