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Brownstein Hyatt Farber Schreck, LLP  
410 Seventeenth Street, 22<sup>nd</sup> Floor  
Denver, Colorado 80202  
Attn: Carolynne White, Esq.

**FIRST AMENDMENT TO  
DECLARATION OF COVENANTS IMPOSING AND  
IMPLEMENTING THE AVIATION STATION NORTH  
PUBLIC IMPROVEMENT FEE**

THIS FIRST AMENDMENT TO DECLARATION OF COVENANTS IMPOSING AND IMPLEMENTING THE AVIATION STATION NORTH PUBLIC IMPROVEMENT FEE (this “**Amendment**”) is made as of the 19<sup>th</sup> day of July, 2019 (the “**Amendment Date**”), by RAIL STOP, LLC, a Colorado limited liability company (“**Declarant**”).

**RECITALS**

A. Declarant made and executed that certain Declaration of Covenants Imposing and Implementing the Declaration of Covenants Imposing and Implementing the Aviation Station North Public Improvement Fee, dated June 12, 2015, and recorded in the real property records of the City and County of Denver, Colorado on June 12, 2015, at Reception No. 2015077733 (the “**PIF Covenant**”). Capitalized terms not defined herein shall have the same meaning as set forth in the PIF Covenant.

B. The PIF Covenant encumbers the real property more particularly described in **Exhibit A**, attached hereto and incorporated herein (the “**PIF Property**”), which is located in the City and County of Denver, Colorado (the “**City**”), and Declarant intends to develop and construct or cause to be constructed a development consisting of a mix of commercial uses and other related amenities and facilities permitted by the City, which will be benefited by the completion of the Public Improvements.

C. Declarant desires to amend the PIF Covenant in order to cure certain ambiguities and omissions in the PIF Covenant and to correct and supplement certain provisions of the PIF Covenant.

D. Pursuant to Section 16 of the PIF Covenant, Declarant is entitled to make amendments to the provisions of the PIF Covenant with the consent of the Owners (including the Declarant) who hold fee title to not less than 25% of the total acreage of the PIF Property. The Declarant currently holds fee title to more than 25% of the total acreage of the PIF Property and, as such, has met this requirement. In addition, the District has provided its prior written consent to this Amendment as required by Section 10 and Section 16 of the PIF Covenant.

E. Declarant hereby amends the PIF Covenant as stated below.

### DECLARATION

**NOW, THEREFORE**, in consideration of the facts set forth in the Recitals, incorporated herein and made a part hereof by this reference, Declarant hereby declares that this Amendment shall be binding upon, and effective against all successors in interest, assigns and transferees of the Outparcels as follows:

1. **Addition to Section 1.** The following provision is added to Section 1 of the PIF Covenant:

**"Financing District"** or **"Financing Districts"** means, individually or collectively, as indicated by the context, any of Aviation Station North Metropolitan District Nos. 2, 3, 4 and 6, each a quasi-municipal corporation and political subdivision of the State, which were organized to cooperate with the District to generate revenues to pay costs of the District Improvements.

2. **Amendments to Section 1.** The following provisions of Section 1 of the PIF Covenant are amended and restated in their entirety to read as follows:

**"Bond"** or **"Bonds"** means any bonds issued under the Bond Documents by the District or any of the Financing Districts, in the principal amount not to exceed the maximum amount of debt for the District or the Financing Districts permitted in the applicable service plan, for the purposes of financing or refinancing the District Improvements, and any refundings of the Bonds.

**"Bond Documents"** means any resolution, indenture, reimbursement agreement or contract under which the District or any of the Financing Districts incurs debt or other obligations in connection with financing or refinancing the District Improvements.

**"District"** has the meaning set forth in the Recitals and shall include any permitted successor or assign of the District as may be provided in the PIF Agreement and this Amendment.

3. **Amendments to Section 7(b).** Section 7(b) of the PIF Covenant is hereby amended to reflect that, during the term of any assignment of revenues generated by the Public Improvement Fee for the payment of any Bonds to any of the Financing Districts, such Financing District(s) shall be, along with the District and the Bond Trustee, considered a third-party beneficiary of each Operator's obligations under this PIF Covenant.

4. **Amendments to Section 8.** Section 8 of the PIF Covenant is hereby amended and restated in its entirety to read as follows:

“Use and Pledge, and Assignment of Public Improvement Fee Revenues. The revenues generated by the Public Improvement Fee imposed pursuant to this PIF Covenant may be used for acquiring, designing, constructing, installing, operating, and maintaining Public Improvements, the repayment of indebtedness and obligations incurred in connection with Public Improvements (including the reimbursement obligations incurred by the District under the Reimbursement Agreement), and payment of interest, reserve, administrative, issuance, and other costs relating to such indebtedness and obligations. Any right, title, and interest of the Declarant in the Public Improvement Fee are hereby assigned by the Declarant to the District; provided, however, notwithstanding any such assignment, the Declarant will be entitled to receive revenues generated by the Public Improvement Fee for reimbursement of the Declarant Improvements in accordance with and as may otherwise be provided for in the PIF Agreement, subject to any prior pledge or assignment of such revenues to a Financing District as described below, and to enforce this PIF Covenant for the benefit of the District in accordance with the provisions contained herein against any Occupant or Operator. The District is hereby expressly authorized to pledge the revenues generated by the Public Improvement Fee for the payment of any Bonds, including, for the sake of clarity, Bonds issued by any of the Financing Districts, in accordance with the terms of the Bond Documents. The District is also hereby expressly authorized to assign the revenues generated by the Public Improvement Fee for the payment of any Bonds to any of the Financing Districts that has issued such Bonds, in accordance with the terms of the Bond Documents. During the term of such assignment, the applicable Financing District(s) shall have the full right and authority of the District under this PIF Covenant as it relates to the assigned Public Improvement Fee or portion thereof. Further, the Collecting Agent is hereby authorized to pay so much of the Public Improvement Fees received by it as may be pledged or assigned to the Bond Trustee, to the District, to the Declarant or to any other Person entitled thereto pursuant to the terms of the PIF Agreement and the Bond Documents and any document evidencing a pledge or assignment of the revenues to a Financing District, as described above.

