

REAL ESTATE CONTRACT (Tract 3)

IT IS AGREED this Real Estate Contract is executed by and between Rebecca S. Hoenig, individually and as Executor of the Estate of Warren D. Hoenig, Roger L. Hoenig and Laura A. Hoenig, husband and wife, ("Sellers"); and

_____ ("Buyers") on the date set forth below and upon the following terms:

1. **PROPERTY.** Sellers agree to sell and Buyers agree to buy real estate legally described on attached Exhibit A together with any easements and appurtenant servient estates (the "Real Estate"), but subject to the following:

- a. Any zoning and other ordinances;
- b. Any covenants of record;
- c. Any easements of record for public utilities, roads and highways.

2. **PRICE.** The total purchase price for the Real Estate is \$_____ of which 10% thereof (\$ _____) has been paid contemporaneously with the execution of this Contract. Buyers shall pay the balance of said purchase price, \$_____, to Sellers at Closing in the form of certified funds or by wire transfer to an account identified by Sellers.

3. **DEFAULT INTEREST.** Buyers shall pay interest at the rate of 10 percent 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.

4. **REAL ESTATE TAXES.** Sellers shall pay real estate taxes prorated to the date of Possession, it being understood the March, 2023 real estate tax installment pays taxes to July 1, 2022, and any unpaid real estate taxes payable in prior years. Buyers shall pay all subsequent real estate taxes. The proration of real estate taxes on the Real Estate shall be based upon such taxes for the year currently payable

5. **SPECIAL ASSESSMENTS.** Sellers shall pay all special assessments which are a lien on the Real Estate as of the date of this Contract. All other special assessments shall be paid by Buyers.

6. **POSSESSION AND CLOSING.** Sellers shall give Buyers possession of the Real Estate at Closing, provided Buyers are not in default under this Contract. Closing shall be on, or about, April 17, 2023 upon delivery of a merchantable abstract and deed. The Closing shall occur at a place mutually acceptable to the parties and, in the absence of such an agreement, at Fehseke & Gray Law Offices in Fort Madison, Iowa.

7. INSURANCE. Sellers shall maintain existing insurance upon the Real Estate until the date of possession. Buyers shall accept insurance proceeds instead of Sellers replacing or repairing damaged improvements.

8. ABSTRACT AND TITLE. Sellers, at their expense, shall promptly obtain an abstract of title to the Real Estate continued through the date of this contract and deliver it to Buyers for examination. It shall show merchantable title in Sellers in conformity with this contract, Iowa law and the Title Standards of the Iowa State Bar Association. Sellers shall pay the costs of any additional abstracting and title work due to any act or omission of Sellers, including transfers by or the death of Sellers or their assignees. Buyers shall have the right to occasionally use the abstract prior to full payment of the purchase price. When the purchase price is paid in full, the abstract shall become the property of the Buyers.

9. FIXTURES. All property that integrally belongs to or is part of the Real Estate, whether attached or detached, such as light fixtures, shades, rods, blinds, awnings, windows, storm doors, screens, plumbing fixtures, water heaters, water softeners, automatic heating equipment, air conditioning equipment, wall to wall carpeting, built-in items and electrical service cable, outside television towers and antenna, fencing, gates and landscaping shall be considered a part of the Real Estate and shall be included in the sale.

10. CARE OF PROPERTY. Until possession of the Real Estate is transferred to Buyers, Sellers shall take good care of the property and shall keep the buildings and other improvements now or later placed on the Real Estate in good and reasonable repair. Until possession of the Real Estate is transferred to Buyers, Sellers shall not injure or destroy the Real Estate and Sellers shall not make any material alteration to the Real Estate without the prior written consent of Buyers.

11. DEED. Upon payment of the purchase price, Sellers shall convey the Real Estate to Buyers or their assignees by Court Officer Deed and Warranty Deed. Said conveyance shall be free and clear of all liens, restrictions, and encumbrances except as provided herein. Any general warranties of title shall extend only to the date of this contract, with special warranties as to the acts of Sellers continuing up to time of delivery of the deed.

