

FILED SARPY CO. NE.

INSTRUMENT NUMBER

2002-27313

2002 JUL 22 P 1:13

Steven D. Johnson

REGISTER OF DEEDS

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Verify D

D.E. M

Proof sn

Fee \$ 75.00

Ck Cash Chg

Stamp
copy

STS

Return to: Steven D. Johnson, Stinson Morrison Hecker LLP, 1299 Farnam Street, Omaha, NE 68102; (402) 342-1700

PARTIAL TERMINATION OF DECLARATION OF RESTRICTIONS

This ~~instrument~~ Partial Termination of Declaration of Restrictions is made as of this 15 day of June, 2002 by and among the undersigned (the "Partial Termination").

RECITALS:

WHEREAS, TWIN CREEK L.P., a Nebraska limited partnership, executed a certain Declaration of Restrictions, dated August 31, 1998, recorded in the office of the Register of Deeds of Sarpy County, Nebraska at Instrument No. 98-25172 on or about September 8, 1998 (the "Declaration of Restrictions"); and

WHEREAS, the Declaration of Restrictions originally applied to and affected the following described real estate (hereinafter collectively referred to as the "Twin Creek Lots"):

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 15, 16 and 24 TWINCREEK Plaza, a Subdivision, and Lots 1, 2, 3, 4 and 5 TWINCREEK PLAZA, Replat I, all as surveyed, platted, and recorded in Sarpy County, Nebraska; and

WHEREAS, certain Twin Creek Lots have been replatted as follows:

- a. Lot 1 of Twin creek Plaza has been replatted as Lot 1 and a portion of Lot 2, Twin creek Plaza Replat V, all as surveyed, platted and recorded in Sarpy County, Nebraska;
- b. Lot 16 of Twin creek Plaza has been replatted as Lot 2, Twin creek Plaza Replat II and Lot 1 and Lot 2 of Twin creek Plaza Replat IV, all as surveyed, platted and recorded in Sarpy County, Nebraska; and
- c. Lots 3 and 4 of Twin creek Plaza Replat I have been replatted as Lots 1 and 2, Twin creek Plaza Replat III, all as surveyed, platted and recorded in Sarpy County, Nebraska;

WHEREAS, Twin Creek L.P., a Nebraska limited partnership, is the owner of all of the Twin Creek Lots, except as follows:

STS

- a. HUI, L.L.C., a Nebraska limited liability company, is the owner of the real property legally described as follows:

Lot 2 Twincreek Plaza, Replat II, as surveyed, platted and recorded in Sarpy County, Nebraska.

- b. Dana-Magid 370, L.L.C., a Nebraska limited liability company, is the owner of the real property legally described as follows:

Lot 1 Twincreek Plaza Replat IV, as surveyed, platted and recorded in Sarpy County, Nebraska.

- c. Great Western Bank, formerly Douglas County Bank & Trust, a Nebraska banking corporation, is the owner of the real property legally described as follows:

Lot 24 Twincreek Plaza, as surveyed, platted and recorded in Sarpy County, Nebraska.

- d. Simmonds Properties, a Nebraska partnership, is the owner of the real property legally described as follows:

Lots 1 and 2 Twincreek Plaza Replat I, as surveyed, platted and recorded in Sarpy County, Nebraska.

- e. Taco Bell Corp., a California corporation, is the owner of the real property legally described as:

Lot 1, Twincreek Plaza Replat III, as surveyed, platted and recorded in Sarpy County, Nebraska.

NOW, THEREFORE, in consideration of the premises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Termination of Restrictions Affecting Lot 2. Pursuant to the right of termination contained in Paragraph 3.e of the Declaration of Restrictions, the undersigned hereby release and terminate the Declaration of Restrictions insofar as it affects any part of the real estate (the "Released Property") legally described as follows:

Lot 2, Twincreek Plaza Replat V, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

The Declaration of Restrictions shall continue in full force and effect with respect to Lot 1, Twincreek Plaza Replat V, as surveyed, platted and recorded in Sarpy County, Nebraska.

