

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

Pircher, Nichols & Meeks LLP
1901 Avenue of the Stars, Suite 1200
Los Angeles, CA 90067
Attn: Real Estate Notices (MAS/5889-13)

34947

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

Among

HEITMAN CREDIT ACQUISITION [], LLC, as Lender

REDWOOD NEBRASKA, L.P., as Landlord

CITY OF LONG BEACH, as Tenant

Dated as of [November ____], 2018

34947

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

(PARKING STRUCTURE LEASE)

This SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT (“*Agreement*”) is made and entered into as of the [7] day of [November], 2018, by and among HEITMAN CREDIT ACQUISITION [], LLC, a Delaware limited liability company, its successors and assigns (“*Lender*”), REDWOOD NEBRASKA, L.P., a California limited partnership (“*Landlord*”), and the CITY OF LONG BEACH, a municipal corporation (“*Tenant*”).

WITNESSETH:

WHEREAS, Lender is now the owner and holder of that certain Promissory Note (“*Note*”) dated as of the date hereof, secured by that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (“*Security Instrument*”), dated as of the date hereof, for the benefit of Lender, to be recorded in the Official Records of Los Angeles County, California, which Security Instrument constitutes a lien or encumbrance on the real property described in Exhibit A attached hereto and incorporated herein for all purposes, together with all improvements, appurtenances, other properties (whether real or personal), rights and interests described in the Security Instrument (“*Property*”); and

WHEREAS, Tenant is the holder of a leasehold estate in and to the premises located on the Property (the property which is the subject of such leasehold estate, together with Tenant’s appurtenant easements, if any, in the Property, being referred to as the “*Demised Premises*”), pursuant to the terms of that certain Parking Structure Lease dated December 1, 1992, and executed by the Redevelopment Agency of the City of Long Beach, as predecessor-in-interest to Tenant, and IDM corporation, as predecessor-in-interest to Landlord, as assigned pursuant to that certain Assignment and Assumption Agreement and Consent dated as of January 24, 2018, and as amended by that certain First Amendment to Parking Structure Lease effective as of June 1, 2018 (as such may have been further amended and/or assigned, the “*Lease*”), which Lease is referenced in that certain Memorandum of Parking Structure Lease, dated as of December 1, 1992 and recorded on December 22, 1992 in the Official Records of the County of Los Angeles as Document No. 92-2401769, as amended by that certain Addendum to Memorandum of Lease – Confirmation of Term recorded December 22, 1992 in the Official Records of the County of Los Angeles as Document No. 92-2401770; and

WHEREAS, Tenant, Landlord and Lender desire to confirm their understandings with respect to the Lease and the Security Instrument.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree and covenant as follows:

1. *Non-Disturbance by Lender.* So long as Tenant is not in default (beyond any period given Tenant to cure such default) in the payment of rent or in the performance of any of the

terms, covenants or conditions of the Lease on Tenant's part to be performed as would entitle Landlord to terminate the Lease, Tenant's possession and occupancy of the Demised Premises shall not be interfered with or disturbed by Lender during the term of the Lease or any extension thereof duly exercised by Tenant. Lender shall not include Tenant in any foreclosure proceeding involving the Demised Premises, unless required by applicable state law for Lender to accomplish the foreclosure and then not to interfere with or diminish Tenant's rights under said Lease or disturb Tenant's possession.

2. *Attornment by Tenant.* If the interests of Landlord in and to the Demised Premises are owned by Lender by reason of judicial foreclosure, private trustee sale or other proceedings brought by it or by any other manner, including, but not limited to, Lender's exercise of its rights under any collateral assignment(s) of leases and rents, and Lender succeeds to the interest of the Landlord under the Lease, Tenant shall be bound to Lender under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining and any extension thereof duly exercised by Tenant with the same force and effect as if Lender were the landlord under the Lease. Tenant does hereby agree to attorn to Lender, as its landlord, said attornment to be effective and self-operative, without the execution of any further instruments on the part of any of the parties hereto, immediately and only upon Lender's succeeding to the interest of the Landlord under the Lease. Landlord hereby authorizes and directs Tenant to deliver payment to Lender upon receipt of written notice. The respective rights and obligations of Tenant and Lender upon such attornment, to the extent of the then remaining balance of the term of the Lease and any such extension, shall be and are the same as now set forth therein, it being the intention of the parties hereto for this purpose to incorporate the Lease in this Agreement by reference, with the same force and effect as if set forth at length herein.

