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DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made as of October 24, 2015, by Seventh Place Associates, LLC, a Minnesota limited liability company ("Declarant").

RECITALS

- A. Declarant is the fee owner of the real property in the City of Saint Paul, Ramsey County, Minnesota, legally described as Tracts A, B and C, Registered Land Survey No. 621 ("Property").
- B. Declarant intends to sell, transfer and convey Tract A ("HRA Tract") to the City of Saint Paul ("City"), who in turn will transfer and convey the HRA Tract to the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota, a body politic. The HRA intends to substantially renovate the buildings and structures on the HRA Tract and then own and operate a music venue on the HRA Tract.
- C. Declarant intends to retain ownership of Tracts B and C ("Declarant Tracts") and agrees not to separately convey Tract B except to the Owner of the HRA Tract as provided in this Declaration.
- D. There are no entrances, lobbies, utility facilities and systems, mechanical or HVAC systems to be used in common by the HRA Tract and Declarant Tracts. Each Tract shall have and maintain its own fire protection system including suppression, alarm and annunciator panels, and said systems shall remain within their own respective Tracts and the easements created by this Declaration. Each Tract will be used, operated and occupied as a separate and distinct project.
- E. Declarant desires to create various easements over, under and across Declarant Tracts for the benefit of the HRA Tract, and over, under and across the HRA Tract for the benefit of the Declarant Tracts, and to create covenants, conditions and restrictions over the Property for the mutual benefit of owners of the Property.

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DECLARATION

Now therefore, Declarant for itself, its successors and assigns, hereby declares and covenants that the Property shall be forever occupied, held, sold and conveyed subject to the defined terms herein and the following-described easements, covenants, restrictions and conditions, which shall run with the land as appurtenant thereto and shall be binding upon and inure to the benefit of all owners of the Property or any portion thereof.

ARTICLE I DEFINED TERMS

1.1 Defined Terms. The following words, when used in this Declaration, shall have the following meanings:

- A. "Access Easements" means the perpetual non-exclusive easements for the mutual benefit of the Owners and Permittees for pedestrian ingress and egress purposes over and across the Property to perform necessary repairs and replacements of the buildings and improvements on each Tract.
- B. "City Permitted Encroachments" mean those alleyways and encroachments currently benefitting the Property that have been created by permit from the City of Saint Paul and described in the attached Exhibit A.
- C. "Declaration" means this Declaration of Easements, Covenants, Conditions, and Restrictions including the exhibits attached hereto.
- D. "Drainage Easement" means the perpetual non-exclusive easement for the benefit of the Owner of the HRA Tract for drainage purposes over and across the roof above the Entry Area and down the exterior west side of the wall enclosing the Entry Area to the surface of, and drains in, the South Walkway.
- E. "Driveway" means that certain driveway which is described in the Driveway Easement.
- F. "Driveway Easement" means that certain driveway Easement Agreement dated April 14, 1994 and filed for record on June 2, 1994 as Document No. 2812895 in the office of the Ramsey County Recorder office which grants an easement to the owner of the Property and its successors and assigns a driveway easement over parcels of land adjacent to the Property.
- G. "Easement Areas" means, collectively, the areas covered by the Access Easements, the Drainage Easement, the Storm Sewer Easements, Structural and Support Easements, and Utility Easements.
- H. "Easements" means, collectively, all easements established by this Declaration including the Access Easements, Drainage Easement, Storm Sewer Easements, Structural and Support Easements, and Utility Easements.
- I. "Emergency" means a condition that could imminently and adversely affect life, safety and/or property, or as determined at the time by City code enforcement officers.

- J. "Entry Area" means that portion of the HRA Tract that provides for pedestrian access from 7th Place to the Palace Theater Building.
- K. "North Walkway" means the walkway situated northerly of the Palace Theater Building as shown on the attached Exhibit B which is owned by the Owner of the HRA Tract and shall be a part of the HRA Tract.
- L. "Owner" means the record owner of the fee simple title to the Property, either Tract or any portion thereof. If the Owner of a Tract transfers the same by contract for deed, then unless the contract for deed provides otherwise, the vendee under the contract for deed shall be deemed to be the Owner for purposes of this Declaration.
- M. "Party Walls" means those walls located on the Property on the east and west sides of the Entry Area on the street level, on the east and west side of the Entry Area in the basement level, and on the south side of the South Walkway in the basement level which are shared by the Owners of the Tracts.
- N. "Palace Theater Building" means that theater building located on the HRA Tract which is shown on the attached Exhibit B.
- O. "Permittees" means the occupants of the Tracts and their respective employees, agents, contractors, customers, vendors, suppliers, tenants, visitors, invitees and licensees.
- P. "South Walkway" means the walkway situated southerly of the Palace Theater Building as shown on the attached Exhibit B which is owned by the Owner of the Declarant Tracts, and shall be a part of the Declarant Tracts.
- Q. "Storm Sewer Easements" means the perpetual non-exclusive easements for the mutual benefit of the Tracts of those storm sewer lines that run through, on and under the Property.
- R. "Structural and Support Easements" means the perpetual non-exclusive easements for the mutual benefit of the Tracts of those beams, footings, columns, joists, walls, foundation and other structural support components located in and on the Property necessary to maintain and physically support the buildings on each of the Tracts.
- S. "Tract" means either the HRA Tract or Declarant Tracts. Tracts mean the HRA Tract and the Declarant Tracts collectively together.
- T. "Trash Area" means that portion of the Declarant Tracts which is shown on the attached Exhibit B where trash receptacles are stored and used by the Owner of the Declarant Tracts, and shall be owned by the Owner of the Declarant Tracts.
- U. "Utility Easements" means the perpetual non-exclusive easements for the mutual benefit of the Tracts of those utilities for sewer, water, gas, electrical, telecommunications, and other utilities below the surface of the Property as necessary or expedient for the Owners of the Tracts.

