# PURCHASE AGREEMENT FOR COMMERCIAL REAL ESTATE

This Purchase Agreement for Commercial Real Estate ("Agreement") is entered into on this \_\_\_\_\_ day of October, 2021, between City of Davenport, Iowa ("Seller"), and Hermann Farms Inc. ("Purchaser"). In consideration of the mutual covenants set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree as follows:

# 1. TERMS

Purchaser agrees to purchase from the Seller and the Seller agrees to sell to Purchaser the real estate and any improvement thereon, commonly known as: The northern +/-7.36 acres of the Mueller Lumber 3rd Addition site with an address of 601 E Blackhawk Trail, Eldridge and legally known as: Parcel 93260540C (Legal to be supplied by Seller's Attorney) situated in the County of Scott and the State of Iowa (the "subject property"), for the sum of Forty Seven Thousand Five Hundred Dollars (\$47,500.00) per surveyed acre equal to Three Hundred Forty Nine Thousand Six Hundred Dollars (\$349,600.00) to be paid as follows:

- A.) Earnest money of \$10,000.00 in the form of a check which shall be held in trust by Purchaser's Attorney or other mutually agreeable escrow agent is a part of the cash at closing and shall be deposited within Five (5) Business Days after City of Davenport Council approval of the sale of the Subject Property. In the event any contingency is not met by the date contained in such contingency, the Seller recognizes the earnest money will be returned to the Purchaser and this Agreement shall be void.
- B.) **Cash Payment** shall be paid at time of closing.
- C.) Contingent Financed Transaction. INTENTIONALLY DELETED

# 2. EVIDENCE OF TITLE

Within a reasonable time after City of Davenport City Council Approval of this Agreement, Seller shall deliver an abstract of site demonstrating merchantable title of record in Seller and certified to a current date by an abstractor (for Iowa). If title evidence discloses exceptions other than those permitted under the rules for examination for abstracts of title adopted by the local County Bar Association, Purchaser or Purchaser attorney shall give written notice of such exceptions to Seller within a reasonable time. Seller shall have a reasonable time to have such title exceptions removed, or any such exception which may be removed by the payment of money may be cured by deduction from the purchase price at the time of closing. If Seller is unable to cure such exception, Purchaser shall be entitled to a refund of the earnest money. The title to be conveyed shall be by Quit Claim Deed to Purchaser and free and clear of all liens and encumbrances not herein specifically waived or assumed by Purchaser.

INITIAL;

# 3. CONVEYANCE OF TITLE AND DOCUMENTS OF SALE

The parties agree to execute any transfer declarations or other documents required by the state, county or municipality in which the subject property is located, as well as any documents required by the title insurance company in order to issue title insurance.

# 4. POSSESSION AND CLOSING

# Possession On Closing:

Seller shall deliver possession of the subject property to Purchaser concurrently with the closing of this transaction which shall be conditioned upon and held after the following events:

a. City of Davenport Iowa City Council Approval on or about October 27, 2021 and;

b. Ten (10) business days after the receipt, review and approval by Purchaser's counsel of the Abstract and;

#### 5. PRORATIONS AND ADJUSTMENTS

The following items shall be prorated at closing as of the date of delivery of possession:

#### A. Prorations

- (1) Real estate taxes, based on the most recent tax information available, which, in the absence of fraud, shall be final;
- (2) Rent, if any, (with transfer in full of any security/damage deposit);
- (3) Interest on any assumed indebtedness;
- (4) Insurance premiums if policy assigned to Purchaser;
- (5) Other income and operation expenses, if any;
- (6) Special assessments, if any.

# B. Adjustments

Utility charges shall be adjusted by the parties by appropriate meter readings at or about the time of delivery and surrender of possession.

#### 6. ASSESSMENTS

Seller shall pay all special assessments, which are a lien on the subject property as of the date of closing. Seller acknowledges that prior to the execution of this Agreement Seller has no knowledge of or no notice has been received from any municipal authority concerning

improvements which could result in a special assessment on the subject property. Tap on fees, if any, which exist for municipal services to the subject property shall be paid by Purchaser.

### 7. CONDITION OF SUBJECT PROPERTY

The parties agree that the purchase price reflects the condition of the subject property and Purchaser acknowledges that the real estate and improvements thereof have been inspected, and Purchaser is acquainted with the condition thereof and accepts the same in (check one of the following):

AS-IS. Purchaser acknowledges that the short-line railroad operator maintains a pile of used rail road ties on the property for future use if needed. Purchaser hereby allows Seller & short-line rail road operator to retain possession of the rail road ties after Closing. Seller and the short-line rail road operator shall be allowed to keep the rail road ties on the Property until October 1, 2022. Purchaser shall be allowed to relocate them on the Property if needed.

