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Union County Iowa  
Katie Carlton Recorder  
File# 2020-00000638

BK 1218 PG 249-255

DOV# 192

INDX  
ANNO  
SCAN  
CHEK

LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

17

This instrument prepared by and return to:

CHARLOTTE SUCIK, ABENDROTH RUSSELL BARNETT LAW FIRM, 2560 – 73<sup>rd</sup> Street, Urbandale, Iowa 50322 Phone # (515) 278-0623

Mail tax statements to:

DAN AND CANDACE MCGHEE, 4113 – 75<sup>th</sup> Street, Urbandale, Iowa 50322

File #30996-18-CWS (CWS)

\$20,000

## REAL ESTATE CONTRACT

Legal:

Parcel "G" in the Northeast Quarter of the Northwest Quarter of Section 2, Township Seventy-three (73) North, Range Twenty-eight (28) West of the 5th P.M., Union County, Iowa more particularly described as follows: Commencing at the Northwest Corner of the Northeast Quarter of the Northwest Quarter of Section 2, Township 73 North, Range 28 West of the 5th P.M., Union County, Iowa thence South 89°45'47" East 111.20 feet along the North line of said Northeast Quarter of the Northwest Quarter to the Point of Beginning; thence continuing South 89°45'47" East 685.17 feet along said North line; thence South 00°00'00" West 269.39 feet; thence North 90°00'00" West 593.97 feet; thence North 70°24'32" West 96.13 feet to a point on the East right-of-way line of U.S. Highway No. 169; thence North 00°09'03" West 240 feet to the Point of Beginning containing 4.22 acres

AND

Parcel "D" in the Southeast Quarter of the Southwest Quarter of Section 35, Township 74 North, Range 28 West of the 5th P.M., Madison County, Iowa more particularly described as follows: Commencing at the Southwest Corner of the Southeast Quarter of the Southwest Quarter of Section 35, Township 74 North, Range 28 West of the 5th P.M., Madison County, Iowa thence South 89°45'47" East 111.20 feet along the South line of said Southeast Quarter of the Southwest Quarter to the Point of Beginning; thence North 08°08'09" East 228.54 feet along the East right-of-way line of U.S. Highway #169; thence North 85°53'19" East 654.51 feet; thence South 00°00'00" West 276.00 feet to a point on the South line of said Southeast Quarter of the Southwest Quarter; thence North 89°45'47" West 685.17 feet to the Point of Beginning containing 3.85 acres

Address: 1000 Highway 169, Lorimor, Iowa 50149

IT IS AGREED this 12 day of March, 2020, by and between **Daniel and Candace McGhee, a married couple**, as joint tenants with full rights of survivorship and not as tenants in common, Sellers; and **Scott Carr, a single person, and Jessica Carlson, a single person**, as joint tenants with full rights of survivorship and not as tenants in common Buyers;

That the Sellers, as in the contract provided, agree to sell to the Buyers, and the Buyers in consideration of the premises, hereby agree with the Sellers to purchase the above-described real estate, together with any easements and servient estates appurtenant thereto, but with such reservations and exceptions of title as may be below stated, upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE.** The Buyers agree to pay for said property the total of **\$150,000.00 (\$130,000.00 for the portion of property in Union County and \$20,000.00 for the portion of property in Madison County)**, due and payable as directed by Sellers, as follows:
  - a. **DOWN PAYMENT of \$59,843.31, receipt of which is hereby acknowledged.**
  - b. **BALANCE OF PURCHASE PRICE. \$90,156.69**, as follows:
    - (1). **\$700.00** starting December 1, 2019, due and payable on or before the fifteenth of each month, with interest thereon at the rate of **3.58%** per annum until the entire unpaid balance of the contract, including principal and accrued interest, is paid in full.
  - c. **LATE FEE.** Buyers shall pay a late fee of **\$50.00** after the 15<sup>th</sup> day of the month if the monthly contract payment is unpaid when due.
  - d. **PREPAYMENT.** This contract shall allow the Buyers to prepay all or any part of the principal without penalty.
  - e. **DUE ON SALE OR ASSIGNMENT.** This contract shall become due and payable in full upon sale or assignment by the Buyers.
  - f. **ACCELERATION.** In the event of default by the Buyers, the Sellers, at the Sellers' sole option, may accelerate the balance of the contract and require that the entire unpaid balance of the contract, including principal and accrued interest, be immediately due and payable by the Buyers. If the Sellers elect to accelerate the contract, the Sellers may not forfeit the contract, but must proceed with a foreclosure action, as set forth below.
2. **POSSESSION.** Buyers and Sellers acknowledge that the Buyers are currently in possession of the property pursuant to a lease/option agreement. Buyers hereby waive any inspection and specifically accept the property in "as is" condition.
3. **TAXES.** There shall be no proration of taxes. Buyers shall pay directly the tax installment due in March 2020 and moving forward through the pendency of the contract.
4. **INTEREST STATEMENTS.** Beginning January 31<sup>st</sup>, 2021, and every year thereafter that the contract is in place Sellers will provide an annual 1098 to Sellers, due no later than January 31 of each year, showing the interest paid on the contract. Said document will be mailed to the property address by regular mail.
5. **SPECIAL ASSESSMENTS.** Buyers shall pay the special assessments against this property which are a lien thereon as of the date of closing. Buyers, except as above stated, shall pay all subsequent special assessments and charges, before the same become delinquent.
6. **CONDITION OF PROPERTY.** Sellers are selling this property in "as-is" condition. Buyers acknowledge that the Buyers have inspected the property, have examined all official plat documents, including easements of record, and applicable restrictive covenants, and are familiar with all aspects and conditions of the property. Buyers accepts the property in its current condition and acknowledge that the property satisfies their need, intent, and plans for use.

