

149797

248 PAGE 189

When Recorded Return To:

Kenneth B. Woodrich
Woodrich & Archer LLP
PO Box 510
Stevenson, WA 98648

REAL ESTATE EXCISE TAX

23187

AUG 11 2003

PAID 4696.00

By *deputy*
SKAMANIA COUNTY TREASURER

REAL ESTATE CONTRACT
and

CONTRACT FOR SALE OF BUSINESS ASSETS

S.P.
2676
DATED: August 7, 2003

BETWEEN; GAILE DUNOVEN, TRUSTEE OF THE DUNOVEN TRUST DATED JUNE 30, 1999, (hereinafter "Seller"), and Ralph J. Kurth and Susan G. Kurth, husband and wife, (hereinafter "Purchaser").

RECITALS:

1. Seller owns the real property and business commonly known as "Home Valley Store/Gas" located in Skamania County, Washington, at 50151 SR 14, Stevenson, Washington and described as follows:

A Tract of land in Sections 27 and 34, Township 3 North, Range 8 East of the Willamette Meridian in the County of Skamania, State of Washington, described as follows:

Beginning as a point on the section line common to the said Sections 27 and 34 which is North 89°22'30" west 842.9 feet, more or less, from the Southeast corner of the said Section 27 to the Southeasterly line of Lot 1 of the Short Plat recorded in Book 3, Page 111; thence South 23°59' West 61.67 feet to the Northerly right of way line of Primary State Highway No. 8; thence South 66°01' East along said highway right of way line 262.64 feet; thence North 23°59' East 101.51 feet; thence North 66°01' West 262.64 feet; thence South 23°59' West 39.84 feet to the point of beginning.

Gary H. Martin, Skamania County Assessor

Excepting therefrom the following. Date *8-11-03* Parcel # *03-08-27-4-0-2000-00*

1. That portion conveyed to State of Washington by instrument recorded in Book 39, Page 238.
2. That portion Deeded to Skamania County by instrument recorded in Book 104, Page 132.
3. Lot 1 of the Short Plat recorded in Book 3 of Short Plats, Page 111.

Tax Parcel No. 03-08-27-4-0-2000-00

Page 1 - REAL ESTATE CONTRACT etc.

filed 99-7546/Dunoven LSK July 2003 Rev. Friday, August 08, 2003

Seller owns equipment, and miscellaneous assets used in connection with the operation of its business.

2. Seller desires to sell and Purchaser desires to purchase the real property above described together with the business equipment, fixtures and other assets described in Exhibit "A" attached hereto and incorporated herein, on the terms set forth herein.

AGREEMENT:

SECTION 1 - ASSETS PURCHASED

1.1 Assets Purchased. Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller on the terms and conditions set forth in this Contract, the following assets ("Assets"):

1.1.1 The real property upon which the business is located, as described in recital 1, above, together with all improvements and fixtures located thereon;

1.1.2 All equipment, furniture, and fixtures listed on attached Exhibit "A";

1.1.3 Seller's business good will;

1.1.4 Seller's assumed business name "Home Valley Store/Gas".

SECTION 2 - PURCHASE PRICE; PAYMENT

2.1. Total Purchase Price: Purchaser promises to pay Seller as the total purchase price for the real property and the business assets (referred to cumulatively as "the property") the sum of Three Hundred Twenty Thousand and 00/100 Dollars (\$320,000.00).

2.2. Allocation of Purchase Price: The purchase price for the Assets is allocated as follows:

2.2.1 Equipment and other personal property\$45,000.00

2.2.3 Real Property:

2.2.3.1 Land.....\$40,000.00

2.2.3.2 Building.....\$235,000.00

Total Real Estate.....\$275,000.00

TOTAL\$320,000.00

2.3 Payment of Purchase Price: The price for the assets shall be paid as follows:

2.3.1 The sum of Thirty Thousand and 00/100 Dollars (\$30,000.00) shall be paid at closing.

2.3.2 The balance of the purchase price in the amount of Two Hundred Ninety Thousand and 00/100 Dollars (\$290,000.00), together with interest at seven percent (7.0%) per annum, shall be paid in Two Hundred Forty (240) equal monthly installments of Two Thousand One Hundred Forty Three and 07/100 Dollars (\$2,143.07) each, including interest, with the first payment due on or before September 1, 2003, and subsequent installments due on the same day of every month thereafter until August 1, 2023, whereupon the entire principal balance, including accrued interest and late payments shall be paid in full. Payments shall first be applied to any amounts paid by Seller on Purchaser's behalf to third parties (for instance, for taxes or insurance that Purchaser may have failed to pay), then to late fees, then to accrued interest, and finally to principal.

