



Document 2014 2238

BK: 2014 PG: 2238 Type 03 010 Pages 9

Recorded: 9/9/2014 at 8:07:29.0 AM

Fee Amount: \$52.00

Revenue Tax:

LISA SMITH RECORDER

Madison County, Iowa

INDX ✓
ANNO
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DOV# 337

REAL ESTATE CONTRACT-INSTALLMENTS

THE IOWA STATE BAR ASSOCIATION

Official Form No. 141

Recorder's Cover Sheet

\$150,000

Preparer Information: (name, address and phone number)

David D. Nelson

Whitfield & Eddy, P.L.C.

213 N Ankeny Blvd. Suite 100, Ankeny, IA 50023

(515) 558-0153

Taxpayer Information: (name and complete address)

I35 Emergency Road Service, Tires, Towing and Service, LLC

c/o Haley Hinds

210 South Spruce

Lamoni, IA 50140

Return Document To: (name and complete address)

David D. Nelson

Whitfield & Eddy, P.L.C.

213 N Ankeny Blvd. Suite 100, Ankeny, IA 50023

Grantor:

Wayne P. Fink

Grantee:

I35 Emergency Road Service, Tires, Towing and Service, LLC

Legal Description: See Page 2

Document or instrument number of previously recorded documents: N/A

REAL ESTATE CONTRACT-INSTALLMENTS

IT IS AGREED effective the 1st day of September, 2014, by and between Wayne P. Fink, a single person, "Seller"; and I35 Emergency Road Service, Tires, Towing and Service, LLC "Buyer":

That the Seller, as in this contract provided, agrees to sell to the Buyer, and the Buyer in consideration of the premises, hereby agrees with the Seller to purchase the following described real estate situated in the County of Madison State of Iowa, to-wit:

Lots one (1) and two (2) and the East Half (½) of Lot three (3), in Block three (3) of the Original Town of Truro (formerly called Ego), Madison County, Iowa,

together with any easements and servient estates appurtenant thereto, but with such reservations and exceptions of title as may be below stated, and certain personal property if and as may be herein described or if and as an itemized list is attached hereto and marked "Exhibit A" all upon the terms and conditions following:

1. **TOTAL PURCHASE PRICE.** The Buyer agrees to pay for said property the total of \$150,000.00 due and payable at 406 Knotts Street, Post Office Box #502, New Virginia, Iowa 50210, as follows:

(a) **DOWN PAYMENT** of \$15,000.00 the **RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED:** and

(b) **BALANCE OF PURCHASE PRICE.** \$ 135,000.00 as follows: The sum of \$1,354.96 including interest at the rate of 5.00% per annum, or more, on or before the 1st day of October 1, 2014, and \$1,354.96 including interest at the rate of 5.00% per annum, or more, on or before the 1st day of each and every month thereafter until all sums owing hereunder are paid in full.

If any monthly payment required hereunder is not made by the 10th day of each month, a penalty of \$50.00 shall be due in addition to said delinquent payment.

2. **POSSESSION.** Buyer, concurrently with due performance on their part shall be entitled to possession of said premises on the September 1, 2014, and thereafter so long as they shall perform the obligations of this contract.

3. **TAXES.** Seller shall pay the first installment of real estate tax installments due and payable on the date of closing, and credit the Buyers the second installment due 3/31/15 and 2 months of the 1st half of the 2014/2015 real estate taxes due in September 2015. Buyer shall pay any taxes not assumed by Seller and all subsequent taxes before same become delinquent. Buyer shall furnish to the Seller evidence of payment of real estate taxes and assessments not later than July 15 of each year.

4. **SPECIAL ASSESSMENTS.** Seller shall pay the special assessments against this

property as of the date of possession.

