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now appears in the public record
Document submitted by Stewart Title

recorded: December 10, 2020
Entry # 200754:2020

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Wells Fargo Bank, National Association
299 South Main Street, 6th Floor
Salt Lake City, Utah 84111
Loan No. 1012464
Attn: Erik Bengtzen

**MEMORANDUM OF THIRD MODIFICATION AGREEMENT
AMENDING SECURITY INSTRUMENT**

THIS MEMORANDUM OF THIRD MODIFICATION AGREEMENT AMENDING SECURITY INSTRUMENT ("**Modification**") is entered into as of December 9, 2020, by and between UNIVERSITY MALL SHOPPING CENTER, L.C., a Utah limited liability company ("**Trustor**"), and WELLS FARGO BANK, NATIONAL ASSOCIATION ("**Lender**").

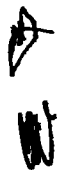
RECITALS

- A. Trustor is the current trustor under that certain Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated February 12, 2015, executed by Trustor, to Wells Fargo Bank Northwest, National Association, as trustee, for the benefit of Lender, as Beneficiary, which was recorded on February 13, 2015, as Entry No. 11374:2015, in the Official Records of Utah County, Utah, as amended by: (i) that certain First Modification Agreement Amending Deed of Trust dated as of August 4, 2015, and recorded August 28, 2015, as Entry No. 79330:2015, in the Official Records of Utah County, Utah; (ii) that certain Modification Agreement Amending Deed of Trust dated as of June 11, 2018, and recorded June 22, 2018, as Entry No. 58584:2018, in the Official Records of Utah County, Utah; and (iii) that certain Memorandum of Modification Agreement Amending Security Instrument dated as of June 30, 2020, and recorded June 30, 2020, as Entry No. 91488:2020 (as so amended, "**Security Instrument**").
- B. The Security Instrument encumbers certain real property described on Exhibit A, attached hereto (the "**Property**") to secure, among other things the obligations of Trustor as Borrower under that certain Term Loan Agreement by and between Borrower and Lender dated as of February 12, 2015 (the "**Loan Agreement**").
- C. Pursuant to a Construction Loan Agreement of even date herewith, by and among Lender and UP Tower L.L.C., a Utah limited liability company ("**UP Tower**"), Lender has extended to UP Tower a loan in the principal amount of \$24,000,000.00. As security for such loan, UP Tower has executed and delivered to Lender a certain deed of trust of even date herewith (the "**Other Security Instrument**"), which Other Security Instrument shall be recorded concurrently herewith.
- D. Trustor and Lender have entered into a Third Modification Agreement of even date herewith, pursuant to which Trustor and Lender have amended the Loan Agreement to provide that the obligations secured by the Other Security Instrument will also be secured by the Security Instrument and that a default under the Other Security Instrument will constitute a default under the Loan Agreement and the Security Instrument.
- E. Trustor and Lender desire to record this Memorandum to provide notice of the Third Modification and to amend the Security Instrument in accordance therewith.

NOW, THEREFORE, Trustor and Lender hereby agree as follows:

1. **AMENDMENT.** The Cross-Default/Cross-Collateralization Rider attached to this Modification Agreement as Exhibit B is hereby attached and added to the Security Instrument as Exhibit B thereto.
2. **MISCELLANEOUS.**
 - (a) Except as expressly amended herein, the Security Instrument shall remain in full force and effect.
 - (b) To facilitate execution, this document may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single document. It shall not be necessary in making proof of this document to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

[Signature Pages Follow]



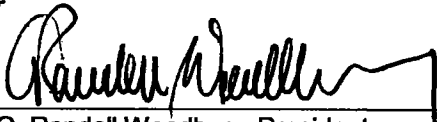
TRUSTOR'S SIGNATURE PAGE:

"TRUSTOR"

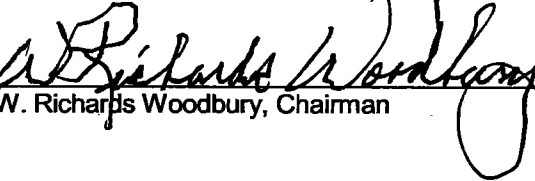
UNIVERSITY MALL SHOPPING CENTER, L.C.,
a Utah limited liability company

By: Woodbury Management Company, L.C.,
a Utah limited liability company
Its Manager

By: Woodbury Corporation,
a Utah corporation
Its Manager

By: 

O. Randall Woodbury, President

By: 

W. Richards Woodbury, Chairman

[Acknowledgments on Following Page]

LOAN NO. 1012464

STATE OF UTAH)
)
:SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 10th day of December, 2020, by O. Randall Woodbury, President of Woodbury Corporation, a Utah corporation, Manager of Woodbury Management Company, L.C., a Utah limited liability company, Manager of University Mall Shopping Center, L.C., a Utah limited liability company.



Tiffany M. Steele
NOTARY PUBLIC
Residing at: _____

My commission expires: _____

STATE OF UTAH)
)
:SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 10th day of December, 2020, by W. Richards Woodbury, Chairman of Woodbury Corporation, a Utah corporation, Manager of Woodbury Management Company, L.C., a Utah limited liability company, Manager of University Mall Shopping Center, L.C., a Utah limited liability company.



