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RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
SNELL & WILMER  
BY: eCASH, DEPUTY - EF 11 P.

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

Brian D. Cunningham, Esq.  
SNELL & WILMER L.L.P.  
Gateway Tower West  
15 West South Temple, Suite 1200  
Salt Lake City, Utah 84101

APN: 27-31-351-001-0000

SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT

THIS SUBORDINATION NON-DISTURBANCE AND ATTORNMEN AGREEMENT (this "Agreement") is made and entered into as of this 1<sup>st</sup> day of Oct, 2018, by and among U.S. BANK NATIONAL ASSOCIATION, a national banking association, as Administrative Agent ("Agent") for the lenders now or hereafter party to the loan agreement referred to below (collectively with Agent, "Beneficiary"), BANK OF AMERICA, NATIONAL ASSOCIATION, a national banking association ("Tenant"), and RIVERTON CENTERCAL, LLC, a Delaware limited liability company ("Landlord").

RECITALS

A. Pursuant to a Construction Loan Agreement between Beneficiary and Landlord, Beneficiary has made or intends to make a construction loan ("Loan") to Landlord secured by a Construction Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing (as amended, the "Deed of Trust") encumbering the real property (the "Property") in Salt Lake County, Utah owned in fee simple by Landlord and described on Exhibit A hereto.

B. By Lease dated October 1, 2018 (the "Lease"), Landlord leased to Tenant those certain premises (the "Premises") which constitutes or forms a portion of the Property covered by the Deed of Trust, all as more particularly described in said Lease.

C. The Deed of Trust constitutes an assignment to Beneficiary of all Landlord's right, title, and interest under the Lease. Beneficiary, Landlord and Tenant have agreed to the following with respect to their mutual rights and obligations pursuant to and under the Lease and the Deed of Trust.

AGREEMENT

NOW, THEREFORE, In consideration of the above, the reciprocal promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do mutually agree as follows:

1. Subordination. The Lease now is or shall become upon the mutual execution of this Agreement subordinate in all respects to the Deed of Trust and to all renewals, modifications and extensions thereof, subject to the terms and conditions of this Agreement. Tenant hereby affirms that the Lease is in full force and effect and that the Lease has not been modified or amended. Beneficiary acknowledges receipt of a copy of the Lease and hereby approves the same.

2. Non-Disturbance. So long as Tenant is not in default under the Lease (beyond any period given Tenant to cure such default) as would entitle Landlord to terminate the Lease or would cause, without any further action of Landlord, the termination of the Lease or would entitle Landlord to dispossess Tenant thereunder, Beneficiary will not disturb the peaceful and quiet possession or right of possession of the Premises by Tenant nor shall the Lease or its appurtenances be extinguished by reason of any Foreclosure (as hereinafter defined) or otherwise, nor join Tenant as a party in any action or proceeding brought pursuant to the Deed of Trust.

3. **Attornment.** In the event that Beneficiary or its successors or assigns, or any purchaser of the Property at a foreclosure sale ("Successor Landlord"), acquires the interest of Landlord or comes into the possession of or acquires title to the Premises (the "Succession") by reason of the foreclosure (judicial or non-judicial) or enforcement of the Deed of Trust (including a private power of sale) or by a conveyance in lieu thereof or other conveyance or as a result of any other means (any or all of the foregoing hereinafter referred to as a "Foreclosure"), then the Lease and all appurtenances thereto shall remain in full force and effect and Tenant shall be bound to Successor Landlord under all of the provisions of the Lease for the balance of the term thereof (including any extensions or renewals thereof which may be effected in accordance with any options contained in the Lease) with the same force and effect as if Successor Landlord was Landlord under the Lease, and Tenant shall attorn to Successor Landlord as its landlord, such attornment to be effective and self-operative, without the execution of any further instruments on the part of either of the parties hereto, immediately upon the Succession; and further, in such event, Successor Landlord shall be bound to Tenant under all of the provisions of the Lease, and Tenant shall, from and after such Succession, have the same remedies against Successor Landlord for the breach of any agreement contained in the Lease that Tenant might have had under the Lease against Landlord thereunder, provided, however, that if Successor Landlord is not an entity that controls, is controlled by, or is under common control with Landlord, then Successor Landlord shall not be:

