



201910230067

10/23/2019 01:32 PM Pages: 1 of 19 Fees: \$225.00
Skagit County Auditor

After recording, return to:

Sean Durbin

Jameson Babbitt Stites & Lombard, P.L.L.C.

801 Second Avenue, Suite 700

Seattle, Washington 98104-4001

Document Title or Titles

Declaration of Easements and Covenants

Reference Nos. of Documents Assigned or Released:

None

GUARDIAN NORTHWEST TITLE CO.

Name of Grantor: Trimark Burlington Hospitality LLC

19-2590

Name of Grantee: Trimark Burlington Hospitality LLC

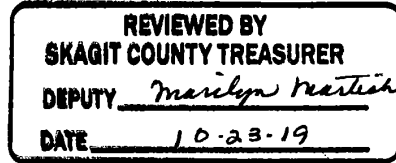
Pages referencing additional names: None

Abbreviated Legal Description: Parcel A and B, City of Burlington Boundary Line
Adjustment AFN 201711300063

Additional Legal Description Found On: Exhibit A

Assessor's Property Tax Parcel Number or Account Numbers:

Parcel No. P24245, 340408-2-010-0309 and Ptn P24246, 340408-2-010-0408



DECLARATION OF EASEMENTS AND COVENANTS

THIS DECLARATION OF EASEMENTS AND COVENANTS (this "Declaration") is made, granted, declared, established and reserved this 16th day of July, 2019, by **TRIMARK BURLINGTON HOSPITALITY LLC, a Washington limited liability company** (herein called "Declarant").

RECITALS

A. Declarant is the fee owner of the real property legally described in **Exhibit A** attached hereto (the "Property").

B. The site plan for the Property is generally depicted in **Exhibit B** attached hereto ("Site Plan"). The Property consists of two (2) separate lots. Declarant desires to establish (i) certain mutual access and parking easements over the Property, (ii) certain utility easements over the Property, and (iii) certain maintenance obligations and other covenants affecting the Property, all as set forth herein.

NOW THEREFORE, Declarant hereby establishes the following covenants and easements for the Property:

ARTICLE 1 DEFINITIONS

1.1 Allocable Share. The term "Allocable Share" shall refer to the portion of the Parking Area Maintenance Expense (as defined below) allocable to each Owner (as defined below). The Allocable Share of each Owner shall be the percentage of the land area of the Lot(s) owned by such Owner when compared to the land area of the entire Property. The Allocable Share for each Lot is as follows: Lot A = 11.28% (12,544.44 sf/112,091.72 sf); and Lot B = 88.72% (99,447.28 sf/112,091.72 sf).

1.2 Parking Area. The term "Parking Area" shall mean the parking areas located on the Property including the shared landscaping located around the parking areas as may exist from time to time, including the sidewalks, walkways, and drive aisles associated with such parking areas.

1.3 Parking Area Improvements. The term "Parking Area Improvements" shall refer to the drive aisles and parking surfaces of the Parking Area, associated curbs and sidewalks, shared landscaping, and any catch basins, vaults and storm water filters

(specifically excluding any improvements which are particular to a Lot, such as sidewalks associated with a building on a Lot, Lot specific landscaping, signs, irrigation, or lighting).

1.4 Parking Area Maintenance. The terms “Parking Area Maintenance” and “maintenance” shall mean the actions, activities, performance and undertakings with respect to the Parking Area and Parking Area Improvements for which Parking Area Maintenance Expenses may be incurred pursuant to Section 3.1.

1.5 Parking Area Maintenance Expense. The term “Parking Area Maintenance Expense” shall mean all actual and reasonable expenses incurred for general maintenance, upkeep, inspection, cleaning, repairs to and replacements of the Parking Area and Parking Area Improvements and any costs incurred in connection with the monument sign on the Property.

1.6 Declarant. The term “Declarant” shall mean Trimark Burlington Hospitality LLC, and its successors and assigns, and any parties succeeding to the rights, interest and obligations of Trimark Burlington Hospitality LLC as Declarant under this Declaration.