5. MORTGAGE. Any mortgage or encumbrance of a similar nature against the said property shall be timely paid by Seller so as not to prejudice the Buyers' equity herein. Should Seller fail to pay, Buyer may pay any such sums in default and shall receive credit on this contract for such sums so paid. **MORTGAGE BY SELLER.** Seller, his successors in interest or assigns may, and hereby reserve the right to at any time mortgage their right, title or interest in such premises or to renew or extend any existing mortgage for any amount not exceeding 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 this contract. Buyer 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 Buyer has reduced the balance of this contract to the amount of any existing mortgage balance on said premises, they may at their 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 their option, any time before Buyers have made such a mortgage commitment, may reduce or pay off such mortgage. **ALLOCATED PAYMENTS.** Buyer, in the event of acquiring this 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 their protection to divide or allocate the payments to the interested parties as their interests may appear. **SELLER AS TRUSTEE.** Seller agrees that they will collect no money hereunder in excess of the amount of the unpaid balance under the terms of this contract less the total amount of the encumbrance on the interest of Sellers or their assigns in said real estate; and if Sellers shall hereafter collect or receive any moneys hereunder beyond such amount, they shall be considered and held as collecting and receiving said money as the agent and trustee of the Buyer 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, Buyer as and from said date of possession, shall constantly keep in force insurance, premiums therefore to be prepaid by Buyer (without notice or demand) against loss by fire, tornado and other hazards, casualties and contingencies as Seller 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 this contract, in companies to be reasonably approved by Seller 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 Seller and Buyer as their interests may appear. Sellers' interest shall be protected in accordance with a standard or union-type loss payable clause. **BUYER SHALL PROMPTLY DEPOSIT SUCH POLICY WITH PROPER RIDERS WITH SELLER** 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 Seller 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.

7. CARE OF PROPERTY. Buyer shall take good care of this property; shall keep the

buildings and other improvements now or hereafter placed on the said premises in good and reasonable repair and shall not injure, destroy or remove the same during the life of this contract. Buyer shall not make any material alteration in said premises without the written consent of the Seller. Buyer shall not use or permit said premises to be used for any illegal purpose.

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

9. **ADVANCEMENT BY SELLER.** If Buyer fails to pay such taxes, special assessments and insurance and effect necessary repairs, as above agreed, Seller may, but need not, pay such taxes, special assessments, insurance and 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 Seller, 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 Seller immediately preceding this sale, holds the title to the above described property in joint tenancy, and such joint tenancy has not later been destroyed by operation of law or by acts of the Seller, this sale shall not constitute such destruction and the proceeds of this contract, and any continuing and/or recaptured rights of Seller in said real estate, shall be and continue in Seller as joint tenants with rights of survivorship and not as tenants in common; and Buyer, in the event of the death of one of such joint tenants, agree to pay any balance of the proceeds of this contract to the surviving Seller (or Sellers) and to accept deed solely from him or them consistent with paragraph 14 below unless and except this paragraph is stricken from this agreement.

11. **SELLER.** 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 section 561.13 Code of Iowa; and the use of the word "Sellers" in the printed portion of 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 this contract.

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

13. **EXCEPTIONS TO WARRANTIES OF TITLE.** The warranties of title in any Deed made pursuant to this 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 this contract; (e) Sellers shall 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:

14. **DEED AND ABSTRACT, BILL OF SALE.** If all said sums of money and interest are

paid to Seller during the life of this contract, and all other agreements for performance by Buyer have been complied with, Seller will execute and deliver to Buyer a general Warranty Deed conveying said premises in fee simple pursuant to and in conformity with this contract and Seller will at this time deliver to Buyer an abstract showing merchantable title, in conformity with this contract. Such abstract shall begin with the government patent (unless pursuant to the Iowa State Bar Association title standards there is a lesser requirement as to period of abstracting) to said premises and shall show title thereto in Seller as of the date of this contract; or as of such earlier date if and as designated in the next sentence. Seller shall also pay the cost of any abstracting due to any act or change in the personal affairs of Seller resulting in a change of title by operation of law or otherwise.

15. APPROVAL OF ABSTRACT. Buyer has examined the abstract of title to this property and such abstract is accepted.

16. FORFEITURE. If Buyer (a) fails to make the payments aforesaid, or any part thereof, as same become due; or (b) fails to pay the taxes or special assessments or charges, or any part thereof, levied upon said property, or assessed against it, by any taxing body before any of such items become delinquent; or (c) fails to keep the property insured; or (d) fails to keep it in reasonable repair as herein required; or (e) fails 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 they may have, at their option, may proceed to forfeit and cancel this contract as provided by law (Chapter 656 Code of Iowa). Upon completion of such forfeiture Buyer shall have no right of reclamation or compensation for money paid, or improvements made; but such payments and for improvements if any shall be retained and kept by Seller as compensation for the use of said property, and/or as liquidated damages for breach of this contract; and upon completion of such forfeiture, if the Buyer, or any other person or persons shall be in possession of said real estate 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.

