

38642

Aspen Title #01037781

THIS AGREEMENT, made and entered into this 12th day of December, 1991, by and between FRANK A. SUCCO, hereinafter called Vendor, and OTTO F. BERGER, hereinafter called Vendee, and BEVERLY P. SUCCO, husband and wife,

WITNESSETH:

Vendor agrees to sell to the vendee and the vendee agrees to buy from the vendor all of the following-described property situate in Klamath County, State of Oregon, to-wit:

A portion of the SW¹/₄ of Section 2, Township 39 South, Range 9 East of the Willamette Meridian, in the County of Klamath, State of Oregon, more particularly described as follows:

Beginning on the North line of the Dalles-California Highway at a point thereon distant 76 feet East of the intersection of the East line of the lane running North and South through the center of Section 2, Township 39 South, Range 9, E. W. M., in the County of Klamath, State of Oregon, and the said North line of said Dalles-California Highway: thence East along said North line of Highway 76 feet; thence North and parallel with said lane 189.4 feet; thence West and parallel with said Highway 76 feet; thence South and parallel with said lane 189.4 feet to the place of beginning, being a portion of the SW¹/₄ of Section 2, Township 39 South, Range 9 E. W. M. in the County of Klamath, State of Oregon.

EXCEPTING THEREFROM that parcel deeded to State of Oregon, by and through its State Highway Commission, under Warranty Deed from Larry Baraboo and Deannie Baraboo, his wife, dated March 6, 1964, recorded March 24, 1964, in Book 351 at page 659, Deed Records of Klamath County, Oregon.

CODE 41 MAP 3909-2AC TL 7100

SUBJECT TO: Regulations, including levies, assessments, water and irrigation rights and easements for ditches and canals, of Enterprise Irrigation District; 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 M83 at page 8062 and as per Ordinance No. 30, recorded May 30, 1986, in Book M86 at page 9346 and as per Ordinance No. 31, recorded January 6, 1988 in Book M88 at page 207, and as per Ordinance No. 32, recorded May 14, 1990, in Book M90 at page 9131, and as per Ordinance No. 33, recorded July 10, 1991, in Book M91 at page 13347; Levies and assessments of the Klamath County Drainage District; Reservations, restrictions, easements and rights of way of record and those apparent on the land, if any; and also subject to a Trust Deed in favor of Klamath First Federal Savings and Loan Association from EKO Investments, dated July 19, 1977, recorded in M77 at page 12786, Microfilm Records of Klamath County, Oregon, which Trust Deed vendee DOES NOT assume, and vendor covenants and agrees to hold him harmless therefrom;

at and for a price of \$87,000.00, payable as follows, to-wit: \$8,543.50 at the time of the execution of this agreement, the receipt of which is hereby acknowledged; \$78,456.50 with interest at the rate of 10% per annum from November 15, 1991, payable in installments of not less than \$750.00 per month, inclusive of interest, the first installment to be paid on the 15th day of December, 1991, a further installment on the 15th day of every month thereafter until November 15, 2001, when the full balance of principal and interest shall be due and payable. The monthly payments include a payment of \$152.22 for 1/12th of the current real property taxes. In the event the taxes on the property are increased or decreased the monthly payment shall be increased or decreased by 1/12th of the increase or decrease.

91 DEC 12 PM 3 50

Vendee agrees to make said payments promptly on the dates above named to the order of the vendor at Klamath First Federal Savings and Loan Association, at Klamath Falls, Oregon; to keep said property at all times in as good condition as the same now are, that no improvement, now on or which may hereafter be placed on said property shall be removed or destroyed before the entire purchase price has been paid and that said property will be kept insured in companies approved by vendor against loss or damage by fire in a sum not less than its full insurable value, with loss payable to the parties as their respective interests may appear, said policy or policies of insurance to be held by vendor; that vendor shall pay regularly and seasonably and before the same shall become subject to interest charges, taxes, assessments, liens and incumbrances as of the date of this contract of whatsoever nature and kind, and vendee agrees not to suffer or permit any part of said property to become subject to any liens, charges or incumbrances whatsoever having precedence over rights of the vendor in and to said property. The vendor shall direct the escrow holder to add the amount of the taxes to the balance of the contract.