3. *Lender Bound by Terms of Lease.* If Lender shall succeed to the interest of Landlord under the Lease, Lender shall be bound to Tenant under all of the terms, covenants and conditions of the Lease. Notwithstanding the foregoing, Lender shall not in any event have any liability for any default by Landlord under the Lease occurring prior to the date on which Lender shall have succeeded to the rights of Landlord under the Lease.

4. *Subordination of Lease.* Subject to the terms of this Agreement (including, but not limited to, those in Paragraph 2), the Lease and all of Tenant's right, title and interest in and to the Demised Premises, are and shall be subject and subordinate to the Security Instrument and the lien thereof, to all the terms, conditions and provisions of the Security Instrument and to each and every advance made or hereafter made under the Security Instrument, and to all renewals, modifications, consolidations, replacements, substitutions and extensions of the Security Instrument, so that at all times the Security Instrument shall be and remain a lien on the Demised Premises prior and superior to the Lease for all purposes.

5. *Notice.* Notwithstanding anything to the contrary contained in the Lease, Tenant hereby agrees that in the event of any act, omission or default by Landlord or Landlord's agents, employees, contractors, licensees or invitees which would give Tenant the right, either immediately or after the lapse of a period of time, to terminate the Lease, or to claim a partial or total eviction, or to reduce the rent payable thereunder or credit or offset any amounts against future rents payable thereunder, Tenant will not exercise any such right until it has given written

notice of such act, omission or default to Lender by delivering notice of such act, omission or default, by certified or registered mail, addressed to Lender at Lender's address as given hereby or at the last address of Lender furnished to Tenant in writing, and (i) in the case of any such act, omission or default that can be cured by the payment of money, until sixty (60) days shall have elapsed following the giving of such notice or (ii) in the case of any other such act, omission or default, until a reasonable period for remedying such act, omission or default shall have elapsed following the giving of such notice and following the time when Lender shall have become entitled under the Security Instrument to remedy the same, including such time as may be necessary to acquire possession of the Demised Premises if possession is necessary to effect such cure, provided Lender, with reasonable diligence, shall (a) pursue such remedies as are available to it under the Security Instrument so as to be able to remedy the act, omission or default, and (b) thereafter shall have commenced and continued to remedy such act, omission or default or cause the same to be remedied. Tenant shall also give a copy of any such notice hereunder to any successor to Lender's interest under the Security Instrument, *provided* that Lender or such successor notifies Tenant of the name and address of the party Tenant is to notify. Lender's cure of Landlord's default shall not be considered an assumption by Lender of Landlord's other obligations under the Lease. If in curing any such act, omission or default, Lender requires access to the Demised Premises to effect such cure, Tenant shall provide access to the Demised Premises to Lender as required by Lender to effect such cure at all reasonable times. If Lender or any successor or assign becomes obligated to perform as landlord under the Lease, such person or entity shall be released from those obligations when such person or entity assigns, sells or otherwise transfers, by operation of law or otherwise, its interest in the Demised Premises.

6. *Successors of Lender Also Included.* The term "Lender" shall be deemed to include the Lender stated hereinabove and any of its successors and assigns, including, without limitation, any purchasers of the Note, and anyone who shall have succeeded to Landlord's interest by, through or under judicial foreclosure or private trustee's sale or other proceedings brought pursuant to the Security Instrument, or deed in lieu of such foreclosure or proceedings, or otherwise.

7. *Lender Not Liable.* Tenant agrees that no prepayment of rent or additional rent due under the Lease of more than one month in advance, and no amendment, modification, surrender or cancellation of the Lease, and no waiver or consent by Landlord under the terms of the Lease, shall be binding upon or as against Lender, as holder of the Security Instrument and as landlord under the Lease if it succeeds to that position, unless consented to in writing by Lender.

