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BOOK 129 PAGE 373

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COMPARED

MICHELLE NITSLER
RECORDER
MADISON COUNTY, IOWA

SPACE ABOVE THIS LINE
FOR RECORDER



REAL ESTATE CONTRACT (SHORT FORM)

IT IS AGREED between R.P. Hibbs and Helen Hibbs, husband and wife, and Mary Cole and A.W. Cole, wife and husband,

(Sellers), and Gordon L. Martens and Jill Martens, husband and wife, an undivided one-half interest; Susan J. Griffith and Marilyn J. Martens, an undivided one-half interest subject to a life estate in Eugene W. Martens,

(Buyers) Madison
County, Iowa, described as:

W 1/2 NE 1/4 and SE 1/4 NE 1/4 all in Section 15, Township 77 North, Range 28 West of the 5th P.M., 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; interests of others.)

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

1. **PRICE.** The total purchase price for the Real Estate is One Hundred Ninety-eight Thousand and no/100 Dollars (\$ 198,000.00)
of which Eighty Thousand and no/100 Dollars (\$ 80,000.00)
has been paid. Buyers shall pay the balance ~~of \$118,000.00~~ ~~XX~~ as directed by Sellers, as follows:

\$118,000.00 on or before December 31, 1991.

2. **INTEREST.** Buyers shall pay interest from None on the unpaid balance, at the rate of zero percent per annum, payable

~~Buyers shall pay interest from XXX on the unpaid balance at the rate of XXX percent per annum, payable~~

3. **REAL ESTATE TAXES.** Sellers shall pay all real estate taxes for the taxable period from July 1, 1990 through June 30, 1991 due and payable in Sept. 1991 and March 1992 and all real estate taxes for the taxable period from July 1, 1991 through Dec. 31, 1991 due and payable Sept. 1992, and any unpaid real estate taxes payable in prior years. Buyers shall pay all subsequent real estate taxes. Any proration of real estate taxes on the Real Estate shall be based upon such taxes for the year currently payable unless the parties state otherwise.

4. **SPECIAL ASSESSMENTS.** Sellers shall pay all special assessments which are a lien on the Real Estate as of the date of this contract or _____. All other special assessments shall be paid by Buyers.

5. **POSSESSION.** Sellers shall give Buyers possession of the Real Estate on December 31, 1991 provided Buyers are not in default under this contract.

6. **INSURANCE.** Sellers shall maintain existing insurance upon the Real Estate until the date of possession. Buyers shall accept insurance proceeds instead of Sellers replacing or repairing damaged improvements. After possession and until full payment of the purchase price, Buyers shall keep the improvements on 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 Sellers and Buyers as their interests may appear. Buyers shall provide Sellers with evidence of such insurance.

DEED RECORD 129

Not Assignment see Deed Grant 129-1177

7. **ABSTRACT AND TITLE.** Sellers, 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 Sellers 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. Sellers shall pay the costs of any additional abstracting and title work due to any act or omission of Sellers, including transfers by or the death of Sellers 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 for those items listed below~~. Also included is propane tank presently located on property.

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 Sellers.

10. **DEED.** Upon payment of purchase price, Sellers 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 Sellers continuing up to time of delivery of the deed.

11. **REMEDIES OF THE PARTIES.**

a. If Buyers fail to timely perform this contract, Sellers may, at Seller's option, either (i) forfeit Buyers' rights in this contract as provided in the Iowa Code, and all payments made by Buyers shall be forfeited or (ii) upon thirty days written notice by Sellers to Buyers of Sellers' intention to accelerate the payment of the entire balance because of such failure (during which thirty days such failure is not corrected) Sellers may declare the entire balance immediately due and payable, and thereafter this contract may be foreclosed in equity; the Court may appoint a receiver; and the period of redemption after sale on foreclosure may be reduced under the conditions of Section 628.26 or Section 628.27 of the Iowa Code.

b. 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.

c. Buyers and Sellers 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 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. **JOINER 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. **ADDITIONAL PROVISIONS.**

After execution of this contract by Sellers and Buyers, the purchase agreement dated October 31, 1991, between R.P. Hibbs and Helen Hibbs, husband and wife, and Mary Cole and A.W. Cole, wife and husband, referred to therein as Sellers, and Gordon L. Martens and Eugene Martens, referred to therein as Buyers, is hereby declared null and void and the downpayment made pursuant to said purchase agreement shall be transferred and applied to the purchase price stated above.

This contract to purchase the above-described property is intended to effectuate and qualify for income tax purposes as a nontaxable exchange of like-kind property under §1031 of the Internal Revenue Code of 1954. The property which Buyers are selling to effectuate this exchange is described on Exhibit "A" attached hereto and by this reference incorporated herein.

DATED November 29, 1991

Gordon L. Martens
Gordon L. Martens
Jill Martens
Jill Martens
Eugene W. Martens
Eugene W. Martens
Susan J. Griffith
Susan J. Griffith
Marilyn J. Martens
Marilyn J. Martens BUYERS

R. P. Hibbs
R.P. Hibbs
Helen Hibbs
Helen Hibbs
Mary Cole
Mary Cole
A.W. Cole
A.W. Cole SELLERS

STATE OF _____, COUNTY OF _____, SS:
On this _____ day of _____, 19 _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____

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.