1.7 Lot; Lots. The term “Lot” shall mean any one of Lot A and Lot B as shown on the Site Plan. The term “Lots” shall mean all of the above referenced lots.

1.8 Maintaining Owner. The term “Maintaining Owner” shall mean the Owner of Lot B.

1.9 Owner; Owners. The term “Owner” shall mean any one of the owners of a Lot. The term “Owners” shall mean all of the owners of the Lots.

1.10 Property. The term “Property” shall mean that certain real property situated in Skagit County, Washington, as described in **Exhibit A**.

1.11 Stormwater System means the stormwater drainage system serving the Property, including the detention ponds shown on the Site Plan, underground storage vaults, catch basins, the outflow system, filtering systems and other component parts, but excluding any portions that benefit only one Owner's property.

ARTICLE 2

GRANT OF EASEMENTS

2.1 Parking and Access Easements. Declarant, as the current Owner of all of the Lots, hereby grants and establishes in favor of each Lot and for the use by the Owner of each Lot and their successors, assigns, tenants, customers, suppliers and invitees, and the customers, suppliers and invitees of such tenants, in common with all others entitled to use the same, nonexclusive easements over the Parking Area for (i) ingress and egress to and from their respective Lots; (ii) the passage of vehicular and pedestrian traffic; (iii) vehicular parking; and (iv) access to and from public streets, roads and highways. Without the unanimous approval of the Owners, no Owner may reduce the number of parking spaces located on the Lot owned by that Owner if to do so would reduce the total number of parking spaces in the Property to less than the number of parking stalls shown on the Site Plan (which is 106 stalls). In addition, unless otherwise approved by all the Owners of the Lots, no Owner shall: (i) prohibit free access over any Lot to public streets; (ii) change traffic circulation on any main drive aisle; (iii) prohibit the ingress or egress over any Lot; (iv) charge for parking; or (v) materially, adversely affect the accessibility of any Lot. Each Owner shall have the right to temporarily close off portions of the Parking Area located on the Lot or Lots owned by that Owner for construction, maintenance and repair as necessary in a manner that will not unreasonably inconvenience the Owner's or the patrons of the Property.

2.2 Utility Easements. Declarant, on behalf of itself and its successors and assigns, hereby reserves, establishes and grants for the benefit of each Lot and each Owner of a Lot, such nonexclusive easements in, to, over, through, under and across the Parking Area as may be reasonably required by such Owner for the installation, operation, flow and passage, use, maintenance, repair, relocation and removal of sanitary sewers, storm drains, water and gas mains, systems and lines, electrical power, conduit and lines, sprinkler utility lines, and other utility lines serving such Owner's Lot. All such utility easements and the critical service areas for the utility lines and mains that are subject to the easements granted and reserved hereunder shall be located on such portions of the Parking Area on each particular Lot as may be approved by the Owner of that particular Lot, which approval shall not be unreasonably withheld or delayed.

2.3 Installation and Maintenance of Utilities. Except as may be otherwise provided in separate agreements between Owners, the cost of installing, maintaining, repairing and operating utility facilities shall be paid by the particular Owner for whom the utility facilities were installed. Each Owner shall be responsible for the payment of the actual costs and expenses for the installation, maintenance and repair of all utility facilities serving such Owner's Lot. Each Owner hereby grants a license to each other Owner to enter upon the Parking Area located upon the Lot owned by the granting

Owner, or portion thereof where such utility lines are located, for maintenance and repair of such utility lines in accordance with the terms and conditions of this Section. Any maintenance and repair work on such lines and equipment shall be performed only after not less than ten (10) days' written notice to the particular Owner upon whose Lot such work will be performed, except in case of emergency, in which event only such shorter or no notice (as reasonably determined by the Owner doing the work) shall be required. Any such work shall be done without cost or expense to the other Owners and in such a manner as to cause as little disturbance in the use of the Parking Area as may be practicable under the circumstances. Each Owner shall indemnify, defend and hold each other Owner harmless from any and all mechanic's liens and from any loss, cost, damage and expense relating to claims for personal injury or property damage arising out of such maintenance or repair work except for those arising through the negligence or willful misconduct of an indemnified Owner. Upon completion of the work, the Owner performing such work shall restore the portion of the Parking Area affected by the work to the same condition as existed prior to commencement of the work at the sole cost and expense of the particular Owner for whom the work was performed.