Purchaser shall be permitted to make an inspection of the property prior to possession or closing, whichever is sooner, in order to determine whether any change in the condition of the property has occurred. Seller agrees to deliver the property in the same condition as exists as of the date of this Agreement.

#### 8. FIXTURES AND PERSONAL PROPERTY

INTENTIONALLY DELTED

# 9. CONSTRUCTION LIEN

Seller warrants that all work and labor performed and all materials and improvements furnished to the property have been, or will be, paid in full and all releases incident thereto obtained at closing.

### 10. DEFAULT

If Purchaser fails to make any payment or to perform any obligation imposed upon Purchaser by this Agreement, Seller may serve written notice of default upon Purchaser and if such specified default is not corrected within ten (10) days thereafter, Seller, subject to the terms of any listing agreement, may accept the earnest money and any additional down payment as damages or may pursue any available legal remedy including specific performance.

In the event Seller fails to perform any obligation imposed upon Seller by this Agreement, Purchaser may serve written notice of default upon Seller and if such default is not corrected within ten (10) days thereafter, earnest money and any additional down payment deposit shall be refunded to Purchaser without prejudicing the Purchaser's right to any available legal remedy including specific performance. In the event of default, the defaulting party shall be liable to the other party for reasonable attorney fees and expenses incurred by reason of default.

# 11. CASUALTY CLAUSE

Seller shall bear the risk of loss and damage to the subject property prior to closing or possession, whichever first occurs. In the event all or a material part of the subject property is damaged or destroyed prior to closing or possession, whichever first occurs, this contract shall terminate and be of no further force and effect, unless the subject property can be restored to its present condition on or before the closing date. Seller shall keep adequate insurance, including fire and other extended coverage, on improvements on the subject property until title has passed to Purchaser or possession is delivered to Purchaser, whichever first occurs. Purchaser shall be responsible for insurance coverage upon taking title to or possession of the subject property, whichever occurs first.

#### 12. EXPENSES OF TRANSFER

- A. Seller shall pay:
  - (1) Cost of owner's title policy or continued abstract of title.
  - (2) Revenue stamps and recording of any releases.
  - (3) ALTA Survey Cost
- B. Purchaser shall pay:
  - (1) Recording fee for deed and mortgage
  - (2) Cost of Purchaser's mortgage title insurance policy as required by mortgage.

# 13. REPRESENTATIONS OF SELLER – HAZARDOUS WASTE

Seller hereby represents to Purchaser that, to the best of Seller's knowledge, the subject property is not contaminated with, nor threatened with contamination from outside sources by, any chemical, material or substance to which exposure is prohibited, limited or regulated by any federal, state, county, local or regional authority or which is known to pose a hazard to health and safety and that Seller has not used the subject property as a landfill or dumpsite, or for storage of hazardous substances, or has not otherwise done anything to contaminate the subject property with hazardous wastes or substances. Seller warrants that the subject property is not subject to any local, state or federal judicial or administrative action, investigation or order, as the case may be, regarding wells or underground storage tanks, solid waste disposal sites, or hazardous wastes or substances.

At Purchaser's cost and within 30 days of execution of this Agreement, Purchaser shall be permitted to conduct any environmental tests it deems necessary for the purpose of discovering the existence of any hazardous waste or substances. Should such environmental testing reveal

the presence of any hazardous wastes or substances, Purchaser may, at its option, terminate this Agreement and any earnest money paid shall be returned to Purchaser. Notwithstanding the above, the parties may agree by amendment and modification of this Agreement, to terms necessary to remedy any environmental condition discovered and then proceed with performance of this Agreement. Purchaser agrees, at its cost and without undue delay, to restore the subject property to its original condition should it proceed with the environmental testing contemplated herein.

#### 14. LEASES

As of the date of this Agreement, the subject property is subject to the following leases:

Prior to closing, Seller shall not enter into any new leases or agree to extend any existing leases without Purchaser's prior written consent.

#### 15. NOTICES

All notices required hereunder shall be in writing and shall be served upon the parties at the addresses designated herein by personal service, certified mail (return receipt requested), or Federal Express or other overnight mail.

Seller: Copy to:

City of Davenport, Iowa Attn. Tom Warner

226 W 4th Street Davenport, IA 52801

Purchaser: Copy to:

Hermann Farms Inc.