(a) liable for any act or omission of any prior landlord (including Landlord) unless Tenant shall have given notice (pursuant to Paragraph 4 hereof) of such act or omission to the party who was the then holder of the Deed of Trust (whether or not such holder elected to cure or remedy such act or omission); or

(b) subject to any offsets or defenses which Tenant might have against any prior landlord (including Landlord) unless Tenant shall have given notice (pursuant to Paragraph 4 hereof) of the state of facts or circumstances under which such offset or defense arose to the party who was the then holder of the Deed of Trust (whether or not such holder elected to cure or remedy such condition); or

(c) bound by any rent or additional rent which Tenant might have paid to any prior landlord (including Landlord) more than thirty (30) days in advance of the due date under the Lease; or

(d) bound by any security deposit which Tenant may have paid to any prior landlord (including Landlord), unless such deposit is available to the party who was the holder of the Deed of Trust at the time of a Foreclosure; or

(e) bound by any amendment or modification of the Lease hereafter made, without the written consent of Agent, which consent shall not be unreasonably withheld; provided, however, that consent shall not be required to the extent the Lease is amended or modified pursuant to a right granted to Tenant in the Lease; or

(f) except with respect to Landlord's Work (as defined in Exhibit B to the Lease), bound by any obligation of Landlord to construct any improvements or pay any construction allowance to Tenant under the Lease.

Tenant shall be under no obligation to pay rent to Beneficiary or Successor Landlord until Tenant receives written notice from Beneficiary or Successor Landlord stating that Beneficiary or Successor Landlord is entitled to receive the rents under the Lease directly from Tenant. Landlord, by its execution hereof, hereby authorizes Tenant to accept such direction from Beneficiary or Successor Landlord and to pay the rents directly to Beneficiary or Successor Landlord and waives all claims against Tenant for any sums so paid at Beneficiary's or Successor Landlord's direction. Tenant may conclusively rely upon any written notice Tenant receives from Beneficiary or Successor Landlord notwithstanding any claims by Landlord

contesting the validity of any term or condition of such notice, including any default claimed by Beneficiary or Successor Landlord, and Tenant shall have no duty to inquire into the validity or appropriateness of any such notice.

4. Landlord's Default. From and after the date Tenant receives a fully executed copy of this Agreement, Tenant will not seek to terminate the Lease or exercise any right of offset under the Lease by reason of any default of Landlord until Tenant shall have given written notice of such default to Beneficiary (at Beneficiary's address provided for in this Agreement) and Beneficiary shall have the right, but not the obligation, to remedy such default within thirty (30) days after the date of such notice, provided however that if the default does not involve the payment of money from Landlord to Tenant and (i) is of such a nature that it could not be reasonably remedied within the thirty (30) day period aforesaid, or (ii) the nature of the default or the requirements of local law require Beneficiary to appoint a receiver or to foreclose on or commence legal proceedings to recover possession of the Property in order to effect such remedy and such legal proceedings and consequent remedy cannot reasonably be achieved within said thirty (30) days, then Beneficiary shall have such further time as is reasonable under the circumstances to effect such remedy provided that Beneficiary shall notify Tenant, within ten (10) days after receipt of Tenant's notice, of Beneficiary's intention to effect such remedy and provided further that Beneficiary commences such remedy within said thirty (30) day period and thereafter prosecutes said remedy with due diligence and continuity to completion. Notwithstanding the foregoing, (i) Beneficiary shall have no rights under this Paragraph 4 if Beneficiary is an entity that controls, is controlled by, or is under common control with Landlord, and (ii) subject to and in accordance with the conditions and limitations contained in the Lease, the requirements of this Paragraph 4 shall not reduce or diminish Tenant's right under Section 16.05(iii) of the Lease to take such measures as are reasonably necessary to substantially diminish the effect of an emergency that materially interferes with Tenant's conduct of the Permitted Use (as defined in the Lease), provided that Tenant has given written notice of such emergency to Beneficiary as soon as practicable under the circumstances.

5. Agreement to Release Proceeds or Awards.

(a) Destruction. In the event of a casualty at the Premises, subject to satisfaction of any conditions in the Deed of Trust to Landlord's use of insurance proceeds, Beneficiary shall release its interest in any insurance proceeds applicable to the nonstructural improvements to the Premises which were installed by Tenant. Beneficiary acknowledges that it has no interest and waives any interest in Tenant's personal property, Tenant's signs, the satellite dish, and any safety systems (such as, without limitation, fire and security monitoring and alarm systems) installed at or about the Premises, or any insurance proceeds which are payable with respect thereto under either Landlord's or Tenant's policies.

