



MTG 2004072335



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**DEED OF TRUST, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS**

Received - RICHARD TAKECHI
Register of Deeds, Douglas County, NE
6/3/2004 14:51:25.53

2004072335

THIS DEED OF TRUST IS A CONSTRUCTION SECURITY AGREEMENT AND SECURES AN OBLIGATION WHICH THE TRUSTOR INCURRED FOR THE PURPOSE OF MAKING AN IMPROVEMENT OF THE REAL ESTATE IN WHICH THE SECURITY INTEREST IS GIVEN THAT IS A CONSTRUCTION SECURITY INTEREST.

THIS DEED OF TRUST, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS, made this 31st day of May, 2004, among HCN Limited Partnership, a Nebraska limited partnership, formerly known as H C N, Limited, a Nebraska limited partnership, as Trustor ("Trustor"), First National Bank of Omaha, a national banking association, as Trustee ("Trustee"), and First National Bank of Omaha, a national banking association, as Beneficiary ("Beneficiary"), and Sagewood Development Company, LLC, a Nebraska limited liability company ("Sagewood"):

WITNESSETH:

That Trustor and Sagewood irrevocably grants, transfers and assigns to Trustee in trust, with power of sale, the following described real estate (the "Real Estate"):

The real estate in Douglas County, Nebraska, legally described on Exhibit "A" attached hereto and by this reference incorporated herein.

together with all interest which Trustor and Sagewood now has or may hereafter acquire in and to said Real Estate and in and to: (a) all easements and rights of way appurtenant thereto and all of the estate, right, title, interest, claim and demand whatsoever of Trustor and Sagewood in Real Estate, either at law or in equity, now or hereafter acquired; (b) all structures, buildings and improvements of every kind and description now or at any time hereafter located or placed on the Real Estate (the "Improvements"); (c) all machinery, appliances, apparatus, equipment and fixtures now or hereafter located in, upon or under the Real Estate or the Improvements, or any part thereof, and used or usable in connection with any present or future operation thereof, and all additions thereto and replacements therefore; (d) all articles of personal property and any additions to, substitutions for, changes in or replacements of the whole or any part thereof, including, without limitation, all furniture and furnishings, now or at any time hereafter affixed to, attached to, placed upon or used in any way in connection with the use, enjoyment, occupancy or operation of the Real Estate or the Improvements, or any portion thereof, and owned by Trustor and Sagewood or in which Trustor and Sagewood now has or hereafter acquires an interest; (e) all of the rents, royalties, issues and profits of the Real Estate and the Improvements, or arising from the use or enjoyment of all or any portion thereof or from any lease, license, concession, occupancy agreement or other agreement pertaining thereto (the "Rents and Profits"), and all right, title and interest of Trustor and Sagewood in and to all leases, licenses and occupancy agreements of the Real Estate or the Improvements now or hereafter entered into and all right, title and interest of Trustor and Sagewood thereunder, including without limitation, cash or securities deposited thereunder to secure performance by tenants, lessees or licensees, as applicable, of their obligations

FIRST NATIONAL BANK OF OMAHA
Mortgage Loan Department
One First National Center
Omaha, Nebraska 68102

DTW
92072
✓ 1452125 OMAHA

EXHIBIT "A"**LEGAL DESCRIPTION**

Attached to and forming a part of file number: OTW92072

A Tract of land located in the Northwest 1/4 of the Northeast 1/4 of Section 4; and also the Southwest 1/4 of the Northeast 1/4 of said Section 4; and also the Northeast 1/4 of the Northwest 1/4 of said Section 4; and also the Southeast 1/4 of the Northwest 1/4 of said Section 4; all located in Township 15 North, Range 11 East of the 6th P.M., in Douglas County, Nebraska, more particularly described as follows:

