

THIS CONTRACT OF SALE, Made and entered into this 16th day of April, 1984, by and between FREDERICK B. GOODPASTER and PENNY A. GOODPASTER, husband and wife, hereinafter called Sellers, and MARTIN L. BOYER and GLENDA L. BOYER, 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 and personal property, to-wit:

Lots 15, 16, and 17, Block 4, FAIRFIELD, in the County of Klamath, State of Oregon, TOGETHER WITH the S 1/2 of alley, vacated by Order recorded June 4, 1964, in Book 353 at page 319, adjoining said Lots 15, 16 and 17.

Subject, however, to the following:

1. Restrictions, but omitting restrictions, if any, based on race, color, religion or national origin, as shown on the recorded plat of Fairfield.

2. Unrecorded Contract, including the terms and provisions thereof, dated October 29, 1980, Jack W. Mitchell and Shirley M. Mitchell, husband and wife, Sellers, and Frederick B. Goodpaster and Penny A. Goodpaster, husband and wife, Purchasers, which Buyers herein assume and agree to pay, and Buyers agree to hold Sellers harmless therefrom. The present balance of which is \$ 63,823.90 with interest paid to April 5, 1984.

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

|             |   |                                                                    |
|-------------|---|--------------------------------------------------------------------|
| Dated       | : | January 23, 1981                                                   |
| Recorded    | : | February 17, 1981 Book: M-81 Page: 2579                            |
| In favor of | : | Fred and Penny Goodpasture and Benj. Franklin Savings & Loan Assn. |
| For         | : | Mobile Home                                                        |

TOGETHER WITH all equipment, furnishings and fixtures of said business and more particularly described as set forth in Exhibit "A" attached hereto and by this reference incorporated herein.

TOGETHER WITH the inventory of said business and more particularly described as set forth in Exhibit "B" attached hereto and by this reference incorporated herein.

ALL at and for a total purchase price of ONE HUNDRED FORTY SIX THOUSAND FIVE HUNDRED AND NO/100 (\$146,500.00) on account of which Twenty-five thousand and no/100ths (\$25,000.00) Dollars has been paid, and the balance of ONE HUNDRED TWENTY ONE THOUSAND FIVE HUNDRED AND NO/100 (\$121,500.00) to be paid as follows:

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 '84 APR 17 AM 11 21

a. Buyers herein agree to pay that certain unrecorded Contract set forth herein dated October 29, 1980, with an approximate balance due and owing of \$63,823.90 with interest paid to April 5, 1984, payable in monthly installments of not less than \$742.60 per month, inclusive of interest at the rate of 10% per annum, with the first payment to commence on the 5th day of May, 1984, until balance and interest are fully paid.

b. The balance of \$60,218.04, with interest at the rate of 10 1/2% per annum from April 16, 1984, shall be paid to Sellers in monthly payments of not less than \$601.20 each, or more, prepayment without penalty, payable on the 16th day of May, 1984, and a like payment on the 16th day of every month thereafter until the balance is fully paid. The total balance is due and payable on May 16th, 1994.

c. All payments made hereunder on the Contract as set forth in item (a.) above shall be made to Sellers at U. S. National Bank of Oregon, Klamath Falls Branch, 740 Main Street, Klamath Falls, Oregon, 97601, herein designated as escrow agent on said Contract; and

All payments made hereunder on this Contract of Sale, payments as set forth in item (b.) above shall be made to Sellers at Benj. Franklin Federal Savings and Loan Assn., 212 South Sixth Street, Klamath Falls, Oregon 97601, herein designated as escrow agent on this Contract of Sale.

PREPAYMENT: The Buyers shall be entitled to make prepayments without penalty. However, no prepayment shall be credited in lieu of any regular future installment nor excuse Buyers from making the regular installment payments specified in this Contract of Sale until the full sum of both principal and interest is paid.

TAXES AND LIENS: Except as herein expressly provided to the contrary, all current taxes and other assessments on the properties shall be paid by the Buyers. Buyers agree to pay all such taxes and assessments thereafter levied before they become delinquent.

