

STATE OF IOWA,  
MADISON COUNTY,Inst. No. 3200 Filed for Record this 19 day of May 19 94 at 11:23 AM  
Book 59 Page 262 Recording Fee \$ 11.00 Michelle Utster, Recorder, By Betty M. Nibbelo  
Deputy

## REAL ESTATE CONTRACT

COMPUTER ☒  
RECORDED ☒  
COMPARED ☒

This agreement is between Ruby M. O'Brien, Single, as Seller, and Michael J. O'Brien, Single, as Buyer, dated April 27, 1994.

Seller agrees to sell and Buyer agrees to buy the real estate described as:

Lot Six (6) and the East Two (2) feet of Lot Five (5) of Block Eleven (11) in the West Addition to the City of Winterset, Madison County, Iowa,

with the local address of 515 West Green Street, Winterset, Iowa (the "Real Estate"), upon the following terms:

**1. PRICE AND GENERAL TERMS.** The total purchase price the Real Estate is \$66,082.00 of which \$3432.00 has been paid. Buyer shall pay the balance of \$62,650.00 to Seller at 504 W. Green Street, Winterset, Iowa, or as subsequently directed by Seller, as follows: \$460.00 on or before May 27, 1994 and on or before the 27th day of each month thereafter until December 27, 1996, when the full unpaid balance of principal and interest shall become due and payable, if not paid earlier, unless this contract is extended as provided hereinbelow. All payments shall be applied first to interest accrued to the date of said payment, and then to principal.

The Buyer acknowledges and accepts the presence of Seller's Mortgage Note to the above described real property, as filed on December 28, 1993 in Mortgage Record 170, Book 228, in Madison County, Iowa, said mortgage being due and payable on December 27, 1996.

Seller hereby agrees that the principal balance on such current or future encumbrance to the real property will, at any regular payment date, not exceed the principal balance plus accrued interest which is due from Buyer at that date. If Seller allows the sum of the balance of all mortgages on the property to be more than the principal balance plus accrued interest due Seller from Buyer, at the regular payment date, Buyer may, at his option, make payment directly to the Mortgagee(s) to the extent of such default by Seller. Such payment shall be credited to the Buyer's contract purchase price as if such payment were made directly to Seller.

Buyer and Seller agree that the contract will be extended and that the interest rate provided in Paragraph 2, hereinbelow, shall be modified to be equal to that being charged to the Seller by Mortgagee upon refinancing the current mortgage obligation (or such future refinancing mortgages). If Seller is unable to obtain refinancing of the current mortgage obligation from Mortgagee, the entire balance shall become due and payable. If the Seller satisfies said mortgage obligation, the interest rate provided in Paragraph 2, hereinbelow, shall remain eight (8) percent.

Buyer may, at any time, make payments on this contract in addition to those prescribed hereinabove. However, buyer will not be considered in default under this contract if the principal balance plus accrued interest thereon at the regular payment date is less than or equal to the principal balance which would be remaining on that payment date if Buyer had made no payments in addition to those prescribed hereinabove.

**2. INTEREST.** Buyer shall pay interest from April 27, 1994, on the unpaid balance at the rate of eight (8) percent per annum, payable as set forth above. Buyer shall also pay interest at the rate of eight (8) percent per annum on all delinquent amounts and any sum reasonably advanced by Seller to protect their interest in this contract, computed from the date of the delinquency or advance any sum reasonably advanced by Seller to protect their interest in this contract, computed from the date of the delinquency or advance.

**3. REAL ESTATE TAXES.** Real Estate Taxes shall be prorated to date of possession.

**4. POSSESSION.** Seller gave Buyer possession of the Real Estate on January 1, 1994.

**5. INSURANCE.** Until full payment of the purchase price, Buyer shall keep the improvements on the Real Estate insured at replacement value. Payment of proceeds under such insurance shall be payable to the Seller and Buyer jointly. Buyer shall provide Seller with evidence of such insurance.

**6. FIXTURES.** All property that integrally belonged to or is part of the Real Estate, whether attached or detached shall be considered a part of Real Estate and included in the sale.

**7. CARE OF PROPERTY.** Buyer shall keep the buildings and other improvements on the Real Estate in good and reasonable repair and shall not injure the property during the term of this contract.

**8. DEED.** Upon payment of purchase price, Seller shall convey the Real Estate to the Buyer 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.

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

10. REMEDIES OF THE PARTIES . a. If Buyer fails to timely perform this contract, Seller may, at Seller' option, forfeit Buyer' rights in this contract as provided in the Iowa Code, and all payments made by Buyer shall be forfeited. If Buyer fails to timely perform this contract, Seller, at their option, may elect to declare the entire balance immediately due and payable after such be liable to account to the same as the receiver may deem best for the interest of all parties concerned, and such receiver shall be liable to account to Buyer only for the net profits, after application of rents, issues and profits form 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 his 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 statues of the State of Iowa shall be reduced to six (6) months provided the Seller, in such action file an election waive any deficiency judgment against Buyer 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 Buyer, 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 Buyer or their successor in 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 Buyer 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.

b. If Seller fail to timely perform their obligations under this contract, Buyer shall have the right to terminate this contract and have all payments and the cost of all improvements made returned to him.

c. Buyer and Seller are also entitled to utilize any and all other remedies or actions at law or in equity available to them.

d. In any action or proceeding relations to this contract the successful party shall be entitled to receive reasonable attorney's fees and costs as permitted by law.

Ruby M. O'Brien 4/27/94  
Ruby M. O'Brien, Seller


Michael J. O'Brien 4/27/94  
Michael J. O'Brien, Buyer

State of Iowa)

ss:

County of Madison)

On this 27th day of April, 1994, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Michael J. O'Brien and Ruby M. O'Brien, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged to me that they executed the same as their voluntary act and deed.

Steven D. Warrington  
  
Notary Public in and for the State of Iowa