



MISC 2016094459



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COMP: MB

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
11/10/2016 15:40:45.00



2016094459

**WHEN RECORDED, PLEASE RETURN TO:**

Mortgage Loan Department  
First National Bank of Omaha  
Third Floor, First National Plaza  
11404 West Dodge Road  
Omaha, Nebraska 68154

**FIRST GLOBAL AMENDMENT TO RECORDED DOCUMENTS**

**THIS FIRST GLOBAL AMENDMENT TO RECORDED DOCUMENTS** (this "*Amendment*") dated as of November 4, 2016 (the "*Effective Date*"), is by and between **CAPITOL DISTRICT PARKING, LLC**, a Nebraska limited liability company ("*Borrower*"), and **FIRST NATIONAL BANK OF OMAHA**, a national banking association ("*Lender*").

**INTRODUCTORY STATEMENTS**

WHEREAS, Lender and Borrower entered into that certain Building Loan Agreement dated as of September 19, 2016 (together with all riders, amendments, restatements, extensions, renewals or modifications thereof, the "*Loan Agreement*"), pursuant to which Lender has agreed, subject to the terms and conditions thereof, to make a loan to Borrower in order to construct and develop an approximate 505-stall parking garage on Lot 1, Capitol District, Omaha, Nebraska. All capitalized terms used herein and not otherwise defined shall have the meanings set forth in Loan Agreement;

WHEREAS, Section 5(a)(ix) of the Loan Agreement provides that, as a condition precedent to the initial disbursement of the proceeds of the Loan, Lender receives amendments whereby the legal description of the Real Estate is modified to include the Hotel Parking License, the Apartments Parking License and the Skyway Easements;

WHEREAS, this Amendment is intended to amend the following documents (collectively, the "*Amended Recorded Documents*"):

- (i) Construction Deed of Trust, Security Agreement and Assignment of Rents dated as of September 19, 2016 (together with all riders, amendments, restatements, extensions, renewals or modifications thereof, the "*Deed of Trust*") by Borrower to the deed trustee named therein for the benefit of Lender, filed for record on September 20, 2016 as Instrument No. 2016077869 in the Official Records of the County Clerk's Office of Douglas County, Nebraska, encumbering the property described on Exhibits A-1, A-2 and A-3 attached hereto (the "*Property*"); and

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(ii) the Assignment of Leases and Rents dated as of September 19, 2016 (together with all riders, amendments, restatements, extensions, renewals or modifications thereof, the “*Assignment of Leases and Rents*”) by Borrower in favor of Lender, filed for record on September 20, 2016 as Instrument No. 2016077870 in the Official Records of the County Clerk’s Office of Douglas County, Nebraska, encumbering the Property;

WHEREAS, the undersigned expect and intend to derive a substantial economic and financial benefit from Lender making the initial disbursement of the Loan proceeds and continuing to make the Loan. To induce Lender to make the initial disbursement of the Loan proceeds and to continue to make the Loan, the undersigned desire to enter into this Amendment; and

WHEREAS, the undersigned have agreed to amend the Amended Recorded Documents upon the terms and conditions set forth herein;

### AGREEMENT

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the parties hereby agree as follows:

**Section 1. *Amendment.*** Borrower and Lender amend the Amended Recorded Documents as follows:

(a) Exhibit A-1 to the Deed of Trust is amended by replacing it in its entirety with Exhibit B hereto.

(b) Exhibit A-1 to the Assignment of Leases and Rents is amended by replacing it in its entirety with Exhibit B hereto.

**Section 2. *Effect of Amendment on Amended Recorded Documents; Ratification and Confirmation of Amended Recorded Documents, as Amended.*** On and after the date of this Amendment, each reference in the Amended Recorded Documents and the other Loan Documents to “this Agreement”, “this Deed of Trust”, “the Deed of Trust”, “this Assignment”, “hereunder,” “herein,” “hereof” or words of like import referring to any Amended Recorded Document shall mean such Amended Recorded Document as amended by this Amendment. This Amendment shall not constitute in any manner a waiver by Lender of any of the rights of Lender under the Amended Recorded Documents or any other Loan Document, and Lender reserves all rights and remedies under the Amended Recorded Documents and the other Loan Documents. As specifically amended herein, the Amended Recorded Documents and the other Loan Documents are and shall continue to be in full force and effect and are hereby in all respects ratified and confirmed. Without limiting the generality of the foregoing, each Loan Document and all collateral described therein securing the Loan do and shall continue to secure, as appropriate, the payment of all obligations of Borrower under the Amended Recorded Documents, as amended hereby.