Tiffany M. Steele
NOTARY PUBLIC
Residing at: _____

My commission expires: _____


Handwritten initials

LOAN NO. 1012464

LENDER'S SIGNATURE PAGE:

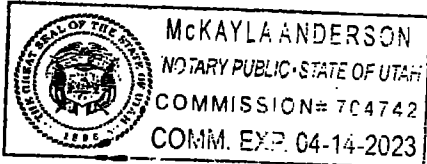
"LENDER"

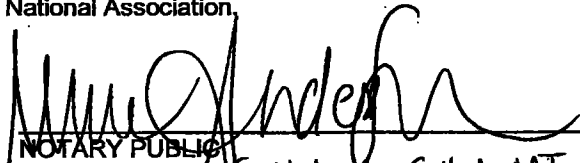
WELLS FARGO BANK, NATIONAL ASSOCIATION

By: 
Erik W. Bengtzen, Vice President

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 9th day of December, 2020, by Erik W. Bengtzen, Vice President of Wells Fargo Bank, National Association.




NOTARY PUBLIC
Residing at: Salt Lake City, UT

My commission expires: 04-14-2023

TRUSTOR'S SIGNATURE PAGE:

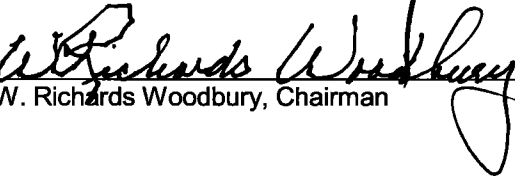
"TRUSTOR"

UNIVERSITY MALL SHOPPING CENTER, L.C.,
a Utah limited liability company

By: Woodbury Management Company, L.C.,
a Utah limited liability company
Its Manager

By: Woodbury Corporation,
a Utah corporation
Its Manager

By: 
O. Randall Woodbury, President

By: 
W. Richards Woodbury, Chairman

[Acknowledgments on Following Page]

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 12th day of ~~December, 2020~~ February, 2021 by O. Randall Woodbury, President of Woodbury Corporation, a Utah corporation, Manager of Woodbury Management Company, L.C., a Utah limited liability company, Manager of University Mall Shopping Center, L.C., a Utah limited liability company.



Tiffany M. Steele
NOTARY PUBLIC
Residing at: _____

My commission expires: _____

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 12th day of ~~December, 2020~~ February, 2021 by W. Richards Woodbury, Chairman of Woodbury Corporation, a Utah corporation, Manager of Woodbury Management Company, L.C., a Utah limited liability company, Manager of University Mall Shopping Center, L.C., a Utah limited liability company.



Tiffany M. Steele
NOTARY PUBLIC
Residing at: _____

My commission expires: _____

[Handwritten initials]

LOAN NO. 1012464

LENDER'S SIGNATURE PAGE:

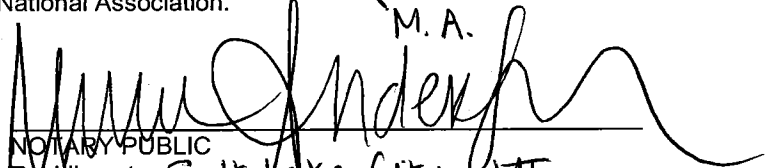
"LENDER"

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: 
Erik W. Bengtzen, Vice President

STATE OF UTAH)
) :ss
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 4th day of February 2021 December, 2020, by Erik W. Bengtzen, Vice President of Wells Fargo Bank, National Association.


M. A.
NOTARY PUBLIC
Residing at: Salt Lake City, UT

My commission expires: 04/14/2023



EXHIBIT A - DESCRIPTION OF PROPERTY

Exhibit A to Memorandum of Third Modification Agreement Amending Security Instrument, by and between University Mall Shopping Center, L.C., a Utah limited liability company, as Trustor, and Wells Fargo Bank, National Association, as Lender.

All that certain real property located in the County of Utah, State of Utah, described as follows:

Parcels 1 and 2

Lots 201, 203, and 205, University Mall Plat A – Lot 201-205 Subdivision, according to the official plat thereof, recorded November 29, 2017 as Entry No. 117896:2017 and Map Filing No. 15792, in the office of the Utah County Recorder.

Parcel 3

Lot 17, Plat "A", University Mall Subdivision, according to the official plat thereof, recorded March 1, 2001, as Entry No. 19427:2001 and Map Filing No. 8962, in the office of the Utah County Recorder.

Parcel 4

Lot 15A, University Mall Uplace Aston Court Subdivision, according to the official plat thereof, recorded September 15, 2014, as Entry No. 65749:2014 and Map Filing No. 14361, in the office of the Utah County Recorder.

Parcels 5 through 10

INTENTIONALLY DELETED

Parcel 11

Commencing 182 feet East and 1827.41 feet South 01°27' East from the Orem City Monument at the Center of Section 23, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 89° 48' East 100 feet; thence South 01°27' East 100 feet; thence South 89°48' West 100 feet; thence North 01°27' West 100 feet to the point of beginning.

