

9

INSTALLMENT REAL ESTATE CONTRACT

This Agreement, made and entered into this day by and between Elk Enterprises, LLC (hereinafter called "Seller") and Joseph K. Schmidt and William John Schmidt (hereinafter called "Buyer") **IS TO WITNESS** that Seller hereby agrees to sell, and Buyer agrees to buy, upon the terms and conditions set forth herein, the following described real estate in Lake County, Indiana (hereinafter referred to as "Real Estate"):

The West 17 1/2 feet of Lot 17, all of Lot 18, Block 2, in the Fifth Addition to New Chicago as shown in Plat Book 6, page 18, in the Office of the Recorder of Lake County, Indiana.

More commonly known as: 3 Huber Boulevard, Hobart, IN 46342.

1. **Purchase Price.** Buyer promises and agrees to pay Seller, as the purchase price for the Real Estate, the sum of ~~(Seventy Thousand Dollars and No Cents)~~ (\$70,000.00), payable as follows:

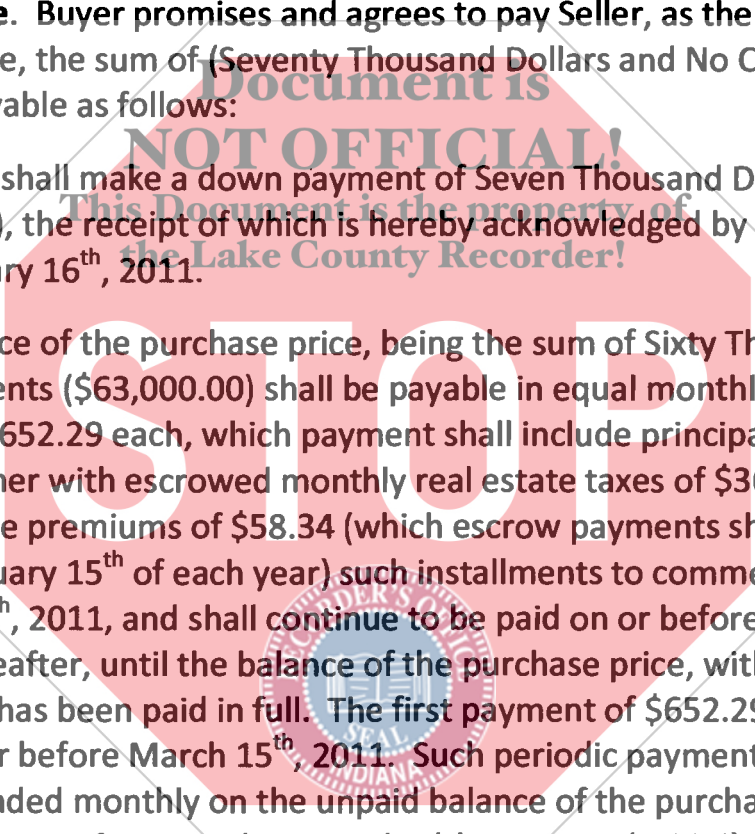
(a.) The Buyer shall make a down payment of Seven Thousand Dollars and No Cents (\$7,000.00), the receipt of which is hereby acknowledged by Seller at closing on February 16th, 2011.

(b.) The balance of the purchase price, being the sum of Sixty Three Thousand Dollars and No Cents (\$63,000.00) shall be payable in equal monthly installments of not less than \$652.29 each, which payment shall include principal and interest of \$557.29 together with escrowed monthly real estate taxes of \$36.66 and monthly insurance premiums of \$58.34 (which escrow payments shall be adjusted annually on February 15th of each year) such installments to commence on or before March 15th, 2011, and shall continue to be paid on or before the 15th of each month thereafter, until the balance of the purchase price, with interest as herein provided, has been paid in full. The first payment of \$652.29 shall be due and payable on or before March 15th, 2011. Such periodic payments shall include interest compounded monthly on the unpaid balance of the purchase price due hereunder at the rate of Nine and No Hundredths percent (9.00%) per annum.

