

RECORDING REQUESTED BY AND)
WHEN RECORDED MAIL TO:)
)
Riemer & Braunstein LLP)
660 Newport Center Dr., Suite 1400)
Newport Beach, CA 92660)
Attention: Gloria Diaz)
Loan No. 1018255)
)

102311-DTF

Space above for Recorder's Use

22-23-251-032 thru 034
22-23-251-036

MEMORANDUM OF THIRD MODIFICATION AGREEMENT

(Millrock - Salt Lake County, Utah)

This Memorandum of Third Modification Agreement ("**Agreement**") is executed as of August 3, 2023 and made effective as of July 12, 2023 (the "**Effective Date**"), by and among each lender from time to time party to the Loan Agreement described below (individually, a "**Lender**" and collectively, the "**Lenders**"), WELLS FARGO BANK, NATIONAL ASSOCIATION, as Administrative Agent for itself and the other Lenders ("**Administrative Agent**"), and EOS AT MILLROCK PARK, LLC, a Delaware limited liability company ("**Millrock Borrower**"), EOS AT FOUNTAINHEAD, LLC, a Delaware limited liability company ("**Fountainhead Borrower**") and EOS AT PARKSIDE, LLC, a Delaware limited liability company ("**Parkside Borrower**"; together with Millrock Borrower and Fountainhead Borrower, each individually, a "**Borrower**" and together, "**Borrowers**").

Factual Background

A. Pursuant to the terms of that certain Loan Agreement, dated as of July 12, 2018, by and among Borrowers, EOS AT COLONNADE, LLC (the "**Released Borrower**"), Administrative Agent and Lenders, as modified by that certain Assumption and First Modification Agreement dated December 10, 2018 and as modified by that certain Modification Agreement dated May 16, 2023 (as the same may be further amended, modified, supplemented or replaced from time to time, the "**Loan Agreement**"), Lenders made a loan to Borrowers and Released Borrower in the original principal amount of up to One Hundred Sixty-Two Million and No/100 Dollars (\$162,000,000.00), subsequently amended to One Hundred Twenty Million Dollars (\$120,000,000) (as amended, the "**Loan**"), evidenced by a Secured Promissory Note dated July 12, 2018, executed by Borrowers and Released Borrower in favor of Wells Fargo Bank, National Association, in the amount of One Hundred Sixty-Two Million and No/100 Dollars (\$162,000,000.00) (as the same may be amended, modified, supplemented or replaced from time to time, the "**Original Note**") and is further evidenced and secured by certain other documents described in the Loan Agreement as Loan Documents. Pursuant to Section 2.10(b) of the Loan Agreement, the Released Borrower has been released from all obligations under the Loan Document except as set forth in Section 2.10(b) of the Loan Agreement.

B. Concurrently herewith, Borrowers are executing an Amended and Restated Promissory Note, dated as of even date herewith, in the original principal amount of One

Hundred Twenty Million Dollars (\$120,000,000), to the order of Wells Fargo Bank, National Association (as the same may be amended, modified, supplemented or replaced from time to time, the "*Amended Note*"). The Amended Note amends and restates the Original Note in its entirety. Any reference to the Note in the Security Instruments shall mean the Amended Note.

C. The Original Note is secured by, among other things, (i) a Leasehold and Fee Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of July 12, 2018, executed by Parkside Borrower, as Trustor, to Commonwealth Land Title Insurance Company, as trustee, and Administrative Agent, for the benefit of Lenders, as Beneficiary, and recorded on July 12, 2018, in the Official Records of Salt Lake County, Utah as Document No. 12809215, Book 10692, Page 8885-8915 (as the same may be amended, modified, supplemented or replaced from time to time, the "*Parkside Security Instrument*"), (ii) a Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of July 12, 2018, executed by Fountainhead Borrower, as Grantor, to Daniel Borland, an individual, as trustee, and Administrative Agent, for the benefit of Lenders, as Beneficiary, and recorded on July 13, 2018, in the Bexar County Clerk's Office, Texas as Document No. 20180136151 (as the same may be amended, modified, supplemented or replaced from time to time, the "*Fountainhead Security Instrument*") and (iii) a Deed of Trust With Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated as of July 12, 2018, executed by Millrock Borrower, as Trustor, to Commonwealth Land Title Insurance Company, as trustee, and Administrative Agent, for the benefit of Lenders, as Beneficiary, encumbering, among other things, that certain real property more particularly described in Exhibit A attached hereto, and recorded on July 12, 2018, in the Official Records of Salt Lake County, Utah as Document No. 12809207, Book 10692, Page 8804-8829 (as the same may be amended, modified, supplemented or replaced from time to time, the "*Millrock Security Instrument*"; together with the Parkside Security Instrument and Fountainhead Security Instrument, each individually, "*Security Instrument*" and collectively, "*Security Instruments*"), encumbering real property described more particularly therein. The real property which is the subject of the Security Instruments is collectively referred to hereinafter as the "*Property*".

D. As used herein, the term "*Loan Documents*" means the Loan Agreement, the Original Note, as amended and restated by the Amended Note, the Security Instruments, and any other documents executed in connection with the Loan, including those which evidence, guaranty, secure or modify the Loan, as any or all of them may have been amended to date.

E. Borrowers, Administrative Agent and Lenders have agreed to modify the Loan as provided in a long form Second Modification Agreement (the "*Modification Agreement*") dated as of the date hereof. This Agreement and the Modification Agreement are Loan Documents.

Agreement

Therefore, Borrowers, Administrative Agent and Lenders agree as follows:

1. The Modification Agreement is incorporated in this Agreement by this reference, the same as though set forth here in full.