Beginning at the Northeast corner of said West 1/2 of the Northeast 1/4 of Section 4; thence South 00°12'53" West (assumed bearing) along the East line of said West 1/2 of the NE 1/4 of Section 4, a distance of 2615.13 feet to the Southeast corner of said West 1/2 of the NE 1/4 of Section 4, said point also being on the North line of Lot 202, Quail Run (Lots 203 thru 330, inclusive), a Subdivision located in the SE 1/4 of said Section 4; thence South 89°52'08" West along the South line of said NE 1/4 of Section 4, said line also being the North line of said Quail Run (Lots 203 thru 330, inclusive), a distance of 1320.05 feet to the center of said Section 4; Said point also being the Northwest corner of Lot 225, said Quail Run (Lots 203 thru 330 inclusive, said point also being the Northeast corner of Lot 2, the Thomsen Mile West (Lots 2 thru 155, inclusive), a subdivision located in the SW1/4 of said Section 4; thence South 89°52'05" West, along the South line of said NW 1/4 of Section 4, said line also being the North line of said The Thomsen Mile West (Lots 2 thru 155, inclusive), a distance of 1320.54 feet to the Southwest corner of said East 1/2 of the NW1/4 of Section 4, said point also being the Northwest corner of Lot 51, said The Thomsen Mile West (Lots 2 thru 155, inclusive); thence North 00°21'07" East along the West line of said East 1/2 of the NW1/4 of Section 4, a distance of 2596.79 feet to the Northwest corner of said East 1/2 of the NW 1/4 of Section 4; thence North 89°28'21" East along the North line of said NW 1/4 of Section 4, a distance of 1316.23 feet to the Northeast corner of said East 1/2 of the NW 1/4 of Section 4, said point also being the Northwest corner of said West 1/2 of the NE 1/4 of Section 4; thence North 89°27'52" East along the North line of said NE 1/4 of Section 4, a distance of 1318.31 feet to the point of beginning.

EXCEPT that part taken for Fort Street right of way.

EXHIBIT "B"

Permitted Exceptions

1. Easement dated December 15, 1927 filed May 15, 1928 in Book 83 at Page 303 of the Records of Douglas County, Nebraska, granted to Nebraska Power company, a corporation for installation and maintenance of facilities over a portion of subject property as described therein, subject to certain provisions, conditions, restrictions and limitations as contained therein.
2. Easement dated December 10, 1927 filed May 15, 1928 in Book 83 at Page 304 of the Records of Douglas County, Nebraska, granted to Nebraska Power Company for installation and maintenance of facilities over a portion of property as described therein, subject to certain provisions, conditions, restrictions and limitations as contained therein.
3. Easement dated January 3, 1962 filed March 21, 1962 in Book 378 at Page 31 of the Records of Douglas County, Nebraska, granted to Northern Natural Gas Company for installation and maintenance of facilities over a portion of property as described therein.
4. Right of Way Easement dated August 26, 1988 filed September 28, 1988 in Book 863 at Page 409 of the Records of Douglas County, Nebraska, granted to Omaha Public Power District for installation and maintenance of facilities over a portion of subject property as described therein.



MTG 2008052981



MAY 29 2008 14:24 P 25

File No. 16-473

Handwritten notes: 3/15.00, 00-3451 le, 01-60000 5/3, 4-15-11, TL, COMP, FV, and a signature.

Handwritten number: 380 G

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
5/29/2008 14:24:25.91



2008052981

WHEN RECORDED, PLEASE RETURN TO:

First National Bank of Omaha
1620 Dodge Street, Stop 4300
Omaha, Nebraska 68197-4300
Attention: Mortgage Loan Department

**AMENDED AND RESTATED DEED OF TRUST,
SECURITY AGREEMENT AND ASSIGNMENT OF RENTS**

THIS AMENDED AND RESTATED DEED OF TRUST IS A CONSTRUCTION SECURITY AGREEMENT AND SECURES AN OBLIGATION WHICH THE TRUSTOR INCURRED FOR THE PURPOSE OF MAKING AN IMPROVEMENT OF THE REAL ESTATE IN WHICH THE SECURITY INTEREST IS GIVEN THAT IS A CONSTRUCTION SECURITY INTEREST.

THIS AMENDED AND RESTATED DEED OF TRUST, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS (this "Deed of Trust") is made as of May 20, 2008, by and among Sagewood Development Company, LLC, a Nebraska limited liability company ("Trustor"), whose address is 13215 Birch Street, Omaha, Nebraska 68164; FIRST NATIONAL BANK OF OMAHA, a national banking association, Omaha, Nebraska ("Beneficiary"), whose address is 1620 Dodge Street, Stop 4300, Omaha, Nebraska 68197-4300, Attention; Mortgage Loan Department; and FIRST NATIONAL BANK OF OMAHA, a national banking association, whose address is 1620 Dodge Street, Stop 4300, Omaha, Nebraska 68197-4300 ("Trustee"),

WITNESSETH:

WHEREAS, on or about May 28, 2004, Trustor and HCN Limited Partnership, a Nebraska limited partnership, formerly known as H C N, Limited, a Nebraska limited partnership ("HCN"), executed and delivered a Deed of Trust, Security Agreement and Assignment of Rents ("Prior Deed of Trust") to First National Bank of Omaha as trustee and beneficiary under said Prior Deed of Trust; and

WHEREAS, as of May 28, 2004, HCN was the owner of the real property legally described in Exhibit "A" attached hereto and by this reference made a part hereof ("Original Parcel"); and

