



Document 2010 404

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Rec Amt \$34.00 Aud Amt \$5.00

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DOV# 412

LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

Real Estate Contract

Preparer Information: (Individual's name, address and phone number)

641-740-2151

Susan Schaper
1459 white Pal Rd
Adair, Ia 50002

Taxpayer Information: (Taxpayer's name and full mailing address)

T & S Property Services
1459 white Pal Rd.
Adair, Ia 50002

✓ **Return Document To:** (Name and full mailing address)

T & S Property Services
1459 white Pal Rd
Adair, Ia 50002

Grantors:

T & S Property Services

Grantees:

Jessica T. McMichael
John R. Butler

Parcel Identification Number: (If required or applicable)

Legal Description:

See page 2

Document or instrument number of associated documents previously recorded:

REAL ESTATE PURCHASE CONTRACT

This is a legally binding contract. Buyer and Seller may agree to alter or delete this form's provisions or to use a different form. If you desire legal or tax advice, consult your attorney or tax advisor.

OFFER TO PURCHASE

SELLER(S): T&S Property Services
Address & Phone: 1459 White Pole Rd, Adair IA 50002 800-869-5108

BUYER(S): Jessica T. McMichael and John R. Butler
Address & Phone: 124 E Filmore, Winterset IA 50273 512-965-6976 and 515-708-2696

1. LEGAL DESCRIPTION OF PROPERTY: The East 54 feet of Lot One (1), in Block Two (2), of Center Addition to Winterset, Madison County, Iowa, also described as: 124 E Filmore Street, City of Winterset, County of Madison, State of Iowa, Zip 50273 (the "Property").

1.1 Included Items.

Unless excluded herein, this sale includes the following items if presently attached to the Property: plumbing, heating, air conditioning fixtures and equipment; ceiling fans; water heater; built-in appliances; light fixtures and bulbs; bathroom fixtures; curtains, draperies and rods; window and door screens; storm doors and windows; window blinds; awnings; installed television antenna; satellite dishes and system; permanently affixed carpets; automatic garage door opener and accompanying transmitter(s); fencing; and trees and shrubs. The following items shall also be included in this sale and conveyed under separate Bill of Sale with warranties as to title: _____

1.2 Excluded Items.

The following items are excluded from this sale: _____

1.3 Survey.

(Check applicable boxes): A survey WILL WILL NOT be prepared by a licensed surveyor. The Survey Work will be: Property corners staked Boundary Survey Boundary & Improvements survey Other (specify) _____
Responsibility for payment: Buyer Seller Buyer and Seller share equally. Buyer's obligation to purchase under this Contract IS IS NOT contingent upon Buyer's approval of the Survey Work. If yes, the terms of the attached Survey Addendum apply.

2. PURCHASE PRICE. The Purchase Price for the Property is \$105,000.00. Total purchase price of the real estate is one hundred five thousand and no/100 (105,000.00) of which two thousand dollars (\$2,000.00) shall be paid within 15 days of closing. An additional six thousand dollars (\$6,000.00) will be paid upon receiving their first time home buyers tax credit in 2011. At this time a new amortization schedule will be created reflecting this principal payment, and attached to the mortgage. Payment and amortization schedule is attached. Payments shall begin on the 5th of each month following the execution of this contract and continue based on a 30 year amortization schedule, and a payment at the end of year five (5), at which time the interest rate may be changed, based on lender's borrowing rates. Buyer shall pay the balance to sellers account 042901 at Exchange State Bank, 113 S John Wayne Drive, Winterset IA 50273, or as directed by Sellers, as follows: See attachment A. First payment due 3-5-09.

Seller's Initials ST Date 2-26-10 Buyer's Initials JTB Date 2/26/10

2.1 A Method of Payment.

The Purchase Price will be paid as follows:

\$ _____ (a) **Earnest Money Deposit. Under certain conditions described in this Contract, THIS DEPOSIT MAY BECOME TOTALLY NON-REFUNDABLE.**

Deposit to be held in trust by _____

\$ _____ (b) **New Loan.** Buyer agrees to apply for a new loan as provided in Section 2.3.

