



MISC 2016057156



JUL 19 2016 10:45 P 3

Fee amount: 22.00  
FB: M1-22282  
COMP: MB

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
07/19/2016 10:45:29.00



2016057156

**WHEN RECORDED MAIL TO:**

GREAT WESTERN BANK  
Lincoln Business Banking  
1235 N Street  
Lincoln, NE 68508

**FOR RECORDER'S USE ONLY**

**MODIFICATION OF DEED OF TRUST  
AND ASSIGNMENT OF RENTS**



**THIS MODIFICATION OF DEED OF TRUST** dated July 6, 2016, is made and executed between **FOX PROPERTIES, INC.**, a Nebraska corporation, as to a 90% ownership interest, whose address is 2100 Wilderness Ridge Dr, Lincoln, NE 68512 and **PRAIRIE WIND AIR, LLC**, a South Dakota limited liability company, as to a 10% ownership interest, as tenants in common, whose address is 1300 W 57th Street, Sioux Falls, SD 57108 ("Trustor") and **GREAT WESTERN BANK**, whose address is Lincoln Business Banking, 1235 N Street, Lincoln, NE 68508 ("Lender").

**DEED OF TRUST.** Lender and Trustor have entered into a Deed of Trust dated May 1, 2015 (the "Deed of Trust") which has been recorded in DOUGLAS County, State of Nebraska, as follows:

**CONSTRUCTION DEED OF TRUST DATED MAY 1, 2015 AND RECORDED MAY 8, 2015 AS INSTRUMENT NO. 2015034980 IN DOUGLAS COUNTY, NEBRASKA, REGISTER OF DEEDS OFFICE.**

**IN ADDITION, LENDER AND TRUSTEE (GRANTOR) ENTERED INTO AN ASSIGNMENT OF RENTS DATED MAY 1, 2015 AND RECORDED MAY 8, 2015 AS INSTRUMENT NO. 2015034981 IN DOUGLAS COUNTY, NEBRASKA, REGISTER OF DEEDS OFFICE.**

**REAL PROPERTY DESCRIPTION.** The Deed of Trust covers the following described real property located in DOUGLAS County, State of Nebraska:

LOTS 2 AND 3, IN LEGACY REPLAT ELEVEN, AN ADDITION TO THE CITY OF OMAHA, AS SURVEYED, PLATTED AND RECORDED, IN DOUGLAS COUNTY, NEBRASKA;

TOGETHER WITH NON-EXCLUSIVE EASEMENT RIGHTS FOR INGRESS AND EGRESS AS ESTABLISHED BY ACCESS EASEMENT DATED NOVEMBER 15, 2004 AND RECORDED JANUARY 18, 2005, AS INSTRUMENT NO. 2005006176, AND ACCESS EASEMENTS DATED APRIL 12, 2005 AND RECORDED APRIL 14, 2005, AS INSTRUMENTS NO. 2005041980 AND 2005041982, ALL OF THE RECORDS OF DOUGLAS COUNTY, NEBRASKA. (VESTING DEED)

The Real Property or its address is commonly known as 2720 OAK DRIVE, OMAHA, NE 68130. The Real Property tax identification number is 1958-0512-16 AND 1958-0514-16.

**MODIFICATION.** Lender and Trustor hereby modify the Deed of Trust as follows:

**THE "NOTE" DESCRIPTION SET FORTH IN THE DEED OF TRUST AND ASSIGNMENT OF RENTS REFERENCED ABOVE IS HEREBY DELETED IN ITS ENTIRETY AND THE FOLLOWING IS SUBSTITUTED THEREFORE:**

The word "Note" means the promissory note dated July 6, 2016 in the original principal amount of \$7,989,744.00 from Fox Properties, Inc. and Prairie Wind Air, LLC and West Center Lodging, LLC to Lender, together with all renewals of, extensions of, modifications of, re-financings of, consolidations of, and substitutions for the promissory notes referenced in this paragraph.

All other existing loan documents evidencing or securing said indebtedness are hereby ratified and shall remain in full force and effect.