**ARTICLE II
DRIVEWAY EASEMENT**

2.1 Driveway Easement. The Declarant's conveyance of the HRA Tract shall include a conveyance of the appurtenant rights attached to such parcel created by the Driveway Easement. The Declarant also reserves for the benefit of the Declarant Tracts the Driveway under the Driveway Easement. Both the HRA Tract and the Declarant Tracts abut the Driveway. The Owners of both the HRA Tract and Declarant Tracts agree not to obstruct the Driveway except for the limited purposes as permitted in Section 8 of the Driveway Easement.

**ARTICLE III
MUTUAL EASEMENTS**

3.1 Declaration of Access Easements. Declarant hereby establishes and creates the Access Easements for the mutual benefit of the Tracts.

3.2 Declaration of Structural and Support Easements. Declarant hereby establishes and creates the Structural and Support Easements for the mutual benefit of the Tracts.

3.3 Declaration of Storm Sewer Easements. Declarant hereby establishes and creates the Storm Sewer Easements for the mutual benefit of the Tracts.

3.4 Declaration of Utility Easements. Declarant hereby establishes and creates the Utility Easements for the mutual benefit of the Tracts.

**ARTICLE IV
SPECIFIC EASEMENTS, NO BUILD COVENANTS, DRAINAGE EASEMENT, AND
PERMITTED ENCROACHMENTS FOR HRA TRACT**

4.1 Declaration of Specific Easements and Permitted Encroachments for HRA Tract. Declarant hereby establishes and creates for the use and benefit of the HRA Tract those specific perpetual easements, no build covenants and permitted encroachments under, through and across the Declarant Tracts as described on the attached Exhibit C for the purposes described therein.

4.2 Declaration of Drainage Easement. Declarant hereby establishes and creates the Drainage Easement for the use and benefit of the HRA Tract.

**ARTICLE V
SPECIFIC EASEMENTS FOR DECLARANT TRACTS**

5.1 Declaration of Specific Easements for Declarant Tracts. Declarant hereby establishes and creates for the use and benefit of the Declarant Tracts those perpetual easements under, through and across the HRA Tract as described on the attached Exhibit D for the purposes described therein.

**ARTICLE VI
LICENSE FOR WORK ON DECLARANT TRACTS**

6.1 License for Work on Declarant Tracts. To facilitate the renovation and ongoing use of the Palace Theater Building, the Declarant hereby grants to the Owner of the HRA Tract a license to go onto the Declarant Tracts to perform the following work to be paid for by the Owner of the HRA

Tract:

a. Remove all dead and abandoned HVAC ductwork and equipment attached to the Wild Tymes building and make necessary repairs to the surface and structure in the South Walkway.

b. Install railings at the concrete pad leading from the doorway to the kitchen area of Wild Tymes in the South Walkway, and modify the size of the pad to accommodate exiting requirements of the Palace Theater Building.

c. To the extent the Owner of the HRA Tract elects to do so, it may sever, terminate, cutoff, or remove any dead, abandoned unused utility lines in the basement level of the HRA Tracts long as such work does not damage any existing electrical, mechanical or plumbing systems serving the Declarant Tracts.

d. Remove the demising walls (but not any support columns) in the basement level of the Declarant Tracts as depicted on Exhibit F attached hereto. Notwithstanding anything to the contrary contained herein, Declarant shall have temporary access through and across the basement level of the HRA Tract until such work is completed and upon completion such access shall terminate. The work contemplated by this subsection d. shall be completed by the Owner of the HRA Tract on or before December 31, 2015.

The Owner of the HRA Tract agrees to indemnify and hold Declarant harmless from any and all loss, damage, or liens including reasonable attorneys' fees, costs and disbursements directly resulting or caused by any of the aforementioned work on the Declarant Tracts.

ARTICLE VII USE RESTRICTIONS and ENCROACHMENTS

7.1. General Use Restrictions. Each Tract shall at all times be used for lawful purposes in conformance with all restrictions imposed by all governmental laws, ordinances, codes, and regulations and no use or operation shall be made, conducted or permitted on or with respect to all or any portion of a Tract which is illegal.

7.2. City Permitted Encroachments. The City Permitted Encroachments shall at all times be used for lawful purposes to benefit each Tract.

7.3. Building Encroachments. The Owners of the Tracts hereby grant to each other easements for any nonmaterial building encroachments that may occur upon the adjoining Tract by reason of construction or renovation or from sag or variance occurring after the construction or renovation. The grant of easements for these encroachments does not excuse any Owner from exercising diligence to construct or renovate within its own Tract.

ARTICLE VIII TEMPORARY EASEMENTS

8.1. Temporary Construction Easement. Declarant hereby establishes and creates for the use and benefit of the HRA Tract a temporary easement on, over and across the Declarant Tracts that is needed for the purposes of construction and renovation work on the HRA Tract ("Construction Easement"). This Construction Easement includes the right to use tower or other cranes to swing above and across Declarant Tracts. This temporary Construction Easement shall expire on December 31, 2016.

8.2. Construction Work. All work contemplated by Article VI of this Declaration and all work on the easement areas by the Owner of the HRA Tract created or granted by this Declaration shall be done: (i) in such manner as to not unreasonably interfere with the normal use and enjoyment of the Declarant Tracts, (ii) at the sole cost and expense of the Owner of the HRA Tract, (iii) in full compliance with the provisions of this Declaration, (iv) in full compliance with all applicable statutes, codes, ordinances, rules and regulations, and (v) in a good and workmanlike manner. The Owner of the HRA Tract shall remove and dispose of any debris resulting from such work. The Owner of the HRA Tract shall complete all such work on or before December 31, 2016.