2.4 Prepayments. Purchaser shall have the right to prepay any of the principal amount of this contract or of the Note, provided, however, that for the first ten years of this Contract Purchaser shall pay an additional thirty percent (30%) of any prepaid sum as a liquidated tax cost to Seller for losing the right to defer the income, and provided further that additional principal payments shall not excuse Purchaser from making the regular monthly payments provided for in this Contract until the entire balance of the purchase price together with accrued interest has been paid in full.

2.5 Place of Payments: All payments to Seller shall be made to Riverview Savings Bank, Stevenson, Washington Branch, as Escrow, 225 SW Second Street, Stevenson, Washington, 98648, or to such other place or person that Seller may designate by written notice to Purchaser.

2.6 Payments to Third Parties. In the event Purchaser fails to pay when due any amounts required of Purchaser to be paid to third parties under this Contract, Seller may pay any or all such amounts. If Seller makes any such payments, the amounts so paid shall be immediately due and payable. Until paid, such amounts shall be secured by this Contract and shall bear interest at 7.0% per annum. Seller's election to make any payments pursuant to this paragraph shall not constitute a waiver of Seller's rights to declare Purchaser to be in default of this Contract and to exercise any remedies set forth in Section 11.

2.7 Late Fee. Any payment made more than ten days after the payment becomes due shall be subject to a late charge representing Seller's reasonable liquidated damages of five percent (5%) of the balance then due. Seller's acceptance of a Late Fee pursuant to this paragraph shall not constitute a waiver of Seller's rights to declare Purchaser to be in default of this Contract and to exercise any remedies set forth in Section 11.

SECTION 3 - TAXES AND LIENS

3.1 Obligation to Pay: Purchaser assumes and agrees to pay before delinquency all taxes and assessments, including but not limited to relevant sales taxes, employment taxes, state lottery royalties (if applicable) and any governmental improvement assessments or charges that may become a lien on said real estate. In the event Purchaser fails to pay when due, any amounts required of Purchaser to be paid to third parties under this Contract, Seller may pay any or all such amounts. If Seller makes any such payments on Purchaser's behalf, the amounts so paid shall be immediately due and payable from Purchaser to Seller. Until paid, such amounts shall be secured by this Contract and shall bear interest at the Contract rate as set forth in Section 2.3.3 above. Seller's election to make any payments pursuant to this paragraph shall not constitute a waiver of Seller's rights to declare Purchaser to be in default of this Contract and to exercise any remedies set forth in Section 11.

3.2 No Liens Shall Attach. Purchaser shall not permit any liens to attach to the assets being purchased, whether voluntary or involuntary, and Purchaser shall promptly pay any state tax liens and contractors or materialmen to avoid any statutory construction liens.

SECTION 4 - CLOSING

4.1 Closing Date: As used in this Contract the "Closing Date" shall mean the date on which all documents are recorded and the sale proceeds are available to Seller. The sale shall be closed by an escrow at the offices of Skamania Title Company in Stevenson, Washington on _____, 2003.

4.2 Closing Costs: The costs of closing shall be equally divided between the Purchaser and the Seller.

4.3 Responsibilities of Parties: At closing, Purchasers shall pay the amount of cash specified in Paragraph 2.1 above, and Seller shall have received a commitment for the issuance of a Purchaser's Policy of Title Insurance in an ALTA Standard Form, issued by Skamania Title Company, insuring the Purchaser to the full amount of said purchase price against loss or damage by reason of defect in Seller's title to said real estate as of the date of closing and containing no exceptions other than the following:

- (a) Printed general exceptions appearing in said policy form;
- (b) Liens or encumbrances which by the terms of this contract the Purchaser is to assume, or as to which the conveyance hereunder is to be made subject;

If Seller's title to said real estate is subject to an existing contract or contracts under which Seller is purchasing said real estate, or any mortgage or other obligation which Seller is to pay, Seller agrees to make such payments in accordance with the terms thereof, and upon default the

Purchaser shall have the right to make any payments necessary to remove the default, and any payments so made shall be applied to the payments next falling due the Seller under this contract.

4.4 Proration. The operation of Seller's business and related income and expenses up to the close of business on the day before the closing date shall be for the account of Seller and thereafter for the account of Purchaser. Expenses, including but not limited to utilities and personal property taxes, shall be prorated between Seller and Purchaser as of the close of business on the closing date, the proration to be made and paid insofar as reasonably possible on the closing date, with settlement of any remaining items to be made within 30 days following the closing date. The parties also agree to share equally any and all fees necessary to close this transaction. Any attorney or accountant fees incurred to review the transaction will be paid by the party incurring such fees.

4.5 Collection Escrow. Seller shall deliver to Riverview Savings Bank, as escrow, the fully executed and acknowledged deed described in Section 9.2.4, together with suitable instructions authorizing delivery after all payments have been made and all other obligations of Purchaser under this Contract have been fulfilled. Costs of setting up such escrow and periodic collection fees shall be paid by Seller.

