



MTG 2016094899



NOV 14 2016 14:47 P 8

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FEE 52.00 FB 55-22044 (rep 3)

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Register of Deeds, Douglas County, NE
11/14/2016 14:47:45.21



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DEED OF TRUST

0272337

NEBT3

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Nebraska Title Company
* 14680 West Dodge Road, Suite 1
Omaha, NE 68154

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Lincoln, NE 68506-9893

Ch. 049706 &
Ch. 20701806

Prepared by: Amanda Stoecker
909 St Joseph St, Ste 1000
Rapid City, SD 57701

DEED OF TRUST

This Deed of Trust made on January 5th, 2012, between CENTURY-OMAHA LAND, LLC, a South Dakota limited liability company (herein called "Trustor"), whose mailing address is PO Box 8007, Rapid City, South Dakota 57709, Jim Headid, (herein called "Trustee"), and Black Hills Industries, Inc., a South Dakota Corporation (herein called "Beneficiary"), whose mailing address is 909 Saint Joseph Street, Suite 1000, Rapid City, South Dakota 57701.

WITNESSETH that Trustee conveys, transfers, and assigns to Trustee in trust, with power of sale, the following-described real property located in the County of Douglas, State of Nebraska:

LOT 3, LAWNFIELD REPLAT NO. 3 AND ADMINISTRATIVE
SUBDIVISION OF THE CITY OF OMAHA, DOUGLAS
COUNTY, NEBRASKA; LOT 1, LAWNFIELD REPLAT NO. 4
AND ADMINISTRATIVE SUBDIVISION OF THE CITY OF
OMAHA, DOUGLAS COUNTY, NEBRASKA; AND AN
EASEMENT FOR ACCESS AS MORE PARTICULARLY
DESCRIBED IN DECLARATION OF RECIPROCAL
EASEMENT FILED JANUARY 26TH, 2006, AS INSTRUMENT
NO. 2006-009302.

This Deed of Trust, made on the above date between Trustor, Trustee, and Beneficiary, witnesseth that Trustor irrevocably grants and conveys to Trustee in trust, with power of sale, the above-described real property, together with leases, rents, issues, profits, or income thereof, all of which are herein called property income; subject, however, to the right, power, and authority herein given to Beneficiary to collect and apply such property income; and subject to existing taxes, assessments, liens, encumbrances, covenants, conditions, restrictions, right of way, and easements of record.

For the purpose of securing (a) performance of each agreement of Trustor as a Guarantor of certain obligations of a related party; (b) payment of the indebtedness evidenced by a promissory note or even date herewith, and any extension or renewal thereof, in the principal sum of \$1,125,382.00 guaranteed by Trustor in favor of Beneficiary or order due on June 30, 2017; when evidenced by a promissory note reciting that it is secured by this Deed of Trust.

To protect the security of this Deed of Trust, Trustor agrees:

1. To keep the property in good condition and repair; not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged, or destroyed thereon, and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting the property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer, or permit any act upon the property in violation of law; and to do all other acts which from the care or use of the property may be reasonably necessary, the specific enumerations herein not excluding the general.

2. To provide, maintain, and deliver to Beneficiary insurance satisfactory to Beneficiary and with loss a payable clause to Beneficiary. The amount collected under any insurance policy may be applied by Beneficiary on any indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to such notice.

3. To appear in and defend any action or proceeding purporting to affect the security hereof or the right or powers of Beneficiary or Trustee; and to pay all costs and expenses of Beneficiary and Trustee, including cost of evidence of title and attorneys' fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear or be named, and in any suit brought by Beneficiary or Trustee to foreclose this Deed of Trust.

4. To pay before delinquent, all taxes and assessments affecting the property when due, all homeowner fees of any kind and character, all encumbrances, charges, and liens, with interest, on the property or any part thereof, which appear to be prior or superior hereto; all costs, fees, and expenses of this trust, including, without limiting the generality of the foregoing, the fees of Trustee for issuance of any deed of partial release and partial reconveyance or deed of release and full reconveyance, and all lawful charges, costs, and expenses in the event of reinstatement of, following default in, this Deed of Trust or the obligation secured hereby.

If Trustor fails to make any payment or to do any act as herein provided, the Beneficiary or Trustee, but without obligation to do so and without notice to or demand on Trustor and without releasing Trustor from any obligation hereof, may make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter on the property for such purpose; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest, or compromise any encumbrance, charge, or lien which in the judgment of either appears to be prior or superior hereto; and in exercising any such powers, pay necessary expenses, employ counsel, and pay reasonable counsel fees.

5. To pay immediately and without demand all sums expended by Beneficiary or Trustee pursuant to the provisions hereof, together with interest from date of expenditure at the same rate as is provided for in the note secured hereby or at the highest legal rate, whichever is greater. Any amount so paid by Beneficiary or Trustee shall become a part of the debt secured by this Deed of Trust and a lien on the premises or immediately due and payable at option of Beneficiary or Trustee.

