

WHEN RECORDED RETURN TO:

CLARK COUNTY TITLE
1400 WASHINGTON ST., STE 100
VANCOUVER, WA 98660

Doc # 2006163024
Page 1 of 16
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Filed & Recorded in Official Records
of SKAMANIA COUNTY
SKAMANIA COUNTY AUDITOR
J MICHAEL GARVISON
Fee: \$47.00

REAL ESTATE EXCISE TAX

26261

SEP 19 2006

PAID 1560.32 + 304.75 + 1870.07

Vicki C. Felland, Deposit
SKAMANIA COUNTY TREASURER

111419.88

REAL ESTATE CONTRACT

Grantor: LENORA R. JOHNSTON, an unmarried woman, as her separate estate.

Grantee: GARY FOURNIER, an unmarried man, and DOUG KNUTSON, an unmarried man, as tenants in common.

Legal Description: Lot #19, of Marble Mountain Retreat.

Assessor's Property Tax Parcel or Account Number: 07061840031900

Cross References: None.

1. **Effective Date:** Sept 15, 2006.

2. **Seller:** Lenora R. Johnston, an unmarried woman.

3. **Purchasers:** Gary Fournier, an unmarried man, and Doug Knutson, an unmarried man, as tenants in common.

4. **Property:** The Seller agrees to sell to the Purchasers, and the Purchasers agree to purchase from the Seller, the following described real property, with the appurtenances thereon, including the cabin located thereon, stove/range, refrigerator, wood stove, 110-volt generator,

Gary H. Martin, Skamania County Assessor

Date 9-19-06 Parcel # 7-6-18-4-319

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propane tank and outbuilding, situated in Skamania County, Washington, commonly known as Lot 19 Marble Mountain, Cougar, WA 98616, more particularly described as follows:

Lot #19, Marble Mountain Retreat, according to the plat thereof, recorded in Book "B" of plats, page 5, records of Skamania County, Washington.

Subject to easements and restrictions of record. *

(hereinafter the "Property"). (* Easements and restrictions of record, and the fact that there may not be legal and recorded ingress and egress from the Property to a public road are as set forth and disclosed on the most recent Clark County Title Co. title report/commitment for title insurance, including any amendments and/or supplemental reports, as submitted by said title company to the escrow agent/closing officer at the time of closing of this purchase and sale. The lack of ingress and egress is further addressed in Paragraph 10 hereinafter, and in those Agreements more particularly described in said Paragraph 10.

5. **Purchase Price.** The purchase price of the Property is One Hundred Twenty-One Thousand Nine Hundred and 00/100 Dollars (\$121,900.00), payable as follows:

A. Down Payment. Five Thousand Nine Hundred Forty-Five and 00/100 Dollars (\$5,945.00) payable on the closing date, including One Thousand and 00/100 Dollars (\$1,000.00) earnest money heretofore paid.

B. Principal Balance. The principal balance of One Hundred Fifteen Thousand Nine Hundred Fifty-Five and 00/100 Dollars (\$115,955.00), and interest on the declining balance thereof at the rate of seven percent (7%) per annum from the Effective Date, in equal monthly installments of Seven Hundred Fifty and 00/100 Dollars (\$750.00) or more at Purchasers' option said monthly installments commencing on Oct 1 2006, and continuing on the 1st day of each

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and every month thereafter until the entire purchase price has been paid in full. The first payment shall be adjusted to include any and all interest accrued from the Effective Date.

C. Additional Principal Payment on September 18, 2007. Purchasers shall, on September 18, 2007, in addition to regular monthly payments and accrued interest then due, pay the sum of Five Thousand Nine Hundred Forty-Five and 00/100 Dollars (\$5,945.00) on the principal balance. Payment of this sum shall not delay, or excuse, or reduce the amount of payment of monthly installments and accrued interest payable pursuant to this contract.