17. FORECLOSURE AND REDEMPTION. If Buyer fails to timely perform this contract, Seller, at his option, may elect to declare the entire balance immediately due and payable after such notice, if any, as may be required by Chapter 654, The Code. Thereafter this 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 or 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 this contract covers less than ten (10) acres of land, and in the event of the foreclosure of this 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 statutes of the State of Iowa shall be reduced to six (6) months provided the Seller, in such action file an election to 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) Sellers in such action file an election to waive any deficiency judgment against Buyers or their successor in interest in such action. If the redemption period is so reduced, Buyers or their successor 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 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 Buyers 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.

18. 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 them, or upon the above described property, Buyers agree to pay reasonable attorney's fees.

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

20. ASSIGNMENT. In case of the assignment of this 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 duplicate of such assignment by such 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 this contract.

21. PERSONAL PROPERTY. If this contract includes the sale of any personal property, then in the event of the forfeiture or foreclosure of this contract, such personal property shall be considered indivisible with the real estate above described; and any such termination of Buyers' rights in said real estate shall concurrently operate as the forfeiture or foreclosure hereto against all such personal property.

22. 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 above, for construction of the word "Sellers."

23. RELEASE OF RIGHTS. Seller hereby relinquishes all rights of dower, homestead and distributive share in and to the property and waives all rights of exemption as to any of the

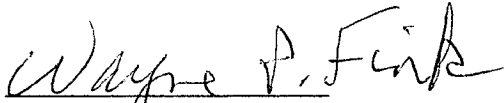
property.

24. **LEAD-BASED PAINT NOTICE.** If applicable, see attached Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazard.

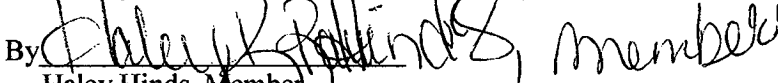
25. **CERTIFICATION.** Buyer and Seller each certify that they are not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to defend, indemnify and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to my breach of the foregoing certification.

26. **INSPECTION OF PRIVATE SEWAGE DISPOSAL SYSTEM.** The Property is not served by a private sewage disposal system.

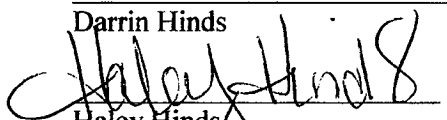
Executed in duplicate


Wayne P. Fink, Seller

135 Emergency Road Service, Tires, Towing and Service, LLC

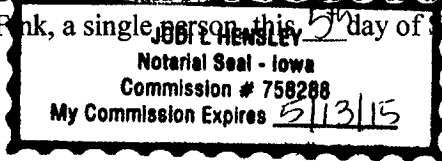
By 
Haley Hinds, Member

Darrin Hinds and Haley Hinds are signing below to personally guarantee the performance of the Buyer under this Contract.

Darrin Hinds

Haley Hinds

STATE OF IOWA COUNTY OF IOWA Decatur

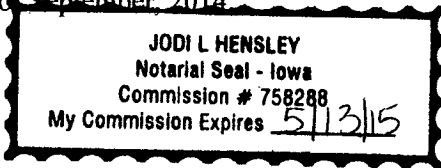
Subscribed and sworn to before me, a Notary Public in and for the State of Iowa, by Wayne P. Pank, a single person, this 5th day of September, 2014.



Jodi L Hensley
Signature of Notary Public

STATE OF IOWA COUNTY OF Decatur

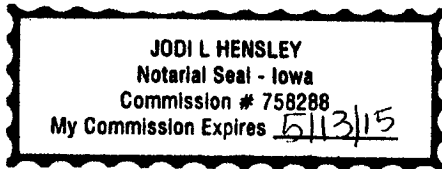
Subscribed and sworn to before me, a Notary Public in and for the State of Iowa, by Haley Hinds, Member of I35 Emergency Road Service, Tires, Towing and Service, LLC, this 5th day of September, 2014.



Jodi L Hensley
Signature of Notary Public

STATE OF IOWA COUNTY OF Decatur

Subscribed and sworn to before me, a Notary Public in and for the State of Iowa, by ~~Darrin~~ JH Hinds and Haley Hinds, husband and wife, this 5th day of September, 2014.



Jodi L Hensley
Signature of Notary Public

EXHIBIT "A"

Personal Property

1. All remaining locks for resale.
2. Red Locks.
3. Green Locks.
4. Unit repair parts and other misc. items in the owners Unit A-14.