

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

Wells Fargo Bank, National Association  
PO Box 45490  
MAC U1228-063  
Salt Lake City, UT 84145-0490  
Attn: Jessica Martinez  
Loan No. 1019254

13124295  
11/14/2019 3:47:00 PM \$40.00  
Book - 10860 Pg - 1906-1914  
RASHELLE HOBBS  
Recorder, Salt Lake County, UT  
COTTONWOOD TITLE  
BY: eCASH, DEPUTY - EF 9 P.

CT-114207-CAE  
TIN 16-03-100-004-6001

**SUBORDINATION AGREEMENT; ACKNOWLEDGMENT OF LICENSE ASSIGNMENT, ESTOPPEL,  
ATTORNMEN AND NON-DISTURBANCE AGREEMENT**

**NOTICE TO LICENSEE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR LICENSE AGREEMENT BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF A LATER SECURITY INSTRUMENT.**

THIS SUBORDINATION AGREEMENT; ACKNOWLEDGMENT OF LICENSE ASSIGNMENT, ESTOPPEL, ATTORNMEN AND NON-DISTURBANCE AGREEMENT ("**Agreement**") is made as of November 7, 2019, by and between BOYER RESEARCH PARK ASSOCIATES X, L.C., a Utah limited liability company ("**Licensor**"), the UNIVERSITY OF UTAH, a body politic and corporate ("**Licensee**"), and WELLS FARGO BANK, NATIONAL ASSOCIATION ("**Lender**").

**RECITALS**

- A. Pursuant to the terms and provisions of that certain Parking License Agreement dated November 7, 2019 ("**License Agreement**"), Licensor granted to Licensee a license to use a parking garage to be located on 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. Licensor has executed, or proposes to execute, a leasehold construction deed of trust with absolute assignment of leases and rents, security agreement and fixture filing ("**Deed of Trust**") securing, among other things, a promissory note ("**Note**") in the principal sum of FORTY-TWO MILLION AND NO/100THS DOLLARS (\$42,000,000.00), of even date herewith, in favor of Lender, which Note is payable with interest and upon the terms and conditions described therein ("**Loan**"). The Deed of Trust is to be recorded in the Salt Lake County Recorder's office.
- C. As a condition to making the Loan secured by the Deed of Trust, Lender requires that the Deed of Trust be unconditionally and at all times remain a lien on the Property, prior and superior to all the rights of Licensee under the License Agreement and that the Licensee specifically and unconditionally subordinate the License Agreement to the lien of the Deed of Trust.
- D. Licensor and Licensee have agreed to the subordination, attornment and other agreements herein in favor of Lender.

NOW THEREFORE, for valuable consideration and to induce Lender to make the Loan, Licensor and Licensee hereby agree for the benefit of Lender as follows:

1. **SUBORDINATION**. Licensor and Licensee hereby agree that:
  - 1.1 **Prior Lien**. The Deed of Trust securing the Note in favor of Lender, and any modifications, renewals or extensions thereof (including, without limitation, any modifications, renewals or extensions with respect to any additional advances made subject to the Deed of Trust), shall unconditionally be and at all times remain a lien on the Property prior and superior to the License Agreement;
  - 1.2 **Subordination**. Lender 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 License Agreement to the lien of the Deed of Trust and shall supersede and cancel, but only insofar as would affect the priority between the Deed of Trust and the License, any prior agreements as to such subordination, including, without limitation, those provisions, if any, contained in the License

Agreement which provide for the subordination of the License Agreement to a deed or deeds of trust or to a mortgage or mortgages.

