

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1516

S.P. 496

In Senate, May 17, 1993

Resolve, Authorizing the Conveyance of Certain Public Lands in Gray.

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BUTLAND of Cumberland. (GOVERNOR'S BILL).
Cosponsored by Representative: CARROLL of Gray.

CONTRACT OF SALE
(STATE OF MAINE SELLER)

THIS CONTRACT OF SALE made as of this 13th day of APRIL, 1993, between the STATE OF MAINE, acting by and through its DEPARTMENT OF CONSERVATION, BUREAU OF PUBLIC LANDS, (the "Seller") and THE UNITED STATES OF AMERICA, by and through the Department of Commerce, National Oceanic and Atmospheric Administration ("the Government"), the addresses of each being set forth in Section 10 herein.

WITNESSETH:

For valuable consideration received, the Seller and the Government hereby covenant and agree as follows:

Section 1. Sale of the Premises and Acceptable Title.

1.1. Seller agrees to sell, and the Government agrees to purchase, that certain lot or parcel of land, together with any buildings or improvements and all rights, hereditaments, easements and appurtenances thereunto belonging, located in The Town of Gray, County of Cumberland, State of Maine as more fully set forth and described on the attached Exhibit A (hereinafter the Premises).

Section 2. Purchase Price.

2.1. The purchase price for the Premises (the "Purchase Price") is Forty Three Thousand U.S. Dollars (\$43,000) at closing.

All such monies are to be paid at Closing in accordance with Section 2.3 below.

The Purchase Price is based on conveyance of fee simple title by quitclaim release deed as required in Section 1 above.

2.2. In the event that the Government determines in good faith that actions to cure unmarketable, questionable, or defective title or boundaries pursuant to Sections 4.1 are or would be insufficient, uneconomic or for other reasons unacceptable to it, or if the Government determines in good faith that the results of its work under Section 5.1 would not render the title marketable, then the Government shall have the right to elect to terminate this Contract by written notice to Seller and this Contract shall be null and void and any sums paid thereunder shall be refunded, without interest.

2.3. All monies payable under this Contract shall be paid by United States Treasury check payable to the order of Treasurer,

State of Maine. No interest shall be paid on any such sums.

Section 3. Closing of Title.

3.1. Except as otherwise provided in this Contract, the closing of title for purchase of the Premises pursuant to this Contract (the "Closing") shall take place within one (1) year of the execution of this agreement by all parties, or within ninety (90) days of adjournment of the first Regular Session of the 116th Maine Legislature, whichever event last occurs. The Closing will be held at the offices of Seller in Augusta, Maine, or such other place as shall be mutually agreed upon by the parties.

Section 4. Objections to Title.

4.1. In the event that title is unmarketable in accordance with the Maine State Bar Association Standards of Title, either party shall have the right to cancel this Contract immediately and any sums paid by the Government shall be refunded without interest within 90 days of said cancellation.

Section 5. Access to the Premises.

5.1. Seller agrees that between the date of this Contract and the Closing that Seller shall allow the Government or Purchaser's representatives access to the Premises for purposes of performing water, soil, septic system and engineering tests (including, without limitation, tests for hazardous wastes, toxic substances and for the existence of any underground tanks) on the Premises and conducting boundary, resource and topographical surveys. Provided, however, that (a) such persons enter onto the Premises at their own risk of loss and harm; and (b) the Government shall restore the Premises as nearly as possible to its condition prior to such disturbance as a result of such work. In the event that the Government is not satisfied with the results of its tests, including without limitation those for water quality, hazardous wastes, underground tanks, or toxic substances, it may terminate this Contract in accordance with Section 2.2. All test and survey results shall be made available to Seller upon request and, in the event that this Contract is terminated, the information and documentation relating to such work shall become the property of Seller to the extent of Purchaser's power of transfer over such work.

Section 6. Apportionments.

6.1. To the extent allowed by law, the parties agree to prorate any and all real estate and personal property taxes assessed with respect to the Property together with any penalties and interest as of the date of the closing.

6.2. Each party acknowledges that the transfer of title to the Premises is exempt from real estate transfer taxes pursuant to 36 M.R.S.A. §4641-C(1).

Section 7. Representations by Seller and the Government.

7.1. Each party represents and warrants to the other that there are no claims for brokerage commissions or finder's fees incurred by reason of any action taken by that party with respect to this transaction. Each of the parties hereto will pay or discharge (a) any and all claims or liabilities for brokerage commissions or finder's fees incurred by reason of any action taken by that party with respect to this transaction, and (b) any and all claims and liabilities for brokerage commissions or finder's fees arising from or through persons or entities claiming by or through that party with respect to this transaction.