Buyer will apply for one or more of the following loans: **CONVENTIONAL**

FHA **VA** **OTHER** (specify) _____

If the loan is to include any particular terms, then check below and give details:

SPECIFIC LOAN TERMS _____

\$ _____ (c) **Loan Assumption**

\$ 103,000.00 (d) **Seller Financing**

\$ 500.00 (e) **Other (specify)** \$500.00 to be paid 3-5-10

\$ 1,500.00 (f) **Balance of Purchase Price in Cash at Settlement paid 2-24-10**

\$ 105,000.00 **PURCHASE PRICE. Total of lines (a) through (f)**

2.1 B Interest. Buyers shall pay interest from date of closing on the unpaid balance at a rate of 8% per annum payable monthly. Buyers shall also pay interest at the rate of (18%) per annum on all delinquent amounts and any sum reasonably advanced by Sellers to protect their interest in this contract computed from the date of the delinquency or advance.

2.2 Financing Condition. (check applicable box)

(a) Buyer's obligation to purchase the Property **IS** contingent upon Buyer qualifying for the applicable loan(s) referenced in Section 2.1(b) or (c) (the "Loan"). This condition is referred to as the "Financing Condition."

(b) Buyer's obligation to purchase the Property **IS NOT** contingent upon Buyer qualifying for a loan. Section 2.3 does not apply.

2.4 Appraisal of Property.

Buyer's obligation to purchase the Property **IS** **IS NOT** contingent upon the Property appraising for not less than the Purchase Price. If the appraisal contingency applies and the Property appraises for less than the Purchase Price, Buyer may cancel this Contract by providing written notice to Seller no later than three calendar days after Buyer's receipt of notice of the appraised value. In the event of such cancellation, the Earnest Money Deposit shall be released to Buyer. A failure to cancel as provided in this Section 2.4 shall be deemed a waiver of the appraisal contingency by Buyer.

3. SETTLEMENT AND CLOSING. Settlement shall take place on the Settlement Deadline referenced in Section 23(d), or on a date upon which Buyer and Seller agree in writing. "Settlement" shall occur only when **all** of the following have been completed: (a) Buyer and Seller have signed and delivered to each other or to the escrow/closing office all documents required by this Contract, by the Lender, by written escrow instructions or by applicable law; (b) any monies required to be paid by Buyer under these documents (except for the proceeds of any new loan) have been delivered by Buyer to Seller or to the escrow/closing office in the form of collected or cleared funds; and (c) any monies required to be paid by Seller under these documents have been delivered by Seller to Buyer or to the escrow/closing office in the form of collected or cleared funds. Seller and Buyer shall each pay one-half (1/2) of the fee charged by the escrow/closing office for its services in the settlement/closing process. Taxes and assessments for the current year, rents, and interest on assumed obligations shall be prorated at Settlement as set forth in this Section. Prorations set forth in this Section shall be made as of the Settlement Deadline date referenced in Section 23(d), unless otherwise agreed to in writing by the parties. Such writing could include the settlement statement. The transaction will be considered closed when Settlement has been completed, and when **all** of the following have been completed: (i) the proceeds of any new loan have been delivered by the Lender to Seller or to the escrow/closing office; and (ii) the applicable Closing documents have been recorded in the office of the county recorder. The actions described in parts (i) and (ii) of the preceding sentence shall be completed within four calendar days of Settlement. Closing shall be held at the office of the Seller's attorney, title company, or as otherwise agreed upon.

4. POSSESSION. Seller shall deliver physical possession to Buyer within: _____ hours _____ days after Closing; **Other (specify)** Possession is already granted _____

Seller's Initials RS Date 2-26-10 Buyer's Initials [Signature] Date 2/26/10

5. INSURANCE. At Settlement, Seller agrees to show proof of property and liability insurance with T&S Property Services listed as payee. This insurance coverage will continue until the contract is paid in full.

6. SELLER DISCLOSURES. Seller believes property to be in good condition at time of sale. Seller will replace two upstairs windows with new vinyl replacements, finish exterior siding on north half of house, reroof the garage, paint upstairs hallway and bedroom, and repair kitchen ceiling. Seller requires six months to complete final repairs due to weather conditions.