5. **Amendments to Section 22.** Section 8 of the PIF Covenant is hereby amended and restated in its entirety to read as follows:

“Public Improvement Corporation. If the Declarant elects to form a PIC, the PIC shall be deemed to have succeeded to the District's role in administering this PIF Covenant and the PIF Agreement and will assume all rights and obligations of the District in such role as set forth in this PIF Covenant and as may be set forth in the PIF Agreement; provided that if the District either has previously pledged or assigned the revenues generated by the Public Improvement Fee for the payment of any Bonds issued by any of the Financing Districts, as described in Section 8, the PIC will succeed to the District's role and assume all rights and obligations of the District subject to such prior pledges or assignments.”

4. **Miscellaneous.**

(a) Full Force and Effect; Conflict. Except as amended by this Amendment, the PIF Covenant as modified herein remains in full force and effect. In the event of any conflict between the PIF Covenant and this Amendment, the terms and conditions of this Amendment control.

(b) Power and Authority. Rail Stop, LLC, as Declarant, has the power and authority to execute this Amendment.

(e) Governing Law. This Amendment is governed by and construed in accordance with the laws of the State of Colorado.

(f) Covenants Run with the Land. The covenants, agreements, promises, and duties as set forth in this Amendment will run with the PIF Property in the same fashion as the PIF Covenant and be enforceable against both Declarant and the PIF Property, including each Owner and Occupant and each successor to their respective interests in the PIF Property, as further described in Section 15 of the PIF Covenant.

**[Signature on Following Page]**



The District, its successors, and its assigns, hereby acknowledges and consents to this Amendment.

**AVIATION STATION NORTH  
METROPOLITAN DISTRICT NO. 1,**  
a political subdivision and quasi-municipal  
corporation of the State of Colorado

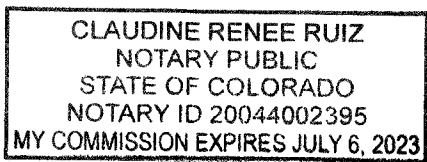
By: *F.L. Belet III*  
Name: *F.L. Belet III*  
Its: *President*

STATE OF *Colorado*  
COUNTY OF *Denver* ) ss.

The foregoing instrument was acknowledged before me this *18<sup>th</sup>* day of July, 2019, by *Ferd Belet, III* as *President* of Aviation Station North Metropolitan District No. 1, a political subdivision and quasi-municipal corporation of the State of Colorado formed pursuant to C.R.S. §31-25-1201, et seq.

Witness my hand and official seal.

My commission expires:



*Claudine Renee Ruiz*  
Notary Public

**EXHIBIT A**

## LEGAL DESCRIPTION OF PIF PROPERTY

THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, EXCEPT THAT PORTION DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NO. 9600152541 IN THE OFFICES OF THE DENVER COUNTY CLERK AND RECORDER AND EXCEPT THE NORTH 30.00 FEET FOR EAST 64TH AVENUE BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE WEST LINE OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN MONUMENTED BY 3 1/4" ALUMINUM CAPS STAMPED LS 20699 AT BOTH ENDS OF SAID LINE, CONSIDERED TO BEAR N00°21'23"W A DISTANCE OF 2649.71 FEET.

**BEGINNING** AT THE CENTER ONE-QUARTER CORNER OF SAID SECTION 9;

THENCE N00°21'23"W A DISTANCE OF 2619.71 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF 64TH AVENUE;

THENCE ON SAID SOUTH RIGHT-OF-WAY LINE THE FOLLOWING FOUR (4) COURSES:

1. ON A LINE BEING 30.00 FEET SOUTHERLY OF AND PARALLEL WITH THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 9, S89°51'30"E A DISTANCE OF 2048.17 FEET;
2. S00°08'30"W A DISTANCE OF 35.00 FEET;
3. S89°51'30"E A DISTANCE OF 505.27 FEET;
4. S45°01'27"E A DISTANCE OF 35.26 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF TOWER ROAD;

THENCE ON SAID WEST RIGHT-OF-WAY LINE S00°11'13"E A DISTANCE OF 2559.07 FEET TO A POINT ON THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 9;

THENCE ON SAID SOUTH LINE N89°52'28"W A DISTANCE OF 2570.35 FEET TO THE POINT OF BEGINNING,

CONTAINING A CALCULATED AREA OF 6,723,677 SQUARE FEET OR 154.354 ACRES.