ARTICLE IX MAINTENANCE AND ALTERATION OF TRACTS and PARTY WALLS

9.1 Maintenance and Repairs. The Owners of each Tract shall, at their own cost, take good care of their buildings and properties and shall at all times keep and maintain the same in commercially reasonable condition. The Owners of each Tract shall at all times make all repairs, interior and exterior, structural and non-structurally, as necessary or as ordered by City code enforcement officers. The Owners of each Tract shall also keep their Tracts at all times in full compliance with all applicable laws, codes, ordinances and rules.

9.2 Alterations. Each Owner may make such alterations to its buildings and improvements as it may from time to time determine without the consent or approval of the other Owner, subject to all other applicable provisions of this Declaration. All alterations shall be made with reasonable diligence, in a commercially reasonable manner, and in full compliance with all permits and applicable laws, codes, ordinances and rules.

9.3 Party Walls. Declarant hereby establishes and creates for the mutual benefit of the Tracts over and on the Property perpetual non-exclusive easements to maintain, repair and replace the Party Walls. The Owners of the Tracts shall maintain the Party Walls facing or exposed to that Owner's Tract in compliance with all applicable building and fire code rules and regulations, and in a good and safe condition. The costs of repairs and maintenance of the Party Walls shall be borne by the Owners of the Tracts making such repairs and maintenance work, unless the Party Walls are damaged or destroyed through act or omission of either Owner or its employees, agents, customers or invitees (collectively the "Negligent Owner"), and in that case the Negligent Owner shall be solely responsible for the resulting costs of repair or replacement even if the repair or replacement is undertaken by the other non-Negligent Owner. If the Party Walls are destroyed or damaged by any causes not attributable to the negligence or willful conduct of either Owner, then either Owner may repair and restore the Party Walls, and the non-repairing Owner shall pay the repairing Owner fifty percent (50%) of the costs of such repair and restoration. Neither Owner shall make any alteration to the Party Walls that will weaken or adversely affect the structural integrity or carrying capacity of the Party Walls or cause the Party Walls to be in violation of applicable government requirements.

9.4 Seventh Place Cost Sharing. From and after the date hereof, the Owners of each of the Tracts shall have the obligations to cover all costs of maintenance of the Seventh Place Mall area on the south side of the Property based on either (a) their proportionate share of the total square footage of all Tracts if no allocation of such costs is made in recorded documents covering the Property; or (b) the share allocated in recorded agreements covering the Property regarding such maintenance obligations.

**ARTICLE X
RUNNING OF BENEFITS AND BURDENS**

10.1. Binding Effect. All provisions of this Declaration shall run with the Tracts and shall inure to the benefit of and be binding upon the Owners of the Tracts, and any portions thereof, and their respective successors and assigns.

**ARTICLE XI
RIGHT OF ACCESS and NON-EXCLUSIVE USE**

11.1. Right of Access. The granting of the Easements includes the right of the Owners of the benefited Tract and their contractors, agents, tenants, customers, invitees, and employees to have access to the Easement Areas for the purpose of exercising the rights and easements set forth in this Declaration.

11.2. Non-Exclusive Use. The use of the Easements by the Owners of the benefited Tracts shall not be exclusive unless specifically noted as being exclusive. Except for the easement rights expressly established in this Declaration, all rights in and to the Easement Areas are hereby reserved to the Owner of the respective Tract burdened by the Easements, and such Owner may utilize the surface, above surface and subsurface of the Easement Areas for all uses and purposes that do not materially interfere with the rights and easements expressly created in this Declaration, and granting of subsequent easements over the Easement Areas that do not interfere with Owner's use of the same.

11.3. Access to Fire and Code Officials. Access to governmental fire and building code officials and employees to the Tracts is hereby granted during regular business hours with reasonable notice for non-emergency fire and building code purposes, and at all times for purposes deemed to be, at the time, a life or safety emergency by such officials and employees, provided however, that any access to portions of the Tracts that are under leases shall be subject to the rights of tenants of such leases.

**ARTICLE XII
SELF-HELP REMEDIES and EMERGENCY**

12.1. Default; Self-Help Remedies. If any Owner shall default with respect to any of its obligations set forth herein (including its maintenance and repair obligations) and shall fail within ten (10) calendar days after receipt of written notice from the other Owner to cure such default, then the non-defaulting Owner shall have the right, at its election, but not the obligation, and in addition to such other rights and remedies as may be available at law or in equity, to cure such default for the account of the defaulting Owner, and for that purpose is granted an easement to enter upon the defaulting Owner's Tract for purposes of performing the defaulting Owner's obligations, and shall be reimbursed by the defaulting Owner for the reasonable cost and expenses so incurred (including attorney's fees) within ten (10) days of receipt of written demand for payment, together with reasonable documentation substantiating said costs and expenses. Any sums not reimbursed within said ten (10) day period shall bear interest thereon at the rate of twelve percent (12%) per annum, or the highest lawful rate, whichever is lower. The ten (10) day cure period shall be extended in cases where the default cannot be cured within ten (10) days but can be cured during a longer time, so long as the defaulting Owner is diligently pursuing such cure and such extension is approved by the non-defaulting Owner.

