

# **THIRD AMENDMENT TO THE FIRST NATIONAL CENTER REDEVELOPMENT PROJECT ECONOMIC DEVELOPMENT AGREEMENT FOR THE GARAGE COMPONENT**

This Third Amendment to the First National Center Redevelopment Project Economic Development Agreement for the Garage Component ("Amendment") is made and entered into as of the 26<sup>th</sup> day of September, 2023, by and among the Oklahoma City Economic Development Trust, a public trust (the "Trust" or "OCEDT"), The City of Oklahoma City, a municipal corporation ("The City"), NE CS First National, LP, a Delaware limited partnership ("Parent Developer"), NE CS FNC Garage, LLC, an Oklahoma limited liability company and an Affiliate of Parent Developer ("Garage Owner"), and FNC Garage Lender, LLC, an Oklahoma limited liability company and an Affiliate of Parent Developer ("Affiliate Leverage Lender").

## **WITNESSETH:**

**WHEREAS**, The City, the Trust, Parent Developer, Garage Owner and Affiliate Leverage Lender entered into the First National Center Redevelopment Project Economic Development Agreement for the Garage Component (the "Garage Agreement") effective October 24, 2017; and

**WHEREAS**, the Garage Agreement was subsequently amended on two occasions. On September 29, 2020, the Trust and the City consented to and approved the ownership and management control that Trident NE First National, LLC, or any of its affiliates (collectively "Trident") has, or may have, in Parent Developer. The Garage Agreement was again amended on May 10, 2022, to allow for an extension of time, until March 31, 2023, for the Affiliate Leverage Lender and/or CrossFirst Bank to give the Opt-Out Notice or Opt-Out Waiver, which choice was irrevocable pursuant to the terms of the Garage Agreement; and

**WHEREAS**, on March 28, 2023, CrossFirst Bank gave notice to the Trust and the City that it desires to exercise the Opt-Out Waiver and requested that it be paid in full on its NMTC Leverage Loan by no later than October 1, 2023. However, thereafter, CrossFirst Bank indicated in writing it would like the option to rescind its Opt-Out Waiver, extend the October 1, 2023 Conversion Date, and be given a second right to exercise the Opt-Out Right or Opt-Out Waiver; and

**WHEREAS**, capitalized terms used but not defined in this Amendment shall have the meanings given to them in the Garage Agreement.



**NOW, THEREFORE**, in consideration of the promises and mutual obligations herein set forth, the parties hereby agree to amend Section 3.2(c) of the Garage Agreement which shall now read as follows. All other terms and conditions of the October 24, 2017 Garage Agreement, as amended, shall remain in full force and effect.

3.2 (c) Incentive Loan. The Parent Developer Parties recognize and agree that the ability of the Trust to provide the Ad Valorem Development Incentive and the Incentive Loan contemplated by this Garage Agreement arises solely from the ad valorem tax increment generated by the Project (and, more specifically, the Garage Component) as authorized under the Downtown/MAPS Project Plan, and the Local Development Act, 62 O.S. §§ 850, et seq. The Parent Developer Parties also acknowledge that until said increments are generated by the Garage Component and paid to the Trust by the Oklahoma County Treasurer, the Trust, in order to provide the Incentive Loan for the Garage Component, will have to secure a loan (the "OCEDT Loan") pledging the future ad valorem tax increment generated by the Garage Component, the Minimum Annual Payments required by the Deed of Declaration of Covenants and the Increment District No. 10 local sales tax increment revenues received by the Trust that are attributable to the Garage Component as security for the OCEDT Loan. Therefore, in order for the Trust to meet its obligation(s) under the OCEDT Loan, the Parent Developer Parties and their respective lenders with respect to the Garage Component must agree, as a condition of the Incentive Loan, that in addition to Affiliate Leverage Lender's obligation to make loan payments under the terms of the Incentive Loan in the Incentive Loan Payment Amounts, Parent Developer and Garage Owner (or any subsequent owner of the Garage Property) are also required to make the Minimum Annual Payments until the Incentive Loan is paid in full. With the foregoing established as the background, the Trust agrees to the following:

- i. Conversion Process. Following the Conversion Date (as defined below), the right of Affiliate Leverage Lender to receive any Ad Valorem Development Incentive payments based on the current or any future tax years shall cease until the Incentive Loan is paid in full (as set forth in Section 3.2(c)(vi) below). The Trust, upon concurrence in this Garage Agreement by The City, shall provide the Incentive Loan to Affiliate Leverage Lender on the Conversion Date, and Affiliate Leverage Lender shall use the proceeds of the Incentive Loan only for the purpose of paying off the principal amount of the NMTC Leverage Loan plus any costs, fees or expenses related to the issuance of the Incentive Loan.
- ii. Exercise of Opt-Out; Waiver of Opt-Out. Notwithstanding the foregoing, Affiliate Leverage Lender shall have the unconditional right to elect to opt out of the