WHEREAS, subsequent to the date of execution of the Prior Deed of Trust, HCN conveyed the Original Parcel to Trustor, and subsequent to the transfer of the Original Parcel by HCN to Trustor, Trustor has platted, or re-platted, or both, the Original Parcel, and the legal description of the lots that constituted a portion of the Original Parcel and are owned by Trustor as of the date of execution of this Deed of Trust are described in Exhibit "B" attached hereto and by this reference made a part hereof (the real property described in Exhibit "B" attached hereto is referred to in this Deed of Trust as the "Real Property"); and

WHEREAS, Trustor has requested Beneficiary to extend the term of the loan ("Prior Loan") granted by Beneficiary to Trustor that is secured by the Prior Deed of Trust, and Beneficiary is willing to extend the term of the Prior Loan; and

WHEREAS, the balance of the indebtedness due and owing by Trustor to Beneficiary in connection with the Prior Loan is Five Million Three Hundred Fifty-five Thousand Two Hundred Seventy-four and 45/100ths Dollars (\$5,355,274.45) ("Loan") as of January 1, 2008; and

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness due and owing pursuant to the Loan and the trust herein created, the receipt of which is hereby acknowledged:

Handwritten signature: OTW 92072

LEGAL DESCRIPTION

just descrip
NW NE
SW
NE NW
SE

Attached to and forming a part of file number: OTW92072

A Tract of land located in the Northwest 1/4 of the Northeast 1/4 of Section 4; and also the Southwest 1/4 of the Northeast 1/4 of said Section 4; and also the Northeast 1/4 of the Northwest 1/4 of said Section 4; and also the Southeast 1/4 of the Northwest 1/4 of said Section 4; all located in Township 15 North, Range 11 East of the 6th P.M., in Douglas County, Nebraska, more particularly described as follows:

Beginning at the Northeast corner of said West 1/2 of the Northeast 1/4 of Section 4; thence South 00°12'53" West (assumed bearing) along the East line of said West 1/2 of the NE 1/4 of Section 4, a distance of 2615.13 feet to the Southeast corner of said West 1/2 of the NE 1/4 of Section 4, said point also being on the North line of Lot 202, Quail Run (Lots 203 thru 330, inclusive), a Subdivision located in the SE 1/4 of said Section 4; thence South 89°52'08" West along the South line of said NE 1/4 of Section 4, said line also being the North line of said Quail Run (Lots 203 thru 330, inclusive), a distance of 1320.05 feet to the center of said Section 4; Said point also being the Northwest corner of Lot 225, said Quail Run (Lots 203 thru 330 inclusive, said point also being the Northeast corner of Lot 2, the Thomsen Mile West (Lots 2 thru 155, inclusive), a subdivision located in the SW1/4 of said Section 4; thence South 89°52'05" West, along the South line of said NW 1/4 of Section 4, said line also being the North line of said The Thomsen Mile West (Lots 2 thru 155, inclusive), a distance of 1320.54 feet to the Southwest corner of said East 1/2 of the NW1/4 of Section 4, said point also being the Northwest corner of Lot 51, said The Thomsen Mile West (Lots 2 thru 155, inclusive); thence North 00°21'07" East along the West line of said East 1/2 of the NW1/4 of Section 4, a distance of 2596.79 feet to the Northwest corner of said East 1/2 of the NW 1/4 of Section 4; thence North 89°28'21" East along the North line of said NW 1/4 of Section 4, a distance of 1316.23 feet to the Northeast corner of said East 1/2 of the NW 1/4 of Section 4, said point also being the Northwest corner of said West 1/2 of the NE 1/4 of Section 4; thence North 89°27'52" East along the North line of said NE 1/4 of Section 4, a distance of 1318.31 feet to the point of beginning.

EXCEPT that part taken for Fort Street right of way.

(Handwritten mark)

10-34514

Parcels

Parcel A:

Lot 1, Lots 3 thru 22, inclusive, Lots 24 thru 30, inclusive, Lot 36, Lots 38 thru 41, inclusive, Lots 49 thru 69, inclusive, Lots 71 and 72, Lot 74, Lots 76 thru 92, inclusive, Lots 94 thru 98, inclusive, Lots 100 thru 102, inclusive, Lots 104 thru 106, inclusive, Lots 110 thru 112, inclusive, Lots 115 thru 172, inclusive, Lots 174 thru 177, inclusive, Lot 181 and Lot 182, Lots 184 thru 202, inclusive, Lots 204 thru 213, inclusive, Lots 216 thru 278, inclusive, Lots 280 thru 284, inclusive, Lots 289 thru 314, inclusive, Lots 326 thru 329, inclusive, Lots 333 thru 341, inclusive, Lots 350 thru 368, inclusive, Lots 371 thru 386, inclusive, Lot 389, Lots 391 thru 438, inclusive, and Outlots A and B, in Sagewood a Subdivision, as surveyed, platted and recorded, in Douglas County, Nebraska

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Parcel B:

Lots 452 thru 455, inclusive, in Sagewood a Subdivision, as surveyed, platted and recorded, in Douglas County, Nebraska.

