

Aspen Title #M-31109  
LAND SALE CONTRACT

THIS CONTRACT, made and entered into this \_\_\_\_\_ day of June, 1987, by and between CARTER-JONES COLLECTION SERVICE, INC., an Oregon corporation, hereinafter called Seller; MONTI'S CONSTRUCTION, INCORPORATED, an Oregon corporation, hereinafter called Buyer; and MARTIN I. MONTI, hereinafter called Guarantor (it being understood that the singular shall include the plural if there are two or more sellers and/or buyers).

W I T N E S S E T H:

Seller agrees to sell to the Buyer and the Buyer agrees to buy from the Seller for the price and on the terms and conditions set forth hereafter all of the following described property and improvements legally described as:

Lot B, Block A, Nichols Addition to the City of Klamath Falls, County of Klamath, State of Oregon.

SUBJECT TO contracts and/or liens for irrigation and/or drainage, the schedule of exclusions from coverage, together with any schedules contained in standard title policies, reservations, easements, restrictions and rights-of-way of record and those apparent on the land.

ALSO SUBJECT TO rights of the public in and to any portion of the herein described property lying within the boundaries of roads or highways.

ALSO SUBJECT TO regulations, including levies, liens and utility assessments of the City of Klamath Falls.

ALSO SUBJECT TO conditions, restrictions as shown on the recorded plat of Nichols Addition to the City of Klamath Falls.

ALSO SUBJECT TO unpaid real property taxes for the years 1983-84, 1984-85, 1985-86, and 1986-87, all of which said real property taxes the Buyer agrees to assume and to pay, in addition to the purchase price set forth hereinafter, which such payment shall be completed before any of such taxes shall become subject to foreclosure; but in any event such payment shall be completed within two (2) years of the date of the within contract.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES.

It is mutually agreed as follows:

1. **Possession:** Buyer shall be entitled to possession of the property as of the date hereof;
2. **Prepayment Privileges:** After the date hereof, Buyer shall have the privilege of increasing any payment or prepaying the entire balance provided for hereinafter with interest due thereon to the date of payment;
3. **Payment of Liens and Taxes:** Buyer shall pay promptly all indebtedness incurred by their acts which may become a lien or purported lien, upon said property, and shall regularly and

before the same shall become delinquent, pay all taxes, including adjustment of same for any reason, assessments, liens, and encumbrances of whatsoever kind affecting said property after this date, provided, ~~all such taxes, assessments and charges for the current year shall be pro-rated as of the date hereof,~~ and in the event Buyer shall fail to so pay, when due, any such matters or amounts required by Buyer to be paid hereunder, or to procure and pay seasonably for insurance, Seller may pay any or all such amounts and any such payment shall be added to the purchase price of said property on the date such payments are made by Seller and such amount shall bear interest at the same rate as provided herein, without waiver, however, of any right arising to Seller for Buyer's breach of contract, and, in such event or events, the escrow holder is hereby directed and authorized to so add such amounts to the contract balance upon being tendered a proper receipt therefore;

**4. Insurance:** Buyer shall keep any buildings on such property insured against loss or damage by fire or other casualty in an amount of not less than the full insurable value thereof, with loss payable to the parties hereto, and the interests herein reflected, if any, all as their interests appear at the time of loss; all uninsured losses shall be borne by the Buyer on or after the date Buyer becomes entitled to possession; Buyer shall furnish Seller proof of such insurance coverage;

**5. Waste Prohibited:** Buyer agrees that all improvements now located or which shall hereafter be placed on the property, shall remain a part of the real property and shall not be removed at any time prior to the expiration of this agreement without the written consent of Seller. Buyer shall not cut or remove any timber, trees or shubbery without Sellers prior written consent. Buyer shall not commit or suffer any waste of the property, or any improvements thereon, or alteration thereof, and shall maintain the property, improvements and alterations thereof, in good condition and repair, provided, Buyer shall not make or cause to be made any major improvements or alterations to the property without first obtaining the written consent of Seller;

**6. Transfer of Title:** Seller shall upon the execution hereof make and execute in favor of Buyer a good and sufficient deed conveying said property free and clear of all liens and encumbrances, except as provided hereinbefore, and will place said document, together with one of these agreements, in escrow at ASPEN TITLE & ESCROW, INC., 600 Main Street, Klamath Falls, Oregon 97601, shall enter into written escrow instructions in form satisfactory to said escrow holder and the parties hereto, instruct said escrow holder that when, and if, Buyer shall have paid the balance of the purchase price in accordance with the terms and conditions of this contract, said escrow holder shall deliver said documents to Buyer, but in case of default by Buyer said escrow holder shall, on demand, surrender said documents to Seller;

**7. Tax Payment Procedures:** Until a change is requested, all tax statements shall be sent to the address designated by Seller hereinafter. Seller shall then forward such tax statements to Buyer who shall be required to pay all of the unpaid real property taxes within two (2) years as is more fully set forth hereinabove; and thereafter Buyer shall be required to pay all real property taxes billed and provide proof of such payment to Seller within thirty (30) days of the date of Seller's mailing to the said tax statement.

