10157

## CONDITIONAL SALES CONTRACT AND REAL ESTATE CONTRACT

parrell W. Hutton and Danette W. Hutton, husband and wife, hereinafter called Sellers, hereby agree to sell, and RIVERSIDE GROCERY & CAFE, INC., a Washington Corporation, hereinafter called Purchaser, agrees to purchase upon the terms and conditions hereinafter contained, the following described real property situated in Skamania County, Washington, to-wit:

The legal description as set forth in Exhibit "R", attached hereto and incorporated herein by reference.

and the following described personal property. to-wit:

Trade name, goodwill, and all fixtures and equipment now used in the operation of the Riverside Grocery & Cafe. A list of the personal property is attached hereto and incorporated herein by reference as Exhibit "A".

The purchaser hereby agrees not to assign or sell this contract without first obtaining the written consent of Sellers, which consent shall not be unreasonably withheld, provided the Purchasers are financially responsible.

The purchase price for said real and personal property shall be the sum of ONE HUNDRED THIRTY-THREE THOUSAND AND NO/100 (\$133,000.00) DOLLARS, broken down as follows:

Real Estate

\$ 98,000.00

FEB 1077
STANDARD COUNTY
STAND

Business, trude name and Covenant Not to Compete

15,000.00

Fixtures & Equipment

20,000.00

451.5

TRANSACTION EXCISE TAX

FEB 2 3 1977, Amount Paid

Skamenia County Trgssurer
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The sum of THIRTY-ONE THOUSAND TWO HUNDRED SEVENTY-NINE and 88/100 (\$31,279.88) Dollars has been paid on the business. real estate, trade name, covenant not to compete, equipment, and fixtures and the unpaid balance of ONE HUNDRED ONE THOUSAND SEVEN HUNDRED TWENTY and 12/100 (\$101,720.12) Dollars shall bear interest at the rate of EIGHT (8%) per cent per annum (computed and payable monthly) that the sum of EIGHT HUNDRED TEN and NO/100 (\$810.00) Dollars or more shall be paid upon said contract upon the \_\_\_lst\_\_day of every month hereafter, commencing on the \_\_\_\_ lst day of March, 1977; payments so made shall be applied first upon interest and the balance thereof upon principal. In addition to the monthly payment of \$810.00 on the principal and interest, Purchasers agree to pay an amount equal to 1/12 of the yearly real estate taxes as assessed on the real property by the Skamania County Assessor. additional payment in the sum of \$6,200.00, shall be made on the 1st day of November, 1977, on the principal. The total balance due and owing on the principal shall be payable on November 11, 1987, in a balloon payment.

In addition to the above described real estate and equipment, the Purchasers shall pay at the time a closing, the wholesale price of all inventory in cash.

The Seller has delivied, or agrees to deliver within 15 days of the the of closing, a purchaser's policy of title insurance in standard form, or a commitment therefore, issued by a reliable insurance company.

All taxes and insurance and licenses will be pro-rated as of the date of closing.

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Upon payment of the total pruchase price, the Sellers shall make, execute and deliver to the Purchasers good and sufficient warranty deed for said real property and a bill of sale to said personal property. Said warranty deed and bill of sale shall be subject to the terms and provisions hereof.

Purchaser shall go into the immediate possession of said real property and equipment and fixtures and any loss due to fire, destruction from any cause, or condemnation shall be borne by said Purchaser.

Purchaser shall pay before delinquency all taxes, both real and personal hereafter accr.ing or becoming due and payable after he takes possession.

by an insurer approved by the Sellers against fire, theft and other hazards designated at any time by Sellers, in an amount equal to the full insurable value thereof or to all sums secured hereby, with such form of lost payable clause as designated by and in favor of Sellers, and will deliver the policies and receipts showing payment of premiums to the Sellers. In the event of loss, Sellers shall have full power to collect any and all insurance upon the property and to apply the same at its option to any obligation secured hereby, whether or not matured, or to the restoration or repair of the property. Sellers shall have no liability whatsoever for any loss that may occur by reason of the omission or lack of coverage of any such insurance.

Purchasers shall keep and maintain the improvements upon said real property in a good and satisfactory state of repair and shall not permit undue depreciation or deterioration thereof and shall also keep and maintain the personal property in a satisfactory state of repair; that should any of said personal property be replaced by property of a similar kind, the same shall become subject to the terms and provisions hereof.