D. Interest. Interest shall be first deducted from each installment payment and the balance applied in reduction of principal. Interest shall be calculated and deducted on a per day basis, using a 365 day year, from date of payment of last installment to date of payment of current installment.

E. Notwithstanding the foregoing, each payment received by Seller shall be first applied against any costs, expenses and late charges for which Purchaser is then liable hereunder, secondly against interest, and thirdly against the principal.

F. All payments shall be made at the place, and/or to the collection agent/agency designated by Seller.

G. Notwithstanding the foregoing, the entire principal balance, any unpaid late charges and accrued interest of this contract shall be paid in full on or before the fifteen (15) year anniversary of the Effective Date, to wit: September, 2021.

6. **Late Charges.** Payments by Purchasers shall be deemed late if not received by Seller on or before 5:00 p.m. on the tenth (10th) day after the due date. In said event there shall be due a late charge of One Hundred and 00/100 Dollars (\$100.00), which shall be paid with the late payment, or

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the payment may be refused by the Seller as non-conforming and considered a default under this contract.

7. **Retention of Title, Security and Deed.** When Purchasers have fully performed this contract, Seller shall execute and deliver to Purchasers a Statutory Warranty Deed in fulfillment of this contract, conveying the Property free and clear of all encumbrances except any encumbrances agreed to by Purchasers and any encumbrances that may accrue hereafter due to any person other than the Seller, but excluding therefrom any warranties as to legal ingress and egress from the Property to a public road. Purchasers' rights to the Property shall be subject to all applicable terms and conditions of this contract.

8. **Possession.** Purchasers shall be entitled to possession of the Property from and after the Effective Date.

9. **Assessments and Taxes.** Purchasers shall pay before delinquency all taxes, assessments, utility charges, and operation or construction charges not now delinquent, and levied or assessed against the Property and hereafter falling due. In the event any taxes, assessments, rents or charges to be paid by Purchasers are paid by Seller, Purchasers shall promptly reimburse Seller. Upon failure of Purchasers to pay any taxes, assessments or charges to be paid by Purchasers, Seller may, at her option, declare a forfeiture of this contract or pay and discharge any such tax, assessment, or charge and any amount so paid shall be added to and be secured in the same manner as the unpaid purchase price, bear interest at the rate of twelve percent (12%) per annum, and be due immediately.

10. **Acceptance of Premises in Present Condition – Access to Property – Well – Septic Tank.**

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A. The Purchasers agree that a full inspection of the Property has been made. Purchasers hereby accept the Property in its present condition and AS IS. Purchasers confirm that neither the Seller nor any agent or representative of the Seller has given or made any warranty or representation whatsoever concerning the physical condition thereof, or the uses or purposes to which the same may now or hereafter be placed, or the location of the boundary lines. The Seller will not participate in a survey of the Property and the size, dimensions and/or acreage of the Property is uncertain.

B. Seller has informed Purchasers, and Purchasers understand and acknowledge, that there may not be legal and recorded ingress and egress from the Property to a public road as set forth and disclosed on the most recent Clark County Title Co. title report/commitment for title insurance, including any amendments and/or supplemental reports, as submitted by said title company to the escrow agent/closing officer at the time of closing of this purchase and sale. Purchasers understand and acknowledge that legal and recorded access to the Property is not being warranted by Seller and is not being insured by the title company. This is the result of the inability of Seller to use USFS Road 9015 due to a washout and other problems. Seller and others in the area have been using an alternate route to access their respective properties. The right(s) of ingress and egress to the Property, if any, are as described in that certain Easement Agreement recorded under Skamania County Auditor's No. 2004155002 and that certain Correcting Easement Deed and Agreement recorded under Skamania County Auditor's No. 2004155350, copies of which have been provided by the title company to Purchasers.