SECTION 5 - POSSESSION

The Purchaser is currently in possession of the property as Lessee and shall retain possession so long as Purchaser is not in default hereunder; provided, however, that Seller and Seller's agents may enter upon the property during normal business hours (after giving reasonable notice to Purchasers) for the purpose of inspecting the property.

SECTION 6 - SECURITY INTEREST IN BUSINESS ASSETS

6.1 Grant of Security Interest and Identification of Collateral. To secure the payment of the purchase price and all other covenants and conditions contained herein, Purchaser grants to Seller a security interest in the following personal property (hereinafter "Collateral"):

6.1.1 All of the business assets, whether tangible or intangible, purchased under this agreement.

6.1.2 All of the tangible personal property of the business, including equipment, supplies, and fixtures, but excluding inventory.

6.1.3 All of the goodwill of the business and assumed business name; accounts (including all rights under contracts to sell or lease goods or render services, whether or not earned by performance, that are not evidenced by an instrument or chattel paper, and including contract rights); drafts, acceptances, notes, securities, and other instruments; chattel paper, documents; general intangibles and all other forms of receivables; and all guarantees and securities therefor.

6.1.4 All property of the types described in Sections 6.1.1 through 6.1.3, or similar thereto, that at any time hereafter may be acquired by Purchaser, including but not limited to all accessions, parts, additions, and replacements, but excluding inventory.

6.1.5 All proceeds of sale or other disposition of any other collateral described or referred to in Sections 6.1.1 through 6.1.4.

6.2 Preservation of Collateral. To preserve the Collateral, Purchaser agrees as follows:

6.2.1 Purchaser shall not remove any of the assets sold hereunder, nor any additions to or replacements of such assets, from the premises described above. Additionally, Purchaser shall not sell, exchange, lease or otherwise transfer the collateral, or any part thereof, or permit any lien, levy, attachment, security interest or financing statement to be filed with reference to the collateral, other than that of the Seller. Purchaser may replace any item of furniture or equipment with a value of less than \$1000 without the prior consent of Seller so long as the replacement is of equal or greater value than the value of the equipment replaced and so long as Seller's security is not diminished. Purchaser shall first obtain Seller's consent for any sale, transfer or encumbrance of furniture or equipment exceeding \$1000 in value, which consent shall not unreasonably be withheld.

6.2.2 Purchaser will maintain the Collateral at its current value and in good condition and repair and preserve it against waste, loss, damage or depreciation in value other than by reasonable wear. The Purchaser shall keep and maintain the Collateral and Purchaser's business premises in compliance with all laws and regulations and shall not use any of the Collateral in violation of any law or public regulation. Seller may inventory, examine and inspect the Collateral at any reasonable times, wherever located, and for that purpose Seller is authorized by Purchaser to enter any place where any part of the Collateral may be. If the collateral decreases in value, Purchaser shall immediately pay Seller for the difference or replenish the collateral, at Seller's discretion.

6.2.3 Purchaser will keep the collateral fully insured against loss or damage by fire, theft and collision and such other hazards as Seller may from time to time require, with such deductible provisions, upon such terms, including loss payable and other endorsements, and in such company or companies as the Seller may approve. Upon request Purchaser will within ten days of such request provide Seller with the original policies or certificates of such insurance to be viewed at the premises of Purchaser, or (at Seller's option) to provide a copy to the Seller at the address directed by the Seller and certified by the Purchaser to be a true copy of the original policy. Seller or Seller's successors and assigns shall be named as an additional insured on all such policies, and each policy shall contain an endorsement providing for 30 days written notice to Seller prior to cancellation by the insurer. Upon a loss payment by an insurance company, if the Purchaser is not in default the Seller or Seller's assigns shall endorse their interest to Purchaser. Purchaser shall then apply those

proceeds, first, to repair or replace any Collateral lost or damaged, then, to any balance outstanding on the Promissory note between Seller and Purchaser. If Purchaser is in default, Seller shall have irrevocable authority to adjust any loss, receive and receipt for any sum payable, surrender any policy, discharge and release any insurer, endorse in Purchaser's name any loss or refund check or draft and, in general, exercise in the name of the Purchaser, any and all rights of the Purchaser with respect to insurance on the Collateral or to the proceeds thereof. Purchaser agrees to procure and maintain life and disability insurance showing Seller as the loss payee, in amounts sufficient to fully cover the principal balance of the contract in the event of death or disability.

6.2.4 Purchaser will pay, when due, all taxes, license fees and assessments relative to the Collateral and its use, and relative to the Note and obligations secured hereby. Should Purchaser fail in his performance of any of the foregoing, the Seller may pay any security interest having priority hereto, may order and pay for the repair, maintenance and preservation of the Collateral or any part thereof, may place and pay for any such insurance and may pay any such taxes, fees or assessments.

6.2.5 The Purchaser agrees to notify the Seller promptly in writing of any change in Purchaser's address or in the location where the Collateral is kept.