**CONTINUING VALIDITY.** Except as expressly modified above, the terms of the original Deed of Trust shall remain unchanged and in full force and effect. Consent by Lender to this Modification does not waive Lender's right to require strict performance of the Deed of Trust as changed above nor obligate Lender to make any future modifications. Nothing in this Modification shall constitute a satisfaction of the promissory note or other credit agreement secured by the Deed of Trust (the "Note"). It is the intention of Lender to retain as liable all parties to the Deed of Trust and all parties, makers and endorser to the Note, including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, shall not be released by virtue of this Modification. If any person who signed the original Deed of Trust does not sign this Modification, then all persons signing below acknowledge that this Modification is given conditionally, based on the representation to Lender that the non-signing person consents to the changes and provisions of this Modification or otherwise will not be released by it. This waiver applies not only to any initial extension or modification, but also to all such subsequent actions.

**TRUSTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MODIFICATION OF DEED OF TRUST AND TRUSTOR AGREES TO ITS TERMS. THIS MODIFICATION OF DEED OF TRUST IS DATED JULY 6, 2016.**

MODIFICATION OF DEED OF TRUST  
(Continued)

Page 2

TRUSTOR:

FOX PROPERTIES, INC.

By: CLARK W ANDERSON, President of FOX PROPERTIES, INC.

PRAIRIE WIND AIR, LLC

By: PETER P HEGG, Vice President of PRAIRIE WIND AIR, LLC

LENDER:

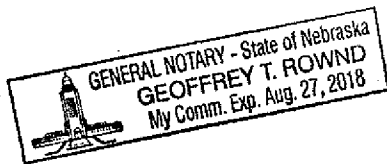
GREAT WESTERN BANK

X Geoff Rownd, VP Business Banker

CORPORATE ACKNOWLEDGMENT

STATE OF Nebraska )  
 ) SS  
COUNTY OF Lancaster )

On this 7<sup>th</sup> day of July, 20 16, before me, the undersigned Notary Public, personally appeared CLARK W ANDERSON, President of FOX PROPERTIES, INC., and known to me to be an authorized agent of the corporation that executed the Modification of Deed of Trust and acknowledged the Modification to be the free and voluntary act and deed of the corporation, by authority of its Bylaws or by resolution of its board of directors, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Modification and in fact executed the Modification on behalf of the corporation.



By: Geoffrey T. Rownd  
Printed Name: Geoffrey T. Rownd  
Notary Public in and for the State of Nebraska  
Residing at Lincoln, NE  
My commission expires Aug. 27, 2018

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

STATE OF South Dakota )  
 ) SS  
COUNTY OF Minnehaha )

On this 11 day of July, 20 16, before me, the undersigned Notary Public, personally appeared PETER P HEGG, Vice President of PRAIRIE WIND AIR, LLC, and known to me to be member or designated agent of the limited liability company that executed the Modification of Deed of Trust and acknowledged the Modification to be the free and voluntary act and deed of the limited liability company, by authority of statute, its articles of organization or its operating agreement, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this Modification and in fact executed the Modification on behalf of the limited liability company.



By: Jennifer Larsen  
Printed Name: Jennifer Larsen  
Notary Public in and for the State of SD  
Residing at Sioux Falls SD  
My commission expires 8/20/16

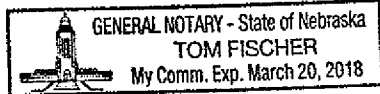
MODIFICATION OF DEED OF TRUST  
(Continued)

Page 3

LENDER ACKNOWLEDGMENT

STATE OF Nebraska )  
 ) SS  
COUNTY OF Lawrence )

On this 8th day of July, 20 16, before me, the undersigned Notary Public, personally appeared Geoff Rownd, and known to me to be the VP Business Banker, authorized agent for GREAT WESTERN BANK that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of GREAT WESTERN BANK, duly authorized by GREAT WESTERN BANK through its board of directors or otherwise, for the uses and purposes therein mentioned, and on oath stated that he or she is authorized to execute this said instrument and in fact executed this said instrument on behalf of GREAT WESTERN BANK.



By [Signature]  
Printed Name: Tom Fischer  
Notary Public in and for the State of Nebraska  
Residing at Lincoln  
My commission expires 3/20/18