

Recording Requested By and
When Recorded Mail To:

HomeStreet Bank
601 Union Street, Suite 2000
Seattle, Washington 98101-2326
Attention: Commercial Real Estate

Property Tax Account No. 14-32-201-154,
14-32-201-157, 14-32-201-153, and 14-32-201-156
CTIA 163561-A-CAP

[HomeStreet] Bank

FIRST AMENDMENT TO DEED OF TRUST

THIS FIRST AMENDMENT TO DEED OF TRUST (this "**Amendment**") dated as of October 11, 2023, is made by **MWIC MAGNA, LLC**, a Utah limited liability company ("**Borrower**"), as Trustor, whose mailing address is 201 Ferry Street SE, Suite 400, Salem, OR 97301; **OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY** ("**Trustee**"), as Trustee, whose mailing address is 1996 East 6400 South, Suite 120, Salt Lake City, UT 84121; and **HOMESTREET BANK**, a Washington state chartered commercial bank ("**Lender**"), as Beneficiary, whose mailing address is 601 Union Street, Suite 2000, Seattle, Washington 98101-2326, Attention: Commercial Real Estate.

Notice to Borrower: The Note secured by the Deed of Trust amended by this Amendment contains provisions for a variable interest rate.

RECITALS

A. Borrower obtained a construction loan from Lender (the "**Loan**") pursuant to the terms of a Construction Loan Agreement dated February 3, 2023 (the "**Loan Agreement**"). The Loan is also evidenced by a Promissory Note dated February 3, 2023, in the maximum principal amount of Thirty-Nine Million Nine Hundred Thousand and 00/100 Dollars (\$39,900,000.00) (the "**Note**").

B. Borrower's obligations under the Loan are secured by a Deed of Trust, Assignment of Rents and Leases, Security Agreement, and Fixture Filing dated February 3, 2023, and recorded in the Official Records of Salt Lake County, Utah, on February 3, 2023, as Entry No. 14069029 in Book 11399 at Page 3288 (the "**Deed of Trust**"), granted by Borrower for the benefit of Lender against the real property and personal property described therein (the "**Existing Property**").

C. The Loan Agreement, Note, Deed of Trust, and all other documents evidencing, securing, or otherwise governing the Loan, as previously amended, are referred to herein collectively as the "**Loan Documents**."

D. Borrower has acquired the real property legally described in the special warranty deeds listed on Schedule 1 attached hereto (collectively, the "**Additional Property**"). Pursuant to the terms of the Loan Agreement, Borrower is required to encumber the Additional Property as collateral for the Loan upon Borrower's acquisition of the Additional Property. The Additional Property and the Existing Property are referred to herein collectively as the "**Combined Property**."

E. Borrower recorded the Arbor Park Subdivision with the Salt Lake County Recorder on September 13, 2023, under Recording No. 14152124 (the "**Subdivision Plat**") for the Combined Property.

F. Borrower and Lender are entering into this Amendment to extend the Deed of Trust to the entire Combined Property, which is currently comprised of Lots 1, 2 and 3 of the Subdivision Plat, together with the easements appearing as Parcel 1A, and to modify the terms of the Deed of Trust to secure Borrower's obligations under the Loan Documents, as modified by this Amendment and by a Third Amendment to Loan Documents executed by Borrower and Lender contemporaneously herewith (the "**Modification Agreement**").

AGREEMENTS

In consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto hereby agree as follows:

1. **TERMINOLOGY.** All capitalized terms used herein shall have the meanings given to them in the Loan Documents, unless a different meaning is assigned herein or is required from the context in which such term is used.

2. **AMENDMENTS TO DEED OF TRUST.**

2.1 Exhibit A of the Deed of Trust is hereby amended and replaced in its entirety with replacement **Exhibit A** attached hereto to (i) include the Additional Property and to extend to all the Combined Property, and (ii) account for the Subdivision Plat for the Combined Property. For this purpose, Borrower hereby irrevocably GRANTS, TRANSFERS, CONVEYS and ASSIGNS to Trustee, IN TRUST, WITH POWER OF SALE, all of Borrower's present and future estate, right, title, claim, and interest, either in law or in equity, in and to the Additional Property and all personal property, including fixtures, associated therewith, upon the same terms as are set forth in the Deed of Trust and already applicable to the Existing Property. For avoidance of doubt, the definition of the term "Property" and all other defined terms used in subclauses (a) through (q) of the definition of "Property" in the Deed of Trust are hereby amended to be consistent with replacement **Exhibit A** attached hereto.

