

15868 ✓

INST # _____
 RECORDING FEE 15.00
 AUDITOR FEE 5.00
 RMA FEE 1.00

FILED FOR RECORD
 POTTAWATTAMIE CO. IA.

03 JAN 24 AM 8:41

JOHN SCIORTINO
 RECORDER

Preparer

Information Michael J. Winter, 541 Sixth Avenue, Council Bluffs, (712) 322-0133

Individual's Name

Street Address

City

Phone

Michael J. Winter ISBA # 06049

SPACE ABOVE THIS LINE
 FOR RECORDER

REAL ESTATE CONTRACT (SHORT FORM)

IT IS AGREED between The Filling Station, Inc., an Iowa corporation ("Sellers"); and H. James Ratliff and Rebecca Ratliff, husband and wife, as joint tenants with full rights of survivorship ("Buyers").

Sellers agree to sell and Buyers agree to buy real estate in Pottawattamie County, Iowa, described as:

Part of the SE1/4 SW1/4 of Section 8, Township 74, Range 43, described as follows: Commencing at a point which is 999.1 feet North and 33 feet North 89° 41' East of the Southwest corner of said SE1/4 SW1/4 Section 8, Township 74, Range 43; thence South 70.6 feet to the Northerly right of way line of Highway #275; thence South 37° 53' East long the Northerly right of way line thereof 190.3 feet; thence North 53° 13' East, 119 feet; thence North 07° 33' East, 152.7 feet; thence South 89° 41' West, 232.8 feet to the point of beginning, more commonly known as 14151 Highway 275, Council Bluffs, Iowa 51503

other ordinances; b. any covenants of record; c. any easements of record for public utilities, roads and highways; and d. (consider: liens; mineral rights; other easements; interest of others.) none (the "Real Estate"), upon the following terms:

1. **PRICE.** The total purchase price for the Real Estate is Four Hundred Fifty Thousand and 0/100 Dollars (\$ 450,000.00) of which One Hundred Thousand and 0/100 Dollars (\$ 100,000.00) has been paid. Buyers shall pay the balance to Sellers at 21681 Eastman Road, Glenwood, Iowa 51534-9665 or as directed by Sellers, as follows:

\$100,000 shall be paid by Buyers to Seller on the date of closing and the balance of \$350,000 shall be carried back by the Seller with the Buyer to make monthly principal and interest payments of \$2,473.72 or more per month beginning on the 1st day of February 2003, and continuing on the 1st day of each month thereafter until January 1, 2008, when the entire unpaid balance of principal and interest shall become due and payable. This contract has a 25 year amortization schedule and there is no prepayment penalty. It is understood that the purchase price is divided \$100,000 for the land and existing building, \$50,000 for the business equipment, \$40,000 for existing inventory and \$260,000 for the goodwill and existing business.

2. **INTEREST.** Buyers shall pay interest from January 1, 2003 on the unpaid balance, at the rate of 7 percent per annum, payable monthly. Buyers shall also pay interest at the rate of 7 percent per annum on all delinquent amounts and any sum reasonably advanced by Sellers to protect their interest in this contract, computed from the date of the delinquency or advance.

3. **REAL ESTATE TAXES.** Sellers shall pay the second half 2001/2002 fiscal year taxes due on or before March 31, 2003, and the first half 2002/2003 fiscal year taxes due on or before September 30, 2003, which payment shall be made by Seller on or before the due date and shall not be deducted from the down payment set forth above and any unpaid real estate taxes payable in prior years. Buyers shall pay all subsequent real estate taxes. Any proration of real estate taxes on the Real Estate shall be based upon such taxes for the year currently payable unless the parties state otherwise.

4. **SPECIAL ASSESSMENTS.** Sellers shall pay all special assessments which are a lien on the Real Estate as of January 1, 2003. All other special assessments shall be paid by Buyers.

5. **POSSESSION CLOSING.** Sellers shall give Buyers possession of the Real Estate on January 1, 2003, provided Buyers are not in default under this contract. Closing shall be on _____.

6. **INSURANCE.** Sellers shall maintain existing insurance upon the Real Estate until the date of possession. Buyers shall accept insurance proceeds instead of Sellers replacing or repairing damaged improvements. After possession and until full payment of the purchase price, Buyers shall keep the improvements on the Real Estate insured against loss by fire, tornado, and extended coverage for a sum not less than 80 percent of full insurable value payable to the Sellers and Buyers as their interests may appear. Buyers shall provide Sellers with evidence of such insurance.