2. Consents Required. As provided in Paragraph 3.e of the Declaration of Restrictions, the owners of at least ninety percent (90%) of the Twin Creek Lots must consent to a termination of the Declaration of Restrictions with respect to a particular lot.

3. Terms Binding. ^{Notwithstanding anything to the contrary in Section 2 herein-} ~~In the event less than ninety percent (90%) of owners of the~~ ^{Partial} Twin Creek Lots sign this ~~Termination of Declaration,~~ ^{Partial} those owners that do sign this ~~Declaration~~ ^{Partial} agree that this ~~Termination of Restrictions~~ shall be binding as to them and their successors and assigns and they, for themselves and their respective successors and assigns hereby waive any right they may have to enforce the Declaration of Restrictions against the Released Property.

4. Other Terms Unchanged. All other terms and provisions of the Declaration of Restrictions, including the rights of the undersigned to further modify or terminate the restrictions contained herein, shall remain unchanged.

5. Counterparts. This instrument may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6. Recordation. This instrument shall be recorded in the office of the Register of Deeds of Sarpy County, Nebraska.

2002-27313C

CONSENT AND SUBORDINATION

Fleet Business Credit Corporation, a Delaware corporation ("Lender") is the beneficiary and Ronald L. Eggers is the trustee ("Trustee") under that certain Deed of Trust recorded in the official records of Sarpy County, Nebraska on March 28, 2001, as Instrument No. 2001-09843 ("Deed of Trust"). Lender, as beneficiary, and Trustee hereby consent to and approve this Partial Termination of Declaration of Restrictions.

mo.

FLEET BUSINESS CREDIT, LLC, formerly known as Fleet Business Credit Corporation ("Lender")

RONALD L. EGGERS, Trustee

By: Michael Obremski
Michael Obremski, Vice President

Ronald L. Eggers ←

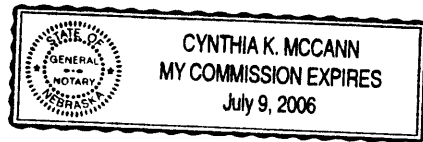
STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 16th day of July, 2002, by Ronald L. Eggers, Trustee under the above-described Deed of Trust.

WITNESS by hand and notarial seal the day above written.

(SEAL)

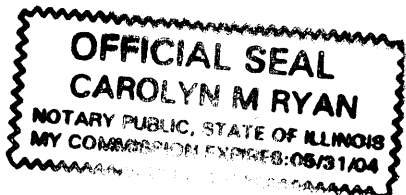
Cynthia K. McCann
Notary Public for Nebraska
My Commission expires: 7/9/06



STATE OF ILLINOIS)
) ss.
COUNTY OF Cook)

The foregoing instrument was acknowledged before me this 20th day of June, 2002, by Michael Obremski, Vice President of Fleet Business Credit, LLC, formerly known as Fleet Business Credit Corporation, under the above-described Deed of Trust.

(SEAL)



Carolyn M. Ryan
Notary Public for Illinois
My Commission expires: 05/31/04

2002-27313L

IN WITNESS WHEREOF, the parties have executed this instrument on the day and year first above written.

TWIN CREEK:
Twin Creek L.P., a Nebraska
limited partnership

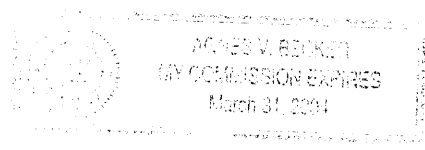
BY: Twin Creek Development
Company, L.L.C., a Nebraska
limited liability company,
Its General Partner

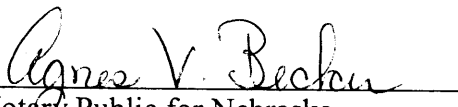
BY: 
John R. Thompson, Member

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Acknowledged before me, the undersigned Notary Public, in and for said County and State, on this 24 day of JUNE, 2002, by John R. Thompson, as Member of Twin Creek Development Company, L.L.C., the General Partner of Twin Creek, L.P., a Nebraska limited partnership, for and on behalf of the company and the partnership

WITNESS my hand and notarial seal the day above written.




