



DEED 2014081646



OCT 17 2014 10:30 P 9

Nebr Doc
Stamp Tax

10-17-2014
Date

\$ Ex002

By MB

Fee amount: 58.00
FB: 01-60000
COMP: MB

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
10/17/2014 10:30:06.00



2014081646

Recording requested by
and when recorded return to:
Custard Cats, LLC
520 McCall Road
Manhattan KS 66502

Asset No. 10410000541

_____ space above this line for Recorder's use only

SPECIAL WARRANTY DEED

STATE OF Texas §
§
COUNTY OF Dallas §

RECITALS

WHEREAS, Mid City Bank, Inc., Omaha Nebraska
(the "Institution"), acquired the Property by that certain Deeds
dated _____ and listed on Exhibit "C", and recorded in Volume _____, Page _____ of the records of
Douglas County, Nebraska, on dates shown Exhibit "C"; and

WHEREAS, the Institution was closed by Nebraska Department of Banking and Finance on
November 4, 2011, and the Federal Deposit Insurance Corporation (the "FDIC") was appointed
as receiver for the Institution (the "Receiver"); and

WHEREAS, as a matter of federal law, 12 U.S.C. § 1821(d)(2)(A)(i), the Receiver succeeded to all of
the right, title, and interest of the Institution in and to, among other things, the Property.

NOW, THEREFORE, the Receiver (hereinafter, "Grantor"), whose address is 1601 Bryan Street,
Dallas, Texas 75201, for and in consideration of EIGHT HUNDRED FIFTY THOUSAND
_____ AND NO/100 DOLLARS (\$850,000 .00), the receipt and
sufficiency of which are hereby acknowledged, has GRANTED, SOLD and CONVEYED and by these
presents does GRANT, SELL and CONVEY unto Custard Cats, LLC, a Kansas limited liability company
_____ ("Grantee"), whose address is
520 McCall Road, Manhattan, Kansas 66502, that certain real
property situated in Douglas County, Nebraska, as described on Exhibit
"A" attached hereto and made a part hereof for all purposes, together with any and all improvements thereto
and all and singular the rights and appurtenances pertaining thereto, including, but not limited to, any right,

title and interest of Grantor in and to adjacent streets, alleys or rights-of-way (collectively, the "Property"). subject however to any and all exceptions, easements, rights-of-way, covenants, conditions, restrictions, reservations, encroachments, protrusions, shortages in area, boundary disputes and discrepancies, matters which could be discovered or would be revealed by, respectively, an inspection or current survey of the Property, encumbrances, access limitations, licenses, leases, prescriptive rights, rights of parties in possession, rights of tenants, co-tenants, or other co-owners, and any and all other matters or conditions affecting the Property, including, without limitation, any and all matters or conditions reflected on Exhibit "B" attached hereto and made a part hereof for all purposes, and whether known or unknown, recorded or unrecorded, as well as standby fees, real estate taxes, and assessments on or against the Property for the current year and subsequent years and subsequent taxes and assessments for prior years becoming due by reason of a change in usage or ownership, or both, of the Property; and any and all zoning, building, and other laws, regulations, and ordinances of municipal and other governmental authorities affecting the Property (all of the foregoing being collectively referred to as the "Permitted Encumbrances"). Grantee, by its acceptance of delivery of this Special Warranty Deed, assumes and agrees to perform any and all obligations of Grantor or the Institution under the Permitted Encumbrances.