7. **ABSTRACT AND TITLE.** Sellers, at their expense, shall promptly obtain an abstract of title to the Real Estate continued through 1st day of January, 2003 and deliver it to Buyers for examination. It shall show merchantable title in Sellers in or conformity with this contract, Iowa law and the Title Standards of the Iowa State Bar Association. The abstract shall become the property of the Buyers when the purchase price is paid in full, however, Buyers reserve the right to occasionally use the abstract prior to full payment of the purchase price. Sellers shall pay the costs of any additional abstracting and title work due to any act or omission of Sellers, including transfers by or the death of Sellers or their assignees.

8. **FIXTURES.** All property that integrally belongs to or is part of the Real Estate, whether attached or detached, such as light fixtures, shades, rods, blinds, awnings, windows, storm doors, screens, plumbing fixtures, water heaters, water softeners, automatic heating equipment, air conditioning equipment, wall to wall carpeting, built-in items and electrical service cable, outside television towers and antenna, fencing, gates and landscaping shall be considered a part of Real Estate and included in the sale except: (consider: rental items.) none

9. **CARE OF PROPERTY.** Buyers shall take good care of the property; shall keep the buildings and other improvements now or later placed on the Real Estate in good and reasonable repair and shall not injure, destroy or remove the property during the term of this contract. Buyers shall not make any material alteration to the Real Estate without the written consent of the Sellers.

10. **DEED.** Upon payment of purchase price, Sellers shall convey the Real Estate to Buyers or their assignees, by corporate warranty deed free and clear of all liens, restrictions, and encumbrances except as provided herein. Any general warranties of title shall extend only to the date of this contract, with special warranties as to acts of Sellers continuing up to time of delivery of the deed.

11. **REMEDIES OF THE PARTIES.** a. If Buyers fail to timely perform this contract, Sellers may, at Sellers' option, forfeit Buyers rights in this contract as provided in the Iowa Code, and all payments made by Buyers shall be forfeited. If Buyers fail to timely perform this contract, Sellers, at their option, may elect to declare the entire balance immediately due and payable after such notice, if any, as may be required by Chapter 654, The Code. Thereafter this contract may be foreclosed in equity and the court may appoint a receiver to take immediate

Entered for Taxation
 JAN 24 2003
 COUNTY AUDITOR

BK103PG43736

possession of the property and of the revenues and income accruing therefrom and to rent or cultivate the same as the receiver may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Buyers only for the net profits, after application of rents, issues and profits from the costs and expenses of the receivership and foreclosure and upon the contract obligation.

It is agreed that if this contract covers less than ten (10) acres of land, and in the event of the foreclosure of this contract and sale of the property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the statutes of the State of Iowa shall be reduced to six (6) months provided the Sellers, in such action file an election to waive any deficiency judgment against Buyers which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first three (3) months after sale such right of redemption shall be exclusive to the Buyers, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four (4) months.

It is further agreed that the period of redemption after a foreclosure of this contract shall be reduced to sixty (60) days if all of the three following contingencies develop: (1) The real estate is less than ten (10) acres in size; (2) the Court finds affirmatively that the said real estate has been abandoned by the owners and those persons personally liable under this contract at the time of such foreclosure; and (3) Sellers in such action file an election to waive any deficiency judgment against Buyers or their successor in interest in such action. If the redemption period is so reduced, Buyers or their successors in interest or the owner shall have the exclusive right to redeem for the first thirty (30) days after such sale, and the time provided for redemption by creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to forty (40) days. Entry of appearance by pleading or docket entry by or on behalf of Buyers shall be presumption that the property is not abandoned. Any such redemption period shall be consistent with all of the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 of the Iowa Code.

b. If Sellers fail to timely perform their obligations under this contract, Buyers shall have the right to terminate this contract and have all payments made returned to them.

c. Buyers and Sellers are also entitled to utilize any and all other remedies or actions at law or in equity available to them.

d. In any action or proceeding relating to this contract the successful party shall be entitled to receive reasonable attorney's fees and costs as permitted by law.

12. JOINT TENANCY IN PROCEEDS AND IN REAL ESTATE. If Sellers, immediately preceding this contract, hold title to the Real Estate in joint tenancy with full right of survivorship, and the joint tenancy is not later destroyed by operation of law or by acts of Sellers, then the proceeds of this sale, and any continuing or recaptured rights of Sellers in the Real Estate, shall belong to Sellers as joint tenants with full right of survivorship and not as tenants in common; and Buyers, in the event of the death of either Seller, agree to pay any balance of the price due Sellers under this contract to the surviving Seller and to accept a deed from the surviving Seller consistent with paragraph 10.

