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LISA SMITH, COUNTY RECORDER

CHEK

MADISON COUNTY IOWA

REAL ESTATE CONTRACT - INSTALLMENTS

Recorder's Cover Sheet

\$1,988,000

Preparer Information: (name, address and phone number)

Jane E. Rosien, 223 E. Court Avenue, P.O. Box 67, Winterset, IA 50273-0067

(515) 462-4912

Taxpayer Information: (name and complete address)

Loren H. Boughton Trust and Garnetta M. Boughton, 1650 SE Holiday Crest Circle, Apt. #212,

Waukee, IA 50263

✓ **Return Document To:** (name and complete address)

Jane E. Rosien, 223 E. Court Avenue, P.O. Box 67, Winterset, IA 50273-0067

Grantors:

Loren H. Boughton Trust

Garnetta M. Boughton

Grantees:

City of West Des Moines, Iowa

Legal Description: See Page -2-

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

REAL ESTATE CONTRACT- INSTALLMENTS

IT IS AGREED this 14th day of November, 2016 by and between the Loren H. Boughton Trust and Garnetta M. Boughton, Seller(s) and/or Owner(s), and the City of West Des Moines, a municipal corporation organized under the laws of the State of Iowa, 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:

Fractional NW $\frac{1}{4}$ of NW $\frac{1}{4}$ except Parcel C, comprising 33.27 acres,
SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ except Parcel D (7.16 acres), comprising 31.23 acres,
SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, comprising 39 acres, and
Fractional NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, comprising 38.45 acres,

the total of which comprises 142 acres, more or less,

all in Section Four (4), Township Seventy-seven (77) North, Range Twenty-six West of the 5th P.M., Madison County, Iowa, (hereinafter "Property"),

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 all upon the terms and conditions following:

1. TOTAL PURCHASE PRICE. The Buyer agrees to pay for said property the total of \$1,988,000.00 plus three (3) percent per annum interest on the outstanding balance of the purchase price, all as shown on the attached Exhibit "A" and payable as follows:

\$397,600.00 on or before November 18, 2016;

\$318,080.00 plus interest of 3% per annum on unpaid balance on July 10, 2017;

\$318,080.00 plus interest of 3% per annum on unpaid balance on July 10, 2018;

\$318,080.00 plus interest of 3% per annum on unpaid balance on July 10, 2019;

\$318,080.00 plus interest of 3% per annum on unpaid balance on July 10, 2020;

\$318,080.00 plus interest of 3% per annum on unpaid balance on July 9, 2021.

2. POSSESSION. Subject to Buyer making all payments prescribed herein, Seller shall deliver possession of the property to the Buyer on July 9, 2021, which shall be the Closing Date. Buyer has no right to prepay the payments prescribed in this contract or to accelerate payments or to accelerate the delivery of possession prescribed in this Contract. The Seller shall be entitled to maintain possession of the Property until the Closing Date pending fulfillment of the payment terms prescribed in Section 1.

Seller shall be entitled to all rents, issues and profits on the real estate for crop year 2021 and all prior years. The Buyer's possessory rights shall commence July 9, 2021 and shall be subject to the farm tenant's rights through March 1, 2022. Seller shall provide termination notice to the tenant prior to September 1, 2021. The Seller agrees to indemnify, defend, and hold harmless the City from and against any and all claims, demands, fines, penalties, causes of action, losses, damages, liabilities, expenses and costs, including court costs and reasonable attorney fees, (including costs and fees incurred to enforce this provision) incurred by any third party by reason of the exercise of the farm tenant's rights from the date of possession by City through March 1, 2022.

When all payments have been made in full, the Owner shall convey possession and marketable title to the Property to the City by warranty deed (hereinafter called the "Property Warranty Deed") in recordable form, free and clear of all liens and encumbrances including leasehold interests and leasehold claims, reservations or modifications except as in this instrument otherwise expressly provides. All warranties shall extend to time of closing, with special warranties as to acts of Owner up to time of delivery of the warranty deed. Owner agrees that amounts payable by Owner for real estate taxes, special assessments, mortgage payoffs, liens, or judgments shall be deducted at closing from the Property Purchase Price if not paid prior to the Closing Date.

3. 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 Buyer's 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. SELLER AS TRUSTEE. Seller agrees that it 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 Seller or its assigns in said real estate; and if Seller shall hereafter collect or receive any moneys hereunder beyond such amount, it 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 Buyer.

4. INSURANCE. Owner will preserve the property in its present condition as of the date of this Contract and will deliver it intact at the time possession is given; in case of loss or destruction of part or all of said premises from causes covered by insurance, City agrees to accept such insurance recovery (proceeds to be applied as the interests of the parties appear) in lieu of that part of the damaged or destroyed improvements and Owner shall not be required to repair or replace same.

5. DEED AND ABSTRACT, BILL OF SALE. If all said sums of money and interest are paid to Sellers during the life of this contract, and all other agreements for performance by Buyers have been complied with, Sellers will execute and deliver to Buyers a Warranty Deed conveying said premises in fee simple pursuant to and in conformity with this contract and Sellers will at this time deliver to Buyers 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 Sellers as of the date of this contract; or as of such earlier date if and as designated in the next sentence. Sellers shall also pay the cost

of any abstracting due to any act or change in the personal affairs of Sellers resulting in a change of title by operation of law or otherwise. If any personal property is a part of this agreement, then upon due performance by Buyers, Sellers shall execute and deliver a Bill of Sale consistent with the terms of this contract. Sellers shall pay all taxes on any such personal property payable in 2013, and all taxes thereon payable prior thereto. Buyer has not examined the abstract of title to this property and such abstract is not accepted.

