

WHEN RECORDED, MAIL TO:

Prospector Square Property Owners Association

P.O. Box 680344

Park City, Utah 84068

FIRST AMENDMENT TO ENCROACHMENT AGREEMENT

THIS FIRST AMENDMENT TO ENCROACHMENT AGREEMENT (this "Agreement") is made this 8 day of October, 2018, by and between PROSPECTOR SQUARE PROPERTY OWNERS ASSOCIATION ("PSPOA"), and SMP 1791, LLC, a Massachusetts limited liability company ("SMP").

WHEREAS, PSPOA owns and controls the use of all common areas and facilities in the Prospector Square Subdivision, Park City, Summit County, Utah ("Prospector Square"), as designated on the official plat maps thereof (the "Common Areas"), for the benefit of the owners of property within Prospector Square; and

WHEREAS, SMP is the owner of record of Lot PSA-48F-SP-AM of Prospector Square (the "SMP Property"); and

WHEREAS, the Common Areas and the SMP Property share common boundaries along what are generally the northern and western property lines of the SMP Property; and

WHEREAS, SMP desires to locate and install certain parking structure improvements under the surface of the SMP Property and under that portion of the Common Areas depicted as the "Encroachment Area" on Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, SMP also desires to construct and operate a garage access ramp on and under that portion of the Common Areas depicted as "Garage Access Ramp" on Exhibit "A"; and

WHEREAS, PSPOA and SMP are parties to that certain "Encroachment Agreement" made the 19th day of July, 2018, and recorded on July 20, 2018, as Instrument No. 1095464, Book 2471, Page 1877, of the Official Records of Summit County, Utah (the "Encroachment Agreement"), which Encroachment Agreement pertains to such parking structure improvements; and

WHEREAS, the parties wish to amend the Encroachment Agreement to clarify and modify certain terms and conditions pertaining to such parking structure improvements and to address the location and operation of such garage access ramp.

NOW, THEREFORE, in consideration of the terms, conditions and covenants hereinafter set forth, the parties agree as follows:

1. Parking Structure Improvements. Those portions of the parking structure improvements located in the Common Areas (the "Encroaching Parking Structure Improvements") shall be structurally designed, constructed and operated in a manner such that, in the event the Encroaching Parking Structure Improvements are ever removed, or access thereto is ever prohibited, the parking structure improvements located on SMP's Property will remain fully functional and continue to be operated independent from the Encroaching Parking Structure Improvements.

2. Garage Access Ramp. The Garage Access Ramp is depicted generally and approximately on the Plat (hereinafter defined). PSPOA hereby consents to the encroachment of the Garage Access Ramp into the Common Areas, substantially as shown on Exhibit "A".

3. Applicability of Encroachment Agreement Covenants and Obligations. PSPOA and SMP hereby agree that, as the same are expressly amended hereby, all terms and conditions contained in the Encroachment Agreement, including, without limitation, those relating to

operation, repair, maintenance, risk, insurance and indemnification, shall apply to both the Encroaching Parking Structure Improvements and the Garage Access Ramp, which shall collectively be deemed the "Encroachments" under the Encroachment Agreement.

4. In the event either party incurs attorneys fees or court costs in order to enforce this Agreement, with or without judicial intervention, the prevailing party in such adjudication shall be awarded its reasonable costs and attorneys fees, including those incurred on appeal.

5. The provisions of this Agreement shall create no rights nor obligations of location, use or access beyond those expressly stated herein, and which are reasonably necessary to accomplish the purposes and intent hereof.

6. The provisions hereof and in the Encroachment Agreement shall run with the land and be binding upon and inure to the benefit of the parties and their successors, however designated or in whatever representative capacity, for the owners of the respective properties named herein.

The property affected hereby is identified as follows:

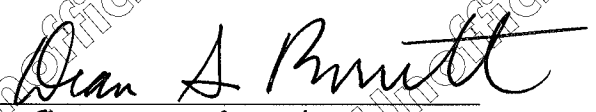
ALL OF LOTS 48A, 48B, 48C and 48F, PROSPECTOR SQUARE SUPPLEMENTAL AMENDMENT TO LOT G SUBDIVISION, ACCORDING TO THE PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE SUMMIT COUNTY RECORDED, SUMMIT COUNTY, UTAH (THE "PLAT")

PSA-48A-SP-AM
Parcel Nos. , PSA-48B-SP-AM, PSA-48C-SP-AM and PSA-48F-SP-2AM

SMP 1791, LLC,
a Massachusetts limited liability company

PROSPECTOR SQUARE PROPERTY OWNERS ASSOCIATION, a Utah non-profit corporation

By: 
Its: owner/manager

By: 
Its: SECRETARY

STATE OF UTAH)

