

49283

CONTRACT—REAL ESTATE

Vol. <sup>m</sup> 78 Page 11603

THIS CONTRACT, Made this 15th day of May, 1978, between  
Gienger Enterprises, Inc.,

and Edward W. St. John and Mercedes E. St. John, husband and wife,

WITNESSETH: That in consideration of the mutual covenants and agreements herein contained, the seller agrees to sell unto the buyer and the buyer agrees to purchase from the seller all of the following described lands and premises situated in Klamath County, State of Oregon, to-wit:

A parcel of land situated in Government Lots 31 and 36 of Section 4 and Government Lots 2 and 7 of Section 9, all in Township 35 South, Range 7 East of the Willamette Meridian, in the County of Klamath, State of Oregon, being more particularly described as follows:

Beginning at a point on the Section Line common to said Sections 4 and 9 from which the  $\frac{1}{4}$  corner common to said Sections 4 and 9 bears South 89° 38' 24" West a distance of 280.00 feet; thence from said point of beginning South 949.17 feet; thence East 502.11 feet to a point on the Westerly right of way line of U.S. Highway No. 97; thence North 04° 02' 34" East along said Westerly right of way line 2273 feet, more or less, to a point on the North line of said Government Lot 31; thence West along said North line of Government Lot 31, 187 feet, more or less, to the Easterly right of way line of the South Chiloquin State Highway; thence Southerly and Westerly along said Easterly and Southerly right of way line of said South Chiloquin State Highway to a point that is North of the point of beginning; thence South 412 feet to the point of beginning.  
(For continuation of this legal description, see reverse side of this contract)  
for the sum of Twelve thousand and no/100-----Dollars (\$12,000.00) (hereinafter called the purchase price), on account of which Two thousand three hundred and no/100 Dollars (\$2,300.00) is paid on the execution hereof (the receipt of which is hereby acknowledged by the seller); the buyer agrees to pay the remainder of said purchase price (to-wit: \$9,700.00) to the order of the seller in monthly payments of not less than One hundred twenty-one and 35/100-----Dollars (\$121.35) each, or more, prepayment without penalty,

payable on the 15th day of each month hereafter beginning with the month of June, 1978, and continuing until said purchase price is fully paid. All of said purchase price may be paid at any time; all deferred balances of said purchase price shall bear interest at the rate of 8 per cent per annum from May 15, 1978 until paid, interest to be paid monthly and \*in addition to—being included in the minimum monthly payments above required. Taxes on said premises for the current tax year shall be prorated between the parties hereto as of the date of this contract.

The buyer warrants to and covenants with the seller that the real property described in this contract is  
(A) primarily for buyer's personal, family, household or agricultural purposes,  
(B) for an organization or for a buyer in a natural person's business or commercial purpose other than agricultural purposes.

The buyer shall be entitled to possession of said lands on May 15, 1978, and may retain such possession so long as he is not in default under the terms of this contract. The buyer agrees that at all times he will keep the buildings on said premises, now or hereafter erected, in good condition and repair and will not suffer or permit any waste or strip thereof; that he will keep said premises free from mechanics' and all other liens and save the seller harmless therefrom and reimburse seller for all costs and attorney's fees incurred by him in defending against any such liens; that he will pay all taxes hereafter levied against said property, as well as all water rents, public charges and municipal liens which hereafter lawfully may be imposed upon said premises, all promptly before the same or any part thereof become past due; that at buyer's expense, he will insure and keep insured all buildings now or hereafter erected on said premises against loss or damage by fire (with extended coverage) in an amount full insurable value not less than \$\_\_\_\_\_ in a company or companies satisfactory to the seller, with loss payable first to the seller and then to the buyer as their respective interests may appear and all policies of insurance to be delivered to the seller as soon as insured. Now if the buyer shall fail to pay any such liens, costs, water rents, taxes, or charges or to procure and pay for such insurance, the seller may do so and any payment so made shall be added to and become a part of the debt secured by this contract and shall bear interest at the rate aforesaid, without waiver, however, of any right arising to the seller for buyer's breach of contract.