12.2. Emergency. In the event of an Emergency no prior notice shall be required to be given by

the non-defaulting Owner prior to exercising its remedies hereunder so long as the non-defaulting Owner provides written notice of such Emergency to the defaulting Owner promptly upon completion of cure. In addition, any failure by the Owner of the Declarant Tracts to keep the South Walkway free and clear of any obstacles hindering the flow of pedestrian movements is deemed to be an Emergency, not requiring prior notice by the non-defaulting Owner.

12.3 Effect of Non-Payment; Lien. Should either Owner default in the payment of any amounts required under Section 12.1 or 12.2, and such default shall continue for a period of thirty (30) days after written demand for payment, unless an extension is approved according to Section 12.1, said amounts shall become a continuing lien on the property owned by the Owner in default (the "Defaulting Owner"), which shall bind the Defaulting Owner, its successors and assigns and the Owner not in default (the "Non-Defaulting Owner") may bring an action at law against the Defaulting Owner to pay the same or to foreclose the lien against the Tract owned by the Defaulting Owner by suit in the manner provided for the foreclosure of mortgages upon real estate, and there shall be added to the amount of such costs and expenses the cost of preparing and filing the complaint in such action. In the event a judgment is obtained, reasonable attorneys' fees shall be paid to the prevailing Owner. The Non-Defaulting Owner shall have the right, but not the obligation, to record its lien, but at all times its lien pursuant to this section shall be subject and subordinate to: (a) the lien of any mortgage now or hereafter held by a mortgagee, or any extension, renewal, modification or refinancing thereof, on or any part of the Defaulting Owner's Tract, whether or not such mortgage or any extension, renewal, or modification or refinancing is recorded before or after the lien in favor of the Non-Defaulting Owner; (b) the leasehold estate created by an lease of all or any part of the Defaulting Owner's Tract; and (c) any other lien or contract for deed of record against the Defaulting Owner's Tract of the date that the Non-Defaulting Owner's lien is recorded. Neither Owner may waive nor otherwise escape liability for the costs and expenses provided for herein by non-use of the Easements or abandonment of its Tract.

ARTICLE XIII INDEMNIFICATION, ENCUMBRANCES AND INSURANCE

13.1. Indemnification. The Owner of the benefited Tract will indemnify, defend and hold harmless the Owner of the burdened Tract from all claims, damages, liabilities, penalties, fines, costs, causes of action and loss arising as a result of the use of the Easements by the Owners of the benefited Tract. This indemnity shall be binding on the Owner of the benefited Tract and its successors-in-interest only with respect to matters or events which occurred during the period the indemnifying Owner was in record title to the applicable benefited Tract. Nothing in this Declaration shall in any way affect or impair an Owner's governmental immunities or limitations of liability provided under law or equity.

13.2. Encumbrances. The Owner of the benefited Tract or any party claiming, by, through, or under such Owner shall not suffer or permit anything to be done that will cause the burdened Tract to become encumbered by any mechanic's lien or similar lien, charge or claim. If any mechanic's lien or claim is filed against the burdened Tract due to the Owner of the benefited Tract or any party claiming by, through or under such Owner, having allegedly requested labor or materials, the applicable Owner of the benefited Tract shall discharge the same of record by a release or bond within thirty (30) days after the filing of any notice of such lien, claim or other charge. Notwithstanding the foregoing, each Owner shall be allowed to encumber its respective Tract with any mortgage, easement, or encumbrance customary to their respective businesses.

13.3. Insurance. The Owners of each Tract shall keep their respective Tracts insured against loss

or damage by fire, sprinkler and other risks, casualties and hazards as might be insured from time to time by prudent owners of similar buildings in the City of Saint Paul and in an amount equal to not less than the full replacement value thereof, and maintain its own policy of public liability insurance with regard to their use of the Easements.

13.4 Casualty. In the event of any loss or damage to all or any part of a Tract, each Owner shall within one hundred ninety (90) days of the date of damage either: (a) determine to restore its building and proceed to expeditiously restore its building in a good and workmanlike manner using materials and construction methods of a commercially reasonable quality and character; or (b) determine not to restore its building but promptly clean up its building, remove debris, and remove or repair any damaged building frameworks and outer shells and make such frameworks and outer shells compatible with those portions of the buildings remaining undamaged. Provided however if any damage adversely affects the structural support necessary for any buildings on the other Tracts then restoration of the support systems is required to be made in a diligent and timely manner at the cost of the Owner of the damaged property.

ARTICLE XIV MISCELLANEOUS

14.1. Notices. Any notice required or permitted to be given by any Owner upon the other Owner is given in accordance with this Declaration if it is delivered personally to such Owner (effective upon receipt or refusal of receipt); or if it is mailed by United States registered or certified mail, return receipt requested, postage prepaid (effective two days after deposit); or if sent by reputable overnight courier (effective next business day after deposit); or if transmitted by facsimile or electronic mail, properly addressed to any Owner at the address designated in writing by said Owner. The Declarant's initial address is: 55 East Fifth Street, Suite 200, St. Paul, MN 55101, with a copy to Christoffel & Elliott, P.A., 1111 UBS Plaza, 444 Cedar Street, St. Paul, MN 55101.

Any party may change its address for the service of notice by giving written notice of such change to the other party, in any manner specified above. Upon acquisition of a Tract an Owner shall give notice to the Owner of the other Tract of its address, facsimile number or email address, for service of notice.

14.2. Controlling Law, Venue. This Declaration shall be governed by and construed under the laws of the State of Minnesota. All legal actions, whether sounding in tort or contract, relating to the validity, construction, performance or enforcement of this Declaration, shall be initiated, filed and venued exclusively in the State of Minnesota, Ramsey County District Court, and shall not be removed therefrom to any other federal or state court.