Section 8. Other Conditions

8.1. This Contract is made subject to ratification and approval of the Maine Legislature pursuant to Title 12, Chapter 202 (12 M.R.S.A. §553(3)F). Failure of the Maine Legislature to ratify this contract by September 1, 1993 shall be grounds for rescission of the leases referred to in Section 8.2 by either party.

8.2. This Contract is made subject to the execution by Seller and Government of two leases covering land in the vicinity of the Premises. Said leases shall specify that the leaseholds shall be used solely by the National Weather Service for weather forecasting purposes and for no other purpose and by no other Federal agency or entity except as contractor to the National Weather Service. It is the understanding of the parties that such leases shall be for a term of one (1) year each subject to renewal upon completion of construction of a weather forecasting office on the Premises. Failure to execute both such leases is grounds for rescission of this contract.

8.3. The Seller represents and certifies that to the best of its knowledge:

8.3.a. The Premises described herein is not and was not a site used for any of the following operations:

- (1) generation of hazardous substances and/or waste;
- (2) treatment, or temporary or permanent storage, or disposal of solid or hazardous substances and/or waste;
- (3) storage of hazardous substances and/or waste, or petroleum products;
- (4) used/waste oil storage or reclamation units;
- (5) laboratory or rifle range;
- (6) chemical manufacturing or storage;
- (7) military or intelligence weapons or ammunition training or testing;
- (8) ordinance and/or weapons production, storage, or handling.

8.3.b If any of the above operations ever occurred at the site, appropriate cleanup or other action was performed in accordance with the local, state and Federal laws, and documentation of such cleanup will be provided.

The Seller acknowledges that this certification regarding hazardous substances and/or waste is a material representation of fact upon which the Government relies when executing this Contract. The Government reserves the right to terminate this Contract, if, at any time prior to closing on the Premises, it becomes aware that hazardous substances and/or waste are present thereon, or that such hazardous substances and/or waste have been inappropriately handled thereon. Further, if it is determined at any time that the presence of hazardous substances and/or waste, or inappropriate handling thereof, has been misrepresented, the Government will utilize other available legal remedies against the Seller.

8.4. The Seller represents and it is a condition of acceptance of this offer that no Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to or share any part of this Contract, or to any benefits that may arise therefrom; but this provision shall be not construed to extend to any agreement if made with a corporation for its general benefit.

Section 9. Waiver.

9.1. No provision of this Contract may be waived, changed, or modified orally, but only by an agreement in writing signed by the party against whom the enforcement of any waiver, change, or modification is sought.

Section 10. Notices.

10.1. Any communications, requests, or notices required or appropriate to be given under this Contract shall be in writing and mailed via U. S. Mail Certified or Registered Mail, Return Receipt Requested, or sent via a recognized commercial carrier, such as but not limited to Federal Express, which requires a return receipt delivered to the sending party. Said communications, requests or notices shall be sent to the other party and its attorney as follows:

Seller: State of Maine
Department of Conservation
State House Station 41
Augusta, Maine 04333
Attn: Bureau of Public Lands

With a Copy to: Legal Division
Maine Dept. of Transportation
State House Station #16
Augusta, Maine 04333

the Government: United States of America
U.S. Dept. of Commerce
Special Engineering
Program Office
Central Adm. Support Center
Attn: Kenneth L. Leonard
Real Prop. Program Mgr.

These addresses may be changed by notice as provided herein. Notices shall be deemed given when mailed as aforesaid, postage prepaid.

Section 11. Capacity.

11.1. Each party represents to the other that: Except as outlined in Section 8.1 herein, such party has full power and authority to perform its obligations hereunder and that any person or entity executing this Contract by or on behalf of the representing party has the authority to act on behalf of and bind the representing party, and that any person or entity executing any closing documents by or on behalf of the representing party has been and will be duly authorized to act on behalf of the representing party, and that the performance of this Contract will not be in violation of the representing party's charter or any law, ordinance, rule, regulation or order of any governmental body having jurisdiction, or the provisions of any agreements to

which the representing party is a party or by the terms of which it is bound and, at the Closing, each party shall furnish to the other party and to Government's title insurance company, if any, reasonably satisfactory evidence of such authority and approval.

Section 12. Governing Law.

12.1. This Contract is made pursuant to and shall be governed by and construed in accordance with the laws of the State of Maine or Federal Law, whichever is applicable.

Section 13. Expenses.

13.1. Whether or not the transactions contemplated pursuant to this Contract are consummated, each party hereto, unless this Contract expressly provides otherwise, shall pay all costs and expenses incurred by it and incident to the preparation and performance of this Contract and matters relating thereto, and such costs and expenses shall not be reimbursable by the other party hereto.

Section 14. Successors and Assigns.

14.1. This Contract shall be binding upon and inure to the benefit of the legal representatives and successors of the parties hereto.