8. *Lender Consent.* Tenant agrees that (a) the Lease cannot be materially amended or modified, (b) Tenant and Landlord may not terminate, cancel or surrender the term of the Lease, except as expressly permitted by the provisions of the Lease, and (c) Tenant shall not pay any rent for more than the month in advance of the date when due, unless in each case Lender's prior written consent shall have been obtained.

9. *No Modification.* This Agreement may not be modified orally or in any manner other than by an agreement, in writing, signed by the parties hereto and their respective successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto, their respective successors and assigns.

10. *Counterparts.* To facilitate execution, this Agreement may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature and acknowledgment of, or on behalf of, each party, or that the signature and acknowledgment of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single instrument. It shall not be necessary in making proof of this Agreement to produce or account for more than a single counterpart containing the respective signatures and acknowledgment of, or on behalf of, each of the parties hereto. Any signature and acknowledgment page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures and acknowledgments thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature and acknowledgment pages.

11. *Notices.* All notices or other communications required or permitted to be given pursuant to the provisions hereof shall be in writing and shall be deemed served and given at the time of (i) deposit in a depository receptacle under the care and custody of the United States Postal Service, properly addressed to the designated address of the addressee as set forth below, postage prepaid, registered or certified mail with return receipt requested or (ii) delivery to the designated address of the addressee set forth below by a third party commercial delivery service. Notice given in any other manner shall be effective only if and when received by the addressee. For purposes of notices, the addresses of the parties shall be as follows:

If to the Lender: Heitman CREDIT Acquisition [___], LLC
 c/o Heitman Capital Management, LLC
 191 North Wacker Drive
 Chicago, Illinois 60601
 Attention: Jonathan Lindell

with a copy to:

Pircher, Nichols & Meeks LLP
1901 Avenue of the Stars, Suite 1200
Los Angeles, CA 90067
Attention: Real Estate Notices/MAS/5889.13

Tenant: City of Long Beach
 Public Works Department
 Attn: Director
 333 W. Ocean Blvd., 3rd Floor
 Long Beach, CA 90802

with a copy to:

Attention: _____

Landlord: REDWOOD NEBRASKA, L.P.
32932 Pacific Coast HWY
#14-388
Dana Point, CA 92629
Attention: Scott McCarter

with a copy to:

Akin Gump Strauss Hauer & Feld LLP
1999 Avenue of the Stars, Suite 600
Los Angeles, CA 90067
Attention: David Stone Phelps, Esq.

Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by notice to the other parties of such new address at least thirty (30) days prior to the effective date of such new address.

12. *No Merger of Estates.* It is the express intention of Landlord and Tenant that the acquisition by either party of the right, title, interest and estate of the other party in and to the Demised Premises shall not result in termination or cancellation of the Lease by operation of the principle of merger of estates or otherwise, notwithstanding any applicable law to the contrary; *provided, however,* that in the event Tenant acquires the right, title, interest and estate of Landlord in and to the Demised Premises, whether pursuant to any purchase option or right of first refusal granted in the Lease or otherwise, if either (i) the indebtedness secured by the Security Instrument is satisfied or (ii) Tenant assumes or unconditionally guaranties the indebtedness secured by the Security Instrument (on a recourse basis), then in such event the estates of Landlord and Tenant in and to the Demised Premises shall merge and the Lease will be extinguished.

[Signature Pages to Follow]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

LANDLORD:

REDWOOD NEBRASKA, L.P.,
a California limited partnership

By: RW GP Nebraska, LLC,
a Delaware limited liability company,
its General Partner

By: _____
Name: _____
Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ACKNOWLEDGMENT

State of California _____)
County of _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

TENANT:

CITY OF LONG BEACH,
a municipal corporation

By: [Signature]

Name: _____

Title: _____

Tom Modica
Assistant City Manager

**EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER**

APPROVED AS TO FORM:

APPROVED AS TO FORM

Name:
Title:

11.5 20 18
CHARLES PARKIN City Attorney
By: [Signature]
RICHARD ANTHONY
DEPUTY CITY ATTORNEY

