



Document 2016 3371

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LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

DEED IN LIEU OF FORECLOSURE AGREEMENT
Recorder's Cover Sheet

Preparer Information: (Name, address and phone number)

Matthew J. Hemphill, 218 S. 9th Street, Adel, IA 50003, Phone: (515) 993-1000

Taxpayer Information: (Name and complete address)

Exchange State Bank, 322 Audubon Street, Adair, IA 50002

✓ **Return Document To:** (Name and complete address)

Matthew J. Hemphill, Bergkamp, Hemphill & McClure, P.C., 218 S. 9th Street, Adel, IA 50003

DEED IN LIEU OF FORECLOSURE AGREEMENT

NOW on this 2nd day of November, 2016, Exchange State Bank (“ESB”) and Pearl Audsley (“Audsley”) hereby enter into this Deed in Lieu of Foreclosure Agreement (“Agreement”) as detailed below.

RECITALS:

A. ESB is an Iowa banking institution with its primary office located at 322 Audubon Street, Adair, Iowa 50002;

B. Audsley is a single person currently residing in Newton, Jasper County, Iowa;

C. Audsley is the current record titleholder of real property locally known as 512 W. South Street, Winterset, Iowa 50273, and said property is legally described as follows:

Lot Two (2) in Block Six (6) of West Addition to the Town of Winterset, Madison County, Iowa.

(“Property”);

D. Audsley conveyed a valid, proper, and enforceable mortgage to ESB on the Property dated June 19, 2009, and recorded in the office of the Madison County, Iowa, Recorder on June 22, 2009, at Book 2009, Page 1999 (“Mortgage”);

E. Audsley is now in default of the terms of the Mortgage, has vacated the property, and now desires to voluntarily enter into this Agreement and convey a deed to the Property to ESB in lieu of ESB pursuing foreclosure remedies it may have under the laws of the State of Iowa;

F. There is now due and owing from Audsley to ESB a principal balance of

\$93,577.15 plus accrued interest of \$1,193.10 as of October 6, 2016, plus interest from and after this date in a per diem amount of \$11.6971.

G. ESB desires to enter into this Agreement with Audsley and accept a deed from Audsley for the Property in exchange for waiving and giving up any rights it may have to pursue foreclosure remedies against Audsley pursuant to the laws of the State of Iowa.

AGREEMENT:

1. Audsley hereby agrees to convey all of her right, title, and interest in the Property to ESB.

2. Audsley and ESB agree the Property is subject to the Mortgage, detailed above.

3. ESB accepts Audsley's conveyance of a deed pursuant to this Agreement and hereby waives any rights to a deficiency or any other claim against Audsley arising out of, or from, the Mortgage.

4. ESB shall have immediate access, as of the date of this Agreement, to the property for the purposes of maintaining and protecting the property.

5. Audsley and ESB hereby agree to record this fully and jointly executed Agreement with the Madison County Recorder, and both Audsley and ESB voluntarily and affirmatively have independently elected to follow the alternative voluntary foreclosure procedures pursuant to Iowa Code §654.18 (2015).

6. ESB agrees to send by certified mail a notice of Audsley's election to

follow the alternative voluntary foreclosure procedures pursuant to Iowa Code §654.18 to any and all junior lienholders on the property, as of the date this Agreement, and specifically states any junior lienholder has thirty (30) days from the date of mailing of said notice to exercise any rights of redemption in the property.

7. Audsley agrees and acknowledges that two (2) copies of the "Disclosure and Notice of Cancellation" form, detailed in Iowa Code §654.18(1)(f) are attached to this Agreement.

8. ESB agrees it shall not report to any credit bureau or credit reporting agency that Audsley is delinquent on the Mortgage. ESB may report to any credit bureau or credit reporting agency that the foreclosure procedures detailed in Iowa Code §654.18 were used on, or for, the property.

9. Audsley hereby agrees and certifies she does not own any other real property that is subject to any mortgage in the State of Iowa or any other state.

10. This Agreement is valid and enforceable and Audsley specifically transfers and conveys the property to ESB by special warranty deed on November 2, 2016.

11. Audsley is hereby notified that there may be income tax consequences for her as a result of this Agreement. ESB makes no representation or any other statement to Audsley regarding any tax consequence, income or otherwise, for Audsley, as a result of this Agreement.

12. ESB and Audsley agree and acknowledge that if Audsley is in full compliance with the requirements of this Agreement, ESB shall not pursue her for any

deficiency judgment.

13. Audsley and ESB agree the property is in good general physical condition, and the property is being conveyed to ESB in a clean and marketable condition.

14. Audsley further agrees that she will convey the property vacant and free of any personal property.

15. Audsley hereby agrees to deliver the following items to ESB upon the transfer date of the property to ESB:

- a. All keys to the property;
- b. Audsley hereby further agrees to immediately provide evidence, upon request of ESB, that all utilities, assessments, and homeowners' association dues, if any, are paid in full to the transfer date.

Audsley agrees and represents all other personal property items, appliances, and fixtures have been removed from the property.

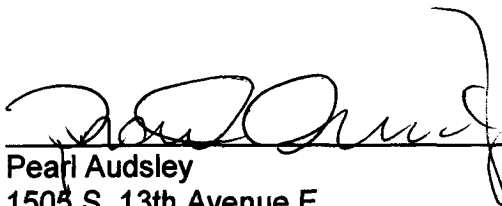
16. By entering into this Agreement, ESB does not waive its right to judicially foreclose the mortgage as to any parties other than Audsley.

17. In the event the conveyance by Audsley to ESB of the property is subsequently attacked or set aside by judicial proceeding, by a trustee in bankruptcy, or otherwise, then ESB may, at its option, declare this Agreement to be null and void and the debt purportedly extinguished by reason of the conveyance of the property by Audsley to ESB, including all accrued interest and all protective disbursements, shall remain in full force and effect from the date of such Mortgage, and ESB shall be entitled

to all rights and remedies under the Mortgage and the related credit documents, including, without limitation, judicial foreclosure.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

November 2, 2016
Date

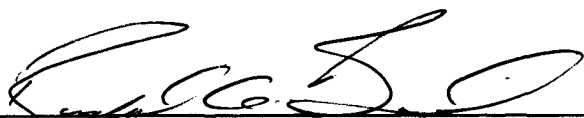


Pearl Audsley
1505 S. 13th Avenue E.
Unit B
Newton, Iowa 50208

EXCHANGE STATE BANK

November 2, 2016
Date

Officer

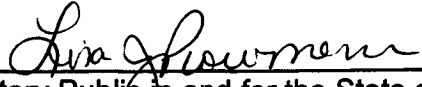


By: Randal G. Baird
Its: President and Chief Executive

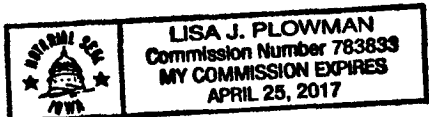
322 Audubon Street
Adair, Iowa 50002

STATE OF IOWA, COUNTY OF Adair, ss:

Subscribed and sworn to before me by Pearl Audsley this 2nd day of November, 2016.



Notary Public in and for the State of Iowa

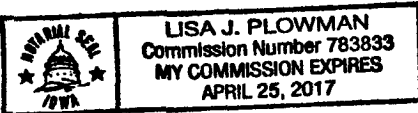


STATE OF IOWA, COUNTY OF Adair, ss:

On this 2nd day of November, 2016, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Randal G. Baird, to me personally known, who, being by me duly sworn, did say that he is the President and Chief Executive Officer of the corporation executing the foregoing instrument; that no seal has been procured of the corporation; that the instrument was signed on behalf of the corporation by authority of its Board of Directors; Randal G. Baird acknowledged the execution of the instrument to be the voluntary act and deed of the corporation and of the fiduciary, by them and as the fiduciary voluntarily executed.

Lisa Plowman

Notary Public in and for the State of Iowa



DISCLOSURE AND NOTICE OF CANCELLATION

November 2, 2016

Date

Under a forced foreclosure, Iowa law requires that you have the right to reclaim your property within one year of the date of the foreclosure and that you may continue to occupy your property during that time. If you agree to a voluntary foreclosure under this procedure, you will be giving up your right to reclaim or occupy your property.

Under a forced foreclosure, if your mortgage lender does not receive enough money to cover what you owe when the property is sold, you will still be required to pay the difference. If your mortgage lender receives more money than you owe, the difference must be paid to you. If you agree to a voluntary foreclosure under this procedure, you will not have to pay the amount of your debt not covered by the sale of your property but you also will not be paid any extra money, if any, over the amount you owe. NOTE: There may be other advantages and disadvantages, including an effect on your income tax liability, to you depending on whether you agree or do not agree to a voluntary foreclosure. If you have any questions or doubts, you are advised to discuss them with your mortgage lender or an attorney.

You may cancel this transaction, without penalty or obligation, within five business days from the above date.

This transaction is entirely voluntary. You cannot be required to sign the attached foreclosure agreement.

This voluntary foreclosure agreement will become final unless you sign and deliver or mail this notice of cancellation to Exchange State Bank before midnight of November 8, 2016.

I HEREBY CANCEL THIS TRANSACTION.

Date

Pearl Audsley

DISCLOSURE AND NOTICE OF CANCELLATION

November 2, 2016

Date

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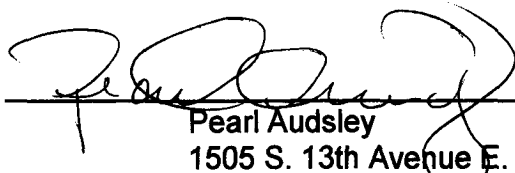
Date

Pearl Audsley

ACCEPTANCE OF SERVICE

I, Pearl Audsley, hereby acknowledge due and proper receipt and service of the Deed in Lieu of Foreclosure Agreement with Exchange State Bank as indicated by my signature, and on the date, below.

November 2, 2016
Date



Pearl Audsley
1505 S. 13th Avenue E.
Unit B
Newton, Iowa 50208