



MTG 2006059620



MAY 30 2006 12:32 P 8

West of our property
F

MTG
FEE 40 FB 01-60000
BKP 7-14-11 C/O COMP
DEL SCAN FV

WHEN RECORDED MAIL TO:
NEBRASKA STATE BANK OF OMAHA
LAKESIDE BRANCH
17041 LAKESIDE HILLS PLZ
OMAHA, NE 68130

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
5/30/2006 12:32:55.05



FC

CONSTRUCTION DEED OF TRUST

THIS DEED OF TRUST IS A CONSTRUCTION SECURITY AGREEMENT
WITHIN THE MEANING OF THE NEBRASKA CONSTRUCTION LIEN ACT

MAXIMUM LIEN. The lien of this Deed of Trust shall not exceed at any one time \$1,982,542.00.

THIS DEED OF TRUST is dated May 26, 2006, among DIAL HARRISON, L.L.C., A NEBRASKA LIMITED LIABILITY COMPANY whose address is 11506 NICHOLAS ST STE 200, OMAHA, NE 68154; ("Trustor"); NEBRASKA STATE BANK OF OMAHA, whose address is LAKESIDE BRANCH, 17041 LAKESIDE HILLS PLZ, OMAHA, NE 68130 (referred to below sometimes as "Lender" and sometimes as "Beneficiary"); and Nebraska State Bank of Omaha, whose address is 17041 LAKESIDE HILLS PLZ, OMAHA, NE 68130 (referred to below as "Trustee").

CONVEYANCE AND GRANT. For valuable consideration, Trustor conveys to Trustee in trust, WITH POWER OF SALE, for the benefit of Lender as Beneficiary, all of Trustor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in DOUGLAS County, State of Nebraska:

See EXHIBIT "A", which is attached to this Deed of Trust and made a part of this Deed of Trust as if fully set forth herein.

The Real Property or its address is commonly known as NOT YET ASSIGNED, OMAHA, NE 68135.

CROSS-COLLATERALIZATION. In addition to the Note, this Deed of Trust secures the following described additional indebtedness: the note from Dial Harrison, L.L.C. dated May 26, 2006, in the principal amount of \$3,426,845.00, and the note from Dial - Harrison Commercial, L.L.C. dated May 26, 2006, in the principal amount of \$2,528,416.50, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of and substitutions for.

Trustor presently assigns to Lender (also known as Beneficiary in this Deed of Trust) all of Trustor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Trustor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS DEED OF TRUST. THIS DEED OF TRUST, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS ALSO GIVEN TO SECURE ANY AND ALL OF TRUSTOR'S OBLIGATIONS UNDER THAT CERTAIN CONSTRUCTION LOAN AGREEMENT BETWEEN TRUSTOR AND LENDER OF EVEN DATE HEREWITH. ANY EVENT OF DEFAULT UNDER THE CONSTRUCTION LOAN AGREEMENT, OR ANY OF THE RELATED DOCUMENTS REFERRED TO THEREIN, SHALL ALSO BE AN EVENT OF DEFAULT UNDER THIS DEED OF TRUST. THIS DEED OF TRUST IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

PAYMENT AND PERFORMANCE. Except as otherwise provided in this Deed of Trust, Trustor shall pay to Lender all amounts secured by this Deed of Trust as they become due, and shall strictly and in a timely manner perform all of Trustor's obligations under the Note, this Deed of Trust, and the Related Documents.

CONSTRUCTION MORTGAGE. This Deed of Trust is a "construction mortgage" for the purposes of Sections 9-334 and 2A-309 of the Uniform Commercial Code, as those sections have been adopted by the State of Nebraska.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Trustor agrees that Trustor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Trustor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

Duty to Maintain. Trustor shall maintain the Property in tenable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Compliance With Environmental Laws. Trustor represents and warrants to Lender that: (1) During the period of Trustor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Trustor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Trustor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Trustor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Trustor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Deed of Trust. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Trustor or to any other person. The representations and warranties contained herein are based on Trustor's due diligence in investigating the Property for Hazardous Substances. Trustor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Trustor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach

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TA 52288

EXHIBIT "A"

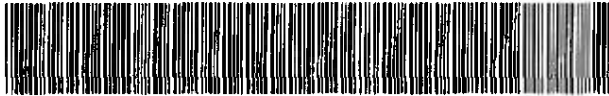
A tract of land located in the South Half (S½) of Section 7, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Beginning at the Southeast corner of the Southwest Quarter of said Section 7, said point also being the Southwest corner of the Southeast Quarter of said Section 7; thence South 87°14'05" West (assumed bearing), along the South line of said Southwest Quarter of Section 7, a distance of 888.35 feet; thence North 02°45'55" West, a distance of 115.00 feet; thence North 32°17'31" West, a distance of 141.84 feet; thence North 21°34'35" West, a distance of 168.72 feet; thence North 55°19'14" West, a distance of 46.59 feet; thence Northerly, on a curve to the left with a radius of 174.90 feet, a distance of 132.03 feet, said curve having a long chord which bears North 13°04'04" East, a distance of 128.92 feet; thence North 08°32'55" West, a distance of 252.21 feet; thence North 82°02'44" East, a distance of 93.23 feet; thence South 86°14'42" East, a distance of 101.37 feet; thence North 78°38'43" East, a distance of 86.00 feet; thence North 70°50'10" East, a distance of 50.81 feet; thence North 57°23'45" East, a distance of 46.27 feet; thence North 22°04'06" East, a distance of 46.73 feet; thence North 03°31'47" East, a distance of 70.90 feet; thence North 07°56'11" West, a distance of 74.78 feet; thence North 13°06'19" West, a distance of 77.72 feet; thence North 21°38'25" West, a distance of 67.85 feet; thence North 20°14'38" West, a distance of 252.95 feet; thence North 78°01'28" East, a distance of 77.37 feet; thence North 80°57'27" East, a distance of 94.04 feet; thence South 83°40'59" East, a distance of 87.02 feet; thence South 71°43'03" East, a distance of 156.62 feet; thence South 54°31'06" East, a distance of 73.17 feet; thence South 56°57'08" East, a distance of 50.09 feet; thence South 53°32'30" East, a distance of 102.65 feet; thence South 50°20'02" East, a distance of 80.00 feet; thence South 48°06'40" East, a distance of 72.46 feet; thence South 43°03'28" East, a distance of 148.55 feet; thence South 50°53'25" East, along the Southerly line of Lot 156, Falling Waters, a Subdivision located in said South Half of Section 7, and the Westerly extension thereof, and also the Southerly line of Lot 157, said Falling Waters, a distance of 137.05 feet; thence South 57°38'30" East, along said Southerly line of Lot 157, Falling Waters and also the Southerly line of Lot 158, said Falling Waters, a distance of 80.16 feet; thence South 59°07'17" East, along said Southerly line of Lot 158, Falling Waters, a distance of 66.54 feet, to the Southeast corner of said Lot 158, Falling Waters, said point also being the Southwest corner of Lot 159, said Falling Waters; thence South 61°19'25" East, along said Southerly line of Lot 159, Falling Waters, a distance of 85.77 feet, to the Southeast corner of said Lot 159, Falling Waters, said point also being the point of intersection of the Westerly right-of-way line of 198th Street and the Southerly right-of-way line of said 198th Street; thence South 58°23'23" East, along said Southerly right-of-way line of 198th Street, a distance of 64.57 feet, to the point of intersection of said Southerly right-of-way line of 198th Street and the Easterly right-of-way line said 198th Street, said point also being the Southwest corner of Lot 160, said Falling Waters; thence South 58°09'16" East, along the Southerly line of said Lot 160, Falling Waters, a distance of 132.34 feet, to the Southeast corner of said Lot 160, Falling Waters; thence North 36°09'07" East, along the Easterly line of said Lot 160, Falling Waters, and also the Easterly line of Lots 161 thru 166, inclusive, said Falling Waters, a distance of 596.50 feet, to the Northeast corner of said Lot 166, Falling Waters, said point also being the Southwest corner of Lot 167, said Falling Waters; thence North 72°42'22" East, along the Southerly line of said Lot 167, Falling Waters, a distance of 38.37 feet, to the Southeast corner of said Lot 167, Falling Waters, said point also being the Southwest corner of Lot 168, said Falling Waters; thence North 87°15'05" East, along the Southerly line of said Lot 168, Falling Waters, and also the Southerly line of Lots 169 thru 172, inclusive, said Falling Waters, a distance of 407.74 feet, to the Southeast corner of said Lot 172, Falling Waters, said point also being on the Westerly line of Outlot "C", said Falling Waters; thence South 02°44'55" East, along said Westerly line of Outlot "C", Falling Waters, a distance of 138.09 feet, to the Southerly corner of said Outlot "C", Falling Waters, said point also being the point of intersection of the Westerly right-of-way line of said 195th Street and the Southerly right-of-way line of said 195th Street; thence South 55°09'59" East, along said Westerly right-of-way line of 195th Street, a distance of 40.00 feet; thence South 31°48'20" West, a distance of 38.98 feet; thence North 61°13'21" West, a distance of 53.90 feet; thence Westerly, on a curve to the left with a radius of 100.00 feet, a distance 55.25 feet, said curve having a long chord which bears North 77°03'04" West, a distance of 54.55 feet; thence South 87°15'05" West, a distance of 229.87 feet; thence Southwesterly, on a curve to the left with a radius of 100.00 feet, a distance of 20.47 feet, said curve having a long chord which bears South 81°23'17" West, a distance of 20.43 feet; thence South 01°39'01" East, a distance of 287.25 feet; thence South 14°40'29" East, a distance of 266.35 feet; thence North 87°15'05" East, a distance of 12.68 feet; thence South 01°39'01" East, a distance of 455.69 feet, to a point on the South line of said Southeast Quarter of Section 7; thence South 87°13'30" West, along said South line of the Southeast Quarter of Section 7, a distance of 1,015.80 feet, to the Point of Beginning.

