



Document 2011 787

Book 2011 Page 787 Type 03 010 Pages 6

Date 3/28/2011 Time 10:45 AM

Rec Amt \$34.00 Aud Amt \$5.00

DOV# 88

LISA SMITH, COUNTY RECORDER  
MADISON COUNTY IOWA

INDX ✓  
ANNO  
SCAN  
CHEK

Prepared by: Gerald M. Stambaugh, Heiny McManigal, PLC, 11 Fourth Street, N.E., P.O. Box 1567, Mason City, Iowa 50402-1567, Telephone 641-423-5154, Fax 641-423-5310

Send tax statements to: Debra A. Lucas, 2768 295<sup>th</sup> Street, East Peru, IA 50222

With copies to: Arlo W. Movick and Shirly A. Movick, 6 Willowbrook Drive, Mason City, Iowa 50401-1719

Return document to: Gerald M. Stambaugh, Heiny McManigal, PLC, 11 Fourth Street, N.E., P.O. Box 1567, Mason City, Iowa 50402-1567

## REAL ESTATE CONTRACT - INSTALLMENTS

**THIS CONTRACT** ("Contract") is executed effective the 1<sup>st</sup> day of August, 2010, by and between

**Arlo W. Movick and Shirly A. Movick, husband and wife,**

of the County of Cerro Gordo, State of Iowa, ("Sellers"); and

**Debra A. Lucas,**

of the County of Madison, State of Iowa, ("Buyers");

Sellers agree to sell to the Buyers, and Buyers, in consideration of the premises, agree to purchase the real estate situated in the County of Madison, State of Iowa:

**THE NORTH 20 ACRES OF THE NORTHWEST QUARTER (NW¼) OF THE SOUTHEAST QUARTER (SE¼) OF SECTION TWELVE (12), TOWNSHIP SEVENTY-FOUR (74) NORTH, RANGE TWENTY-SEVEN (27) WEST OF THE 5<sup>TH</sup> P.M., MADISON COUNTY, IOWA,**

**(Locally described as 2768 295<sup>th</sup> Street, East Peru, Iowa 50222; Parcel 72-11-512-840-10-000)**

together with any easements and servient estates appurtenant thereto, all upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE.** Buyers agree to pay for the property **\$63,373.09** due and payable at 6 Willowbrook Drive, Mason City, Iowa 50401-1719 or such other place as designated in writing by Sellers as follows:

**A. Downpayment of \$none, receipt of which is hereby acknowledged, and**

**B. Balance of purchase price of \$63,373.09 as follows:**

2768 295<sup>th</sup> Street, Peru  
3-11-11

**\$447.00, including interest, on or before the 1<sup>st</sup> day of September 2010, and \$447.00, including interest, on or before the 1<sup>st</sup> day of each month thereafter until the 1<sup>st</sup> day of April, 2036, when all sums due under this Contract must be paid in full, including interest on unpaid balances thereof at the rate of 6.834% per annum payable monthly from August 1, 2010.**

**All payments shall be applied first to interest then unpaid and next upon the balance of the principal. Buyers shall have the right to prepay any amount at any time; provided however, a prepayment shall not relieve Buyers of the obligation of timely making all other installments.**

**The initial monthly payments for real estate taxes shall be \$153.00. Accordingly, until notice from Sellers, the total of principal, interest, and taxes would be \$600.00.**

- C. In addition to the monthly payments of principal and interest, Buyers shall pay 1/12th of the annual taxes and special assessments to Sellers as a trust fund in amounts reasonably calculated by Sellers for the timely payment of such items by Sellers to the extent of such funds.**

**Buyers agree to increase monthly payments for taxes, assessments as may be necessary to timely meet their obligations upon notice from Sellers.**

- D. All sums payable by Buyers to Sellers as a trust fund or escrow for real estate taxes and assessments and insurance premiums shall be considered personal property indivisible with the real estate and any termination of Buyers' rights in the real estate shall concurrently operate as a forfeiture or foreclosure against all of such trust and escrow funds.**

- E. In the event any payment due from Buyer is received by Sellers after the 5<sup>th</sup> day of a month, then Buyers shall pay an additional \$5.00 per day late payment fee (as liquidated damages) for each day the payment is late or each portion of each day the payment is late and which fee is in addition to and not in lieu of interest that accrues on all unpaid balances and payments as provided by this Contract. Each late payment fee is due the 1<sup>st</sup> day of the month following the month for which the payment was late.**

**2. POSSESSION.** Buyers, concurrently with due performance on Buyers' part shall be entitled to possession of said premises on **August 1, 2010**; and thereafter so long as Buyers shall perform the obligations of the Contract.

