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FILED SARPY CO. NE.  
INSTRUMENT NUMBER

**2013-19088**

2013 Jun 17 12:06:44 PM

*Sheryl J. Dowd*

REGISTER OF DEEDS



Upon Recording, Please Return To:  
Farnham & Simpson, P.C., L.L.O.  
220 N. 89<sup>th</sup> Street, Suite 201  
Omaha, NE 68114

**JOINT USE DECLARATION AND ACCESS EASEMENT**

THIS JOINT USE DECLARATION AND ACCESS EASEMENT ("Declaration") is made this 17<sup>th</sup> day of June, 2013, by and between Springhill Ridge Apartments, LLC, a Nebraska limited liability company ("Springhill") and Dowd Grain Company, Inc., a Nebraska corporation ("Dowd") (hereinafter collectively referred to as the Parties, and individually referred to as a "Party").

WHEREAS, Springhill is the owner of certain real estate described as follows:

Lot 1 and Lot 2, Springhill Ridge Replat 3, a subdivision in the SE ¼ of Section 15, Township 14 North, Range 11 East of the 6<sup>th</sup> P.M., in Sarpy County, Nebraska.

Lot 1, Springhill <sup>Ridge</sup> Replat 4, a subdivision in the SE ¼ of Section 15, Township 14 North, Range 11 East of the 6<sup>th</sup> P.M., in Sarpy County, Nebraska.

(the "Springhill Property"); and

WHEREAS, Dowd is the owner of certain real estate described as follows:

Lot 2, Springhill <sup>Ridge</sup> Replat 4, a subdivision in the SE ¼ of Section 15, Township 14 North, Range 11 East of the 6<sup>th</sup> P.M., in Sarpy County, Nebraska.

(the "Dowd Property"); and

WHEREAS, the Springhill Property and the Dowd Property are, or may be, part of the same contiguous apartment complex (the "Complex"); and

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WHEREAS, the following common amenities have been constructed on the Springhill Property:

1. Clubhouse
2. Pool
3. Pool Deck
4. Fence
5. Roadways, sidewalks and walkways adjacent to the clubhouse and pool providing for access to the above described amenities

The above described amenities are to be referred to herein as the "Common Amenities"; and

WHEREAS, the Parties desire to grant mutual easements for general ingress and egress purposes; and

WHEREAS, the Parties intend that the Common Amenities and roadways, sidewalks and walkways built or to be built on the Springhill Property and the roadways, sidewalks and walkways built or to be built on the Dowd Property shall be made available to the residents of both Properties for their mutual use and enjoyment.

WHEREAS, the Parties intend that each Party shall be responsible for the maintenance and repair of any and all roadways, sidewalks, walkways and other amenities built or to be built on the Property owned by it, excluding, however, the Common Amenities; and

WHEREAS, the Parties intend that each Party shall contribute to the costs of the maintenance and repair of the Common Amenities on a pro rata basis, as set forth below; and


NOW THEREFORE, the Parties agree as follows:

1. Springhill hereby grants, bargains, sells and conveys a perpetual non-exclusive easement over and upon the Springhill Property to Dowd and Dowd's successors and assigns for the benefit of the Dowd Property for the use of and access to the Common Amenities, roadways, sidewalks and walkways built on or to be built on the Springhill Property, including ingress and egress from Rosewood Street.
2. Dowd hereby grants, bargains, sells and conveys a perpetual non-exclusive easement over and upon the Dowd Property to Springhill and Springhill's successors and assigns for the benefit of the Springhill Property for the use and access to the roadways, sidewalks and walkways built on or to be built on the Dowd Property, including 156<sup>th</sup> Street in the event an access to 156<sup>th</sup> Street is established at a future date.
3. Each Party shall be responsible for the maintenance and repair of any and all roadways, sidewalks, walkways and other amenities except the Common Amenities built or to be built on the Property owned by it.