6.2.6 The Purchaser will cooperate with the Seller in executing, filing and doing whatever may be necessary under applicable law to perfect and continue the Seller's security interest in the Collateral.

SECTION 7 - MAINTENANCE OF IMPROVEMENTS AND FIXTURES

7.1 Maintenance of Improvements: Purchaser covenants to keep any improvements and fixtures on the real estate in good repair, not to permit waste and not to use, or permit the use of, the real estate for any illegal purpose. Purchaser covenants to pay all service, installation or construction charges for water, sewer, electricity, garbage or other utility services furnished to said real estate after the date Purchaser is entitled to possession.

7.2 Compliance with Laws: Purchaser shall promptly comply with all laws, ordinances, regulations, directions, rules and other 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. In particular, Purchaser shall abide by all laws, rules and regulations of the Environmental Protection Agency and other governmental units regarding the storage, dumping or creation of hazardous or toxic wastes on the property.

SECTION 8 - INSURANCE

8.1 Property Damage Insurance: In addition to the insurance requirements, set forth in Section 5, as to the personal property, Purchaser agrees to keep any improvements or future

improvements located on the property insured on a replacement cost basis against loss or damage by fire, windstorm, and all other casualties covered by "all risk" or extended coverage endorsements available in the State of Washington in an amount equal to the full insurance value thereof, on the initial and renewal policy dates, with a company acceptable to Seller and with loss payable to Seller and Purchaser as their respective interests may appear. The policy shall be written in such form with such terms and by such insurance companies as are reasonably acceptable to Seller. Purchaser shall deliver to Seller certificates of coverage from each insurer containing a stipulation that coverage will not be canceled or diminished without a minimum of ten (10) days written notice to Seller. In the event of loss, Purchaser shall give immediate notice to Seller. Seller may make proof of loss if Purchaser fails to do so within thirty (30) days of the casualty.

8.2 Liability Insurance: During the term of this Contract, Purchaser shall maintain public liability and property damage insurance with single limits of not less than Two Million Dollars (\$2,000,000.00) for loss to property and/or personal injury. Such insurance shall cover all risks arising directly or indirectly out of Purchaser's activities on or any condition of the property, whether or not related to an occurrence caused or contributed by Seller's negligence, and shall protect Seller and Purchaser against claims of third persons. Such policies shall be written in such form, with such terms and by such insurance companies as are reasonably acceptable to Seller.

8.3 Purchaser's Report on Insurance: Within thirty (30) days after any written request by Seller, Purchaser shall furnish to Seller a copy of each existing policy of insurance plus declaration page showing:

- (a) The name of the insurer;
- (b) The risks insured;
- (c) The expiration date of the policy.

8.4 Application of Proceeds: All proceeds of any insurance on the property shall be held by the Seller on behalf of Seller and Purchaser. If Purchaser elects to restore the property, Purchaser shall repair or replace the damaged or destroyed improvements in a manner reasonably satisfactory to Seller. Following receipt of the insurance proceeds, Seller shall have the right to first review and approve or reject bids and estimates for work, which approval shall not be unreasonably withheld, conditioned or delayed. Upon completion of work performed to Seller's reasonable satisfaction, Seller shall pay or reimburse Purchaser from the proceeds for the reasonable cost of repair or restoration. Seller shall further pay from the proceeds any reasonable draw required by any contractor for work in progress. Monthly payments shall be made within 10 days after the end of each calendar month during the progress of the work. Any retainage withheld by Seller shall be paid upon Seller's final approval of the work performed, which approval shall not be unreasonably withheld, conditioned or delayed. Any proceeds which have not been paid out within one hundred eighty (180) days after their receipt and which Purchaser has not committed to the repair or restoration of the property shall be used to pay first accrued interest and then principal of Purchaser's indebtedness.

SECTION 9 - COVENANTS OF PURCHASER AND SELLER

9.1 Covenants of Purchaser: Purchaser hereby represents and covenants, and warrants to Seller the following:

9.1.1 Purchaser's Status. Purchaser is a Washington Marital Community.

9.1.2 No Judgments. There is no judgment, litigation, action, suit, or proceeding pending or, to Purchaser's knowledge, threatened against Purchaser or affecting the Property nor is there any basis for such proceeding which, if adversely determined, might affect the use or operation of the Property for its intended purpose or the value of the Property, adversely affect Purchaser's ability to perform its obligations under this Contract, or attach as a lien on the property.

9.1.3 Best Efforts. Purchaser will use his best efforts to effectuate the transactions contemplated by this Contract and to fulfill all the conditions of Purchaser's obligations under this Contract, and shall do all acts and things as may be required to carry out Purchaser's obligations and to consummate this Contract.

9.1.4 Receipt of Disclosure Statement. Buyer agrees that he has received from Seller a real property Disclosure Statement as required by Washington Law.