**3. TAXES.** Buyers assume all real estate taxes, including those for which the installment is due September 30, 2010, and all prior taxes, as well as all subsequent taxes and agree to pay the same before they become delinquent.

Whoever may be responsible for the payment of said taxes, and the special assessments, if any, shall furnish to the other party evidence of payment of such items not later than August 15 of each year. In the event real estate tax invoices are received by Seller, then Seller agrees to promptly furnish copies of such invoices to Buyers to allow timely payment.

**4. SPECIAL ASSESSMENTS.** Buyers assume all special assessments against said property and agree to pay all sewage disposal assessments for overage charges assessed by any municipality having jurisdiction. Buyers shall pay all assessments and charges before the same become delinquent.

**5. MORTGAGE.** Any mortgage or encumbrance of a similar nature against the said property shall be timely paid by Sellers so as not to prejudice the Buyers' equity herein. Should Sellers fail to pay, Buyers may pay any such sums in default and shall receive credit on the Contract for such sums so paid. **MORTGAGE BY SELLERS:** Sellers, Sellers' successors in interest or Sellers' assigns may, and hereby reserve the right to, at

any time mortgage Sellers' right, title or interest in such premises or to renew or extend any existing mortgage for any amount not exceeding one hundred percent (100%) of the then unpaid balance of the purchase price herein provided. The interest rate and amortization thereof shall be no more onerous than the installment requirements of the Contract. Buyers hereby expressly consent to such a mortgage and agree to execute and deliver all necessary papers to aid Sellers in securing such a mortgage which shall be prior and paramount to any of Buyers' then rights in said property. **DEED FOR BUYER SUBJECT TO MORTGAGE:** If Buyers have reduced the balance of the Contract to the amount of any existing mortgage balance on said premises, Buyers may at Buyers' option assume and agree to pay said mortgage according to its terms, and subject to such mortgage shall receive a deed to said premises; or Sellers at Sellers' option, any time before Buyers have made such mortgage commitment, may reduce or pay off such mortgage. **ALLOCATED PAYMENTS:** Buyers, in the event of acquiring said property from an equity holder instead of a holder of the fee title, or in the event of a mortgage against said premises, reserve the right, if reasonably necessary for Buyers' protection, to divide or allocate the payments to the interested parties as their interests may appear. **SELLERS AS TRUSTEES:** Sellers agree that Sellers shall collect no money hereunder in excess of the amount of the unpaid balance under the terms of the Contract less the total amount of the encumbrance on the interest of Sellers or Sellers' assigns in said property; and if Sellers shall hereafter collect or receive any moneys hereunder beyond such amount, Sellers shall be considered and held as collecting and receiving said moneys as the agent and trustee of the Buyers for the use and benefit of the Buyers.

**6. INSURANCE.** Except as may be otherwise included in the last sentence of paragraph 1(b) above, Buyers as and from said date of possession shall constantly keep in force insurance, premiums therefor to be prepaid by Buyers (without notice or demand) against loss by fire, tornado and other hazards, casualties and contingencies as Sellers may reasonably require on all buildings and improvements, now on or hereafter placed on said premises, and any personal property which may be the subject of the Contract, in companies to be reasonably approved by Sellers in an amount not less than the full insurable value of such improvements and personal property or not less than the unpaid purchase price herein, whichever amount is smaller, with such insurance payable to Sellers and Buyers as their interests may appear. **BUYERS SHALL PROMPTLY DEPOSIT SUCH POLICY WITH PROPER RIDERS WITH SELLERS** for the further security for the payment of the sums herein mentioned. In the event of any such casualty loss, the insurance proceeds may be used under the supervision of the Sellers to replace or repair the loss if the proceeds be adequate; if not, then some other reasonable application of such funds shall be made; but in any event such proceeds shall stand as security for the payment of the obligations herein. **THE INSURANCE ENDORSEMENT IN FAVOR OF SELLERS MUST BE A LENDER'S LOSS PAYABLE OR EQUIVALENT.**

**7. CARE OF PROPERTY.** Buyers shall take good care of said property; shall keep the buildings and other improvements now or hereafter placed on said premises in good and reasonable repair and shall not injure, destroy or remove the same during the life of the Contract. Buyers shall not make any material alteration in said premises without the written consent of the Sellers. Buyers shall not use or permit said premises to be used for any illegal purpose.

Buyers shall allow Sellers to inspect the property at reasonable times upon reasonable notice. Buyers agree to promptly perform at Buyers' expense repairs and maintenance deemed necessary by Sellers.

**8. LIENS.** No mechanic's lien shall be imposed upon or foreclosed against the real estate described herein.

**9. ADVANCEMENT BY SELLERS.** If Buyers fail to pay such taxes, special assessments or insurance or effect necessary repairs, as above agreed, Sellers may, but need not, pay such taxes, special assessments and/or insurance and/or make necessary repairs, and all sums so advanced shall be due and payable on demand or such sums so advanced may, at the election of Sellers, be added to the principal amount due hereunder and so secured. (For Buyers' rights to make advancements, see paragraph 5 above.)

**10. JOINT TENANCY IN PROCEEDS AND SECURITY RIGHTS IN REAL ESTATE.** If, and only if, the Sellers immediately preceding this sale, hold the title to part or all the above described property in joint tenancy, and any such joint tenancy has not later been destroyed by operation of law or by acts of the Sellers, this sale shall not constitute such destruction and the proceeds of the Contract, and any continuing and/or

recaptured right of Sellers in said property, shall be and continue in Sellers as Joint Tenants with Full Rights of Survivorship, and not as tenants in common; and Buyers, in the event of the death of one of such joint tenants, agree to pay any balance of the proceeds of the Contract to the surviving Seller (or Sellers) and to accept deed solely from such surviving Seller (or Sellers) consistent with paragraph 14 below, unless and except if this paragraph is stricken from the Contract.

11. **SELLERS.** Spouse, if not titleholder immediately preceding this sale, shall be presumed to have executed this instrument only for the purpose of relinquishing all rights of dower, homestead and distributive share and/or in compliance with Iowa Code Section 561.13; and the use of the word "Sellers" or "Seller" in the Contract, without more, shall not rebut such presumption, nor in any way enlarge or extend the previous interest of such spouse in said property, or in the sale proceeds, nor bind such spouse (except as aforesaid) to the terms and provisions of the Contract.

12. **NATURE OF BUYERS' OBLIGATIONS AND TITLE.** In the event there is more than one Buyer, the obligations and duties of Buyers under this Contract are joint and several between them.

In the event there is more than one Buyer, the interests of Buyers in this Contract and in the real estate is as joint tenants with full rights of survivorship and not as tenants in common.

13. **TIME IS OF THE ESSENCE.** Time is of the essence in the Contract. Failure to promptly assert rights of Sellers herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default.

14. **EXCEPTIONS TO WARRANTIES OF TITLE.** The warranties of title in any Deed made pursuant to the Contract (see paragraph 14) shall be without reservation or qualification EXCEPT: (a) Zoning ordinances; (b) Such restrictive covenants as may be shown of record; (c) Easements of record, if any; (d) As limited by paragraphs 1, 2, 3 and 4 of the Contract; (e) If Sellers are required to give a Warranty Deed Sellers shall only be required to give Special Warranty as to the period after equitable title passes to Buyers; (f) Spouse, if not titleholder, need not join in any warranties of the deed unless otherwise stipulated;

15. **DEED AND ABSTRACT.** If all sums of money and interest are paid to Sellers during the life of the Contract, and all other agreements for performance by Buyers have been complied with, Sellers shall execute and deliver to Buyers a Warranty Deed conveying said premises in fee simple pursuant to and in conformity with the Contract. Sellers shall, within a reasonable time after Buyers request in writing, deliver to Buyers an abstract showing marketable title in conformity with the Contract. Such abstract shall begin with the government patent (unless pursuant to The Iowa State Bar Association's title standards there is a lesser requirement as to period of abstracting) to said premises and shall show title thereto in Sellers as of the date of the Contract. Sellers shall pay the cost of any abstracting due to any act or change in the personal affairs of the Sellers resulting in a change of title by operation of law or otherwise. Sellers shall pay all taxes on any personal property payable in 2010, and all taxes thereon payable prior thereto.

16. **APPROVAL OF ABSTRACT.** Buyers have not examined the abstract to said property and such abstract is not accepted.

17. **FORFEITURE.** 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 said property, by any taxing body before any of such items become delinquent; or (c) fail to keep the property insured as herein required; or (d) fail to keep said property in reasonable repair as herein required; or (e) fail to perform any of the agreements as herein made or required; then Sellers, in addition to any and all other legal and equitable remedies which Sellers may have, at Sellers' option, may proceed to forfeit and cancel the Contract as provided by law (Iowa Code Chapter 656). 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 the Sellers as compensation for the use of said property, and/or as liquidated damages for breach of the Contract; and upon completion of the forfeiture, if the Buyers, or any other person or persons shall be in possession of said property 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.