**8. Property Taken "As Is":** Buyer and Guarantor certify that this contract of purchase is accepted and executed on the basis of their own examination and personal knowledge of the

premises and opinion of the value thereof; that Buyer and Guarantor have made a personal inspection of the property so as to determine its acceptability; that no attempt has been made to influence their judgment; that no representations as to the condition or repair of said premises have been made by Seller or by an agent of Seller; and that Buyer and Guarantor take said property and the improvements thereon in the condition existing at the time of this agreement, with no express, implied or other warranties given by Seller;

9. **Consent to Assignment:** Buyer shall not assign this agreement, his rights thereunder, or in the property covered thereby without the written consent of Seller. Such consent shall not be unreasonably withheld. In the event the within described property, any part thereof, any interest therein (whether legal or equitable) is sold, agreed to be sold, conveyed, assigned or alienated by the Buyer without having first obtained the written consent or approval of the Seller, then, at the Seller's option, all obligations secured by this instrument, irrespective of the maturity date expressed herein, shall become immediately due and payable;

10. **Time of Essence:** It is understood that and agreed between the parties that time is of the essence of this contract;

11. **Default:** In case Buyer shall fail to make the payments aforesaid, or any of them punctually and upon the strict terms and at the times above-specified or fail to keep any of the terms or conditions of this agreement, then the Seller at his option shall have the following rights;

(a) To declare this contract null and void, after giving such notice as is then required by Oregon Revised Statutes; and/or

(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 withdraw said deed and other documents from the escrow and/or;

(d) To foreclose this contract by suit or by strict foreclosure in equity.

In any of such cases, all rights and interest created or then existing in favor of the Buyer as against the Seller hereunder shall utterly cease and determine, and the right to the possession of the premises above-described and all other rights acquired by the Buyer hereunder shall revert to and revest in said Seller without any act of re-entry, or any other act of said Seller to be performed and without any right of Buyer of return, reclamation or compensation for monies paid on account of the purchase of said property 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 said Seller as the agreed and reasonable rent of said premises up to the time of such default. The said Seller, in case of such default, shall have the right immediately, or any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all of the improvements thereon; and alternatively, Buyer shall have the right to apply to the Court for appointment of a receiver as a matter of right and nothing in this contract shall preclude appointment of the Seller as such receiver;

12. **Abandonment:** Should Buyer, while in default, permit the premises to become vacant for a period in excess of 20 days, Seller may take possession of same individually or by appointment of a receiver by self-help or by Court order for the purpose of protecting and preserving the property and his security interest herein, and in the event possession is so taken by Seller he shall not be deemed to have waived his right to exercise any of the foregoing rights;

13. **Attorney 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 as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law;

14. **No Waiver:** Buyer further agrees that failure by Seller at any time to require performance by Buyer of any provision hereof shall in no way affect Seller's right hereunder to enforce the same, nor shall any waiver by Seller of any breach of any provision hereof be held to be a waiver of any succeeding breach of any such provision, or as a waiver of the provision itself;

15. **Binding on Successors:** This agreement shall bind and inure to the benefit of, as the circumstances may require, the parties hereto and their respective heirs, executors, administrators, successors and assigns, subject to the foregoing;

16. **Purchase Price and Payments:** The purchase price for the interest conveyed is the sum of SIXTEEN THOUSAND FIVE HUNDRED AND NO/100THS DOLLARS (\$16,500.00), payable as follows:

(a) Buyer shall be required to pay one-half of closing costs, escrow fees, recordation costs, attorney fees, as well as all tax and utility prorates, all of which sums are to be paid at the time of closing, and do not constitute a deduction from principal; and

(b) The remaining entire purchase price in the amount of SIXTEEN THOUSAND FIVE HUNDRED AND NO/100THS DOLLARS (\$16,500.00) shall be payable in monthly installments of TWO HUNDRED AND NO/100THS DOLLARS (\$200.00) including interest at the rate of ten percent (10%) per annum on the unpaid balance, which said sum includes principal and interest; together with the applicable collection escrow fee; the first of such payments shall be payable on the first day of ~~July~~ <sup>August</sup>, 1987, with a further and like installment payable on the first day of each and every month thereafter until the payment due on ~~July~~ <sup>August</sup> 1, 1989. Commencing with the payment due ~~July~~ <sup>August</sup> 1, 1989, the then remaining unpaid balance shall be payable in monthly installments of SEVEN HUNDRED FIFTY AND NO/100THS DOLLARS (\$750.00) including interest at the rate of ten percent (10%) per annum on the unpaid balance, which said sum includes principal and interest; together with the applicable collection escrow fee; with a further and like installment payable on the first day of each and every month thereafter, until the full amount of principal and interest shall have been paid in full;