C. Seller has informed Purchasers, and Purchasers understand and acknowledge, that the well water on the Property is currently potable, but that Purchasers should periodically have the

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water tested for potability. Seller makes no representation or warranties concerning the well or the amount, the use, or continuing potability of the well water. Purchasers specifically accept the well, its pump, accoutrements and equipment, "AS IS" and in their current condition. Purchasers hereby understand and agree that this sale is not contingent upon any prior inspection or testing of the well by Purchasers or Seller.

D. Seller has informed Purchasers, and Purchasers understand and acknowledge, that the septic/sewage disposal tank and system does not have a drainfield, and will periodically have to be pumped. Should further or future sewage treatment and disposal permit application(s) with respect to the Property be required or applied for, the application should applied for and remain in the name of the Seller until a permit is actually issued, and Purchasers complete construction and installation of the system(s) and complete payment therefore. The purpose of this paragraph is so that Seller can do all that is necessary to ensure that any such permit applications do not expire. Any costs incurred by Seller for renewals of such application(s) shall be paid to Seller by Purchasers at such time as the permit is actually issued, and if not so paid, said costs may be added to the principal of this contract.

E. Purchasers have taken the disclosures and facts with respect to ingress and egress, the water and well, and the septic system, into consideration in bargaining for and agreeing to the price and terms hereunder. Regardless of these disclosures and facts Purchasers have decided to purchase the Property.

11. Title Insurance.

A. Seller agrees to procure, if a title company will agree to provide, a standard purchaser's form policy of title insurance, insuring the Purchasers to the full extent of the purchase

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price against loss or damage by reason of defect in the record title of the Seller to the real estate herein described, excepting therefrom matters relating to ingress and egress to the Property, and containing such disclaimers and exclusions relating to lack of legal access as the title company may choose to list pertaining thereto. If it agrees to issue title insurance, the policy will be issued by Clark County Title Insurance Company, and closing will be at Clark County Title Insurance Company.

B. Purchasers shall acquire and pay the costs of issuance of a lender's standard title insurance policy insuring Seller's security/Seller's interest in the Property.

12. **Risk of Loss.** The Purchasers shall bear the risk of loss for the complete or partial destruction or condemnation of the Property after the date of this contract. No loss, damage or destruction of all or part of the Property shall constitute a failure of consideration or a basis for the rescission of this contract or relieve the Purchasers from its obligation to observe and perform all of the terms, covenants and conditions hereof. Each of the parties hereto releases the other from all liability for damage caused by any act or neglect of the other party, its agents, servants and employees, to any property which is the result of fire or other casualty covered by insurance carried at the time of such casualty; provided, however, the releases herein contained shall not apply to loss or damage resulting from the willful or premeditated acts of either of the parties hereto, their agents, servants or employees; and provided further, nothing in this paragraph shall be interpreted or have the effect of relieving or modifying any obligation of any insurance company, and to the extent any such obligation is so relieved or impaired, this provision shall be ineffective.

13. **Condemnation.** If the Property or any part shall be taken and condemned, such taking shall not be a ground for rescission of this contract. The award made for the taking shall be deemed

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to be the property of Purchasers, but shall be paid to Seller to apply upon the purchase price, not exceeding any amounts then unpaid hereunder. Seller, Purchasers or both may appear and defend or prosecute in any condemnation proceedings.

14. **Maintenance and Inspection.** The Purchasers shall keep and maintain the Property in good repair, and shall not commit or suffer to be committed any waste or other willful damage to or destruction of the Property or any portion thereof. Seller shall be entitled to inspect the Property at a reasonable time of day and upon ten (10) days prior written notice to Purchasers.

15. **General Advancements by Seller.** In case the Purchasers fail to make any payment to others as herein provided, the Seller may make such payment, and any amounts so paid by the Seller, together with interest at the rate of twelve percent (12%) per annum thereon from date of payment until repaid, shall be repayable by Purchasers on Seller's demand, all without prejudice to any other rights the Seller may have by reason of such default.