Incentive Loan and to continue receiving the Ad Valorem Development Incentive payments for the remaining life of Increment District No. 10 (the "Opt-Out Right"). Affiliate Leverage Lender shall exercise the Opt-Out Right by notifying the Trust and The City of such election in writing (the "Opt-Out Notice") on or before July 1, 2024. Affiliate Leverage Lender may also elect to waive its Opt-Out Right by notifying the Trust and The City of such waiver in writing (the "Opt-Out Waiver") on or before July 1, 2024. The Opt-Out Notice and the Opt-Out Waiver must be given in accordance with the provisions of Section 5 of this Garage Agreement. The Trust and The City shall, and Parent Developer and Affiliate Leverage Lender hereby authorize the Trust and The City to accept any Opt-Out Notice or Opt-Out Waiver, directly given by CrossFirst Bank to the Trust and The City, in the same manner as if given by Affiliate Leverage Lender; provided that the Opt-Out Notice or Opt-Out Waiver that is given by CrossFirst Bank is given in accordance with the provisions of Section 5. CrossFirst Bank is hereby declared to be a third-party beneficiary of this Section 3.2(c) and shall have the independent right to enforce the provisions of this Section 3.2(c). The City shall not accept any Opt-Out Notice from the Affiliate Leverage Lender without the written consent of CrossFirst Bank.

iii. Closing of Loan. The Trust shall make the Incentive Loan to Affiliate Leverage Lender on or before December 1, 2023 (such date, the "Conversion Date"). Should either the Affiliate Leverage Lender or CrossFirst Bank exercise the Opt-Out Waiver in accordance with subsection 3.2(c)(ii) herein, but thereafter provide written notice to the Trust and City by or before September 30, 2023, that both the Affiliate Leverage Lender and CrossFirst Bank have closed on a new NMTC Leverage Loan, any such Opt-Out Waiver provided by the Affiliate Leverage Lender or CrossFirst Bank shall be null and void upon receipt of said written notice. Should such written notice of CrossFirst Bank's or the Affiliate Leverage Lender's decision to rescind the Opt-Out Waiver be received by the City and Trust on or before September 30, 2023, the Trust shall not be required to make the Incentive Loan to the Affiliate Leverage Lender and the Affiliate Leverage Lender and/or CrossFirst Bank shall have a second opportunity to elect to opt out of the Incentive Loan and to continue receiving the Ad Valorem Development Incentive payments for the remaining life of Increment District No. 10. Affiliate Leverage Lender shall exercise this second Opt-Out Right by notifying the Trust and The City of such election in writing on or before July 1, 2024. Affiliate Leverage Lender may also elect to waive its Opt-Out Right by notifying the Trust



and The City of such waiver in writing on or before July 1, 2024. The Opt-Out Notice and the Opt-Out Waiver must be given in accordance with the provisions of Section 5 herein. If such Notice is received on or before July 1, 2024, by the Trust and City stating that either the Affiliate Leverage Lender or CrossFirst Bank elect to Waive the Opt-Out Right, the Trust shall make the Incentive Loan to the Affiliate Leverage Lender by or before December 22, 2024. The proceeds of the Incentive Loan shall be used by the Affiliate Leverage Lender to pay the balance of the new NMTC Leverage Loan with CrossFirst Bank.