2.4 Relocation of Utilities. Each Owner shall have the right to relocate utilities which either (a) benefit such Owner, or (b) are located on such Owner's Lot. Any relocation shall be performed only after the Owner who is requiring the work has given not less than thirty (30) days' notice of its intention to relocate to all Owners affected by such relocation (if any), and such relocation: (i) shall not materially interfere with or diminish the utility services to any Owner; (ii) shall not reduce or unreasonably impair the usefulness or function of such utility; and (iii) shall not materially increase the continuing expense of maintaining the utility service. The cost or expense of such work shall be borne by the Owner who requests such relocation work.

2.5 Easement for Drainage. Each Lot and the Owner of each Lot shall have nonexclusive easements in, to, over, and across the Property for reasonable drainage purposes; provided such drainage does not materially interfere with the use and/or operation of the Parking Area or any improvements located on any Lot.

2.6 Easement for Monument Sign. Declarant, on behalf of itself and its successors and assigns, hereby reserves, establishes and grants for the benefit of the Owner of Lot B (and the tenants of Lot B) an easement in, over, through, across each Lot on which there is located a monument sign as shown on the Site Plan for the purpose of installing, maintaining, repairing and replacing such monument sign. The monument sign shall be located on the location shown on the Site Plan. The Owner of Lot B shall be responsible for maintaining, repairing and replacing the monument sign so that it remains in good condition and repair, the cost of which shall be a Parking Area Maintenance Expense.

ARTICLE 3
MAINTENANCE AND EXPENSES

3.1 Maintenance of Parking Area. The Maintaining Owner shall cause the Parking Area Improvements to be maintained, repaired and replaced so that they remain at all times in good condition and repair. Such maintenance shall include, without limitation, regular and annual maintenance of the catch basins, vaults, and Storm Water System and filters, and parking lot sweeping and snow removal. The Maintaining Owner shall provide the Owner of each other Lot an accounting of all costs and expenses incurred by the Maintaining Owner under this Section and the other Owners shall reimburse the Maintaining Owner for their Allocable Share of such costs and expenses within twenty (20) days of receipt of the foregoing. The Maintaining Owner may contract with a third party property manager to perform its obligations under this Declaration.

3.2 Failure To Pay. If an Owner does not pay its share of any costs payable under this Section 3 within ten (10) days after the date such payment is due, the Maintaining Owner shall send a notice to the Owner that its payment is delinquent and that failure to pay the delinquent amount within twenty (20) days after the date of such notice will subject the Owner to interest on such amount at the rate of the higher of (a) one and one-half percent (1.5%) per month, or (b) three percent (3%) over Bank of America's (or any successor bank) commercial prime rate of interest per annum, in each case compounded monthly (the higher of which is referred to as the "Default Interest Rate"), and subject the Owner to all rights and remedies available to the Maintaining Owner pursuant to this Declaration.

3.3 Maintenance by Individual Lot Owners. Each Owner shall maintain, at their sole cost and expense, all buildings, signage, irrigation and lighting systems located on and serving its individual Lot in good condition consistent with similarly situated properties.

ARTICLE 4
DAMAGE AND DESTRUCTION

4.1 Damage and Destruction of Parking Area Improvements. If the Parking Area and/or Parking Area Improvements are damaged or destroyed during the term of this Declaration by any casualty, the Owner of the Lot upon which the damage occurred shall repair and restore the Parking Area Improvements located on its Lot as soon as reasonably possible after the event of damage or destruction. The restoration shall be prosecuted with due diligence and completed as soon as reasonably possible.

ARTICLE 5
TRANSFER OF INTEREST

5.1 Limitation on Transfer. Except as otherwise provided in this Declaration, in no event shall the rights, powers and obligations conferred upon any Owner under this Declaration be at any time transferred or assigned by any such Owner except through a conveyance of fee simple interest in its Lot (except that the Maintaining Owner may contract with a third party for the maintenance obligations to be performed under Section 3.1 above).