**18. FORECLOSURE AND REDEMPTION.** If Buyers fail to timely perform the Contract, Sellers, at Sellers' option, may elect to declare the entire balance immediately due and payable after such notice, if any, as may be required by Iowa Code Chapter 654. Thereafter, the 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 and 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 the Contract covers less than ten (10) acres of land, and in the event of the foreclosure of the Contract and sale of said property by sheriff's sale in such foreclosure proceedings, the time of one year for redemption from said sale provided by the **IOWA CODE** shall be reduced to six (6) months provided the Sellers, in such action files 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 Iowa Code Chapter 628. 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 Iowa Code Sections 628.5, 628.15 and 628.16 shall be reduced to four (4) months.

It is further agreed that the period of redemption after a foreclosure of the Contract shall be reduced to sixty (60) days if all of the three following contingencies develop: (a) The real estate is less than ten (10) acres in size; (b) the court finds affirmatively that the real estate has been abandoned by the owners and those persons liable under the Contract at the time of such foreclosure; and (c) Sellers in such action file an election to waive any deficiency judgment against Buyers or Buyers' successor in interest in such action. If the redemption period is so reduced, Buyers or Buyers' 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 Iowa Code Sections 628.5, 628.15 and 628.16 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 period shall be consistent with all of the provisions of Iowa Code Chapter 628. All of this paragraph 18 shall not be construed to limit or otherwise affect any other redemption provisions contained in Iowa Code Chapter 628.

**19. ATTORNEY'S FEES.** In case of any action, or in any proceedings in any court to collect any sums payable or secured herein, or to protect the lien or title herein of Sellers, or in any other case permitted by law in which attorney's fees may be collected from Buyers, or imposed upon Buyers, or upon said property, Buyers agree to pay reasonable attorney's fees.

**20. INTEREST ON DELINQUENT AMOUNTS.** Either party will pay interest at the highest legal contract rate applicable to a natural person on all amounts herein as and after they become delinquent, and/or on cash reasonably advanced by either party pursuant to the terms of the Contract, as protective disbursements.

**21. ASSIGNMENT AND DUE ON SALE.** In case of the assignment of the Contract by either of the parties, prompt notice shall be given to the other parties, who shall at the time of such notice be furnished with a copy of such assignment by the assignors. Any such assignment shall not terminate the liability of the assignor to perform, unless a specific release in writing is given and signed by the other party to the Contract.

No interest in the premises may be transferred and this Contract may not be assigned by Buyers without the prior written consent of Sellers. Any attempt at such transfer or assignment without such consent shall cause all sums due under this Contract to be immediately due and payable.

**22. PERSONAL PROPERTY.** If the Contract includes the sale of any personal property, then in the event of the forfeiture or foreclosure of the Contract, such personal property shall be considered indivisible with said real estate; and any such termination of Buyers' rights in said real estate shall concurrently operate as the forfeiture or foreclosure hereof against all such personal property.

23. **CONSTRUCTION.** Words and phrases herein, including acknowledgments hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. See paragraph 11 for construction of the words "Sellers" and "Seller".

24. **CONDITION OF PROPERTY.** Buyers state Buyers have inspected the property and accept such property "AS IS" and "WITH ALL FAULTS." This Contract is not contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards. Buyers specifically waive any requirement or opportunity for a risk assessment or inspection. Buyers acknowledge receipt of Sellers' Residential Property Seller Disclosure Statement.

**"SELLERS"**

Arlo W. Movick Dated: 3-25-11  
Arlo W. Movick

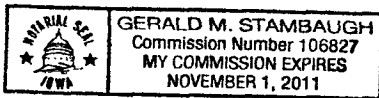
Shirly A. Movick Dated: 3-25-11  
Shirly A. Movick

**"BUYERS"**

Debra A. Lucas Dated: 3/25/11  
Debra A. Lucas

STATE OF IOWA, CERRO GORDO COUNTY, ss:

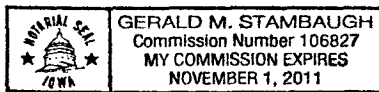
On this 25 day of March, 2011, before me the undersigned, a Notary Public in and for said State, personally appeared **Arlo W. Movick and Shirly A. Movick, husband and wife**, to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that they executed the same as their voluntary act and deed.



Gerald M. Stambaugh  
Notary Public in and for said State

STATE OF IOWA, ~~CERRO GORDO~~ COUNTY, ss:

On this 25 day of March, 2011, before me the undersigned, a Notary Public in and for said State, personally appeared **Debra A. Lucas**, to me known to be the identical person named in and who executed the foregoing instrument and acknowledged that she executed the same as her voluntary act and deed.



Gerald M. Stambaugh  
Notary Public in and for said State

GMS:cl:R:\Stambaugh\re\recl\movick.lucas.3-11-11.doc