2.2 The Deed of Trust is hereby amended and modified to secure, without limitation and in addition to all obligations currently secured thereby, the making of all payments and the performance of all obligations of Borrower under the Loan Documents, as modified and amended by this Amendment and the Modification Agreement; *provided, however*, that the Deed of Trust shall not secure any obligations arising solely under any Guaranty or Indemnity Agreement executed in connection with the Loan. The terms of the Modification Agreement are incorporated herein by this reference.

2.3 The definition of the term "Loan Documents" as used in the Deed of Trust and the other Loan Documents is hereby modified to include this Amendment and the Modification Agreement.

2.4 All other terms and conditions of the Deed of Trust and the other Loan Documents that are inconsistent with the terms and conditions of this Amendment are modified to the extent necessary to be consistent with this Amendment. Except as expressly provided in this Amendment, nothing in this Amendment shall alter or affect any term, provision, condition, or covenant in the Deed of Trust or the other Loan Documents, or affect or impair any rights, powers or remedies in the Deed of Trust or the other Loan Documents, it being the intent of the parties to this Amendment that the provisions of the Deed of Trust and the other Loan Documents shall continue in full force and effect except as expressly amended hereby.

3. **LIEN PRIORITY.** The Existing Property shall remain and continue in all respects subject to the Deed of Trust, and nothing in this Amendment, or done pursuant to this Amendment, shall affect or be construed to affect the lien of the Deed of Trust or the priority thereof as to the Existing Property. Borrower shall provide, at Borrower's sole cost and expense, such endorsements to Lender's existing Title Policy as Lender may request insuring the first-lien position of the Deed of Trust as to all the Combined Property, with priority over all encumbrances not agreed to by Lender in writing. Borrower shall obtain such priority agreements, lien waivers, or other instruments from all parties who have performed work on or supplied materials to the Combined Property, and shall execute such indemnity agreements, as may be required by the Title Company relating to the issuance of such endorsements or new policy.

4. **REPRESENTATIONS AND WARRANTIES.** Borrower hereby acknowledges, represents, warrants, and agrees as follows:

4.1 The Recitals set forth above are true and accurate.

4.2 Borrower is the fee simple owner of the Combined Property and Lender has not assumed and does not hereby assume control of the Combined Property.

4.3 The Deed of Trust, as amended by this Amendment, is a first position lien against the Combined Property. There are no liens, charges, or encumbrances against the Combined Property, or any portion thereof, that are now or

may hereafter become prior to the Deed of Trust, other than those items of record that have been accepted by or approved by Lender.

4.4 There is no Default or Event of Default under the Loan Documents.

4.5 Borrower reaffirms all of its representations and warranties in the Loan Documents. All representations and warranties pertaining to the Existing Property are hereby made with respect to the Combined Property.

4.6 Except as disclosed to Lender in writing prior to the date hereof, all representations made by Borrower in the Loan Documents are true and correct, in all material respects, and are hereby renewed, and all provisions of the Loan Documents, as amended by this Amendment, are hereby affirmed and ratified.

5. **PAYMENT OF LENDER'S EXPENSES.** Borrower agrees to reimburse Lender for all out-of-pocket expenses incurred by Lender in connection with the drafting, negotiation, execution, delivery, and performance of this Amendment and the Modification Agreement, including, without limitation, fees and costs incurred by Lender, premiums for title endorsements or a re-issued title policy, as applicable, recording charges, UCC filing fees, escrow fees, attorneys' fees, and any other costs. Lender is not responsible for any expenses in connection with this Amendment.

6. **BINDING EFFECT.** This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns.

7. **APPLICABLE LAW.** The creation, perfection, and enforcement of the lien of the Deed of Trust, as amended by this Amendment, shall be governed by the Laws of the state of Utah. In all other respects, this Amendment shall be governed by the substantive Laws of the jurisdiction governing the Loan Agreement.

8. **COUNTERPARTS.** The parties may execute this Amendment in any number of counterparts, each of which shall be deemed an original instrument but all of which together shall constitute one and the same instrument.

9. **EFFECTIVE DATE.** This Amendment shall be effective upon execution by Borrower and Lender and recording in the Official Records of Salt Lake County, Utah.

