MADISON COUNTY, Sook 173 Page 175 Recording Fee 3.51.00 Michelle Utsler, Recorder, By Book 179 Deputy			
Record this 6 day of JULLY 19 94 at 3:17 PM Recording Fee 3. 51. 00 Michelle Utsler, Recorder, By Batty M. Mills Deputy	•	MADISON COUNTY,	STATE OF IOWA, SC
	Deputy	Recording Fee 3. 51.00 Michelle Utsler, Recorder, By Betty M. Mille	Record this 6 day of July 19.94 at 3:1/ PM

175

FIZZEM S. NELSON		D MERCHANTS
11204 SPURWHEEL LANE	_	E BANK ON P.O. BOX 29
POTOMAC MD 20854	- 1	IOWA 50273 •
MORTGAGOR "I" includes each mortgagor above.		ORTGAGEE agee, its successors and assigns.
,		
REAL ESTATE MORTGAGE: For value received, I, <u>NDEL R. A</u> HUSBAND AND WIFE , sell, convey and mortgage to yo		
described below and all rights, easements, appurtenances, rents, leases in the future be part of the property (all called the "property").		
PROPERTY ADDRESS:(Street)	, WINTERSET	, lowa <u>50273</u>
LEGAL DESCRIPTION: (Street)	(City)	(Zip Code)
SEE ATTACHED EXHIBIT "B"		AUD \$
		R.M.F. \$
CONVEY TO FARMERS AND MERCHANTS STATE THEIR RIGHT, TITLE, AND INTEREST IN T WHICH IS MARKED EXHIBIT "A" ATTACHED THEIR RIGHT, TITLE, AND INTEREST IN T EXHIBIT "A" OPTION AGREEMENT AND ALL INTEREST IN THE UNDERLYING REAL PROPE SECURITY FOR THE LOAN SECURED BY THIS	HE OPTION AGREEMENT, A AND INCORPORATED, AND HE REAL PROPERTY COVER OF THEIR RIGHT, TITLE, RTY. THIS IS GIVEN AS	COPY OF ALL OF ED BY THE AND FURTHER COMPUTER RECORDED
located in <u>Madison</u>	County, Iowa.	COMPARED
TITLE: I covenant and warrant title to the property, except for enco	· ·	
The secured debt is evidenced by (describe the instrument or agreement of agreement		if not paid earlie
COMMERCIAL NOTE DATED 6/30/94 The above obligation is due and payable on The total unpaid balance secured by this mortgage at any one tin	ne shall not exceed a maximum princ Dollars (\$ 30 , 0	if not paid earlie
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COVENANTS

- 1. Payments. I agree to make all payments on the secured debt when due. Unless we agree otherwise, any payments you receive from me or for my benefit will be applied first to any amounts I owe you on the secured debt (exclusive of interest or principal), second, to interest and then to principal. If partial prepayment of the secured debt occurs for any reason, it will not reduce or excuse any subsequently scheduled payment until the secured debt is paid in full.
- 2. Claims against Title. I will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, and other charges relating to the property when due. You may require me to provide to you copies of all notices that such amounts are due and the receipts evidencing my payments. I will defend title to the property against any claims that would impair the lien of this mortgage. You may require me to assign any rights, claims or defenses which I may have against parties who supply labor or materials to improve or maintain the property.
- 3. Insurance. I will keep the property insured under terms acceptable to you at my expense and for your benefit. This insurance will include a standard mortgage clause in your favor. You will be named as loss payee or as the insured on any such insurance policy. Any insurance proceeds may be applied, within your discretion, to either the restoration or repair of the damaged property or to the secured debt. If you require mortgage insurance, I agree to maintain such insurance for as long as you require.
- 4. Property. I will keep the property in good condition and make all repairs reasonably necessary. I will give you prompt notice of any loss or damage to the property.
- **5. Expenses.** Except when prohibited by law, I agree to pay all your expenses, including reasonable attorneys' fees, if I breach any covenants in this mortgage or in any obligation secured by this mortgage. I will pay these amounts to you as provided in Covenant 10 of this mortgage.
- 6. Default and Acceleration. If I fail to make any payment when due or breach any covenants under this mortgage, any prior mortgage or any obligation secured by this mortgage, you may either accelerate the maturity of the secured debt and demand immediate payment or exercise any other remedy available to you. You may foreclose this mortgage in the manner provided by law.
- 7. Assignment of Rents and Profits. I assign to you the rents and profits of the property. Unless we have agreed otherwise in writing, I may collect and retain the rents as long as I am not in default. If I default, you may, as provided by law, have the court appoint a receiver and the receiver may take possession and manage the property and collect the rents, income and profits. Any amounts so collected shall be applied first to the costs of managing the property, including, but not limited to, all taxes, assessments, insurance premiums, repairs, court costs and attorneys' fees, commissions to rental agents, and any other necessary related expenses. The remaining amounts will then apply to payments on the secured debt as provided in Covenant 1.
- 8. Prior Security Interests. I will make payments when due and perform all other covenants under any mortgage, deed of trust, or other security agreement that has priority over this mortgage. I will not make or permit any modification or extension of any mortgage, deed of trust or other security interest that has priority over this mortgage or any note or agreement secured thereby without your written consent. I will promptly deliver to you any notices I receive from any person whose rights in the property have priority over your rights.
- 9. Leaseholds; Condominiums; Planned Unit Developments. I agree to comply with the provisions of any lease if this mortgage is on a leasehold. If this mortgage is on a unit in a condominium or a planned unit development, I will perform all of my duties under the covenants, by-laws, or regulations of the condominium or planned unit development.
- 10. Authority of Mortgagee to Perform for Mortgagor. If I fail to perform any of my duties under this mortgage, or any other mortgage, deed of trust, lien or other security interest that has priority over this mortgage, you may perform the duties or cause them to be performed. You may sign my name or pay any amount if necessary for performance. If any construction on the property is discontinued or not carried on in a reasonable manner, you may do whatever is necessary to protect your security interest in the property. This may include completing the construction.