Vendor will on the execution hereof make and execute in favor of vendee good and sufficient warranty deed conveying a fee simple title to said property free and clear as of this date of all incumbrances whatsoever, except those above set forth which vendee assumes, and the above-described trust deed to Klamath First Federal Savings and Loan Association, which vendee does not assume, and will place said deed, together with one of these agreements, in escrow at Klamath First Federal Savings and Loan Association at Klamath Falls, Oregon, and shall enter into written escrow instructions in form satisfactory to said escrow holder, instructing said holder that when, and if, vendee 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 instruments to vendee, but that in case of default by vendee said escrow holder shall, on demand, surrender said instruments to vendor.

Vendee shall be entitled to possession of the property Dec. 13, 1991.

But in case vendee 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 other terms or conditions of this agreement, time of payment and strict performance being declared to be the essence of this agreement, then vendor shall have the following rights: (1) To foreclose this contract by strict foreclosure in equity; (2) To declare the full unpaid balance immediately due and payable; (3) To specifically enforce the terms of the agreement by suit in equity; and in any of such cases, except exercise of the right to specifically enforce this agreement by suit in equity, all of the right and interest hereby created or then existing in favor of vendee derived under this agreement shall utterly cease and determine, and the premises aforesaid shall revert and revert in vendor without any declaration of forfeiture or act of reentry, and without any other act by vendor to be performed and without any right of vendee of reclamation or compensation for money paid or for improvements made, as absolutely, fully and perfectly as if this agreement had never been made.

Should vendee, while in default, permit the premises to become vacant, vendor may take possession of same for the purpose of protecting and preserving the property and his security interest therein, and in the event possession is so taken by vendor he shall not be deemed to have waived his right to exercise any of the foregoing rights.

And in case suit or action is instituted to foreclose or to enforce any of the provisions hereof, the prevailing party in such suit or action shall be entitled to receive from the other party his costs which shall include the reasonable cost of title report and title search and such sum as the trial court and or appellate court, if an appeal is taken, may adjudge reasonable as attorney's fees to be allowed the prevailing party in said suit or action and/or appeal, if an appeal is taken.

Vendee further agrees that failure by vendor at any time to require performance by vendee of any provision hereof shall in no way affect vendor's right

1 hereunder to enforce the same, nor shall any waiver by vendor of such breach of
 2 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.

3 This agreement shall bind and inure to the benefit of, as the circumstances
 4 may require, the parties hereto and their respective heirs, executors, adminis-
 trators and assigns.

5 This instrument will not allow use of the property described in this instru-
 6 ment in violation of applicable land use laws and regulations. Before signing
 7 or accepting this instrument, the persons acquiring fee title to the property
 should check with the appropriate city or county planning department to verify
 approved uses.

8 WITNESS the hands of the parties the day and year first herein written.

9 Beverly P. Succo Frank A. Succo
 10 BEVERLY P. SUCCO Frank A. Succo

11 Otto F. Berger
 12 Otto F. Berger

13 STATE OF OREGON)
 14 County of Klamath) SS

15 On this 13th day of December, 1991, personally appeared the within-named
 16 Frank A. Succo, and acknowledged the foregoing instrument to be his voluntary
 act and deed. Before me: Beverly P. Succo

17 (SEAL)
 18 My Commission Expires: 3-22-93

Charles J. Aldinger
 Notary Public for Oregon

19 STATE OF OREGON)
 20 County of Klamath) SS

21 On this ___ day of December, 1991, personally appeared the within-named
 22 Otto F. Berger and acknowledged the foregoing instrument to be his voluntary
 act and deed. Before me:

23 (SEAL)
 24 My Commission Expires: 3-22-93

Charles J. Aldinger
 Notary Public for Oregon

25 Until a change is requested, send
 26 tax statements to:

27 Mr. Otto F. Berger
 28 5019 So. 6th St.
 29 Klamath Falls, OR 97603

30 Return this document
 31 after recording, to:
 32 Aspen Title & Escrow, Inc.
 Attn: Escrow Dept.
 #01037781

STATE OF OREGON,
 County of Klamath ss.

Filed for record at request of:

Aspen Title Co.
 on this 13th day of Dec. A.D., 19 91
 at 3:50 o'clock P M. and duly recorded
 in Vol. M91 of Deeds Page 26079

Evelyn Biehn County Clerk
 By Paula M. Mendenhall
 Deputy.

Fee,
 \$38.00