16. **Purchasers' Default.** Time is of the essence of this contract. The Purchasers shall be in default under this contract if Purchasers (a) fail to observe or perform any term, covenant or condition herein set forth or those of any prior encumbrances, or (b) fail or neglect to make any payment of principal or interest or any other amount required to be discharged by the Purchasers precisely when obligated to do so, or (c) either Purchaser or both become or are declared insolvent or makes an assignment for the benefit of creditors, or files any debtor's petition or any reorganization or similar act, or (d) permit the Property or any part thereof or its interests therein to be attached or in any manner restrained or impounded by process of any court, or (e) abandon the Property for more than thirty (30) consecutive days (unless the Property is otherwise occupied), or

(f) convey the Property or a portion thereof without any prior written consent required herein of the Seller.

17. **Seller's Remedies.** In the event the Purchasers are in default under this contract, the Seller may, at Seller's election, take any or all of the following courses of action:

A. Suit for Delinquencies. The Seller may institute suit for any overdue installment amounts or other sums due and payable under this contract and for any sums which have been advanced by Seller and repayable by Purchasers pursuant to the provisions of this contract, together with interest on all of said amounts at the rate provided for by this contract from the date each such amount was advanced or due, as the case may be, to and including the date of collection. The promise to pay intermediate installments is independent of the promise to make a deed. The election by the Seller to proceed under this paragraph 17.A. shall not bar the right to proceed under any other section of paragraph 17.

B. Forfeiture and Repossession. The Seller may forfeit this contract pursuant to Chapter 61.30 RCW, as it is presently enacted and may hereafter be amended. The effect of such forfeiture includes: (1) all right, title and interest in the Property of the Purchasers and all persons claiming through the Purchasers shall be terminated; (2) the Purchasers' rights under the contract shall be canceled; (3) all sums previously paid under the contract shall belong to and be retained by the Seller or other person to whom paid and entitled thereto; and (4) all improvements made to and unharvested crops on the Property shall belong to the Seller.

C. Specific Performance. The Seller may institute suit to specifically enforce any of the Purchasers' obligations hereunder, and the same may include redress by mandatory or prohibitive injunction.

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D. Judicial Foreclosure. The Seller may institute suit to judicially foreclose this contract as a mortgage, in which event Purchasers may be liable on a deficiency judgment.

E. Further Enforcement. The Seller may enforce this contract under any other method allowed by law.

F. Cumulative Remedies. The remedies stated herein are cumulative and not mutually exclusive and the Seller may pursue any other or further remedies to enforce this contract.

18. **Receiver**. If Seller has instituted any proceedings specified in paragraph 17. and Purchasers are receiving rental or other income from the Property, Purchasers agree that the appointment of a receiver for the Property is necessary to protect Seller's interest.

19. **Purchasers' Remedy for Seller's Default**. If Seller fails to observe or perform any term, covenant or condition of this contract, Purchasers may, after 20 days written notice to Seller, institute suit for damages or specific performance unless the breaches designated in said notice are cured.

20. **Waivers**. No waiver of any rights of either party under this contract shall be effective unless specifically evidenced in a written agreement executed by the waiving party. Any forbearance, including, without limitation, a party's acceptance of any payment after the due date or any extension thereof, shall not be considered a waiver of such party's right to pursue any remedy hereunder for any other existing or subsequent defaults of the same or a different nature or for breach of any other term, covenant or condition hereof.

21. **Due on Sale**. If Purchasers, without written consent of Seller, (a) convey, (b) sell, (c) lease, (d) assign, (e) contract to convey, sell, lease or assign, (f) grant an option to buy the Property, (g) permit a forfeiture or foreclosure or trustee or sheriff's sale of any of the Purchaser's interest in

the Property or this contract, Seller may at any time thereafter either raise the interest rate on the balance of the purchase price or declare the entire balance of the purchase price due and payable. If one or more of the entities comprising the Purchaser is a corporation, any transfer or successive transfers in the nature of items (a) through (g) above of 49% or more of the outstanding capital stock shall enable Seller to take the above action. A lease of less than three (3) years (including options for renewals), a transfer to a spouse or child of Purchaser, a transfer incident to a marriage dissolution or condemnation, and a transfer by inheritance will not enable Seller to take any action pursuant to this paragraph; provided the transferee other than a condemnor agrees in writing that the provisions of this paragraph apply to any subsequent transaction involving the Property entered into by the transferee.