Section 15. Entire Agreement and Survival.

15.1. All understandings and agreements heretofore had between the parties hereto are expressed herein and are merged into this Contract. The covenants, agreements and representations made by the parties and contained in this Contract shall survive the Closing.

Section 16. Counterparts.

16.1. This Contract may be executed in several counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same Contract.

* * *

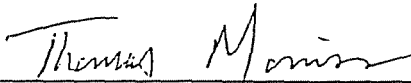
IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

SELLER:

State of Maine
Department of Conservation
Bureau of Public Lands



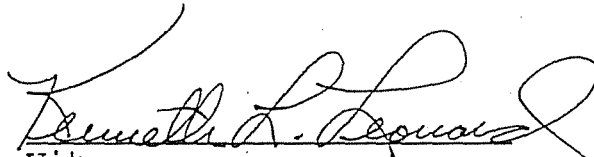
Witness



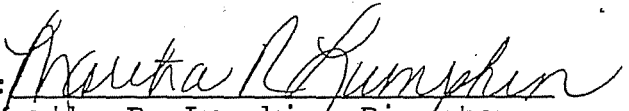
Thomas Morrison
Its Director

THE GOVERNMENT:

United States of America
Department of Commerce
National Oceanic and
Atmospheric Administration



Witness

By: 

Martha R. Lumpkin, Director
Central Administrative
Support Center

EXHIBIT A

NATIONAL WEATHER SERVICE LOT

Parcel "A"

A certain lot or parcel of land located on the westerly sideline of Route 231 in the Town of Gray, County of Cumberland, Maine bounded and described as follows:

Beginning at a 5/8 inch re-bar capped "OEST 1245", set on the intersection of the westerly sideline of said Route 231 and the Gray-North Yarmouth town line;

Thence, S 34° 29' 51" W, along the town line of said Gray and North Yarmouth and land now or formerly the State of Maine as described in Book 826, Page 26, of the Cumberland County Registry of Deeds, 375.73 feet to a 5/8 inch re-bar capped "OEST 1245";

Thence, N 25° 23' 05" W, through land of the grantor, 313.28 feet to a 5/8 inch re-bar capped "OEST 1245" on the southerly sideline of a 50.00 feet wide right-of-way;

Thence, N 48° 22' 12" E, along said southerly sideline 96.31 feet to a 5/8 inch re-bar capped "OEST 1245" marking a point of tangency;

Thence, in an easterly direction, along a curve to the right of said sideline, having a radius of 275.00 feet and an arc length of 103.93 feet to a 5/8 inch re-bar capped "OEST 1245" marking a point of curvature;

Thence, N 70° 01' 28" E, along said southerly sideline, 130.27 feet to a 5/8 inch re-bar capped "OEST 1245" marking the westerly sideline of said Route 231;

Thence, S 25° 23' 05" E, along the westerly sideline of Route 231, 149.16 feet to the point of beginning.

All bearings are based on the Maine State Grid Coordinate System (West Zone) NAD 83.

The above described lot contains 80,000 square feet, more or less.

Parcel "B"

The above described lot also includes a 50.00 feet wide access easement bordering on the northerly sideline of the above lot, to be used in common with the Seller. Said access easement is to be used as an ingress and egress by foot or vehicular traffic, for

installation of drainage devices, for installation of above ground and/or underground utilities, and for installation of a roadway, over, across, and through an existing drive. The 50.00 feet wide access easement is to lie 25 feet each way of the following described centerline:

Commencing at an iron rod, being 5/8 inch diameter and capped "OEST 1245", set on the westerly side line of said Route 231 with the intersection of the Gray-North Yarmouth town line; thence on a course of N 25° 23' 05" W, along the westerly side line of Route 231 174.28 feet to the centerline of the 50.00 feet wide right-of-way and the true point of beginning.

Thence, S 70° 01' 28" W, through the land of the grantor, 127.90 feet, to a point of curvature;

Thence in a westerly direction along a curve to the left and through land the grantor having a radius of 300.00 feet and an arc length of 113.38 feet to a point of tangency;

Thence S 48° 22' 12" W, through land of grantor, 88.84 feet to a point on the terminus of this right-of-way which is the projection of the westerly sideline of the above described lot.

The above described lot is a portion of property owned by the State of Maine recorded in Book 822, Page 255, of the Cumberland County Registry of Deeds and dated May 12, 1908. Further reference to a plan entitled "Standard Boundary Survey - Pineland Center - N.W.S. Office Lot - U.A.I.B. Lot and Access Easement, Route 231, Gray, Cumberland County, Maine" being Contract Number 597178, CLIN File HD, prepared for Fluor Daniel, Inc, dated 12/18/91 by OEST Associates of South Portland, Maine and to be recorded herewith.