FURTHER, GRANTEE, BY ITS ACCEPTANCE OF DELIVERY OF THIS SPECIAL WARRANTY DEED, ACKNOWLEDGES AND AGREES THAT (i) EXCEPT FOR THE SPECIAL (OR LIMITED) WARRANTY OF TITLE CONTAINED HEREIN, GRANTOR HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS, OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT, OR FUTURE, OF, AS TO, CONCERNING, OR WITH RESPECT TO (A) THE VALUE, NATURE, QUALITY, OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL, AND GEOLOGY, (B) ANY INCOME TO BE DERIVED FROM THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH GRANTEE MAY CONDUCT OR HOPE TO CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES, OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE DESCRIPTION, POSSESSION, HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY OR ANY PART THEREOF, (F) THE MANNER OR QUALITY OF THE CONSTRUCTION OR MATERIALS, IF ANY, INCORPORATED INTO THE PROPERTY, (G) THE MANNER, QUALITY, STATE OF REPAIR, OR LACK OF REPAIR OF THE PROPERTY OR ANY PORTION THEREOF OR ANY IMPROVEMENTS THERETO, (H) THE EXISTENCE, QUALITY, NATURE, ADEQUACY, OR PHYSICAL CONDITION OF ANY UTILITIES SERVING THE PROPERTY, OR (I) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, THAT GRANTOR HAS NOT MADE, DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION, OR LAND USE LAWS, RULES, REGULATIONS, ORDERS, OR REQUIREMENTS, INCLUDING,

WITHOUT LIMITATION, THE DISPOSAL OR EXISTENCE, IN OR ON THE PROPERTY OR ANY PART THEREOF, OF ANY HAZARDOUS MATERIALS; (ii) GRANTEE HAS FULLY INSPECTED THE PROPERTY AND THAT THE CONVEYANCE HEREUNDER OF THE PROPERTY IS "AS IS" AND "WITH ALL FAULTS", AND GRANTOR HAS NO OBLIGATION TO ALTER, REPAIR, OR IMPROVE THE PROPERTY OR ANY PORTION THEREOF OR ANY IMPROVEMENTS THERETO; and (iii) NO WARRANTY HAS ARISEN THROUGH TRADE, CUSTOM, OR COURSE OF DEALING WITH GRANTOR, AND ALL STATUTORY, COMMON LAW, AND CUSTOMARY COVENANTS AND WARRANTIES, IF ANY, OF WHATEVER KIND, CHARACTER, NATURE, PURPOSE, OR EFFECT, WHETHER EXPRESS OR IMPLIED OR ARISING BY OPERATION OF LAW, ARE HEREBY EXPRESSLY, UNCONDITIONALLY, AND IRREVOCABLY WAIVED, DISCLAIMED, AND EXCLUDED FROM THIS SPECIAL WARRANTY DEED, NOTWITHSTANDING ANY CUSTOM OR PRACTICE TO THE CONTRARY, OR ANY STATUTORY, COMMON LAW, DECISIONAL, HISTORICAL, OR CUSTOMARY MEANING, IMPLICATION, SIGNIFICANCE, EFFECT, OR USE OF CONTRARY IMPORT OF ANY WORD, TERM, PHRASE OR PROVISION HEREIN.

Further, by its acceptance of delivery of this Special Warranty Deed, Grantee or anyone claiming by, through, or under Grantee, hereby fully releases Grantor, the Institution, and the FDIC in any and all of its various other capacities, and their respective employees, officers, directors, representatives, and agents from any and all claims, costs, losses, liabilities, damages, expenses, demands, actions, or causes of action that it or they may now have or hereafter acquire, whether direct or indirect, known or unknown, suspected or unsuspected, liquidated or contingent, arising from or related to the Property in any manner whatsoever. This covenant releasing Grantor, the Institution, and the FDIC in any and all of its various other capacities shall be a covenant running with the Property and shall be binding upon Grantee, its successors, and assigns.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in any wise belonging to Grantor, unto Grantee, its heirs, personal representatives, successors and assigns forever, and Grantor does hereby bind itself, its successors and assigns, to WARRANT SPECIALLY AND FOREVER DEFEND all and singular the Property unto Grantee, its heirs, personal representatives, successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through, or under Grantor, but not otherwise, subject, however, to the Permitted Encumbrances.

The fact that certain encumbrances, limitations, or other matters or conditions may be mentioned, disclaimed, or excepted in any way herein, whether specifically or generally, shall not be a covenant, representation, or warranty of Grantor as to any encumbrances, limitations, or any other matters or conditions not mentioned, disclaimed, or excepted. Notwithstanding anything herein to the contrary, however, nothing herein shall be construed or deemed as an admission by Grantor or Grantee to any third party of the existence, validity, enforceability, scope, or location of any encumbrances, limitations, or other matters or conditions mentioned, disclaimed, or excepted in any way herein, and nothing shall be

construed or deemed as a waiver by Grantor or Grantee of its respective rights, if any, but without obligation, to challenge or enforce the existence, validity, enforceability, scope, or location of same against third parties.