12. REMEDIES OF THE PARTIES. a. If Buyers (a) fail to make the payments aforesaid, or any part thereof, as same become due; or (b) 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 they may have and at their sole option may proceed to forfeit and cancel this contract as provided by law (Chapter 656 Code of Iowa). 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 Sellers as compensation for the use of said property and/or as liquidated damages for breach of this contract. Upon completion of such a forfeiture, if Buyers or any other person(s) shall be in possession of the 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 in accordance with the laws of the State of Iowa.

b. If Buyers fail to timely perform this contract, Sellers, at their sole option, may elect to declare the entire balance immediately due and payable after such notice, if any, as may be required by Chapter 654 of the Code of Iowa. Thereafter this contract may be foreclosed in equity and a 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. Such a 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 Sellers in such action file 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 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 Buyers 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 or occur: (1) The Real Estate is less than ten (10) acres in size; (2) a 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, their 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 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. Upon completion of such forfeiture Buyers shall have no right of reclamation or compensation for money paid or improvements made; but such payments and improvements, if any, shall be retained and kept by Sellers as compensation for the use of said property and/or as liquidated damages for breach of this contract. Upon completion of such forfeiture, if Buyers or any other person(s) shall be in possession of the 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 and as provided by laws of the State of Iowa.

c. If Sellers fail to timely perform their obligations under this contract, Buyers shall have the right to terminate this contract and have all payments made returned to them.

d. Buyers and Sellers are also entitled to utilize any and all other remedies or actions at law or in equity available to them.

e. In any action or proceeding relating to this contract the successful party shall be entitled to an award of reasonable attorney's fees and costs.

13. JOINT TENANCY IN PROCEEDS AND IN REAL ESTATE. If Sellers, immediately preceding this contract, hold title to the Real Estate in joint tenancy with full right of survivorship and the joint tenancy is not later destroyed by operation of law or by acts of Sellers, then the proceeds of this sale and any continuing or recaptured rights of Sellers in the Real Estate shall belong to Sellers as joint tenants with full right of survivorship and not as tenants in common. In the event of the death of either joint tenant Seller, Buyers agree to pay any balance of the price due Sellers under this contract to the surviving Seller and to accept a deed from the surviving Seller consistent with paragraph 10.

14. JOINDER BY SELLER'S SPOUSE. An individual seller's spouse, if not a titleholder immediately preceding acceptance of this offer, executes this contract only for the purpose of relinquishing all rights of dower, homestead and distributive shares or in compliance with Section 561.13 of the Iowa Code and agrees to execute the deed for this purpose.

15. TIME IS OF THE ESSENCE. Time is of the essence in this contract.

16. CONSTRUCTION. Words and phrases in this contract shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

17. RELEASE OF RIGHTS. Each 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.

18. CERTIFICATION. Buyers and Sellers 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.

19. CONTRACT SUPERSEDES OTHER AGREEMENTS. This Contract replaces and supersedes all agreements made between the parties hereto, whether oral or written, prior to the date of this Contract.

20. APPLICABLE LAW AND COURT. Any controversy arising out of or in connection with the Contract shall be governed by the laws of the State of Iowa, and Sellers and Buyers consent to the jurisdiction of the Iowa District Court in and for Lee County at Fort Madison as the sole and exclusive court having jurisdiction for the resolution of all matters.

21. COUNTERPARTS, ELECTRONIC SIGNATURES AND REPRODUCTIONS ENFORCEABLE AS ORIGINALS. This Contract may be executed in separate counterparts,

all of which when taken together shall constitute one and the same Contract and any party to this Contract may execute this Contract by signing any such counterpart. A party's signature or mark on or attached to this Contract that is input on an electric signature pad, input on a display screen by means of a stylus device, represented by a digitized image of a handwritten signature, or represented as a digital signature or a mark captured as a scalable graphic electronically stored and/or displayed in any format on tangible media shall be binding on the party making or applying the same in the same manner as an original signature. Each party hereby waives any evidentiary rule or other requirement that this Contract, with "original signatures" within the meaning of the Rules of Evidence, be produced or offered into evidence in any proceeding and each party hereby further acknowledges that a copy of this Contract, howsoever legibly produced or reproduced, shall be deemed the equivalent of an original of this Contract for all evidentiary purposes.