22. **Insurance.** Purchasers agree to keep all buildings now or hereafter erected on the Property described herein continuously insured under fire and extended coverage policies in an amount not less than the balances owed on obligations assumed by Purchasers plus the balance due Seller, or full insurable value, whichever is higher. Purchasers shall annually, upon renewal, send a copy of the Declarations page of the policy to Seller at the address of Seller indicated herein. All policies shall have loss payable first to Seller and then to Purchasers. Purchasers may within 30 days after loss, negotiate a contract to substantially restore the premises to their condition before the loss. If the insurance proceeds are sufficient to pay the contract price for restoration or if the Purchasers deposit in escrow any deficiency with instructions to apply the funds on the restoration contract, the Property shall be restored unless the underlying encumbrances provide otherwise. Otherwise, the amount collected under any insurance policy shall be applied upon any amounts due

hereunder in such order as the Seller shall determine. In the event of forfeiture, all rights of Purchasers in insurance policies then in force shall pass to Seller.

23. Construction on Property. No construction or erection of any residence or structure shall be commenced on the Property unless and until all necessary permits and approvals, as required by all governmental agencies with jurisdiction over the Property, have been issued. Once construction commences, unless waived in writing by Seller, exterior construction and improvements (especially exterior cleanliness) shall be completed within eight (8) months of commencement of construction. "Commencement of construction" for purposes of this paragraph, shall mean the commencement of clearing and/or grading of the construction site.

24. Attorneys Fees and Costs.

A. If this contract, or any obligation contained in it, is referred to an attorney for collection, enforcement, forfeiture or realization, due to a default or breach by a party, the party in default or breach agrees to pay the other party's costs, including title search and service of notices costs and expenses, in addition to reasonable attorney fees and all other related legal expenses.

B. If suit, action or arbitration arises out of this contract, the losing party agrees to pay the prevailing party's costs, including title search and service of notices costs and expenses, in addition to reasonable attorney fees, incurred in connection with such suit, action or arbitration in trial, appellate and bankruptcy courts or tribunals.

25. Hazardous Waste. Seller has no knowledge of any hazardous waste being on the Property. The Purchasers will not create a nuisance or commit waste on the premises. Purchasers represent and warrant to Seller that hazardous substances will not be generated, stored or disposed of on the premises nor will the same be transported to or over the premises. "Hazardous substance"

shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any federal, state or local environmental law, regulation or rule presently in effect or promulgated in the future, as such laws, regulations or rules may be amended from time to time. And it shall be interpreted to include, but not be limited to, any substance which after release into the environment and upon exposure, ingestion, inhalation or assimilation, either directly from the environment or indirectly by ingestion through food chains or otherwise, will or may reasonably be anticipated to cause sickness, death, disease, behavior abnormalities, cancer or genetic abnormalities. Purchasers shall hold Seller harmless from and indemnify Seller against and from any damage, loss, expenses or liability resulting from any breach of this representation and warranty including all attorneys fees and costs incurred as a result thereof.

26. **Membership in Marble Mountain Association.** Purchasers shall remain a member of Marble Mountain Association while this Contract is in effect and pay all annual dues and regular or special assessments when they become due. ~~Association dues for the current year shall be prorated at closing.~~ Purchasers also agree to abide by all covenants, restrictions, bylaws, rules and regulations of the Association and any violation of the same shall be considered a default by Purchasers under this Contract.