By its acceptance of delivery of this Special Warranty Deed, Grantee hereby assumes the payment of all *ad valorem* taxes, standby fees, and general and special assessments of whatever kind and character affecting the Property which are due, or which may become due, for the current tax year or assessment period and for any tax year or assessment period subsequent to the date of this Special Warranty Deed, including, without limitation, taxes or assessments for prior years becoming due by reason of a change in usage or ownership, or both, of the Property or any portion thereof.

IN WITNESS WHEREOF, this Special Warranty Deed is executed on Oct. 15, 2014

FEDERAL DEPOSIT INSURANCE CORPORATION,
as Receiver for Mid City Bank, Inc., Omaha Nebraska

By: 
Name: **GRAHAM HOWITT**
ATTORNEY-IN-FACT
Title: Attorney in Fact

ACKNOWLEDGMENT

STATE OF TEXAS §
 §
COUNTY OF DALLAS §

This instrument was acknowledged before me on the 15th day of October, 2014
by GRAHAM HOWITT, Attorney in Fact of the Federal Deposit Insurance
Corporation, as Receiver for Mid City Bank, Inc., Omaha Nebraska, on behalf of said
entity.


Notary Public, State of TEXAS

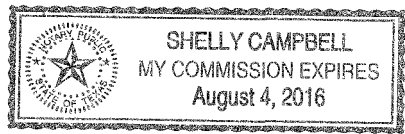


EXHIBIT "A" to Special Warranty Deed

[Legal Description of the Property]

EXHIBIT "A"

58-03200

Parcel 1:

Federal Deposit Insurance Corporation, as Receiver for Mid City Bank, Inc., Omaha, Nebraska, successor in interest to Ames Bank as to this Parcel 1 only, being the same property as described in that certain Warranty Deed dated December 30, 1975 from Robert R. Kruger, Trustee, to Ames Bank, recorded in Book 1535, Page 188 of the Register of Deeds of Douglas County, Nebraska:

That part of Lot One Hundred Sixteen (116), Benson Acres, an addition to the City of Omaha, in Douglas County, Nebraska, together with a portion of vacated Lawndale Drive, all more particularly described as follows: Beginning at the Southwest corner of said Lot One Hundred Sixteen (116) and thence North 38 degrees 00 minutes West, a distance of 94.4 feet; thence North 42 degrees 20 minutes 37 seconds West, a distance of 104.50 feet to the Northwesterly corner of said Lot One Hundred Sixteen (116); thence North 29 degrees 10 minutes 47 seconds East along the Northwesterly line of Lot One Hundred Sixteen (116), a distance of 177.29 feet; thence South 54 degrees 34 minutes 47 seconds East, a distance of 296.40 feet to the Northwesterly line of Lawndale Drive; thence Southwesterly on a curve to the left (radius being 490.82 feet, long chord bearing South 59 degrees 29 minutes 58 seconds West, long chord distance of 128.12 feet) along the curved Northwesterly line of Lawndale Drive, an arc distance of 128.49 feet; thence South 52 degrees 00 minutes 00 seconds West, a distance of 113.05 feet to the point of beginning.

and,

Parcel 2:

Federal Deposit Insurance Corporation, as Receiver for Mid City Bank, Inc., Omaha, Nebraska, for this Parcel 2:

Lots 129 and 130, Benson Acres, an addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska, TOGETHER WITH the rights of ingress and egress to public right of way granted by the State of Nebraska, Department of Roads, in instrument recorded in Book 515, Page 731 of the Records of Douglas County, Nebraska, described as follows: One unrestricted drive as to use, to be limited to one entrance not to exceed 20 feet in width, the centerline of which is located 75.5 feet southeasterly from the Northwest Line of Lot 129, Benson Acres, as measured along the existing Military Avenue Right of Way Line and one exit not to exceed 20 feet in width, the centerline of which is located 140.5 feet southeasterly from the Northwest Line of Lot 129 as measured along the existing Military Avenue Right of Way Line; and SUBJECT TO the rights of ingress and egress to public right of way granted to the State of Nebraska in instrument recorded in Book 515, Page 731 of the Records of Douglas County, Nebraska, described as follows: One unrestricted drive as to use, not to exceed 40 feet in width, the centerline of which is located 32.9 feet southeasterly from the Northwest Line of said Lot 129, Benson Acres, as measured along said existing Military Avenue Right of Way Line;

