

LAND SALE CONTRACT

THIS CONTRACT, made and entered into this 13th day of March, 1991, by and between JOSEPH T. RIKER, III, and JOAN F. RIKER, husband and wife, hereinafter called Seller; and ALICE JUDENE GOTCHER, hereinafter called Buyer; (it being understood that the singular shall include the plural if there are two or more sellers and/or buyers).

W I T N E S S E T H:

Seller agrees to sell to the Buyer and the Buyer agrees to buy from the Seller for the price and on the terms and conditions set forth hereafter all of the following described property and improvements legally described on Exhibit "A", attached hereto and incorporated by reference herein as if fully set forth, subject to the encumbrances also set forth on Exhibit "A".

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

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

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

It is mutually agreed as follows:

1. **Possession:** Buyer shall be entitled to possession of the property as of the date hereof;
2. **Prepayment Privileges:** After the date hereof, Buyer shall have the privilege of increasing any payment or prepaying the entire balance provided for hereinafter with interest due thereon to the date of payment;
3. **Payment of Liens and Taxes:** Buyer shall pay promptly all indebtedness incurred by their acts which may become a lien or purported lien, upon said property, and shall regularly and before the same shall become delinquent, pay all taxes, including adjustment of same for any reason, assessments, liens, and encumbrances of whatsoever kind affecting said property after this date, provided, all such taxes, assessments and charges for the current year shall be pro-rated as of the date hereof, and in the event Buyer shall fail to so pay, when due, any such matters or amounts required by Buyer to be paid hereunder, or to procure and pay seasonably for insurance, Seller may pay any or all such amounts and any such payment shall be added to the purchase price of said property on the date such payments are made by Seller and such amount shall bear interest at the same rate as provided herein, without waiver, however, of any right arising to Seller for Buyer's breach of contract, and, in such event or events, the escrow holder is hereby directed and authorized to so add such amounts to the contract balance upon being tendered a proper receipt therefore;
4. **Insurance:** Buyer shall keep any buildings on such property insured against loss or damage by fire or other casualty in an amount of not less than the full insurable value thereof,

with loss payable to the parties hereto, and the interests herein reflected, if any, all as their interests appear at the time of loss; all uninsured losses shall be borne by the Buyer on or after the date Buyer becomes entitled to possession; Buyer shall furnish Seller proof of such insurance coverage;

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

6. Transfer of Title: Seller shall upon the execution hereof make and execute in favor of Buyer a good and sufficient deed conveying said property free and clear of all liens and encumbrances, except as provided herein, as appropriate and will place said document, together with one of these agreements, in escrow at ASPEN TITLE AND ESCROW, INC., 525 Main Street, Klamath Falls, OR 97601, and shall enter into written escrow instructions in form satisfactory to said escrow holder and the parties hereto, instruct said escrow holder that when, and if, Buyer shall have paid the balance of the purchase price in accordance with the terms and conditions of this contract, said escrow holder shall deliver said documents to Buyer, but in case of default by Buyer, said escrow holder shall, on demand, surrender said documents to Seller;

7. Tax Payment Procedures: Until a change is requested, all tax statements shall be sent to the address designated hereinafter. Buyer shall be required to pay all real property taxes, such payment to be in accordance with the terms and provisions hereof, as follows:

A. Until the obligation secured by the within Land Sale Contract has been paid in full, Buyer shall pay to the escrow agent, designated herein, \$38.48 on the day monthly payments are due hereunder, a sum ("funds") equal to 1/12th of the yearly taxes and assessments which may attain priority over this Land Sale Contract. In order that the amount of this monthly payment may be determined, Buyer shall be responsible to provide to the escrow agent, named herein, a copy of the yearly tax bill within ten (10) days of its mailing by the Klamath County Tax Assessor's Office. Based upon such yearly tax bill, and on the basis of current data and reasonable estimates of future escrow needs, the escrow agent shall be empowered to estimate and compute the amount of monthly payment necessary to satisfy the yearly taxes and assessments next falling due.