5.2 Transfer of Interest. In the event of the conveyance or termination of the whole of the fee simple interest of an Owner in its Lot without such Owner retaining any beneficial interest therein, other than as a mortgagee or beneficiary under a deed of trust, then the rights and powers conferred upon, and the obligations of, the transferring Owner under this Declaration shall be transferred and assigned with its fee simple interest, or termination thereof, and the successor Owner shall be deemed to assume such rights, powers, and obligations and thereupon become the Owner as to such Lot effective as of the date of transfer.

ARTICLE 6
DEFAULT AND REMEDIES

6.1 Default; Right to Cure.

(a) An Owner (the "Defaulting Party") shall be in default under this Declaration if the Defaulting Party shall fail or neglect to perform any act or thing herein provided to be performed by it or shall fail to pay any sum of money required to be paid by the Defaulting Party hereunder, and such failure shall continue for the grace period specified in Section 6.6 hereof after notice from the Owner declaring a default (the party providing notice shall be referred to herein as the "Notifying Party") specifying the acts or things to be performed (the "Notice of Default").

(b) If the Defaulting Party does not cure the deficiencies set forth in the Notice of Default within the grace period specified in Section 6.6, then the Notifying Party may (but shall not be required to) cure such deficiencies specified in the Notice of Default.

(c) The Defaulting Party, on demand, shall reimburse the Notifying Party for the cost of curing the deficiencies set forth in the Notice of Default, together with

interest on said amount from the date of payment by the Notifying Party to the date of payment by the Defaulting Party at the Default Interest Rate.

(d) If the Notifying Party in good faith shall deem that an emergency is occurring or has occurred so that a default requires immediate cure, then only such notice as is hereinafter provided shall be required, and the Notifying Party may act promptly and take such action as is necessary to cure the alleged default. The Notifying Party, in performing any action pursuant to the preceding sentence, shall act with reasonable promptness and good faith and shall give notice to the Defaulting Party of the doing of such work and the alleged default. Such notice, notwithstanding any other provision of this Declaration, need not be in writing if the giving of a written notice would not be reasonably possible under the circumstances, so long as such notice is given to an officer or responsible official of the Defaulting Party. Written confirmation of the action shall be given as soon as reasonably possible.

(e) The Notifying Party shall prosecute any work performed by it under the provisions of this Section 6.1 diligently to completion. Nothing in this Section 6.1 shall give any Owner the right to enter into the buildings of any other Owner or to do any work on such buildings.

6.2 Manner of Action. Any action by the Notifying Party taken pursuant to this Article 6 shall be taken at such times and in such manner as to cause the least practical interference with the business being conducted within the Property.

6.3 Rights and Remedies of Nondefaulting Party. If a Defaulting Party shall fail or neglect to perform any act or thing or pay any sum of money required to be performed and paid by such Owner under this Declaration, and such failure or neglect continues after notice from the Notifying Party of such breach or failure through the grace period specified in Section 6.6, then in addition to the Notifying Party's right to perform the covenant or pay the sum on behalf of the Defaulting Party, the Notifying Party may exercise any or all rights and remedies available to such Notifying Party in law or equity, including, without limitation, suit for damages (excluding consequential or speculative damages), the institution of proceedings for specific performance, an injunction to compel the Defaulting Party to observe or perform its covenants and obligations hereunder, and/or the recording and foreclosure of a claim of lien with respect to the sums paid by the Notifying Owner on behalf of the Defaulting Party in the same manner as the foreclosure of a mechanic's lien or any other manner permitted by law. Notwithstanding the foregoing, in no event shall any party be entitled to terminate this Declaration or the easements or other rights granted hereunder by reason of the default or breach of another party.

6.4 Injunctive Relief. Notwithstanding anything contained herein, in the event of any violation or threatened violation by any Owner of any of the terms, restrictions, covenants and conditions of this Declaration (whether affirmative or negative in nature), the Notifying Party shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Prior to the commencement of any such action, at least five (5) days' written notice of such violation shall be given to the Owner responsible therefor.

