



FILED NO. **6852**

REC \$ 25 ⁰⁰
AUD \$ 5 ⁰⁰
R.M.F. \$ 7 ⁰⁰
5 ⁰⁰

BOOK **2003** PAGE **6852**

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NICKI UTSLER
RECORDER
MADISON COUNTY, IOWA

COMPUTER
RECORDED
COMPARED

Preparer Information Jerrold B. Oliver, POB 230, Winterset, (515) 462-3731

Individual's Name Street Address City Phone

Address Tax Statement: Mr. & Mrs. William C. Smith
2417 Carver Rd., Winterset, IA 50273

SPACE ABOVE THIS LINE
FOR RECORDER



REAL ESTATE CONTRACT (SHORT FORM)

IT IS AGREED between
Beverly Holtmeyer, Single

("Sellers"); and
William C. Smith

("Buyers").

Sellers agree to sell and Buyers agree to buy real estate in Madison County,
Iowa, described as:

Lots 6, 7, and 8, Block 1, Kellison and Keeling Addition to the City of Winterset, Madison County, Iowa.

with any easements and appurtenant servient estates, but subject to the following: a. any zoning and other ordinances; b. any covenants of record; c. any easements of record for public utilities, roads and highways; and d. (consider: liens; mineral rights; other easements; interest of others.)

(the "Real Estate"), upon the following terms:

1. PRICE. The total purchase price for the Real Estate is Eighty-Four Thousand and 0/100
Dollars (\$ 84,000.00) of which Ten Thousand and 0/100
Dollars (\$ 10,000.00) has been paid. Buyers shall pay the balance to Sellers at _____

or as directed by Sellers, as follows:

The balance of \$74,000.00 shall be payable as follows: \$530.00 or more on or before the 16th day of each month, beginning December 16, 2003, until November 16, 2008, when the entire unpaid balance shall be due and payable. Said monthly payments shall be applied first to the interest then unpaid and next upon the balance of the principal. Buyer shall make payments to Seller to Seller's account at Union State Bank, Winterset, Iowa.

* Revenue Tax Paid on Unrecorded
Warranty Deed 11-17-03 # 133.60

It is further agreed that the period of redemption after a foreclosure of this contract shall be reduced to sixty (60) days if all of the three following contingencies develop: (1) The real estate is less than ten (10) acres in size; (2) the Court finds affirmatively that the said real estate has been abandoned by the owners and those persons personally liable under this contract at the time of such foreclosure; and (3) Sellers in such action file an election to waive any deficiency judgment against Buyers or their successor in interest in such action. If the redemption period is so reduced, Buyers or their successors in interest or the owner shall have the exclusive right to redeem for the first thirty (30) days after such sale, and the time provided for redemption by creditors as provided in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to forty (40) days. Entry of appearance by pleading or docket entry by or on behalf of Buyers shall be presumption that the property is not abandoned. Any such redemption period shall be consistent with all of the provisions of Chapter 628 of the Iowa Code. This paragraph shall not be construed to limit or otherwise affect any other redemption provisions contained in Chapter 628 of the Iowa Code. Upon completion of such of such forfeiture Buyers shall have no right of reclamation or compensation for money paid, or improvements made; but such payments and for 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; and upon completion of such forfeiture, if Buyers, or any other person or persons shall be in possession of said real estate or any part thereof, such party or parties in possession shall at once peacefully remove therefrom, or failing to do so may be treated as tenants holding over, unlawfully after the expiration of a lease, and may accordingly be ousted and removed as such as provided by law.

- c. If Sellers fail to timely perform their obligations under this contract, Buyers shall have the right to terminate this contract and have all payments made returned to them.
- d. Buyers and Sellers are also entitled to utilize any and all other remedies or actions at law or in equity available to them.
- e. In any action or proceeding relating to this contract the successful party shall be entitled to receive reasonable attorney's fees and costs as permitted by law.

