

110206

## REAL ESTATE CONTRACT

THIS REAL ESTATE CONTRACT made this day by and between JUANITA POSER, dealing with her separate estate, hereinafter called "Seller", and THOMAS J. PORTER and BARBARA PORTER, husband and wife, hereinafter called "Buyers",

## WITNESSETH:

## Section 1. DESCRIPTION OF PROPERTY CONTRACTED TO BE SOLD:

In consideration of the mutual covenants herein contained and the promises to be performed as set out hereinafter, the Seller agrees to sell to the Buyers and the Buyers agree to purchase from the Seller the following described real estate in Skamania County, Washington, to-wit:

All that portion of the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section 11, Township 2 North, Range 5 East of the Willamette Meridian, lying Easterly of the following described line: BEGINNING at the intersection of the center line of the Mabee Mines Road with the South line of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the said Section 11; thence in a Northerly direction following the center line of said road to its intersection with the center line of County Road No. 1106 designated as the Washougal River Road; thence following the center line of the Washougal River Road Northerly to its intersection with the North line of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the said Section 11. EXCEPT for those easements and exceptions described in Section 7.2(a)-(f).

## Section 2. PURCHASE PRICE AND PAYMENTS:

2.1 The purchase price for said real estate is the sum of SIXTY THOUSAND AND NO/100 DOLLARS (\$60,000.00), which Buyers covenant and agree to pay as follows:

- a. The sum of \$10,000.00, including earnest money, shall be paid as a down payment as of the date of this contract.
- b. The balance of \$50,000.00 shall be paid in monthly installments as follows: The sum of \$460.00, or more, on or before the 10th day of November, 1990, and the sum of \$460.00, or more, on or before the 10th day of each month thereafter until the balance of principal and interest shall be paid in full.

2.2 This contract shall bear interest at the rate of nine and one-half (9 $\frac{1}{2}$ %) percent per annum on the declining balance from the date hereof until such balance has been paid in full. All payments shall first be applied against accrued interest, and the balance of each such payment shall then be applied in reduction of principal.

2.3 Buyers shall be entitled to prepay any or all sums due under the terms hereof at any time without penalty. In the event Buyers shall elect to prepay less than the entire contract balance together with accrued interest, such pre-payment shall not relieve Buyers from the obligation to make monthly payments as provided hereunder.

2.4 All payments to be made hereunder shall be made to Seller's credit at Vancouver Federal, Washougal Branch, Washougal, WA or at such other place as Seller may in writing direct.

2.5 In the event Buyers shall fail to make any regular monthly installment on the purchase price within fifteen (15) days of its

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REAL ESTATE EXCISE TAX

OCT 5 1990

PAID 76800

SKAMANIA COUNTY TREASURER

Glenda J. Kimmel, Skamania County Assessor  
By: JPD Parcel # 02 05 11 240 200  
10-4-90

Registered  
Index  
10-11-90

due date, then there shall be added to such payment a late charge equal to five (5%) percent of the delinquent payment.

**Section 3. POSSESSION:** Buyers shall be entitled to possession of the premises contracted to be sold from and after the date of this contract and during their full and proper performance of this contract.

**Section 4. ADVANCES:** It is understood and agreed that in the event the Buyers fail or neglect or refuse to pay any taxes, assessments, insurance premiums or any other lawful charge against said property, the Seller may pay same and such sums as may be so paid shall be secured by this contract and the said sums shall be repaid by the Buyers to the Seller upon demand with interest thereon from each respective date of advancement until repaid, at the rate of twelve (12%) percent per annum.

**Section 5. PREPAID TAXES:** The 1990 real estate taxes shall be pro-rated between the Buyers and the Seller as of the date of this contract.

**Section 6. BUYERS' COVENANTS:** Buyers covenant and agree as follows:

(a) To make the payments mentioned in the manner and on the dates named.

(b) To pay the consideration agreed upon and named herein regardless of any loss, destruction or damage to any of said property, or the improvements thereon by fire, or from any other cause.

(c) To make or permit no unlawful use of said property or any part thereof, nor to permit any waste, destruction or damage thereto.

(d) To permit the Seller or her agents to enter into or upon the said property at any reasonable time to inspect the same.