14.3. Enforcement. The Owners of the Tract or portion thereof shall have the right to enforce any and all provisions of this Declaration. Such right of enforcement shall include both damages for and injunctive relief against the breach of any provision of this Declaration. The failure to enforce any provision of this Declaration, at any time, shall not constitute a waiver of the right to thereafter enforce any such provision or any other provision of this Declaration.

14.4. Isoppel Certificates. Each Owner shall within twenty (20) days from receipt of written request from any other Owner execute and deliver to such other Owner a certificate stating that (a) either this Declaration is unmodified and in full force and effect or is modified and stating the modification, and (b) whether or not to the best of its knowledge the other Owner is in default in any respect under this Declaration and if in default, specifying such default.

14.5. Non-merger of Interests. The Easements created in this Declaration shall not be subject to the doctrine of merger.

14.6. Amendment. This Declaration shall be amended or terminated only by an agreement signed by the Owners.

14.7. Covenants Run with the Land. All easements and covenants described herein are perpetual and shall run with the land. Provided, however, any transfer of ownership of any Tract by any Owner hereto, by conveyance, operation of law or otherwise, shall operate to relieve such transferring Owner from liability for costs or obligations arising hereunder after the date of such transfer, but such Owner shall remain liable for any costs incurred while such Owner was bound by the terms of this Declaration.

14.8. Severability. If any provision of this Declaration is held invalid, the validity of the remainder of the Declaration shall not be affected thereby.

14.9. Failure to Enforce Not a Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same.

14.10. Recording. This Declaration shall be filed against the title to the Property and all Owners shall provide whatever documents are necessary to accomplish such filing..

14.11. Exhibits. Exhibits A, B, C, C-1, D, D-1, E and F, attached hereto and referenced herein are incorporated into this Declaration and made a part hereof.

14.12. Conveyance of Tract B. Upon the discontinuance of the use of Tract B for boiler purposes by the Owner of Tract B, the Owner of Tract B shall execute and deliver to the Owner of the HRA Tract the fee simple title to Tract B by means of a Limited Warranty Deed at no cost to the Owner of the HRA Tract. Declarant will use its best efforts to secure a release of all mortgages against Tract B, but failure to obtain such releases will not constitute a default hereunder.

14.13. Declarant Warranties. Declarant warrants that: (a) it owns the entire Property in fee simple, subject to no mortgages, liens or encumbrances except as set forth in Exhibit E, and will obtain consents to this Declaration by the holders of such mortgages, liens or encumbrances; and (b) the person signing this Declaration on behalf of Declarant has the full and unrestricted power and authority to execute and record this Declaration and grant the Easements and rights herein granted.

14.14. Relationship of Owners. No provision of this Declaration and no action taken pursuant hereto shall create any relationship between the Owners other than as specifically set forth herein. Without limiting the generality of the foregoing, the Owners are not partners of, or joint ventures with, or agents for, each other.

14.15. Electronic Signatures. An electronic signature or signature transmitted electronically shall be deemed the equivalent of an original signature and valid and effective for all purposes under this Declaration.

14.16. Time. Time is of the essence of this Declaration and each and all of its provisions.

14.17. Duty to Communicate. At all times, the Owners of the Tracts shall promptly communicate to each other any notices of code violations that adversely affects the use and enjoyment of the easements created in this Declaration.

14.18. No Dedication. The Declarant does not by this Declaration intend to dedicate any of the

easements or other rights declared by this Declaration to the public in general and this Declaration does not create any undertaking to make any public dedication in the future.

IN WITNESS WHEREOF, this Declaration was executed as of the date and year first above set forth.

DECLARANT

Seventh Place Associates, LLC

By: [Signature]

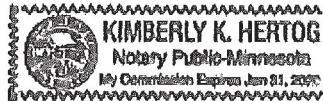
Its: PRESIDENT

STATE OF MINNESOTA)

COUNTY OF RAMSEY) ss
)

The foregoing instrument was acknowledged before me on Sept. 1, 2015, by James Kelly, the PRESIDENT of Seventh Place Associates, LLC, a Minnesota limited liability company; on behalf of such company.

[Signature]
Notary Public
(Notary Seal)



DRAFTED BY:

City Attorney Office
Room 400, Court House
15 West Kellogg Boulevard
Saint Paul, MN 55102

and

Christoffel & Elliott, P.A.
1111 UBS Plaza
444 Cedar Street
St. Paul, MN 55101

Exhibit A

[City Permitted Encroachments]

Per the encroachment permits listed on Exhibit E.

Exhibit B

[Diagram of Property]

