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Doc#: 1014031051 Fee: \$50.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 05/20/2010 11:18 AM Pg: 1 of 8

FIRST AMENDMENT TO CONSTRUCTION MORTGAGE WITH ABSOLUTE ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

THIS FIRST AMENDMENT TO CONSTRUCTION MORTGAGE WITH ABSOLUTE ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (the "Amendment") is made as of May 11, 2010 by and between WM O'Hare Hotel, L.L.C., a Delaware limited liability company ("Mortgagor"), and U. S. Bank National Association, a national banking association, for itself and as administrative agent on behalf of the Lenders, as defined below ("Mortgagee"). All capitalized terms used herein and not otherwise defined shall have the meanings assigned in the Mortgage (as such term is defined below).

Recitals

A. Mortgagor, the Lenders (as defined therein) ("Lenders"), and Mortgagee have executed or joined that certain Loan Agreement dated as of August 24, 2009 (as the same may from time to time be amended, modified, restated or extended, the "Loan Agreement"), pursuant to which the Lenders have agreed to make a construction loan to Mortgagor respecting the construction on the property located in Cook County, Illinois and described with greater particularity in Exhibit A hereto. Concurrently herewith, the Mortgagor, Mortgagee, and the Lenders have executed and delivered that certain First Amendment to Loan Agreement and Note of even date herewith (the "Loan Documents Amendment").

B. Mortgagor has executed that certain Construction Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing, for the benefit of Mortgagee and the Lenders, dated as of August 24, 2009, recorded August 25, 2009 in the records of Cook County, Illinois as document no. 0923729059 (the "Mortgage"), granting a lien on certain real and personal property of Mortgagor, as security for the indebtedness and obligations evidenced by those certain Promissory Notes made by Mortgagor to the Lenders dated August 24, 2009 and September 3, 2009 (as amended, the "Note").

C. Mortgagor has requested a waiver and modification of certain Loan Documents and Mortgagor, Mortgagee, Administrative Agent and Lenders have agreed to enter into the agreements set forth in the Loan Documents Amendment and this Amendment.

Agreement

NOW, THEREFORE, the parties hereto agree as follows:

1. Modification.

Near North National Title
222 N. LaSalle
Chicago, IL 60601



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2
201090302

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Mortgagor hereby confirms that the Mortgage continues to secure Mortgagor's obligations under the Note and the other Loan Documents, as modified by the Loan Documents Amendment.

2. Definitions. The definition of the term "Mortgage" in the "Loan Documents" (as the term "Loan Documents" is defined in the Mortgage) is amended to refer to the Mortgage, as amended by this Amendment. The Mortgagor and Mortgagee agree that the Original Maturity Date is August 24, 2011.


3. Liens. Mortgagor hereby agrees that this Amendment modifies the Mortgage and in no way acts as a release or relinquishment of liens, security interests and rights (collectively, the "Liens") created under the Mortgage. The Liens are hereby renewed, extended, ratified and confirmed by Mortgagor in all respects.

4. Continuation. This Amendment is made upon all of the terms, covenants, and agreements of the Mortgage, which is incorporated herein by reference, and the provisions contained herein shall have the same effect as if such provisions were originally included therein. Except as supplemented and amended hereby, all of the terms, covenants, and agreements in the Mortgage remain unchanged, and as supplemented and amended, they continue in full force and effect.

5. Reaffirmation. Mortgagor reaffirms to Mortgagee and Lenders each of the representations, warranties, covenants and agreements of Mortgagor set forth in the Mortgage with the same force and effect as if each were separately stated herein and made as of the date hereof.

6. Ratification. Mortgagor hereby ratifies, affirms, reaffirms, acknowledges, confirms and agrees that the Mortgage (as amended by this Amendment), represent the valid, enforceable, and collectible obligations of Mortgagor, and Mortgagor further acknowledges and represents that there are no existing claims, defenses, personal or otherwise or rights of setoff whatsoever with respect to the Mortgage, and Mortgagor further acknowledges and represents that no Event of Default or Potential Event of Default exists. Mortgagor confirms the waiver of any rights of redemption and reinstatement, to the full extent provided by law.

7. Counterparts. This Amendment may be executed in one or more counterparts, each of which is an original and all of which constitute one agreement.

