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Certified, filed and/or recorded on  
12/21/10 12:54 PM

Office of the Registrar of Titles  
Hennepin County, Minnesota

Michael H. Cunniff, Registrar of Titles  
Jill L. Alverson, County Auditor and Treasurer

Deputy 55

Pkg ID 678311

**Doc Name: Amendment**

Document Recording Fee \$46.00

Multiple Certificates Affected \$20.00  
Fee

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**Document Total** \$66.00

**Existing Certs**

**New Certs**

1327592

1128873

1128873  
1327592

RETURN TO: Box 104  
First American Title Insurance Co, NCS  
1900 Midwest Plaza  
801 Nicollet Mall  
Minneapolis, MN 55402

**AMENDED AND RESTATED  
DECLARATION OF EASEMENTS**

**DATE:** December 21st, 2010  
**BY:** **CITY OF MINNEAPOLIS**  
a Minnesota municipal corporation ("Declarant")

**RECITALS**

- A. Declarant made that certain Declaration of Easements dated March 31, 2004, filed May 6, 2004 as Document No. 3957042 in the Office of the Registrar of Titles, Hennepin County, Minnesota (the "Original Declaration").
- B. Declarant desires to amend and restate the Original Declaration as set forth herein to reflect the subdivision of Lot 2, Block 1, Mill Quarter Addition, according to the recorded plat thereof, Hennepin County, Minnesota (the "Liner Parcel") into Lots 1 and 2, Block 1, Mill Quarter Second Addition, according to the recorded plat thereof, Hennepin County, Minnesota.
- C. Declarant is the owner of the land described in Exhibit A ("Ramp Parcel"), the land described in Exhibit B ("Lot 1") and the land described in Exhibit C ("Lot 2"). The Ramp Parcel, Lot 1 and Lot 2 are collectively referred to as the "Parcels" and individually as a "Parcel."
- D. Declarant desires to establish and confirm certain easements and other obligations on Lot 2 for the benefit of the Ramp Parcel and Lot 1 and their respective owners and occupants.

**DECLARATION**

**DECLARANT** therefore declares that Lot 2 will be sold, conveyed, held and occupied subject to the following easements and obligations which run with the land and are binding on all parties having any right, title or interest therein:

**NCS-410271-MPLS (Jb)**

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1. **Owner.** As used in this Declaration, the term “Owner” shall refer to any present or future owner or owners of legal or equitable title to all or any portion of the Parcels, and any mortgagee of the Parcels, and their respective successors and assigns during any period of ownership.
2. **Service Lane.** Declarant hereby declares, creates, establishes, grants, conveys and reserves a perpetual non-exclusive easement over that part of Lot 2 legally described in Exhibit D (the “Service Lane Easement”) for the purpose of providing (a) space to dump snow and vehicular access to clear and remove snow from the Ramp Parcel; (b) loading dock and trash pick-up access to Lot 1; (c) ingress/egress from one or more doors in the building on Lot 1; and (d) exterior maintenance access to the Ramp Parcel and Lot 1. The Owner of the Ramp Parcel will coordinate snow removal with the Owner of Lot 2, complete snow removal as expeditiously as possible to minimize impact on Lot 2 and will not be allowed to use the Service Lane Easement for storage of snow. The Owner of Lot 2, at its expense, will be responsible for full and final construction of such improvements as will facilitate use of the Service Lane Easement for the intended purposes (the “Service Lane”). The Service Lane will be constructed in conjunction with the development of Lot 2. The Owner of Lot 2 will thereafter keep and maintain the Service Lane in good order and condition, including prompt removal of snow and ice. The Owner of Lot 1 will contribute 25% of the initial construction costs and 25% of the annual costs to maintain, repair and replace the Service Lane. No above-grade improvements may be constructed in the Service Lane Easement.
3. **No Build.** Declarant hereby declares, creates, establishes, grants, conveys and reserves a perpetual nonexclusive easement over that portion of Lot 2 described in Exhibit E (the “No Build Area”) for the purpose of providing an open space area adjoining the southwest side of the Ramp Parcel wherein no buildings that interfere with the code-required open air ventilation system for the Ramp Parcel will be constructed or maintained. Nothing herein will limit the right of the Owner of Lot 2 from constructing and maintaining surface parking facilities, walkways, driveways, landscaping, lighting, signage, and similar ground-level improvements that do not interfere with the snow removal access provided in section 2 above and that do not interfere with the use of the loading dock by the Owner of Lot 1, the trash pick-up access to Lot 1, and the ingress/egress from one or more doors in the building on Lot 1.
4. **Maintenance and Maintenance Liens.** If the Owner of any Parcel fails to keep and maintain the easements as required herein (the “Defaulting Owner”), then the Owner of either of the other Parcels (one or more, the “Non-Defaulting Owner”) may perform such services on not less than ten days’ prior written notice (or immediately for emergencies) and charge the Defaulting Owner the cost thereof. To the extent permitted by law, costs, expenses and interest accruing and/or assessed pursuant to this Section 4 shall constitute a lien against the Defaulting Owner’s parcel. Such lien shall attach and take effect only upon recordation of a claim of lien in the office of the Recorder or Registrar of Titles for Hennepin County, Minnesota. The claim of lien shall include the following:

- (a) The name of the lien claimant.

- (b) A statement concerning the basis for the claim of lien and identifying the lien claimant as a Non-Defaulting Owner.
- (c) An identification of the Owner or reputed Owner of the Parcel or interest therein against which the lien is claimed.
- (d) A description of the Parcel against which the lien is claimed.
- (e) A description of the work performed which has given rise to the claim of lien and a statement itemizing the amount thereof.
- (f) A statement that the lien is claimed pursuant to the provisions of this Declaration, reciting the date and document number of recordation hereof. The notice shall be duly verified, acknowledged and contain a certificate that a copy thereof has been served upon the Defaulting Owner against whom the lien is claimed, by personal service or by mailing pursuant to Section 7 below. The lien so claimed shall attach from the date of recordation solely in the amount claimed thereby and may be enforced in any judicial proceedings allowed by law, including without limitation, a suit in the nature of a suit to foreclose a mortgage/deed of trust or mechanic's lien under the Minnesota law.

5. **Indemnification and Insurance.**

- (a) Generally. Each Owner shall obtain and keep in full force and effect, at its sole cost and expense, as to its Parcel and any improvements thereon:
  - (i) A policy of commercial general liability insurance written on an "occurrence basis" not a "claims basis" under which policy the other Owners shall be named as an additional insured, and with coverage limits of not less than \$2,000,000 for each occurrence of injury or property damage and \$2,000,000 in the aggregate; and
  - (ii) A policy of property insurance with "all-risk" coverage in the amount of one hundred percent (100%) of the full replacement value of all improvements.

All insurance required under this Section shall be procured from companies authorized to do business in the State of Minnesota and shall be rated by Best's Insurance Reports not less than A-VI. The Owners may provide insurance under an individual policy covering this location, or a blanket policy which includes other liabilities, properties and locations. The Owners will furnish to the other Owners a certificate of insurance, evidencing that the insurance required hereunder is in full force and effect upon request by the other Owners.

- (b) Additional Requirements. The insurance required pursuant to Section 5(a) shall include the following provisions:

- (i) The policy shall not be canceled or reduced in amount or coverage below the requirements of this Declaration, nor shall it be allowed to expire without prior notice of at least thirty (30) days by the insurer to each insured and to each additional insured;
  - (ii) Severability of interests;
  - (iii) An act or omission of the insured or additional insured that would void or otherwise reduce coverage shall not void or otherwise reduce the coverage as to the other insured; and
  - (iv) Contractual liability coverage with respect to the indemnity obligations set forth in this Declaration.
- (c) Waiver of Claims. Each Owner agrees that it waives any and all claims and rights of action it may have against the other and any of the other Owner's agents, employees and contractors with respect to any losses or claims arising out of any damage to its Parcel and any improvement thereon, by losses covered by a commonly available "all risk" form of insurance policy, including flood and earthquake, whether or not such damage was caused by the negligence or other act or omission of an other Owner or the other Owner's agents, employees and contractors, and, whether or not any such damage to its Parcel or any improvement thereon was caused by or a result of an occurrence on any of the other Parcels.
- (d) City Self-Insurance. Notwithstanding anything else in this Section 5, during such time as the City of Minneapolis owns any of the Parcels, (i) it may provide the insurance required hereby under a plan of self-insurance, and (ii) the limit set forth in Subsection 5(a) will be the then-applicable maximum statutory limit for any number of claims arising out of a single occurrence set forth in Minnesota Statutes, Section 466.04 or any successor statute.
- (e) Insurance Proceeds. All property insurance proceeds shall be the property of and be payable to the Owner whose building was damaged.
6. Indemnification. Subject to Subsection 5(c) and except as otherwise expressly provided herein, each Owner shall exercise the rights herein granted to it with due care, and shall indemnify, defend, protect and hold harmless the other Owners ("Indemnified Party") from and against any and all claims, costs and liabilities (including reasonable attorneys' fees and costs) arising from property loss or damage or personal injury or death occurring on the indemnifying Owner's Parcel by reason of any act or omission of the indemnifying Owner or its employees, agents, licensees, contractors and invitees, except for claims, costs and liabilities to the extent arising from the negligence or misconduct of an Indemnified Party.
7. Notices. Notices required herein shall be delivered to the taxpayers' address for the applicable Parcel as listed in the Hennepin County Assessor's Office, or the registered agent for any homeowner's association that may subsequently own one of the Parcels.

