

After Recording Return To:
Boivin, Urrutia, D
803 Main Street, Suite 201
Klamath Falls, OR 97601

RIGHT OF FIRST REFUSAL

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K-62770

DATE: June
May 2, 2001

("Effective Date")

PARTIES: Crystal Terrace Retirement Center, LLC

("Owner")

Merle West Medical Center, Inc.

("Grantee")

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RECITALS

A. Owner is the owner of a certain parcel of real property located in Klamath County, Oregon, as described in Exhibit A attached to and made a part of this Agreement (the "Property").

B. Grantee is interested in acquiring the Property from Owner, but Owner is unwilling to ~~sell~~ it at the present time. *sell*

C. Owner is willing to grant to Grantee the right to purchase the Property before offering the Property for sale to third parties. Owner and Grantee desire to evidence their agreement regarding this purchase right.

AGREEMENT

Therefore, in consideration of Grantee's payment of other good and valuable consideration as evidenced in the companion documents executed at the same time, the receipt and sufficiency of which is here acknowledged, Owner and Grantee agree as follows:

1. **Right of First Refusal.** Owner agrees not to sell, transfer, exchange, grant an opinion to purchase, lease, or otherwise dispose of the Property or any part of, or interest in, the Property without first offering the Property to Grantee on the terms and conditions set forth in this Agreement. As used in this Agreement, the term *sell* includes a ground lease of the Property with primary and renewal terms of more than 15 years in the aggregate.

1.1. When Owner receives from a third party (the "Third-Party Offeror") a bona fide offer to purchase the Property, or a part of it, or an interest in it, and Owner intends to accept said offer, Owner shall give Grantee written notice (the "Notice") of the price, terms, and conditions of the offer and deliver a copy of the executed contract evidencing the offer (the "Offer") to Grantee.

1.2. When Grantee receives the Notice and a copy of the Offer, Grantee shall have the prior and preferential right to purchase the Property (or the part of or interest in the Property covered by the Offer, as the case may be) at the same price and on the same terms and conditions as are contained in the Offer, except that if Grantee exercises the right of first refusal by electing to purchase the Property then (1) the closing of the transaction contemplated by the Offer shall take place no earlier than 90 days after the date that Grantee elects to exercise the right of first refusal, and (2) Grantee shall receive a credit against the sale price of the Property in an amount equal to any brokerage commission that Owner may save by selling the Property to Grantee rather than the Third-Party Offeror.

1.3. Grantee shall have 15 days from the date Grantee receives the Notice and a copy of the Offer to notify Owner of whether Grantee elects to purchase the Property pursuant to the terms of the Offer. If Grantee elects to exercise its right to purchase the Property, then, in addition to giving Owner written notice of its election within the 15-day period, Grantee also shall tender an amount equal to the earnest money deposit, if any, specified in the Offer, which will be held and used in accordance with the terms of the Offer.

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1.4. If Grantee fails to timely exercise its right to purchase the Property pursuant to the terms of this Agreement, then Owner shall be entitled to sell the Property according to the terms of the Offer to the Third-Party Offeror, subject to the terms of paragraph 1.E. below.

1.5. If Grantee fails to timely exercise its right to purchase the Property pursuant to the terms of this Agreement, and for any reason Owner shall not sell or convey the Property to the Third-Party Offeror on the terms contained in the Offer within six months of grantee's election not to purchase, then Owner must resubmit the Offer as well as any other offer to Grantee before selling the Property, and such offers shall be subject to Grantee's right of first refusal under this Agreement.

2. **Term.** The term of this Right of First Refusal commences as of the date of this Agreement and runs for as long as Crystal Terrace Retirement Center, LLC or any Affiliate Entity owns the Property. In addition, this Right of First Refusal shall terminate upon the completion of any foreclosure upon the Property, a recording of a Deed in Lieu of Foreclosure describing the Property or a taking of all of the Property by Eminent Domain. Grantee shall cooperate in providing Owner with any instruments that Owner reasonably may require for the purpose of removing from the public record any cloud on title to the Property attributable in any manner to the grant or existence of this right of first refusal, pursuant to paragraph 8.

(a) 3. **Excluded Transfers.** The right of first refusal created by this Agreement shall not apply to any sale or conveyance of the Property by Owner to any partnership, limited partnership, joint venture, corporation, affiliate, principal, or other entity (herein "Affiliate Entity") in which Owner owns and controls at least a 51% ownership interest. ~~In addition, any transfer by Owner or Affiliate Entity by way of foreclosure, deed in lieu of foreclosure and/or eminent domain, shall also be considered excluded transfers.~~

4. **Notices.** All notices require or permitted to be given under this Agreement shall be in writing and shall be deemed given and received two days after deposit in the United States Mail, certified or registered form, postage prepaid, return receipt requested, addressed as follows:

To Owner: Crystal Terrace Retirement Center, LLC
2735 12th Street SE
Salem, Or 97302

To Grantee: Merle West Medical Center, Inc.
2865 Daggett Avenue
Klamath Falls, OR 97601

Notice given in any other manner shall be effective when it is received by the party may change its address by giving 10 days' advance notice to the other party.