Your failure to perform will not preclude you from exercising any of your other rights under the law or this mortgage.

Any amounts paid by you to protect your security interest will be secured by this mortgage. Such amounts will be due on demand and will bear interest from the date of the payment until paid in full at the interest rate in effect from time to time on the secured debt.

- 11. Inspection. You may enter the property to inspect it if you give me notice beforehand. The notice must state the reasonable cause for your inspection.
- 12. Condemnation. I assign to you the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the property. Such proceeds will be applied as provided in Covenant 1. This assignment is subject to the terms of any prior security agreement.
- 13. Waiver. By exercising any remedy available to you, you do not give up your rights to later use any other remedy. By not exercising any remedy, if I default, you do not waive your right to later consider the event a default if it happens again.
- 14. Joint and Several Liability; Co-signers; Successors and Assigns Bound. All duties under this mortgage are joint and several. If I sign this mortgage but do not sign the secured debt I do so only to mortgage my interest in the property to secure payment of the secured debt and by doing so, I do not agree to be personally liable on the secured debt. I also agree that you and any party to this mortgage may extend, modify or make any other changes in the terms of this mortgage or the secured debt without my consent. Such a change will not release me from the terms of this mortgage.

The duties and benefits of this mortgage shall bind and benefit the successors and assigns of either or both of us.

15. Notice. Unless otherwise required by law, any notice to me shall be given by delivering it or by mailing it by certified mail addressed to me at the Property Address or any other address that I tell you. I will give any notice to you by certified mail to your address on page 1 of this mortgage, or to any other address which you have designated.

Any notice shall be deemed to have been given to either of us when given in the manner stated above.

- 16. Transfer of the Property or a Beneficial Interest in the Mortgagor. If all or any part of the property or any interest in it is sold or transferred without your prior written consent, you may demand immediate payment of the secured debt. You may also demand immediate payment if the mortgagor is not a natural person and a beneficial interest in the mortgagor is sold or transferred. However, you may not demand payment in the above situations if it is prohibited by federal law as of the date of this mortgage.
- 17. Release. When I have paid the secured debt you will release this mortgage without charge to me. I agree to pay all costs to record this mortgage.
- 18. Waiver of Dower, Distributive Share and Homestead. I hereby waive and relinquish all rights of dower and distributive share in and to the property. I also waive all rights of homestead exemption as to the property.
- 19. Redemption. If the property is less than ten acres in size and if you waive in any foreclosure action any rights to a deficiency judgment against me, then the period of redemption after sale on foreclosure shall be reduced to six months. If the property is less than ten acres in size and the court finds that the property has been abandoned by me (which finding I agree the court may make) and if you waive any rights to a deficiency judgment against me in the foreclosure action, then the period of redemption after sale on foreclosure shall be reduced to sixty days. The provisions of this paragraph will be construed to conform to the provisions of lowa Code Sections 628.26 and 628.27.