1850 Scott Park Rd

Eldridge, IA 52748

David J. Franks

Franks & Roeder

5167 Utica Ridge Rd

Davenport, IA 52807

#### 16. GENERAL CONDITIONS

This Agreement shall be binding upon the parties and their successors and assigns. Time is of the essence of this Agreement. This Agreement shall be governed by and enforced in accordance with the laws of the state in which the subject property is located. This Agreement contains the entire agreement of the parties and no representations, warranties, or agreements have been made by either party as set forth herein. No modification, waiver, or amendment of the Agreement shall be effective unless made in writing and signed by the parties. All representations, warranties and covenants made by the parties shall survive closing. Paragraph

headings are for the convenience of reference and shall not limit or affect the meaning of the Agreement.

#### 17. SELLER REPRESENTATIONS

It is understood that no representation made by the Seller in the negotiation of this Agreement are being relied upon unless incorporated herein in writing. Seller makes no representations or warranties, either express or implied, as to the physical or mechanical condition of the subject property, either real or personal.

# 18. RIDERS

This Agreement is subject to the following riders: Exhibit A

#### 19. LEGAL ASSISTANCE

The Seller and Purchaser are aware that when fully executed, this is a legally binding agreement for the sale and purchase of real estate and that in order to protect their respective interests, Seller and Purchaser are advised to consult legal counsel before this Agreement is signed.

# **20. ACCEPTANCE BY SELLER**

Until accepted by Seller, this document constitutes an offer by Purchaser on the terms stated above. This Offer shall expire on October 30, 2021 at 5:00 PM central time zone. If not accepted by such date, it shall become null and void and all payments hereunder shall be refunded to Buyer.

Executed by Purch	naser:	Executed by Seller	r:
GAD	10 / 18 / 2021		
Purchaser	Date	Seller	Date
Purchaser	 Date	Seller	Date

# Exhibit A

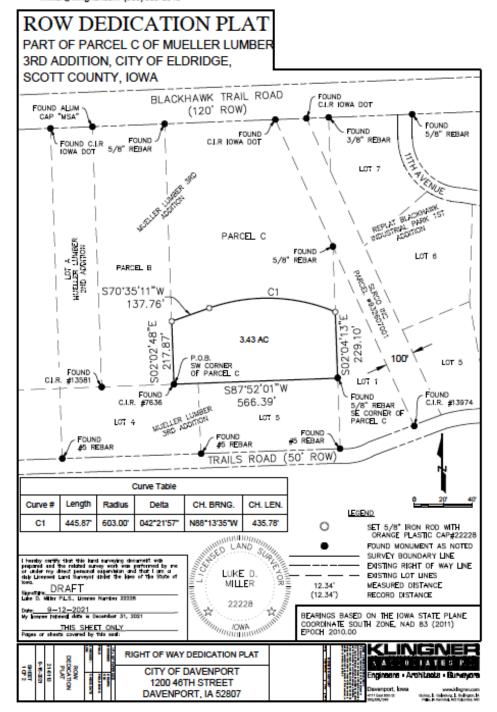
# Subject Property

Description: Part of Parcel C of Mueller Lumber 3rd Addition

Requestor: City of Davenport Proprietor: City of Davenport Surveyor: Luke D. Miller

Survey Company: Klingner & Associates, P.C. Return To: Klingner & Associates, P.C. 4111 East 60th Street, Davenport, Jowa

4111 East 60th Street, Davenport, Iowa 52807 Imiller@klingner.com (563) 359-1348





Description: Part of Parcel C of Mueller Lumber 3rd Addition

Requestor: City of Davenport Proprietor: City of Davenport Surveyor: Luke D. Miller

Survey Company: Klingner & Associates, P.C. Return To: Klingner & Associates, P.C. 4111 East 60th Street, Davenport, Iowa 52807 Imiller@klingner.com (563) 359-1348