(b) Eminent Domain. In the event of a public taking or act of eminent domain, Beneficiary shall release its interest in that portion of the award to which Tenant is entitled pursuant to the Lease.

6. Other Tenant Covenants. Tenant further agrees with Beneficiary as follows:

(a) Tenant will not enter into any material modification of the Lease or consent to any termination of the Lease (except a termination permitted by the Lease without Landlord's consent) without Agent's prior written consent in each instance, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that consent shall not be required to the extent the Lease is amended or modified pursuant to a right granted to Tenant in the Lease.

(b) Except as otherwise required under the Lease, Tenant will not prepay any rents or other sums due under the Lease for more than one (1) month in advance of the due date.

(c) Tenant will not subordinate its rights under the Lease to any other Deed of Trust, deed of trust, or other security instrument without the prior written consent of Agent except as required by the Lease.

(d) If the Lease is rejected or deemed rejected in any bankruptcy proceeding with respect to Landlord, Tenant shall not exercise its option to treat the Lease as terminated under 11 U.S.C. § 365(h), as amended.

7. Notices. In order to be effective, any notice to be given under this lease must be in writing and either (1) served personally at the following applicable notice address, provided that proof of delivery thereof can be produced; or (2) sent by registered or certified U.S. mail, Federal Express or a similar reputable express courier the following applicable notice address, provided that proof of delivery thereof can be produced.

To Agent or Beneficiary:

U.S. Bank National Association  
Commercial Real Estate  
111 SW Fifth Avenue, 6<sup>th</sup> Floor  
Portland, OR 97204  
Attention: Mary Kathryn Long

*With a copy to:*

Snell & Wilmer L.L.P.  
15 West South Temple, Suite 1200  
Salt Lake City, UT 84101  
Attention: Brian D. Cunningham, Esq.

To Tenant:

Bank of America, National Association  
NC2-150-03-06  
13850 Ballantyne Corporate Place  
Charlotte, NC 28277  
Attention: Lease Administration (UTW-024)

*With a copy to:*

Bank of America, National Association  
2505 W. Chandler Blvd  
AZ1-805-01-30  
Chandler, AZ 85224  
Attention: Leslie O'Brien, Vice President (UTW-024)

To Landlord:

Riverton CenterCal, LLC  
1600 East Franklin Avenue  
El Segundo, CA 90245  
Attention: Jean Paul Wardy

No notice delivered to the Premises shall be effective. Any party may change the address by written notice to the other parties clearly stating such party's intent to change the address for all purposes of this Agreement, which new address shall be effective one (1) month after receipt. Except as hereinafter provided, notice shall be deemed given when received or when receipt is refused.

8. Lease Status. Tenant represents that it has no right or option of any nature whatsoever, whether pursuant to the Lease or otherwise, to purchase the Premises or the Property, or any portion thereof or any interest therein, and to the extent that Tenant has had, or hereafter acquires, any such right or option, same is hereby acknowledged to be subject and subordinate to the Deed of Trust and is hereby waived and released as against Beneficiary.

9. General Provisions. This Agreement may not be modified except in writing and executed by the parties hereto or their successors in interest. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. If any provision of this Agreement is determined to be invalid, illegal or unenforceable, such provision shall be considered severed from the rest of this Agreement and the remaining provisions shall continue in full force and effect as if such provision had not been included. This Agreement may be signed in counterparts. This Agreement shall be governed by the laws of the State of Utah.

*[Signatures on following pages]*



## ACKNOWLEDGMENT

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 Los Angeles)

On March 11, 2020 before me, Michelle Chu-Hyun Noh, Notary Public  
(insert name and title of the officer)

personally appeared David Fisher  
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"

BANK OF AMERICA, NATIONAL ASSOCIATION, a national banking association

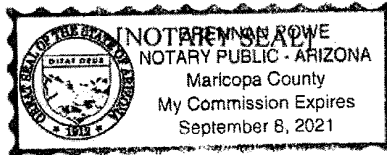
By: Leslie O'Brien 9/14/18  
Name: Leslie O'Brien  
Title: Vice President

CO# 458009  
UTW-024

STATE OF ARIZONA )  
 ) SS  
COUNTY OF MARICOPA )

On this 14<sup>th</sup> day of September, 2018, before me, the undersigned notary public, personally appeared Leslie O'Brien, a Vice President of BANK OF AMERICA, NATIONAL ASSOCIATION, a national banking association, proved to me by satisfactory evidence of identification, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged to me that she signed the foregoing document voluntarily on behalf of the association.