iv. Terms of Incentive Loan. The terms of the Incentive Loan shall be finalized prior to the Conversion Date. The parties expect that the terms of the Incentive Loan will reflect a non-forgivable loan in the original principal amount of the lesser of (A) \$14,000,000, or (B) the amount necessary to repay the principal amount of the NMTC Leverage Loan in full plus any costs, fees or expenses related to the issuance of the Incentive Loan, as provided in Section 2.4, with an expected term of approximately 17 years, an annual interest rate to be negotiated by the Affiliate Leverage Lender and the City and Trust until paid in full and minimum annual payments equal to 1.15 times the annual debt service requirement on the OCEDT Loan during the first five years of the Incentive Loan, 1.25 times the annual debt service requirement on the OCEDT Loan during the next five years of the Incentive Loan and 1.5 times the annual debt service on the OCEDT Loan thereafter (the "Incentive Loan Payment Amounts" or the "Incentive Loan Payments"). The parties further agree (A) that there shall be no pre-payment penalty assessed on the Incentive Loan if Affiliate Leverage Lender pays off the Incentive Loan in full at any time during the term of the Incentive Loan, and (B) that Incentive Loan payments shall be adjusted to credit (1) the Minimum Annual Payments, as defined and described in Section 3.4, and (2) the Increment District No. 10 local sales tax increment revenues received by the Trust that are attributable to the Garage Component, less Allocated Administrative Expenses, to the extent related payments of the Local Sales Tax Development Incentive have been suspended pursuant to Section 3.2(d)(iv). The Incentive Loan shall not be secured by the pledge of any collateral, and the parties acknowledge and agree that no assets of the Garage Owner shall be pledged to secure the Incentive Loan. The Incentive Loan shall otherwise contain the terms and conditions set forth in the Loan Documents to be agreed upon by the parties. In the event that the sum of the amount of (A) annual assessed real property and personal property ad valorem taxes on the New Garage Parcel payable by Garage Owner and/or Master Tenant,



and (B) annual assessed personal property ad valorem taxes on personal property located within the New Garage Parcel payable by a tenant of the Garage Component, is GREATER THAN the Incentive Loan Payments (after crediting local sales tax revenues pursuant to subsection (B)(2) of this Section 3.2(c)(iv)) (such excess amount referred to herein as the "Assessed Tax Excess Amount"), then the Assessed Tax Excess Amount shall be credited against, and be deemed a payment on, the Incentive Loan.

v. Debt Service Reserve Account. Incentive Loan payments (including the Minimum Annual Payments, as defined and described in Section 3.4, that are credited towards Incentive Loan Payment Amounts, and the Increment District No. 10 local sales tax increment revenues received by the Trust that are attributable to the Garage Component, that are credited towards Incentive Loan Payment Amounts) will first be applied to debt service on the OCEDT Loan, with any excess receipts used to establish a debt service reserve held by the Trust for the benefit of Affiliate Leverage Lender (the "Loan Reserve"). The Loan Reserve shall be released to the Trust only if, and only to the extent that, Incentive Loan Payments (including the Minimum Annual Payments, as defined and described in Section 3.4, that are credited towards Incentive Loan Payment Amounts, and the Increment District No. 10 local sales tax increment revenues received by the Trust that are attributable to the Garage Component, that are credited towards Incentive Loan Payment Amounts) on the Incentive Loan are insufficient to cover debt service on the OCEDT Loan or as part of final payoff of the Incentive Loan. Any amount remaining in the Loan Reserve at the time the Incentive Loan is paid in full shall be applied against an outstanding amount owed under the Incentive Loan contemporaneous with the payment from Affiliate Leverage Lender to effectuate full repayment of the Incentive Loan.

vi. Re-Establishment of Ad Valorem Development Incentive. Subject to the terms of any economic development agreement related to the Hotel Component or the Residential Units Component, the Parent Developer Parties or any of their respective Affiliates shall again be eligible to receive the Ad Valorem Development Incentive beginning in the year following repayment of the OCEDT Loan and continuing thereafter through the life of Increment District No. 10; provided that (x) if The City or the Trust have any other outstanding debt secured by anticipated ad valorem increment from Increment District No. 10, then the right of the Parent Developer Parties or any of their respective Affiliates to receive any Ad Valorem Development Incentive shall be suspended during the period of any

event of default (after expiration of applicable notice and cure periods) under the documents governing such debt; and (y) the aggregate amount of Ad Valorem Development Incentive payments received by the Parent Developer Parties with respect to the Garage Component (including payments before issuance of the Incentive Loan and after repayment of the Incentive Loan) shall not exceed \$14,000,000, less the amount of the assessed ad valorem tax on the New Garage Parcel paid by Garage Owner and/or Master Tenant with respect to the Garage Component and credited towards the Incentive Loan Payments.

vii. No City Funds. It is understood and agreed that no other funds of the Trust or The City are available to provide the Incentive Loan. No General Funds of The City are, nor can they be, committed to this Garage Agreement.