8. **Covenants Running with the Land.** The easements and rights created by this Declaration are appurtenant to the Parcels, shall run with the land and shall be binding upon and inure to the benefit of the Owners of the Parcels and their successors and assigns. Each Owner of a Parcel covenants and agrees that upon conveyance of all or any part of the fee title to the Parcel, the transferee, by accepting such conveyance, will thereby become a new Owner under, and be bound by, this Declaration. On such acceptance and deemed assumption by a transferee, the conveying Owner of a Parcel will thereafter be released from any obligation under this Declaration arising thereafter with respect to the Parcel so conveyed.
9. **No Public Dedication.** Nothing in this Declaration is intended to be, nor shall it constitute, a dedication of any portion of the Parcels to the general public for any public use or purpose whatsoever.
10. **Governing Law.** This Declaration shall be governed by and construed under the laws of the State of Minnesota.

*[Signature Page Follows.]*

IN WITNESS OF this Declaration, Declarant has executed it as of the date set above.

DECLARANT:

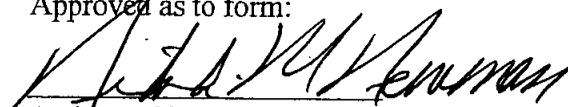
CITY OF MINNEAPOLIS

By   
Finance Officer, Patrick Born

Department Head Responsible  
For Monitoring Contract:

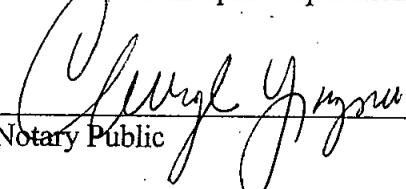
  
Deputy Director, CPED

Approved as to form:

  
Assistant City Attorney

STATE OF MINNESOTA    )  
  ) ss  
COUNTY OF HENNEPIN    )

The foregoing instrument was acknowledged before me this 16 day of December 2010 by Patrick Born, as Finance Officer, of the City of Minneapolis, a Minnesota municipal corporation, on behalf of the municipal corporation.

  
Notary Public



Instrument Drafted By:  
Minneapolis City Attorney's Office (NMN)  
105 Fifth Avenue South #200  
Minneapolis, MN 55401-2534  
612.673.5273

**EXHIBIT A TO  
AMENDED AND RESTATED DECLARATION OF EASEMENTS**

**DESCRIPTION OF RAMP PARCEL**

Tract B, Registered Land Survey No. 1740, Hennepin County, Minnesota.

**EXHIBIT B TO  
AMENDED AND RESTATED DECLARATION OF EASEMENTS**

**DESCRIPTION OF LOT 1**

Lot 1, Block 1, MILL QUARTER SECOND ADDITION, according to  
the recorded plat thereof, Hennepin County, Minnesota.

**EXHIBIT C TO  
AMENDED AND RESTATED DECLARATION OF EASEMENTS**

**DESCRIPTION OF LOT 2**

Lot 2, Block 1, MILL QUARTER SECOND ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota.

**EXHIBIT D TO  
AMENDED AND RESTATED DECLARATION OF EASEMENTS**

**SERVICE LANE EASEMENT**

A strip of land 15.00 feet in width along the northerly boundary of Lot 2,  
Block 1, MILL QUARTER SECOND ADDITION, according to the recorded  
plat thereof, Hennepin County, Minnesota.

**EXHIBIT E TO  
AMENDED AND RESTATED DECLARATION OF EASEMENTS**

**OPEN SPACE AREA**

A strip of land 10.00 feet in width along the northerly boundary of Lot 2, Block 1, MILL QUARTER SECOND ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota.