



BK 1377 PG 670-675



MISC 2001 05377

RICHARD W. TANKS
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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MODIFICATION OF NOTE AND DEED OF TRUST

Loan No. 68-125710-68

This Agreement is made and entered into on this 12 day of March, 2001, between Legacy Development, L.L.C., f/k/a Utopia, L.L.C., a Nebraska limited liability company, (herein "Borrower"), and Pinnacle Bank ("Lender");

WITNESSETH:

WHEREAS, Borrower is indebted to Lender upon that certain Promissory Note ("Note") dated September 15, 2000 in the original principal amount of \$1,900,000.00, and secured among other things, by that certain Real Estate Deed of Trust ("Deed of Trust") dated September 15, 2000 and recorded on October 5, 2000 in Book 6191, Page 32 in the Register of Deeds for Douglas County, Nebraska, which Deed of Trust remains a lien upon the real estate described on Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, Lender and Borrower hereby agree to modify certain terms of the Note and Deed of Trust, as set forth below.

NOW, THEREFORE, in consideration of Ten Dollars and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Borrower hereto agrees, represents and consents to and with Lender as follows:

1. The Note is hereby modified as follows:

(a) For informational purposes, the total loan balance due as of February 28, 2001 is \$1,767,237.02, consisting of unpaid disbursed principal in the amount of \$1,733,470.47 together with unpaid accrued interest of \$33,766.55. Borrower and Lender acknowledge that the maximum principal sum to be disbursed under the Note is \$1,900,000.00.

(b) Prior to the execution of the loan documents on September 15, 2000, the Borrower's name was Utopia, L.L.C., however, the Borrower had intended to change its name to Legacy, L.L.C. and the loan documents, including the Note and Deed of Trust, were therefore prepared showing the name of the Borrower as "Legacy, L.L.C. f/k/a Utopia, L.L.C." Borrower and Lender hereby acknowledge that the anticipated name change to Legacy, L.L.C. did not occur, however, the Borrower did subsequently change its name to Legacy Development, L.L.C., effective January 23, 2001 and that Borrower's current name is Legacy Development, L.L.C.

④ ② LTA 5776

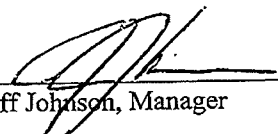
2. The Deed of Trust and other loan documents are also hereby amended and modified to the extent of the foregoing modifications of the Note set forth in paragraph 1 above.

3. Borrower represents and covenants that the Deed of Trust, as modified by this Agreement, is a valid first and existing lien on the above described real estate; that the execution of this Agreement will not impair the lien of the Deed of Trust; that all above described real estate shall remain in all respects subject to the lien of the Deed of Trust; that nothing herein contained, and nothing done pursuant hereto, shall affect or be construed to affect the lien, charge or encumbrance of, or warranty of title in, or the priority thereof, over other liens, charges, encumbrances, or to release or affect the liability of any party or parties whomsoever who may now or hereafter be liable under or on account of the Note and/or Deed of Trust; and that nothing herein contained or done in pursuance hereof shall affect or be construed to affect any other security or instrument held by Lender as additional security for payment of the indebtedness represented by the Note, provided, in the event of any conflict between the terms of this Agreement and any security or instrument held by Lender as additional security, the terms of this Agreement shall control and be given full force and effect.

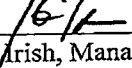
4. Except as expressly modified by the terms hereof, all of the terms and provisions of the Note and Deed of Trust are hereby ratified and shall remain in full force and effect. By execution hereof, Borrower and Lender concur with all provisions contained in this Agreement. Lender is hereby authorized and directed to attach duplicate copies of this Agreement to each of the documents which are, by reference, totally incorporated herein, and shall be privileged to record the same among the public records.

5. A credit agreement must be in writing to be enforceable under Nebraska law. To protect you and us from any misunderstandings or disappointments, any contract, promise, undertaking, or offer to forebear repayment of money or to make any other financial accommodation in connection with this loan of money or grant or extension of credit, or any amendment of, cancellation of, waiver of, or substitution for any or all of the terms or provisions of any instrument or document executed in connection with this loan of money or grant or extension of credit, must be in writing to be effective.