Should the Washington State Liquer Control Board not approve transfer or re-issue of license now held by Sellers, the Purchaser may terminate the within agreement by giving notice thereof within three (3) days after notice of rejection.

Title to the personal property described above, together with all added or substituted equipment, parts, accessories and improvements thereto is retained by Sellers for security and will pass to the Purchasers when the purchase price has been paid in full.

Purchasers acknowledge delivery to and acceptance by him of the property described above, and that said goods are in good order.

Sellers have warranted to Purchaser that they have no obligations outstanding arising from the business. Purchaser agrees that it is not necessary to file a bulk sales affidavit which reserves the right to pay any obligation which he may become liable for on account of the bulk sale affidavit procedure not having been followed. If suit is brought against Purchaser on this account, the defense shall be tendered to Sellers, who in any event shall pay the costs including attorneys' fees of said defense. If judgment is rendered against Purchaser, on paying the same, he may deduct the amount of the judgment and expenses from the remaining balance herein.

Furchaser agrees to comply with any governmental regulation affecting the use of the property and will not waste, injure nor destroy the property, nor use nor permit the use of the property in any unlawful manner. Purchaser represents and agrees that the primary use of the property is and will be for business use.

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Purchaser will not create nor permit the existence of any lien or security interest other than that created hereby on the property without the written consent of Sellers.

purchaser will keep the property in good repair. Sellers may inspect the property at reasonable times and intervals and may for this purpose enter the premises upon which the property is located.

Without the prior written consent of Sellers, Purchaser will not remove the property from the State of Washington, and Purchaser will not sell, assign, nor lease the property or any interest therein.

sellers are not required to, but may at their option, pay any tax, assessment, insurance premium, expense repair or other charges payable by Purchaser and any filing or recording fees, and any amount so paid, with interest thereon at the maximum rate permitted by law from date of payment until repaid shall be secured hereby and shall be repayable by Purchaser upon demand. The rights granted by this paragraph are not a waiver of any other rights of Sellers arising from breach of any of the covenants hereby by Purchaser.

The Sellers agree not to compete in any manner with Purchaser within a ten mile radius during the next ten years.

This contract shall not be qualified or supplemental by course of dealing. No waiver or modification by Sellers of any of the terms or conditions hereof shall be effective unless in writing signed by Sellers. No waivers nor indulgence

by Sellers as to any required performance by Purchaser shall constitute a waiver as to any subsequent required performance or other obligations of Purchaser hereunder.

Time is of the essence in this contract and in any of the following events, hereinalter called "Events of Default," to-wit:

- (a) Any failure to pay when due the full amount of any payment of principal, interest, taxes, insurance premiums or other charges which are or may be secured hereby; or
- (b) Any failure to perform as required by any covenant or agreement herein; or
- (c) The falsity of any representation by Purchaser herein or in any credit application or financial statement given by Purchaser to Sellers as a basis for any extension of credit secured hereby; or
- (d) If the property should be seized or levied upon under any legal or governmental process against Purchaser or against the property; or
- of a petition in bankruptcy, either voluntary or involuntary, or in any other proceeding under the federal bankruptcy laws; or makes an assignment for the benefit of creditors; or if the Purchaser is named in or the property is subjected to a suit for the appointment of a receiver; or
- (f) Loss, substantial damage to, or destruction of any portion of the property; or

- (g) Entry of any Judgment against Purchaser; or
- (h) Dissolution or liquidation of the Purchaser; or
- (i) The Sellers deem themselves insecure, then and in any of such events of default, the entire amount of the indebtedness secured hereby shall then or at any time thereafter, at the option of Sellers, become immediately due and payable without notice or demand, and Sellers shall have an immediate right to pursue the remedies set forth in this contract.