(NE¼ SW¼, SE¼ SW¼, NW¼ SE¼ & SW¼ SE¼)



LIEN 2006059621



MAY 30 2006 12:45 P 3

WHEN RECORDED MAIL TO:
NEBRASKA STATE BANK OF OMAHA
LAKESIDE BRANCH
17041 LAKESIDE HILLS PLZ
OMAHA, NE 68130

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
5/30/2006 12:45:08.29



2006059621

NOTICE OF COMMENCEMENT

To Whom It May Concern:

The undersigned hereby informs all concerned that improvements will be made to certain real property, and in accordance with Neb. Rev. Stat. 52-145, the following information is stated in this NOTICE OF COMMENCEMENT.

Description of Property:

See EXHIBIT "A", which is attached to this Notice and made a part of this Notice as if fully set forth herein.

The Real Property or its address is commonly known as NOT YET ASSIGNED, OMAHA, NE 68135.

General Description of Improvements:

PHASE II A FALLING WATERS SUBDIVISION

DIAL HARRISON, L.L.C.

Contracting Owner

11506 NICHOLAS ST STE 200, OMAHA, NE 68154

Address

Fee Simple Title Holder (if other than contracting owner)

Address

Interest in the Real Estate

NOTE:

If, after this Notice of Commencement is recorded, a lien is recorded as to an improvement covered by this Notice of Commencement, the lien has priority from the time this Notice of Commencement is recorded.

Duration of this Notice of Commencement: UNTIL COMPLETION

Executed this 26th Day of May, 2006

CONTRACTING OWNER:

DIAL HARRISON, L.L.C.

By: 
CHRISTOPHER R. HELD, Member of DIAL HARRISON, L.L.C.

By: 
PATRICK G. DAY, Member of DIAL HARRISON, L.L.C.

Handwritten: Lien
FEE 1500 FB 01-60000
BKP 7-14-11^{su} C/O _____ COMP _____
DEL _____ SCAN _____ FV _____
Handwritten: F T 3

Handwritten: 216)

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