LEGACY DEVELOPMENT, L.L.C.
f/k/a UTOPIA, L.L.C.,
a Nebraska limited liability company, Borrower

By: 
Jeff Johnson, Manager

By: 
Timothy C. Ward, Manager

By: 
Kevin Irish, Manager

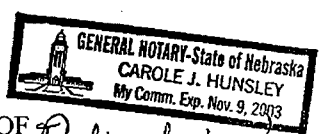
PINNACLE BANK, Lender

By: Scott Bradley
Title: President

STATE OF Nebraska)
COUNTY OF Douglas) ss.

BE IT REMEMBERED, that on this 12th day of March, 2001, before me, the undersigned, a notary public in and for the county and state aforesaid, came Jeff Johnson, Manager of Legacy Development, L.L.C. f/k/a Utopia, L.L.C., a Nebraska limited liability company, the same person who executed this foregoing instrument on behalf of the company and stated that the same was the voluntary act and deed of the company and his own voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year last above written.

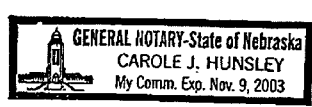


Carole J. Hunsley
Notary Public

STATE OF Nebraska)
COUNTY OF Douglas) ss.

BE IT REMEMBERED, that on this 8th day of March, 2001, before me, the undersigned, a notary public in and for the county and state aforesaid, came Timothy C. Ward, Manager of Legacy Development, L.L.C. f/k/a Utopia, L.L.C., a Nebraska limited liability company, the same person who executed this foregoing instrument on behalf of the company and stated that the same was the voluntary act and deed of the company and his own voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year last above written.



Carole J. Hunsley
Notary Public

STATE OF Nebraska)
) ss.
COUNTY OF Douglas)

BE IT REMEMBERED, that on this 8th day of March, 2001, before me, the undersigned, a notary public in and for the county and state aforesaid, came Kevin Irish, Manager of Legacy Development, L.L.C. f/k/a Utopia, L.L.C., a Nebraska limited liability company, the same person who executed this foregoing instrument on behalf of the company and stated that the same was the voluntary act and deed of the company and his own voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year last above written.

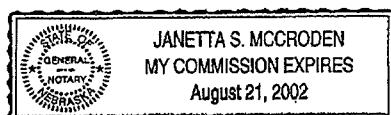


Carol J. Hunsley
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

BE IT REMEMBERED, that on this 27th day of March, 2001, before me, the undersigned, a notary public in and for the county and state aforesaid, came SCOTT D. BRADLEY, who is personally known to me to be the PRESIDENT of Pinnacle Bank, and the same person who executed this foregoing instrument on behalf of the bank and stated that the same was the voluntary act and deed of the bank and his/her own voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal on the day and year last above written.



Janetta S. McCroden
Notary Public

SCHEDULE A

5776

EXHIBIT A

The Northwest Quarter (NW ¼) of Section 33, Township 15 North, Range 11 East of the 6th P.M., in Douglas County, Nebraska, EXCEPT that part described as follows:

Beginning at the Southeast corner of said Northwest Quarter; thence Northerly, along the East line of said Northwest Quarter, 330.00 feet; thence Northwesterly to a point, said point being 590.00 feet West of and 925.00 feet North of said point of beginning; thence Northwesterly to a point, said point being 660.00 feet West of and 1,980.00 feet North of said point of beginning; thence Southwesterly to a point, said point being 1,320.00 feet West of and 1,350.00 feet North of said point of beginning; thence Northwesterly to a point, said point being 1,980.00 feet West of and 2,310.00 feet North of said point of beginning; thence Northwesterly to a point on the North line of said Northwest Quarter, said point being 540.00 feet Easterly of the Northwest corner thereof; thence Westerly along said North line of the Northwest Quarter, 100.00 feet; thence Southwesterly to a point, said point being 2,310.00 feet West of and 2,310.00 feet North of said point of beginning; thence Southeasterly to a point, said point being 1,980.00 feet West of and 1,350.00 feet North of said point of beginning; thence Southwesterly to a point, said point being 2,310.00 feet West of and 1,020.00 feet North of said point of beginning; thence Westerly, parallel with said North line of the Northwest Quarter, to the West line thereof; thence Southerly, along said West line of the Northwest Quarter, to the Southwest corner thereof; thence Easterly, along the South line of said Northwest Quarter to the point of beginning.;

AND, EXCEPT those portions thereof occupied and/or conveyed for street and/or highway purposes.

AND

Part of the Northeast Quarter (NE ¼) of Section 33, Township 15 North, Range 11 East of the 6th P.M., in Douglas County, Nebraska, more particularly described as follows:

Commencing at the North Quarter Corner of Section 33, Township 15 North, Range 11, thence along the West line of the Northeast Quarter, South 01°30'10" East, a distance of 33.00 feet to the Southerly right-of-way line of U.S. #275 (West Center Road); thence along said right-of-way line, North 89°59'06" East, a distance of 748.77 feet; thence South 01°25'55" East, a distance of 678.96 feet; thence South 37°26'19" East, a distance of 624.47 feet; thence North 89°43'44" East, a distance of 343.00 feet; thence South 39°42'01" East, a distance of 189.78 feet; thence South 00°47'45" West, a distance of 1,228.70 feet, to the South line of the Northeast Quarter; thence along said line, South 87°41'17" West, a distance of 1,195.00 feet; thence North 46°54'41" West a distance of 463.26 feet; thence North 01°30'10" West, a distance of 2,279.86 feet to the point of beginning; EXCEPT those portions thereof occupied and/or conveyed for street and/or highway purposes.

AND

Part of the Northeast Quarter (NE ¼) of Section 33, Township 15 North, Range 11 East of the 6th P.M., in Douglas County, Nebraska, described as follows:

Commencing at the East Quarter Corner of Section 33, Township 15 North, Range 11; thence along the South line of the Northeast Quarter of Section 33, South 87°41'17" West, 107.43 feet to the point of beginning; thence continue along said line, South 87°41'17" West, 1,013.28 feet; thence North 00°47'45" East, 1,228.70 feet; thence North 39°42'01" West, 189.78 feet; thence South 89°43'44" West, 343.00 feet; thence North 37°26'19" West, 624.47 feet; thence North 01°25'55" West, 678.96 feet, to the Southerly right-of-way of Federal Highway #275 a/k/a West Center Road; thence along said right-of-way, North 89°59'06" East, 42.66 feet; thence continue along said right-of-way, North 86°21'56" East, 806.77 feet; thence departing said right-of-way, South 21°30'58" East, 2,749.43 feet to the point of beginning,

EXCEPT that part described as follows:

Commencing at the North Quarter Corner of said Section 33, Township 15 North, Range 11; thence South 00°05' East, a distance of 33.3 feet; thence South 88°35' East, to a point 64.8 feet South of the North section line, a distance of 771.4 feet; thence South, a distance of 686 feet; thence East, a distance of 250 feet, to the point of beginning; thence South, a distance of 170 feet; thence East, a distance of 235 feet; thence North, a distance of 235 feet; thence West, a distance of 170 feet; thence South 45°00' West, a distance of 91.91 feet to the point of beginning;

AND, EXCEPT those portions thereof occupied and/or conveyed for street and/or highway purposes.

AND

That part of the Northeast Quarter (NE ¼) of Section 33, Township 15 North, Range 11 East of the 6th P.M., in Douglas County, Nebraska, more particularly described as follows:

Commencing at the North Quarter Corner of said Section 33, Township 15, Range 11; thence South 00°05' East, a distance of 33.3 feet; thence South 88°35' East, to a point 64.8 feet South of the North section line, a distance of 771.4 feet; thence South, a distance of 686 feet; thence East, a distance of 250 feet to the point of beginning; thence South, a distance of 170 feet; thence East, a distance of 235 feet; thence North, a distance of 235 feet; thence West, a distance of 170 feet; thence South 45°00' West, a distance of 91.91 feet to the point of beginning.

AND

Part of the Northeast Quarter (NE ¼) of Section 33, Township 15 North, Range 11 East of the 6th P.M., in Douglas County, Nebraska, more particularly described as follows:

Commencing at the Northeast corner of Section 33, Township 15 North, Range 11; thence along the East line of the Northeast Quarter, South 01°25'19" East, a distance of 33 feet; thence South 87°23'37" West, a distance of 33 feet, to the Southerly right-of-way line of U.S. #275 (West Center Road) and the West right-of-way line of 168th Street, and the point of beginning; thence along the West right-of-way line of 168th Street, South 01°25'19" East, a distance of 1,994.10 feet; thence departing said right-of-way line, South 69°32'07" West, a distance of 282.43 feet; thence North 21°30'58" West, a distance of 2,189.01 feet, to the Southerly right-of-way line of U.S. #275; thence along said right-of-way line, North 86°21'56" East, a distance of 524.67 feet; thence continue along said right-of-way line, North 87°23'37" East, a distance of 494.86 feet, to the point of beginning; EXCEPT those portions thereof occupied and/or conveyed for street and/or highway purposes.