In the event of a default hereunder, Sellers shall have all remedies provided by law; and without limiting the generality of the foregoing, shall be entitled as follows:

- (a) Purchaser agrees to put Sellers in possession of the property upon demand; and
- (b) Sellers are authorized to enter any premises where the property is situated and take possession of said property without notice or demand and without legal proceedings; and
- (c) At the request of the Sellers, Purchasers will assemble the property and make it available to Sellers at a place designated by Sellers which is reasonably convenient to both parties; and
- (d) Purchaser agrees that a period of five (5) days from the time notice is sent, by first class mail, or otherwise shall be a reasonable period of notification of the sale or other disposition of the property; and
- (e) Purchaser agrees that any notice or other communication by Sellers to Purchaser shall be sent to the wailing address of the Purchaser last known to the Sellers; and

- Purchaser agrees to pay on demand the amount of all expenses reasonably incurred by Sellers in protecting or realizing on the property. In the event that this contract or any obligation secured by it is referred to an attorney for protecting or defending the priority of Seller's interest or for collection or realization procedures Purchaser agrees to pay a reasonable attorneys' fee, including fees incurred in both trial and appellate courts, or fees incurred without suit, and expenses of title search and all court costs and costs of public officials. The sums agreed to be paid in this subparagraph shall be secured hereby; and
- (g) If Sellers dispose of the property, Purchaser agrees to pay any deficiency remaining after application of the net proceeds to any indebtedness secured hereby.

The Purchaser acknowledges that he has had complete opportunity to and has, in fact, investigated the business and property hereby sold and that he is purchasing the same voluntarily relying upon his own judgment as an prospective volume, income and profits. This sale is based upon no representations other than as set forth and contained in this contract.

DATED this 26 day of January, 1977.

SELLERS:

DARRELL W. HUTTON

DANETTE W. HUTTON

PURCHASERS:

RIVERSIDE GROCERY & CAFE, INC.

BY: I hastot a Fuller

THEODORE R. FULLER

Character Atuella

STATE OF WASHINGTON County of Clark

THIS IS TO CERTIFY that on the \_\_\_\_\_ day of January, 1977, personally appeared before me DARRELL W. HUTTON and DANETTE W. HUTTON, husband and wife, to me known to be the individuals described in and who executed the within and foregoing instrument and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year in this certificate last above written.

> State of Washington, residing at Vancouver.

STATE OF WASHINGTON )
) ss
County of Clark )

THIS IS TO CERTIFY that on the \_\_\_\_\_\_day of January,
1977, personally appeared before me THEODORE R. FULLER and
CHARROL A. FULLER, known to me to be the individuals described
in and who executed the within and foregoing instrument
individually, and as the President and Secretary respectively
of RIVERSIDE GROCERY & CAFE, INC., a Washington Corporation,
and they acknowledged that they signed the same as their free
and voluntary act and deed, for the uses and purposes therein
mentioned.

GIVEN under my hand and official seal the day and year in this certificate last above written.

Notary Public in and for the State of Washington, residing at Vancouver.

One National Cash Register

BOOK 72 PAGE 305

One Burroughs Adding Machine # B31084

One 8 ft. Super Cold Meat Case and Compressor # D6597

One Scale 15 1b. capacity # 509487

One Koldmaster Weber Cabinet - 8 ft. # IR22484

One Koldmaster Weber Cabinet - 8 ft. # IR22518

One Perfecold Cabinet Cooler # 5555

One 9 ft. Hussman Dairy Cooler # s/N A 460013

One 8 ft. Supercold Vegetable Case # 1686

One U.S. Slicing Machine # 520 HC 867

One Tokheim Dual Product Gas Pump # S/N4-34830

One McCaskey Safe # 284427

One Air Compressor to Tank

Islands and Shelves

' (All above Freezer units are self-contained)

One Fountain Freezer

One Ice Maker (Nice CWonger)

One Taylor Ice Gream Macrine # 74711

One Grill # 15323.1

One Chicken Pryer # 32/621

One French Fryer - Star Mite # 1102234

One Coffee Maker

Misc. shelving, tab. es, chairs, and equipment

One Reach in ice cream freezer

Two Pool tables coin-op

One 10x20 walk in and reach in cooler

One NCR cash register

One under counter amler

One McCaskey cash register

One beer tap

Miscellaneous kitchen utensils

One Orange Counterbar and atcods

One side by pide hefrightator - Fre was

One Cash Register (National)

Exhibit A

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## EXHIBIT B

The following described real property located in Skamania County, State of Washington, to-wit:

TRAINING TIT MOBILE WAY

A tract of land located in Section 6, Township 1 North, Range 197 5 E.W.M., and in Section 31, Township 2 North, Range 5 E.W.M., and described as follows:

Beginning at a point which is an iron pipe in the center line, of a 30 foot road, said pipe being 198.4 feet south and 159 feet west of the Section corner common to Sections 31 and 32. Township 2 North, Range 5 E.W.M., and Sections 5 and 6. Township 1 North. Range 5 E.W.M., thence South 02° cast 351.9 feet to a iron pipe on the river bank; thence following the meanderings of the Mashougal River North 31°22' West 344 feet to a point; thence North 42°05' West 192 feet to a point; thence North 51°25' West 106.1 feet to a point; thence North 64°59' West 174 feet to a point; thence South 67°54' West 160.1 feet to a point in the center line of the bridge over the Mashougal River; thence following the center line of the highway North 08°31' East 137.8 feet to a point 1n the road intersection; thence following the center line of the county road North 48°05' East 389.2 feet to an iron pipe at the intersection of a 30 foot road; thence following the center line of said 30 foot road South 66°24' East 132.1 feet to a point; thence South 40°41' East 171.7 feet to a point; thence South 05°17' East 200.2 feet to a point; thence South 34°42' East 216.4 feet to the point of beginning;

EXCEPT that portion thereof described as follows: Beginning at a point marked by an iron pipe which was formerly the center line of a 30 foot road, said pipe being 198.4 feet South and 159 feet West of the section corner common to Sections 31 and 32. Township 2 North, Range 5 E.W.M., and Sections 5 and 6, Township 1 North, Range 5 E.W.M.; thence South 02°00' East 351.9 feet to an iron pipe on the river bank; thence following the meanderings of the Washougal River downstream North 31°22' West 344.0 feet, to a point; thence North 42°05' West 192.0 feet to a point; thence North 64°59' West 106.1 feet to a point; thence North 64°59' West 1174.0 feet to a point; thence South 67°54' West 59.7 feet to an iron pipe; thence departing from meanderings of said river North 48°54' East 260.2 feet to an iron pipe; thence North 36°45' East 185.0 feet to an iron pipe in the center of a 30 foot used roadway; thence following the center line of said road South 66°24' East 34.1 feet to an iron pipe; thence South 40°41' East 171.7 feet to an iron pipe; thence departing from said roadway South 05°17' East 200.2 feet to an iron pipe; thence South 34°42' East 216.4 feet to the point of beginning.

JBJECT TO:

Easements and rights of way for public roads over and across the real estate under search; and reservation of a private roadway as described in deed dated May 16, 1952, and recorded August 19, 1952, at page 384 of Book 35 of Deeds, Records of Skamania County, Washington, by which Fritz W. Tietz and Velma L. Tietz, husband and wife, acquired title to the real estate under search and other property as follows:

"...said 30 foot road herein described is to be held and used for road purposes for the common use of the property herein described and adjacent thereto."

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ROOK 72 PAGE 307

Exhibit B. continued . .

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An executory contract of sale and purchase dated November 14, 1972, wherein Eldon D. Heller and J. Collegne Heller, husband and wife, are sellers and Carl E. Lehman and Cheryl D. Lehman, husband and wife, are purchasers; recorded November 16, 1972, at page 728 of Book 64 of Deeds, under Auditor's File No. 75526, Records of Skamania County, Washington, Excise tax paid November 16, 1972, in the sum of \$650.00; see facise Tax Receipt No. 1674.

A mortgage dated November 2, 1973, executed by Eldon D. Neller and J. Colleene Heller, husband and wife, to Clark County Savings, and Loan Association, a Washington corporation, to secure payment of the sum of Forty Thousand and no/100 (\$40,000.00) Bollars and interest according to note of even date; recorded November 5, 1973, at page 843 of Book 50 of Nortgages, under Auditor's File No. 76821, Records of Skamania County, Washington. The contract shown in paragraph 4 above has been subordinated to the lien of

An executory contract of sale and purchase dated Hovember 14, 1974, wherein Carl E. Lehman and Cheryl D. Lehman, husband and wife, are sellers and James S. Dullenty and Gisela H. Dullenty, husband and wife, are purchasers; recorded Hovember 18, 1974, at page 884 of Book 67 of Deeds, Records of Skamania County, Washington. Excise tax paid Hovember 18, 1974, in the sum of \$900.00; see Excise Tax Receipt No. 2955.

The interest of Carl E. Lehman and Cheryl D. Lehman, husband and wife, under a deed and purchaser's assignment of the real estate contract shown in paragraph above dated Hovember 14, 1974, held for collateral purposes only; recorded Hovember 18, 1974, at page 897 of Book 67 of Doods; under Auditor's File No. 78447, Records of Skamania County, Washington.

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