Buyers further agree to pay and discharge of record all other liens which may thereafter be claimed or imposed against said property, or any part thereof, within thirty (30) days after the filing thereof or shall supply assurances satisfactory to Sellers that said liens, or any judgments entered thereon, will be paid and discharged of record.

POSSESSION: Buyers shall be entitled to possession of the above-described property, real and personal, as of closing date and may retain such possession only so long as Buyers are not in default herein.

REPRESENTATION: Buyers certify that this Contract of Sale is accepted on the basis of Buyers' own examination and personal knowledge of the properties and opinion as to the value thereof; that the only material representations and warranties inducing this transaction are those expressly set forth herein; that no agreement or promise to alter, repair or improve said properties has been made by Sellers or any agent of Sellers; and Buyers hereby agree to take said properties and the improvements thereon in the condition they are in at the time of execution of this Contract of Sale. Buyers agree to keep said properties and the improvements in a good

condition of repair and maintenance, and Buyers will commit no waste thereof.

**SELLERS' WARRANTIES:** Sellers covenant with Buyers as follows: Except as expressly provided herein to the contrary, Sellers are the sole owners of said properties and seized in fee simple of the above-described real and personal property; that Sellers' title to the same is marketable; that Sellers have a right to transfer title to the same and possession thereof; that the properties are presently free from all matured charges and encumbrances whatsoever, except as the same may be noted in this Contract of Sale; that Buyers shall have quiet enjoyment of the properties and that Sellers will warrant and defend the same against all lawful claims and demands whatsoever, except as stated herein.

**INSURANCE:** At Buyers' expense, they will insure and keep insured all buildings now or hereafter erected on said premises against loss or damage by fire, with extended coverage, in an amount not less than the full insurable value, in a company or companies satisfactory to the Sellers, with loss payable first to the Sellers then to the Buyers as their respective interest may appear and all policies of insurance to be delivered to the Sellers as soon as insured.

**ASSIGNMENT:** Buyers shall not sell, transfer or assign this Contract of Sale or any right or interest therein without first obtaining the written consent of the Sellers, and no sale, transfer or assignment of this Contract of Sale shall be valid or recognized by any person for any purpose unless Sellers consent be obtained in writing; any such consent given pursuant hereto shall not be construed as any representation or agreement by Sellers concerning the condition or degree of the right or interest reported to be sold, transferred or assigned by any such sale, transfer or assignment, consented to by Sellers, and any breach of the terms or provisions of this paragraph by Buyers may be deemed by Sellers to be a default in the terms thereof, and Sellers shall have the right to declare all sums then remaining unpaid on this Contract of Sale immediately due and payable, and if not so paid, shall have the right to foreclose this Contract of Sale. Consent of Sellers to transfer shall not be unreasonable withheld.

**DEFAULT:** If Buyers fail to make any of the payments herein stated within thirty (30) days of the specified payment date, or if the Buyers fail to perform any of the other terms, covenants or conditions of this Contract of Sale, and if any such default in payment or performance shall remain uncorrected by Buyers for thirty (30) days after written notice of such default has been given by certified mail by Sellers to Buyers at the Buyers' last known post office address, (provided always, that NO NOTICE WHATSOEVER SHALL BE REQUIRED OF SELLER FOR ANY DEFAULT IN PAYMENT OF ANY DEFERRED INSTALLMENTS OF PURCHASE PRICE), time of payment and strict performance in all things being of the essence of this contract, Sellers shall have the following rights:

(1) To declare the entire unpaid balance of the purchase price, both principal and interest, immediately due and payable and to exercise any or all of the following options:

(a) Take immediate possession of the real property and its contents;

**CONTRACT OF SALE**

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- (b) To foreclose this Contract of Sale by strict foreclosure in equity; and to the appointment of a receiver during the pendency of this suit;
- (c) To sue for specific enforcement of this Contract of Sale;

(2) or, to declare this Contract of Sale null and void and to retain as liquidated damages the payments theretofore made under this Contract of Sale by Buyers, and any repair and improvements made upon said properties. If Sellers shall so elect to declare this Contract of Sale null and void as hereinabove provided, all of the right, title and interest of Buyers shall immediately revert to and revert in Sellers without any other act by Sellers to be performed and without any right of Buyers of reclamation or compensation for money paid or repairs or improvements added, as absolutely, fully and perfectly as if no contract had ever been made, and Buyers agree to surrender peaceably said properties and the possession thereof to Sellers, or in default thereof Buyers may, at the option of the Sellers, be created as a tenant holding over unlawfully after expiration of a lease and may be ousted and removed as such. Provided always that the recitation of remedies herein shall not be deemed exclusive and shall not bar the parties from any other or additional or supplemental remedy or remedies afforded at law, in equity, or otherwise.

**DELINQUENT CHARGES:** If Buyers shall fail to pay any assessments, liens, insurance premiums, or any other expense necessary to preserve Sellers' lien hereby retained, and the value and priority thereof, Sellers, without obligation to do so, and without waiver of Buyers' default, have the right to pay same, and treat the amount so paid as a debt due and owing from Buyers to Sellers, secured by the lien of this Contract of Sale, and to bear interest at contract rate per annum until paid.

**WAIVER:** No waiver of a breach of any covenant, term or condition of this Contract of Sale shall be a waiver of any other or subsequent breach of the same, or any other term, covenant or condition, or as a waiver of the term, covenant or condition itself; nor shall such waiver require any notice of any kind to be given to reinstate the defaulted term, covenant or condition, or to make time and strict performance again of the essence. Time is of the essence of this Contract of Sale and no waiver of any breach, including acceptance of a late payment, shall be a waiver of any other or subsequent breach.

**PARTIES:** The obligations of the undersigned are joint and several, and wherever the context hereof so admits or requires, the singular shall include the plural. This Contract of Sale contains the entire agreement of the parties and cannot be modified except upon written agreement. This contract shall benefit and bind the heirs, executors, administrators, successors and assigns of the parties.

**COVENANT NOT TO COMPETE:** Sellers, individually and jointly, agree not to engage in any small market or neighborhood store type of business within twenty-five (25) miles of the real property, the subject of this Contract of Sale, for a period of three years beginning May 1, 1984, and shall not, during this period, directly or indirectly induce patronage of any other market.



**ATTORNEY'S FEES:** Should suit, action or other legal proceeding be instituted to declare or enforce any right created by this instrument, the prevailing party therein shall be entitled to the costs and disbursements provided by statute, and such other sum as the Court may adjudge reasonable for attorney's fees.

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

**GENERAL PROVISIONS:**

(1) All of the terms herein, the rights, duties and remedies of the parties shall be governed by the laws of Oregon.

(2) Each demand, notice or other communication shall be served or given by mail or telegraph addressed to the party at their mailing address set forth herein. For purposes of Notice, Sellers' address shall be: c/o F. H. Gross, 1714 Mahogany Way, Antioch, California, 94509. Buyers' address shall be 1939 Riverside Drive, Klamath Falls, Oregon, 97601. Reasonable notice, when notice is required, shall be ten days.

**TRUTH IN LENDING:** The parties agree that this transaction is a sale and purchase for business use and no disclosure statement is necessary under any federal or state trust in lending statute.

**SUCCESSOR INTEREST:** This Contract of Sale shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns.

**TITLE INSURANCE:** Within 30 days of the date of this Contract of Sale, Sellers shall furnish to the escrow holder a purchasers' title insurance policy in the amount of \$146,500.00, approximately, said amount to be adjusted at closing, insuring Buyers against loss or damage sustained by Buyers by reason of the unmarketability of Sellers' title or liens or encumbrances thereon, excepting matters in the usual printed exceptions, in such title insurance policies and reservations, restrictions, rights of way, easements of record and those apparent on the land and encumbrances, except as hereinabove stated.