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STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

MICROFILMED
RECORDED



AMOUNT \$ 28⁰⁰
CASH CHARGE _____
CHECK # _____
OVERAGE _____
COPY _____
NON-COM _____
CLERK BS

051283

FILED

MAR 01 2011

PEGGY MULINGA KATONA
LAKE COUNTY AUDITOR

D

Seller shall create an escrow account for the payments made by Buyer to be applied toward the real estate taxes and insurance premiums and shall pay said taxes and insurance from the escrow account.

(c) All payments made hereunder shall be applied first to accrued interest and secondly to reduction of unpaid purchase price.

(d) Notwithstanding any other provision on this contract to the contrary, the entire balance of the purchase price, with interest, shall be due and payable on or before March 15th, 2021.

2. PREPAYMENT, Buyer may prepay the unpaid balance of the purchase price hereunder, in whole or in part, at any time, without penalty, and with interest computed to the date of prepayment.

3. POSSESSION, Buyer shall have full and complete possession of the Real Estate upon execution of this contract. Buyer's right of possession shall continue hereafter so long as Buyer complies with all the terms and conditions of this Agreement and performs all covenants made herein.

4. INSURANCE, Seller shall, at all times during the term of this contract, keep the improvements on the Real Estate insured against loss from fire, windstorm or extended perils in an amount not less than \$63,000.00, or their full insurable value if less than \$63,000.00, and shall pay all premiums for such insurance coverage as they become due. Such policy or policies shall insure both Seller and Buyer, as their interests may appear at the time of loss. Proceeds of such insurance may, at Buyer's option, be applied to repair and restoration of the premises to as good a condition as existed prior to the loss, or may be applied to reduce the unpaid balance of the purchase price hereunder.

5. REAL ESTATE TAXES, The real estate taxes to be paid by Buyer shall not be prorated until the final payment is made pursuant to the terms set forth herein.

6. USE AND LIABILITIES, Buyer covenants and agrees to keep and maintain the Real Estate and the improvements thereon in as good a condition as they presently exist, reasonable wear and tear excepted. Buyer shall not commit waste. No existing improvement shall be removed or substantially altered, nor shall any additional improvements be placed upon the Real Estate, without Seller's prior written consent. In the use and occupancy of the Real Estate, Buyer shall comply with all laws, ordinances and regulations of any governmental authority having jurisdiction thereof. Until the purchase price has been paid in full, Seller may enter upon and inspect the Real Estate and the improvements thereon at any reasonable time. Buyer hereby assumes all risk and responsibility for accident, injury or damage to person or property arising from Buyer's use, occupancy and possession of the Real Estate and improvements. Buyer covenants to promptly pay for any labor and materials furnished for improvements on the Real Estate, so as to prevent the filing of any mechanics liens.



7. **HAZARDOUS MATERIAL.** Buyer shall not cause or permit any Hazardous Material (as defined below) to be brought upon, or kept or used in or about the Real Estate by Buyer, his agents, employees, contractors or invitees, without the prior written consent of Seller, which Seller shall not unreasonably withhold so long as Buyer demonstrates to Seller's reasonable satisfaction that the Hazardous Material is necessary or useful to Buyer's business and will be used, kept and stored in a manner that complies with all laws, rules, statutes and ordinances regulating any such Hazardous Material so brought upon or used or kept in or about the Real Estate. If Buyer breaches the obligations of this paragraph, or if the presence of Hazardous Material on or about the Real Estate caused or permitted by Buyer results in contamination of the Real Estate, or if contamination of the Real Estate or any part thereof by Hazardous Material otherwise occurs for which Buyer is legally liable to Seller for damage resulting therefrom, then in any such case, Buyer shall indemnify, defend and hold Seller harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Real Estate or any improvement thereon, and sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees) that arise during or after the term of this Agreement as a result of such contamination. The Buyer's obligation to indemnify the Seller includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on, under or about the Real Estate. Without limiting the foregoing, if the presence of any Hazardous Material on or about the Real Estate caused or permitted by Buyer results in any contamination of the Real Estate or surrounding area, or causes the Real Estate or surrounding area to be in violation of any laws, rules, statutes or ordinances, Buyer shall promptly take all actions at its sole expense as are necessary to return the Real Estate and surrounding area to the condition existing before the introduction of any such Hazardous Material; provided that Seller's approval of those actions shall first be obtained, which approval shall not be unreasonably withheld so long as those actions would not potentially have any material adverse long-term or short-term effect on the Real Estate or surrounding area..

8. **CONDITION OF PROPERTY.** It is understood and agreed that the Real Estate is being sold in an "as is" condition, with all faults, and that Buyer is relying entirely upon Buyer's own inspection in entering into this purchase contract. The Seller does not warrant the condition of the property, not its suitability for any particular use or purpose.

9. **ASSIGNMENT OF CONTRACT.** Neither Buyer's interest in this Agreement nor Buyer's interest in the Real Estate shall be sold, assigned, pledged, mortgaged, encumbered or transferred by Buyer without the prior written consent of Seller.

10. **DEED AND EVIDENCE OF TITLE.** Upon payment by Buyer of all amounts due hereunder in full, and performance by Buyer of all covenants and conditions of this Agreement, Seller shall convey the Real Estate to Buyer by general warranty deed, subject however, to: public highways; all easements, rights-of-way and restrictions of record; rights of persons in possession; the lien of unpaid taxes, public assessments and any other liens created or assumed by Buyer; and the provisions of applicable zoning laws. At such time, Seller shall, at Seller's expense, furnish Buyer an owner's policy of title insurance, insuring the title of Buyer for the full amount of the purchase price, subject only to standard policy exceptions and liens

created or assumed by Buyer.

11. **DEFAULT AND ACCELERATION.** It is expressly agreed by Buyer that time is of the essence of this Agreement. Upon the occurrence of any Event of Default, as hereinafter defined, and at any time thereafter, the entire unpaid balance of the purchase price, and all accrued, unpaid interest thereon, shall, at the option of Seller, become immediately due and payable without any notice, presentment, demand, protest, notice of protest, or other notice or dishonor or demand of any kind, all of which are hereby expressly waived by Buyer, and Seller shall have the right to pursue immediately any and all remedies, legal or equitable, as are available under applicable law to collect balance of purchase price and accrued Interest, to foreclose this Agreement, and as may be necessary or appropriate to protect Seller's interest under this Agreement and in and to the Real Estate. The following shall each constitute an "Event of Default" for purposes of this Agreement:

- (a) Default by Buyer in the payment of (I) any installment of the purchase price when due under the terms of this Agreement, (ii) any installment of Real Estate taxes on the Real Estate or assessment for a public improvement which by the terms of this Agreement are payable by Buyer, or (iii) any premium for insurance required by the terms of this Agreement to be maintained by Buyer.
- (b) Default, for a period of 10 days after written notice thereof is given to Buyer, in the performance or observation of any other covenant or term of this Agreement.
- (c) Lease or encumbrance of the Real Estate or any part thereof, other than as expressly permitted by this Agreement, or the making of any levy, seizure or attachment thereof or thereon or a substantial, uninsured loss of any part of the Real Estate.
- (d) Buyer (I) institutes or consents to any proceedings in insolvency, or for the adjustment, liquidation, extension or composition or arrangement of debts or for any other relief under any insolvency law or laws relating to the relief or organization of debtors', (II) files an answer admitting bankruptcy or insolvency or in any manner is adjudged insolvent, or (III) makes an assignment for the benefit of creditors or admits in writing inability to pay debts as they become due; provided however, this paragraph (d) shall not apply to any proceedings in bankruptcy.
- (e) Any part of the Real Estate or all or a substantial part of the property or assets of Buyer is placed in the hands of any receiver, trustee or other officers or representatives of any court, or Buyer consents, agrees or acquiesces to the appointment of any such receiver or trustee.
- (f) Desertion or abandonment of the Real Estate, or any part thereof, by Buyer.

(g) Actual or threatened alteration, demolition or removal of any improvements which are a part of the Real Estate, except as expressly allowed by the terms of this Agreement.

(h) Sale, transfer, conveyance or other disposition of Buyer's interest in this Agreement or Buyer's interest in the Real Estate, or any part thereof, without Seller's prior written consent.

(I) In the event the Buyer fails to pay any above-described payment by the 25th day of each month, notwithstanding any other provision herein and not waiving any rights of Seller may have under this contract, Seller may elect to accept the late payment and shall be entitled in addition thereto a late payment fee of 5% of the monthly payment due.

Upon the occurrence of an Event of Default, the Seller may declare the entire unpaid balance of purchase price to be immediately due and payable without relief from valuation and appraisal laws, and proceed by legal process to collect the same, with interest, costs and reasonable attorney fees; and for the payment of any judgment so obtained, to have the Real Estate sold at Sheriff's sale as land is sold upon foreclosure of mortgages.

In the event Buyer deserts or abandons the Real Estate or commits any other willful breach of this Agreement which materially diminishes the security intended to be given to Seller under and by virtue of this Agreement, then, it is expressly agreed by Buyer that, unless Buyer shall have paid more than one-third ($\frac{1}{3}$) of the purchase price, Seller may, at Seller's option, cancel this Agreement and take possession of the Real Estate and remove Buyer therefrom, or those holding or claiming under Buyer without any demand and to the full extent permitted by applicable law. In the event of Seller's cancellation upon such default by Buyer, all rights and demands of Buyer under this Agreement and in and to the Real Estate shall cease and terminate and Buyer shall have no further right, title or interest, legal or equitable, in and to the Real Estate and Seller shall have the right to retain all amounts paid by Buyer toward the purchase price as an agreed payment for Buyer's possession of the Real Estate prior to such default. Such retention shall not bar Seller's right to recover damages for unlawful detention of the Real Estate after default, for any failure to pay taxes or insurance, for failure to maintain the Real Estate at any time, for waste committed thereon or for any other damages suffered by Seller, including reasonable attorneys' fees incurred by Seller in enforcing any right hereunder or in removing any encumbrance on the Real Estate made or suffered by Buyer.

All of Seller's remedies shall be cumulative and not exclusive. Failure of Seller to exercise any remedy at any time shall not operate as a waiver of the right of Seller to exercise any remedy for the same or any subsequent default at any time thereafter.

12. **SELLER'S RIGHT TO MORTGAGE.** Seller reserves the right to place or maintain a mortgage upon the Real Estate, and shall also have the right to renew or increase any mortgage loan. However, the balance due in respect of any such mortgage loan shall at no time exceed the unpaid balance of purchase price due hereunder. If Seller defaults in the payment of any such mortgage loan, Buyer shall have the right to cure such default and deduct the cost thereof from the next payment or payments due under this Agreement. Seller shall pay any such mortgage loan when due or at such earlier time as Buyer pays the unpaid balance

Of purchase price in full. Buyer agrees to sign such instruments as the mortgagee may reasonably require to assure the priority of any existing or future mortgage upon the Real Estate, provided however, that Buyer shall not be personally liable for payment of the loan secured by any such mortgage.

13. NOTICES, Any notices required or permitted to be given hereunder shall be deemed sufficiently given when (a) delivered in person to the party to be notified, or (b) placed in an envelope directed to the party to be notified at the following address and deposited in the United States Mail, by certified or registered mail, postage prepaid:

**IF TO SELLER: Elk Enterprises, LLC
41 North 500 West
Valparaiso, IN 46383**

**IF TO BUYER: Joseph K. Schmidt and William John Schmidt
3 Huber Blvd.
Hobart, In 46342**

The address to which notices are to be sent may be changed by written notice delivered to the other party as set forth above.

14. ENTIRE AGREEMENT, This Agreement supersedes and cancels all previous agreements, verbal or written between Seller and Buyer and constitutes the entire agreement between parties.

15. GENERAL PROVISIONS, This Agreement shall extend to and be binding upon the heirs, personal representatives, successors and assigns of the parties. Whenever the context requires or permits, the gender and number of words used in this Agreement shall be interchangeable. This Agreement shall be construed and enforced according to the laws of the State of Indiana. If this Agreement is executed in duplicate counterparts, each shall be deemed an original.

IN WITNESS WHEREOF, the parties have executed this Agreement on the 16th day of February, 2011.

Seller:

Buyer:

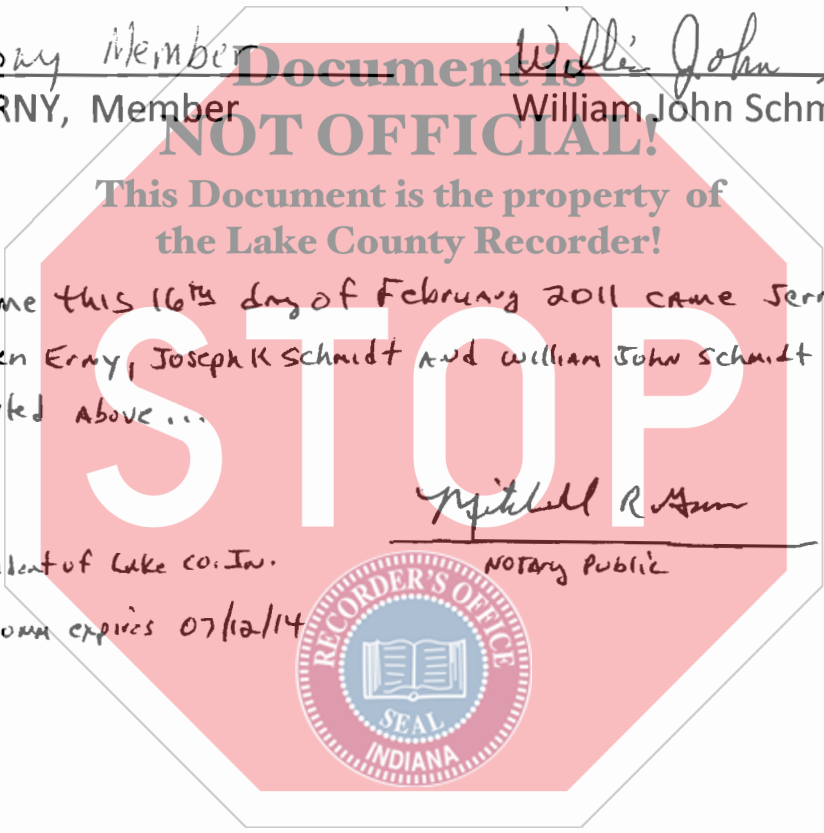
Elk Enterprises, LLC by:

Jerry Erny
JERRY ERNY, Managing Member

Joseph K. Schmidt
Joseph K. Schmidt

Kathleen Erny Member
KATHLEEN ERNY, Member

William John Schmidt
William John Schmidt



Before me this 16th day of February 2011 came Jerry Erny, Kathleen Erny, Joseph K Schmidt and William John Schmidt and executed above...

Mitchell R. Am
Resident of Lake Co. Ind. NOTARY PUBLIC
my comm expires 07/12/14



OFFICE OF THE LAKE COUNTY RECORDER

LAKE COUNTY GOVERNMENT CENTER
2293 NORTH MAIN STREET
CROWN POINT, INDIANA 46307



Recorder

PHONE (219) 755-3730
FAX (219) 755-3257

MEMORANDUM

DISCLAIMER

**This document has been recorded as presented.
It may not meet with State of Indiana Recordation requirements.**

- 1. STAINED DOCUMENT AT TIME OF RECORDING
- 2. RIPPED OR TORN DOCUMENT AT TIME OF RECORDING _____
- 3. PAGE (S) MISSING AT TIME OF RECORDING _____
- 4. ATTACHEMENTS MISSING AT TIME OF RECORDING _____
- 5. DOCUMENT TOO LIGHT AT TIME OF RECORDING _____
- 6. DOCUMENT NOT LEGIBLE AT TIME OF RECORDING _____
- 7. DOCUMENT TORN DURING PROCESS OF RECORDING _____
- 8. DOCUMENT STAINED DURING PROCESS OF RECORDING _____
- 9. CUSTOMER INSISTING DOCUMENT TO BE RECORDED _____
- 10. DOCUMENT RECORDED AS IS, MAY NOT MEET STATE REQUIREMENTS. _____

CUSTOMER INITIALS JS DATE: 3 / 1 / 11

EMPLOYEE INITIALS BB DATE: 3 / 1 / 11

