

## SECOND AMENDMENT TO DECLARATION OF COVENANTS

<sup>15M</sup> This Second Amendment to Declaration of Covenants ("Amendment") is made as of the day of October, 2019, by **I-195 REDEVELOPMENT DISTRICT**, a public corporation established pursuant to Chapter 64.14 of Title 42 of the Rhode Island General Laws (the "Declarant").

### WITNESSETH

WHEREAS, pursuant to Declaration of Covenants dated September 22, 2017 and recorded in the Land Evidence Records of the City of Providence in Book 11034, Page 252 as amended by Amendment to Declaration of Covenants dated July 25, 2018 and recorded in said Land Evidence Records in Book 12111, Page 64 (as amended, the "Declaration"), the Declarant has imposed covenants on land located in Providence, Rhode Island and more particularly described in the Declaration; and

WHEREAS, the Declarant wishes to amend the Declaration to, inter alia, amend the procedures concerning the Maintenance Assessment; and

WHEREAS, capitalized terms not defined herein shall have the meanings attributed to such terms in the Declaration.

NOW, THEREFORE, the Declaration is amended as follows:

1. In order to include the word "Lots" inadvertently missing from Section 1.1 of the Declaration, Section 1.1 is hereby deleted in its entirety and the following is substituted therefor:

"1.11 Parcel and Parcels. The terms "Parcel" or Parcels" shall mean any one or more of those certain tracts or parcels of the Subject Property in the City of Providence, delineated as Parcels 1A, 2, 5, 6, 8, 8A, 9, 14, 15, 22 and 25 (as consolidated and subdivided into Proposed Lots 1, 2, 3, 4 and 5), 27, 28, 34, 35, 37, 41, and 42 on the Plat and any tract or parcel resulting consolidation and/or subdivision of any such tracts or parcels."

2. Section 3.1 is hereby deleted in its entirety and the following is substituted therefor:

"3.1 Shared Costs of Maintenance and Improvements Expenses.

(a) The Declarant anticipates contributing to the Maintenance and Improvement Expenses incurred in the operation and maintenance of the Parks as well as the operation and maintenance of the other Improvements with respect to each Parcel until such time that a Parcel is conveyed to an Owner and such Owner is required to commence paying Maintenance Assessments (as hereinafter defined) in accordance with this Section 3.1. Notwithstanding any other provision of this Declaration, no Owner shall be required to commence paying any Maintenance Assessments pursuant to this Declaration unless and until the earlier to occur of (x) the date the building or first building (if more than one building is to be built) on such Owner's Parcel is completed as evidenced by a temporary or permanent certificate of occupancy, and (y) if applicable, the date by which such Owner is required, pursuant to a

separate Development Covenant and Agreement with Declarant, to complete construction of the building or first building (if more than one building is to be built) on such Owner's Parcel.

(b) Each Owner shall be assessed a charge (the "Maintenance Assessment") for its share of payment of the Maintenance and Improvement Expenses as described in and determined under the provisions of paragraph 3.1(b)(ii), below.

(i) Authority. The Declarant shall have the power to levy, subject to any Mortgage now or hereafter a lien against any Parcel, assessments upon and against the Owners of the Parcels for the purpose of carrying out the obligations, duties, and powers herein set forth, including any legal and other costs incurred in enforcing this Declaration against such Parcel Owner in accordance with the terms hereof. All assessments shall be on a fiscal year (July 1 – June 30) basis. All assessments for any fiscal year shall be levied on or before July 1 of that year and shall be payable quarterly on each of July 1, October 1, January 1 and April 1 or on such other schedule (but not more frequently than monthly) as the Declarant may elect. Maintenance Assessments may be prorated for the number of days a Parcel is owned with respect to the fiscal year in which the closing on a Parcel occurs.