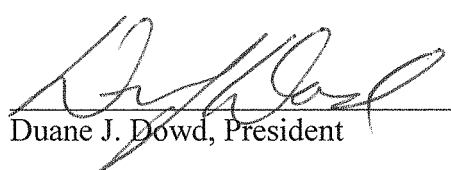
4. Springhill shall be responsible for the maintenance and repair of the Common Amenities, provided, however, that Dowd shall contribute on a pro rata basis to the costs and expenses of repair, maintenance and operation incurred by Springhill. Springhill shall compute the cost of such maintenance annually and Dowd shall pay their share of such annual costs within thirty (30) days after receipt of an invoice from Springhill. Such maintenance and repair costs shall include utilities, operating and maintenance expenses, insurance expenses, management costs and taxes directly attributable to the Common Amenities. Dowd's share shall be computed by establishing a fraction, the numerator of which shall be the number of units located on the Dowd Property, and the denominator of which shall be the total number of units located in the Complex; the resulting fraction shall be multiplied times the total cost of maintenance and repair and the result shall be Dowd's share.
5. Such annual amounts, if unpaid beyond thirty (30) days of the due date, shall accrue interest at the rate of twelve (12%) percent per annum from such due date to the date paid and shall constitute a lien against the Dowd Property, said lien to be subordinate to any existing Mortgage or Deed of Trust on the Dowd Property, however, such unpaid annual amounts will not prevent the Dowd Property's use of and access to the Common Amenities.
6. The easements and rights created by this Declaration shall be deemed to run with the land, and shall be for the benefit of and inure to the Parties, their secured lenders who have a recorded lien against either the Springhill Property or the Dowd Property, their successors and assigns, their agents, employees, business invitees, tenants and guests of tenants, and shall burden their respective parcels, perpetually.
7. The parties acknowledge that the easements and rights created by this Declaration are integral to the Parties' use and enjoyment of the Springhill Property and the Dowd Property. In the event of a denial of joint use or access, or a breach of the easements and rights granted herein, there may not be an adequate remedy at law and the non-breaching Party shall be entitled to seek injunctive relief to retain and enforce its rights under this Declaration, provided, however, that nothing contained herein shall be construed as prohibiting a Party from pursuing any other remedies available at law or in equity.
8. The Parties agree that this Declaration shall be recorded in the records of the Sarpy County Register of Deeds.
9. This Declaration shall be governed, constructed and enforced pursuant to the laws of the State of Nebraska.
10. This Declaration constitutes the entire agreement with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, with respect to the subject matter hereof.

DATED this 11<sup>th</sup> day of June, 2013.

SPRINGHILL RIDGE APARTMENTS, LLC, a Nebraska limited liability company.

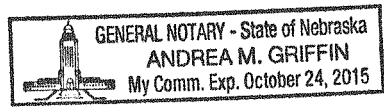
By:   
Dowd Grain Company, Inc., Manager  
By: Duane J. Dowd, President

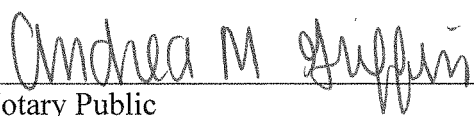
DOWD GRAIN COMPANY, INC., a Nebraska corporation.

By:   
Duane J. Dowd, President

STATE OF NEBRASKA    )  
  )ss.  
COUNTY OF DOUGLAS    )

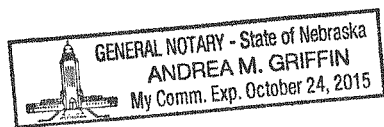
The above and foregoing was acknowledged before me this 11<sup>th</sup> day of June, 2013, by Duane J. Dowd, President of Dowd Grain Company, Inc., a Nebraska corporation, Manager of Springhill Ridge Apartments, LLC, a Nebraska limited liability company, on behalf of said company.

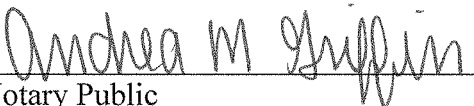


  
Notary Public

STATE OF NEBRASKA    )  
  )ss.  
COUNTY OF DOUGLAS    )

The above and foregoing was acknowledged before me this 11<sup>th</sup> day of June, 2013, by Duane J. Dowd, President of Dowd Grain Company, Inc., a Nebraska corporation, on behalf of said corporation.



  
Notary Public