**Section 3. *Section Headings.*** The Section headings in this Amendment are inserted for convenience only and shall not be part of this Amendment.

**Section 4. *Governing Law.*** This Amendment shall be governed by and construed in accordance with the laws of the State of Nebraska, excluding its conflict of laws rules.

**Section 5. *Counterparts.*** This Amendment may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

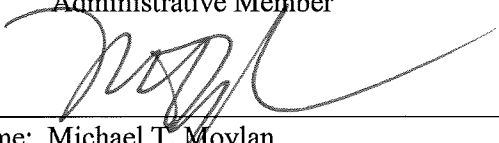
[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this First Global Amendment to Recorded Documents to be executed as of the Effective Date.

CAPITOL DISTRICT PARKING, LLC, a Nebraska limited liability company

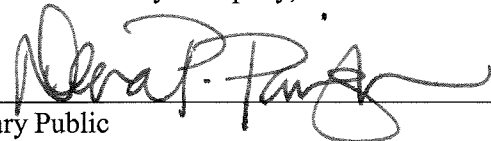
By: The Capitol District, LLC, a Nebraska limited liability company, its Sole Member

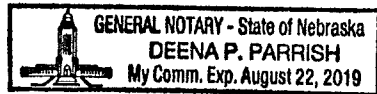
By: MTM Capitol District, LLC, a Nebraska limited liability company, its Administrative Member

By:   
Name: Michael T. Moylan  
Title: Member

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )


The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of November, 2016, by Michael T. Moylan, Member of MTM Capitol District, LLC, a Nebraska limited liability company, the administrative member of The Capitol District, LLC, a Nebraska limited liability company, the sole member of Capitol District Parking, LLC, a Nebraska limited liability company, on behalf of the company.

  
Notary Public



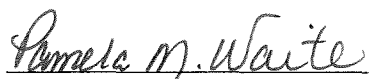
[EXECUTION PAGE 1 OF 2 OF FIRST GLOBAL AMENDMENT TO RECORDED DOCUMENTS]

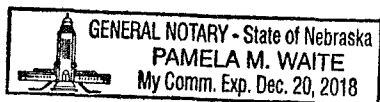
**FIRST NATIONAL BANK OF OMAHA**, a national banking association

By:   
Name: Scott W. Damrow  
Title: Vice President

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF DOUGLAS     )

The foregoing instrument was acknowledged before me this 9 day of November, 2016, by Scott W. Damrow, the Vice President of First National Bank of Omaha, a national banking association, on behalf of such national banking association.

  
Notary Public



[EXECUTION PAGE 2 OF 2 OF FIRST GLOBAL AMENDMENT TO RECORDED DOCUMENTS]

**EXHIBIT A-1**

**Legal Description**

**07-05673      (Parking Garage Real Estate)**

Lot 1, The Capitol District, an Addition to the City of Omaha, Nebraska, as surveyed, platted, and recorded in Douglas County, Nebraska.

**EXHIBIT A-2**

**Legal Description**

**(9<sup>th</sup> Street Parking Lot Real Estate)**

**PARCEL 1:** Lot 13, in UNION PACIFIC PLACE, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska. **07-39566**

**PARCEL 2:** All of Lot 1, the East 54.0 feet of Lot 2, and the North Half (N½) of Lot 4, in Block 70, in the ORIGINAL CITY OF OMAHA, as surveyed and lithographed, in Douglas County, Nebraska; **03-80000**

And,

The South Half (S½) of Lot 4 and the North Half (N½) of Lot 5, in Block 70, in the ORIGINAL CITY OF OMAHA, as surveyed and lithographed, in Douglas County, Nebraska;