TOGETHER WITH Lot 116, Benson Acres, an addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska, EXCEPTING THEREFROM that part of said Lot 116, together with a portion of vacated Lawndale Drive, all as described in that certain Warranty Deed dated January 16, 1975, and recorded on April 24, 1975, in Book 1519, Page 585 of the Register of Deeds of Douglas County, Nebraska, and described as follows: Beginning at the Southwest corner of said Lot 116; thence N 38°00' W, a distance of 94.4 feet; thence N 42°20'37" W, a distance of 104.50 feet to the Northwesterly corner of said Lot 116; thence N 29°10'47" E along the Northwesterly Line of Lot 116, a distance of 177.29 feet; thence S 54°34'47" E, a distance of 296.40 feet to the Northwesterly line of Lawndale Drive; thence Southwesterly on a curve to the left (radius being 490.82 feet, long chord bearing S 59°29'58" W, long chord distance of 128.12 feet) along the curved Northwesterly line of Lawndale Drive, an arc distance of 128.49 feet; thence S 52°00'00" W, a distance of 113.05 feet to the Point of Beginning;

EXHIBIT "A"

01-60000

TOGETHER WITH a vacated parcel of land located in the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 2, Township 15, Range 12 in Omaha, Douglas County, Nebraska, being a portion of the right of way for Lawndale Drive, as described in Ordinance No. 26260 dated March 16, 1972, and recorded in Book 508, Page 545 of the Records of Douglas County, Nebraska, and conveyed to State Investors, Inc., by Quitclaim Deed dated June 14, 1972, and recorded in Book 1457, Page 565 of the Register of Deeds of Douglas County, Nebraska, described as follows: Beginning at a point on the Southeasterly Line of Lot 116, Benson Acres, as surveyed, platted and recorded in Douglas County, Nebraska, said point being 113.05 feet northeasterly from the Southwesterly corner of Lot 116; thence on a curve to the right (radius being 490.82 feet) cord bearing N $65^{\circ}02'40''$ E, an arc distance of 223.49 feet; thence N $52^{\circ}00'00''$ E, 98.84 feet; thence N $4^{\circ}51'53''$ W, 59.71 feet to a point where the Southwesterly R.O.W. Line of Military Avenue and the Southeasterly Line of Lot 130, Benson Acres, intersect; thence S $52^{\circ}00'00''$ W on the Southeasterly Line of said Lots 116 and 130, 347.33 feet to the Point of Beginning (the Southeasterly side of Lots 116 and 130 assumed S $52^{\circ}00'00''$ W in direction);

EXCEPTING THEREFROM that part of vacated Lawndale Drive and that part of Lot 130 acquired by the City of Omaha in the eminent domain proceeding styled *City of Omaha, Nebraska v. Tract No. 2 (A/K/A 7400 Military Avenue): American Province of the Servants of Mary Real Estate Corp., et al.*, Case No. CI 01-4726 in the County Court of Douglas County, Nebraska, more particularly described on Page 613 of that certain Notice of Lis Pendens dated March 26, 2001, recorded on March 27, 2001, in Book 56, Pages 604-622 of the Register of Deeds of Douglas County, Nebraska, as follows: That part of vacated Lawndale Drive, and Lot 130, all in Benson Acres, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, described as follows: Commencing at the South corner of Lot 130; thence N $57^{\circ}08'39''$ E (bearings based on the final plat of Benson Park Plaza, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska) for 208.36 feet along the Southeast Line of said Lot 130 to the TRUE POINT OF BEGINNING; thence N $25^{\circ}30'37''$ W for 1.28 feet; thence along a curve to the left (having a radius of 19.00 feet and a long chord bearing N $40^{\circ}25'33''$ W for 9.78 feet) for an arc length of 9.89 feet; thence N $55^{\circ}20'29''$ W for 116.90 feet; thence along a curve to the left (having a radius of 44.00 feet and a long chord bearing N $58^{\circ}08'11''$ W for 4.29 feet) for an arc length of 4.29 feet; thence N $60^{\circ}55'53''$ W for 30.95 feet to the Northwest Line of said Lot 130; thence N $34^{\circ}26'21''$ E for 13.69 feet along said Northwest Line of Lot 130 to the South R.O.W. Line of Military Avenue; thence S $55^{\circ}33'38''$ E for 168.51 feet along said South R.O.W. Line of Military Avenue; thence S $00^{\circ}21'53''$ E for 36.05 feet along the West R.O.W. Line of 72nd Street; thence N $25^{\circ}30'37''$ W for 31.94 feet to the Point of Beginning.