**INVENTORY:** The inventory will be maintained by the Sellers at not less than Ten thousand and no/100ths Dollars (\$10,000.00) wholesale value and is included in the full purchase price herein. Any amount over Ten thousand and no/100ths Dollars (\$10,000.00) will be added to the contract price on the day of closing. A copy of the inventory is attached hereto and marked Exhibit "B".

**ESCROW ARRANGEMENTS:** As soon as practicable following the execution of this Contract of Sale, Sellers shall deliver in escrow to Benj. Franklin Federal Savings and Loan Assn., 212 South Sixth Street, Klamath Falls, Oregon 97601, the following:

- (1) Recorded Contract of Sale, Copy of
  - (2) Unrecorded Warranty Deed, Copy of
- The Originals are to be held in an Holding Escrow with Klamath County Title Co. 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 hereunder have been fully and completely paid by Buyers.

Said Escrow Agent is further directed and instructed to pay the proceeds of the payments to Sellers, FREDERICK B. GOODPASTER and PENNY A. GOODPASTER, at: c/o H. F. Gross, 1714 Mahogany Way, Antioch, California 94509.

If Buyers fail to pay any installment before the expiration of thirty (30) days after the due date thereof, the Escrow Agent is authorized to surrender to Sellers, upon demand, after proof of written notice to Buyers, all of the documents specified in the preceding paragraphs, thereby terminating the escrow.

EXECUTED IN TRIPPLICATE, ONE COPY OF WHICH WAS DELIVERED TO AND RETAINED BY THE BUYERS, this 16th day of April, 1984.

Frederick B. Goodpaster  
FREDERICK B. GOODPASTER

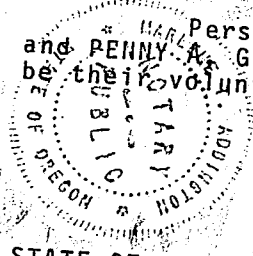
Penny A. Goodpaster  
PENNY A. GOODPASTER  
Sellers

Martin L. Boyer  
MARTIN L. BOYER

Glenda L. Boyer  
GLENDA L. BOYER  
Buyers

STATE OF OREGON )  
County of Klamath ) ss.

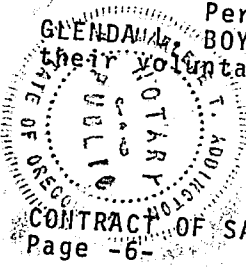
Personally appeared the above-named FREDERICK B. GOODPASTER and PENNY A. GOODPASTER and acknowledged the foregoing instrument to be their voluntary act and deed.



Dorlene J. Addington  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 3-22-85

STATE OF OREGON )  
County of Klamath ) ss.

Personally appeared the above-named MARTIN L. BOYER and GLENDA L. BOYER and acknowledged the foregoing instrument to be their voluntary act and deed.



Dorlene J. Addington  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 3-22-85

Calculator  
Deli Case  
Safe  
Baskets  
Cash Register  
Gas Pump  
Pepsi Machine  
Refrigerator  
Meat Slicer  
Shelving  
Store Lights  
Swamp Cooler  
Bug Lights  
Renovation  
Walk in Cooler  
Remodeling  
2 Gas Tanks  
Air Compressor  
Scale  
Store Building  
Garage  
Restrooms  
Paving  
Sign  
Gas Pump  
Display Shelves  
Counter  
Fence  
2 Quartz Heaters

EXHIBIT "A"

- 6331

EXHIBIT "B"  
SALABLE INVENTORY

|           |                    |
|-----------|--------------------|
| Gas       | \$ 687.69          |
| Groceries | \$11,854.30        |
| Total     | <u>\$12,541.99</u> |



*Return: A.T.C.*

STATE OF OREGON, )  
County of Klamath )  
Filed for record at request of

on this 17th day of April A.D. 19 84  
at 11:21 o'clock A M, and duly  
recorded in Vol. M84 of Deeds  
Page 6324

EVELYN BIEHN, County Clerk

By Wm Smith Deputy

Fee 32.00