7. BUYER'S RIGHT TO CANCEL BASED ON EVALUATIONS AND INSPECTIONS. Buyer's obligation to purchase under this Contract (**check applicable boxes**):

IS IS NOT contingent upon Buyer's approval of the content of all the Seller Disclosures referenced in Section 6;

IS IS NOT contingent upon Buyer's approval of a physical condition inspection of the Property;

IS IS NOT contingent upon Buyer's approval of the following tests and evaluations of the Property:
(specify) _____

If any of the above items are checked in the affirmative, then Sections 7.1, 7.2, 7.3, 7.4, 7.5, 7.6 and 7.7 apply; otherwise, they do not apply. The items checked in the affirmative above are collectively referred to as the "Evaluations & Inspections." Unless otherwise provided in this Contract, the Evaluations & Inspections shall be paid for by Buyer and shall be conducted by individuals or entities of Buyer's choice. Seller agrees to cooperate with the Evaluations & Inspections and with the walk-through inspection under Section 10.

8. Additional Terms. Buyer agrees not to make any major changes to property without written notification to Seller first, and without Seller agreeing to the changes to the property in writing. This includes demolition of any part of the property. This condition will remain in effect until contract is paid in full.

I UNDERSTAND THAT THE 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.

9. SELLER WARRANTIES & REPRESENTATIONS.

9.1 Condition of Title.

Seller represents that Seller has free title to the Property and will convey good and marketable title to Buyer at Closing by general warranty deed grant deed, unless the sale is being made pursuant to a real estate contract which provides for title to pass at a later date. In that case, title will be conveyed in accordance with the provisions of that contract. Buyer agrees, however, to accept title to the Property subject to the following matters of record: easements, deed restrictions, CC&R's (meaning covenants, conditions and restrictions), and rights-of-way; and subject to the contents of the Commitment for Title Insurance as agreed to by Buyer under Section 5. Buyer also agrees to take the Property subject to existing leases affecting the Property and not expiring prior to Closing. Buyer agrees to be responsible for taxes, assessments, homeowners association dues, utilities, and other services provided to the Property after Closing. Except for any loan(s) specifically assumed by Buyer under Section 2.1(c), Seller will cause to be paid off by Closing all mortgages, trust deeds, judgments, mechanic's liens, tax liens and warrants. Seller will cause to be paid current by Closing all assessments and homeowners association dues.

9.2 Condition of Property.

Buyer acknowledges that a "walk-through" inspection has been done and the Property is being sold "as is."

10. WALK-THROUGH INSPECTION. Before Settlement, Buyer may, upon reasonable notice and at a reasonable time, conduct a "walk-through" inspection of the Property to determine **only** that the Property is "as represented," meaning that the items referenced in Sections 1.1, 7.4 and 9.2 ("the items") are respectively present, repaired/changed as agreed, and in the warranted condition. If the items are not as represented, Seller will, prior to Settlement, replace, correct or repair the items or, with the consent of Buyer (and Lender if applicable), escrow an amount at Settlement to provide for the same. The failure to conduct a walk-through inspection, or to claim that an item is not as represented, shall not constitute a waiver by Buyer of the right to receive, on the date of possession, the items as represented.

Seller's Initials SRS Date 2-26-10 Buyer's Initials [Signature] Date 2/26/10

11. CHANGES DURING TRANSACTION. Seller agrees that from the date of Acceptance until the date of Closing, none of the following shall occur without the prior written consent of Buyer: (a) no changes in any existing leases shall be made; (b) no new leases shall be entered into; (c) no substantial alterations or improvements to the Property shall be made or undertaken; and (d) no further financial encumbrances to the Property shall be made.

12. AUTHORITY OF SIGNERS. If Buyer or Seller is a corporation, partnership, trust, estate, limited liability company, or other entity, the person executing this Contract on its behalf warrants his or her authority to do so and to bind Buyer and Seller.

13. COMPLETE CONTRACT. This Contract together with its addenda, any attached exhibits, and Seller Disclosures, constitutes the entire Contract between the parties and supersedes and replaces any and all prior negotiations, representations, warranties, understandings or contracts between the parties. This Contract cannot be changed except by written agreement of the parties.

