

COUNTER: JB  
VERIFY: JB  
FEES: \$52.00  
CHG: INGEO  
SUBMITTED: Stewart Title - National Tit

FILED SARPY COUNTY NEBRASKA  
INSTRUMENT NUMBER

**2017-18182**

7/31/2017 10:48:38 AM

*Clay J. Rowling*

REGISTER OF DEEDS



### SIGN EASEMENT AGREEMENT

This SIGN EASEMENT AGREEMENT (this "Agreement") is made and executed effective as of the 27<sup>th</sup> day of July, 2017, by and between Kage Investments, LLC, a Nebraska limited liability company ("Grantor") and Wolf Creek Center, LLC, a Nebraska limited liability company ("Grantee").

#### Preliminary Statement

Grantor is the owner of the improved real property in the Wolf Creek commercial development legally described as follows (the "Grantor Property"):

Lot 1, Wolf Creek Replat 1, an Addition to the City of Bellevue, Sarpy County, Nebraska.

Grantee is the owner of the improved real property in the Wolf Creek commercial development legally described as follows (the "Grantee Property"):

Lot 6, Wolf Creek Replat 1, an Addition to the City of Bellevue, Sarpy County, Nebraska.

Grantee operates a multi-tenant shopping center from the Grantee Property (the "Shopping Center") and constructed and maintained, with the consent of the prior owner of the Grantor Property under right of easement a shopping center sign (the "Existing Sign") on that part of the Grantor Property as shown and legally described on Exhibit "A" attached hereto (the "Easement Area").

Grantee desires to memorialize the sign easement to operate, maintain and replace the Existing Sign on the Easement Area and the Grantor desires to grant and establish to and for the benefit of the Grantee Property a perpetual non-exclusive easement under, over, upon, and above the Easement Area for the installation, repair, replacement and removal of a pole or monument sign of the size and quality of the Existing Sign, including reasonable access over the Grantor Property for access to the Easement Area during the installation, repair, maintenance, replacement and removal process and ancillary easements as more particularly described in this Agreement.

#### Terms and Conditions

In consideration of the foregoing Preliminary Statement, which by this reference is repeated and incorporated in this portion of this Agreement in its entirety, and other valuable consideration, the receipt of which is hereby acknowledged, Grantor and Grantee hereby agree as follows:

Return to:  
James D. Buser  
Pansing Hogan Ernst & Bachman, LLP  
10250 Regency Circle, Suite 300  
Omaha, Nebraska 68114

1. Grant of Easement. Subject to the provisions of this Agreement, Grantor hereby grants, conveys and establishes unto Grantee and its successors and assigns to and for the benefit of the Grantee Property, a perpetual non-exclusive easement solely for the construction, placement, installation, repair, maintenance, replacement and removal of a free-standing pole or monument sign of the size and quality of the Existing Sign ( the "Sign") under, over, upon and above the Easement Area, including a perpetual non-exclusive easement for (i) the installation, maintenance, repair and replacement of an underground electrical line within the Easement Area in as close proximity to the Sign as reasonably practical and which is necessary for the operation and illumination of the Sign, (ii) landscaping improvements associated with the Sign, and (iii) the temporary storage of sign components, equipment, parts and supplies and staging during the exercise of the easements granted in this Agreement. Grantor shall have the right to use the Easement Area so long as it does not construct a sign or other improvements or otherwise interfere with Grantee's rights hereunder. Grantee and the "Permittees" described herein shall exercise their rights under this Agreement in a commercially reasonable manner to minimize interference with the Grantor Property and shall work expeditiously to limit its need and use of temporary storage on the Easement Area. Notwithstanding the foregoing, the easement granted herein shall terminate in the event Grantee or its successors and assigns permanently cease use of the Grantee Parcel for the use and operation of a shopping center.

2. Permittees. Subject to the provisions of this Agreement, the Easement Area and the Sign shall be used exclusively by the record owner of the Grantee Property and its property manager or similar agents (collectively the "Permittee") for the purpose of identifying the Shopping Center and the tenants and occupants of the Shopping Center. The Permittee shall be responsible, at their sole cost and expense, for the prompt repair and restoration of any portion of the Easement Area and Grantor Property, including any landscaping located thereon, which is damaged by reason of the Permittees' exercise of the rights granted in this Agreement, with such damaged area or areas to be restored to at least the condition which existed immediately prior to such damage. In the event that a Permittee does not restore the Easement Area as required herein, the record owner of the Grantee Property shall be liable for the reasonable cost of such restoration or repair undertaken by or at the direction of the record owner of the Grantor Property if such owner provides written notice to the record owner of the Grantee Property advising the record owner of the Grantee Property of the necessity of repairs and allowing the record owner of the Grantor Property a reasonable time (but in no event more than thirty (30) days) to perform the restoration.

