

06 SEP 16 AM 11:22

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Vol M04 Page 61882

**LAND SALE CONTRACT**

State of Oregon, County of Klamath  
Recorded 09/16/04 11:22 a m  
Vol M04 Pg 61882-89  
Linda Smith, County Clerk  
Fee \$ 56.00 # of Pgs 8

The true and actual consideration being paid for the sale and purchase herein described, stated in terms of dollars, is \$87,500.00

Vol M05 Page 03684

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

Sandra K. Martin  
Post Office Box 111  
Crescent, Oregon ~~97783~~  
97733

State of Oregon, County of Klamath  
Recorded 01/18/05 3:14 p m  
Vol M05 Pg 03684-91  
Linda Smith, County Clerk  
Fee \$ 56.00 # of Pgs 8

After recording, return to:

Robert L. Gooch  
Post Office Box 884  
Beavercreek, Oregon 97004

**THIS AGREEMENT**, made and entered into, at Salem, Oregon the 15 day of September, 2004, by and among:

**ROBERT L. GOOCH**, hereinafter referred to as SELLER; and

**SANDRA K. MARTIN**, hereinafter referred to as BUYER.

**WITNESSETH:**

For and in consideration of the payments to be made, covenants performed, and to be performed, and upon the express terms and conditions hereinafter stated, the Seller agrees to sell and the Buyer agrees to buy that certain real property and improvements described as follows, to wit:

**PARCEL 1:**

**The North 296 feet of the East 497 feet of the North ½ of the Northwest 1/4 of the Northwest 1/4 of Section 36, Township 24 South, Range 8 East of the Willamette Meridian, in the County of Klamath, State of Oregon.**

**PARCEL 2:**

**All that certain property described as the W ½ of the SE 1/4 of the SW 1/4<sup>of the SW 1/4</sup> of Section 25, Township 24 South, Range 8 East of the Willamette Meridian in the County of Klamath, State of Oregon.**

TOGETHER WITH: Any items of personal property that Seller leaves on the subject property on the date hereof.

**SUBJECT TO:**

1. Taxes for the fiscal year 2004-2005, in an amount not yet determined, a lien not yet due and payable; Tax Account number 2408-025C0-04100-000.

\*this document is being rerecorded to correct the legal description.

Return to: amt - Bend  
15 Oregon Ave  
Bend, OR 97709  
Attn: TA

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2. The premises herein described are within and subject to the statutory powers, including the power of assessment and easements of Walker Range Timber Fire Patrol.
3. Rights of the public in and to any portion of the herein described premises lying within the limits of streets, roads or highways.
4. Easement for road across a Southerly portion of Parcel 2 as disclosed by Assessor's map.
5. Reservations contained in Patent to Elmer D. Coyner, dated October 13, 1920, recorded October 13, 1920 in Volume 54, Page 274, Deed Records of Klamath County, Oregon, as follows:

“Subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws and decisions of courts; and there is reserved from the lands hereby granted a right of way thereof for ditches or canals constructed by the authority of the United States.”

Affects Parcel 2 and other property.
6. An easement created by instrument, subject to the terms and provisions thereof, dated August 3, 1973, and recorded October 26, 1973, in Volume M73, Page 14379, Microfilm Records of Klamath County, Oregon, in favor of Doris Wyckoff, for road purposes, including the right of dedication for road purposes; affects the Easterly, Northerly and Westerly 15 feet of Parcel 2.
7. An easement created by instrument, subject to the terms and provisions thereof, dated January 11, 1980, recorded February 21, 1980, in Volume M80, Page 3438, Microfilm Records of Klamath County, Oregon, in favor of Gene A. Simkin and Judith E. Simkin, husband and wife, for ingress and egress; affects a strip of land 20 feet in width running from the Southwesterly corner of the herein described property Northeasterly to the East boundary of the herein described Parcel 2. Said easement is appurtenant to the N ½ NW ¼ NW ¼ of Section 36, Township 24 South, Range 8 East of the Willamette Meridian, Klamath County, Oregon, except the North 296 feet of the East 497 feet thereof. Affects Parcel 2 only and is not appurtenant to Parcel 1.
8. An easement created by instrument, subject to the terms and provisions thereof, dated November 9, 1992, recorded January 11, 1993, in Volume M93, Page 781, Microfilm Records of Klamath County, Oregon, in favor of U.S. West Communications, Inc., a Colorado corporation, for telecommunications facilities; affects a strip of land 10 feet in width and 660 feet in length within that certain private road known as Friendly Acres, as placed.

The foregoing easement was assigned by U. S. West Communications, Inc. To Telephone Utilities of Eastern Oregon, Inc., dba PTI Communications, an Oregon corporation, by instrument dated October 20, 1995, and recorded November 7, 1995, in Volume M95, Page 31559, Microfilm Records for Klamath County, Oregon.