6. EXCEPTIONS TO WARRANTIES OF TITLE. The warranties of title in any Deed made pursuant to this contract (See paragraph 5) 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) Sellers shall give Special Warranty as to the period after equitable title passes to Buyers; (e) Spouse if not titleholder, need not join in any warranties of the deed unless otherwise stipulated.

7. FORFEITURE. If Buyer (a) fails to make the payments aforesaid, or any part thereof, as same become due or fails to perform any of the agreements as herein made or required, then Seller, in addition to any and all other legal and equitable remedies which it may have, at its option, may proceed to forfeit and cancel this contract as provided by law (Chapter 656 Code of Iowa).

8. ATTORNEY FEES. Either party may enforce this instrument by appropriate action, and should they prevail they shall recover as part of their costs the reasonable attorney's fees incurred in such action.

9. ASSIGNMENT. The City shall have the right to assign its right and obligation to purchase the Property from Owner to another party with the written consent of Owner, which consent shall not be unreasonably withheld. Notwithstanding any such assignment, City shall remain liable for the full payment to Owner of all sums due hereunder.

10. CONSTRUCTION. Words and phrases herein, including acknowledgements hereof, shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

11. SPECIAL PROVISIONS.

Plat of Survey. The City shall obtain at its expense a plat of survey of the Property legally-described above and which shall particularly describe the Property to be conveyed by Seller to City in accordance with the terms and conditions of this Contract.

Access for Environmental Testing. The City, at its sole expense, shall have the right to conduct such studies, investigations, inspections or tests of the Property, including subsurface test, test borings and soil analysis as it deems reasonable or necessary, prior to the Closing Date. The Owner hereby grants City, its officers, agents, employees and independent contractors, the right to enter upon the Property at reasonable times upon reasonable notice, oral or written, from

time to time after the date of this Agreement and prior to the Closing Date for the purpose of investigating, inspecting and testing the Property and for other purposes consistent with the City's interest under this Agreement. If, as a result of such studies, investigations, inspections or tests, the City discovers that there is a substantial likelihood that a hazardous substance is present or that a material structural defect exists on any portion of the Property, the City shall have the absolute right to terminate this Agreement effective immediately by delivering to Owner a written notice of such election. Upon delivery of such notice, this Agreement shall be null and void and all further obligations, duties, claims, rights and liabilities of the parties shall be extinguished.

11. NON-MERGER. This Installment Contract shall be read in conjunction with the Purchase Agreement for sale of the Property executed by the Parties on or about November 14, 2016 and, to the extent not restated herein, the terms and conditions of the Purchase Agreement shall be incorporated herein.

IN WITNESS WHEREOF, the City and Owner have caused this Agreement to be duly executed as of the day first above written.

CITY OF WEST DES MOINES, IOWA



Steven K. Gaer, Mayor

ATTEST:



Ryan T. Jacobson, City Clerk

LOREN H. BOUGHTON TRUST



Jack L. Boughton, Co-Trustee



Ronald G. Boughton, Co-Trustee

GARNETTA M. BOUGHTON



Garnetta M. Boughton

STATE OF IOWA)
) ss
COUNTY OF POLK)

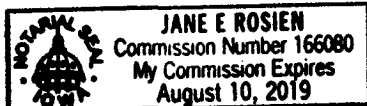
BE IT REMEMBERED, on this 14th day of November, 2016, before me the undersigned, a Notary Public in and for Polk County, personally appeared Steven K. Gaer and Ryan T. Jacobson, to me personally known, who, being by me duly sworn, did say that they are Mayor and City Clerk, respectively, of the City of West Des Moines, Iowa; that said instrument was signed and sealed on behalf of said City of West Des Moines, Iowa, pursuant to Resolution No. 16-11-14-11 of the City Council adopted November 14th, 2016, and that the said Steven K. Gaer and Ryan T. Jacobson acknowledged execution of said instrument to be the voluntary act and deed of said City of West Des Moines, Iowa, by it and by them voluntarily executed.

Katie Walters
Notary Public

STATE OF IOWA)
) ss
COUNTY OF DALLAS)



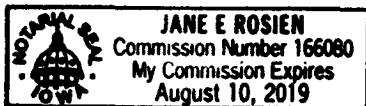
This record was acknowledged before me on November 13, 2016 by Jack L. Boughton and Ronald G. Boughton as Co-Trustees of the Loren H. Boughton Trust, on behalf of whom the record was executed.



Jane E Rosien
Notary Public

STATE OF IOWA)
) ss
COUNTY OF DALLAS)

This record was acknowledged before me on November 13, 2016 by Garnetta M. Boughton.



Jane E Rosien
Notary Public

Executed in duplicate.

EXHIBIT "A"

**City of West Des Moines - Boughton Property Acquisition
Amortization Schedule
3% interest per year (1st year calculated at 237 days)**

Date	Beginning Balance	Payment	Interest	Ending Balance
11/15/16 Contract Amount	\$1,988,000.00	\$397,600.00	\$0.00	\$1,590,400.00
07/10/17	\$1,590,400.00	\$318,080.00	\$30,980.12	\$1,272,320.00
07/10/18	\$1,272,320.00	\$318,080.00	\$38,169.60	\$954,240.00
07/10/19	\$954,240.00	\$318,080.00	\$28,627.20	\$636,160.00
07/10/20	\$636,160.00	\$318,080.00	\$19,084.80	\$318,080.00
07/09/21	\$318,080.00	\$318,080.00	\$9,542.40	\$0.00
Total		\$1,988,000.00	\$126,404.12	