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EXHIBIT "A"

OPTION AGREEMENT

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THIS AGREEMENT made and entered into on this _____ day of ______,

1994, by and between NOEL R. NELSON and KATHERINE M. WILKIE, WARD J. WILKIE, JR.,

JANETTE KAY WILKIE THOMPSON and WASHINGTON H. THOMPSON, Wife and Husband, JEFFREE

ALLEN WILKIE, LESTER JOHN WILKIE, and JODY ANN WILKIE SPINA and THOMAS R. SPINA,

Wife and Husband.

WHEREAS, Noel R. Nelson, hereinafter referred to as FIRST PARTY; and,
KATHERINE M. WILKIE, WARD J. WILKIE, JR., JANETTE KAY WILKIE THOMPSON, JEFFREE
ALLEN WILKIE, LESTER JOHN WILKIE and JODY ANN WILKIE SPINA, hereinafter referred
to as SECOND PARTY, are the owners of the real estate described in the attached
Exhibit "A", with the FIRST PARTY being the owner of an undivided one-half
interest in said real estate and SECOND PARTY being the owner of the other
undivided one-half interest in said real estate; and

WHEREAS, Washington H. Thompson is the spouse of Janette Kay Wilkie Thompson, and Thomas R. Spina is the spouse of Jody Ann Wilkie Spina; and

WHEREAS, First Party is desirous of developing said real estate for residential, commercial or industrial use as may be permitted by the Zoning Ordinance of the City of Winterset, Iowa; and

WHEREAS, First Party is willing to assume responsibility of subdividing and platting said real estate and to advance all necessary costs thereof and to assume the risk thereof; and

1

WHEREAS, there has been prepared a preliminary plat of said real estate, subdividing the same into lots, a copy of which Plat is attached hereto and by this reference made a part hereof, marked Exhibit "B"; and

WHEREAS, First Party has prepared a proposed Final Plat of Lots One (1) through Six (6) of the numbered lots as set forth in Exhibit "B"; and

WHEREAS, First Party is also desirous of developing Lots Seven (7), Eight (8), Nine (9), Ten (10) and Eleven (11) adjacent theretophus Lots 12 Thru 26.

NOW THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

First Party shall have the right to plat, subdivide and sell Lots One (1) through Six (6) as set forth in Exhibit "B", along with the right to vary the descriptions thereof as may be necessary to meet the platting requirements of the City of Winterset, Iowa; and First Party shall also have the right to dedicate such land to the City of Winterset as may be necessary for streets to enable this Plat of Lots One (1) through Six (6) to be approved.

Second Party shall join in any platting procedures required by the Winterset Zoning Ordinance and the laws of the State of Iowa; and, Second Party agrees to convey either to First Party or to the City of Winterset such land as may be required for streets to enable the platting to be approved.

series of lots as so developed for a price of \$2,00000. The consideration for this option shall be Twenty-five Dollars (\$25.00) per lot, payable at the time the final plat is approved by the City of Winterset. At the time First Party has a lot developed and sold, Second Party shall deliver to First Party a Warranty Deed to their interest in said lot, and First Party shall pay to Second Party the above-stated consideration for such lot.

PLUS Lots 12 than 26

With regard to Lots Seven (7) through Eleven (11) Second Party grants to WW First Party an option to purchase said lots for the consideration of twenty-five dollars (\$25.00) per lot. However, the purchase price of said lots will be negotiated at the time of the final platting of said Lots Seven (7) through Eleven (11).

Ngel R. Nelson - First Party

Katherine M. Wilkie
Katherine M. Wilkie
Cantita Kay Willyn Shompson

Anette Kay Wilkie Thompson

Jeffree Allen Wilkie

Jody Wilkie Spina

Hodi Wilki Opena

Ward J. Wilkie Ir.