9.2 Covenants of Seller: Seller hereby represents and covenants to Purchaser the following:

9.2.1 Seller's Status. Seller is the Trustee of the Dunoven Trust Dated June 30, 1999. Seller has the authority to convey the Property to Purchaser. This Contract has been duly authorized, executed, and delivered by Seller and does not violate any provision of any agreement to which Seller is a party or to which Seller or the Property is subject.

9.2.2 No Violations. Seller has not received any notice of any violation of any law, ordinance, order, rule, regulation, or requirement affecting the Property, and Seller knows of no fact which would constitute grounds for receiving any such notice.

9.2.3 Litigation. Seller has no knowledge of any claim, litigation, proceeding, or investigation pending or threatened against Seller that might result in any material adverse change in the business or condition of the Assets being conveyed under this Contract.

9.2.4 Deed: Seller agrees, upon receiving full payment of the purchase price and interest in the manner above specified, to execute and deliver to Purchaser a statutory warranty fulfillment deed to said real estate, excepting any part thereof hereafter taken for public use, free of encumbrances except any underlying mortgage or lien which Seller has agreed to pay, any that may attach after date of closing through any person other than the Seller, and subject to the exceptions noted in the Section concerning title insurance.

9.2.5 Bill of Sale. At closing, Seller shall deliver to Purchaser a good and sufficient Bill of Sale for the equipment and other personal property purchased hereunder, subject to Seller's security interest set forth herein.

9.2.6 Commissions. The parties hereby warrant that no fees or commissions are owed to brokers as a result of this transaction, except Seller owes a commission to Sentry Real Estate for the sale of the business and the real property which shall be paid in full by Seller at Closing.

9.2.7 Installation of Underground Fuel Tanks. Seller warrants to Purchaser that the original installation of the underground fuel tanks on the property were installed in compliance with the regulations in force at the time of installation, but makes no further representations or warranties with respect to the environmental condition of the premises.

9.2.9 Accuracy of Covenants, Representations and Warranties. None of the covenants, representations or warranties of Seller contain or will contain any untrue statement of a material fact or omit or will omit or misstate a material fact necessary in order to make statement in this Agreement not misleading. Seller knows of no fact that has resulted, or that in the reasonable judgment of Seller will result, in a material change in the business, operations, or assets of Seller that has not been set forth in this Agreement or otherwise disclosed to Buyer.

SECTION 10 - OTHER AGREEMENTS

At closing or as soon thereafter as possible, the parties shall execute the following additional agreements:

10.1. A good and sufficient Bill of Sale for the equipment purchased herewith subject to the terms of the grant of Security Interest set forth herein.

10.2. A UCC-1 form or any other document necessary to perfect Seller's security interest in the collateral sold hereunder.

10.3. Any other documents necessary or advisable to accomplish the purpose of this agreement.

SECTION 11 - DEFAULT

11.1 Events of Default: Time of both payment and performance is of the essence of this Contract. A default shall occur under any of the following circumstances:

- (a) Failure of Purchaser to make any payment above within ten days of its due date without notice.
- (b) Failure of Purchaser to cure any other breach of this agreement within ten (10) days after notice from Seller specifying the nature of the default. However, if the nature of the breach is such that it cannot be reasonably cured within ten days, the Purchaser shall have additional time to cure the breach so long as Purchaser diligently prosecutes the cure of the breach. No notice of default and no opportunity to cure shall be required if during a twelve (12) month period prior to said default Seller has already sent a notice to Purchasers concerning default in the performance of the same obligation;
- (c) Insolvency or business failure of Purchaser; the commencement by Purchaser of a voluntary case under the Federal Bankruptcy Laws or under other Federal or State Law relating to insolvency or debtor's relief; the entry of a decree or order for relief against Purchaser in an involuntary case under the Federal Bankruptcy Law or under any other applicable Federal or State Law relating to insolvency or debtor's relief; the appointment or the consent by Purchaser to the appointment a Receiver, Trustee or Custodian of Purchaser or of any of Purchaser's property; an assignment for the benefit of creditors by Purchaser or Purchaser's failure generally to pay its debts as such debts become due;
- (d) The making or suffering by Purchaser of a fraudulent transfer under applicable Federal or State Law; concealment by Purchaser or any of its property from creditors, or the imposition of a lien through legal proceeding or distraint upon any of the property of Purchaser. This clause does not apply to government liens imposed for the improvement of the property or of the district or area in which the property is located, such as for street lighting, sewer extensions, street improvements, and the like;
- (e) The dumping, storage or creation of any hazardous or toxic waste on the property in violation of environmental law;
- (f) Sale, encumbrance or transfer of any or Purchaser's interest(s) under this agreement, except as to sales of inventory or merchandise in the ordinary course of business or as otherwise allowed under this agreement, without Seller's express written consent having first been obtained.