14. DISPUTE RESOLUTION. The parties agree that any dispute, arising prior to or after Closing, related to this Contract SHALL MAY (upon mutual agreement of the parties) first be submitted to mediation. If the parties agree to mediation, the dispute shall be submitted to mediation through a mediation provider mutually agreed upon by the parties. Each party agrees to bear its own costs of mediation. If mediation fails, the other procedures and remedies available under this Contract shall apply. Nothing in this Section 14 shall prohibit any party from seeking emergency equitable relief pending mediation.

15. DEFAULT. If Buyer defaults, Seller may elect either to retain the Earnest Money Deposit as liquidated damages, or to return it and sue Buyer to specifically enforce this Contract or pursue other remedies available at law. If Seller defaults, in addition to return of the Earnest Money Deposit, Buyer may elect either to accept from Seller a sum equal to the Earnest Money Deposit as liquidated damages, or may sue Seller to specifically enforce this Contract or pursue other remedies available at law. If Buyer elects to accept liquidated damages, Seller agrees to pay the liquidated damages to Buyer upon demand.

16. ATTORNEY FEES AND COSTS. In the event of litigation or binding arbitration to enforce this Contract, the prevailing party shall be entitled to costs and reasonable attorney fees. However, attorney fees shall not be awarded for participation in mediation under Section 14.

17. NOTICES. Except as provided in Section 22, all notices required under this Contract must be: (a) in writing; (b) signed by the party giving notice; and (c) received by the other party or the other party's agent no later than the applicable date referenced in this Contract.

18. ABROGATION. Except for the provisions of Sections 9.1, 9.2, 14 and 16 and express warranties made in this Contract, the provisions of this Contract shall not apply after Closing.

19. RISK OF LOSS. All risk of loss to the Property, including physical damage or destruction to the Property or its improvements due to any cause except ordinary wear and tear and loss caused by a taking in eminent domain, shall be borne by Seller until the transaction is closed.

20. TIME IS OF THE ESSENCE. Time is of the essence regarding the dates set forth in this Contract. Extensions must be agreed to in writing by all parties. Unless otherwise explicitly stated in this Contract: (a) performance under each Section of this Contract which references a date shall absolutely be required by 5:00 PM on the stated date; and (b) the term "days" shall mean calendar days and shall be counted beginning on the day following the event which triggers the timing requirement (i.e., Acceptance, receipt of the Seller Disclosures, etc.). Performance dates and times referenced herein shall not be binding upon title companies, lenders, appraisers and others not parties to this Contract, except as otherwise agreed to in writing by such non-party.

21. FAX TRANSMISSION AND COUNTERPARTS. Facsimile (fax) transmission of a signed copy of this Contract, any addenda and counteroffers, and the retransmission of any signed fax shall be the same as delivery of an original. This Contract and any addenda and counteroffers may be executed in counterparts.

Seller's Initials SES Date 2-26-10 Buyer's Initials [Signature] Date 2/26/10

22. ACCEPTANCE. "Acceptance" occurs when Seller or Buyer, responding to an offer or counteroffer of the other: (a) signs the offer or counteroffer where noted to indicate acceptance; and (b) communicates to the other party or to the other party's agent that the offer or counteroffer has been signed as required.

23. OFFER AND ACCEPTANCE. Buyer offers to purchase the Property on the above terms and conditions.

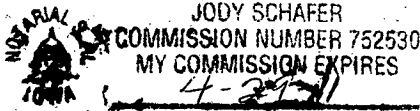
[Signature] 2/26/10 (Buyer's Signature) (Date)
John Butler
[Signature] 2/26/10 (Buyer's Signature) (Date)
Jessica McMichael

Seller accepts the foregoing offer on the terms and conditions specified above.

J&S Property Services 2-26-10 (Seller's Signature) (Date) (Time) (Seller's Signature) (Date) (Time)
[Signature] T&S Property Services
Susan R. Schafer

State of Iowa, County of Adair:

This instrument was acknowledged before me this 26 day of February, 2010 by Susan Schafer, T&S Property Services, and Jessica T McMichael and John R Butler.



[Signature]

Seller's Initials SS Date 2-26-10 Buyer's Initials JMB Date 2/26/10