The seller agrees that at his expense and within 30 days from the date hereof, he will furnish unto buyer a title insurance policy insuring (in an amount equal to said purchase price) marketable title in and to said premises in the seller on or subsequent to the date of this agreement, save and except the usual printed exceptions and the building and other restrictions and easements now of record, if any. Seller also agrees that when said purchase price is fully paid and upon request and upon surrender of this agreement, he will deliver a good and sufficient deed conveying said premises in fee simple unto the buyer, his heirs and assigns, free and clear of encumbrances as of the date hereof and free and clear of all encumbrances since said date placed, permitted or arising by, through or under seller, excepting, however, the said easements and restrictions and the taxes, municipal liens, water rents and public charges so assumed by the buyer and further excepting all liens and encumbrances created by the buyer or his assigns.

(Continued on reverse)

\*IMPORTANT NOTICE: Delete, by lining out, whichever phrase and whichever warranty (A) or (B) is not applicable. If warranty (A) is applicable and if the seller is a creditor, as such word is defined in the Truth-in-Lending Act and Regulation Z, the seller MUST comply with the Act and Regulation by making required disclosures for this purpose, use Stevens-Ness Form No. 1308 or similar unless the contract will become a first lien to finance the purchase of a dwelling in which event use Stevens-Ness Form No. 1307 or similar.

Gienger Enterprises, Inc.  
P.O. Box 384  
Chiloquin, Oregon

SELLER'S NAME AND ADDRESS

Edward & Mercedes St. John  
1437 Lucille Avenue  
Los Angeles, California 90026

BUYER'S NAME AND ADDRESS

After recording return to:

TA-Branch

NAME, ADDRESS, ZIP

Until a change is requested all tax statements shall be sent to the following address.

Edward & Mercedes St. John  
1437 Lucille Avenue  
Los Angeles, California 90026

NAME, ADDRESS, ZIP

STATE OF OREGON,

County of

I certify that the within instrument was received for record on the day of 19, at o'clock M., and recorded in book on page or as file/reel number  
Record of Deeds of said county.  
Witness my hand and seal of County affixed.

SPACE RESERVED FOR RECORDER'S USE

By Recording Officer  
Deputy

And it is understood and agreed between said parties that time is of the essence of this contract, and in case the buyer shall fail to make the payments above required, or any of them, punctually within 20 days of the time limited therefor, or fail to keep any agreement herein contained, then the seller at his option shall have the following rights: (1) to declare this contract null and void, (2) to declare the whole unpaid principal balance of said purchase price with the interest thereon at once due and payable, (3) to withdraw said deed and other documents from escrow and/or (4) to foreclose this contract by suit in equity, and 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 terminate and the right to the possession of the premises above described and all other rights acquired by the buyer hereunder shall revert to and remain in said seller without any act of re-entry, or any other act of said seller to be performed and without any right of the buyer of return, recalculation or compensation for moneys 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. And the said seller, in case of such default, shall have the right immediately, or at any time thereafter, to enter upon the land aforesaid, without any process of law, and take immediate possession thereof, together with all the improvements and appurtenances thereon or thereto belonging.

The buyer further agrees that failure by the seller at any time to require performance by the buyer of any provision hereof shall in no way affect his right hereunder to enforce the same, nor shall any waiver by said 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.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$12,000.00. ~~The whole consideration indicated which is the sum as the trial court may adjudge reasonable as attorney's fees to be allowed the prevailing party in said suit or action and if an appeal is taken from any judgment or decree of such trial court, the losing party further promises to pay such sum as the appellate court shall adjudge reasonable as the prevailing party's attorney's fees on such appeal.~~

In construing this contract, it is understood that the seller or the buyer may be more than one person or a corporation; that if the contest so requires, the singular pronoun shall be taken to mean and include the plural, the masculine and the neuter, and that generally all grammatical changes shall be made, assumed and implied to make the provisions hereof apply equally to corporations and to individuals.

This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the immediate parties hereto but their respective heirs, executors, administrators, personal representatives, successors in interest and assigns as well.

