

Jane Hansen



Book 2023 Page 1493

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Daneen Schindler, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

**REAL ESTATE CONTRACT INSTALLMENT
Recorder's Cover Sheet**

Preparer Information: Stephanie A. Sailer of Roberts & Eddy, P.C., 2349 Jamestown Ave., Suite 4, Independence, IA 50644, Phone: (319) 334-3704

Taxpayer Information: Hinz Properties, LLC, 1112 Main Street, Manchester, IA 52057

Return Document To: Stephanie A. Sailer of Roberts & Eddy, P.C., 2349 Jamestown Ave., Suite 4, Independence, IA 50644

Grantors: James B. Harbach and Jennifer Harbach

Grantees: Hinz Properties, LLC

Legal Description: See Page 2

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

REAL ESTATE CONTRACT – INSTALLMENTS

IT IS AGREED this 30th day of June, 2023, by and between James B. Harbach and Jennifer Harbach, husband and wife (“SELLER”), and Hinz Properties, LLC, an Iowa Limited Liability Company (“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 real estate, locally known as 945 E Main Street, Manchester, IA 52057 situated in Delaware County, Iowa, legally described as:

That part of the Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼) of Section Thirty-three (33), Township Eight-nine (89) North, Range Five (5), West of the 5th P.M., described as commencing at a point three hundred (300.0) feet West of the Northeast corner of said Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼) and running thence South one hundred eighty five (185.0) feet, thence West one hundred eight (180.0) feet, thence North one hundred eighty five (185.0) feet, thence East one hundred eighty (180.0) feet to the point of beginning,

There is no known private burial site, well, solid waste disposal site, underground storage tank, hazardous waste, or private sewage disposal system on the property as described in Iowa Code section 558.69, and therefore the transaction is exempt from the requirement to submit a groundwater hazard statement

together with any easements and servient estates appurtenant thereto, but with such reservations and exceptions of title as may be below stated, all upon the terms and conditions following:

TOTAL PURCHASE PRICE. BUYER agrees to pay for said Property the total of **\$300,000.00**. The purchase price shall accrue interest at 5.5% per annum. Monthly principal payments of \$500.00, plus any accrued interest on the unpaid principal shall be due on August 1, 2023 and the 1st day of every month thereafter until June 1, 2028 when the entire remaining balance shall be due and payable. BUYER may prepay with SELLER’S approval in writing.

- 1. POSSESSION.** BUYER, concurrently with due performance on his part shall be entitled to possession of said premises on **June 30, 2023**, and thereafter so long as they shall perform the obligation of this contract.
- 2. REAL ESTATE TAXES.** SELLER shall pay the property taxes up through BUYERS date of possession and any unpaid real estate taxes payable in prior years. BUYER shall pay all subsequent real estate taxes. Any proration of real estate taxes on the Real Estate shall be based upon such taxes for the year currently payable unless the parties state otherwise.
- 3. SPECIAL ASSESSMENTS.** SELLER shall pay the special assessments against this property, including all sewage disposal assessments for overage charge heretofore assessed by any municipality having jurisdiction as of date of possession. Buyer, except

as above stated, shall pay all subsequent special assessments and charges, before they become delinquent.

- 4. 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 75% 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 consents to such a mortgage and agrees to execute and deliver all necessary papers to aid Seller in securing such a mortgage which shall be prior and paramount to any of Buyer's then rights in said property. **DEED FOR BUYERS 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 Seller, at his option, any time before Buyer has 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 he 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 his assigns in said real estate; and if Seller shall hereafter collect or receive any moneys hereunder beyond such amount, he 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.
- 5. INSURANCE.** 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 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 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 Sellers and Buyers as their interests may appear. Seller's 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.

6. **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 Property 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.
7. **LIENS.** No mechanics' lien shall be imposed upon or foreclosed against the Property.
8. **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.
9. **TIME IS OF THE ESSENCE.** Time is of the essence in this contract. 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.
10. **EXCEPTIONS TO WARRANTIES OF TITLE.** The warranties of title in any Deed made pursuant to this contract 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; and (e) SELLER shall give Special Warranty as to the period after equitable title passes to BUYER.
11. **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 has been complied with, SELLER will execute and deliver to BUYER a Warranty Deed conveying said premises in fee simple pursuant to and in conformity with this contract.
12. **APPROVAL OF ABSTRACT.** BUYER has examined the abstract of title to this property and such abstract is accepted.
13. **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 SELLER, 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 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 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.

- 14. FORECLOSURE AND REDEMPTION.** If BUYER fails to timely perform this contract, SELLER, at their 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 BUYER 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) SELLER in such action file an election to waive any deficiency judgment against BUYER or their successor in interest in such action. If the redemption period is so reduced, BUYER 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 BUYER 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.

- 15. 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 Seller, or in any other case permitted by law in which attorney's fees may be collected from

Buyer, or imposed upon them, or upon the above-described property, Buyer agrees to pay reasonable attorney's fees.

16. **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.
17. **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.
18. **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.
19. **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.
20. **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.
21. **INSPECTION OF PRIVATE SEWAGE DISPOSAL SYSTEM.** SELLER represents and warrants to BUYER that the Property is NOT served by a private sewage disposal system.
22. **SPECIAL PROVISIONS.** None.

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.

Dated: June 30, 2023.

SELLER

BUYER
HINZ PROPERTIES, LLC

James B. Harbach
James B. Harbach

Solomon Hinz
By: Solomon Hinz, Manager

Jennifer Harbach
Jennifer Harbach

STATE OF IOWA)
)ss
COUNTY OF DELAWARE)

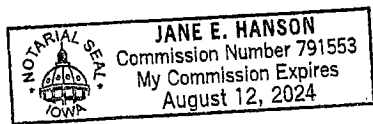
This instrument was acknowledged before me on June 30, 2023, by James B. Harbach and Jennifer Harbach, husband and wife.



Jane E. Hanson
Notary Public in and for said State

STATE OF IOWA)
)ss
COUNTY OF DELAWARE)

This instrument was acknowledged before me on June 30, 2023, by Solomon Hinz, Manager of Hinz Properties, LLC.



Jane E. Hanson
Notary Public in and for said State