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ACKNOWLEDGMENT

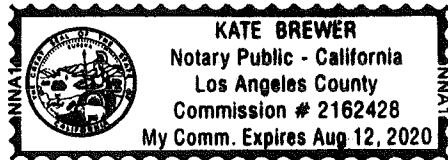
State of California)
County of Los Angeles)

On November 7, 2018, before me, Kate Brewer, Notary Public, personally appeared Tom Modica, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is ~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~ ~~she~~ ~~they~~ executed the same in his ~~her~~ ~~their~~ authorized capacity(ies), and that by his ~~her~~ ~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Kate Brewer



(Seal)

LENDER:

HEITMAN CREDIT ACQUISITION [], LLC,
a Delaware limited liability company

By: Heitman CREDIT Holding, L.P.,
a Delaware limited partnership,
its managing member

By: Heitman CREDIT Holding GP, LLC,
a Delaware limited liability company,
its general partner

By: Heitman CREDIT REIT, LLC,
a Delaware limited liability company,
its managing member

By: Heitman Core Real Estate Debt Income Trust, L.P.,
a Delaware limited partnership,
its manager

By: Heitman Core Real Estate Debt Income Trust, LLC,
a Delaware limited liability company,
its general partner

By: _____
Name: _____
Title: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ACKNOWLEDGMENT

State of _____)
County of _____)

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of [_____] that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT A

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF LONG BEACH IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL 1:

PARCELS 1 AND 2 OF PARCEL MAP NO. 16945, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 181 PAGES 58 AND 59 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT ALL OIL, HYDROCARBON SUBSTANCES AND MINERALS OF EVERY KIND AND CHARACTER LYING MORE THAN 500 FEET BELOW THE SURFACE OF SAID LAND, TOGETHER WITH THE RIGHT TO DRILL INTO, THROUGH AND TO USE AND OCCUPY ALL PARTS OF SAID LAND LYING MORE THAN 500 FEET BELOW THE SURFACE THEREOF FOR ANY AND ALL PURPOSES INCIDENTAL TO THE EXPLORATION FOR AND PRODUCTION OF OIL, GAS, HYDROCARBON SUBSTANCES OR MINERALS FROM SAID LANDS, BUT WITHOUT, HOWEVER, THE RIGHT TO USE EITHER THE SURFACE OF SAID LAND OR ANY PORTION OF SAID LAND WITHIN 500 FEET OF THE SURFACE FOR ANY PURPOSE OR PURPOSES WHATSOEVER, AS PROVIDED IN DEED RECORDED OCTOBER 7, 1985 AS INSTRUMENT NO. 85-1173816 OF OFFICIAL RECORDS, AND IN DEED RECORDED OCTOBER 23, 1985 AS INSTRUMENT NO. 85-1254645 OF OFFICIAL RECORDS.

PARCEL 2:

PARCEL 3 OF PARCEL MAP NO. 16945, IN THE CITY OF LONG BEACH, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 181 PAGES 58 AND 59 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPT ALL CRUDE OIL, PETROLEUM, GAS, ASPHALTUM, AND ALL KINDRED SUBSTANCES AND OTHER MINERALS UNDER AND IN SAID LAND A DEPTH BELOW 200 FEET FROM THE SURFACE OF SAID LAND, PROVIDED GRANTORS SHALL HAVE NO RIGHT OF ENTRY UPON THE SURFACE OF SAID LAND OR IN, OR TO SAID LAND TO A DEPTH OF 200 FEET FROM THE SURFACE THEREOF, AS RESERVED BY JULIAN M. SIEROTY AND JEAN SIEROTY, HUSBAND AND WIFE, AND RICHARD O. SUKMAN AND CAROLE J. SUKMAN, HUSBAND AND WIFE, IN DEED RECORDED MAY 23, 1974 AS DOCUMENT NO. 216 IN BOOK D6281 PAGE 820, OFFICIAL RECORDS.

ALSO EXCEPT ALL MINERALS, GAS, OIL, PETROLEUM, NAPHTHA, AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND, WITHOUT THE RIGHT OF SURFACE ENTRY, AS EXCEPTED AND RESERVED BY DOROTHY PAWSON, A WIDOW, IN DEED RECORDED AUGUST 22, 1969 AS INSTRUMENT NO. 300 IN BOOK D4474 PAGE 618, OFFICIAL RECORDS.