3.

89-1/563258

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Permitted Encumbrances

PLAT:

Plat and Dedication Recorded May 9 2005 at Instrument Number 2005-053143 of the Records of Douglas County, Nebraska, which grants easement(s) to OPPD, Qwest Communication, and Approved Cable TV Franchisees for installation and maintenance of utility facilities on, over, through, under and across a 5 foot strip of land adjoining all front and side boundary lines, Except those side boundary lot lines which are occupied by the common wall between duplex units on lots 285 through 325 inclusive and lots 336 through 357 inclusive and lots 422 through 438 inclusive and also except those side boundary lot lines of lots 138 through 149 inclusive to avoid the gas line easement; an 8 foot strip of land adjoining all rear boundary lines of interior lots; and a 16 foot strip of land adjoining the rear boundary lines of all exterior lots. Plat and Dedication grants an additional easement to Metropolitan Utilities District for installation and maintenance of utility facility on, under, through, and across a 5 foot strip of land abutting all Cul de Sac Streets. Plat reveals the following: certain reservations, restrictions, and limitations, as described thereon. Plat and Dedication grants an additional easement to Metropolitan Utilities District for installation and maintenance of utility facility on, under, through, and across a 5 foot strip of land abutting all Cul de Sac Streets.

Plat and Dedication contains certain provisions for No Direct Access to Fort Street, 174th Street 177th Street and or H W S Cleveland Blvd from adjacent lots. The Association to own and maintain the Outlots A & B. Plat reveals the following: certain reservations, restrictions, and limitations, as described thereon. (As to Lots 1, 3, 24, 25, 27, 28 and 138)

Plat also reveals a Permanent Noise Attenuation and Grading Easement subject to certain provisions, conditions, restrictions and limitations as contained therein, affecting subject property granted to SID 509 & CITY OF OMAHA, on, over, under, through and across a 65 foot/feet strip of land as shown thereon. (As to Lots 3, 4, 21, 22, 28, 29, 30, 452 and 454)

Positive Drainage over the Easements between Lots 30 & 31 shall be perpetually maintained. (As to Lot 30)

Plat also reveals a Perpetual Sewer and Drainage and Channel Blanket Easement subject to certain provisions, conditions, restrictions and limitations as contained therein, affecting subject property granted to Papio-Missouri River Natural Resources District and SID 509 and its successors and assigns, on, over, under, through and across of land as shown thereon. (As to Lots 452 and 453)

Plat also reveals a Permanent Recreation Trail Blanket Easement subject to certain provisions, conditions, restrictions and limitations as contained therein, affecting subject property granted to SID NO. 509 and CITY OF, on, over, under, through and across of land as shown thereon. (As to Lots 452 and 453)

Plat also reveals 30 foot Sanitary Sewer Easement affecting subject property granted to SID No. 509 and City of Omaha, on, over, under, through and across a 20 foot strip of land as shown thereon. (As to Lots 454 and 455)

Plat also reveals 20 foot Sanitary Sewer Easements affecting subject property granted to SID No. 509 and City of Omaha, on, over, under, through and across a 30 foot strip of land as shown thereon. (As to Lots 439, 452, 453 and 454)

Plat also reveals Floodway, as shown thereon. (As to OLA and Lots 452 and 453)

Retification of Plat recorded May 19, 2005, at Instrument Number 2005-058465 of the Records of Douglas County, Nebraska.

