

9663-7

Pages 7 Doc Tax \$ EX#
Fee Amt \$ 35.50 Ck Pd \$ 42.00
Cash Pd \$ Refund \$ 6.50
Paid by CAPITOL Ck # 127187
 Ck #
CUSTOMER CODE
RETURN TO CAPITOL TITLE

State of Nebraska, Gage County ss. Entered in Numerical Index and filed for record the 12th day of Febr., 2002 at 11:00 o'clock A.M., and recorded as INSTRUMENT NO. 2002-0640
Paul E. Demma
Register of Deeds
By Deputy

2002-0640
K-303
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**NEBRASKA
SECOND DEED OF TRUST
(HBA Loan)**

This Second Deed of Trust (this "Second Deed of Trust"), is made as of February 11th, 2002, by and among Bill D. Bartlett, Jr., a single person

 ("Trustor"), whose mailing address is 611 N. 9th, Beatrice, Nebraska 68310; Commercial Federal Bank, a Federal Savings Bank ("Trustee"), whose mailing address is Nebraska; and Nebraska Investment Finance Authority ("Beneficiary"), whose mailing address is 200 Commerce Court, 1230 O Street, Lincoln, Nebraska 68508-1402.

FOR VALUABLE CONSIDERATION, Trustor irrevocably transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions of this Second Deed of Trust, the real property, legally described on Exhibit A attached hereto and incorporated herein by reference (the "Property"); and

TOGETHER WITH, all rents, profits, royalties, income and other benefits derived from the Property (collectively, the "rents"), all leases or subleases covering the Property or any portion thereof now or hereafter existing or entered into, and all right, title and interest of Trustor thereunder, all right, title and interest of Trustor in and to any greater estate in the Property owned or hereafter acquired, all interests, estate or other claims, both in law and in equity, which Trustor now has or may hereafter acquire in the Property, all easements, rights-of-way, tenements, hereditaments and appurtenances thereof and thereto, all water rights, all right, title and interest of Trustor, now owned hereafter acquired, in and to any land, lying within the right-of-way of any street or highway adjoining the Property, and any and all alleys and strips and gores of land adjacent to or used in connection with the Property, and any and all buildings, fixtures and improvements now or hereafter erected thereon (the "Improvements"), and all the estate, interest, right, title or any claim or demand which Trustor now has or may hereafter acquire in the Property, and any and all awards made for the taking by eminent domain, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Trust Estate, including without limitation any awards resulting from a change of grade of streets and awards for severance damages.

The Property and the entire estate and interest conveyed to the Trustee are referred to collectively as the "Trust Estate."

For the Purpose of Securing:

- A. Payment of indebtedness evidenced by any promissory note of Trustor in favor of Beneficiary; and
- B. Payment of all sums advanced by Beneficiary to protect the Trust Estate, with interest thereon at the rate of sixteen percent (16%) per annum.

The indebtedness described in paragraphs A and B above is referred to as the "Indebtedness."

This Second Deed of Trust, any promissory note of Trustor in favor of Beneficiary and any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby are referred to collectively as the "Loan Instruments."

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Trustor covenants that (i) Trustor holds title to the Trust Estate and has lawful authority to encumber the Trust Estate, (ii) the Trust Estate is free and clear of all liens and encumbrances except for easements, restrictions and covenants of record and the Deed of Trust from Trustor encumbering the Property dated on or about the date hereof (the "First Deed of Trust"), and (iii) Trustor will defend the Trust Estate against the lawful claims of any person.

To Protect the Security of this Second Deed of Trust:

1. Payment of Indebtedness. Trustor shall pay when due the principal of, and the interest on, the Indebtedness and all other sums as provided in the Loan Instruments.

2. Taxes. Trustor shall pay each installment of all taxes and special assessments of every kind, now or hereafter levied against the Trust Estate or any part thereof, before delinquency, without notice or demand.

3. Insurance and Repairs. Trustor shall maintain fire and extended coverage insurance insuring the Improvements constituting part of the Trust Estate for such amounts and on such terms reasonably satisfactory to Beneficiary. So long as the Property is secured by a first deed of trust or mortgage, compliance with the insurance requirements of the first deed of trust or mortgage shall be sufficient to satisfy the requirements of this paragraph 3 relating to insurance.

Trustor shall promptly repair and replace the Trust Estate or any part thereof so that, except for ordinary wear and tear, the Trust Estate shall not deteriorate. In no event shall the Trustor commit waste on or to the Trust Estate, or commit, suffer or permit any act to be done in or upon the Trust Estate in violation of any law, ordinance or regulation. Trustor shall pay and promptly discharge at Trustor's cost and expense all liens, encumbrances and charges levied, imposed or assessed against the Trust Estate or any part thereof.

