



MISC 2016094457



NOV 10 2016 15:40 P 7

Fee amount: 46.00
FB: 07-05674
COMP: LC

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
11/10/2016 15:40:38.00



2016094457

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 HOTEL, 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 May 29, 2015, as amended by the First Amendment to Building Loan Agreement dated as of August 28, 2015 (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 a 333-room full service Marriott hotel. All capitalized terms used herein and not otherwise defined shall have the meanings set forth in Loan Agreement;

WHEREAS, Section 5(a)(xi) 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 Parking Rights and the Skyway Easement;

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 May 29, 2015 (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 June 2, 2015 as Instrument No. 2015042747 in the Official Records of the County Clerk's Office of Douglas County, Nebraska, encumbering the property described in Exhibit A attached hereto (the "*Property*"); and

(ii) the Assignment of Leases and Rents dated as of May 29, 2015 (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 June 2, 2015 as Instrument No. 2015042748 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 to the Deed of Trust is amended by replacing it in its entirety with Exhibit B hereto.

(b) Exhibit A 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]

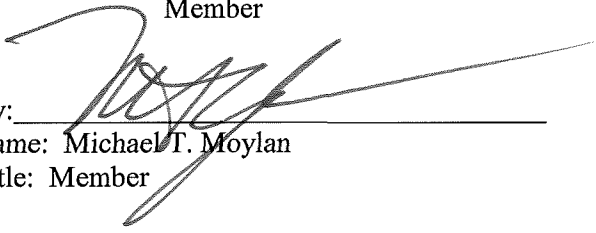
IN WITNESS WHEREOF, the parties hereto have caused this First Global Amendment to Recorded Documents to be executed as of the Effective Date.

CAPITOL DISTRICT HOTEL, LLC, a Nebraska limited liability company

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

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 4th 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 Hotel Manager, LLC, a Nebraska limited liability company, the managing member of Capitol District Hotel, 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



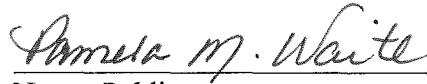
By: _____

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

LEGAL DESCRIPTION

Lot 2, in THE CAPITOL DISTRICT REPLAT 1, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska.

EXHIBIT B

EXHIBIT A

Legal Description

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.