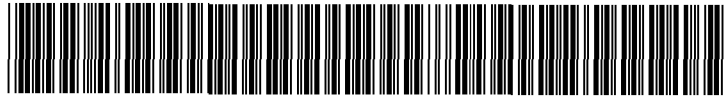




MISC 2012105807



OCT 18 2012 14:19 P 6

Fee amount: 30.50  
FB: M1-22275  
COMP: LM

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
10/18/2012 14:19:58.00



2012105807

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO**

Nebraska Land Title & Abstract  
PO BOX 6577  
Lincoln, NE 68506

(Unconditional Reassignment)

**ASSIGNMENT OF REAL ESTATE LEASE AND AGREEMENT**

This assignment of lease and agreement made and entered into by and between, **17070 Wright Plaza, LLC, a Nebraska limited liability company** (Lessor--hereinafter called "Borrower"); and **Upstream Brewing Company West, LLC, a Nebraska limited liability company** (hereinafter called "Lessee"); and **Community Development Resources** (hereinafter called "Assignee");

Witnesseth:

Whereas, Borrower has heretofore leased to Lessee certain real property by Shopping Center Lease dated December 17, 2002, Amendment to Shopping Center Lease dated December 17, 2011, Second Amendment to Shopping Center Lease effective June 22, 2012, said lease or as Inst. No. 2012105605 a memorandum of said lease recorded at Book \_\_\_\_\_ Page \_\_\_\_\_, of the records of County of Douglas State of Nebraska, for a term of at least 20 years, and described as follows:

**See Exhibit "A" Attached hereto**

And, Whereas, Assignee has authorized the making of a loan to Borrower in the amount of \$1,407,000.00 (One Million Four Hundred Seven Thousand Dollars 00/100) due and payable on or before November 1, 2032.

CTC 65788

And, Whereas, such loan is for the benefit of both Borrower and Lessee, in that the funds are to be used for the benefit of the business conducted on the leased premises;

Now, therefore, for and in consideration of the premises and of disbursement of said loan or any part thereof, Borrower, with the consent of Lessee, hereby Assigns, Transfers and Conveys unto Assignee the lease above described, To Have and To Hold the same for and during the remainder of the term mentioned in the lease, all renewals and extensions of said term.

A. Borrower and Lessee further Covenant and Agree:

1. Lessee is not now in default in the performance of lease; and Borrower and Lessee will each perform the covenants and conditions required of them by said lease for the term of said lease.
2. Except as otherwise herein permitted, Borrower and Lessee will not, alone or by agreement between them, modify or terminate said lease without consent of Assignee.
3. In the event of default by Borrower under the terms of said lease, Lessee shall have the right to terminate said lease in accordance with its terms, provided, however, Lessee shall first give Assignee 60 days written notice of such default and the right, at the option of Assignee, during such period, to cure such default; and during such period, Lessee will take no action to enforce its claim arising from such default without Assignee's consent.
4. In the event of any default by Borrower in the performance of any of the obligations of their note to Assignee evidencing the aforesaid loan, any renewal or extension thereof, or any other agreement made in connection therewith, including his agreements herein, then, Assignee, at its option, may, without notice, terminate said lease upon 60 days notice to the Lessee or assign said lease and Borrower's rights therein to parties satisfactory to Assignee, and upon assignment, the obligations of

said lease shall be binding on said transferee.

In the event Assignee shall make transfer of said lease as provided in the above paragraph, Assignee will cure all defaults in said lease.

Assignee shall have the right at any time, and even though no default shall have occurred under the note of Borrower, to collect and receive the rents of the lease set forth above. Assignee shall have the right, at any time, to direct Lessee to make all rent payments directly to Assignee or Assignee's agent.

B. Lessee agrees to, and does hereby, subordinate any lien he may, now or hereafter, have on the property of Borrower, that is now or hereafter security for the aforesaid loan, to Assignee's lien or liens on said property and to Assignee's rights herein.

C. Borrower hereby represents and warrants that title to said leased premises is held by him in fee simple and that he has full power and authority to enter into this Agreement.

D. This Agreement shall be binding upon and inure to the benefit of the personal representatives, successors and assigns of the parties hereto.

E. This Assignment of Real Estate Lease and Agreement may be transferred and assigned to the United State Small Business Administration.

F. Assignment of said lease may be reassigned in whole or in part to Borrower and any such reassignment is agreed to be accepted by Borrower.

The Loan secured by this lien was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners.

If the United States is seeking to enforce this document, then under SBA regulations:

- (a) When SBA is the holder of the Note, this document and all documents evidencing or securing this Loan will be construed in accordance with federal law.
- (b) CDC or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using

these procedures, SBA does not waive any federal immunity for local or state control, penalty, tax or liability. No Borrower or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Borrower, or defeat any claim of SBA with respect to this Loan.

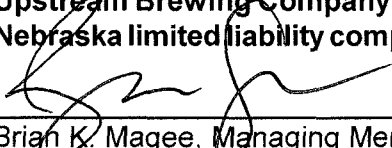
Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.

Witness our hand and seals this 16<sup>th</sup> day of OCTOBER, 2012.

**17070 Wright Plaza, LLC, a Nebraska limited liability company, Lessors**

  
\_\_\_\_\_  
Brian K. Magee, Managing Member

**Upstream Brewing Company West, LLC, a Nebraska limited liability company, Lessee**

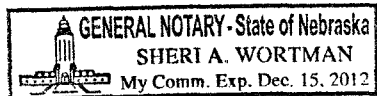
By:   
\_\_\_\_\_  
Brian K. Magee, Managing Member

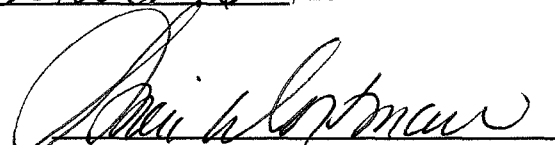
#### ACKNOWLEDGMENT

STATE OF NEBRASKA                    )  
  )ss:  
COUNTY OF LANCASTER            )

Before me, a qualified Notary Public, personally appeared Brian K. Magee, Managing Member, of 17070 Wright Plaza, LLC, a Nebraska limited liability company, known to me to be the Managing Member and identical person who signed the foregoing instrument, and acknowledged the execution thereof to be his voluntary act and deed as such Managing Member and the voluntary act and deed of said limited liability company.

(SEAL) Witness my hand and Notarial Seal on October 16, 2012.



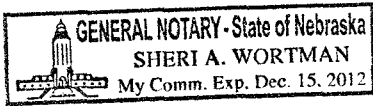
  
\_\_\_\_\_  
NOTARY PUBLIC

**ACKNOWLEDGMENT**

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

Before me, a qualified Notary Public, personally appeared Brian K. Magee, Managing Member, of Upstream Brewing Company West, LLC, a Nebraska limited liability company, known to me to be the Managing Member and identical person who signed the foregoing instrument, and acknowledged the execution thereof to be his voluntary act and deed as such Managing Member and the voluntary act and deed of said limited liability company.

Witness my hand and Notarial Seal on October 16<sup>th</sup>, 2012.  
(SEAL)



  
\_\_\_\_\_  
NOTARY PUBLIC

ASSIGNMENT

For value received, Community Development Resources hereby assigns, transfers, and conveys to the United States Small Business Administration all of the right, title and interest in the within Assignment of Real Estate Lease and Agreement.

By:   
\_\_\_\_\_  
Ritchie R. Wallace, Executive Director

Attest  
By:   
\_\_\_\_\_  
Jeff Breunig, Loan Officer

**EXHIBIT "A"**

Lot 1, Legacy Replat 5, an Addition to the City of Omaha,  
Douglas County, Nebraska