Washington H Thomason

Lester J. Wilbie

-0

Thomas R. Spina

Second Party

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STATE OF Minled:				
COUNTY OF Mintgomery:				
On this 12 day of Ayr. , 1994, before me, the undersigned, a Notary Public in and for said State, personally appeared NOEL R. NELSON to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.				
chalf C				
Notary Public in and for said State CHARLES J. CAVANAUGH NOTARY PUBLIC STATE OF MARYLAND Any Commission Expires February 1, 1996				
STATE OF Florida:				
COUNTY OF Brevoid:				
On this day of				
country of Montgonus: On this Ith day of April , 1994, before me, the undersigned, a Notary Public in and for said State, personally appeared WARD J. WILKIE, JR. to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.				
Crest Leoutnan				
* Notary Public in and for said State				

STATE OF FLORIDA:
COUNTY OF BREYARD:
On this day of APLIL, 1994, before me, the undersigned, a Notary Public in and for said State, personally appeared JANETTE KAY WILKIE THOMPSON and WASHINGTON H. THOMPSON to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed. Notary Public in and for said State
STATE OF MULLIANS: STATE OF MULLIANS: COUNTY OF M
On this the day of
STATE OF Melyland:
COUNTY OF ALMILANTICALES
On this the day of the control of th
STATE OF Flocida:
COUNTY OF Prevare:
On this \(\frac{\day}{\day} \) day of \(\frac{\lambda \rho \lambda}{\day} \), 1994, before me, the undersigned, a Notary Public in and for said State, personally appeared JODY WILKIE SPINA and THOMAS R. SPINA to me known to be the identical persons named in and who executed the foregoing instrument and acknowledged that he executed the same as his voluntary act and deed.
CLARIBEL GONZALEZ Notary Public in and for said State

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CLARIBEL GONZALEZ COMMISSION # CC326722 EXPIRES October 28, 1997 BONDED THRU TROY FAIN INSURANCE, INC. The Southwest Quarter (SW¼) of the Northeast Quarter (NE¼), except the East 1318 feet of the North 796 feet thereof; and

The North one-fourth (N 1/4) of the Northwest Quarter (NW¼) of the Southeast Quarter (SE¼) and the West Six (6) acres of the South Half (S½) of the North Half (N½) of the Northwest Quarter (NW¼) of the Southeast Quarter (SE¼); and

The Southeast Quarter (SE¼) of the Northwest Quarter (NW¼), excepting therefrom the following-described tract of land: Commencing at the Northwest corner of said 40-acre tract, running thence East 31.3 rods, thence South 19 rods, thence in a southwesterly direction with the West side of the road to a point 8 rods East of the Southwest corner of said 40-acre tract, thence West to the Southwest corner of said 40-acre tract, thence North to the place of beginning, containing 9.57 acres, more or less; and

The East three-fourth (E 3/4) of the North Half (N½) of the Southwest Quarter (SW¼) excepting therefrom the following-described tract of land: Commencing at the Southwest Corner of the East Half (E½) of the Northwest Quarter (NW¼) of the Southwest Quarter (SW¼), thence North 80 rods, thence East 47 rods, thence in a southwesterly direction down the center of a ravine or hollow to the place of beginning, containing 14 acres;

All located in Section One (1), Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P. M., Madison County, Iowa.

EXCEPT:

That part of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) and the Southeast Quarter (SE¼) of the Northwest Quarter (NW¼) of Section One (1), Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P. M., Madison County, Iowa, described as follows:

Commencing at the Southwest corner of the Southwest Quarter (SW¼) of the Northeast Quarter (NE¼) of said Section One (1); thence on an assumed bearing of North 00°12′55" West along the East line of said Southwest Quarter (SW¼) of the Northeast Quarter (NE¾) 217.12 feet to the point of beginning; thence North 89°45′50" West 1484.26 feet; thence North 00°06′53" West 1095.11 feet; thence South 89°37′30" East 150.01 feet; thence South 89°33′20" East 14.32 feet; thence South 00°06′53" East 794.69 feet; thence South 89°45′50" East 1319.40 feet to the east line of said Southwest Quarter (SW¼) of the Northeast Quarter (NE¾); thence South 00′12′55" East along said East line 300.01 feet to the point of beginning.