ALSO EXCEPT ALL MINERALS, GAS, OIL, PETROLEUM, NAPHTHA AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER SAID LAND, WITHOUT THE RIGHT OF SURFACE ENTRY, AS EXCEPTED AND RESERVED BY HELEN D. WOOD, IN DEED

RECORDED NOVEMBER 10, 1969 AS INSTRUMENT NO. 24 IN BOOK D4550 PAGE 244, OFFICIAL RECORDS.

ALSO EXCEPT ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER OR THAT MAY BE PRODUCED FROM A DEPTH BELOW 200 FEET OF THE SURFACE OF SAID LAND, BUT WITHOUT RIGHT OF ENTRY UPON THE SURFACE OF SAID LAND, FOR THE PURPOSE OF MINING, DRILLING, EXPLORING, OR EXTRACTING SUCH OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES, AS RESERVED BY FRANCES J. BOARDMAN, A MARRIED WOMAN, WHO ACQUIRED TITLE AS FRANCES J. MALONEY, IN DEED RECORDED NOVEMBER 12, 1969 AS INSTRUMENT NO. 249 IN BOOK D4551 PAGE 553, OFFICIAL RECORDS.

ALSO EXCEPT ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND THAT MAY BE PRODUCED FROM A DEPTH BELOW 200 FEET OF THE SURFACE OF SAID LAND, BUT WITHOUT RIGHT OF ENTRY UPON THE SURFACE OF SAID LAND, FOR THE PURPOSE OF MINING, DRILLING, EXPLORING, OR EXTRACTING SUCH OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES, AS EXCEPTED BY BUFFUMS', A CORPORATION, IN DEED RECORDED NOVEMBER 12, 1969 AS INSTRUMENT NO. 251 IN BOOK D4551 PAGE 555, OFFICIAL RECORDS.

ALSO EXCEPT ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER OR THAT MAY BE PRODUCED FROM A DEPTH BELOW 200 FEET OF THE SURFACE, BUT WITHOUT RIGHT OF SURFACE ENTRY, FOR THE PURPOSE OF MINING, DRILLING, EXPLORING, OR EXTRACTING SUCH OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES, AS RESERVED BY JOY MILDRED CLARK, IN DEED RECORDED DECEMBER 18, 1969 AS INSTRUMENT NO. 82 IN BOOK D4585 PAGE 279, OFFICIAL RECORDS.

ALSO EXCEPT ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER OR THAT MAY BE PRODUCED FROM A DEPTH BELOW 200 FEET OF THE SURFACE, BUT WITHOUT RIGHT OF SURFACE ENTRY, FOR THE PURPOSE OF MINING, DRILLING, EXPLORING, OR EXTRACTING SUCH OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES, AS RESERVED BY MARJORIE DUNHAM, ALSO KNOWN AS MARJORIE ELAINE COONS, IN DEED RECORDED DECEMBER 18, 1969 AS INSTRUMENT NO. 83 IN BOOK D4585 PAGE 280, OFFICIAL RECORDS.

ALSO EXCEPT ALL OIL, GAS AND OTHER HYDROCARBON SUBSTANCES IN AND UNDER OR THAT MAY BE PRODUCED FROM A DEPTH BELOW 200 FEET OF THE SURFACE OF SAID LAND, BUT WITHOUT RIGHT OF ENTRY UPON THE SURFACE OF SAID LAND, FOR THE PURPOSE OF MINING, DRILLING, EXPLORING, OR EXTRACTING SUCH OIL, GAS, MINERALS AND OTHER HYDROCARBON SUBSTANCES, AS RESERVED BY GEORGE P. BUNDY AND HELEN R. BUNDY, HUSBAND AND WIFE, IN DEED RECORDED NOVEMBER 12, 1969 AS INSTRUMENT NO. 250 IN BOOK D4551 PAGE 554, OFFICIAL RECORDS.

APN(s): 7280-026-022; 7280-026-023