Parcel 12

Commencing at a point which is East 282.00 feet and South 01°27' East 1827.41 feet from the Orem City Monument at the Center of Section 23, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 01°27' East 100 feet; thence North 89°48' East 25.00 feet; thence North 01°27' West 100.00 feet; thence South 89° 48' West 25.00 feet to the point of beginning.

Parcel 13

Beginning at a point which is East 332 feet and South 01°27' East 1826.88 feet from the Orem City Monument at the Center of Section 23, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence South 01°27' East 100.00 feet; thence South 89°48' West 25.00 feet; thence North 01°27' West 100.00 feet; thence North 89°48' East 25.00 feet to the point of beginning.

Parcel 14

Commencing 332 feet East and 1826.88 feet South 01°27' East from the Orem City Monument at the Center of Section 23, Township 6 South, Range 2 East, Salt Lake Base and Meridian; thence North 89°48' East 100 feet; thence South 01°27' East 100 feet; thence South 89°48' West 100 feet; thence North 01°27' West 100 feet to the place of beginning.

LOAN NO. 1012464

Parcel 15

Lot 34, University Place Subdivision Plat 'B', according to the Official Plat thereof, recorded December 12, 2019, as Entry No. 131493:2019, Map Filing No. 16877, in the Office of the Utah County Recorder, State of Utah.

Parcels 16 through 22

Lot 31, University Place Subdivision Plat 'B', according to the Official Plat thereof, recorded December 12, 2019, as Entry No. 131493:2019, Map Filing No. 16877, in the Office of the Utah County Recorder, State of Utah.



EXHIBIT B - CROSS-DEFAULT/CROSS-COLLATERALIZATION RIDER

Exhibit B to Memorandum of Third Modification Agreement Amending Security Instrument, by and between University Mall Shopping Center, L.C., a Utah limited liability company, as Trustor, and Wells Fargo Bank, National Association, as Lender.

1. **ADDITIONAL SECURITY – OBLIGATIONS SECURED BY OTHER SECURITY INSTRUMENT.** In addition to the obligations secured by this Security Instrument and described as "**Secured Obligations**" herein, this Security Instrument shall also secure the payment and performance of all obligations secured by the following (the "**Other Security Instrument**"):

That certain Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of December 9, 2020, executed by UP Tower L.L.C., a Utah limited liability company, as trustor, to Wells Fargo Bank Northwest, National Association, as trustee, for the benefit of Lender, as beneficiary, recorded on December 16, 2020, as Entry No. 200588:2020, in the Official Records of Utah County, Utah (Loan No. 1019874), together with all amendments and modifications thereto;

Any default under any of the Other Security Instrument shall, at Lender's option, constitute a default under this Security Instrument (Loan No. 1012464).

2. **ADDITIONAL SECURITY – OBLIGATIONS SECURED BY SECURITY INSTRUMENT.** In addition to the obligations secured by the Other Security Instrument, the Other Security Instrument shall also secure the payment and performance of all obligations secured by this Security Instrument.
3. **DEFAULT – OTHER SECURITY INSTRUMENT.** A Default under the Other Security Instrument, as defined therein, shall, at Lender's option, constitute a Default under this Security Instrument.
4. **DEFAULT – SECURITY INSTRUMENT.** A Default under this Security Instrument shall, at Lender's option, constitute a Default under the Other Security Instrument.
5. **WAIVER OF MARSHALLING RIGHTS.** Trustor waives all rights to have all or part of the Property and Collateral described in this Security Instrument and/or the Other Security Instrument marshalled upon any foreclosure of this Security Instrument or the Other Security Instrument. Lender shall have the right to sell, and any court in which foreclosure proceedings may be brought shall have the right to order a sale of the Property and Collateral described in either or both of said security instruments as a whole or in separate parcels, in any order that Lender may designate. Trustor makes this waiver for itself, for all persons and entities claiming through or under Trustor and for persons and entities who may acquire a lien or security interest on all or any part of the Property and Collateral described in either of said security instruments, or on any interest therein.
6. **WARRANTIES AND REPRESENTATIONS.** Trustor further warrants that Trustor has no legal or equitable claim against any trustor named in the Other Security Instrument which would be prior to the lien of the Other Security Instrument, or which would entitle Trustor to a judgment entitling Trustor to an equitable lien on all or any portion of that property prior in lien to the Other Security Instrument.
7. **NON-IMPAIRMENT.** Lender intends that, except as supplemented and/or modified by this Security Instrument, all of the terms, covenants and conditions of the Other Security Instrument

and the other loan documents executed in connection therewith shall remain in full force and effect.

8. **LIEN OF SECURITY INSTRUMENT AND OTHER SECURITY INSTRUMENT.** Trustor and Lender acknowledge and agree that it is the intent of the parties hereto that this Security Instrument shall constitute a lien or charge upon only that property described herein as the "**Property**"; and the Other Security Instrument shall constitute a lien or charge upon only that property described therein as the "**Property**".