17. **Guaranty:** In consideration of the extension of credit and the granting of possession of the real property referred to by the within instrument, the undersigned, Martin I. Monti referred to herein as Guarantor, absolutely and unconditionally guarantees the full, prompt and faithful payment as due of any and all indebtedness of Buyer to Seller, including any indebtedness which may now or hereafter be acquired in compliance with

the terms and provisions of the Land Sale Contract. Martin I. Monti absolutely and unconditionally further guarantees the full, prompt and faithful performance by Buyer of any and all terms, conditions and covenants required to be performed by the Buyer under the within instrument, or any other instrument or obligation evidencing or securing Buyer's responsibility to Seller under the within instrument. It is agreed that:

- (a) This is a continuing guaranty; and
- (b) This guaranty shall be binding upon the undersigned and the undersigned's heirs, executors and administrators; and
- (c) The undersigned expressly waives presentment, demand, protest or notice of any kind, and hereby consents to any extension of time of payment, performance, or renewal or modification of any instrument or obligation or indebtedness guaranteed; and
- (d) This guaranty includes, without limitation (1) the full, prompt and faithful payment of the amount of any damages or deficiencies suffered or incurred by Seller by reason of any default by Buyer in connection with any indebtedness or as provided in any instrument evidencing or securing such indebtedness resultant from the requirement of performance of the terms and conditions of the within Land Sale Contract, and (2) the full, prompt and faithful payment of all attorney's fees, costs and expenses reasonably incurred by Seller in the enforcement of this guaranty, and the terms and provisions of the within Land Sale Contract; and
- (e) No amendment, refinancing, extension or transfer of any instrument, obligation, or indebtedness guaranteed, or waiver of variation of any of the terms and conditions or change in the time or the amount of payment due, will affect the liability of Guarantor under this guaranty; and
- (f) All rights of Seller shall inure to the benefit of Seller's successors or assigns.

20. **Notice:** No declaration of default pursuant to paragraph 11 hereinabove shall be effective unless Seller shall have first sent to Buyer and Guarantor a notice in writing evidencing Seller's intention to declare such default, which said notice shall afford Buyer and Guarantor ten (10) days from the date of mailing of such notice to remedy the breach complained of. Notice, when in writing, shall be effective when mailed to the addresses as follows:

Seller: CARTER-JONES COLLECTION SERVICE, INC.  
1143 Pine Street  
Klamath Falls, OR 97601

Buyer: MONTI'S CONSTRUCTION, INCORPORATED  
~~17817 Freight Road Lane~~ 1504 Oregon Ave. *mt*  
(Keno)  
Klamath Falls, OR 97601

Guarantor: Martin I. Monti  
17817 Freight Road Lane  
Klamath Falls, OR 97601

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this 29<sup>th</sup> day of June, 1987.

## SELLER:

CARTER-JONES COLLECTION SERVICE, INC.,  
an Oregon corporation

By: Leonard D. Jones  
President

## BUYER:

MONTI'S CONSTRUCTION, INCORPORATED,  
an Oregon corporation

By: [Signature]  
President

## GUARANTOR:

[Signature]  
Martin I. Monti

STATE OF OREGON/County of Klamath ) ss.

PERSONALLY appeared Leonard D. Jones, who being duly sworn, did say that he is the said President of CARTER-JONES COLLECTION SERVICE, INC., and that the seal affixed to said instrument is the corporate seal of said corporation, and that the said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and acknowledged said instrument to be its voluntary act and deed.

Dated before me this 29<sup>th</sup> day of June, 1987.

Darlene I. Adlington  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 3-22-89

STATE OF OREGON/County of Klamath ) ss.

PERSONALLY appeared Martin I. Monte, who being duly sworn, did say that he is the said President of MONTI'S CONSTRUCTION, INCORPORATED, and that the seal affixed to said instrument is the corporate seal of said corporation, and that the said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and acknowledged said instrument to be its voluntary act and deed.

Dated before me this 29<sup>th</sup> day of June, 1987.

Darlene I. Adlington  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 3-22-89



STATE OF OREGON/County of Klamath ) ss.

PERSONALLY APPEARED the above-named MARTIN I. MONTI and acknowledged the foregoing instrument to be his voluntary act and deed.

Dated before me this 29<sup>th</sup> day of June, 1987.

*W. Darlene L. Addington*  
 NOTARY PUBLIC FOR OREGON  
 My Commission Expires: 3-22-89

Grantor's Name and Address:  
 CARTER-JONES COLLECTION  
 SERVICE, INC.  
 1143 Pine St.  
 Klamath Falls, OR 97601

STATE OF OREGON )  
 ) ss.  
 County of Klamath )

Grantee's Name and Address:  
 MONTI'S CONSTRUCTION,  
 INCORPORATED  
 17817 Freight Road Lane  
 Klamath Falls, OR 97601  
After Recording, Return To:

I CERTIFY that the within instrument was received for record on the 29<sup>th</sup> day of June, 1987, at 3:38 o'clock p.m., and recorded in Book M87 on Page 11357 or as File/Reel number 76292, Record of Deeds of said County.

*Aspen Title*

Until a Change is Requested  
Tax Statements Should be  
Sent To: Monti's Construction  
1504 Oregon Ave.  
City, 97601

Evelyn Biehn, County Clerk  
Recording Officer

By: *Pam Smith*

Fee: \$29.00