6.5 No Waiver. No act or thing done or performed by any party pursuant to this Article 6 and no omission to act pursuant to this Article 6 shall be construed as a waiver of any default by the Defaulting Party or as a waiver of any covenant, term or condition herein contained or of the performance thereof.

6.6 Grace Period. The term "grace period", as used in this Article 6, shall mean a period of ten (10) days' duration, except that if, because of the nature of the act or thing in question, longer than ten (10) days is required to do or perform the same, the grace period shall be of the duration required to do or perform the same if commenced with reasonable promptness and thereafter pursued diligently to completion.

ARTICLE 7

INDEMNIFICATION AND INSURANCE

7.1 Owner's Indemnification. Each Owner ("Indemnifying Owner") hereby agrees to defend, indemnify and hold harmless the other Owner and the other Owner's tenants, occupants and invitees from and against all demands, claims, causes of action or judgments, and all reasonable expenses incurred in investigating or resisting the same, for injury to person, loss of life or damage to property (i) occurring on the Indemnifying Owner's Lot, to the extent caused by the negligence or willful act or omission of the Indemnifying Owner or the tenants, occupants or invitees of the Indemnifying Owner or the employees, contractors or agents of the Indemnifying Owner or tenants, occupants or invitees, or (ii) occurring on another Owner's Lot to the extent caused by the negligence, willful act or omission of the Indemnifying Owner or the tenants, occupants or invitees of the Indemnifying Owner or the employees, contractors or agents of such Indemnifying Owner or tenants, occupants or invitees.

7.2 Insurance for Owned Lots. Each Owner shall obtain and maintain commercial general liability insurance covering its obligations hereunder in commercially reasonable amounts. Such insurance shall be written with a reputable insurance carrier licensed to do business in the State of Washington. The limits of liability of such insurance shall be not less than One Million Dollars (\$1,000,000.00) combined single limit coverage for injury to person, loss of life and damage to property

arising out of any single occurrence. Upon request, each Owner shall provide the other Owners with a copy of a certificate of insurance evidencing such insurance. If an Owner shall fail to procure and maintain any insurance policy required herein, the other Owner may (but shall not be obligated to), upon five (5) days' notice to such Owner, procure the same on Owner's behalf, and the cost of same shall be due and payable by such Owner to the other Owner, as applicable, within five (5) days of receiving an invoice regarding the same, together with interest at the maximum rate permitted by law. In the event that Owner fails to timely pay such amount, the other Owner may file a lien against the Owner's Lot or pursue any other remedies at law or in equity against Owner.

ARTICLE 8

REAL ESTATE TAXES AND ASSESSMENTS

8.1 Payment of Taxes. It is intended that all real estate taxes and assessments relating to each Lot comprising of the Property or improvements of or on each such Lots, shall be paid prior to delinquency by the respective Owners of such Lots.

8.2 Failure to Pay Taxes; Liens. In the event any Owner fails (the "Failing Owner") at any time to pay before delinquency its taxes or assessments on any portion of its Lot, and which may become a lien on any of the Parking Area, then, except while the validity thereof is being contested by judicial or administrative proceedings, any other Owner may, after giving the Failing Owner the notice required under Article 6 and if the Failing Owner shall fail to pay the taxes and/or assessments within the cure period, the other Owner may pay such taxes and/or assessments together with interest, penalties and cost, and in any such event the Failing Owner shall promptly reimburse such other Owner for all such taxes and/or assessments, interest, penalties, and cost and other charges and until such reimbursement has been made the amount thereof shall constitute a lien and charge on the Failing Owner's Lot, subject and subordinate, however, to any bona fide Mortgage made in good faith and for value then outstanding against said Lot.