4. Actions Affecting Trust Estate. Trustor shall appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee, and shall pay all costs and expenses, including cost of evidence of title and attorneys' fees, in any such action or proceeding in which Beneficiary or Trustee may appear. If Trustor fails to make any payment or to do any act as and in the manner provided in any of the Loan Instruments, Beneficiary and/or Trustee, each in their own discretion, without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof. Trustor shall, immediately upon demand therefor by Beneficiary, pay all costs and expenses incurred by Beneficiary in connection with the exercise by Beneficiary of the foregoing rights, including without limitation costs of evidence of title, court costs, appraisals, surveys and attorneys' fees.

5. Eminent Domain. If the Trust Estate, or any part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding, or in any other manner including deed in lieu thereof ("Condemnation"), or if Trustor receives any notice or other information regarding such proceeding, Trustor shall give prompt written notice thereof to Beneficiary. Trustor shall be entitled to all compensation, awards and other payments or relief thereof and shall be entitled at its option to commence, appear in and prosecute in its own name any action or proceedings. Trustor shall also be entitled to make any compromise or settlement in connection with such taking or damage.

6. Appointment of Successor Trustee. Beneficiary may, from time to time, by a written instrument executed and acknowledged by Beneficiary, mailed to Trustor and recorded in the County in which the Trust Estate is located and by otherwise complying with the provisions of the applicable law of the State of Nebraska substitute a successor or successors to the Trustee named herein or acting hereunder.

7. Successors and Assigns. This Second Deed of Trust applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, personal representatives, successors and assigns. The term "Beneficiary" shall mean the owner and holder of any promissory note given to beneficiary, [whether or not named as Beneficiary herein].

8. Merger, Consolidation, Sales or Leases. Trustor covenants that Trustor will not sell, lease or otherwise dispose of any of the Trust Estate. In the event that Trustor sells, leases or otherwise disposes of any part of the Trust Estate, Beneficiary may at its option declare the Indebtedness secured hereby immediately due and payable, whether or not any default exists. Beneficiary shall consent to a transfer of the Trust Estate to a third party to the extent such third party meets the requirements contained in, and assumes the obligations set forth in the First Deed of Trust. The covenants contained herein shall run with the Property and shall remain in full force and effect until the Indebtedness is paid in full.

9. Events of Default. Any of the following events shall be deemed an event of default hereunder:

- (a) default shall be made in the payment of the Indebtedness or any other sum secured hereby when due; or
- (b) Trustor shall perform any act in bankruptcy; or
- (c) a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against Trustor seeking any reorganization, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, and such order, judgment or decree shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the first date of entry thereof; or any trustee, receiver or liquidator or Trustor or of all or any part

of the Trust Estate, or of any or all of the royalties, revenues, rents, issues or profits thereof, shall be appointed without the consent or acquiescence of Trustor and such appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive); or

(d) a writ of execution or attachment of any similar process shall be entered against Trustor which shall become a lien on the Trust Estate or any portion thereof or interest therein and such execution, attachment or similar process of judgment is not released, bonded, satisfied, vacated or stayed within sixty (60) days after its entry or levy; or

(e) there has occurred a breach of or default under any term, covenant, agreement, condition, provision, representation or warranty contained in any prior deed of trust or mortgage affecting the Trust Estate.

10. Acceleration upon Default; Additional Remedies. If an event of default occurs, Beneficiary may declare the Indebtedness secured hereby to be due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter, Beneficiary may:

(i) either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Trust Estate, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rentability of the Trust Estate, or part thereof or interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Trust Estate, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection including attorneys' fees, upon any Indebtedness secured hereby, all in such order as Beneficiary may determine. The entering upon and taking possession of the Trust Estate, the collection of such rents, issues and profits and the application thereof as aforesaid shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Trust Estate or the collection, receipt and application of rents, issues or profits, Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Loan instruments or by law upon occurrence of any event of default, including the right to exercise the power of sale;

(ii) commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver or specifically enforce any of the covenants hereof;

(iii) deliver to Trustee a written declaration of default and demand for sale and a written notice of default and election to cause Trustor's interest in the Trust Estate to be sold, which notice Trustee shall cause to be duly filed for record in the appropriate offices of the County in which the Trust Estate is located; or

(iv) exercise such other rights or remedies at law or in equity.

11. Foreclosure by Power of Sale. If Beneficiary elects to foreclose by exercise of the Power of Sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Second Deed of Trust and any note evidencing the Indebtedness and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

(a) Upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and Notice of Sale as then required by law and by this Second Deed of Trust. Trustee shall, without demand on Trustor, after such time as may then be required by law and after recordation of such Notice of Default and after Notice of Sale having been given as required by law, sell the Trust Estate at the time and place of sale fixed by it in such Notice of Sale, either as a whole, or in separate lots or parcels or items as Trustee shall deem expedient, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including without limitation Trustor, Trustee or Beneficiary, may purchase at such sale.

