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7/25/2018 1:02:00 PM \$35.00
Book - 10696 Pg - 3833-3844
ADAM GARDINER
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 12 P.

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

Wells Fargo Bank, National Association
2030 Main Street, Suite 800
Irvine, CA 92614
Attn: Margie Ramirez
Loan No. 1018255

10232 3-DTF

16-06-154-051

16-06-154-052

(Space Above For Recorder's Use)

16-06-154-034

**SUBORDINATION AGREEMENT, ACKNOWLEDGMENT OF LEASE ASSIGNMENT,
ATTORNMEN AND NON-DISTURBANCE AGREEMENT
(Lease to Security Instrument)**

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST
IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN
THE LIEN OF SOME OTHER OR LATER SECURITY INSTRUMENT.**

THIS SUBORDINATION AGREEMENT; ACKNOWLEDGMENT OF LEASE ASSIGNMENT,
ESTOPPEL, ATTORNMEN AND NON-DISTURBANCE AGREEMENT ("**Agreement**") is made
July 12, 2018, by and between EOS AT PARKSIDE, LLC, a Delaware limited liability
company ("**Owner**"), FABIAN & CLENDENIN, A PROFESSIONAL CORPORATION, a Utah
professional corporation ("**Lessee**") and WELLS FARGO BANK, NATIONAL ASSOCIATION, as
Administrative Agent for itself and certain additional lenders ("**Administrative Agent**").

RECITALS

- A. Pursuant to the terms and provisions of a lease dated January 1, 1992, as amended by that certain First Amendment to Lease dated May 26, 1998, that certain Second Amendment to Lease dated April 22, 2002, that certain Third Amendment to Lease dated January 31, 2004, that certain Fourth Amendment to Lease dated November 18, 2005, that certain Fifth Amendment to Lease dated January 1, 2006, that certain Sixth Amenement to Lease dated August 3, 2006, that certain Seventh Amendment to Lease dated May 1, 2009 and that certain Eighth Amendment to Office Lease dated September

24, 2012 ("**Lease**"), Owner, as "Lessor", granted to Lessee a leasehold estate in and to the property described on Exhibit A attached hereto and incorporated herein by this reference (which property, together with all improvements now or hereafter located on the property, is defined as the "**Property**").

- B. Owner has executed, or proposes to execute, a Deed of Trust (the "**Security Instrument**") securing, among other things, promissory notes (as the same may be amended, restated or replaced from time to time, the "**Note**") in the aggregate principal sum of [One Hundred Sixty-Two Million Dollars (\$162,000,000)], which Note is payable with interest and upon the terms and conditions described therein ("**Loan**").
- C. As a condition to making the Loan secured by the Security Instrument, Administrative Agent requires that the Security Instrument be unconditionally and at all times remain a lien on the Property, prior and superior to all the rights of Lessee under the Lease and that the Lessee specifically and unconditionally subordinates the Lease to the lien of the Security Instrument.
- D. Owner and Lessee have agreed to the subordination, attornment and other agreements herein in favor of Administrative Agent.

NOW THEREFORE, for valuable consideration and to induce Administrative Agent to make the Loan, Owner and Lessee hereby agree for the benefit of Administrative Agent as follows:

1. **SUBORDINATION**. Owner and Lessee hereby agree that:
 - 1.1 **Prior Lien**. The Security Instrument securing the Note in favor of Administrative Agent, and any modifications, renewals or extensions thereof, shall unconditionally be and at all times remain a lien on the Property prior and superior to the Lease;
 - 1.2 **Subordination**. Administrative Agent would not make the Loan without this agreement to subordinate; and
 - 1.3 **Whole Agreement**. This Agreement shall be the whole agreement and only agreement with regard to the subordination of the Lease to the lien of the Security Instrument and shall supersede and cancel, but only insofar as would affect the priority between the Security Instrument and the Lease, any prior agreements as to such subordination, including, without limitation, those provisions, if any, contained in the Lease which provide for the subordination of the Lease to a deed or deeds of trust or to a mortgage or mortgages.