3. Access to Sign. The record owner of the Grantor Property shall at all times provide the Permittee non-exclusive temporary easements for entry and access upon, over, across and under the Easement Area and the Grantor's Property as reasonably necessary for the construction, placement, installation, repair, maintenance, replacement and removal of the Sign including any utility line servicing the Sign and Grantor shall not be liable for any damage related thereto, except as may be caused by the gross negligence or willful misconduct of Grantor or Grantor's agents. Notwithstanding the foregoing, the Permittee will exercise its right to enter and traverse the Grantor's Property in a manner which will cause the least amount of disruption to (i)customer parking, and (ii) any customer drive-through areas including the approaches and exits to and from such drive-through areas within Grantor's Property. Prior to its exercise of such right of entry and access, Permittee will notify Grantor at least twenty-four (24) hours prior to such entry except in the case of an emergency in which event prior notice is not required.

4. Maintenance. The record owner of the Grantee Property shall maintain and keep in good repair the Sign and Easement Area and shall promptly repair any damage to the Grantor Property resulting from the Grantee's use of the Easement Area and Sign . Such maintenance obligations shall be performed in a prompt and workmanlike manner and shall be solely at the cost and expense of the record owner of the Grantee Property. Without limiting the generality of the foregoing, Grantee agrees as follows: (a) Grantee

shall maintain the Sign in first class condition and promptly repair any damage thereto; (b) in the event of the total destruction of the Sign, Grantee or its successors or assigns shall obtain the prior consent of Grantor to any replacement thereof, which consent Grantor and its successors and assigns will not unreasonably withhold or delay (it being agreed that Grantee shall have the right to rebuild a sign with of the same size, quality and design as the Existing Sign), and, if the Sign is not replaced within twelve (12) months after the date of such total destruction, the easement granted in this Agreement shall terminate and be of no further force or effect, and (c) within six (6) months after the date of this Agreement, Grantee shall cause the existing meter and the wood post related to the Existing Sign be repositioned and attached to the interior side of one of the legs of the Existing Sign..

5. Record Owner of Easement Area Use and Limitations. The record owner of the Grantee Property shall have the right to use and occupy the Easement Area only for the purposes described in this Agreement. Notwithstanding anything in this Agreement to the contrary, Grantee, shall not, without the prior approval of Grantor, take any of the following actions at any time this Agreement is in effect: (i) change the name of the Shopping Center as depicted on the Sign from "Wolf Creek Shopping Center"; (ii) enlarge the exterior dimensions of the Sign without the consent of the Grantor, which may be withheld in its sole discretion; (iii) permit more than 6 tenants of the Shopping Center on the Sign; or (iv) install any digital, animated or flashing elements or panels on Sign.

6. Indemnity; Insurance. Upon Grantor's written request, Grantee shall cause Grantor to be named as an additional insured under Grantee's commercial liability policy covering the Shopping Center, which shall include contractual liability coverage related to Grantee's use of or access to the Easement Area or the Sign. Grantee shall indemnify Grantor and its members, officers, successors, and assigns from and against any liability, cost, damage, fine, or expense including reasonable attorney's fees incurred by Grantor as a result of Grantee's use of or access to the Easement Area or the Sign, including, without limitation, reimbursement to Grantor of any personal property tax or real estate tax or assessment incurred by Grantor during the term of this Agreement if the value of the Sign is specifically levied and assessed against or as part of tax statement attributable to Grantor or to the Grantor's Property. Grantee shall promptly reimburse Grantor for any such personal property or real estate taxes within thirty (30) days of Grantee's receipt of Grantor's invoice for the same, which is accompanied by reasonable support for such invoice. Additionally, the parties assume that the electrical costs generated by the Sign are being metered to the Grantee's Property. If such assumption is incorrect, Grantee shall upon written notification of the same, cause such electrical costs to be rerouted to Grantee's Property and Grantee shall indemnify and reimburse Grantor for all electrical costs attributable to the Sign incurred by Grantor from and after the date of this Agreement.