11.2 Remedies on Default: In the event of a default, Seller may take any one or more of the following steps and may exercise more than one remedy concurrently:

- (a) Acceleration; Suit for Delinquencies. Seller may declare the full unpaid balance of this Contract immediately due and payable institute suit for the full unpaid balance or any installments or other sums then due and payable under this agreement together with any sums advanced by seller for and the amount of any delinquencies for items such as water assessments, taxes, insurance, payments and underlying obligations and lienable items, together with interest thereon at the rate of 12% per annum from the date each such payment was advanced or due, as the case may be.
- (b) Forfeiture and Repossession. The Seller may cancel and render void all rights, title and interests of the Purchaser and his successors in this contract and in the property (including all of Purchaser's then existing rights, interests and estates therein and improvements thereon) by giving a Notice of Intent to Forfeit pursuant to RCW 61.30.040-070, and said cancellation and forfeiture shall become effective if the default therein specified has not been fully cured within ninety (90) days thereafter and the Seller records a Declaration of Forfeiture pursuant to RCW 61.30.040-070. Upon the forfeiture of this contract, the Seller may retain all payments made hereunder by the Purchaser and may take possession of the property ten (10) days following the date this contract is forfeited and summarily eject the Purchaser and any person or persons having possession of the said property by, through or under the Purchaser who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture. In the event the Purchaser or any person or persons claiming by, through or under the Purchaser who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture remain in possession of the property more than ten (10) days after such forfeiture, the Purchaser, or such person or persons, shall be deemed tenants at will of the Seller and the Seller shall be entitled to institute an action for summary possession of the property, and may recover from the Purchaser or such person or persons in any such proceeding the fair rental value of the property for the use thereof from and after the date of forfeiture, plus costs, including the Seller's reasonable attorneys' fees.
- (c) Specific Performance. Seller may institute suit to specifically enforce any of the Purchaser's covenants hereunder.
- (d) Property Rental. In the event this contract is forfeited as herein provided, or in any other manner permitted by law, or by mutual agreement of the Purchaser and Seller, and the Purchaser shall thereafter remain in possession of the property beyond any period otherwise permitted by law, the Purchaser

agrees that he will occupy the property as a tenant at will, and the Purchaser shall be obligated to pay, and hereby promise to pay, during the period of such tenancy at will, a fair market rental in the amount then agreed to by the parties or, in the absence of such agreement or until such agreement is reached, an amount equal to two (2) times the installment amount as and when provided for in the specific terms hereof, and the Seller shall have, in addition to all other remedies for the collection of rentals and the recovery of possession that are available to landlords under the laws of the State of Washington, the right to institute an action for summary possession of the property as provided by law.

- (e) With respect to any part of the property which constitutes personal property in which Seller has a security interest, Seller may exercise the rights and remedies of a secured party as provided by the Uniform Commercial Code;
- (f) In the event Purchaser fails to make any payment within ten (10) days after it is due, Seller may elect to impose a late charge representing Seller's reasonable liquidated damages of five percent (5%) of the balance then due;
- (g) To have a receiver appointed as a matter of right and without bond.

11.3 Remedies Non Exclusive/No Waiver: The waiver of Seller to elect to pursue any of the above remedies at any time upon a breach of any of the terms of this contract by the Purchaser shall be deemed only an indulgence by the Seller with regard to that particular breach and shall not be construed, in any manner whatsoever, to be a waiver of any right of Seller to pursue any of the above remedies for the same or a different breach at a subsequent time; election of the Seller to utilize any particular remedy to enforce a breach of this contract shall not preclude Seller from electing to use an alternate remedy to enforce a subsequent breach. The remedies stated herein are cumulative and not mutually exclusive. Any delay or failure of Seller to take action upon default shall not be construed as a waiver of said default.

11.4 Purchaser's Remedies: In the event Seller should default in any of his obligations under this contract and such default continues for fifteen (15) days after the Purchaser gives the Seller written notice specifying the nature thereof and the acts required to cure the same, the Purchaser shall have the right to specifically enforce this contract, institute suit for his damages caused by such default, or pursue any other remedy which may be available to Purchaser at law or in equity.

SECTION 12 - REPRESENTATION; CONDITION OF PROPERTY

Purchaser acknowledges that he has entered into this Contract on the basis of his own physical examination, personal knowledge, and opinion of the value of the business and the condition of the equipment and real estate (including prior use of the property and existence of

Hazardous Substances on the premises). Purchaser has not relied upon any representations made by Seller or Seller's agents other than those specified in this Contract. Purchaser further acknowledges that Seller has made no agreement or promise to repair or improve any of the improvements, equipment, or other real or personal property, including, without limitation, residential property, being sold to Purchaser under this Contract, and Purchaser takes all such property AS IS in the condition existing on the date of this Contract, except as otherwise provided in the Contract. Purchaser expressly waives the right to any Residential Sales Disclosure Statement under RCW 64.06 et seq. Purchaser is expressly responsible for obtaining any and all licenses and permits necessary for it to operate a grocery store. Purchaser further understands and acknowledges that the property fronting SR 14 is not owned by Seller but rather by the State of Washington.