ARTICLE 9

NOTICE

9.1 Addresses for Notice. Any notice, demand, request, consent, approval or other communication which any Owner desires to give or make or communicate shall be in writing and shall be given or made or communicated by personal delivery, or by United States registered or certified mail, return receipt requested, postage prepaid, or by courier or express service guaranteeing overnight delivery with a signed receipt in each case. Notices addressed to Declarant shall be addressed as follows:

Trimark Burlington Hospitality LLC
420 Ellingson Road
Pacific, WA 98047

Each Owner, upon acquiring a Lot, shall provide each other Owner, if any, with written notice of the address to which notices to such Owner are to be addressed. Any Owner may change its address for notice purposes by delivering written notice of such change to each of the other Owners. Any notice, demand, request, consent, approval, or other communication shall be deemed to have been given, made or communicated on the date the same was delivered personally, received by United States mail as registered or certified matter, with postage thereon fully prepaid, or received by courier service.

ARTICLE 10

DURATION OF DECLARATION

10.1 Term. Unless sooner terminated in writing by all Owners, this Declaration and each term, easement, covenant, restriction and undertaking of this Agreement will remain in effect for a term of seventy-five (75) years from the date of recording this Declaration in the records of Skagit County, Washington, and will automatically be renewed for successive ten (10) year periods. In the event this Declaration shall so terminate upon the agreement of all Owners, the Owners shall grant and convey, each to the others, such reasonable and mutual, non-exclusive easements for ingress, egress, utilities, access and for such other purposes as may allow the Lots to be operated in accordance with this Declaration. The costs of recording such easements shall be shared equally among the Owners.

ARTICLE 11

FORCE MAJEURE

11.1 Force Majeure. Declarant and each Owner shall be excused from performing any obligation or undertaking provided in this Declaration, except any obligation to pay any sums of money under the applicable provisions hereof in the event and so long as the performance of any such obligation is prevented, delayed or hindered by act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure labor, equipment, facilities' materials or supplies in the open market, failure of transportation, strikes, lockouts, action of labor unions, condemnation, requisition, laws, orders of governmental or civil or military authorities, or any other cause, whether similar or dissimilar to the foregoing, not within the respective control of such Owner. If performance of an obligation is prevented or delayed by any of the foregoing causes, the Owner claiming the extension shall give prompt notice of such delay to each of the other Owners. An extension of time for any such cause shall only be for the period of the enforced

delay, which period shall commence to run from the date of commencement of the cause.

ARTICLE 12

MISCELLANEOUS

12.1 Amendment. This Declaration may not be modified or amended, in whole or in part without the written approval of all of the Owners. All amendments shall be in writing, executed and acknowledged by all Owners and shall be duly recorded in the Office of the County Recorder of Snohomish County, Washington.

12.2 No Third Party Beneficiary. The provisions of this Declaration are for the exclusive benefit of the Owners of Lots, and their respective successors and assigns, and not for the benefit of any third person, nor shall this Declaration be deemed to have conferred any rights, express or implied, upon any third person. It is expressly understood and agreed that no modification or amendment, in whole or part, shall require any consent or approval on the part of any tenant of the Property.

12.3 Attorneys' Fees. If any Owner shall institute any judicial action or proceeding or mandatory arbitration relating to violations, threatened violations or failure of performance of or under this Declaration, or any default hereunder, or to enforce the provisions hereof, then the prevailing Owner shall be entitled to recover its reasonable attorneys' fees from the defaulting Owner. Reasonable attorneys' fees shall be fixed by the court or by the arbitrator(s) in the case of a mandatory arbitration. The "prevailing Owner" shall be the Owner who by law is or are entitled to recover its or their costs of suit or arbitration, whether or not the action proceeds to final judgment. If the Owner who shall have instituted suit or mandatory arbitration shall dismiss it as against the other Owner without the concurrence of such other Owner, the other Owner shall be deemed the prevailing party.

12.4 Breach Shall Not Defeat Mortgage. A breach of any of the terms, conditions, covenants, or restrictions of this Declaration shall not defeat or render invalid the lien of any mortgage made in good faith and for value upon an Owner's Lot, but the terms, conditions, covenants or restrictions shall be binding upon and effective against any person or entity who acquires title to said Lot or any portion thereof by foreclosure, trustee's sale or otherwise.