22. ADDITIONAL PROVISIONS.

- A. **REVENUE STAMPS.** Sellers agree to pay the real estate transfer tax and to affix the stamps for said tax on the deed to be delivered to Buyers when all the terms of this Contract are fully satisfied.
- B. **EXPENSES ASSOCIATED WITH CORRECTIVE TITLE WORK.** In the event of title objections, the parties shall cooperate to make every reasonable effort to promptly perfect title in Sellers prior to closing. Unless the parties agree in writing to the contrary, in the event that any corrective work is undertaken by Buyers, the costs associated with that work, including the value of time spent by Buyers' attorneys as billed at Buyers' attorneys' customary rate, shall be reimbursed by Sellers and to Buyers at closing.
- C. **INSPECTION BY BUYERS/PROPERTY "AS IS".** Buyers acknowledge and represent that the Real Estate has been the subject of an auction and that all of the property subject to this Contract and all of the rules and regulations governing Buyers' use of the subject property have been inspected by Buyers or by agent of Buyers and that said rules and regulations and said property are satisfactory in all respects and that this agreement is made voluntarily by Buyers, relying wholly upon the knowledge and investigation of the Buyers and not upon any statements or representations made by Sellers or by any person representing or purporting to represent the Sellers. Buyers accept the property subject to this Contract, including all structures and fences thereon, in its present condition and "as is", and "where is".
- D. **PRE-CLOSING TITLE SEARCH.** In the event that Buyers or Buyers' financial institution seek to obtain what is commonly referred to as a "last minute search" to prove that merchantable title to the Real Estate remains in Sellers for the period of time following the last abstract continuation for the Real Estate and Closing, the same shall be the responsibility of the Buyers who shall obtain the same and pay the costs of any expenses associated with the same.
- E. **ALLOCATION OF RENT AND FARM PROGRAM PAYMENTS.** All government payments, rent payments, farm program payments and any other such payment, in cash or in kind, payable in connection with the property subject to this Contract or any crop or use thereon for any year prior to 2023 shall remain the property of the

parties to this Contract in equal shares, and said parties, their assignees, or representatives shall have the exclusive right to collect the same whether or not said payments are received by the parties prior to 2023. All such payments payable in connection with the property or any crop or use thereon for 2023 and all subsequent years shall be the sole property of Buyers, and Buyers shall have the exclusive right to collect the same.

- F. **ASSUMPTION OF LIABILITY FOR FARM PROGRAMS.** Buyers understand that the property which is the subject of this contract is governed by, and subject to, certain contracts with the United States Government including the Conservation Reserve Program. Within 14 days of Closing, Buyers shall execute all necessary documents to continue such contracts and to maintain enrollment of the property in such programs. All government payments or government farm program payments payable in connection with the property or any crop or use thereon shall be prorated in accordance with the rules and regulations adopted by the agency administering the program associated with each such payment. In the absence of such rules or regulations with respect to any payment, such payment shall be prorated to the day of Closing. In the event Buyers fail to comply with the provisions of this paragraph, the terms of any such contract, or the rules and regulations associated with any such program, Buyers shall be solely responsible for any resulting fees, penalties, expenses, or payment refunds and shall indemnify and hold Sellers harmless from the same.
- G. **FSA CERTIFICATION.** Buyers shall be responsible for reporting and documenting the sale evidenced by this contract to all appropriate government entities associated with any government programs, subsidies, or agreements involving the Real Estate including, but not limited to, the United States Department of Agriculture and the Farm Services Agency.
- H. **GROUNDWATER HAZARDS/NO SEPTIC TANKS.** Sellers represent and warrant to Buyers that the Property is not served by a private sewage disposal system and there are no known private sewage disposal systems on the property. At or before the time of closing, Sellers shall provide Buyers with a properly executed Groundwater Hazard Statement showing no wells, solid waste disposal sites, hazardous waste or underground storage tanks or private sewage disposal systems (commonly referred to as septic tanks) on and/or required on the premises.

I UNDERSTAND THAT 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.

By signing hereto, Buyers specifically acknowledge the above understanding and hereby enter into this Contract.

Dated:

_____, Buyer

Telephone Number: _____

Dated:

_____, Buyer

Telephone Number: _____

By signing hereto, Sellers specifically enter into this Contract.