9. An easement created by undated instrument, subject to the terms and provisions thereof, recorded February 9, 1983, in Volume M83, Page 2120, Microfilm Records of Klamath County, Oregon, in favor of RiverWest, Ltd, for utilities. Affects the North 10 feet and the East 10 feet of Parcel 1.
10. Restriction contained in Deed recorded February 9, 1983, in Volume M83, Page 2120. Microfilm Records of Klamath County, Oregon, as follows:

The grantee shall in no way hinder or impede the natural flow of the irrigation canal causing a loss of water to other land parcels on said canal. Affects Parcel 1 and other property.

This sale and purchase is made upon the following terms and conditions:

1. **PURCHASE PRICE AND PAYMENT.** The purchase price of the property which Buyer agrees to pay, shall be the sum of EIGHTY-SEVEN THOUSAND FIVE HUNDRED AND NO/100-DOLLARS (\$87,500.00), payable as follows:

a) ONE THOUSAND and NO/100 DOLLARS (\$1,000.00) as Earnest Money and part payment of the purchase price, the receipt of which is hereby acknowledged.

b) TWENTY-NINE THOUSAND and NO/100 DOLLARS (\$29,000.00) as additional down payment, the receipt of which is hereby acknowledged; and

(b) The remaining principal balance of FIFTY-SEVEN THOUSAND FIVE HUNDRED and NO/100 DOLLARS (\$57,500.00), together with interest accruing thereon from the date hereof at the rate of six and one-half percent (6.5%) per annum, and shall be paid in monthly installments of \$500.00 or more each. The first such payment shall be due and payable on or before 10-16, 2004; and subsequent monthly payments shall be due and payable on or before the 16<sup>th</sup> day of each subsequent calendar month, until the entire remaining balance of principal and interest is paid in full, or until September 1, 2009, when the entire remaining balance of principal and interest shall be fully due and payable, whichever first occurs. PROVIDED, however that Buyer may prepay all or any portion of the principal balance at any time without penalty or limitation.

(b) All payments shall be made by Buyer through an escrow collection account to be established by the parties at AmeriTitle, and the parties shall share equally all costs of establishing and maintaining said escrow account.

(c) All payments shall be credited to Buyer's account on the day received by the Seller. Each payment shall be credited first to reimburse Seller for any collection costs or other charges incurred by Seller hereunder, second to the payment of any late charges accrued hereunder, third to the payment of all interest accrued to such day of receipt, and fourth to the reduction of the principal balance.

(d) If any installment payment provided for hereinabove is not paid to Seller within 10

days after its due date, Seller, without waiving any other remedy available to Seller hereunder or under applicable law, shall be entitled to collect from Buyer, and Buyer shall immediately pay to Seller, a LATE CHARGE equal to 5% of the delinquent payment for each such late payment. Any late charge assessed hereunder shall be paid by Buyer to Seller within 10 days after Seller gives Buyer written notice thereof. Seller's right to collect late charges hereunder shall be in addition to and not in lieu of all other rights Seller may have under this agreement or applicable law.

2. **TAX PRO RATE.** Taxes levied against the above-described property for the current tax year shall be pro rated between the Seller and the Buyer as of the date hereof. Seller shall pay all taxes and assessments upon the property that are applicable to periods up to the date hereof, and Buyer shall pay all such taxes and assessments that are applicable to periods on or after the date hereof, when due and before the same become delinquent. At Seller's request, Buyer shall provide Seller with proof that the taxes have been paid in a timely manner. The parties acknowledge that the amount of taxes for the 2004-2005 tax year may not be known as of the closing date, and therefore it may not be possible on the closing date to precisely prorate the taxes for the current tax year. Seller and Buyer hereby agree that in such event, they will initially prorate the taxes for the current tax year based upon the taxes for the 2003-2004 tax year; and within 10 days after the amount of the 2004-2005 taxes becomes known, they will make an appropriate adjustment in the proration outside the collection escrow. The parties further agree that in the event the subject property is subject to farm or forest tax deferral, and in the event such deferral is lost subsequent to the date hereof, Buyer shall be responsible for the payment of all deferred taxes, interest and penalties that become payable as the result of the loss of the deferred status for the subject property.
3. **INSURANCE.** Risk of loss from the damage or destruction of any and all improvements on the subject property shall pass from Seller to Buyer upon the execution of this agreement. From and after the date hereof, Buyer shall keep all buildings and other improvements (if any) presently existing or hereafter erected or placed on the property insured against loss or damage by fire or other casualty in an amount which the Buyer deems reasonable and prudent.
4. **POSSESSION; LOGGING.** Buyer shall be entitled to possession of the subject property from and after the date hereof. During the term of this agreement, Buyer may cut only those trees on the subject property that are dead, down or dangerous, and shall otherwise refrain from logging the subject property or any part thereof.
5. **IMPROVEMENTS.** Provided that Buyer is not in default in the payment or performance of this agreement, and provided that Buyer obtains all necessary land use, building and other permits required for the same, Buyer may make improvements on the property during the term of this agreement, including but not limited to completing work on the unfinished garage now on the subject property; but Buyer may not remove any improvements now existing on the property without the prior written consent of the Seller. Buyer shall cause all such new improvements to be constructed in a good and workmanlike manner, using appropriate materials and techniques, and complying with all applicable building and other codes and regulations. Buyer shall cause all work done on the property to be fully paid for when due and before charges therefor become delinquent. Buyer shall not permit any construction or other lien to attach to the property or any part thereof on account of any such work, and in the event any such lien is filed, Buyer shall immediately cause the same to be satisfied and removed from the property. Buyer further covenants and agrees that all improvements