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OCEDT SIGNATURE PAGE FOR  
THIRD AMENDMENT TO FIRST NATIONAL CENTER REDEVELOPMENT PROJECT  
ECONOMIC DEVELOPMENT AGREEMENT FOR THE GARAGE COMPONENT

"TRUST"

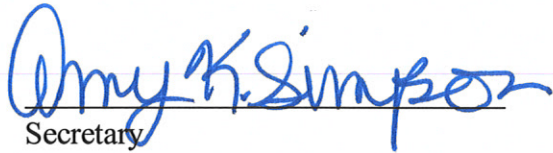


OKLAHOMA CITY ECONOMIC  
DEVELOPMENT TRUST, a public trust,

By:

  
Chairman

ATTEST:

  
Secretary

Date:

September 26, 2023

CITY OF OKLAHOMA CITY SIGNATURE PAGE FOR  
THIRD AMENDMENT TO FIRST NATIONAL CENTER REDEVELOPMENT PROJECT  
ECONOMIC DEVELOPMENT AGREEMENT FOR THE GARAGE COMPONENT



"CITY"

THE CITY OF OKLAHOMA CITY

By:

MAYOR

Dail Holt

ATTEST:

Amy K. Simpson

City Clerk

Date: September 26, 2023

**REVIEWED** as to form and legality.

[Signature]

Assistant Municipal Counselor



PARENT DEVELOPER SIGNATURE PAGE FOR THIRD AMENDMENT TO FIRST  
NATIONAL CENTER REDEVELOPMENT PROJECT ECONOMIC DEVELOPMENT  
AGREEMENT FOR THE GARAGE COMPONENT

“PARENT DEVELOPER”

NE CS First National, LP, a Delaware  
limited partnership

By: NE Multifamily Development, LLC, a  
Texas limited liability company,  
its General Partner

By: [Signature]  
Name: Colin Nicholas  
Title: Manager

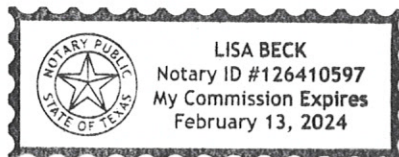
ACKNOWLEDGEMENT

STATE OF Texas )  
 )  
COUNTY OF Denton )

This instrument was acknowledged before me on September 15, 2023, by  
Colin Nicholas as Manager of NE Multifamily Development, LLC, the General Partner of NE CS  
First National, LP, on behalf of said limited partnership.

(Seal)

[Signature]  
Notary Public  
My Commission Expires: 2-13-2024  
Commission # 126410597



GARAGE OWNER SIGNATURE PAGE FOR THIRD AMENDMENT TO FIRST  
NATIONAL CENTER REDEVELOPMENT PROJECT ECONOMIC DEVELOPMENT  
AGREEMENT FOR THE GARAGE COMPONENT

“GARAGE OWNER”

NE CS FNC GARAGE, LLC, an Oklahoma  
limited liability company

By: NE CS First National, LP, a Delaware  
limited partnership,  
its Sole Member

By: NE Multifamily Development,  
LLC, a Texas limited liability  
company,  
its General Partner

By: [Signature]  
Name: Colin Nicholas  
Title: Manager

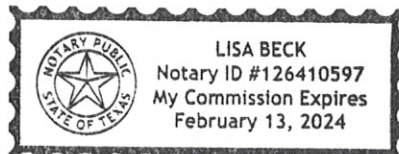
ACKNOWLEDGEMENT

STATE OF Texas )  
 )  
COUNTY OF Denton )

This instrument was acknowledged before me on September 15, 2023, by  
Colin Nicholas as Manager of NE Multifamily Development, LLC, the General Partner of NE CS  
First National, LP, the Sole Member of NE CS FNC Garage, LLC, on behalf of said limited  
company.

(Seal)

[Signature]  
Notary Public  
My Commission Expires: 2-13-2024  
Commission # 126410597





AFFILIATE LEVERAGE LENDER SIGNATURE PAGE FOR THIRD AMENDMENT TO  
FIRST NATIONAL CENTER REDEVELOPMENT PROJECT ECONOMIC DEVELOPMENT  
AGREEMENT FOR THE GARAGE COMPONENT

“AFFILIATE LEVERAGE LENDER”

FNC GARAGE LENDER, LLC, an  
Oklahoma limited liability company

By: NE Multifamily Development, LLC, a  
Texas limited liability company,  
its Manager

By: [Signature]  
Name: Colin Nicholas  
Title: Manager

ACKNOWLEDGEMENT

STATE OF Texas )  
 )  
COUNTY OF Denton )

This instrument was acknowledged before me on September 15, 2023, by  
Colin Nicholas as Manager of NE Multifamily Development, LLC, the Manager of FNC Garage  
Lender, LLC, on behalf of said limited company.

(Seal)

[Signature]  
Notary Public  
My Commission Expires: 2-13-2024  
Commission # 126410597