7. **INSURANCE.** Except as may be otherwise included above, Buyers as and from said date of possession, shall constantly keep in force insurance, premiums for which shall be prepaid by Buyers (without notice or demand) against loss by fire, tornado and other hazards, casualties and contingencies as Sellers may reasonably require on all buildings and improvements, now on or hereafter placed on said premises and any personal property which may be the subject of this contract, in companies to be reasonably approved by Sellers in an amount not less than the full insurable value of such improvements and personal property or not less than the unpaid purchase price herein, whichever amount is smaller, with such insurance payable to Sellers and Buyers as their interests may appear. **BUYERS SHALL PROMPTLY DEPOSIT SUCH POLICY WITH PROPER RIDERS WITH SELLERS** for the further security for the payment of the sums herein mentioned. In the event of any such casualty loss, the insurance proceeds may be used under the supervision of the Sellers to replace or repair the loss if the proceeds be adequate; if not, then some other reasonable application of such funds shall be made; but in any event such proceeds shall stand as security for the payment of the obligations herein. The failure to maintain insurance on the property shall be considered a default event.
8. **LIENS.** No mechanics' liens shall be imposed upon or foreclosed against the real estate described herein. The imposition of a mechanic's lien against the property shall be considered a default event.
9. **ADVANCEMENT BY SELLERS.** If Buyers fail to pay such taxes, special assessments, and insurance and effect necessary repairs, as above agreed, Sellers may, but need not, pay such taxes, special assessments, insurance, and make necessary repairs, and all sums so advanced shall be due and payable on demand or such sums as advanced may, at the election of Sellers, be added to the principal amount due hereunder and so secured. The failure to timely pay such taxes, assessments and the like shall be considered a default event.
10. **SELLERS.** Spouse, if not titleholder immediately preceding this sale, shall be presumed to have executed this instrument only for the purpose of relinquishing all rights of dower, homestead, and distributive share and/or in compliance with Iowa Code Section 581.13; and the use of the word "Sellers" in the printed portion of this contract, without more, shall not rebut such presumption, nor in any way enlarge or extend the previous interest of such spouse in said property, or in the sale proceeds, nor bind such spouse except as aforesaid, to the terms and provisions of this contract.
11. **TIME IS OF THE ESSENCE.** Time is of the essence in this contract. Failure to promptly assert rights of Sellers herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default.
12. **EXCEPTIONS TO WARRANTIES OF TITLE.** The warranties of title in any Deed made pursuant to this contract shall be without reservation or qualification EXCEPT: (a) Zoning ordinances; (b) Such restrictive covenants as may be shown of record; (c) Easements of record, if any; (d) As limited by prior paragraphs of this contract; (e) Sellers shall give Special Warranty as to the period after equitable title passes to the Buyers; (f) Spouse if not titleholder, need not join in any warranties of the Deed unless otherwise stipulated.
13. **DEED AND ABSTRACT.** If all said sums of money and interest are paid to Sellers during the life of this contract, and all other agreements for performance by Buyers have been complied with, Sellers will execute and deliver to Buyers a **General Warranty Deed** conveying said premises in fee simple pursuant to and in conformity with this contract and Sellers will at this time deliver to Buyers an abstract showing merchantable title, in conformity with this contract. Such abstract shall begin with the government patent (unless pursuant to the Iowa State Bar standards there is a lesser requirement as to period of abstracting) to said premises and shall show title thereto in Sellers as of the date of this contract; or as of such earlier date if and as designated in the next sentence. This contract supersedes the previous written Offer to Buy.

14. **ABSTRACT.** The parties acknowledge that the abstract of title to the property has not been updated at the time of the execution of this contract. Upon the completion of the contract by the payment of the purchase price in full by the Buyers, the Sellers shall, at the Sellers' expense, update the abstract of title as set forth in paragraph 13, above.

15. **REMEDY ON DEFAULT – BUYERS.** If the Sellers fail to perform under the terms of this contract, including but not limited to failing to convey as provided in the contract or failing to provide marketable title at the time of the conveyance, the Buyers may elect from the following remedies:

- a. Buyers may maintain an action for specific performance against the Sellers and may bring an action for damages along with an action for specific performance.
- b. Buyers may rescind the contract and recover restitution from the Sellers. The parties acknowledge that the Buyers may be entitled to a lien upon the subject property for the amount of payment, plus interest, and improvements.
- c. Buyers may maintain an action at law for money damages against the Sellers.

