

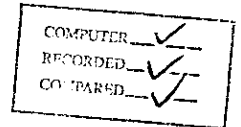


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MICHELLE UTSLER, COUNTY RECORDER  
MADISON IOWA



**Real Estate Contract**  
**Recorder's Cover Sheet**

**Preparer Information:**

Jerrold B. Oliver, PO BOX 230, Winterset, IA 50273

**Taxpayer Information:**

Bluebird Properties, LLC  
4305 Code Drive  
West Des Moines, IA 50265

✓ **Return Address**

Jerrold B. Oliver  
PO BOX 230  
Winterset, IA 50273

**Grantors:**

John A. Elgin

**Grantees:**

Bluebird Properties, LLC

**Legal Description:** See Page 2

**Document or instrument number if applicable:**

## REAL ESTATE CONTRACT (SHORT FORM)

**IT IS AGREED** between John A. Elgin, a Single person ("Seller"); and Bluebird Properties, LLC ("Buyer")

Seller agrees to sell and Buyers agree to buy real estate in Madison County, Iowa, described as: Parcel "D" located in the Southwest Quarter (1/4) of the Northwest Quarter (1/4) and the Northwest Quarter (1/4) of the Southwest Quarter (1/4) in Section Five (5), Township Seventy-seven (77) North, Range Twenty-six (26) West of the 5<sup>th</sup> P.M., as described in the Plat of Survey recorded in Book 2003, Page 1241 of the Recorder's Office of Madison County, Iowa, and all that part of Government Lot Seven (7) of Section Six (6) located North of the public highway EXCEPT the West 40 rods thereof.

**1. PRICE.** The total purchase price for the Real Estate is Five Hundred Thousand and 0/100 Dollars (\$500,000.00) of which nothing has been paid. Buyers shall pay the balance to Seller as follows:

\$500,000.00 on or before June 1, 2007.

**2. INTEREST.** Buyers shall pay no interest on the unpaid balance.

**3. REAL ESTATE TAXES.** See additional provisions attached.

**4. SPECIAL ASSESSMENTS.** Seller shall pay all special assessments which are a lien on the real estate as of the date of this contract. All other special assessments shall be paid by Buyers.

**5. POSSESSION CLOSING.** Seller shall give Buyers possession of the Real Estate on June 1, 2007, provided Buyers are not in default under this contract. Closing shall be on June 1, 2007. The Seller will remain in occupancy of the home on said real estate until June 1, 2007. Seller will allow reasonable access to the home from June 1, 2007 to allow the home to be sold.

**6. INSURANCE.** Seller shall maintain existing insurance upon the Real Estate until the date of possession. Buyers shall accept insurance proceeds instead of Seller replacing or repairing damaged improvements. After possession and until full payment of the purchase price, Seller shall keep the improvements the Real Estate insured against loss by fire, tornado, and extended coverage for a sum not less than 80 percent of full insurable value payable to the Seller and Buyers as their interests may appear. Seller

shall provide Seller with evidence of such insurance. It is understood that the Seller will maintain insurance on the house and property as long as he is living in said house. When Seller vacates the house, Buyers will be responsible for providing insurance.

**7. ABSTRACT AND TITLE.** Seller, at their expense, shall promptly obtain an abstract of title to the Real Estate continued through the date of this contract and deliver it to Buyers for examination. It shall show merchantable title in Seller in or conformity with this contract, Iowa law and the Title Standards of the Iowa State Bar Association. The abstract shall become the property of the Buyers when the purchase price is paid in full, however, Buyers reserve the right to occasionally use the abstract prior to full payment of the purchase price. Seller shall pay the costs of any additional abstracting and title work due to any act or omission of Seller, including transfers by or the death of Seller or their assignees.

**8. FIXTURES.** All property that integrally belongs to or is part of the Real Estate, whether attached or detached, such as light fixtures, shades, rods, blinds, awnings, windows, storm doors, screens, plumbing fixtures, water heaters, water softeners, automatic heating equipment, air conditioning equipment, wall to wall carpeting, built-in items and electrical service cable, outside television towers and antenna, fencing, gates and landscaping shall be considered a part of Real Estate and included in the sale except: (consider: rental items.)