MAIL TO 

Mail To & Prepared By: David Greig
 Goodsmith Greig & Unruh LLP
 150 S. Wacker Site 3150
 Chicago IL 60606

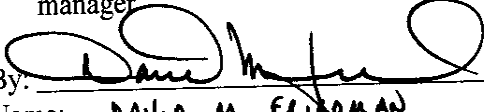
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IN WITNESS WHEREOF, parties hereto have duly executed and delivered this Amendment as of the day and year first above written.

MORTGAGOR:

WM O'HARE HOTEL, L.L.C., a Delaware limited liability company, as Mortgagor

By: Clark Monroe Capital LLC,
an Illinois limited liability company, as
manager

By: 
Name: DAVID M. FRIEDMAN
Its: MANAGER

MORTGAGEE:

U.S. BANK NATIONAL ASSOCIATION, a national banking association, on behalf of itself and the Lenders

By: _____
Name: _____
Its: _____

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IN WITNESS WHEREOF, parties hereto have duly executed and delivered this Amendment as of the day and year first above written.

MORTGAGOR:


WM O'HARE HOTEL, L.L.C., a Delaware limited liability company, as Mortgagor

By: Clark Monroe Capital LLC,
an Illinois limited liability company, as
manager

By: _____
Name: _____
Its: _____

MORTGAGEE:

U.S. BANK NATIONAL ASSOCIATION, a national banking association, on behalf of itself and the Lenders

By: 
Name: DONALD J. PAFFORD
Its: SVP

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STATE OF Illinois
COUNTY OF Cook

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that on MAY 12, 2010, DAVID M. FRIEDMAN, personally known to me to be the MANAGER of Clark Monroe Capital LLC, manager of WM O'HARE HOTEL, L.L.C., a Delaware limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such MANAGER, he/she signed and delivered the said instrument, pursuant to authority given by the MANAGER of said companies, as his/her free and voluntary act, and as the free and voluntary act and deed of said companies, for the uses and purposes therein set forth.



Linda A. Nagle
Notary Public

My Commission Expires: 8/24/10

[NOTARIAL SEAL]

STATE OF _____
COUNTY OF _____

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that on _____, 2010, _____, personally known to me to be the _____ of U.S. BANK NATIONAL ASSOCIATION, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such _____, he/she signed and delivered the said instrument, pursuant to authority given by the _____ of said company, as his/her free and voluntary act, and as the free and voluntary act and deed of said company, for the uses and purposes therein set forth.

Notary Public

My Commission Expires:

[NOTARIAL SEAL]

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STATE OF _____
COUNTY OF _____

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that on _____, 2010, _____, personally known to me to be the _____ of Clark Monroe Capital LLC, manager of WM O'HARE HOTEL, L.L.C., a Delaware limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such _____, he/she signed and delivered the said instrument, pursuant to authority given by the _____ of said companies, as his/her free and voluntary act, and as the free and voluntary act and deed of said companies, for the uses and purposes therein set forth.

Notary Public

My Commission Expires:

[NOTARIAL SEAL]

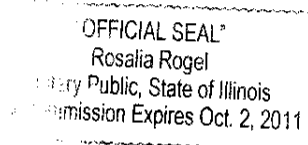
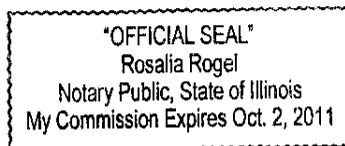
STATE OF ILLINOIS
COUNTY OF COOK

I, the undersigned, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY, that on MAY 13, 2010, DONALD J. PARSFORD, personally known to me to be the SENIOR VICE PRESIDENT of U.S. BANK NATIONAL ASSOCIATION, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such SVP, he/she signed and delivered the said instrument, pursuant to authority given by the SVP of said company, as his/her free and voluntary act, and as the free and voluntary act and deed of said company, for the uses and purposes therein set forth.

Rosalia Rogel
Notary Public

My Commission Expires: 10/2/2011

[NOTARIAL SEAL]



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EXHIBIT A

Legal Description

- (i) Leasehold estate as to Parcels 1 and 2 described below, created by the lease executed by Village of Rosemont, a municipal corporation, as lessor, and American National Bank and Trust Company of Chicago, as Trustee under Trust Agreement dated July 14, 1972 and known as Trust Number 76973, as lessee, dated April 1, 1993, a memorandum of which was recorded April 16, 1993 as document 93284487 and re-recorded December 17, 1996 as document 96952851, and as amended by Amendment recorded February 4, 1998 as document 98092091, and assigned to by Assignment and Assumption of Parking Spaces recorded February 4, 1998 as document 98092093, and assigned by an Assignment and Assumption of Parking Agreements dated December 27, 2007 and recorded December 28, 2007 as document number 0736203060 and re-recorded December 5, 2008 as document number 0834039054; and
- (ii) fee simple as to Parcel 3 described below.