2. The Loan is amended on the terms and subject to the conditions of the Modification Agreement. Among other things, the maturity date has been extended, and the interest rate and certain Loan covenants have been modified, all on the terms and conditions set forth in the Modification Agreement.

3. The Security Instruments are hereby modified to secure payment and performance of the Loan as amended to date, in addition to all other Secured Obligations (as defined therein). The foregoing notwithstanding, certain obligations continue to be excluded from the Secured Obligations secured by the Security Instruments as specified therein.

4. This Agreement may be executed in counterparts, and all counterparts shall constitute but one and the same document. If any court of competent jurisdiction determines any provision of this Agreement or any of the other Loan Documents to be invalid, illegal or unenforceable, that portion shall be deemed severed from the rest, which shall remain in full force and effect as though the invalid, illegal or unenforceable portion had never been a part of the Loan Documents. This Agreement shall be governed by California law.

5. The limitations on personal liability of the shareholders, partners and members of Borrowers contained in Section 13.27 of the Loan Agreement shall apply to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their proper and duly authorized officers as of the day and year first above.

“BORROWERS”

EOS AT MILLROCK PARK, LLC,
a Delaware limited liability company

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

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

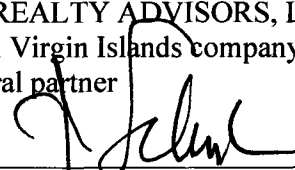
EOS AT PARKSIDE, LLC,
a Delaware limited liability company

By: EOS ACQUISITION I, LLC,
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

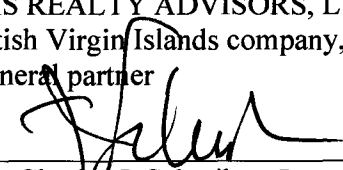
EOS AT FOUNTAINHEAD, LLC,
a Delaware limited liability company

By: EOS ACQUISITION I, LLC,
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

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[Signature Page to Memorandum (Millrock)]

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 Orange)

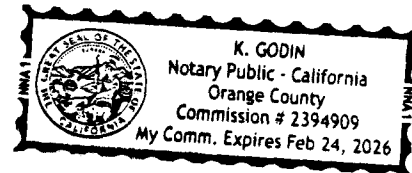
On July 26, 2023 before me, K. Godin, Notary Public
(insert name and title of the officer)

personally appeared Charles J. Schreiber, 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  (Seal)



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.

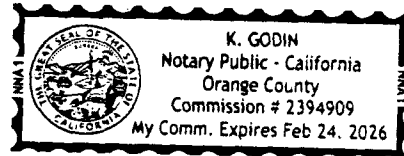
State of California
County of Orange)

On July 26, 2023 before me, K. Godin, Notary Public
(insert name and title of the officer)

personally appeared Charles J. Schreiber, 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  (Seal)

ACKNOWLEDGMENT

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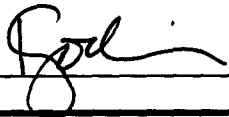
State of California
County of Orange)

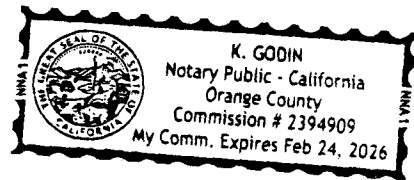
On July 26, 2023 before me, K. Godin, Notary Public
(insert name and title of the officer)

personally appeared Charles J. Schreiber, 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  (Seal)



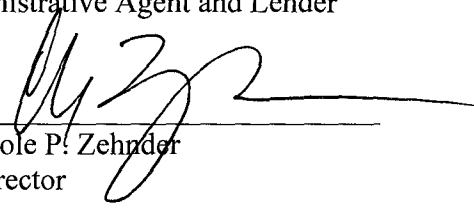
**ADMINISTRATIVE AGENT
AND SOLE LENDER:**

WELLS FARGO BANK, NATIONAL ASSOCIATION,
a national banking association,
as Administrative Agent and Lender

By: _____

Name: Cole P. Zehnder

Title: Director

A handwritten signature in black ink, appearing to read 'C. Zehnder', is written over a horizontal line. The signature is fluid and cursive.

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[Signature Page to Memorandum (Millrock)]

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

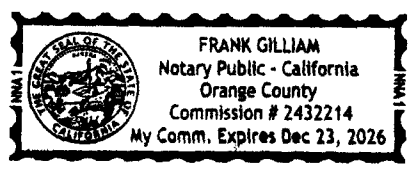
County of Orange

On July 25, 2023 before me, Frank Gilliam, Notary Public,
(here insert name of the officer)

personally appeared Cdc P. 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 Frank Gilliam (Seal)

EXHIBIT A

Legal Description - Millrock

PARCEL 1:

Lots 1, 2, 3 and 4, MILLROCK PARK SUBDIVISION, according to the official plat thereof on file and of record in the Salt Lake County Recorder's office, recorded August 9, 2004 as Entry No. 9141334 in Book 2004P of Plats at Page 221.

PARCEL 2:

A non-exclusive easement and right of way for pedestrian and vehicular access as created by that certain Ingress and Egress Right-of-Way recorded August 9, 2004 as Entry No. 9141335 in Book 9023 at Page 6251 in the office of the Salt Lake County Recorder, and modified by that certain Modification of Ingress and Egress Right-of-Way recorded October 30, 2014 as Entry No. 11938160 in Book 10271 at Page 3691 in the office of the Salt Lake County Recorder.

Parcel ID:

Lot 1: 22-23-251-036

Lot 2: 22-23-251-034

Lot 3: 22-23-251-032

Lot 4: 22-23-251-033

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