

WIC 84436-MS

2009-003369

Klamath County, Oregon



00062100200900033690090091

03/09/2009 02:34:58 PM

Fee: \$61.00

RECORDING COVER SHEET

THIS COVER SHEET HAS BEEN PREPARED
BY THE PERSON REPRESENTING THE
ATTACHED INSTRUMENT FOR RECORDING.
ANY ERRORS IN THIS COVER SHEET DO NOT
AFFECT THE TRANSACTION(S) CONTAINED
IN THE INSTRUMENT ITSELF.

After Recording, Return To:

Timothy M. Howard
1575 Horton Road
Dairy, Oregon 97625

1. Name(s) of the Transaction(s):

Contract of Sale

2. Direct Party (Grantor):

Paul Hoefler and Joe R. Hoefler, doing
Business as Hoefler Brothers

3. Indirect Party (Grantee):

Timothy Howard and Lisa Howard

4. True and Actual Consideration Paid:

\$240,000.00

5. Legal Description:

See attached Exhibit "A" for legal Description

** Document being Re-Recorded to correct full legal description
of property being sold, "RERECORDED TO CORRECT CONTRACT OF SALE.
PREVIOUSLY RECORDED IN BOOK 2008, AND PAGE 009592."

WIC 84436-MS

CONTRACT OF SALE

00049115200800095920070079

07/01/2008 01:26:07 PM

Fee: \$51.00

Returned @ Counter

THIS AGREEMENT between Paul Hoefler and Joe R. Hoefler, doing business as Hoefler Brothers, of 407 Bliss Road, Bonanza, Oregon 97623, as seller, hereinafter called Seller, and Tim Howard and Lisa Howard, husband and wife, of 1575 Horton Road, Dairy, Oregon 97625, as purchaser, hereinafter called Purchaser:

1. Property. Purchaser agrees to purchase from Seller that certain real property located in Klamath County, Oregon, described as follows:

Township 38 South, Range 11½ East of the
Willamette Meridian,

Section 34: S½SE¼, S½NE¼SE¼, S½NW¼SE¼,

~~Section 36:--SE¼NE¼--~~ **

2. Purchase Price. In consideration therefor, Purchaser will pay to Seller the sum of \$240,000.00, of which sum \$40,000.00 shall be paid upon the execution of this agreement. The remaining \$200,000.00 shall be paid on or before March 1, 2009. No interest shall accrue on the unpaid principal balance.

3. Possession. The parties acknowledge that Purchaser is already in possession of the property pursuant to a Lease Agreement with Seller.

4. Property Taxes and Encumbrances. Property taxes shall be prorated between the parties as of July 1, 2008. Thereafter, it shall be the responsibility of Purchaser to pay all taxes, liens, assessments and subsequent encumbrances

levied against the property when due and prior to delinquency.

5. Assignment and Successors. This contract cannot be assigned or subcontracted, in whole or in part, by Purchaser without first obtaining the written consent of Seller; provided, however, that Seller shall not unreasonably withhold such consent. In the event this contract, or any part thereof, is assigned or subcontracted by Purchaser without first having obtained the written consent of Seller, Seller shall have the right to declare the entire unpaid balance of the purchase price immediately due and payable.

Subject to the above, this agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors and assigns.

6. Waiver and Time of the Essence. Time is of the essence, and waiver of a default hereunder shall not be construed as a waiver or evidence of any intention to waive any other default hereunder unless each such default is specifically and not impliedly waived by the other party.

7. Default. A default shall occur if:
- (A) Purchaser fails to make any payment when due.
 - (B) Purchaser fails to perform any other obligation imposed by this contract and does not correct or commence correction of such failure within thirty (30) days after receipt of written notice from

Seller specifying the manner in which Purchaser is in default.

- (C) Purchaser becomes insolvent, a receiver is appointed to take possession of all or a substantial part of Purchaser's properties, Purchaser makes an assignment for the benefit of creditors or files a voluntary petition in bankruptcy, or Purchaser is the subject of an involuntary petition in bankruptcy which is not dismissed within 90 days.

8. Remedies of Seller. In case of default by Purchaser, Seller shall be entitled to the rights granted by law, including but not limited to any judicial or nonjudicial foreclosure, forfeiture or remedy, including the Forfeiture Under Land Sales Contracts presently set forth in Chapter 93 of the Oregon Revised Statutes, as well as the following:

- (A) To declare forfeited all sums of money previously paid by Purchaser, and to retake possession of the property, with all money previously paid to be declared reasonable rent for the property from the date of possession to the time of such forfeiture and as liquidated damages for Purchaser's failure to keep this agreement according to its terms.
- (B) To sue Purchaser for any installment that may be due plus interest thereon.

(C) To sue Purchaser in equity to compel the specific performance of this agreement.

(D) To declare the entire unpaid balance due and payable at once.

9. Attorney's Fees. In any suit or action brought on this contract or in relation thereto, the prevailing party in such suit or action shall be entitled to recover, in addition to all other sums allowed by law, such sums as the court may adjudge to be reasonable as attorney's fees, both in the lower court and on appeal, whether such suit or action is for enforcement, rescission or novation of any or all of the provisions herein.

10. Examination of Property. Purchaser has examined the property herein described, is familiar with the same and is entering into this agreement based upon Purchaser's examination thereof and is not in any manner relying upon any representations made by Seller, Seller's agents or representatives. Purchaser acknowledges that Purchaser is purchasing the property in its "as is" condition.

11. Statutory Notice to Purchaser. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS

30.930 IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER SECTIONS 2, 3 AND 5 TO 22 OF CHAPTER 424, OREGON LAWS 2007 (MEASURE 49 (2007)). THIS INSTRUMENT DOES 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER SECTIONS 2, 3 AND 5 TO 22 OF CHAPTER 424, OREGON LAWS 2007 (MEASURE 49 (2007)).

12. Zoning. Purchaser acknowledges having had an opportunity to review the zoning laws applicable to the property being purchased by Purchaser. This instrument will not allow use of the property described in this instrument in violation of applicable land use laws and regulations.
13. Farm-Use Value. Purchaser acknowledges that the property is presently used for agriculture purposes and as such is entitled to farm-use value for real property tax

purposes. In the event the property is in fact under farm-use deferral, if any additional taxes or assessments are levied against the property as a result of the loss of such farm-use deferral, the obligation to pay such additional taxes or assessments shall be Purchaser's.

14. Water Rights. The parties acknowledge that the property being conveyed has a surface water right for irrigation purposes within the Horsefly Irrigation District. The parties further acknowledge that it is the obligation of Seller to provide Purchaser with the pertinent information in connection with all such water rights on or before closing.

15. Covenants of Purchaser. Purchaser covenants and agrees:

(A) To maintain the property in as good condition as it now is, normal wear and tear excepted.

(B) To allow Seller, Seller's agents and representatives, to come upon the property at reasonable times and in a reasonable manner to make an inspection of the property.

16. Legal Representation. The parties acknowledge that this agreement was drawn by James C. Lynch, Attorney at Law, Lakeview, Oregon, acting solely as attorney for Purchaser.

17. Title Insurance. Upon the execution of this agreement, Seller shall obtain within a reasonable time at Seller's cost a purchaser's policy of title insurance showing the title of

Seller to be merchantable and subject only to those standard exceptions contained in title insurance policies and those easements, reservations, restrictions or rights-of-way of record or apparent on the ground.

18. Special Warranty Deed. Upon full and final payment being made by Purchaser, Seller shall deliver to Purchaser a properly executed warranty deed conveying the premises to Purchaser subject only to those exceptions set forth herein.

19. Closing Escrow. Closing shall occur at a title company in Klamath County, Oregon. All costs in connection with such closing shall be borne by the parties equally. The parties agree to execute any and all documents in connection therewith.

SIGNED IN TRIPLICATE on the dates set forth hereafter.

<u>Paul Hoefler</u> <u>6-24-08</u> Paul Hoefler date	<u>Tim Howard</u> Tim Howard date
<u>Joe R. Hoefler</u> <u>6-24-08</u> Joe R. Hoefler date	<u>Lisa Howard</u> Lisa Howard date

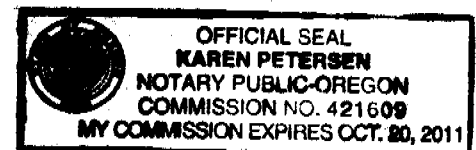
SELLERS

PURCHASERS

State of Oregon,
County of Klamath

On this 24 day of June, 2008, personally appeared before me Paul Hoefler and Joe R. Hoefler and acknowledged the foregoing instrument to be his voluntary act and deed.

My commission Expires: Oct. 20, 2011 Before Me:



Karen Petersen
Notary Public for Oregon

**** EXHIBIT "A"**
LEGAL DESCRIPTION

Parcel 1:

The S1/2 of the SE1/4 and the S1/2 of the NE1/4 of the SE1/4 of Section 34, Township 38 South, Range 11 1/2 East of the Willamette Meridian, Klamath County, Oregon

Parcel 2:

The North 1/2 of Government Lots 1 and 2 of Section 3, Township 39 South, Range 11 1/2 East of the Willamette Meridian, Klamath County, Oregon.

SAVE AND EXCEPTING all that portion of the North 1/2 of said Government Lot 2 lying Westerly of the County Road as located across said lot on April 6, 1957

Parcel 3:

The S1/2 of the NW1/4 of the SE1/4 of Section 34, Township 38 South, Range 11 1/2 East of the Willamette Meridian, Klamath County, Oregon