: ss.
County of Summit)

The foregoing instrument was duly acknowledged before me this 8th day of October, 2018, by Edward Lewis, as Manager [title] of SMP 1791, LLC [owner's name]

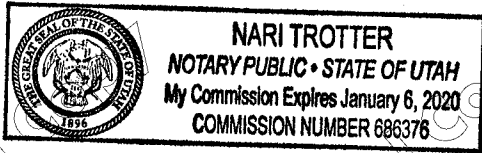


Nari Trotter
Notary Public

STATE OF UTAH)

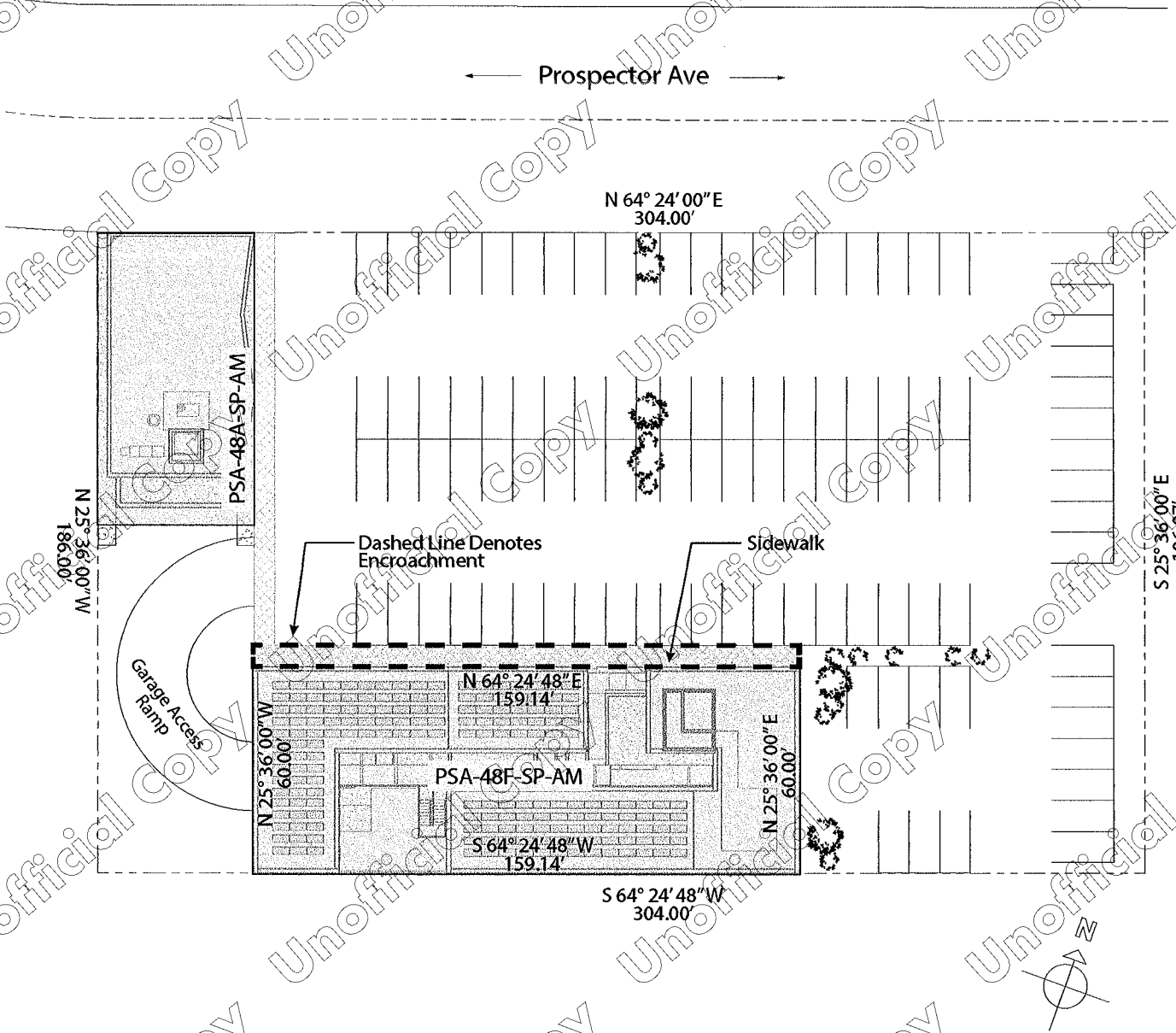
: ss.
County of Summit)

The foregoing instrument was duly acknowledged before me this 8th day of October, 2018, by Dean S. Bennett, as SECRETARY of Prospector Square Property Owners Association.



Nari Trotter
Notary Public

Site Plan



Encroachment Dimensions