# ROW DEDICATION PLAT

PART OF PARCEL C OF MUELLER LUMBER 3RD ADDITION, CITY OF ELDRIDGE, SCOTT COUNTY, IOWA

#### LEGAL DESCRIPTION:

#### ROW DEDICATION

PART OF PARCEL C OF MUELLER LUMBER 3RD ADDITION, NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 79 NORTH, RANGE 3 EAST OF THE 3TH P.M., CITY OF ELDRIDGE, SCOTT COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING AT THE SOUTHWEST CORNER OF PARCEL C OF MUELLER LUMBER 3RD ADDITION; THENCE, ALONG WEST LINE OF SAID PARCEL. NORTH 02 DEGREES 02 MINUTES 48 SECONDS WEST, A DISTANCE OF 217.87 FEET; THENCE, NORTH 70 DEGREES 35 MINUTES 11 SECONDS EAST, TO AN ARC, A DISTANCE OF 137.76 FEET; THENCE, ALONG SAID ARC, CONCAVE SOUTHERLY, A DISTANCE OF 445.87 FEET, TO A POINT ON THE EAST LINE OF SAID PARCEL, HAVING A RADIUS OF 603.00 FEET, CHORD BEARING OF SOUTH 88 DEGREES 13 MINUTES 35 SECONDS EAST, AND A CHORD OF 435.78 FEET; THENCE, ALONG SAID EAST LINE, SOUTH 02 DEGREES 04 MINUTES 13 SECONDS EAST, TO THE SOUTHEAST CORNER OF SAID PARCEL, A DISTANCE OF 229.10 FEET; THENCE, ALONG SOUTH LINE OF SAID PARCEL, SOUTH 87 DEGREES 52 MINUTES 01 SECONDS WEST, A DISTANCE OF 566.39 FEET, TO THE POINT OF BEGINNING, CONTAINING 3.43 ACRES, MORE OR

#### REMAINDER OF PARCEL C OF MULLER LUMBER 3RD ADDITION

COMMENCING AT THE SOUTHWEST CORNER OF PARCEL C OF MUELLER LUMBER 3RD ADDITION; THENCE, ALONG WEST LINE OF SAID PARCEL, NORTH 02 DEGREES 02 MINUTES 48 SECONDS WEST, A DISTANCE OF 217.87 FEET, TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG WEST LINE OF SAID PARCEL, NORTH 02 DEGREES 02 MINUTES 48 SECONDS WEST, TO THE NORTHWEST CORNER OF SAID PARCEL, A DISTANCE OF 683.42 FEET; THENCE, ALONG THE SOUTH RIGHT OF WAY OF BLACKHAWK TRAIL ROAD, NORTH 87 DEGREES 45 MINUTES 51 SECONDS EAST, TO THE NORTHEAST CORNER OF SAID PARCEL, A DISTANCE OF 382.94 FEET; THENCE, SOUTH 24 DEGREES 23 MINUTES 08 SECONDS EAST, A DISTANCE OF 482.17 FEET: THENCE. SOUTH 02 DEGREES 04 MINUTES 13 SECONDS EAST, TO AN ARC, A DISTANCE OF 226.62 FEET; THENCE, ALONG SAID ARC, CONCAVE SOUTHERLY, A DISTANCE OF 445.87 FEET, HAVING A RADIUS OF 603.00 FEET, CHORD BEARING OF NORTH 88 DEGREES 13 MINUTES 35 SECONDS WEST, AND A CHORD OF 435.78 FEET; THENCE, SOUTH 70 DEGREES 35 MINUTES 11 SECONDS WEST, A DISTANCE OF 137.76 FEET. TO THE POINT OF BEGINNING, CONTAINING 7.36 ACRES, MORE OR

FOR THE ABOVE DESCRIPTION THE WEST LINE OF PARCEL C OF MUELLER LUMBER 3RD ADDITION HAS A BEARING OF NORTH 02 DEGREES 02 MINUTES 48 SECONDS WEST.

Π,		000		RIGHT OF WAY DEDICATION PLAT		NGNER
98 8	101	SEA SE	2 344	CITY OF DAVENPORT	Engineere	· Architacta · Buneyora
"		Q.		1200 46TH STREET DAVENPORT, IA 52807	Davenport, I	long www.kingnec.com may. Lindensu. Lindensu. In

INITIAL'A 2



TITLE HFI Purchase Agmt Blackhawk Trail Rd

FILE NAME HFI Purch Agmt Blackhawk Trail Rd.pdf

**DOCUMENT ID** b54f17b6086a269356a26bccabb6f7f416c5ccc4

AUDIT TRAIL DATE FORMAT MM / DD / YYYY

STATUS • Completed

# **Document History**

3 10 / 18 / 2021 Sent for signature to Craig Hermann (crghermann@gmail.com)

SENT 18:11:26 UTC from robertherrmanncpa@gmail.com

IP: 70.58.211.48

10 / 18 / 2021 Viewed by Craig Hermann (crghermann@gmail.com)

VIEWED 18:13:26 UTC IP: 174.192.134.29

10 / 18 / 2021 Signed by Craig Hermann (crghermann@gmail.com)

SIGNED 18:13:54 UTC IP: 174.192.134.29

7 The document has been completed.

COMPLETED 18:13:54 UTC