12.5 Lender Protection. This Declaration, and the rights, privileges, covenants, agreements and easements hereunder with respect to each Owner and all Lots, shall be superior and senior to any lien placed upon any Lot, including the lien of any Mortgage. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the covenants and restrictions, easements and conditions and other provisions, terms and conditions

contained in this Declaration shall be binding upon and effective against any person or entity (including any Mortgagee) who acquires title to any Lot or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

12.6 Breach or Waiver Shall Not Permit Termination. No breach of this Declaration or waiver of any right or benefit hereunder shall entitle any Owner to cancel, rescind or otherwise terminate this Declaration or avoid its obligations hereunder, but such limitation shall not affect, in any manner, any other rights, or remedies which an Owner may have hereunder by reason of any breach of this Declaration.

12.7 Governing Laws. This Declaration shall be construed in accordance with the laws of the State of Washington.

12.8 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property or any right, benefit or easement in or to all or any part of the Property, to the general public or for the general public or for any public purpose whatsoever, it being the intention of the Declarant that this Declaration shall be strictly limited to and for the purposes herein expressed.

12.9 Successors. This Declaration shall, except as otherwise specifically provided herein, run with the land, both as respects the benefits and burdens created herein, and shall be binding upon and inure to the benefit of each person or entity acquiring an interest in the Property and their successors and assigns.

12.10 Time of Essence. Time is of the essence with respect to the performance of each of the covenants and agreements contained in this Declaration.

12.11 Merger. This Declaration or the covenants, conditions, easements, and other terms and conditions shall not be extinguished or terminated by operation of the doctrine of merger or otherwise due to the existing or future common ownership of the Property.

12.12 Covenants Running With the Land. This Declaration and all of the provisions, rights, powers, covenants, conditions and obligations contained in this Declaration shall be binding upon and inure to the benefit of Declarant, so long as Declarant is an Owner, and each Owner of any Lot and to their respective heirs, successors (by merger, consolidation or otherwise) and assigns and all other persons or entities acquiring any portion of the Property, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Declaration shall be covenants running with the land pursuant to applicable law.

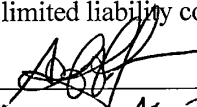
12.13 Indemnity. Each Owner shall defend and indemnify the other Owner against any and all claims, costs, liabilities and damages arising out of the exercise of the rights under this Declaration.

12.14 No Covenant to Operate. Nothing, either expressed or implied, contained in this Declaration shall obligate any Owner or any Owner's tenants, subtenants, successors or assigns to continuously operate any particular type of business on its Lot. Except as otherwise set forth in any particular lease affecting a Lot, any Owner, its subtenants, successors and assigns shall have the right to discontinue whatever type of business may exist from time to time on the Lot owned by that Owner; and no Owner makes any express or implied covenant (1) to continuously operate any business on its owned Lot, (2) to operate during any particular hours; or (3) to conduct its business in any particular manner. Each Owner has the sole right in its unrestricted discretion to decide whether or not to operate on its owned Lot and in what manner to conduct operations, if any. Notwithstanding the foregoing, such failure to operate shall in no way alleviate such Owner's obligation to comply with the terms of this Declaration, including the payment of any and all financial obligations due hereunder

12.15 Estoppel Certificates. Each Owner shall, upon written request of the other owner, issue to a prospective mortgagee, beneficiary, purchaser, or successor of such other Owner or to such other Owner, within fifteen (15) days following such request, an estoppel certificate stating that, to the best of the issuer's knowledge as of such date; (a) whether the owner to whom the request has been directed knows of any default by the requesting Owner under this Declaration, and if there are known defaults, specifying the nature thereof and (b) whether this Declaration has been assigned, modified or amended in any way by the requested Owner (and if it has, then stating the nature thereof). Failure by an Owner to so execute and return such certificate within the specified period shall be deemed an admission on such owner's part that the Owner requesting the certificate is current and not on default on the performance of the requesting Owner's obligation under the Declaration and that all other statements set forth in such estoppel certificate are true.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first set forth above.