7. Legal Effect. The easements and covenants contained in this Agreement (a) constitute covenants running with the land; (b) bind the record owner of the Grantor Property and Grantee Property and its or their respective successors and assigns (but any owner that has sold its interest in the Grantor Parcel or Grantee Parcel, as the case may be, shall have no continuing obligation hereunder; and (c) will inure to the benefit of Grantee, the Permittee and their respective successors and assigns.

8. Amendment and Termination. This Agreement may be terminated, modified or amended only by the written consent and agreement of the then record owners of the Grantor Property and the Grantee Property. Any such termination, modification or amendment shall be effective when duly recorded in the office of the Register of Deeds for Sarpy County, Nebraska.

9. Merger. The easements and rights created herein shall not be subject to the doctrine of merger.

10. Miscellaneous. The invalidity of any provision of this Agreement shall not affect the remaining provisions. This Agreement shall be interpreted according to Nebraska law.

All notices, demands and communications called for in this Agreement will be given by national express mail carrier such as Federal Express or UPS and deemed delivered the next business day following the deposit of such notice, demand, or communication with such carrier. Either party may change its address by providing written notice thereof to the other party.

Grantor: Kage Investments, LLC  
c/o The Lerner Company  
10855 W. Dodge Rd. Ste. 270  
Omaha, NE 68154  
Attn: Property Management Division  
Tel: 402-330-5480

Grantee: Wolf Creek Center, LLC  
818 Tara Plaza  
Papillion, Nebraska 68046  
Attn: Kyle Richards  
Tel: 402-339-3222

**[Space Below Intentionally Left Blank –  
Signature Page to Follow]**

IN WITNESS WHEREOF, the Grantor and Grantee have executed this Agreement as of the date first written above.

GRANTOR:

Kage Investments, LLC, a Nebraska limited liability company

By: [Signature]  
Title: JERRY BANKS  
President

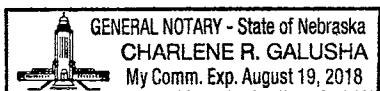
GRANTEE:

Wolf Creek Center, LLC, a Nebraska limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of July, 2017, by Jerry Banks, President of JSB-15<sup>th</sup> St.Plaza, LLC, a Nebraska limited liability company, Managing Member of Kage Investments, LLC, a Nebraska limited liability company, on behalf of such limited liability company.



[Signature]  
Notary Public

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this \_\_\_ day of July, 2017, by \_\_\_\_\_, Managing Member of \_\_\_\_\_ of Wolf Creek Center, LLC, a Nebraska limited liability company, on behalf of such limited liability company.

\_\_\_\_\_  
Notary Public

IN WITNESS WHEREOF, the Grantor and Grantee have executed this Agreement as of the date first written above.

GRANTOR:

Kage Investments, LLC, a Nebraska limited liability company

By: \_\_\_\_\_

Title: \_\_\_\_\_

GRANTEE:

Wolf Creek Center, LLC, a Nebraska limited liability company

By: [Signature]  
Name: KYLE RICHARDS  
Title: MANAGER

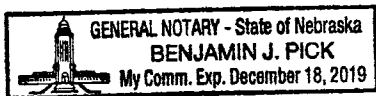
STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this \_\_\_ day of July, 2017, by Jerry Banks, President of JSB-15<sup>th</sup> St.Plaza, LLC, a Nebraska limited liability company, Managing Member of Kage Investments , LLC, a Nebraska limited liability company, on behalf of such limited liability company.