The Buyers may have other legal or equitable remedies for the Sellers' default of this contract.

16. **DEFAULT BY BUYERS.** If the Buyers fail to perform under the terms of this contract, the Sellers may have remedies against the Buyers. Such default by the Buyers includes, but is not limited to the following:

- a. failing to make the payments aforesaid, or any part thereof, as the same shall become due;
- b. failing to pay the real estate taxes or special assessments and charges, or any part thereof, levied upon the subject property, or assessed against it, by any taxing body, as the same shall become due and before the same shall become delinquent
- c. failing to keep the property insured with homeowner's (hazard) insurance in the amounts required by the Sellers, or failing to provide written evidence to the Sellers of the payment of such hazard insurance premiums;
- d. failing to keep the property in reasonable repair as herein required;
- e. failing to perform any of the agreements as herein made or required.

17. **REMEDY ON DEFAULT – SELLERS.** If the Buyers fail to perform under the terms of this contract, including but not limited to the above-referenced default events, the Sellers may elect from the following remedies:

- a. Sellers may foreclose on the contract in the same manner as a mortgage, pursuant to Iowa Code §§654.11 and 654.12. The Sellers, at their sole option, may accelerate the unpaid balance of the contract, as set forth above.
- b. Sellers may terminate the contract and sue the Buyers for breach of contract. The Sellers may be entitled to recover special or consequential damages as a result of the Buyers' breach.
- c. Sellers may maintain an action for specific performance against the Buyers and may bring an action for damages along with an action for specific performance.

- d. Sellers may rescind the contract and return all payments to the Buyers. The parties acknowledge that the Buyers may be entitled to a lien upon the subject property for the amount of payment, plus interest, and improvements.
- e. Sellers, in addition to any and all other legal and equitable remedies which the Sellers may have, at the Sellers's option, may proceed to forfeit and cancel this contract as provided by law (Iowa Code Chapter 656). Upon completion of such forfeiture, Buyers shall have no right of reclamation or compensation for money paid, or improvements made; but such payments and/or improvements, if any, shall be retained and kept by Sellers as compensation for the use of said property, and/or as liquidated damages for breach of this contract.

18. **STATUS OF BUYERS UPON FORFEITURE.** Upon default being made in the payment of the purchase money by the Buyers, and upon the forfeiture of this contract by the Sellers, the parties expressly agree that this contract shall be treated as a lease. Upon the completion of the forfeiture, the Buyers shall at once peacefully remove himself or herself from possession of the subject property and, upon the Buyers' failure to do so, the Buyers may be treated as tenants holding over unlawfully after the expiration of the lease and may be ousted or removed as such.

The parties expressly agree that, upon the giving of a written three-day notice to quit, as provided in Iowa Code §648.3, the Buyers shall at once peacefully remove himself or herself from possession of the subject property. If the Buyers fail to do so, the Sellers may proceed with a Forcible Entry and Detainer Action, as provided in Iowa Code Chapter 648. **Because the Buyers are treated as tenants holding over, the parties expressly acknowledge that the District Court sitting in small claims shall have concurrent jurisdiction over any Forcible Entry and Detainer action, under the provisions of Iowa Code Chapter 631.**

19. **ATTORNEY'S FEES.** In case of any action, or in any proceedings in any court to collect any sums payable or secured herein, or to protect the lien or title herein, or in any other case permitted by law in which attorney's fees may be collected or imposed, or upon the above-described property, the prevailing party shall be entitled to reasonable attorneys' fees.
20. **CONSTRUCTION.** Words and phrases here, including acknowledgments hereof, shall be construed as in the singular or plural number, and as masculine, feminine, or neuter gender, according to the context.
21. **ENTIRE AGREEMENT.** This contract constitutes the entire agreement between the Sellers and the Buyers.
22. **SPECIAL PROVISIONS.** This contract was drafted, negotiated and executed in compliance with the Court Order EQCV018410, encaptioned Scott Carr and Jessica Carlson, Plaintiffs, vs. Daniel McGhee and Candace McGhee, Defendants. Said Order was issued in the District Court for Union County on December 20, 2019.

STATE OF IOWA )  
COUNTY OF Polk ) SS:

On this 21 day of February, 2020,  
before me the undersigned, a Notary Public in and for  
said State, personally appeared **Daniel McGhee and  
Candace McGhee, a married couple**, to me known  
to be the identical persons named in and who  
executed the foregoing instrument and acknowledged  
that those persons executed the same as their  
voluntary act and deed.

Lori Canon  
Notary Public in and for said State

Dated: February 21, 2020

D. K. McGhee  
Daniel McGhee

Candace McGhee  
Candace McGhee