(b) As may be permitted by law, after deducting all costs, fees and expenses of Trustee and of this Trust, including costs of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of (i) the Indebtedness (ii) all other sums then secured hereby, and (iii) the remainder, if any, to the person or persons legally entitled thereto.

(c) Trustee may in the manner provided by law postpone sale of all or any portion of the Trust Estate.

12. Remedies Not Exclusive. Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any Indebtedness or obligations secured hereby and to exercise all rights and powers under this Second Deed of Trust or under any Loan Instrument or other agreement or any laws now or hereafter in force; notwithstanding, some or all of the such Indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Second Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein

contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Second Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they or either of them may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Loan Instruments to Trustee or Beneficiary or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies. Nothing herein shall be construed as prohibiting Beneficiary from seeking a deficiency judgment against the Trustor to the extent such action is permitted by law.

13. Request For Notice. Trustor and all other parties set forth herein hereby requests a copy of any Notice of Default and a copy of any Notice of Sale hereunder be mailed to them at the address set forth in the first paragraph of this Second Deed of Trust.

14. Governing Law. This Second Deed of Trust shall be governed by and construed in accordance with the laws of the State of Nebraska. In the event that any provision or clause of any of the Loan Instruments conflicts with applicable laws, such conflict shall not affect other provisions of such Loan Instruments which can be given effect without the conflicting provision, and to this end the provisions of the Loan Instruments are declared to be severable. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

15. Reconveyance by Trustee. Upon written request of Beneficiary stating that all sums secured hereby have been paid and upon surrender of this Second Deed of Trust and any note to Trustee for cancellation and retention and upon payment by Trustor of Trustee's fees, Trustee shall reconvey to Trustor, or the person or persons legally entitled thereto, without warranty, any portion of the Trust Estate then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any reconveyance may be described as "the person or persons legally entitled thereto."

16. Notices. Whenever Beneficiary, Trustor or Trustee shall desire to give or serve any notice, demand, request or other communication with respect to this Second Deed of Trust, each such notice, demand, request or other communication shall be in writing and shall be effective only if the same is delivered by personal service or mailed by certified mail, postage prepaid, return receipt requested, addressed to the address set forth at the beginning of this Second Deed of Trust. Any part may at any time change its address for such notices by delivering or mailing to the other parties hereto, as aforesaid, a notice of such change.

17. Acceptance by Trustee. Trustee accepts this Trust when this Second Deed of Trust, duly executed and acknowledged, is made a public record as provided by law.

IN WITNESS WHEREOF, Trustor has executed this Second Deed of Trust as of the day and year first above written.


Trustor **Bill D. Bartlett, Jr.**

Trustor _____

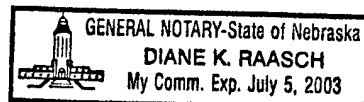
STATE OF NEBRASKA
COUNTY OF Lancaster

} ss:

The foregoing instrument was acknowledged before me this 11th day of February, 2002
by **Bill D. Bartlett, Jr. , a single person**


Notary Public **Diane K. Raasch**

My Commission Expires: **July 5, 2003**



2002-0640

EXHIBIT A
LEGAL DESCRIPTION

Lot 4, Block 13, A.J. Cropsey's Addition to the City of Beatrice, Gage County, Nebraska

454

21037

2002-0640

EXHIBIT E
MORTGAGE ADDENDUM

The following are addenda to the Mortgage. **Please check the applicable addendum.** The addendum checked shall be incorporated into, and recorded with, the Mortgage. The term "Mortgage" shall be deemed to include "Deed of Trust," if applicable.

X FHA, USDA RURAL DEVELOPMENT and HUD ADDENDUM ONLY

THIS TAX-EXEMPT FINANCING RIDER is made this 11th day of February , 2002 , and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed ("Security Instrument") of the same date given by the undersigned ("Borrower") to secure Borrower's Note ("Note") to Lincoln Federal Savings Bank of Nebraska

("Lender") of the same date and covering the property described in the Security Instrument and located at:

611 N. 9th, Beatrice, Nebraska 68310

[Property Address]

In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree to amend Paragraph 9 of the Model Mortgage Form, entitled "Grounds for Acceleration of Debt" as by adding additional grounds for acceleration as follows:

Lender, or such of its successors or assigns as may by separate instrument assume responsibility for assuring compliance by the Borrower with the provisions of this Tax-Exempt Financing Rider, may require immediate payment in full of all sums secured by this Security Instrument if:

- (a) All or part of the Property is sold or otherwise transferred by Borrower to a purchaser or other transferee:
 - (i) Who cannot reasonably be expected to occupy the property as a principal Residence within a reasonable time after the sale or transfer, all as provided in Section 143 (c) and (l)(2) of the Internal Revenue Code; or
 - (ii) Who has had a present ownership interest in a principal Residence during any part of the three-year period ending on the date of the sale or transfer, all as provided in Section 143(d) and (l)(2) of the Internal Revenue Code (except that "100 percent" shall be substituted for "95 percent or more" where the latter appears in Section 143(d)(1)); or
 - (iii) At an acquisition cost which is greater than 90 percent of the average area purchase price (greater than 110 percent for targeted area Residences), all as provided in Section 143(e) and (l)(2) of the Internal Revenue Code; or
 - (iv) Who has a gross family income in excess of the applicable percentage of applicable median family income as provided in Section 143(f) and (l)(2) of the Internal Revenue Code; or
- (b) Borrower fails to occupy the property described in the Security Instrument without prior written consent of Lender or its successors or assigns described at the beginning of this Tax-Exempt Financing Rider, or
- (c) Borrower omits or misrepresents a fact that is material with respect to the provisions of Section 143 of the Internal Revenue Code in an application for the loan secured by this Security Instrument.

References are to the Internal Revenue Code as amended and in effect on the date of issuance of bonds, the proceeds of which will be used to finance the Security Instrument and are deemed to include the implementing regulations.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions in this Tax-Exempt Financing Rider.


Borrower Bill D. Bartlett, Jr.

Borrower

VA MORTGAGE ADDENDUM ONLY

611 N. 9th, Beatrice, Nebraska 68310

[Property Address]

If, so long as the Mortgage is outstanding, all or any part of the property is sold or transferred by Borrower without Lender's prior written consent, other than a transfer by devise, descent or by operation of law, the Lender may, at Lender's option, declare all the sums secured by the Mortgage to be immediately due and payable.

Borrower

Date

Borrower

2002- 0640

CONVENTIONAL MORTGAGE LOAN ADDENDUM ONLY

THIS TAX-EXEMPT FINANCING RIDER is made this _____ day of _____, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust or Security Deed ("Security Instrument") of the same date given by the undersigned ("Borrower") to secure Borrower's Note ("Note") to ("Lender") of the same date and covering the property described in the Security Instrument and located at:

[Property Address]

In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree to amend Paragraph 17 of the Uniform Mortgage Form, entitled "Transfer of the Property as a Beneficial Interest in Borrower" as by adding additional grounds for acceleration as follows:

Lender, or such of its successors or assigns as may by separate instrument assume responsibility for assuring compliance by the Borrower with the provisions of this Tax-Exempt Financing Rider, may require immediate payment in full of all sums secured by this Security Instrument if:

- (a) All or part of the Property is sold or otherwise transferred by Borrower to a purchaser or other transferee:
 - (i) Who cannot reasonably be expected to occupy the property as a principal Residence within a reasonable time after the sale or transfer, all as provided in Section 143(c) and (l)(2) of the Internal Revenue Code; or
 - (ii) Who has had a present ownership interest in a principal Residence during any part of the three-year period ending on the date of the sale or transfer, all as provided in Section 143(d) and (l)(2) of the Internal Revenue Code (except that "100 percent" shall be substituted for "95 percent or more" where the latter appears in Section 143(d)(1); or
 - (iii) At an acquisition cost which is greater than the maximum limits established by the Nebraska Investment Finance Authority (the "Authority") in connection with its Program, pursuant to which Program this Security Instrument is financed; or
 - (iv) Who has a gross family income in excess of the maximum limits established by the Authority in connection with its Program; or
- (b) Borrower fails to occupy the property described in the Security Instrument without prior written consent of Lender or its successors or assigns described at the beginning of this Tax-Exempt Financing Rider, or
- (c) Borrower omits or misrepresents a fact that is material with respect to the provisions of Section 143 of the Internal Revenue Code in an application for the loan secured by this Security Instrument.

References are to the Internal Revenue Code as amended and in effect on the date of issuance of bonds, the proceeds of which will be used to finance the Security Instrument and are deemed to include the implementing regulations.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions in this Tax-Exempt Financing Rider.

Borrower

Borrower

STATE OF Nebraska

COUNTY OF Lancaster

} ss.

The foregoing instrument was acknowledged before me this 11th day of February, 2002 by Bill D. Bartlett, Jr., a single person

Witness my hand and notarial seal at Lincoln in said county, the date aforesaid.

My commission expires: **July 5, 2003**

Diane K. Raasch

Notary Public **Diane K. Raasch**