Notary Public for Nebraska
My Commission expires: 3-31-04

2002-27313E

HUI, L.L.C., a Nebraska
limited liability company,

By: [Signature]
Its: Managing Member

STATE OF NEBRASKA)
) ss.
COUNTY OF Lancaster)

Acknowledged before me, the undersigned Notary Public, in and for said County and State, on this 30 day of May, 2002, by Doug Thomas, as _____ of HUI, L.L.C., a Nebraska limited liability company, for and on behalf of the company.

WITNESS my hand and notarial seal the day above written.

[Signature]

GENERAL NOTARY PUBLIC for Nebraska
K. R. WARD
My Comm. Exp. Nov. 27, 2004
My Commission expires: _____

2002-27313 F

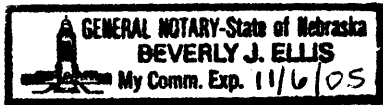
DANA-MAGID 370, L.L.C.,
a Nebraska limited liability company,

By: [Signature]
Its: MANAGER

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

Acknowledged before me, the undersigned Notary Public, in and for said County and State, on this 14 day of June, 2002, by Bill Wana, as Manager of DANA-MAGID 370, L.L.C., a Nebraska limited liability company, for and on behalf of the company.

WITNESS my hand and notarial seal the day above written.



Beverly J. Ellis
Notary Public for Nebraska
My Commission expires: 11-6-05

2002-273136

GREAT WESTERN BANK,

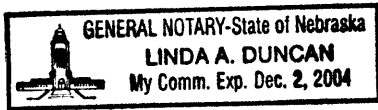
formerly Douglas County Bank & Trust, a
Nebraska banking corporation

By: [Signature]
Its: EVP

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Acknowledged before me, the undersigned Notary Public, in and for said County and State, on this 28TH day of MAY, 2002, by DAVID L. HENRICKSEN, as EXECUTIVE VICE PRESIDENT of GREAT WESTERN BANK, formerly Douglas County Bank & Trust, a Nebraska banking corporation, for and on behalf of the company.

WITNESS my hand and notarial seal the day above written.



Linda A. Duncan
Notary Public for Nebraska
My Commission expires: 12/02/04

2002-27313H

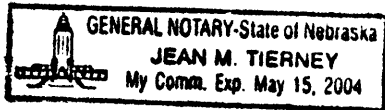
SIMMONDS PROPERTIES,
a Nebraska partnership

By: PK Glesner
Its: President

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas

Acknowledged before me, the undersigned Notary Public, in and for said County and State, on this 3rd day of June, 2002, by PK Glesner, as President of SIMMONDS PROPERTIES, a Nebraska partnership, for and on behalf of the company.

WITNESS my hand and notarial seal the day above written.



Jean M Tierney
Notary Public for Nebraska
My Commission expires: 5-15-04

2007-27313 I

TACO BELL CORP.,
a California corporation

By: *[Signature]*
~~is~~ Christine C. Marshall, Attorney-In-Fact AM

COMMONWEALTH OF KENTUCKY
~~STATE OF~~ _____)
) ss.
COUNTY OF JEFFERSON)

Acknowledged before me, the undersigned Notary Public, in and for said ~~County and~~ State, on this 21~~st~~ day of June, 2002, by Christine C. Marshall, as Attorney-In-Fact of TACO BELL CORP., a California corporation, for and on behalf of the company.

WITNESS my hand and notarial seal the day above written.