SECTION 13 - INDEMNIFICATION

13.1 Purchaser agrees to defend, indemnify, and hold Seller harmless from and against:

13.1.1 Any and all claims, liabilities and obligations of every kind and description, contingent or otherwise, arising out of or relating to the operation of the business following transfer of possession to Buyer, or arising out of Purchaser's failure to perform obligations of Seller assumed by Purchaser pursuant to this Contract or any prior Lease Agreement.

13.1.2 Any and all damage or deficiency resulting from any material misrepresentation, breach of warranty or covenant, or nonfulfillment of any agreement on the part of Purchaser under this Contract.

13.1.3 Any suits, actions, legal or administrative proceedings, demands, claims, liabilities, fines, penalties, losses, injuries, damages, expenses, or costs, including interest and attorney's fees, in any way connected with any injury to any person or damage to any property (including costs of studies, surveys, clean-up and any other environmental claim expenses) or any loss to Seller occasioned in any way by Hazardous Substances on the property or by the negligent or intentional activities of Buyer, after Buyer's acquisition of the property pursuant to a Lease Agreement.

13.2 Seller agrees to defend, indemnify and hold Purchaser harmless and Purchaser's successors and assigns harmless from and against:

13.2.1 Any and all claims, liabilities and obligations of every kind and description, contingent or otherwise, arising out of or related to the operation of Seller's business prior to transfer of possession of the property to Buyer pursuant to a Lease Agreement, except for claims, liabilities, and obligations of Seller expressly assumed by Purchaser under this Contract or paid by insurance maintained by Seller or Purchaser.

13.2.2 Any and all damage or deficiency resulting from any material misrepresentation, breach of warranty or covenant, or nonfulfillment of any agreement on the part of Seller under this Contract.

13.2.3 Any suits, actions, legal or administrative proceedings, demands, claims, liabilities, fines, penalties, losses, injuries, damages, expenses, or costs, including interest and attorney's fees, in any way connected with any injury to any person or damage to any property (including costs of studies, surveys, clean-up and any other environmental claim expenses) or any loss to Buyer occasioned in any way by Hazardous Substances on the property or by the negligent or intentional activities of Seller, before Seller's transfer of possession of the property to Buyers pursuant to a Lease Agreement.

SECTION 14 - CONDUCT OF BUSINESS

14.1 Maintenance of Good Will. Purchaser acknowledges that success in the grocery store business in a large part depends on maintaining the business' good will. Accordingly, in order to maintain the business and preserve Seller's security, Purchaser agrees to be prompt, courteous and attentive to his customers, to engage only in fair trade practices, to advertise fairly and to otherwise maintain a good reputation in the community. Failure to maintain reasonable store hours, degradation of the store's condition or appearance, or to otherwise fail to maintain the store's goodwill shall constitute a default of this agreement and, following the notice period specified in Paragraph 11.1(b) above, exercise the remedies set forth in Paragraph 11.2.

14.2 Financial Statements. Purchaser shall submit to Seller annual financial statements for each year of business for which any portion of the purchase price for the Assets remains unpaid. Seller's first partial year shall terminate on December 31, 2003, and subsequent years shall terminate on the last day of December every year thereafter.

SECTION 15 - FILING OF TAX FORM 8594

The parties understand and have been advised that they may have to file Tax Form 8594 with the U.S. Internal Revenue Service. The parties acknowledge that the attorney drafting this Contract has not expressed any opinion with respect to the value of the assets being sold under this Contract and has advised the parties to seek a professional appraisal to determine the value of the assets.

SECTION 16 - TITLE INSURANCE

Seller shall furnish at Seller's expense a Purchaser's title insurance policy in the amount of \$275,000.00 within thirty (30) days of the closing, insuring Purchaser against loss or damage sustained by Purchaser by reason of the unmarketability of Seller's title or liens or encumbrances affecting the property, excepting easements, restrictions and reservations or record [and existing encumbrance if not to be paid at closing].

SECTION 17 - SUCCESSOR INTERESTS

The rights hereby granted are personal to the Purchaser and Seller's reliance upon Purchaser's ability and integrity is a part of the consideration for this contract. Neither this contract nor any interest therein, nor the possession of the property, may be assigned or transferred by Purchaser, nor shall Purchaser make or enter into any contract for the sale of the property or any interest therein, without the prior written consent of Seller, which consent shall not unreasonably be withheld. In the event Seller and her daughter, Sandy Warrick, are deceased, Purchaser shall not be required to obtain Seller's prior written consent. In any event, however, Purchase shall remain liable on the Contract until fully satisfied.