ESTATE OF WARREN D. HOENIG, Seller

By: Rebecca S. Hoenig as Executor

Telephone Number: _____

Dated: _____

Roger L. Hoenig, Seller

Telephone Number: _____

Dated: _____

Rebecca S. Hoenig, Seller

Telephone Number: _____

Dated: _____

Laura A. Hoenig, Seller

Telephone Number: _____

Dated: _____

EXHIBIT A

Part of the Northeast Quarter (NE ¼) of Section Fourteen (14), Township Sixty-seven (67) North, Range Five (5) West of the Fifth Principal Meridian, Lee County, Iowa, and being more particularly described as follows:

Commencing, as a point of reference, at the Northeast corner of the Northeast Quarter of said Section 14; thence North 89° 46' 20" West (assumed bearing for this description) 136.50 feet along the North line of said Northeast Quarter to the point of beginning of the following described tract of land; thence South 00° 37' 45" West 332.85 feet; thence South 16° 16' 00" West 275.89 feet; thence South 15° 46' 00" West 229.86 feet; thence South 21° 36' 05" West 248.93 feet; thence South 21° 42' 25" West 395.04 feet; thence South 28° 19' 05" West 132.04 feet; thence South 32° 42' 05" West 393.78 feet; thence South 34° 02' 25" West 565.45 feet; thence South 38° 53' 10" West 193.94 feet; thence South 46° 18' 30" West 231.85 feet to a point on the South line of the Northeast Quarter of said Section 14; thence North 89° 41' 20" West 1254.06 feet to the Southwest corner of the Northeast Quarter of said Section 14; thence North 00° 21' 40" East 1650.75 feet along the West line of said Northeast Quarter; thence South 89° 51' 55" East 1323.06 feet; thence North 00° 11' 20" East 994.89 feet to a point on the North line of the Northeast Quarter of said Section 14; thence South 89° 46' 20" East 1179.75 feet to the point of beginning, containing 95.84 acres, more or less, being subject to the rights of the public for roadway purposes along the existing county road, and easements of record;

AND

Being Part of the Southeast Quarter (SE ¼) of Section 14, Township 67 North, Range 5 West of the 5th P.M., Lee County, Iowa, and being more particularly described as follows: Beginning at the Northwest Corner of said Southeast Quarter; thence South 89° 41' 20" East (assumed bearing for this description) 1278.26 feet along the North Line of said Southeast Quarter to a Point on the Northerly Right of Way of the A.T. & S.F. Railroad; thence South 57° 48' 25" West 749.83 feet along said Right of Way to a Found Iron Pipe; thence North 89° 48' 20" West 642.76 Feet to a point on the West Line of said Southeast Quarter; thence North 00° 08' 00" West 404.25 Feet to the point of beginning, containing 8.89 Acres, more or less, being subject to the rights of the public for roadway purposes along the existing County Road,

EXCEPTING THEREFROM THE FOLLOWING: Auditor's Parcel "H": Being a part of prior Survey Document #2006N-523, as recorded in the Lee County Recorder's Office, being in the Northeast Quarter of Section 14, Township 67 North, Range 5 West of the 5th P.M., Lee County, Iowa, and being more particularly described as follows: Commencing, as a point of reference, at the Northeast Corner of the Northeast Quarter of said Section 14; thence North 89°46'20" West (assumed bearing for this description) 136.50 feet along the North line of said Northeast Quarter to the Northeasterly Corner of prior Survey Document #2006N-523, as recorded in the Lee County Recorder's Office; thence continuing along said prior survey North 89°46'20" West 1179.75 feet; thence South 00°11'20" West 994.89 feet along said prior Survey; thence North 89°51'55" West 1323.06 feet along said prior Survey to the point of beginning of the following described tract of land; thence South 00°21'40" West 980.94 feet along said prior Survey; thence North 89°33'19" East 459.51 feet; thence North 51°19'30" East 26.58 feet; thence North 00°42'16" East 535.76 feet; thence North 01°02'06" West 423.98 feet to a point on said prior survey line; thence North 89°51'55" West 473.00 feet to the point of beginning, containing 10.78 acres, more or less, including 0.82 acres, more or less, lying within the existing public road easement and being subject to easements of record or by prescription.