Parcel 1:

That part of Lot 5 lying Easterly of a line drawn from a point on the Northerly line of said Lot, 9.72 feet Westerly of the Northeast corner thereof, (said Northerly line being a curve concave Northerly and having a radius of 65.00 feet) to a point on the Easterly line of said Lot, 78.00 feet Southwesterly of said Northeast corner thereof; and

Lot 6 (except that part of Lot 6 lying Westerly of a line drawn from a point on the Southerly line of said Lot, 9.05 feet Easterly of the Southwest corner thereof to a point on the Westerly line of said lot, 78.00 feet Southwesterly of the Northwest corner thereof);

And

Lots 7 through 9 inclusive and the west 24.00 feet of Lot 10 in Rosemont-William Street Addition, being a subdivision of part of Lot 2 in Henry Hachmeister's Division in the Northwest 1/4 of Section 10, Township 40 North Range 12, East of the Third Principal Meridian, according to the plat thereof recorded December 20, 1967 as document 20360786, in Cook County, Illinois.

Parcel 2:

All of Lot 2 (except that part of said lot lying Northerly of a line beginning on the West line of said lot, 54.07 feet Southerly, as measured along said West line, of the Northwest corner of Thereof to a point on the Easterly line of said Lot, 0.47 feet, as measured along said Easterly line, being a curve concave Northeasterly and having a radius of 65.00 feet, Southerly on the Northeast corner thereof; said line also being the Southerly face of the Southerly East/West column line of Phase 2 parking garage);

All of Lot 3, all of Lot 4 (except the Southerly 4.77 feet thereof) and all of Lot 5 (except the Southerly 4.77 feet thereof and also except that part of said Lot 5 lying Easterly of a line drawn from a point on the Northerly line of said Lot 5, 9.72 feet Westerly of the Northeast corner thereof, said Northerly line being a curve concave Northerly, and having a radius of 65.00 feet to a point on the Easterly line of said Lot, 78.00 feet Southwesterly of said Northeast corner thereof),

Also that part of Lot 6 lying Westerly of a line drawn from a point in the Southerly line of said lot, 9.05 feet Easterly of the Southwest corner thereof to a point on the Westerly line of said lot, 78.00 feet

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Southwesterly of the Northwest corner thereof, in Rosemont-William Street Addition, being a subdivision of part of Lot 2, in Henry Hachmeister's Division in the Northwest 1/4 of Section 10, Township 40 North, Range 12, East of the Third Principal Meridian, according to the plat thereof recorded December 20, 1967 as document 20360786, in Cook County, Illinois.

Parcel 3:

That part of Lot 3 in Section 10 lying West of the West line of the Des Plaines River Road (except therefrom the South 212.30 feet as measured on the West line of the Northwest 1/4 of said Section 10) in Henry Hachmeister's Division of part of Section 9 and Section 10, Township 40 North, Range 12 East of the Third Principal Meridian, according to the plat thereof recorded April 6, 1908 as document 4183101 in Book 97 of plats page 45 in Cook County, Illinois

Excepting therefrom the following described parcel: Said parcel described as beginning at the Southeasterly corner of said part of Lot 3; thence South 90 degrees 00 minutes 00 seconds West (assumed) 13.91 feet (along the Southerly line of said part of Lot 3); thence North 32 degrees 34 minutes 47 seconds East 29.35 feet; thence North 11 degrees 50 minutes 56 seconds East 125.33 feet to said West line; thence South 10 degrees 37 minutes 00 seconds West, 149.96 feet along said West line to said point of beginning, in Cook County, Illinois

Tax Numbers: Tax numbers 12-10-100-046-0000, 12-10-100-081-0000, 12-10-100-096-0000, 12-10-100-097-0000, 12-10-100-100-0000, 12-10-100-120-8001, 12-10-100-120-8002, 12-10-100-078-0000 and 12-10-100-095-0000.

Property Address: 5440 North River Road, Rosemont, Illinois.