And,

A tract of land located in Lot 8 and the South 30 feet of Lot 5, in Block 70, in the ORIGINAL CITY OF OMAHA, as surveyed and lithographed, in Douglas County, Nebraska, described as follows:

Referring to the Southeast corner of Lot 8, said Block 70; thence Northerly, on the East line of said Lot 8, a distance of 53.0 feet, to the Point of Beginning; thence continuing Northerly, on the East line of Lots 5 and 8, said Block 70, a distance of 37.0 feet, to a point on the Northerly property line; thence Westerly, on a line 30.0 feet Northerly from and parallel to the South line of said Lot 5 and on said property line, a distance of 35.9 feet; thence Southeasterly, a distance of 51.6 feet, to the Point of Beginning.

**PARCEL 3:** All that part of Lots 5, 6 and 7, in Block C, in the ORIGINAL CITY OF OMAHA, as surveyed and lithographed, in Douglas County, Nebraska, lying Southwesterly from and adjacent to the Southwesterly Chicago, Burlington and Quincy Railroad Company right-of-way line, and Southeasterly from and adjacent to the Southeasterly right-of-way line of Abbott Drive; **03-80000**

And,

Part of Lot 5, in Block C, in the ORIGINAL CITY OF OMAHA, as surveyed and lithographed, in Douglas County, Nebraska, more particularly described as follows:

Beginning at the Northwest corner of said Lot 5; thence Easterly, on the North line of said Lot 5, a distance of 25.1 feet; thence Southwesterly, on a 4,754.9 foot radius curve to the right (initial tangent of which forms an angle of 117°19' right from said North line, a distance of 54.1 feet, to a point on the West line of said Lot 5; thence Northerly, on said West line, a distance of 48.0 feet, to the Point of Beginning.

**EXHIBIT A-3**

**Legal Description**

**(Lot E Parking Lot Real Estate)**

**03-80000**

**PARCEL 4:** A tract of land located in Lots 2, 3 and 4, in Block 62, in the ORIGINAL CITY OF OMAHA, as surveyed and lithographed, in Douglas County, Nebraska, being more particularly described as follows:

Beginning at the Southwest corner of Lot 4, said Block 62; thence Easterly, on the South line of Lots 2, 3 and 4, said Block 62, a distance of 178.6 feet; thence Northwesterly, on a 1,237.6 foot radius curve to the left (initial tangent of which forms an angle of 161°20' left from said South line), a distance of 13.0 feet, to a point of tangency; thence continuing Northwesterly, tangent, a distance of 124.8 feet, to a point of curvature; thence continuing Northwesterly, on a 2,276.3 foot radius curve to the right (initial tangent of which coincides with the last described course), a distance of 50.3 feet, to a point on the West line of said Lot 4; thence Southerly, on said West line, a distance of 59.2 feet, to the Point of Beginning;

And,

**03-80000**

Lots 5, 6, 7 and 8, in Block 62, in the ORIGINAL CITY OF OMAHA, as surveyed and lithographed, in Douglas County, Nebraska, EXCEPT those portions thereof included within or designated as street improvement area in the Plat and Dedication of Union Pacific Place.

**PARCEL 5:** The vacated East-West alley between Davenport Street and Chicago Street from 10th Street to 11th Street, in Block 62, in the ORIGINAL CITY OF OMAHA, as surveyed and lithographed, in Douglas County, Nebraska, EXCEPT those portions thereof included within or designated as street improvement area in the Plat and Dedication of Union Pacific Place.



**EXHIBIT B**

**EXHIBIT A-1**

**Legal Description**

**07-05673**

**(Parking Garage Real Estate)**

Lot 1, The Capitol District, an Addition to the City of Omaha, Nebraska, as surveyed, platted, and recorded in Douglas County, Nebraska;

Together with rights appurtenant thereto as established by Agreement for Skyway Construction, Operation, Maintenance, and Easements dated October 6, 2016 and recorded October 7, 2016, as Instrument No. 2016083555 of the Records of Douglas County, Nebraska;

Together with rights appurtenant thereto as established by Agreement for Skyway Construction, Operation, Maintenance, and Easements dated October 6, 2016 and recorded October 7, 2016, as Instrument No. 2016083556 of the Records of Douglas County, Nebraska.