B. The "funds" shall be held in an institution, the accounts of which are insured or guaranteed by a federal or state agency. The escrow agent shall apply the "funds" to pay the real property taxes and assessments. Buyer and Seller may agree in writing that interest shall be paid on the "funds". Unless an Agreement is made or an applicable law requires interest to be paid, neither Seller nor the escrow agent named herein shall be required to pay Buyer any interest or earnings on the "funds".

C. The "funds" are pledged as additional

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security for the sums secured by and required to be paid by this Land Sale Contract.

8. **Property Taken "As Is":** Buyer certifies that this contract of purchase is accepted and executed on the basis of his own examination and personal knowledge of the premises and opinion of the value thereof; that Buyer has made a personal inspection of the property so as to determine its acceptability; that no attempt has been made to influence their judgment; that no representations as to the condition or repair of said premises have been made by Seller or by an agent of Seller; and that Buyer takes said property and the improvements thereon in the condition existing at the time of this agreement;

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

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

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

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

(b) To declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable; and/or

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

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

In any of such cases, all rights and interest created or then existing in favor of the Buyer as against the Seller hereunder shall utterly cease and determine, and the right to the possession of the premises above-described and all other rights acquired by the Buyer hereunder shall revert to and revest in said Seller without any act of re-entry, or any other act of said Seller to be performed and without any right of Buyer of return, reclamation or compensation for monies paid on account of the purchase of said property as absolutely, fully and perfectly as if this contract and such payments had never been made; and in case of such default, all payments theretofore made on this contract are to be retained by and belong to said Seller as the agreed and reasonable rent of said premises up to the time of such default. The said Seller, in case of such default, shall have the right immediately, or any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with any of the improvements thereon; and alternatively, Buyer shall have the right to apply to the Court for appointment of a receiver as a matter of right and nothing in this contract shall preclude

appointment of the Seller as such receiver;

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

13. Attorney Fees: In the event suit or action is instituted to enforce any of the terms of this contract, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial or on appeal of such suit or action, in addition to all other sums provided by law;

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

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

16. Purchase Price and Payments: The purchase price for the interest conveyed is the sum of Sixteen Thousand Dollars, (\$16,000.00), payable as follows:

(a) Buyer shall pay an initial payment in the sum of Four Thousand Dollars (\$4,000.00) and

(b) The remainder of the purchase price in the amount of Twelve Thousand Dollars (\$12,000.00) shall be payable in monthly installments of \$118.17 per month, including interest at the rate of eight and one half percent (8½%) per annum on the unpaid balance, which said sum includes principal and interest; together with the applicable collection escrow fees; the first of such payments shall be payable on the 13th day of APRIL, 1991, with a further and like installment payable on the 13th day of each and every month thereafter until the full amount of principal and interest shall have been paid in full. In addition, Buyer shall be required to pay through the escrow, herein established, those certain real property tax amounts required to be paid by Paragraph 7 hereinabove.

17. Inclusion of Personal Property: It is agreed between Buyer and Seller that the property conveyed by the within Land Sales Contract includes a gas heater, gas cook stove, and portable electric heater, which said personal property items constitute an improvement to the real property conveyed by the within instrument. Buyer and Seller agree that Seller shall retain title to the said personal property items until the Land Sale Contract has been paid in full.

18. Escrow Funds Distribution: It is understood by and between the parties that the real property being conveyed by the within instrument is encumbered by a certain contract, including the terms and provisions thereof, more particularly described herein, owing to Pauline Flowers and Francis J. Flowers, Trustees of the Pauline Flowers Trust, U.T.A.D. November 3, 1983. It is agreed that the escrow holder named herein, or its successor, upon receipt of payments from Buyer, shall remit the same to Seller, it being the agreement of Seller that Seller will utilize the same in payment of the obligation owing to Pauline Flowers

and Francis J. Flowers, Trustees, until the said obligation has been paid in full. Seller agrees that the proceeds from payments made hereunder by Buyer shall be utilized by Seller in payment of the aforesaid obligation, which Buyer does not assume.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed this ____ day of _____, 1991.