B. Rowe  
Printed Name: Brennan Rowe  
Arizona Notary Public  
My Commission Expires: 09/08/2021





"Landlord"

RIVERTON CENTERCAL, LLC, a Delaware limited liability company

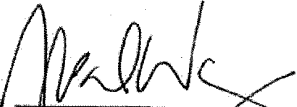
By: CenterCal, LLC, a Delaware limited liability company, its Managing Member

By: CenterCal Associates, LLC, a Delaware limited liability company, its Manager

By:

Name:

Title:

  
\_\_\_\_\_  
Jean Paul Dady  
\_\_\_\_\_  
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

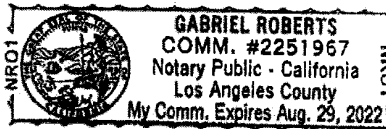
County of Los Angeles

On October 1, 2018, before me, Gabriel Roberts, Notary Public, personally appeared [Signature] 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 [Signature] (Seal)



My commission expires: August 29, 2022

EXHIBIT A

Legal Description of Property

The real property located in the County of Salt Lake, State of Utah and described as follows:

Beginning at a point on the east right-of-way line of the Mountain View Corridor for the Utah Department of Transportation project no. MP-0182(6) as described in a Quit Claim Deed recorded July 15, 2014 in book 10245 at page 5268 in the Salt Lake County Recorder's Office, said point also being South 89°34'03" East, along the Section Line, 534.33 feet and North 00°25'57" East 136.72 feet from the Southwest Corner of Section 31, Township 3 South, Range 1 West, Salt Lake Base and Meridian and running thence along said east right-of-way line the following five (5) courses: (1) North 15°19'40" West 67.94 feet, (2) North 02°30'46" East 553.12 feet, (3) North 12°02'08" East 266.84 feet, (4) North 05°07'17" West 269.61 feet, (5) North 03°33'19" West 6.27 feet; thence South 89°25'15" East 1348.84 feet; thence South 00°34'50" West 889.12 feet to a point on a 100.00 foot radius curve to the left; thence Southerly 11.38 feet along said curve, through a central angle of 06°31'15", (chord bears South 02°40'47" East 11.37 feet); thence South 05°56'24" East 59.05 feet to a point on a 100.00 foot radius curve to the right; thence Southerly 11.38 feet along said curve, through a central angle of 06°31'15", (chord bears South 02°40'47" East 11.37 feet); thence South 00°34'50" West 167.69 feet to the north right-of-way line of 13400 South Street as described in a Quit Claim Deed recorded March 19, 2012 in book 10000 at page 4080 in the Salt Lake County Recorder's Office; thence along said north right-of-way line the following five (5) courses: (1) South 89°48'13" West 92.78 feet (2) South 00°11'47" East 39.61 feet, (3) South 45°01'09" West 56.85 feet, (4) North 89°33'54" West 348.39 feet to a point on a 5861.83 foot radius curve to the right, (5) Northwesterly along said curve 141.13 feet, through a central angle of 01°22'46", (chord bears North 88°52'31" West 141.13 feet), to the north right-of-way line of 13400 South Street as described in a Quit Claim Deed recorded May 11, 2010 in book 9824 at page 7738 in the Salt Lake County Recorder's Office; thence along said north right-of-way line the following ten (10) courses: (1) North 84°42'01" West 92.10 feet, (2) North 05°00'00" East 6.45 feet, (3) North 85°00'00" West 58.96 feet, (4) South 05°00'00" West 6.45 feet, (5) North 86°05'31" West 78.08 feet, (6) North 87°11'25" West 78.08 feet, (7) North 88°13'22" West 68.71 feet, (8) North 89°11'32" West 69.14 feet, (9) North 89°40'21" West 90.78 feet, (10) North 78°25'02" West 230.08 feet to the Point of Beginning.