SECTION 18 - PRIOR AND SUBSEQUENT AGREEMENTS

This document is the entire, final and complete agreement of the parties pertaining to the state and purchase of the property, and supersedes and replaces all prior or existing written and oral agreements (including any earnest money agreements) between the parties or their representatives relating to the property. No supplement, modification, or amendment of this Contract shall be binding unless executed in writing by all parties.

SECTION 19 - NOTICE

Any notice under this Contract shall be in writing and shall be effective when deposited in the United States Mail, registered or certified, postage prepaid and addressed to the party at their last known address stated in this Contract or such other address as either party may designate by written notice to the other, or upon actual receipt by the party entitled to said notice by personal service, or by a delivery service such as Federal Express or United Parcel Service.

SECTION 20 - APPLICABLE LAW

This Contract has been entered into in the State of Washington and the property is located in Washington. The parties agree that the laws of the State of Washington shall be utilized in construing this Contract and enforcing the rights and remedies of the parties.

SECTION 21 - COSTS AND ATTORNEY'S FEES

If suit or action is instituted to enforce any of the terms of this Contract, the prevailing party shall be entitled to such sums (in addition to costs and disbursements provided by statute and costs of searching and abstracting records) as the trial court, or any appellate court, may adjudge as reasonable attorney's fees. Said attorney fees shall be due and recovered as part of the costs of such suit or action, whether or not final judgment or decree is entered herein.

SECTION 22 - NUMBER, GENDER, AND CAPTIONS

As used herein, the singular shall include the plural, and the plural the singular. The masculine and neuter shall each include the masculine, feminine and neuter, as the context requires. All captions used herein are intended solely for the convenience of reference and shall in no way limit any of the provisions of this Contract.

SECTION 23 - SURVIVAL OF COVENANTS, REPRESENTATIONS AND WARRANTIES

Any covenants, representations and warranties the full performance of which is not required prior to the closing or final payment of the purchase price, shall survive the closing and the final payment of the purchase price and be fully enforceable thereafter in accordance with the terms.

SECTION 24 - SEVERABILITY

If in any judicial proceeding a court shall refuse to enforce all of the provisions of this Contract, any unenforceable provision shall be deemed eliminated from the Contract for the purpose of such proceeding as is necessary to permit the remainder of the Contract to be enforced in such proceeding.

SECTION 25 - DISCLAIMER OF REPRESENTATION

This Contract was prepared by Seller's attorneys, Woodrich and Archer LLP, who represents Seller's interests alone in this transaction. Purchaser has been advised to seek independent counsel in order to be fully advised of his rights and obligations in this transaction and by executing this document, the Purchaser acknowledges that he has been so advised.

SECTION 26 - JURISDICTION AND VENUE

In the event that any suit or action shall be brought in connection with any of the terms or conditions of this agreement, the Seller and the Buyer hereby agree to submit to the jurisdiction of the appropriate court of the State of Washington for Skamania County, and the Seller and the Buyer hereby agree that the venue of any such suit or action shall properly lie in Skamania County, State of Washington.

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

SELLER:

PURCHASER:

THE DUNOVEN TRUST DATED JUNE 30, 1999

Gail E. Dunoven Trustee
by GAIL E. DUNOVEN, TRUSTEE

Ralph J. Kurth
RALPH J. KURTH

Susan G. Kurth
SUSAN G. KURTH

Sellers' Address:

Purchasers' Address:

PO Box 55
Carson, WA 98610
(509) 427-4713

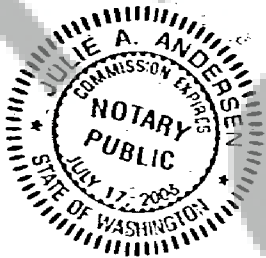
STATE OF WASHINGTON)

ss:

County of Skamania)

I certify that I know or have satisfactory evidence that GAIL E. DUNOVEN is the person who appeared before me as Trustee of the Dunoven Trust Dated June 30, 1999, and said person acknowledged that she was duly authorized to sign this instrument of behalf of the Trust and acknowledged it to the free and voluntary act of the Trust for the uses and purposes mentioned in the instrument.

Dated: August 7, 2003.



Julie A. Andersen
Prior: Julie A. Andersen
NOTARY PUBLIC in and for
the State of Washington
My commission expires 7-17-2006

BOOK 248 PAGE 207

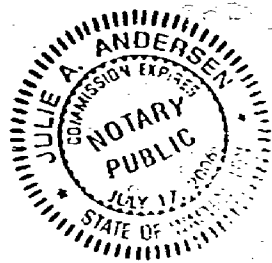
STATE OF WASHINGTON)

County of Skamania)

SS:

I certify that I know or have satisfactory evidence that RALPH J. KURTH and SUSAN G. KURTH are the persons who appeared before me, and said persons acknowledged that they signed this instrument and acknowledged it to their free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: August 7, 2003.



Julie A. Andersen
Prby Julie A. Andersen
NOTARY PUBLIC in and for
the State of Washington
My commission expires 7-17-2006