12. **JOINT TENANCY IN PROCEEDS AND IN REAL ESTATE.** If Sellers, immediately preceding this contract, hold title to the Real Estate in joint tenancy with full right of survivorship, and the joint tenancy is not later destroyed by operation of law or by acts of Sellers, then the proceeds of this sale, and any continuing or recaptured rights of Sellers in the Real Estate, shall belong to Sellers as joint tenants with full right of survivorship and not as tenants in common; and Buyers, in the event of the death of either Seller, agree to pay any balance of the price due Sellers under this contract to the surviving Seller and to accept a deed from the surviving Seller consistent with paragraph 10.

13. **JOINDER BY SELLER'S SPOUSE.** Seller's spouse, if not a titleholder immediately preceding acceptance of this offer, executes this contract only for the purpose of relinquishing all rights of dower, homestead and distributive shares or in compliance with Section 561.13 of the Iowa Code and agrees to execute the deed for this purpose.

14. **TIME IS OF THE ESSENCE.** Time is of the essence in this contract.

15. **PERSONAL PROPERTY.** If this contract includes the sale of any personal property, Buyers grant the Sellers a security interest in the personal property and Buyers shall execute the necessary financing statements and deliver them to Sellers.

16. **CONSTRUCTION.** Words and phrases in this contract shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

17. **RELEASE OF RIGHTS.** Each of the Buyers hereby relinquishes all rights of dower, homestead and distributive share in and to the property and waives all rights of exemption as to any of the property.

18. **ADDITIONAL PROVISIONS.**

See 1 in Addendum

~~I UNDERSTAND THAT HOMESTEAD PROPERTY IS IN MANY CASES PROTECTED FROM THE CLAIMS OF CREDITORS AND EXEMPT FROM JUDICIAL SALE AND THAT BY SIGNING THIS CONTRACT I VOLUNTARILY GIVE UP MY RIGHT TO THIS PROTECTION FOR THIS PROPERTY WITH RESPECT TO CLAIMS BASED UPON THIS CONTRACT~~

Dated: 11-15-03 _____

Dated: _____

Beverly Holtmeyer
Beverly Holtmeyer

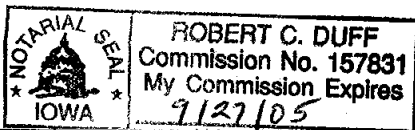
William C. Smith
William C. Smith

SELLERS

BUYERS

STATE OF Iowa, COUNTY OF MADISON, SS:

This instrument was acknowledged before me on 11-15-03
by Beverly Holtmeyer and William C. Smith



Robert C. Duff, Notary Public

Addendum

1.
 - a. The freezer shall be repaired by Seller, or, if freezer is not repairable, it shall be replaced by Seller.
 - b. The furnace shall be inspected and repaired by Seller, if necessary.
 - c. In the event Buyers sell all or any part of the above described real estate or assign this Contract, Seller shall have the right to declare the entire unpaid balance to be immediately due and payable.
 - d. The parties agree that the purchase price shall be allocated as follows:
 - Real estate and buildings: \$80,000.00
 - Fixtures and inventory: \$4,000.00
 - Total purchase price: \$84,000.00
 - e. Warranty Deed, Bill of Sale, and abstract will be held in escrow by Jordan, Oliver & Walters until payment of entire balance due on this Contract by Buyer.
 - f. \$10,000.00 down payment shall be held in the trust account of Tucker Real Estate until approval of title by Buyer's attorney.
 - g. It is understood that Seller has an existing mortgage against the above described real estate. Seller shall not be required to pay off such mortgage at the present time. However, Seller shall make timely payments due on such mortgage and shall, at all times during the duration of this Contract, take steps to provide that the unpaid balance due on such mortgage is always less than the balance on this Contract.

SCHEDULE A

LIST OF EQUIPMENT
HOLTMAYER - SMITH CONTRACT

Freezer - 1
Refrigerators - 2
Stove - 1
Steam table - 1
Gas grill - 1
Deep fryer - 1
Coffee maker - 1
Ice Cream chest - 1
Bin T. V.
2-hole sink
3-hole sink
Dishes - Silver
Pots and Pans
Air conditioners - 2
Storage & Organizer units
Slicer and other food prep equipment
Toaster
All normal restaurant equipment and utensils
Cash register