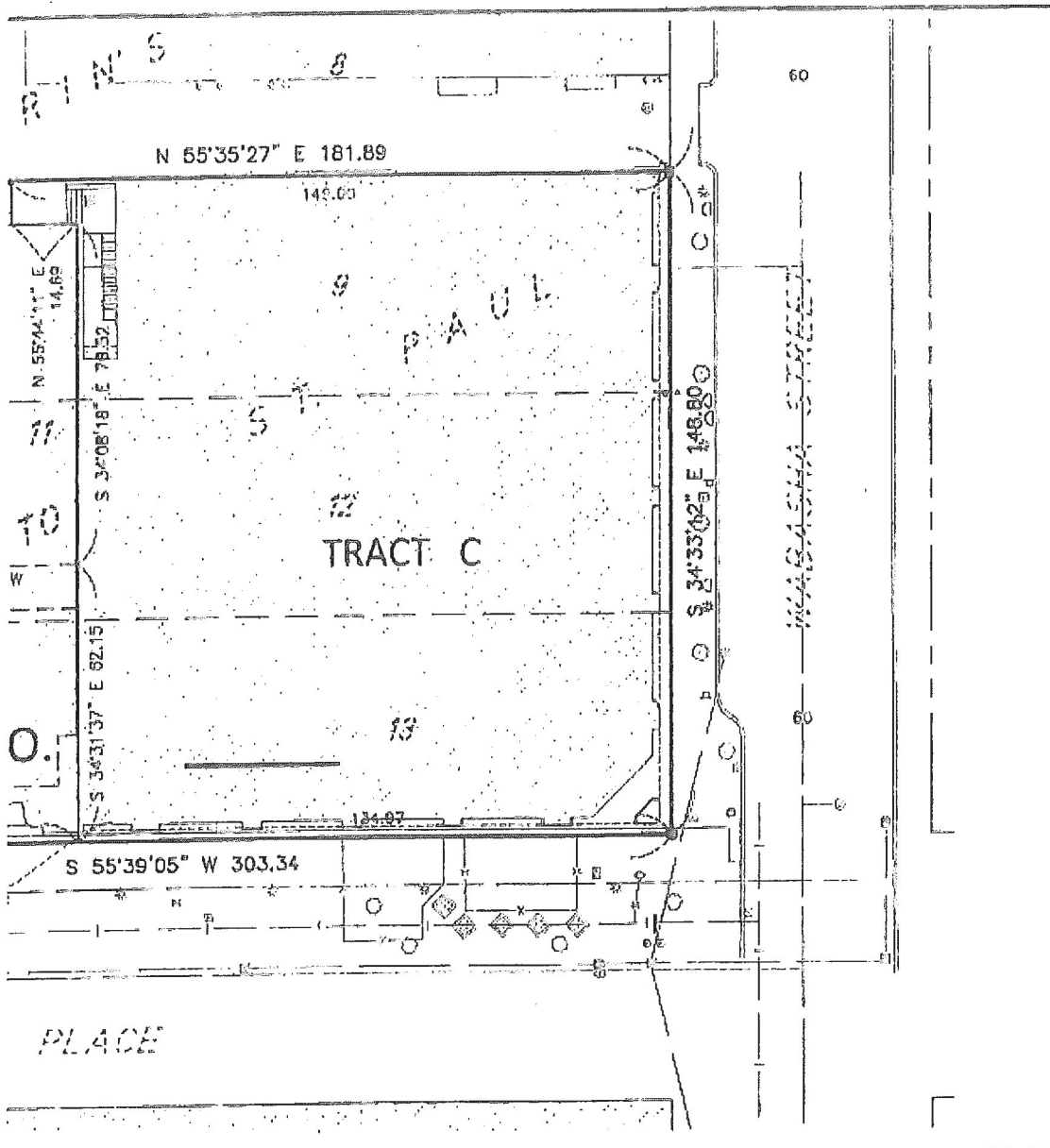


Exhibit B Easements Saint Paul, Minnesota		Tract A and C, R.L.S. No. _____, Ramsey County, Minnesota
BOLTON & MENK, INC. Consulting Engineers & Surveyors 12224 NICOLLET AVENUE BURNSVILLE, MINNESOTA 55337 (952) 890-0509		FOR: City of Saint Paul

NUMBER: T12.108032 FIELD BOOK: DRAWN BY: VAW File No. 4579
56-T28-R27-31

Exhibit B

Exhibit C

Specific Easements, No Build Covenant and Permitted Encroachments for HRA Tract

South side of Palace Theater Building:

1. Non exclusive permanent easement for emergency pedestrian egress only. The area within the South Walkway shown and described as "Theater Exterior Exit Egress" on the attached Exhibit C1 shall remain at all times free and clear of all materials and any obstacles hindering flow of pedestrian movements.
2. Non exclusive permanent easement for installation, maintenance, repair and replacement of gate at western end of South Walkway with panic hardware, provided the replacement gate shall comply with all applicable codes and regulations and be of a size, dimension and operation acceptable to Declarant (such acceptance shall not be unreasonably withheld) and provided further Declarant, its successors, assigns, tenants, guests, agents and invitees will have complete access in and out of such gate at all times.
3. Permitted encroachment for stairway affixed to south side of Palace Theater Building over South Walkway. Any replacements of this stairway shall be of the same dimensions and locations.
4. Non exclusive permanent easement for door openings and door swings on south side of Palace Theater Building over South Walkway.
5. Exclusive permanent easement for attachments on south side of Palace Theater Building for security cameras and lights/wall packs.
6. Exclusive permanent easement for cornice and other building elements on SW corner of Palace Theater Building.
7. Exclusive permanent easement for maintenance, repair and replacement of HVAC unit at east end of South Walkway including fresh air for unit and exhaust.
8. Non exclusive permanent easement for access to flat roof over Entry Area between Palace Theater Building and apartment building on Tract C at 2nd floor to maintain, repair and replace such flat roof.

North side of Palace Theater Building

9. Exclusive permanent easement for exhaust and fresh air over Trash Area at and above an elevation of twelve feet above the surface and a no build covenant of owner of Tract C in this area.

East side of Palace Theater Building

10. Exclusive permanent easement and no build covenant of owner of Tract C above existing apartment structure on Tract C adjacent to Palace Theater Building to preserve air, view and light for owner of Tract A, and to provide intake and exhaust air for the Palace Theater Building.

Entry Area

11. On exterior of building owned by Owner of Tract C over Entry Area, exclusive permanent easements for marquee and blade sign to be attached, maintained, repaired and replaced, together with non exclusive permanent access easement over and across the roof of such building to access marquee and blade sign for such purposes.