hereafter placed on the premises 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 the Seller. Buyer shall not commit or suffer any waste of the property or any improvements hereafter placed thereon, and shall maintain the property and all improvements hereafter placed thereon and alterations thereof in good order, repair and condition, reasonable wear and tear excepted.

**6. USE OF PROPERTY.** The Buyer shall maintain the property described above in good condition and repair and shall make no improper use of said property, and shall permit no liens to be made or filed against said property, or any part thereof, until the whole purchase price and accrued interest have been fully paid as herein provided. Buyer shall do or suffer to be done nothing which will impair the security of said Seller in said premises. If any such lien or encumbrance shall be suffered to be placed thereon through or under said Buyer, Buyer shall immediately cause it to be satisfied and discharged, and shall at all times save said Seller and said premises harmless from, and keep said Seller fully indemnified against loss on account of any and all such liens and encumbrances.

**7. TRANSFER OF BUYER'S INTEREST.** This Agreement is personal between Seller and Buyer, and the entire remaining balance of principal and interest shall at the option of the Seller become immediately due and payable if the Buyer sells, assigns or transfers any interest in the property or this agreement without first obtaining the written consent of the Seller, which consent shall not be unreasonably withheld.

**8. CONVEYANCE OF PROPERTY.** Upon final payment of all principal and interest due hereunder, the property shall be conveyed to Buyer by Seller's statutory warranty deed, free and clear of all liens and encumbrances except the matters set forth hereinabove, taxes and assessments applicable to periods after the date hereof, and such other liens and encumbrances as may have been suffered or permitted by Buyer.

**9. "AS IS" SALE.** The parties acknowledge that the only significant improvement now situated on the subject property is an unfinished double garage that contains a kitchen and limited plumbing; and that said garage does not constitute a "dwelling unit" as that term is defined in ORS chapter 105. Except as expressly set forth herein, Owner makes no representations to Purchaser concerning the subject property, including but not limited to the quantity or quality of water available on the property, the status or serviceability of any sewage disposal system on the property, the permissible uses of the property or any other characteristic, quality or condition of the subject property. Seller and Buyer agree that this sale is made to Purchaser on an "**AS IS, WITH ALL FAULTS**" basis, and Seller makes no warranties or representations to Purchaser, including but not limited to any warranties of merchantability or fitness for a particular purpose.

**10. DEFAULT.** In the event that Buyer shall fail to perform any of the terms of this agreement, time of payment and performance being of the essence, Seller shall, at Seller's option, subject to the requirements of notice as herein provided, have the following rights:

- (a) To sue for past due payments;
- (b) To declare the full unpaid balance of the purchase price immediately due and payable;

- (c) To foreclose this contract by strict foreclosure in equity;
- (d) To specifically enforce the terms of this agreement by suit in equity; and
- (e) To declare a forfeiture of this agreement and that this contract is null and void as of the date of the breach and to retain as liquidated damages the amount of the payments theretofore made upon said premises. Under this option, all of the rights, title and interest of the Buyer shall revert and revest in Seller without any act of re-entry or without any other act by Seller to be performed except for the giving of notices and the recordation of an affidavit as provided herein and as provided by ORS 93.905 to 93.940, and Buyer agrees to peaceably surrender the premises to Seller, or in default thereof, Buyers may, at the option of the Seller, be treated as a tenant holding over unlawfully after the expiration of a lease and may be ousted and removed as such. Buyer's right to cure a default under this forfeiture option shall be as provided in ORS 93.920 exclusively.
- (f) In addition to any remedy above, in the event of a foreclosure or forfeiture, Seller may also obtain judgment against the Buyer on account of any unpaid taxes or liens allowed by the Buyer against the property. Said judgment may be sought in separate legal action or in connection with any other remedy hereunder.

If Buyer shall fail to make payments as herein provided and said failure shall continue for more than thirty (30) days after the payment becomes due, Buyer shall be deemed in default and Seller shall not be obligated to give notice to Buyers of a declaration of said default except that if Seller elects to declare a forfeiture, then the notice requirements for a forfeiture shall apply.