FDIC

1: GHOWITT - FDIC

2: Afitchue

Date: 05/21/14

EXHIBIT "B" to Special Warranty Deed

[Specific Permitted Encumbrances]

Terms, conditions and restrictions contained in Book 388, Page 8; records of Douglas County, Nebraska.

Terms and provisions contained in Agreement with Metropolitan Utilities District, recorded in Book 85, Page 135; records of Douglas County, Nebraska.

Terms and provisions contained in Ordinance No. 23694 as to annexation, recorded in Book 440, Page 73; records of Douglas County, Nebraska.

Restriction of Ingress and Egress as contained in Warranty Deed recorded October 3, 1966 in Book 1300, Page 291; as modified and supplemented by the grant of one unrestricted drive for entrance and one unrestricted drive of exit in Deed recorded in Book 515, Page 731; records of Douglas County, Nebraska.

Conditions and restrictions contained in Plat & Dedication for Street Widening, recorded June 2, 1961 in Book 366, Page 393; records of Douglas County, Nebraska.

Terms and provisions contained in Ordinance No. 26260, recorded in Book 508, Page 545; records of Douglas County, Nebraska.

Easement granted to the Omaha Public Power District, and the Northwestern Bell Telephone Company, recorded in Book 525, Page 401; records of Douglas County, Nebraska.

Conditions and restrictions contained in Quit Claim Deed-State (Corporation), recorded in Book 1457, Page 513; records of Douglas County, Nebraska.

Conditions and restrictions contained in Quitclaim Deed from State Investors, Inc., a Nebraska corporation, to Federal Deposit Insurance Corporation as Receiver for Mid City Bank, Inc., recorded October 19, 2012 as Inst. No. 2012105988; amended by Correction Quitclaim Deed effective May 1, 2012, recorded February 13, 2014 as Inst. No. 2014011571; records of Douglas County, Nebraska.

Encroachment of chain link fence across property line as shown on the ALTA/ACSM Land Title Survey issued by Republic National Land Surveyors; Frank Pakalnis, LS667, last revised September 15, 2014, Job No. 130601.

Exhibit "C"
VESTING DEED INFORMATION

Warranty Deed dated July 12, 1966 and filed October 3, 1966 in Book 1300, Page 291

Warranty Deed dated November 24, 1970 and filed November 27, 1970 in Book 1421, Page 49

Quit Claim Deed dated April 25, 1972 and filed June 16, 1972 in Book 1457, Page 513

Warranty Deed dated June 14, 1972 and filed June 16, 1972 in Book 1457, Page 565

Deed dated October 3, 1972 and filed in Book 515, Page 731

Warranty Deed dated January 16, 1975 and filed April 24, 1975 in Book 1519, Page 585

Warranty Deed dated May 2, 1975 and filed August 19, 1975 in Book 1527, Page 321

Warranty Deed dated December 30, 1975 and filed December 30, 1975 in Book 1535, Page 188

Deed dated May 1, 2012 and filed October 19, 2012 as Instrument No. 2012105988

Deed dated February 10, 2014 and filed February 13, 2014 as Instrument No. 2014011571