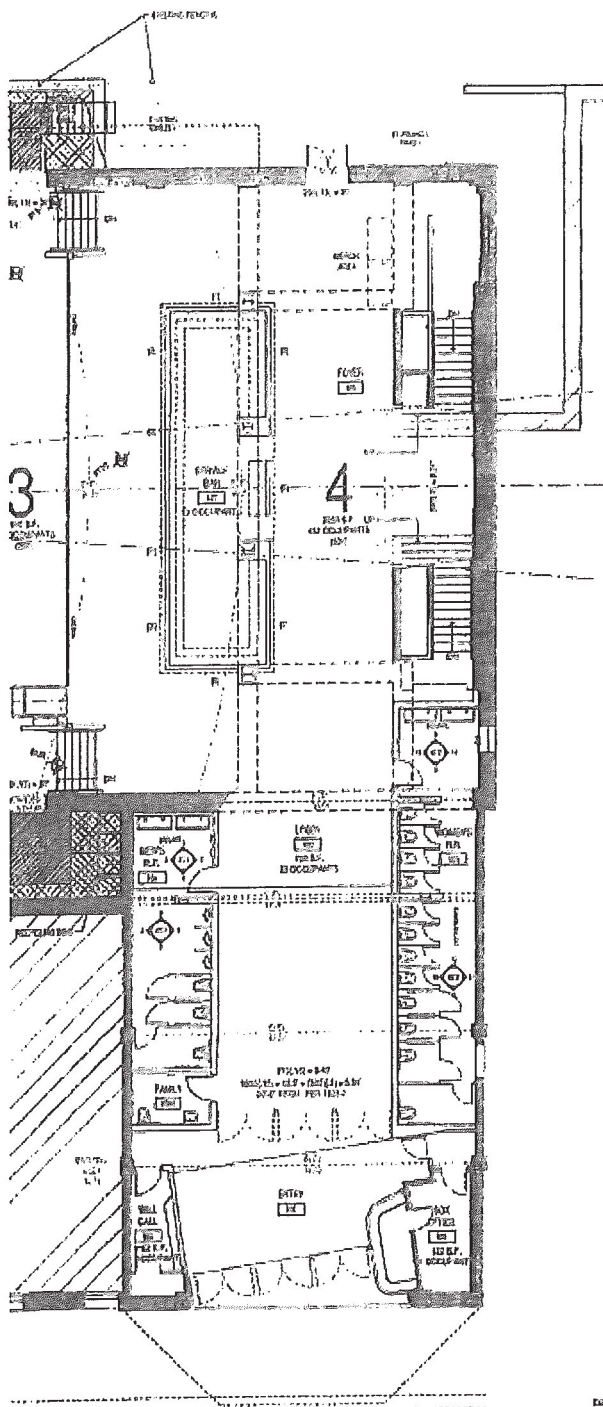


Exhibit C-1

EXHIBIT C-1



OERTEL ARCHITECTS

1001 2nd Avenue
St. Paul, Minnesota 55102
(612) 222-1111
www.oertel.com

PALACE THEATRE

ST. PAUL, MN

PROJECT NUMBER 14-01

DATE ISSUED SEPTEMBER 27, 2013

PROJECT TITLE THE

DESIGNED BY J.D.

REVISIONS

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT IN THE STATE OF MINNESOTA

DESIGNED BY

DATE September 14, 2013

PROJECT NUMBER 14-01

DATE ISSUED

STREET LEVEL

PROJECT

Exhibit D

Specific Easements for Declarant Tracts

North side of Palace Theater Building, Dumpster Area, and Basement

1. Permanent Easement to maintain and repair existing chiller equipment and cooling lines including without limitation the drainage lines onto the North Walkway as long as needed, and to be terminated once District Cooling is installed by Owner of Tract C.
2. Non exclusive permanent easement to access dumpsters in the doorway area on the eastern end of the North Walkway. No above grade improvements shall be made in this doorway area that would obstruct access to the dumpsters.

East side of Palace Theater Building

3. Permanent Easement to maintain and repair attachments to Palace Theater Building used to support existing stairs to building on Declarant Tracts.

Entry Area

4. Permanent Easement to maintain and repair existing service and utility lines in all ceiling areas.

Roof

5. Permanent Easement for roof access to SW corner of Palace Theater Building to maintain and repair the structure on Tract B as long as Tract B is owned in common with Tract C, and is terminated once Tract B is conveyed to the Owner of the HRA Tract.

Basement Level

6. Permanent easement through corridor area in basement level of HRA Tract described on Exhibit D-1 attached hereto for installation, operation and maintenance of District Heating/District Cooling pipes and lines and related equipment.