Except for non-payment, Buyer shall not be deemed in default for failing to perform any covenants or conditions of this contract until notice of said default has been given by the Seller to Buyer and Buyer shall have failed to remedy said default within thirty (30) days after the giving of the notice. If the default is of such a nature that it cannot be completely remedied within the 30 day period, this provision shall be complied with if Buyer begins correction of the default within the 30 day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as possible.

Notice for all purposes shall be deemed to have been given by the deposit in the mail of a first class and certified letter with return receipt requested containing said notice and addressed to the Buyer at Post Office Box 111, Crescent, Oregon 97783. Buyer shall keep Seller informed in writing of Buyer's current address.

**11. WAIVER.** Failure by Seller at any time to require performance by Buyer of any other provisions hereof shall in no way affect Seller's rights hereunder to enforce the same, nor shall any waiver by Seller of any breach hereof be held to be a waiver of any succeeding breach, or a waiver of this non-waiver clause.

**12. REPRESENTATIONS AND CONDITIONS OF PROPERTY.** BUYER ACCEPTS THE PROPERTY IN ITS PRESENT CONDITION, AS IS, INCLUDING LATENT DEFECTS AND EFFECTS OF PRIOR USE BY SELLER OR ANY PREVIOUS OWNER OR USER, WITHOUT

ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, UNLESS THEY ARE IN WRITING SIGNED BY SELLER. BUYER AGREES THAT BUYER HAS ASCERTAINED FROM SOURCES OTHER THAN SELLER, THE APPLICABLE ZONING, BUILDING, HOUSING AND OTHER REGULATORY ORDINANCES AND LAWS AS WELL AS PRIOR AND PREVIOUS USES AND THAT, EXCEPT AS IS OTHERWISE SPECIFICALLY PROVIDED HEREIN, BUYER ACCEPTS THE PROPERTY WITH FULL AWARENESS OF THESE ORDINANCES AND LAWS AND PRIOR USE AS THEY MAY AFFECT THE PRESENT USE OF ANY INTENDED FUTURE USE OF THE PROPERTY, AND SELLER HAS MADE NO REPRESENTATIONS WITH RESPECT THERETO.

THE PROPERTY DESCRIBED IN THIS INSTRUMENT OR DOCUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS, WHICH, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND WHICH LIMITS LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 IN ALL ZONES.

THIS INSTRUMENT OR DOCUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT OR DOCUMENT IN VIOLATION OR APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT OR DOCUMENT THE PERSON ACQUIRING FEE TITLE OR OTHER INTEREST TO OR IN THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT(S) TO VERIFY APPROVED USES AND EXISTENCE OR NON-EXISTENCE OF FIRE PROTECTION FOR STRUCTURES.

**13. ATTORNEY'S FEES.** In case suit or action is instituted to enforce any of the rights or provisions expressed in this agreement, the party not prevailing agrees to pay the prevailing party's costs and disbursements related to said proceedings, and such sum as the court may adjudge as reasonable for the prevailing party's attorney's fees connected with the trial and the appeal thereof. If this contract is placed in the hands of an attorney for collection or enforcement of any provision hereof, even without suit or action being filed, Buyer agrees to pay the actual and reasonable attorney fees and collection costs incurred. For the purposes of this agreement the term "attorney's fees" includes all charges of the prevailing parties' attorney and their staff.

**14. ENTIRE AGREEMENT.** This document is the entire, final and complete agreement of the parties pertaining to the sale and purchase of the within described real property, and supersedes and replaces all written and oral agreements heretofore made or existing by and between the parties or their representatives insofar as the within described property is concerned.

**15. PLURAL AND SINGULAR.** In construing this instrument, it is understood that the Seller or Buyer may be more than one person; and if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first

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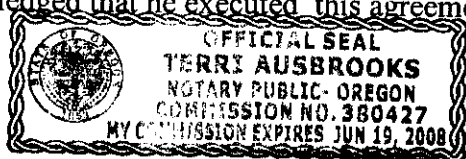
hereinabove written.

Robert L. Gooch  
Robert L. Gooch  
Seller

Sandra K. Martin  
Sandra K. Martin  
Buyer

STATE OF OREGON                    )  
  ) ss.  
County of ~~Marion~~ Deschutes                    )

On this 15 day of September, 2004, personally appeared ROBERT L. GOOCH who acknowledged that he executed this agreement as his voluntary act and deed.



[Signature]  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_

STATE OF OREGON                    )  
  ) ss.  
County of ~~Marion~~ Deschutes                    )

On this 15 day of September, 2004, personally appeared SANDRA K. MARTIN who acknowledged that she executed this agreement as her voluntary act and deed.



[Signature]  
Notary Public for Oregon  
My commission expires: \_\_\_\_\_