SELLER:

Joseph T. Riker III
JOSEPH T. RIKER, III

BUYER:

Alice Judene Gotcher
ALICE JUDENE GOTCHER

Joan F. Riker
JOAN F. RIKER

STATE OF OREGON/County of Klamath) ss.

PERSONALLY APPEARED the above-named Alice Judene Gotcher and acknowledged the foregoing instrument to be her voluntary act and deed.

Dated before me this 13 day of March, 1991.

Sandra Handscher
NOTARY PUBLIC FOR OREGON
My Commission Expires: 7-23-93

STATE OF OREGON/County of Klamath) ss.

PERSONALLY APPEARED the above-named Joseph T. Riker, III and Joan F. Riker and acknowledged the foregoing instrument to be their voluntary act and deed.

Dated before me this 13 day of March, 1991.

Sandra Handscher
NOTARY PUBLIC FOR OREGON
My Commission Expires: 7-23-93

Grantor's Name and Address:

STATE OF OREGON)
County of Klamath) ss.

Grantee's Name and Address:

I CERTIFY that the within instrument was received for record on the ____ day of _____, 1991, at ____ o'clock ____ M., and recorded in Book ____ on Page ____ or as File/Reel number _____, Record of Deeds of said County.

After Recording, Return To:

MTC

Until a Change is Requested
Tax Statements Should be
Sent To:

Recording Officer

By: _____

Beginning at a point 660 feet North of an iron pin driven into the ground near the fence corner at the Southwest corner of the NW 1/4 of Section 1, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, on the property of Otis V. Saylor, being the Southwest corner of said property abutting on the Dalles-California Highway, and which iron pin is East 30 feet of the center of a road intersecting the Dalles-California Highway from the North, and which pin is North 30 feet of the center of said highway; thence East 330 feet; thence North 66 feet; thence West 330 feet; thence South 66 feet to the place of beginning.

CODE 43 MAP 3909-1BC TL 4600

SUBJECT TO: Regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Enterprise Irrigation District.

ALSO SUBJECT TO: Regulations, including levies, liens, assessments, rights of way and easements of the South Suburban Sanitary District, and as per Ordinance No. 29, recorded May 24, 1983, in Book M-83 at page 8062, and as per Ordinance No. 30, recorded May 30, 1986, in Book M-86 at page 9346, and per Ordinance No. 31, recored January 6, 1988, in Book M-88 at page 207, and as per Ordinance No. 32, recorded May 14, 1990, in Book M-90 at page 9131.

ALSO SUBJECT TO: Contract, including the terms and provisions thereof:

Vendor: Francis M. Flowers and Pauline Flowers, as tenants by the entirety
 Vendee: Joseph T. Riker III and Joan F. Riker, husband and wife
 Dated: May 18, 1979
 Recorded: May 22, 1979
 Book: M-79
 Page: 11681

The vendee's interest thereunder was assigned by Deed:

To: Patricia L. Reeves
 Recorded: May 27, 1987
 Book: M-87
 Page: 9088
 Fee No. 75041

The vendor's interest thereunder was assigned by Assignment and Deed:

To: Pauline Flowers and Francis J. Flowers, Trustees of the Pauline Flowers Trust, U.T.A.D. November 3, 1983
 Recorded: September 2, 1987
 Book: M-87
 Page: 15935 and 15937
 Fee No: 78845 and 78847

The vendee's interest of Patricia L. Reeves was assigned by Warranty Deed:

To: Joseph T. Riker, III and Joan F. Riker, husband and wife
 Recorded: February 7, 1991
 Book: M-91
 Page: 2326
 Fee No: 25620

Which Buyer does not assume, but which Seller agrees to pay from out of the proceeds received in payment of the within Land Sale Contract

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Aspen Title Co. the 13th day
of March A.D., 19 91 at 3:37 o'clock P M., and duly recorded in Vol. M91,
of Deeds on Page 4538.

Evelyn Biehn - County Clerk

By Gauze Nickerson

FEE \$58.00