[Signature]

Notary Public for _____ **SHELLEY CATALAN**
My Commission expires: Notary Public, State at Large, KY
My commission expires April 6, 2005



2002-27313J

CONSENT AND SUBORDINATION

Cornhusker Bank ("Lender") is the beneficiary and trustee under that certain Deed of Trust recorded in the official records of Sarpy County, Nebraska on May 15, 2000, as Instrument No. 2000-12243 ("Deed of Trust"). Lender, as beneficiary and trustee under the Deed of Trust, hereby consents to and approves this Partial Termination of Declaration of Restrictions ("Partial Termination") and hereby acknowledges and agrees that the Deed of Trust and any other security instruments securing Lender's loan on the property affected by the Partial Termination shall be subordinate to, and subject to, the terms and conditions of the Partial Termination.

CORNHUSKER BANK

By: [Signature]
Its: Executive Vice President

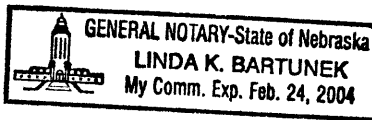
STATE OF NEBRASKA)
) ss.
COUNTY OF Seminole)

The foregoing instrument was acknowledged before me this 3 day of June, 2002, by Garnett A. Masters, Exec Vice President of Cornhusker Bank, on behalf of Cornhusker Bank.

WITNESS by hand and notarial seal the day above written.

(SEAL)

[Signature]
Notary Public for Nebraska
My Commission expires: 2-24-2004



2002-27313 K

CONSENT AND SUBORDINATION

Enterprise Bank, N.A. ("Lender") is the beneficiary and trustee under that certain Deed of Trust recorded in the official records of Sarpy County, Nebraska on May 1, 2000, as Instrument No. 2000-10629 ("Deed of Trust"). Lender, as beneficiary and trustee under the Deed of Trust, hereby consents to and approves this Partial Termination of Declaration of Restrictions ("Partial Termination") and hereby acknowledges and agrees that the Deed of Trust and any other security instruments securing Lender's loan on the property affected by the Partial Termination shall be subordinate to, and subject to, the terms and conditions of the Partial Termination.

ENTERPRISE BANK, N.A.

By: [Signature]

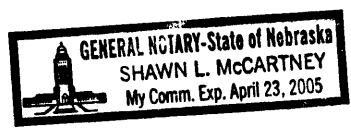
Its: SVP

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 24 day of June, 2002, by Luca Blum, SVP of Enterprise Bank, N.A., on behalf of Enterprise Bank.

WITNESS by hand and notarial seal the day above written.

(SEAL)



[Signature]
Notary Public for Nebraska
My Commission expires: 4-23-05

2002-27313L

CONSENT AND SUBORDINATION

American National Bank ("Lender") is the beneficiary and trustee under that certain Deed of Trust recorded in the official records of Sarpy County, Nebraska on February 11, 2002, as Instrument No. 2002-05261, and that certain Deed of Trust recorded in the official records of Sarpy County, Nebraska, on February 11, 2002, as Instrument No. 2002-05263 (collectively, the "Deeds of Trust"). Lender, as beneficiary and trustee under the Deeds of Trust, hereby consents to and approves this Partial Termination of Declaration of Restrictions ("Partial Termination") and hereby acknowledges and agrees that the Deeds of Trust and any other security instruments securing Lender's loan on the property affected by the Partial Termination shall be subordinate to, and subject to, the terms and conditions of the Partial Termination.

AMERICAN NATIONAL BANK

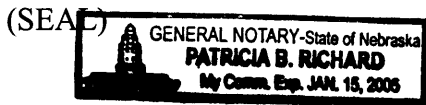
By: Michael T. Phelps

Its: Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 10 day of June, 2002, by Michael T. Phelps Vice President of American National Bank, on behalf of American National Bank.

WITNESS by hand and notarial seal the day above written.



Patricia B. Richard
Notary Public for Nebraska
My Commission expires: 1-15-05