AND FURTHER, Lessee individually declares, agrees and acknowledges for the benefit of Lender, that:

- 1.4 **Use of Proceeds**. Administrative Agent, in making disbursements pursuant to the Note, the Security Instrument or any loan agreements with respect to the Property, is under no obligation or duty to, nor has Administrative Agent represented that it will, see to the application of such proceeds by the person or persons to whom Administrative Agent disburses such proceeds, and any application or use of such proceeds for purposes other than those provided for in such agreement or agreements shall not defeat this agreement to subordinate in whole or in part;

- 1.5 **Waiver, Relinquishment and Subordination.** Lessee intentionally and unconditionally waives, relinquishes and subordinates all of Lessee's right, title and interest in and to the Property to the lien of the Security Instrument and understands that in reliance upon, and in consideration of, this waiver, relinquishment and subordination, specific loans and advances are being and will be made by Administrative Agent and, as part and parcel thereof, specific monetary and other obligations are being and will be entered into which would not be made or entered into but for said reliance upon this waiver, relinquishment and subordination.
2. **ASSIGNMENT.** Lessee acknowledges and consents to the assignment of the Lease by Lessor in favor of Lender.
3. **ADDITIONAL AGREEMENTS.** Lessee covenants and agrees that, during all such times as Administrative Agent is the beneficiary under the Security Instrument:
 - 3.1 **Modification, Termination and Cancellation.** Lessee will not consent to any modification, amendment, termination or cancellation of the Lease (in whole or in part) without giving Administrative Agent prior written notice thereof and will not make any payment to Lessor in consideration of any modification, termination or cancellation of the Lease (in whole or in part) without giving Administrative Agent prior written notice thereof;
 - 3.2 **Notice of Default.** Lessee will notify Administrative Agent in writing concurrently with any notice given to Lessor of any default by Lessor under the Lease, and Lessee agrees that Administrative Agent has the right (but not the obligation) to cure any breach or default specified in such notice within the time periods set forth below and Lessee will not declare a default of the Lease, as to Administrative Agent, if Administrative Agent cures such default within fifteen (15) days from and after the expiration of the time period provided in the Lease for the cure thereof by Lessor; provided, however, that if such default cannot with diligence be cured by Administrative Agent within such fifteen (15) day period, the commencement of action by Administrative Agent within such fifteen (15) day period to remedy the same shall be deemed sufficient so long as Administrative Agent pursues such cure with diligence;
 - 3.3 **No Advance Rents.** Lessee will make no payments or prepayments of rent more than one (1) month in advance of the time when the same become due under the Lease; and
 - 3.4 **Assignment of Rents.** Upon receipt by Lessee of written notice from Administrative Agent that Administrative Agent has elected to terminate the license granted to Lessor to collect rents, as provided in the Security Instrument, and directing the payment of rents by Lessee to Administrative Agent, Lessee shall comply with such direction to pay and shall not be required to determine whether Lessor is in default under the Loan and/or the Security Instrument.
4. **ATTORNTMENT.** In the event of a foreclosure under the Security Instrument, Lessee agrees for the benefit of Administrative Agent (including for this purpose any transferee of Administrative Agent or any transferee of Lessor's title in and to the Property by Administrative Agent's exercise of the remedy of sale by foreclosure under the Security Instrument) as follows:

- 4.1 **Payment of Rent.** Lessee shall pay to Administrative Agent all rental payments required to be made by Lessee pursuant to the terms of the Lease for the duration of the term of the Lease;
- 4.2 **Continuation of Performance.** Lessee shall be bound to Administrative Agent in accordance with all of the provisions of the Lease for the balance of the term thereof, and Lessee hereby attorns to Administrative Agent as its landlord, such attornment to be effective and self operative without the execution of any further instrument immediately upon Lender succeeding to Lessor's interest in the Lease and giving written notice thereof to Lessee;
- 4.3 **No Offset.** Administrative Agent shall not be liable for, nor subject to, any offsets or defenses which Lessee may have by reason of any act or omission of Lessor under the Lease, nor for the return of any sums which Lessee may have paid to Lessor under the Lease as and for security deposits, advance rentals or otherwise, except to the extent that such sums are actually delivered by Lessor to Administrative Agent; and
- 4.4 **Subsequent Transfer.** If Administrative Agent, by succeeding to the interest of Lessor under the Lease, should become obligated to perform the covenants of Lessor thereunder, then, upon any further transfer of Lessor's interest by Administrative Agent, all of such obligations shall terminate as to Administrative Agent.
5. **NON-DISTURBANCE.** In the event of a foreclosure under the Security Instrument, so long as there shall then exist no breach, default, or event of default on the part of Lessee under the Lease, Administrative Agent agrees for itself and its successors and assigns that the leasehold interest of Lessee under the Lease shall not be extinguished or terminated by reason of such foreclosure, but rather the Lease shall continue in full force and effect and Administrative Agent shall recognize and accept Lessee as tenant under the Lease subject to the terms and provisions of the Lease except as modified by this Agreement; provided, however, that Lessee and Administrative Agent agree that the following provisions of the Lease (if any) shall not be binding on Administrative Agent: any option to purchase with respect to the Property; any right of first refusal with respect to the Property; any provision regarding the use of insurance proceeds or condemnation proceeds with respect to the Property which is inconsistent with the terms of the Security Instrument.
6. **MISCELLANEOUS.**
- 6.1 **Remedies Cumulative.** All rights of Lender herein to collect rents on behalf of Landlord under the Lease are cumulative and shall be in addition to any and all other rights and remedies provided by law and by other agreements between Lender and Landlord or others.
- 6.2 **Notices.** All notices, demands, or other communications under this Agreement and the other Loan Documents shall be in writing and shall be delivered to the appropriate party at the address set forth below (subject to change from time to time by written notice to all other parties to this Agreement). All notices, demands or other communications shall be considered as properly given if delivered personally or sent by first class United States Postal Service mail, postage prepaid, or by Overnight Express Mail or by overnight commercial courier service, charges prepaid, except that