5. **Governing Law.** This Agreement is executed in the City of Klamath Falls, State of Oregon, and shall be construed under the laws of the State of Oregon. The parties agree that any action relating to this Agreement shall be instituted and prosecuted by the courts of the County of Klamath, State of Oregon; and each party waives the right to change of venue.

6. **Binding Effect.** This Agreement shall be binding on and inure to the benefit of the parties, Affiliate Entities and their respective successors and assigns. Grantee may freely assign its rights under this Agreement.

7. **Headings.** The captions and headings used in this Agreement are for reference only and shall not be construed to define or limit the scope or content of this Agreement.

8. **Recording.** Upon request of Grantee, Owner agrees to join in executing a memorandum of this Agreement, to be filed for record in the Official Records of Klamath County, Oregon, to give notice to the public of the rights of Grantee under this Agreement. Grantee shall pay the cost of recording the memorandum. The memorandum shall note the date this Agreement expires and Grantee shall join in executing a termination agreement when this Agreement has expired or terminated, failing which, Owner may execute the termination agreement on behalf of Grantee.

9. **Entire Agreement.** This Agreement contains the final and entire understanding between Owner and Grantee with respect to its subject matter and is intended to be an integration of all prior negotiations and understandings. Owner and Grantee shall not be bound by any terms, conditions, statements, warranties, or representations not contained in this Agreement. No change or modification of this Agreement shall be valid unless it is in writing and is signed by both Owner and Grantee.

10. **Waiver.** A failure by Owner or Grantee to enforce any right under this Agreement shall not be deemed to be a waiver of that right or of any other right.

11. **Attorney Fees.** If litigation is instituted with respect to this Agreement, the prevailing party shall be entitled to recover from the losing party, in addition to all other sums and allowable costs, its reasonable attorney fees, both in preparation for and at trial and any appeal or review, such amount to be set by the court that hears the matter.

12. **Time Is of the Essence.** Time is of the essence regarding this Agreement.

13. **Authority to Execute.** Each person executing this Agreement on behalf of Owner and Grantee, respectively, warrants his or her authority to do so.

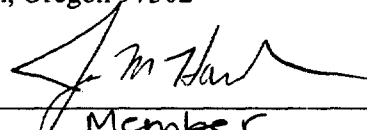
14. **Statutory Disclaimer.** THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR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

15. **Warranties.** Owner warrants and represents to Grantee that Owner has the authority to execute this Agreement, and executing it does not violate any agreement to which Owner is a party or any covenant by which the Property is bound;

Executed as of the day and year first above written.

OWNER:

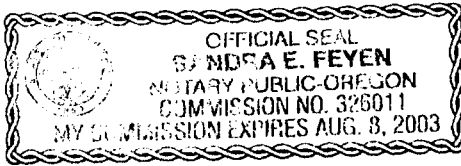
Crystal Terrace Retirement Community, LLC
2735 12th Street SE
Salem, Oregon 97302

By: 
Its: Member
Title: Manager

///

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Subscribed to here before me Jon Harder appeared before me personally this 22nd
day of May, 2001.



Sandra E. Feyen
Notary Public for the State of Oregon
My Commission Expires: 8-8-03

GRANTEE:

Merle West Medical Center, Inc.
2865 Daggett Avenue
Klamath Falls, OR 97601

By: [Signature]Name: Paul R. StewartTitle: President/CEO

Subscribed to here before me Paul Stewart appeared before me personally this ____
day of May, 2001.

[Signature]
Notary Public for the State of Oregon
My Commission Expires: 8-2-03

Attachments:
Exhibit A – Property



DESCRIPTION FOR CRYSTAL TERRACE PARCEL

27260

Parcel 1 of Land Partition 62-00 as shown on the official plat thereof on file at the office of the County Clerk, Klamath County, Oregon, situate in the SE 1/4 NE 1/4 of Section 20, Township 38 South, Range 9 East of the Willamette Meridian.

State of Oregon, County of Klamath
Recorded 06/08/01, at 3:56 P.m.
In Vol. M01 Page 27256
Linda Smith,
County Clerk Fee\$ 41-

Exhibit A