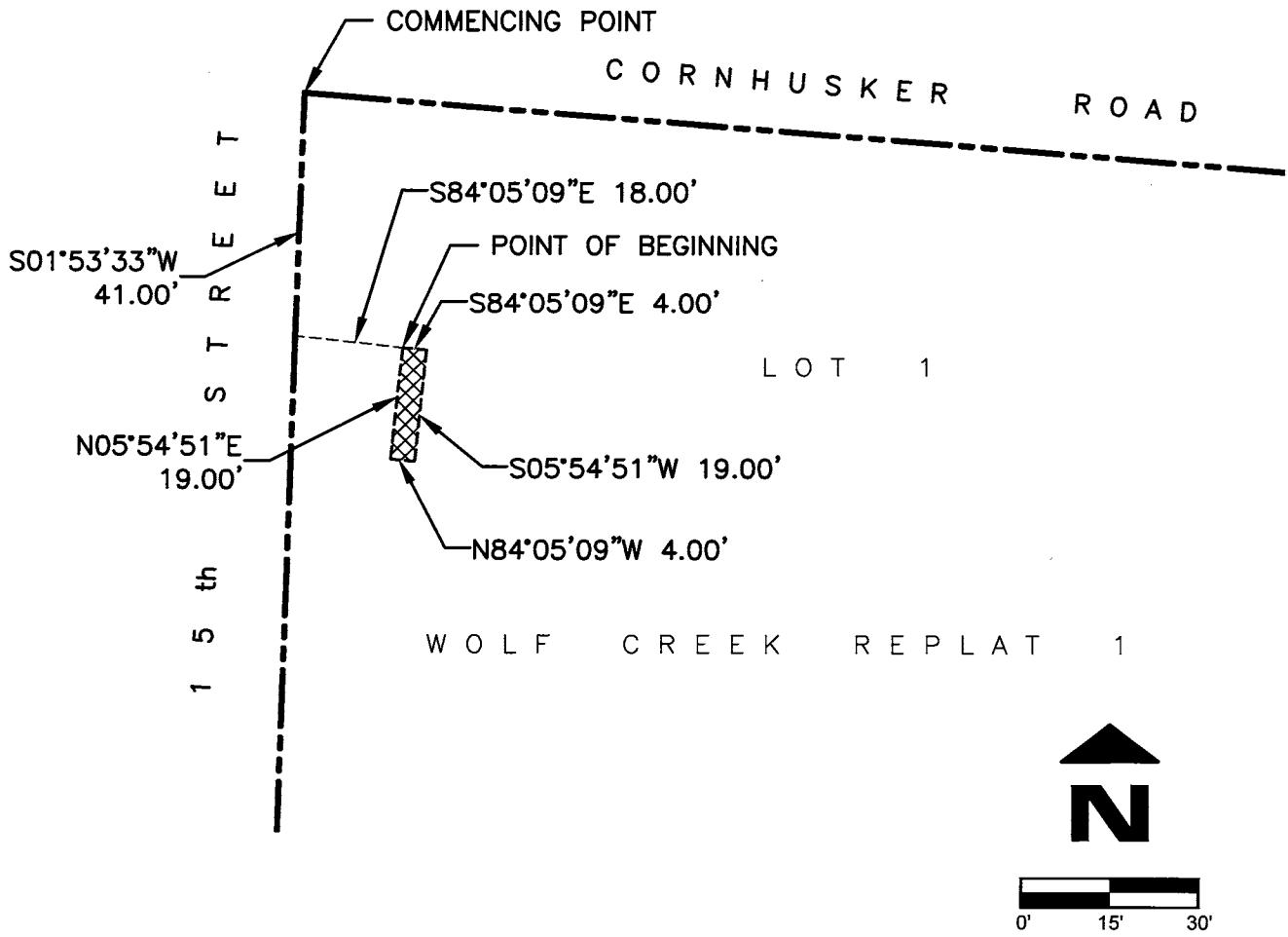
\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF DOUGLAS    )

Kyle Richards The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of July, 2017, by Kyle Richards, Manager of Wolf Creek Center, LLC, a Nebraska limited liability company, on behalf of such limited liability company.



[Signature]  
Notary Public



**LEGAL DESCRIPTION**

THAT PART OF LOT 1, WOLF CREEK REPLAT 1, A SUBDIVISION IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1;

THENCE  $S01^{\circ}53'33''W$  (ASSUMED BEARING) 41.00 FEET ON THE WEST LINE OF SAID LOT 1;

THENCE  $S84^{\circ}05'09''E$  18.00 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING  $S84^{\circ}05'09''E$  4.00 FEET;

THENCE  $S05^{\circ}54'51''W$  19.00 FEET;

THENCE  $N84^{\circ}05'09''W$  4.00 FEET;

THENCE  $N05^{\circ}54'51''E$  19.00 FEET TO THE POINT OF BEGINNING.

	Job Number: 1808-17-2(EX) thompson, dresden & dorner, inc. 10836 Old Mill Rd Omaha, NE 68154 p.402.330.8860 f.402.330.5866 td2co.com	Date: JULY 21, 2017 Drawn By: RJR Reviewed By: JDW Revision Date:	<h2>EXHIBIT "A"</h2>
			<b>VIKING PARTNERS</b>



Exhibit "A"

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