notice of Default may be sent by certified mail, return receipt requested, charges prepaid. Notices so sent shall be effective three (3) Business Days after mailing, if mailed by first class mail, and otherwise upon delivery or refusal; provided, however, that non-receipt of any communication as the result of any change of address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication. For purposes of notice, the address of the parties shall be:

Landlord:	EOS at Parkside, LLC 800 Newport Center Drive, Suite 700 Newport Beach, CA 92660 Attention: Tim Helgeson
Tenant:	Fabian & Clendenin, a Professional Corporation [] [] [] Attention: []
Lender:	Wells Fargo Bank, National Association 2030 Main Street, Suite 800 Irvine, CA 92614 Attn: Cole Zehnder Loan No. 1018255
With a copy to:	Wells Fargo Bank, National Association 2030 Main Street, Suite 800 Irvine, CA 92614 Attn: Margie Ramirez Loan No. 1018255

Any party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of thirty (30) days' notice to the other party in the manner set forth hereinabove.

- 6.3 **Heirs, Successors and Assigns.** Except as otherwise expressly provided under the terms and conditions herein, the terms of this Agreement shall bind and inure to the benefit of the heirs, executors, administrators, nominees, successors and assigns of the parties hereto.
- 6.4 **Headings.** All article, section or other headings appearing in this Agreement are for convenience of reference only and shall be disregarded in construing this Agreement.
- 6.5 **Counterparts.** To facilitate execution, this document may be executed in as many counterparts as may be convenient or required. It shall not be necessary that the signature of, or on behalf of, each party, or that the signature of all persons required to bind any party, appear on each counterpart. All counterparts shall collectively constitute a single document. It shall not be necessary in making proof of this document to produce or account for more than a single counterpart containing the respective signatures of, or on behalf of, each of the parties hereto. Any signature

page to any counterpart may be detached from such counterpart without impairing the legal effect of the signatures thereon and thereafter attached to another counterpart identical thereto except having attached to it additional signature pages.

- 6.6 **Exhibits, Schedules and Riders.** All exhibits, schedules, riders and other items attached hereto are incorporated into this Agreement by such attachment for all purposes.
7. **INCORPORATION.** Exhibit A attached hereto is hereby incorporated by this reference as if set forth in full herein.

[Remainder of Page Intentionally Left Blank.]

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

NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE PERSON OBLIGATED ON YOUR REAL PROPERTY SECURITY TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE LAND.

IT IS RECOMMENDED THAT, PRIOR TO THE EXECUTION OF THIS AGREEMENT, THE PARTIES CONSULT WITH THEIR ATTORNEYS WITH RESPECT HERETO.

"OWNER"

EOS AT PARKSIDE, LLC,
a Delaware limited liability company

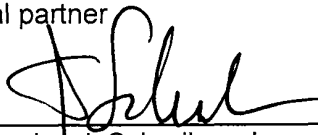
By: EOS ACQUISITION I, LLC,
a Delaware limited liability company,
its sole member and manager

By: EOS PROPERTIES, LLC,
a Delaware limited liability company,
its sole member

By: EOS INVESTMENT FUND, L.P.,
a Delaware limited partnership,
its sole member

By: POLIS REALTY ADVISORS, LTD.,
a British Virgin Islands company,
its general partner

By:



Charles J. Schreiber, Jr.,
Chief Executive Officer

ACKNOWLEDGEMENT

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.