10. **NO ORAL AGREEMENTS.**

UTAH

PURSUANT TO UTAH CODE SECTION §25-5-4, BORROWER IS HEREBY NOTIFIED THAT THE WRITTEN LOAN DOCUMENTS, THE INDEMNITY AGREEMENT, AND OTHER RELATED DOCUMENTS REPRESENT THE FINAL

AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

WASHINGTON

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

[Remainder of page intentionally left blank; signatures appear on the following page]

EXECUTED as of the date of this Amendment.

GRANTOR/BORROWER:

MWIC MAGNA, LLC,
a Utah limited liability company

By Mountain West Investment Corporation,
an Oregon corporation
Its Manager

By J. Tokarski
Name: Lawrence Tokarski
Title: President

BENEFICIARY/LENDER:

HOMESTREET BANK,
a Washington state chartered commercial bank

By: _____
Name: _____
Title: _____

EXECUTED as of the date of this Amendment.

GRANTOR/BORROWER:

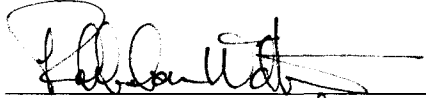
MWIC MAGNA, LLC,
a Utah limited liability company

By Mountain West Investment Corporation,
an Oregon corporation
Its Manager

By _____
Name: _____
Title: _____

BENEFICIARY/LENDER:

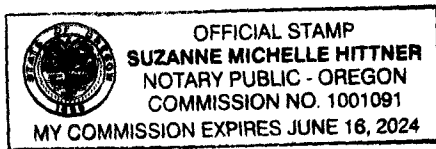
HOMESTREET BANK,
a Washington state chartered commercial bank

By:  _____
Name: Robert Dean Walter
Title: SUP CONSTRUCTION MGR

STATE OF OR)
) ss.
COUNTY OF Marion)

I certify that I know or have satisfactory evidence that Lawrence Tokarski is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the President of MOUNTAIN WEST INVESTMENT CORPORATION, an Oregon corporation, the manager of MWIC MAGNA, LLC, a Utah limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 11th day of Oct., 2023.

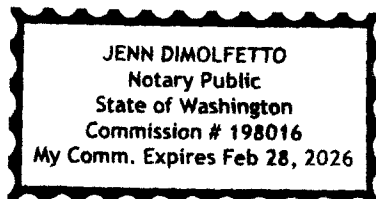


Suzanne M Hittner
Signature
Suzanne M Hittner
Print Name
My commission expires 6-16-2024

STATE OF WA)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Robert Dean WALTER is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the SVP of HOMESTREET BANK, a Washington state chartered commercial bank, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 12th day of October, 2023.



Jenn Dimolfetto
Signature
Jenn Dimolfetto
Print Name
My commission expires Feb 28, 2026

SCHEDULE 1

SPECIAL WARRANTY DEEDS FOR ADDITIONAL PROPERTY

1. Special Warranty Deed dated April 18, 2023, executed by MWIC Magna Apartments, LLC, in favor of MWIC Magna, LLC, and recorded in Salt Lake County, Utah, at 14098533, Book 11415, Page 3144.
2. Special Warranty Deed dated April 19, 2023, executed by John Gust in favor of MWIC Magna, LLC, and recorded in Salt Lake County, Utah, at 14098536, Book 11415, Page 3151.
3. Special Warranty Deed dated April 19, 2023, executed by Trisha Smith, as trustee of THE TRISHA CHRISTENSEN TRUST U/A/D the 19th day of June 2007, in favor of MWIC Magna, LLC, and recorded in Salt Lake County, Utah, at 14098537, Book 11415, Page 3155.
4. Special Warranty Deed dated April 24, 2023, executed by Tami R. Lund and Gailyn Lund, in favor of MWIC Magna, LLC, and recorded in Salt Lake County, Utah, at 14098534, Book 11415, Page 3147.

EXHIBIT A

LEGAL DESCRIPTION OF REALTY

PARCEL 1:

Lots 1, 2, and 3, ARBOR PARK SUBDIVISION, according to the official plat thereof, as recorded on September 13, 2023 as Entry No. 14152124 in Book 2023P at Page 192 in the Salt Lake County Recorder's office, State of Utah.

PARCEL 1A:

Reciprocal pedestrian and vehicular ingress and egress easements as more particularly defined in those certain following instruments: (i) recorded February 7, 1986 as Entry Nos. 4199263 and 4199264 in Book 5734 at Pages 1380 and 1384; (ii) recorded November 3, 1986 as Entry Nos. 4342468 and 4342469 in Book 5835 at Pages 1265 and 1268; and (iii) recorded December 14, 1994 as Entry No. 5985382 in Book 7071 at Page 183 of official records.