IN WITNESS WHEREOF, said parties have executed this instrument in triplicate; if either of the undersigned is a corporation, it has caused its corporate name to be signed and its corporate seal affixed hereto by its officers duly authorized thereunto by order of its board of directors.

Edward W. St. John  
Mercedes E. St. John  
By: Leroy Gienger  
Leroy Gienger Enterprises, Inc.  
Elvina P. Gienger

NOTE—The sentence between the symbols (1) and (2) not applicable, should be deleted. See ORS 93.030.

STATE OF OREGON  
County of Los Angeles } ss.  
19 78

Personally appeared the above named Edward W. St. John and Mercedes E. St. John, husband and wife, and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:  
(OFFICIAL SEAL)  
Notary Public for California  
My commission expires

STATE OF OREGON, County of Klamath } ss.  
May 30, 19 78

Personally appeared LeRoy Gienger and Elvina P. Gienger, who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of Gienger Enterprises, Inc.

and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me:  
Notary Public for Oregon  
My commission expires: 3-22-81

ORS 93.636 (1) All instruments contracting to convey fee title to any real property, at a time more than 12 months from the date that the instrument is executed and the parties are bound, shall be acknowledged, in the manner provided for acknowledgment of deeds, by the conveyor of the title to be conveyed. Such instruments, or a memorandum thereof, shall be recorded by the conveyor not later than 15 days after the instrument is executed and the parties are bound thereby.

ORS 93.990(3) Violation of ORS 93.636 is punishable, upon conviction, by a fine of not more than \$100.

Subject, however, to the following: (DESCRIPTION CONTINUED)

1. Reservations of all subsurface rights, except water, for the heirs of Esther Stokes as disclosed by deed, dated September 19, 1957, recorded September 26, 1957 in Volume 294 at page 481, between the United States of America and Leroy Gienger and Elvina Gienger. (Portions of Lots 2 and 7, Section 9).
2. The right of way to Pacific Telephone and Telegraph Company as disclosed by deed, dated September 19, 1957, recorded September 26, 1957 in Volume 294 at page 481, between the United States of America and Leroy Gienger and Elvina Gienger. (Portions of Lots 2 and 7, Section 9).
3. Terms and provisions as set forth in Land Status Report recorded March 3, 1959, in Deed Volume 310 at page 239, Records of Klamath County, Oregon. (Portions of Lots 31 and 36, Section 4).
4. Reservations, including the terms and provisions thereof, as set forth in deed from the United States of America to John Cole, et al, recorded August 25, 1961, in Deed Volume 329 at page 115, Records of Klamath County, Oregon. (Portions of Lots 31, and 36, Section 4).
5. Reservations, including the terms and provisions thereof, as set forth in deed from the United States of America to John Cole, et al, recorded April 25, 1961, in Deed Volume 329 at page 113, Records of Klamath County Oregon. (Portions of Lots 31 and 36, Section 4).
6. Rights of the public in and to that portion of the above property lying within the limits of roads and highways. (Portions of Lots 31 and 36, Section 4)
7. Reservation of 50% of minerals, gas and oil as disclosed by deed from Amy Jackson to Carl Dawson, dated November 17, 1958, recorded November 25, 1948, in Volume 306 at page 720. (Portions of Lot 26, Section 4).

(See attached Exhibit "A," and by this reference incorporated herein as if fully set forth herein;)

8. An easement created by instrument, including the terms and provisions thereof,

Dated : May 22, 1968  
 Recorded : June 28, 1968 Book: M-68 Page : 5968  
 In Favor of : Pacific Power & Light Company  
 NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 4, Township 35 South, Range 7 (No exact location given.)

9. As disclosed by the assessment and tax roll, the premises herein have been specially assessed for farm use. If the land becomes disqualified for this special assessment under the statutes, an additional tax, plus interest and penalty, will be levied for the number of years in which this special assessment was in effect for the land.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Transamerica Title Co.

the 31st day of May A. D. 1978 at 3:56 clock P. M., or

truly recorded in Vol. M78, of Deeds on Page 11603

Wm D. MILNE, County Clerk

By Bernetha D. Helich

Fee \$9.00

EXHIBIT "A"