_____, Notary Public in and for Said State.

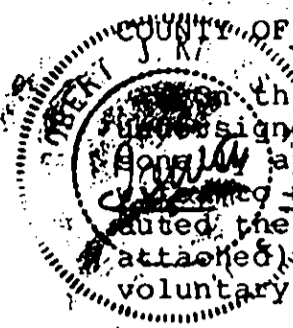
Exhibit "A"
to
Real Estate Contract

A parcel of land located in the Northwest Quarter of the Northeast Quarter, in the Southwest Quarter of the Northeast Quarter and in the Southeast Quarter of the Northwest Quarter, all in Section 32, Township 78 North, Range 27 West of the 5th Principal Meridian, Dallas County, Iowa, more particularly described as follows: Beginning at the North Quarter corner of Section 32, T78N, R27W of the 5th P.M., Dallas County, Iowa; thence, along the North line of said Section 32, North 90°00'00" East 982.33 feet; thence South 00°41'16" West 1287.11 feet; thence South 48°52'42" East 468.13 feet; thence South 00°00'00" 11.52 feet; thence North 89°57'52" West 643.88 feet; thence South 00°10'58" West 570.56 feet; thence South 89°45'59" West 485.54 feet; thence North 01°18'50" West 242.47 feet; thence South 89°48'43" West 45.73 feet; thence North 18°42'08" West 658.35 feet to the North line of the SE.1/4 of the NW.1/4 of said Section 32; thence, along said North line, South 88°56'50" East 70.21 feet to the SW. Corner of the NW.1/4 of the NE.1/4 of said Section 32; thence North 00°10'13" East 1,314.00 feet to the Point of Beginning. Said parcel of land contains 44.648 acres, including 3.089 acres of county road right of way;

and

A parcel of land located in the Southeast Quarter of the Northwest Quarter of Section 32, Township 78 North, Range 27 West of the 5th Principal Meridian, Dallas County, Iowa, more particularly described as follows: Beginning at the center of Section 32, T78N, R27W of the 5th P.M., Dallas County, Iowa; thence, South 89°55'24" West 1,314.62 feet to the SW. Corner of the SE.1/4 of the NW.1/4 of said Section 32; thence North 00°47'11" West 1,344.42 feet to the NW. Corner of the SE. 1/4 of the NW.1/4 of said Section 32; thence, along the North line of said SE.1/4 of the NW.1/4, South 88°56'43" East 1,263.15 feet; thence South 18°42'08" East 87.47 feet; thence North 83°32'12" West 196.95 feet; thence South 16°49'46" East 588.35 feet; thence North 89°46'48" West 388.01 feet; thence South 01°12'45" East 505.19 feet; thence North 89°07'19" East 445.03 feet; thence South 00°03'48" West 198.68 feet to the Point of Beginning. Said parcel of land contains 33.270 acres.

STATE OF IOWA)
COUNTY OF DALLAS) ss:



On this 26th day of November, 1991, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Gordon L. Martens and Jill Martens, husband and wife, to me known to be the identical persons named in and who executed the within and foregoing instrument (to which this is attached), and acknowledged that they executed the same as their voluntary act and deed.

Robert J. Kress
Notary Public in and for the State of Iowa
Robert J. Kress

STATE OF IOWA)
COUNTY OF MADISON) ss:



On this 26 day of November, 1991, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Eugene W. Martens, to me known to be the identical person named in and who executed the within and foregoing instrument (to which this is attached), and acknowledged that he executed the same as his voluntary act and deed.

Robert J. Kress
Notary Public in and for the State of Iowa
Robert J. Kress

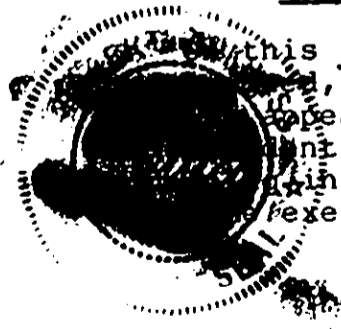
STATE OF ALABAMA)
COUNTY OF _____) ss:

On this 23 day of November, 1991, before me, the undersigned, a Notary Public in and for the State of Alabama, personally appeared Susan J. Griffith, to me known to be the identical person named in and who executed the within and foregoing instrument (to which this is attached), and acknowledged that she executed the same as her voluntary act and deed.

Cathy L. Crabb
Notary Public in and for the State of Alabama
Copies 7-20-94



STATE OF IOWA)
COUNTY OF POLK) ss:

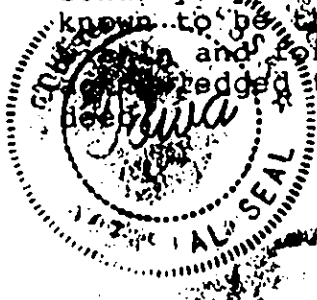


On this 29 day of November, 1991, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Marilyn J. Martens, a single person, to me known to be the identical person named in and who executed the within and foregoing instrument (to which this is attached), and acknowledged that she executed the same as her voluntary act and deed.

Robert J. Kress
Notary Public in and for the State of Iowa
Robert J. Kress

STATE OF IOWA)
)ss:
COUNTY OF Madison

On this 26 day of November, 19 91, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared R.P. Hibbs and Helen Hibbs, husband and wife, to me known to be the identical persons named in and who executed the within and foregoing instrument, (to which this is attached), and acknowledged that they executed the same as their voluntary act and deed.



Robert J. Jones
Notary Public in and for the State of Iowa

STATE OF Colorado
COUNTY OF Weld)ss:

On this 27th day of November, 19 91, before me, the undersigned, a Notary Public in and for the State of Iowa Colorado, personally appeared Mary Cole and A.W. Cole, wife and husband, to me known to be the identical persons named in and who executed the within and foregoing instrument, (to which this is attached), and acknowledged that they executed the same as their voluntary act and deed.

Sheri Bressler My commission expires Jan. 3, 1995.
Notary Public in and for the State of Iowa Colorado