13. JOINDER BY SELLER'S SPOUSE. Seller's spouse, if not a titleholder immediately preceding acceptance of this offer, executes this contract only for the purpose of relinquishing all rights of dower, homestead and distributive shares or in compliance with Section 561.13 of the Iowa Code and agrees to execute the deed for this purpose.

14. TIME IS OF THE ESSENCE. Time is of the essence in this contract.

15. PERSONAL PROPERTY. If this contract includes the sale of any personal property, Buyers grant the Sellers a security interest in the personal property and Buyers shall execute the necessary financing statements and deliver them to Sellers.

16. CONSTRUCTION. Words and phrases in this contract shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

17. RELEASE OF RIGHTS. Each of the Buyers hereby relinquishes all rights of dower, homestead and distributive share in and to the property and waives all rights of exemption as to any of the property.

18. ADDITIONAL PROVISIONS. 1. Buyers shall be responsible to take over all existing casualty insurance policies naming Sellers as first loss payees or using comparable insurance which must be provided on or before the day of closing.

2. Buyers acknowledge that they have made a satisfactory inspection of the property and improvements and are purchasing the property in its existing condition.

3. The parties agree to split the cost of title insurance rather than using an abstract and this sale is conditioned upon the title insurance policy showing marketable title in Sellers in conformity with this agreement, Iowa law, and the Title Standards of the Iowa State Bar Association.

4. The parties know and understand that the property is used as a gas station and convenience store and that there are underground storage tanks. Sellers shall not be liable to Buyers or anyone else for any soil contamination. Sellers, to the best of their knowledge and belief, state that there are no abandoned wells, solid waste disposal sites, hazardous waste or substances located on the property and to the best of Sellers' knowledge, there are no dangerous levels of hazardous substances on the property. Sellers have maintained underground storage tank insurance and are making no guarantee or representation that the property is free from contamination due to underground storage tanks, although Sellers represent that, to the best of their knowledge, there are no leaks or problems with the current underground storage facilities.

5. This sale does not include the sale of the name of the business "The Filling Station". Buyers must change the name of the business on or before July 1, 2003.

6. As additional consideration for this agreement, Sellers agree to provide no more than 10 hours of assistance to Buyers per week until July 1, 2003, to assist Buyers in the continued smooth operation of the business.

7. In the event the property that is the subject of this contract is sold or transferred, the Sellers can, at their sole option, declare the entire unpaid balance of principal and interest immediately due and payable. Buyers retain the right to assign or transfer the property to a limited liability company, corporation, or any other entity for the management and/or ownership of the property for so long as the Buyers retain no less than 50% ownership interest in the entity to which they make the assignment or transfer. That type of transfer will not cause the acceleration of payments under the terms of this contract. However, despite any transfer or assignment, the undersigned Buyers shall remain personally liable under the terms of the contract and do personally guarantee the performance of all of the obligations of the Buyers under the terms of this contract regardless of any assignment or transfer of interest.

8. Seller and its' principal owners, Terry K. Jones and Christine L. Jones, agree that they will not operate any related business such as a retail food or petroleum or gas station within a four mile radius of the property that is the subject of this agreement on or before January 1, 2013.

9. All uncollected accounts receivable due to Sellers at time of closing shall remain the property of Sellers. All accounts payable on the date of closing shall be the obligation of the Sellers.

I UNDERSTAND THAT HOMESTEAD PROPERTY IS IN MANY CASES PROTECTED FROM THE CLAIMS OF CREDITORS AND EXEMPT FROM JUDICIAL SALE; AND THAT BY SIGNING THIS CONTRACT, I

VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION FOR THIS PROPERTY WITH RESPECT TO CLAIMS BASED UPON THIS CONTRACT.

Dated: _____

THE FILLING STATION, INC.

by
TERRY K. JONES, President

CHRISTINE L. JONES, Secretary

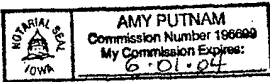
Dated: _____

H. JAMES RATLIFF, Buyer

REBECCA RATLIFF, Buyer

STATE OF IOWA, POTTAWATTAMIE COUNTY, ss;

This instrument was acknowledged before me on 14th January 03 by H. James Ratliff and Rebecca Ratliff, husband and wife.

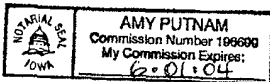


[Signature]

Notary Public

STATE OF IOWA, POTTAWATTAMIE COUNTY, ss;

On this 14th day of January, 2003, before me, the undersigned a Notary Public in and for said State, personally appeared Terry K. Jones and Christine L. Jones to me personally known, who being by me duly sworn, did say that they are the President and Secretary, respectively, of said corporation; that no seal has been procured by the said corporation that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Terry K. Jones and Christine L. Jones as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.



[Signature]

, Notary Public