State of California
County of ORANGE)

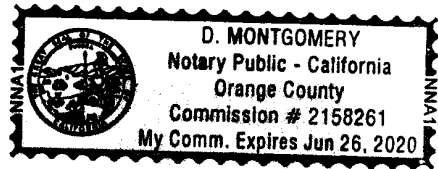
On JULY 9, 2018 before me, D. MONTGOMERY
(insert name and title of the officer)

personally appeared CHARLES J. SCHLEIBER, JR,
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.

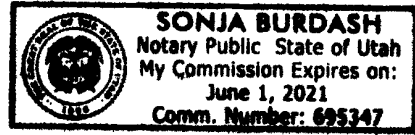
Signature *D. Montgomery* (Seal)



"LESSEE"

FABIAN & CLENDENIN, A PROFESSIONAL CORPORATION,
a Utah professional corporation

By: *David N. Kelley*
Name: *David N. Kelley*
Its: *Managing Shareholder*



July 11, 2018
Sonja Burdash

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.

David N Kelley

STATE OF UTAH
COUNTY OF Salt Lake

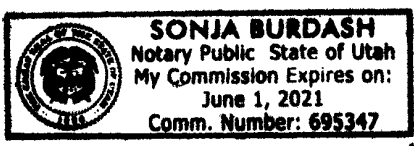
On July 11, 2018 before me, Sonja Burdash
personally appeared David N Kelley, who proved to me on the basis of
satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their
authorized capacity(ies), 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 *Sonja Burdash*

My commission expires June 1, 2021



"ADMINISTRATIVE AGENT"

WELLS FARGO BANK,
NATIONAL ASSOCIATION,
as Administrative Agent

By: [Signature]
Name: Cole Zehnder
Its: Vice President

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.

STATE OF CALIFORNIA
COUNTY OF ORANGE SS.

On July 10, 2018 before me, Mark Mann, Notary Public
personally appeared Cole Zehnder, 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 Mark Mann, Notary Public

My commission expires January 27, 2021

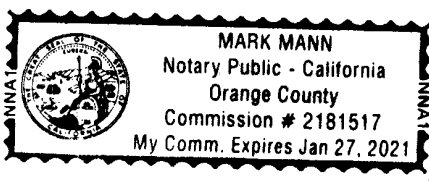


EXHIBIT A - DESCRIPTION OF PROPERTY

PARCEL 1:

Beginning at the Northwest corner of Lot 5, Block 56, Plat "A", Salt Lake City Survey and running thence East 231.00 feet; thence South 231.00 feet; thence West 66.00 feet; thence South 99.00 feet; thence West 66.00 feet; thence North 50.33 feet; thence West 99.00 feet; thence North 279.67 feet to the point of beginning.

TOGETHER WITH one-half vacated alley abutting on the East.

LESS AND EXCEPTING the following:

Beginning at the Southeast corner of Lot 5, Block 56, Plat "A", Salt Lake City Survey and running thence South 89°58'56" West 66.00 feet; thence North 00°03'14" East 50.33 feet; thence North 89°58'56" East 66.00 feet; thence South 00°03'14" West 50.33 feet to the point of beginning.

PARCEL 2:

Beginning at a point East 51.00 feet and South 154.00 feet from the Northwest corner of Lot 7, Block 56, Plat "A", Salt Lake City Survey and running thence South 64.83 feet; thence West 51.00 feet; thence South 61.67 feet; thence West 81.00 feet; thence North 126.50 feet; thence East 132.00 feet to the point of beginning.

TOGETHER WITH one-half vacated alley abutting on the West.

PARCEL 3:

Beginning at a point located 50.33 feet North 00°03'14" East from the Southwest corner of Lot 6, Block 56, Plat "A", Salt Lake City Survey and running thence North 00°03'14" East 48.67 feet; thence North 89°58'56" East 68.00 feet; thence South 00°03'14" West 48.67 feet; thence South 89°58'56" West 68.00 feet to the point of beginning.

TOGETHER WITH one-half the vacated alley abutting said property on the East.