(e) To pay regularly and seasonably and before the same shall become delinquent, all taxes, assessments, liens and encumbrances of whatsoever nature and kind which may hereafter be lawfully imposed on said property.

(f) Not to permit or suffer any part of said property to become subject to any assessment, lien, charge or encumbrance whatsoever, having or taking precedence over the rights of the Seller in and to said property.

**Section 7. DEED AND TITLE INSURANCE:**

7.1 Seller agrees to execute and deliver to Buyers within thirty (30) days after final payment on this contract, a Warranty Deed conveying said property to the Buyers free and clear from all encumbrances except taxes, liens or other encumbrances placed or suffered by Buyers or their successors.

7.2 Seller is at this time procuring and delivering to Buyers a Purchasers Policy of Title Insurance in standard form, insuring the Buyers to the full amount of said purchase price against loss or damage by reason of defect in Seller's title to said real estate as of the date of closing, and containing no exceptions other than the following:

- a. Printed general exceptions appearing in said policy form.



- b. Rights of others thereto entitled in and to the continued uninterrupted flow of Washougal River, and rights of upper and lower riparian owners in and to the use of the waters and the natural flow thereof.
- c. Rights, if any, of the property owners, abutting the Washougal River in and to the waters of the Washougal River and in and to the bed thereof; also boating and fishing rights of property owners abutting the Washougal River or the stream of water leading thereto or therefrom.
- d. Rights of the public in and to that portion lying within road.
- e. Easement for right of way, water storage tank and water main, including the terms and provisions thereof, recorded July 23, 1974, in Book 67, Page 130, in Auditor's File No. 77946, Skamania County Deed Records, including easement for all existing tanks, mains and access roads to said storage tanks currently on the premises.
- f. Easement for access, including the terms and provisions thereof recorded July 24, 1980, in Book 78, Page 481, Skamania County Deed Records. Rerecorded August 11, 1980, in Book 78, Page 543, Skamania County Deed Records.

**Section 8. CHANGE IN TITLE OR OCCUPANCY:** The rights to purchase granted by this Real Estate Contract are personal to the Buyers, and Seller's reliance upon Buyers' ability and integrity is a part of the consideration for this contract. Neither this contract, nor any interest herein, nor the possession of the property may be assigned or transferred by the Buyers, nor shall Buyers make or enter into any contract for the sale of the property or any interest therein, without the prior written consent of the Seller. Any attempt at assignment, sale, or transfer of any interest, including possession, by Buyers in violation of the foregoing provisions may, at Seller's option, be deemed a default by Buyers and Seller may, at Seller's option, declare the remaining contract balance, accrued interest and any other sums owing by Buyers to Seller hereunder, immediately due and payable. As an alternative to declaring the remaining contract balance, accrued interest and other sums owing by the Buyers to Seller immediately due and payable, Seller may, at Seller's option, elect to raise the interest rate on this contract to the maximum interest rate allowable by law as a condition to Seller's consent to any sale, assignment, or transfer of Buyers' interest or possession in the subject property or this contract. The restrictions of this section shall not prohibit or prevent Buyers from entering into a listing agreement for the sale of the real property which is the subject of this Real Estate Contract.

**Section 9. FORFEITURE:** Time is of the essence of this contract and if the Buyers shall fail, refuse or neglect to pay either or any of the installments or interest or any other payment due, or shall fail to keep and/or perform any of the covenants and agreements herein contained on the part of the Buyers to be performed, then the Seller may cancel and render void all rights, titles and interest of the Buyers and their successors in this contract and in the real estate which is the subject of this contract by giving a Notice of Intent to Forfeit pursuant to RCW 61.30, and said cancella-

tion and forfeiture shall become effective if the default therein specified has not been fully cured within ninety (90) days thereafter and the Seller records a Declaration of Forfeiture pursuant to RCW 61.30. Upon the forfeiture of this contract, the Seller may retain all payments made hereunder by the Buyers and may take possession of the property ten (10) days following the date this contract is forfeited and summarily eject the Buyers and any person or persons having possession of the said property by, through or under the Buyers who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture. In the event the Buyers or any person or persons claiming by, through or under the Buyers who were properly given the Notice of Intent to Forfeit and the Declaration of Forfeiture remain in possession of the property more than ten (10) days after such forfeiture, the Buyers, or such person or persons, shall be deemed tenants at will of the Seller and the Seller shall be entitled to institute an action for summary possession of the property, and may recover from the Buyers or such person or persons in any such proceedings the fair rental value of the property for the use thereof from and after the date of forfeiture, plus costs, including Seller's reasonable attorney's fees.

#### Section 10. OTHER REMEDIES:

10.1 As an alternative to declaring a forfeiture for any such default, Seller may, at her election, bring an action or actions, on any intermediate overdue installment, or on any payment or payments made by the Seller and repayable by the Buyers, it being stipulated and agreed that the covenant to pay intermediate installments or to repay items repayable by the Buyers, are independent of the covenant to make a deed; or

10.2 Seller may, in the event of such default, at her election, sue for specific performance of Buyers' obligations pursuant to this contract; or

10.3 Seller, may in the event of such default, at her election, declare the entire unpaid balance of principal and interest immediately due and payable, and thereupon institute suit for payment of such balance and to have this Real Estate Contract foreclosed as a mortgage as is provided in Section 61.30.020, Revised Code of Washington.

10.4 It is agreed that any such action is an action arising on a contract or the recovery of money only, as if the promise to pay had been expressed in a different instrument, and that no such action shall constitute an election not to proceed otherwise as to any subsequent default.

Section 11. CONDEMNATION: In case any part of said real estate is taken for public use, the portion of the condemnation award remaining after payment of reasonable expenses of procuring the same shall be paid to Seller and applied as payment on the purchase price hereunder.

#### Section 12. REPRESENTATIONS:

12.1 Buyers have inspected the property sold herein and have found the same to be to their satisfaction and they agree that no promises, representations, statements, or warranties, expressed or implied, shall be binding on the Seller unless expressly contained herein. Buyers expressly acknowledge that they have placed no reliance whatsoever upon any representations not set forth in this contract.

12.2 Buyers agree that they have had an opportunity to review all federal, state and local regulations, including but not limited to zoning regulations and standards affecting various permit applica-



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tions, and the effect such regulations and requirements may have upon the above-described property, including the effect of the same on any prospective and intended use or uses. Buyers further acknowledge that Sellers has made no representations concerning any such regulations and standards.

**Section 13. COURT COSTS AND ATTORNEY'S FEES:** If Buyers shall be in default under this contract, the Seller shall have the right, at Buyers' expense, to retain an attorney or collection agency to make any demand, enforce any remedy, including remedies under the Real Estate Contract Forfeiture Act, RCW 61.30, or otherwise protect or enforce her rights under this contract. Buyers hereby promise to pay all expenses and costs so incurred by Seller, with or without arbitration or litigation, which expenses and costs shall include, but not be limited to notice expenses, title search expenses, and reasonable attorney's fees. The failure of Buyers to promptly pay the same shall in itself constitute a further and additional default.

In the event either party hereto institutes any action, including arbitration, to enforce the provisions of this contract, the prevailing party in such action shall be entitled to reimbursement by the other party for its court costs and reasonable attorney's fees, including the cost of searching the title for the purpose of such action, and any costs and fees that are incurred on appeal.

**Section 14. WAIVER:** No assent, expressed or implied, by Seller, to any breach of Buyers' covenants or agreements shall be deemed or taken to be a waiver of any succeeding breach of the same or other covenants.

DATED this 9/24/90 day of <sup>September</sup>~~August~~, 1990.

Juanita Poser  
Juanita Poser

SELLER

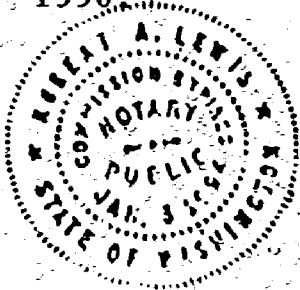
Thomas J. Porter  
Thomas J. Porter  
Barbara Porter  
Barbara Porter

BUYERS

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF CLARK )

On this day personally appeared before me JUANITA POSER, dealing with her separate estate, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that she signed the same as her free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 24th day of <sup>September</sup>~~August~~, 1990.



FILE FOR RECORD  
SKAN  
BY Robert A. Lewis, Notary Public in and for the State of Washington, Residing at Camas.  
My appointment expires: 1-3-94.

Oct 5 3 53 PM '90

GARY M. OLSON