



MISC 2017060219



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COMP: LC

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
08/01/2017 16:03:37.00



2017060219

**RECORDING REQUESTED BY AND  
WHEN RECORDED, RETURN TO:**

Jessica Marzullo, Esq.  
CMB Nebraska, LLC  
7819 42<sup>nd</sup> Street West,  
Rock Island, IL 61201

(Space above this line for Recorder's use)

TO BE RECORDED IN THE  
RECORDS OF  
DOUGLAS COUNTY, NEBRASKA

**MODIFICATION OF DEED OF TRUST, ASSIGNMENT OF RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING**

**THIS MODIFICATION OF THE DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING, dated July 26, 2017 ("Modification"), is made and executed between CAPITOL DISTRICT HOTEL, LLC, a Nebraska limited liability company, as grantor of the Deed of Trust (together with its permitted successors and assigns, "Borrower"), whose mailing address for notice hereunder is 1111 North 13th Street, Suite 101, Omaha, NE 68102, Attn: Michael T. Moylan, Robert Kmiecik, an attorney licensed in the state of Nebraska and a member of the Nebraska State Bar Association, whose address is c/o Stinson Leonard Street, 1299 Farnam Street, Suite 1500, Omaha, Nebraska 68102, as Trustee ("Trustee"), for the benefit of CMB NEBRASKA INFRASTRUCTURE INVESTMENT GROUP 47, LP, a Delaware limited partnership as beneficiary of the Deed of Trust (together with its permitted successors and assigns, "Lender") whose address is 7819 42<sup>nd</sup> Street West, Rock Island, Illinois 61201.**

**DEED OF TRUST.** Lender and Trustor have entered into a Deed of Trust dated August 20, 2015 (together with all amendments and modifications thereto as the "Deed of Trust") which has been recorded in DOUGLAS COUNTY, NEBRASKA, as follows:

DEED OF TRUST RECORDED September 8, 2015, as INST. # 2015075417; and

APPOINTMENT OF SUCCESSOR TRUSTEE RECORDED July 21, 2017 as INST # 2017 058647.

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FIXTURE FILING - Page 1

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

LOT 2, THE CAPITOL DISTRICT REPLAT 1, AN ADDITION TO THE CITY OF OMAHA, AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA.

**MODIFICATION.** Borrower, Trustee and Lender hereby modify the Deed of Trust as follows:

**THIS MODIFICATION IS TO UPDATE THE LEGAL DESCRIPTION AS FOLLOWS:**

Lot 2, in THE CAPITOL DISTRICT REPLAT 1, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, together with part of the vacated Davenport Street adjacent thereto on the North;

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.

And, together with rights appurtenant thereto as established by Parking License Agreement dated September 18, 2015, as amended by the First Amendment to Parking License Agreement dated September 19, 2016, a Memorandum of which was dated October 28, 2016 and recorded November 1, 2016, as Instrument No. 2016091179 of the Records of Douglas County, Nebraska.

**CONTINUING VALIDITY.** Except as expressly modified above, the terms of the 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, guarantors and endorsers 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 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.

**BORROWER, TRUSTEE AND LENDER ACKNOWLEDGE HAVING READ ALL THE PROVISIONS OF THIS MODIFICATION AND AGREE TO ITS TERMS.**

EXECUTED as of the date first above written.


**BORROWER:**

**CAPITOL DISTRICT HOTEL, LLC,**  
a Nebraska limited liability company

By: Capitol District Hotel Manager, LLC,  
a Nebraska limited liability company,  
its Member and Managing Member

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: Sole Member

STATE OF NEBRASKA

DOUGLAS COUNTY

On July 26, 2017, before me, Deena Parrish, Notary Public,  
personally appeared Michael T. Moylan, personally known to me (or proved to  
me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to  
the within instrument and acknowledged to me that he/she/they executed the same in his/her/their  
authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or  
the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.

 (SEAL)  
Signature of Notary Public



MODIFICATION OF DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND  
FIXTURE FILING – SIGNATURE PAGE

**TRUSTEE:**

By: Robert J. Kmiecik

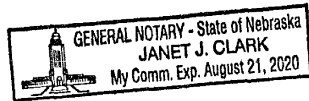
**Robert Kmiecik, an attorney licensed in the state of Nebraska and a member of the Nebraska State Bar Association**

STATE OF NEBRASKA

DOUGLAS COUNTY

On July 28, 2017, before me, JANET J. CLARK, Notary Public, personally appeared ROBERT J. KMECIK, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.



Janet J. Clark (SEAL)  
Signature of Notary Public


**LENDER:**

**CMB NEBRASKA INFRASTRUCTURE INVESTMENT GROUP 47, LP**

By its managing General Partner:

CMB Nebraska, LLC,

a Texas limited liability company

By: 

Name: Patrick F. Hogan

Title: Manager

STATE OF ILLINOIS

COUNTY OF ROCK ISLAND

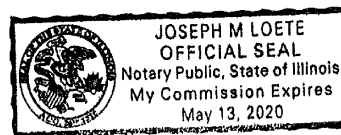
On July 26, 2017 before me, Joseph Loete,  
Notary Public, personally appeared PATRICK F HOGAN, who proved to me on the basis of  
satisfactory evidence to be the person whose name is subscribed to the within instrument and  
acknowledged to me that he executed the same in his authorized capacity, and that by his signature  
on the instrument the person, or the entity upon behalf of which the person acted, executed the  
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.



Notary Public Signature



MODIFICATION OF DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND  
FIXTURE FILING – SIGNATURE PAGE