TRIMARK BURLINGTON HOSPITALITY LLC,
a Washington limited liability company

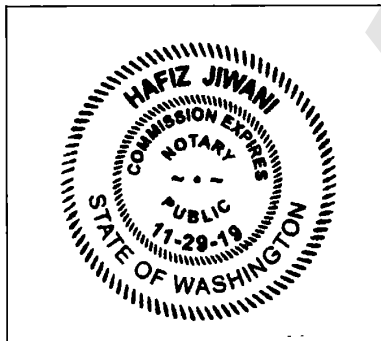
By: 
Name: AC Sullivan
Its: MANAGER

STATE OF WASHINGTON)
) ss.
 COUNTY OF KING)

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

On this 17th day of July, 2019, before me personally appeared AI JIWANI, to me known to be the managing member of TRIMARK BURLINGTON HOSPITALITY LLC, the limited liability company that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.



(Use This Space for Notarial Seal Stamp)



 Notary Public in and for the State of Washington,
 residing at Clyde Hill WA
 My commission expires: 11/29/19
Hafiz Jiwan:
 [Type or Print Notary Name]

EXHIBIT A

Legal Description of Property

EXHIBIT A**Boundary Line Adjustment for Trimark Burlington Hospitality LLC.****Grantor Parcel B, Trimark Burlington Hospitality LLC, Legal Description After Line Adjustment**

Parcel B, City of Burlington Boundary Line Adjustment, recorded under Auditor's File No. 201711300063, records of Skagit County, Washington.

Except that portion of said Parcel B described as follows;

Commencing at the Northwest corner of said Parcel B, which is common to the Northeast corner of Parcel A, City of Burlington boundary line adjustment, recorded under Auditor's File No. 200710010110, records of Skagit County, Washington, Thence South 0°11'59" West, along the West line of said Parcel B, a distance of 26.32 feet, to the **True Point of Beginning**; thence South 89°47'20" East, a distance of 26.32 feet; thence South 0°12'40" West, a distance of 92.12 feet; thence South 89°47'20" East, a distance of 9.74 feet; thence South 0°12'40" West, a distance of 84.59 feet to the South line of said Parcel B; thence North 89°48'01" West, along said South line a distance of 36.03 feet to the Southwest corner of said Parcel B; thence North 0°11'59" East along the West line of said Parcel B, a distance of 176.72 to the **True Point of Beginning**.

Containing 93,975.20 square feet, more or less.

Situate in the County of Skagit, State of Washington.

The above described property will be combined or aggregated with contiguous property owned by the grantee. This lot boundary adjustment is not for the purpose of creating an additional lot. (Ord. 1220 § 2, 1992.)

Grantor Parcel A, Trimark Burlington Hospitality LLC, Legal Description After Line Adjustment

Parcel A, City of Burlington Boundary Line Adjustment, recorded under Auditor's File No. 201711300063, records of Skagit County, Washington.

Together with that portion of Parcel B, City of Burlington Boundary Line Adjustment, recorded under Auditor's File No. 201711300063, records of Skagit County, Washington, described as follows;

Commencing at the Northwest corner of said Parcel B, which is common to the Northeast corner of Parcel A, City of Burlington boundary line adjustment, recorded under Auditor's File No. 200710010110, records of Skagit County, Washington; Thence South 0°11'59" West, along the West line of said Parcel B, a distance of 26.32 feet, to the **True Point of Beginning**; thence South 89°47'20" East, a distance of 26.32 feet; thence South 0°12'40" West, a distance of 92.12 feet; thence South 89°47'20" East, a distance of 9.74 feet; thence South 0°12'40" West, a distance of 84.59 feet to the south line of said Parcel B; thence North 89°48'01" West, along said South line a distance of 36.03 feet to the Southwest corner of said Parcel B; thence North 0°11'59" East along the West line of said Parcel B, a distance of 176.72 to the **True Point of Beginning**.

Containing 18,136.22 square feet, more or less.

Situate in the County of Skagit, State of Washington.

The above described property will be combined or aggregated with contiguous property owned by the grantee. This lot boundary adjustment is not for the purpose of creating an additional lot. (Ord. 1220 § 2, 1992.)

EXHIBIT B

Site Plan of Property