(ii) Initial Assessment; Annual Assessments; Limitation on Annual Increases. The Maintenance Assessment for fiscal year 2020 (July 1, 2019 – June 30, 2020) shall be \$0.42 per net rentable square feet of building(s) located on each Parcel. The Maintenance Assessment for fiscal year 2020 shall be prorated based upon the date after July 1, 2019 on which access to Parcels P-2 and P-4 is available to the general public. Beginning with fiscal year 2020 and continuing with each fiscal year thereafter, on or about July 1 of each year, the Declarant shall adopt a budget for the current fiscal year and promptly thereafter provide each Owner with a true and accurate copy of such budget, and the Maintenance Assessment shall be increased annually to reflect the percentage increase in the Consumer Price Index for All Urban Consumers, U.S. City Average, for all items, 1982-84=100 ("CPI") published by the United States Department of Labor at [www.bls.gov/cpi](http://www.bls.gov/cpi) (or such other index which is most consistent therewith if the CPI is no longer published) over the prior twelve (12) month period, utilizing the most currently available CPI figure in comparison with the CPI figure for the same calendar month twelve (12) months previously. Subject to paragraph 3(b)(vi) below, notwithstanding the previous sentence, in no event shall the assessment for any fiscal year be less than the assessment for the immediately previous fiscal year.

- (iii) Use of Funds. All assessment funds received by the Declarant shall be only used to pay for the Maintenance and Improvement Expenses.
- (iv) Notice of Assessment. Notice of each assessment shall be given by (a) sending a written notice by postage prepaid certified mail addressed to the address last provided by Owner in writing to the Declarant or if none is provided, to the last known or usual post office address of the Owner of any Parcel or (b) email to the email address last provided by Owner in writing to the Declarant or (c) posting a brief notice of the assessment upon the Parcel itself; provided, however, that any such notice sent by email shall also be sent to Owner in accordance with clause (a) of this paragraph 3(b)(iv).
- (v) Nonpayment of Assessment. Every assessment shall become due and payable within thirty (30) business days after notice is given as herein above provided, and if unpaid after said thirtieth (30th) day, the assessment shall be deemed delinquent and the Declarant shall have the remedies set forth in Section 3.2.
- (vi) Surpluses. The Declarant shall not be obligated to spend in any calendar year all the sums collected in such year by way of assessments, or otherwise, and may carry forward as surplus any balances remaining, provided, however, that the aggregate amount of any surplus carried forward from year to year shall not exceed an amount equal to ten percent (10%) of the annual assessment for the year then concluded. Any additional surplus amount shall be applied to the reduction of the amount of the Maintenance and Improvement Expenses in the succeeding year and reduce the amount of the Maintenance Assessment for such succeeding year. Any such reduction shall be allocated pro rata to each Parcel based on the payment made with respect to such Parcel in the previous year. To the extent a surplus exists for three (3) consecutive calendar years, (a) the additional surplus amount shall be returned pro rata to each Owner and (b) Declarant shall adjust the Maintenance Assessment for the immediately succeeding fiscal year to reflect such historical budget data for the prior three (3) calendar years.

(c) Limitation. Nothing contained herein shall preclude an Owner from recovering from any person liable therefor, damages to which such Owner might be entitled for any act or omission to act requiring an expenditure by the Owner for the maintenance and repair of the parking area, driveway, walkway, and/or landscaping on his Parcel.”

3. Schedule 1 attached to the Declaration is hereby deleted in its entirety.

4. Except as amended hereby, the Declaration remains in full force and effect and is hereby ratified and confirmed.

[Signature Page Follows]

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IN WITNESS WHEREOF, the Declarant has caused this Amendment to be executed as an instrument under seal as of the date first written above.

**DECLARANT:**

I-195 Redevelopment District

By: Caroline Skuncik  
Name: Caroline Skuncik  
Title: Executive Director

STATE OF RHODE ISLAND  
COUNTY OF PROVIDENCE

On October 15, 2019, before me, the undersigned notary public, personally appeared Caroline Skuncik, Executive Director of the I-195 Redevelopment District, proved to me through satisfactory evidence of identification, being (check whichever applies):  driver's license or other state or federal governmental document bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatory, or  my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and she acknowledged the same to be the free act and deed of the I-195 Redevelopment District, and her own free act and deed in her capacity as Executive Director of said I-195 Redevelopment District, and individually.

Charles F. Rogers Jr.  
Notary Public  
Print Name CHARLES F. ROGERS JR.  
My Commission expires \_\_\_\_\_

**CHARLES F. ROGERS, JR., Notary Public**  
State of Rhode Island and Providence Plantations  
My Commission Expires: 7/2021