27. **Notices.** Any notices required or permitted by law or under this contract shall be in writing and shall be sent by first class certified or registered mail, return receipt requested, with postage prepaid, to the parties' addresses set forth herein. All notices which are so addressed and paid for shall be deemed effective three (3) business days following the deposit thereof in the U.S. mail, irrespective of actual receipt of such notice by the addressee.

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28. **Successors.** Subject to the restrictions contained in this contract, the rights and obligations of the Seller and the Purchasers shall inure to the benefit of and be binding upon their respective estates, heirs, executors, administrators, successors, successors in trust and assigns.

29. **Entire Agreement.** This contract contains the entire agreement of the parties hereto and, except for any agreements or warranties otherwise stated in writing to survive the execution and delivery of this contract, supersedes all of their previous understandings and agreements, written and oral, with respect to this transaction. Neither the Seller nor the Purchasers shall be liable to the other for any representations made by any person concerning the Property or regarding the terms of the contract, except to the extent that the same are expressed in this instrument. This contract may be amended only by written instrument executed by the Seller and the Purchasers subsequent to the date hereof.

30. **Applicable Law and Venue.** This contract shall be governed by and construed in accordance with the laws of the state of Washington and in the event of any litigation arising out of this contract, the parties hereto stipulate and agree that the venue of any such action shall be laid in Skamania County, Washington.

31. **Disclosure of Representation.** It is understood that this contract has been prepared by the law firm of Weber Gunn PLLC, for the benefit of the Seller hereunder; and that the Purchaser has been informed of that fact, and has been afforded an opportunity to receive counsel with respect to this contract from Purchaser's own attorneys.

Seller's Address: Lenora Johnston
2016 N.E. 160th Avenue
Vancouver, Washington 98684

Purchaser's Address: Gary Fournier

Purchaser's Address: Doug Knutson

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

Lenora R Johnston
LENORA R. JOHNSTON, Seller

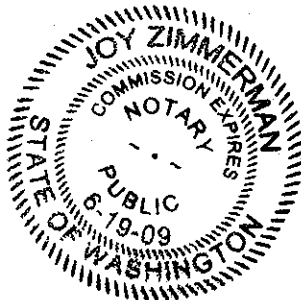
[Signature]
GARY FOURNIER, Purchaser

[Signature]
DOUG KNUTSON, Purchaser

STATE OF WASHINGTON)
COUNTY OF CLALLAM) ss.

I certify that I know or have satisfactory evidence that LENORA R. JOHNSTON is the person who appeared before me, and said person acknowledged that she signed this Real Estate Contract and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 15th day of SEPTEMBER, 2006.

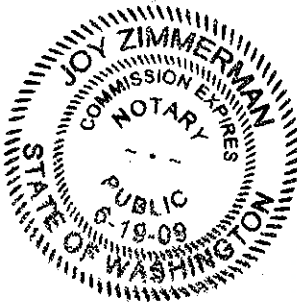


[Signature]
NOTARY PUBLIC in and for the State of
Washington
My Commission Expires 6.19.09

STATE OF WASHINGTON)

I certify that I know or have satisfactory evidence that GARY FOURNIER is the person who appeared before me, and said person acknowledged that he signed this Real Estate Contract and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 15th day of SEPTEMBER, 2006.

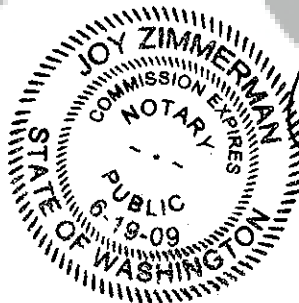


NOTARY PUBLIC in and for the State of
Washington
My Commission Expires 6/19/29

STATE OF WASHINGTON)

I certify that I know or have satisfactory evidence that DOUG KNUTSON is the person who appeared before me, and said person acknowledged that he signed this Real Estate Contract and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

DATED this 15th day of SEPTEMBER, 2006.



NOTARY PUBLIC in and for the State of
Washington
My Commission Expires 6/19/09