Said tract contains 13.22 acres more or less and is subject to City of Winterset and Madison County highway easements over the northerly and easterly 0.48 acres thereof,

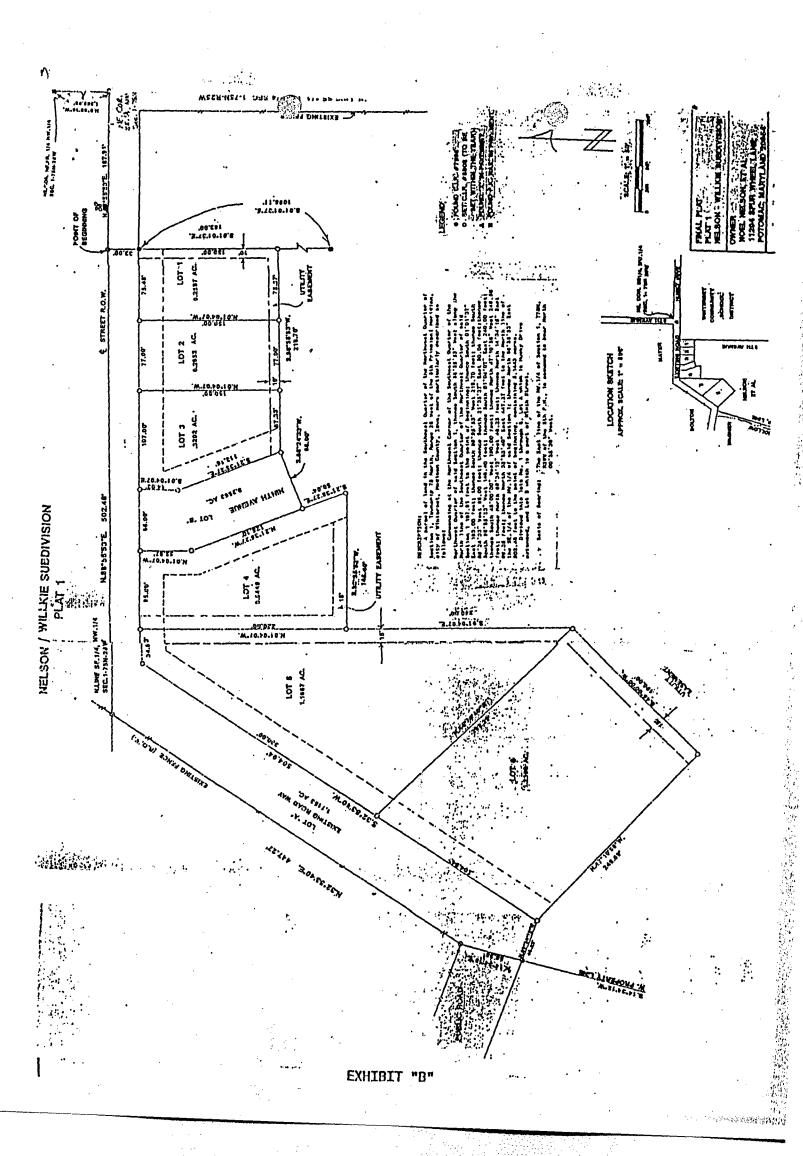


EXHIBIT "B"

A parcel of land in the Southeast Quarter (1) of the Northwest Quarter (1) of Section One (1), in Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P. M., City of Winterset, Madison County, Iowa, more particularly described as ≟follows: Commencing at the Northeast Corner of the Southeast Quarter (1) of the Northwest Quarter (1) of said Section One (1), thence South 88°55'53" West along the North line of the Southeast Quarter $(\frac{1}{4})$ of the Northwest Quarter $(\frac{1}{4})$ of said Section One (1) 2167.91 feet to the Point of Beginning; thence South 01°01'37" East 2183.00 feet; thence South 88°55'53" West 219.70 feet; thence South 668°24'33" West 66.00 feet; thence South 21°35'27" East 50.04 feet; thence South 88°55'53" West 146.40 feet; thence South 01°04'07" East 240.00 feet; thence South 45°00'00" West 190.00 feet; thence South 47°10'56" West 240.50 feet; thence North 47°10'56" West 249.59 feet; thence North 69°34'12" West \$46.23 feet; thence North 14°34'15" East 66.35 feet; thence North 232°53'40" East 447.27 feet to the North line of the Southeast Quarter (1) of the Northwest Quarter (1) of said Section One (1); thence North 88°55'53" East 502.48 feet to the Point of Beginning, containing 5.1443 Acres: Divided into Lots No.1 through 6, Lot A which is Husky Drive extended, and Lot B which is a part of Ninth Street. The East line of the Northwest Quarter (1) of Section One (1), in Township Seventy-five (75) North, Range Twenty-eight (28) West of the 5th P. M., Madison County, Iowa, is assumed to bear North 00°55'36" West,