Exhibit D-1
Basement Level Easement
District Heating/Cooling

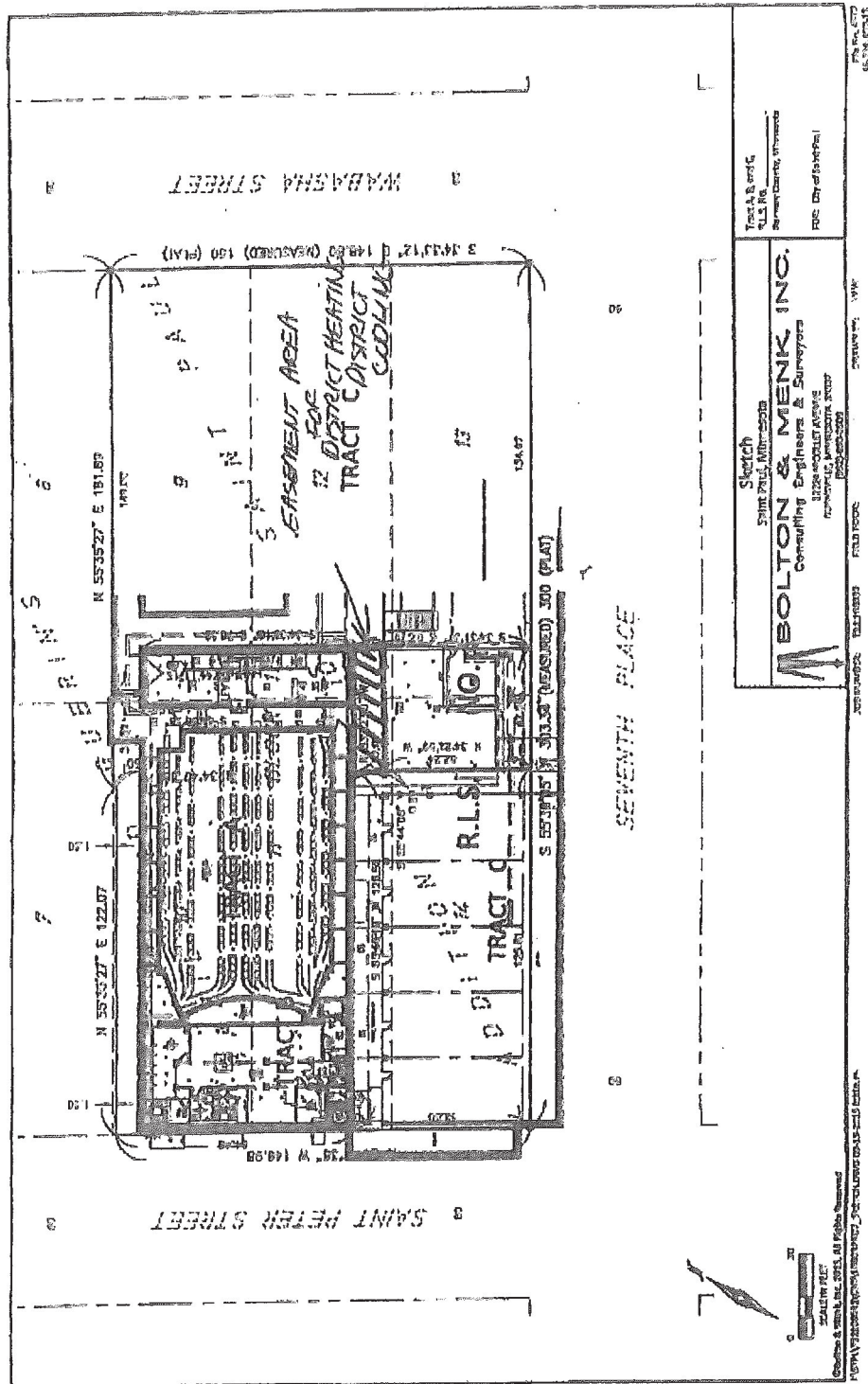


EXHIBIT D-1

Sketch
 State of Minnesota
BOLTON & MENK, INC.
 Consulting Engineers & Surveyors
 1000 Hennepin Avenue, Suite 100
 Minneapolis, Minnesota 55403
 (612) 338-3000
 FLS No. 1944
 For City of Minneapolis

PL 1944
 55.35.27.45

Exhibit E

[Mortgages, liens and encumbrances against Property]

1. Mortgage dated September 29, 2008, filed September 30, 2008, as Document No. 4119119 in the amount of \$2,500,000 in favor of Western Bank.
2. Assignment of Rents dated September 29, 2008, filed September 30, 2008, as Document No. 4119120 in favor of Western Bank.
3. Seventh Place Mall Maintenance/Cost Sharing Agreement dated October 7, 1983, as referenced in Resolution filed December 31, 1985 as Document No. 2295363.
4. Terms of Encroachment Agreement dated March 9, 1993, filed March 26, 1993, as Document No. 2710485.
5. Terms of Easement Agreement dated April 14, 1994, filed June 23, 1994, as Document No. 2812895.
6. Grant of Easement for broadband communications services in favor of Comcast of St. Paul, Inc., a Minnesota corporation, dated May 31, 2012, filed June 4, 2013, as Document No. 4404755.
7. Encroachment Permit No. 96-0186 dated February 18, 2004, filed February 18, 2004, as Document NO. 3729802 and re-recorded February 19, 2004 as Document No. 3730406.
8. Encroachment Permit No. 96-0187, dated February 13, 2004, filed February 13, 2004, as Document No. 3729216.
9. Encroachment Permit No. 96-0188, dated February 18, 2004, filed February 18, 2004, as Document No. 3729803.
10. Assessment Agreement for Seventh Place Improvements, dated June 16, 1983, filed August 17, 1983, as Document No. 2189202.
11. Exceptions pursuant to Minn. Stat. 508A.25.

Exhibit F

Basement Level Demising Walls

Consent to Declaration

The undersigned, the holder of a Mortgage against the Property, which was recorded as Document No. 4119119 on September 30, 2008 in the office of the Ramsey County Recorder, hereby agrees to and consents to the execution and recording of this Declaration, and further agrees that this Declaration is prior and superior to the lien/interest of the undersigned.

Western Bank

By 

Its AVP Commercial Banking

Date: 9/25, 2015



Doc No T02543751

Certified, filed and/or recorded on
Oct 27, 2015 12:00 PM

Office of the Registrar of Titles
Ramsey County, Minnesota
Susan R Roth, Registrar of Titles
Christopher A. Samuel, County Auditor and Treasurer

Deputy 501

Pkg ID 1096950C

Document Recording Fee Torrens	\$46.00
<i>Document Total</i>	<i>\$46.00</i>

Existing Certs
608107

This cover sheet is now a permanent part of the recorded document.