**9. CARE OF PROPERTY.** Buyers shall take good care of the property; shall keep the buildings and other improvements now or later placed on the Real Estate in good and reasonable repair and shall not injure, destroy or remove the property during the term of this contract. Buyers shall not make any material alteration to the Real Estate without the written consent of the Seller. Seller shall comply with the provisions of this paragraph as long as he occupies the house located on said real estate.

**10. DEED.** Upon payment of purchase price, Seller shall convey the Real Estate to Buyers or their assignees, by Warranty deed, free and clear of all liens, restrictions, and encumbrances except as provided herein. Any general warranties of title shall extend only to the date of this contract, with special warranties as to acts of Seller continuing up to time of delivery of the deed.

**11. REMEDIES OF THE PARTIES.** a. If Buyers (a) fail to make the payments aforesaid, or any part thereof, as same become due; or (b) fail to pay the taxes or special assessments or charges, or any part thereof, levied upon said property, or assessed against it, by any taxing body before any of such items become delinquent; or (c) fail to keep the property insured; or (d) fail to keep it in reasonable repair as herein required; or (e) fail to perform any of the agreements as herein made or required; then Seller, in addition to any and all other legal and equitable remedies which they may have, at their option, may proceed to forfeit and cancel this contract as provided by law (Chapter 656 Code of Iowa). 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 Seller 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 the 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 lease, and may accordingly be ousted and removed as such as provided by law.

b. If Buyers fail to timely perform this contract, Seller, at their option, may elect to declare the entire balance immediately due and payable after such notice, if any, as may be required by Chapter 654, The Code. Thereafter this contract may be foreclosed in equity and the court may appoint a receiver to take immediate possession of the property and of the revenues and income accruing therefrom and to rent or cultivate the same as the receiver may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Buyers only for the net profits, after application of rents, issues and profits from the costs and expenses of the receivership and foreclosure and upon the contract obligation.

It is agreed that if this contract covers less than ten (10) acres of land, and in the event of the foreclosure of this contract and sale of the property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the statutes of the State of Iowa shall be reduced to six (6) months provided the Seller, in such action file an election to waive any deficiency judgment against Buyers which may arise out of the foreclosure proceedings; all to be consistent with the provisions of Chapter 628 of the Iowa Code. If the redemption period is so reduced, for the first three (3) months after sale such right of redemption shall be exclusive to the Buyers, and the time periods in Sections 628.5, 628.15 and 628.16 of the Iowa Code shall be reduced to four (4) months.

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) Seller 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 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 Seller 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 Seller fails 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 Seller 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 s, 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 Seller, then the proceeds of this sale, and any continuing or recaptured rights of Seller in the Real Estate, shall belong to Seller 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 Seller 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 Seller a security interest in the personal property and Buyers shall execute the necessary financing statements and deliver them to Seller.

**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.

**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: Aug 16 2006

Tray W Thomas  
Tray W Thomas, partner, Bluebird Properties, LLC

**18. ADDITIONAL PROVISIONS.**

1. Seller shall pay taxes payable in the fiscal year beginning July 1, 2007, prorated to the date of possession and all taxes payable in all prior fiscal years for the real estate being sold by Seller to Buyers except the residence now occupied by Seller. Buyer shall pay all subsequent real estate taxes.
2. Seller shall pay taxes payable in the fiscal year beginning July 1, 2008, prorated to the date of possession and all taxes payable in all prior fiscal years for the residence located on said premises occupied by Seller. Buyer shall pay all subsequent real estate taxes.
3. Proration of real estate taxes shall be based on the taxes for the year currently payable.
4. It is the intention of the Seller named herein to dispose of this property as part of a tax-deferred exchange, as defined in Internal Revenue Code Section 1031. All right, title, and interest in said Sales Contract is being assigned by the Seller to a Qualified Intermediary, for the purpose of facilitating said tax-deferred exchange in accordance with the Internal Revenue Code and Regulations.

The Purchaser named herein agrees to cooperate with the Seller and with the Qualified Intermediary by executing any documentation reasonably necessary to affect said exchange. In doing so, Purchaser will bear no additional cost nor liability as a result of the Seller's intent to exchange this property.

Dated: Aug 16 2006  
John A. Elgin  
John A. Elgin, Seller

Tray W Thomas  
Tray W Thomas, Partner, Bluebird Properties LLC, Buyer

STATE OF IOWA, Balk COUNTY, ss;

This instrument was acknowledged before me on August 15, 2006 by John A. Elgin and Tracy W. Thomas

[Signature]  
Notary Public in and for said State