COVENANTS

Declaration of Covenants, Conditions, Restrictions and Easements of Sagewood recorded December 14, 2006 at instrument Number 2006157538 of the Records of Douglas County, Nebraska, which contains certain restrictions. Incorporation of Sagewood Homeowners Associations with imposition of dues and assessments. Contains set backs and Architectural control. Contains Common Facilities. Possible telephone connection charges by Qwest Corporation as contained therein, and grants easement to OPPD, Qwest Corporation, Cable Television system, MUD and SID No. 509 for installation and maintenance of utility facilities on, over, through, under and across a 5 foot wide strip of land adjoining all front and side boundary lines; an 8 foot wide strip of land adjoining all rear boundary lines of interior lots; and a 16 foot wide strip of land adjoining all rear boundary lines of exterior lots. Any covenant, condition or restriction in this document indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin is omitted as provided in 42 U.S.C §3604, unless and only to the extent that the restriction (a) is not in violation of state or federal law, (b) is exempt under 42 U.S.C. §3607, or (c) relates to a handicap, but does not discriminate against handicapped people. Affects Lot 1, Lots 3 through 22, inclusive and Lots 24, Lots 27 through 30, inclusive, Lot 36, Lots 38 through 41, inclusive and Lots 49 through 69, inclusive, Lot 71, Lot 72 and Lot 74, Lots 76 through Lot 82, inclusive and Lots 94 through 98, inclusive, and Lots 100 through 102, inclusive, and Lots 104 through 106, inclusive, and Lots 110 through 112, inclusive and Lots 115 through 172, inclusive and Lots 174 through 177, inclusive, Lot 181 and Lot 182, and Lots 184 through 202, inclusive and Lots 204 through 213, inclusive and Lots 216 through 242, inclusive and Lots 358 through 368, inclusive and Lot 371 through 386, inclusive, Lot 389, Lots 397 through 421, inclusive in Sagewood.

Declaration of Covenants, Conditions, Restrictions and Easements of Sagewood recorded 12-28-05, at instrument Number 2005163067 of the Records of Douglas County, Nebraska, which contains certain restrictions. Incorporation of Sagewood Homeowners Associations with imposition of dues and assessments. Contains set backs, Architectural control and also contains party walls. Contains Common Facilities. Possible telephone connection charges by Qwest Corporation as contained therein, and grants easement to OPPD, Qwest Corporation, Cable Television system, MUD and SID No. 509 for installation and maintenance of utility facilities on, over, through, under and across a 5 foot wide strip of land adjoining all front and side boundary lines; an 8 foot wide strip of land adjoining all rear boundary lines of interior lots; and a 16 foot wide strip of land adjoining all rear boundary lines of exterior lots. Any covenant, condition or restriction in this document indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status or national origin is omitted as provided in 42 U.S.C §3604, unless and only to the extent that the restriction (a) is not in violation of state or federal law, (b) is exempt under 42 U.S.C. §3607, or (c) relates to a handicap, but does not discriminate against handicapped people. Affects Lots 289 through 314, inclusive and Lots 325 through 329, inclusive and Lots 333 through 341, inclusive and Lots 350 through 357 inclusive and Lots 422 through 438, inclusive, in Sagewood.

Easements:

Easement dated December 15, 1927 filed May 15, 1928 in Book 83 at Page 303 of the Records of Douglas County, Nebraska, granted to Nebraska Power Company, a corporation for installation and maintenance of facilities over a portion of subject property as described therein, subject to certain provisions, conditions, restrictions and limitations as contained therein and as shown on plat thereon. (As to Lot 152, Lot 251 thru 259)

Easement dated December 10, 1927 filed May 15, 1928 in Book 83 at Page 304 of the Records of Douglas County, Nebraska, granted to Nebraska Power Company for installation and maintenance of facilities over a portion of property as described therein, subject to certain provisions, conditions, restrictions and limitations as contained therein and as shown on plat thereon. (As to Lot 138 thru Lot 152, and Lot 455)

Non-Specific Easement dated January 3, 1962 filed March 21, 1962 in Book 378 at Page 31 of the Records of Douglas County, Nebraska, granted to Northern Natural Gas Company for installation and maintenance of facilities over a portion of property as described therein. (As to Lot 138 thru Lot 149 and Lot 455)

Non-Specific Right of Way Easement dated August 26, 1988 filed September 28, 1988 in Book 883 at Page 408 of the Records of Douglas County, Nebraska, granted to Omaha Public Power District for installation and maintenance of facilities over a portion of subject property as described therein.

Declaration of Storm Water Drainage Easement recorded November 4, 2005, at Instrument Number 2005-140034 of the Records of Douglas County, Nebraska, in favor of Sagewood Development Company LLC, a Nebraska limited liability company, for installation and maintenance of utility facility on, under, through, and across a 20 foot wide strip of land affecting subject property as contained therein. Subject to the provisions, conditions, restrictions and limitations as contained therein. (As to Lots 29, 30, 41, 54 and 55.)

Permanent Easement recorded June 6, 2005, at Instrument Number 2005-064889 of the Records of Douglas County, Nebraska, granted to MUD, for installation and maintenance of utility facility on, under, through, and across subject property as contained therein. Subject to the provisions, conditions, restrictions and limitations as contained therein. (As to Lots 284 and 453)

89-1/583259