It is mutually agreed that:

6. Any award of damages in connection with any condemnation or taking, or for injury to the property by reason of public use, or for damages for private trespass or injury thereto, is assigned and shall be paid to Beneficiary as further security for all obligations secured hereby (reserving unto Trustor, however, the right to sue therefor and the ownership thereof subject to this Deed of Trust), and on receipt of such moneys Beneficiary may hold them as such further security, or apply or release them in the same manner and with the same effect as above provided for disposition of proceeds of insurance.

7. Time is of the essence of this Deed of Trust. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require prompt payment when due

of all other sums so secured or to declare default for failure so to pay. Trustor does hereby waive any and all homestead rights under the laws of Nebraska or any other state.

8. At any time or from time to time, and without notice, on written request of Beneficiary and presentation of this Deed of Trust and note for endorsement, without liability therefor, without affecting the personal liability of any person for payment of the indebtedness secured hereby, without affecting the security hereof for the full amount secured hereby and all property remaining subject hereto, and without necessity that any sum representing the value or any portion thereof of property affected by Trustee's action be credited on the indebtedness, Trustee may (a) release and reconvey all or any part of the property; (b) consent to the making and/or recording of any map or plat of the property or any part thereof; (c) join in granting any easement thereon; and (d) join in or consent to any extension agreement or any agreement subordinating the lien, encumbrance, or charge hereof.

9. On written request of Beneficiary stating that all sums secured hereby have been paid, on surrender of this Deed of Trust and note to Trustee for cancellation and retention, and on payment of its fees, Trustee shall release and reconvey, without covenant or warranty, express or implied, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

10. As additional security, Trustor hereby gives to and confers on Beneficiary the right, power, and authority, during the continuance of this trust, to collect the property income, reserving to Trustor the right, prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such property income as it becomes due and payable. On any such default, Beneficiary may at any time, without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter on and take possession of the property or any part thereof, in his own name sue for or otherwise collect such property income, including that past due and unpaid, and apply the same, less costs and expenses of operation and collection including reasonable attorneys' fees, on any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering on and taking possession of the property, the collection of such property income, and the application thereof shall not cure or waive any default or notice of Trustee's sale hereunder or invalidate any act done pursuant to such notice.

11. On default by Trustor in the payment of any indebtedness secured hereby or in the performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written notice thereof, setting forth the nature thereof, and of election to cause to be sold the property under this Deed of Trust. Beneficiary shall also deposit with Trustee this Deed of Trust, the note, and all documents evidencing expenditures secured hereby.

Trustee shall record and give notice of Trustee's sale in the manner required by law, and after the lapse of such time as may then be required by law, Trustee shall sell, in the manner required by law, the property at public auction at the time and place fixed by it in the notice of Trustee's sale to the highest bidder in cash in lawful money of the United States, payable at time of sale. Trustee may postpone or continue the sale by giving notice of postponement or continuance by public declaration at the time and place last appointed for the sale. Trustee shall deliver to the purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. Any persons, including Trustor, Trustee, or Beneficiary, may purchase at such sale.

After deducting all costs, fees, and expenses of Trustee and of this trust, including cost of evidence of title in connection with sale and reasonable attorneys' fees, Trustee shall apply the proceeds of sale to payment of all sums then secured hereby and all other sums due under the terms hereof, with accrued interest; and the remainder, if any, shall be paid to the person or persons legally entitled thereto, or as provided in Nebraska statutes. To the extent permitted by law, an action may be maintained by Beneficiary to recover a deficiency judgment for any balance due hereunder.

12. Beneficiary may appoint a successor Trustee in the manner prescribed by law. A successor Trustee herein shall, without conveyance from the predecessor Trustee, succeed to all the predecessor's title, estate, rights, powers, and duties. Trustee may resign by mailing or delivering notice thereof to Beneficiary and Trustor.

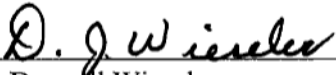
13. This Deed of Trust applies to, inures to the benefit of and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term "Beneficiary" shall mean the owner and holder of the note secured hereby, whether or not named as Beneficiary herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.


14. Trustee accepts this trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary, or Trustee is a party unless brought by Trustee.

The undersigned Trustor requests that a copy of any notice of Trustee's sale hereunder be mailed to him at his address hereinbefore set forth.

TRUSTOR:

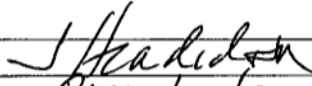
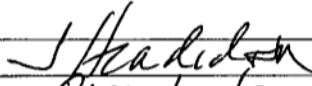
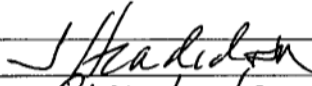
CENTURY-OMAHA LAND, LLC
a South Dakota limited liability company


By: Donnell Wieseler
Its: Member



By: Gloria Jean (Jeanne) Wieseler
Its: Member

BENEFICIARY:

BLACK HILLS INDUSTRIES, INC.
a South Dakota Corporation


By: 
Its: 
President

TRUSTEE:


Jim Headid