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

- 1.4 **Use of Proceeds**. Lender, in making disbursements pursuant to the Note, the Deed of Trust or any loan agreements with respect to the Property, is under no obligation or duty to, nor has Lender represented that it will, see to the application of such proceeds by the person or persons to whom Lender 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**. Licensee intentionally and unconditionally waives, relinquishes and subordinates all of Licensee's right, title and interest in and to the Property to the lien of the Deed of Trust 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 Lender 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**. Licensee acknowledges and consents to the assignment of the License Agreement by Licensor in favor of Lender.
3. **ESTOPPEL**. Licensee acknowledges and represents that:
  - 3.1 **License Agreement Effective**. The License Agreement has been duly executed and delivered by Licensee and, subject to the terms and conditions thereof, the License Agreement is in full force and effect, the obligations of Licensee thereunder are valid and binding and there have been no modifications or additions to the License, written or oral;
  - 3.2 **No Default**. To the best of Licensee's knowledge, as of the date hereof: (i) there exists no breach, default, or event or condition which, with the giving of notice or the passage of time or both, would constitute a breach or default under the License; and (ii) there are no existing claims, defenses or offsets against rental due or to become due under the License;
  - 3.3 **Entire Agreement**. The License Agreement constitutes the entire agreement between Licensor and Licensee with respect to the Property and Licensee claims no rights with respect to the Property other than as set forth in the License; and
  - 3.4 **No Prepayment of Monthly Parking Fee**. No prepayments of the "Monthly Parking Fee" (as defined in the License) have been made in connection with the License.
4. **ADDITIONAL AGREEMENTS**. Licensee covenants and agrees that, during all such times as Lender is the Beneficiary under the Deed of Trust:
  - 4.1 **Modification, Termination and Cancellation**. Licensee will not consent to any modification, amendment, termination or cancellation of the License Agreement (in whole or in part) without Lender's prior written consent and will not make any payment to Licensor in consideration of any modification, termination or cancellation of the License Agreement (in whole or in part) without Lender's prior written consent, which shall not be unreasonably withheld.
  - 4.2 **Notice of Default**. Licensee will notify Lender in writing concurrently with any notice given to Licensor of any default by Licensor under the License, and Licensee agrees that Lender 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 Licensee will not declare a default of the License, as to Lender, if Lender cures such default within fifteen (15) days from and after the expiration of the time period provided in the License Agreement for the cure thereof by Licensor; provided, however, that if such default cannot with diligence be cured by Lender within such fifteen (15) day period, the commencement of action by Lender within such fifteen (15) day period to remedy the same shall be deemed sufficient so long as Lender pursues such cure with diligence.

- 4.3 **No Prepayment of Monthly Parking Fee.** Licensee will make no payments or prepayments of the "Monthly Parking Fee" (as defined in the License) more than one (1) month in advance of the time when the same become due under the License.
- 4.4 **Assignment of Payments.** Upon receipt by Licensee of written notice from Lender that Lender has elected to terminate the license granted to Licensor to collect all income payments from the Property, as provided in the Deed of Trust, and directing the payment of all fees by Licensee to Lender, Licensee shall comply with such direction to pay and shall not be required to determine whether Licensor is in default under the Loan and/or the Deed of Trust.
5. **ATTORNNMENT.** In the event of a foreclosure under the Deed of Trust, Licensee agrees for the benefit of Lender (including for this purpose any transferee of Lender or any transferee of Licensor's title in and to the Property by Lender's exercise of the remedy of sale by foreclosure under the Deed of Trust) as follows:
- 5.1 **Payment of Fees.** Licensee shall pay to Lender all fees required to be made by Licensee pursuant to the terms of the License Agreement for the duration of the term of the License.
- 5.2 **Continuation of Performance.** Licensee shall be bound to Lender in accordance with all of the provisions of the License Agreement for the balance of the term thereof, and Licensee hereby attorns to Lender as its landlord, such attornment to be effective and self-operative without the execution of any further instrument immediately upon Lender succeeding to Licensor's interest in the License Agreement and giving written notice thereof to Licensee.
- 5.3 **No Offset.** Lender shall not be liable for, nor subject to, any offsets or defenses which Licensee may have by reason of any act or omission of Licensor under the License, nor for the return of any sums which Licensee may have paid to Licensor under the License Agreement as and for security deposits, advance rentals or otherwise, except to the extent that such sums are actually delivered by Licensor to Lender.
- 5.4 **Subsequent Transfer.** If Lender, by succeeding to the interest of Licensor under the License, should become obligated to perform the covenants of Licensor thereunder, then, upon any further transfer of Licensor's interest by Lender, all of such obligations shall terminate as to Lender, subject to the provisions of Section 6, below.
- 5.5 **Limitation on Lender's Liability.** Licensee agrees to look solely to Lender's interest in the Property and the rent, income or proceeds derived therefrom for the recovery of any judgment against Lender, and in no event shall Lender or any of its affiliates, officers, directors, shareholders, partners, agents, representatives or employees ever be personally liable for any such obligation, liability or judgment.
- 5.6 **No Representation, Warranties or Indemnities.** Lender shall not be liable with respect to any representations, warranties or indemnities from Licensor, whether pursuant to the License Agreement or otherwise, including, but not limited to, any representation, warranty or indemnity related to the use of the Property, compliance with zoning, landlord's title, landlord's authority, habitability or fitness for purposes or commercial suitability, or hazardous wastes, hazardous substances, toxic materials or similar phraseology relating to the environmental condition of the Property or any portion thereof.
6. **NON-DISTURBANCE.** In the event of a foreclosure under the Deed of Trust, so long as there shall then exist no breach, default, or event of default on the part of Licensee under the License, Lender agrees for itself and its successors and assigns that the license of Licensee under the License Agreement shall not be extinguished or terminated by reason of such foreclosure, but rather the License Agreement shall continue in full force and effect and Lender shall recognize and accept Licensee as tenant under the License Agreement subject to the terms and provisions of the License Agreement except as modified by this Agreement.
7. **MISCELLANEOUS.**
- 7.1 **Notices.** All notices or other communications required or permitted to be given pursuant to the provisions hereof shall be deemed served upon delivery or, if mailed, upon the first to occur of receipt or the expiration of three (3) days after deposit in United States Postal Service, certified mail, postage prepaid and addressed to the address of Licensee or Lender appearing below:

"LICENSOR"

Boyer Research Park Associates X, L.C.  
c/o The Boyer Company  
101 South 200 East, Suite 200  
Salt Lake City, Utah 84111  
Attn: Brian Gochnour

"LENDER"

Wells Fargo Bank, National Association  
Real Estate Banking Group (AU #1074)  
(for overnight or hand delivery)  
299 South Main Street, 6th Floor  
Salt Lake City, Utah 84111

(for U.S. mail)  
PO Box 45490  
Salt Lake City, Utah 84145-0490  
Attention: Ben Bliss  
Loan No.: 1019254

"LICENSEE"

University of Utah  
505 Wakara Way, Suite 210  
Salt Lake City, Utah 84108  
Attn: Real Estate Administration

provided, however, any party shall have the right to change its address for notice hereunder by the giving of written notice thereof to the other party in the manner set forth in this Agreement.

- 7.2 **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.
- 7.3 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute and be construed as one and the same instrument.
- 7.4 **Remedies Cumulative.** All rights of Lender herein to collect income from the Property on behalf of Licensor under the License Agreement 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 Licensor or others.
- 7.5 **Paragraph Headings.** Paragraph headings in this Agreement are for convenience only and are not to be construed as part of this Agreement or in any way limiting or applying the provisions hereof.
- 7.6 **Governing Law.** The interpretation of this Agreement shall be governed by the laws of the State of Utah. The parties hereto expressly and irrevocably agree that any party may bring any action or claim to enforce the provisions of this Agreement in the State of Utah, County of Salt Lake, and each party irrevocably consents to personal jurisdiction in the State of Utah for purposes of any such action or claim.

**NOTICE: THIS SUBORDINATION AGREEMENT CONTAINS A PROVISION WHICH ALLOWS THE LICENSOR TO OBTAIN A LOAN A PORTION OF WHICH MAY BE EXPENDED FOR OTHER PURPOSES THAN IMPROVEMENT OF THE PROPERTY.**

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

Loan No. 1019254

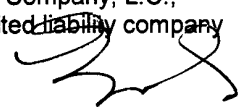
*[Signature Pages to Follow]*

**Signature Page for Licensors:**

"LICENSOR"

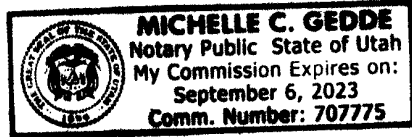
BOYER RESEARCH PARK ASSOCIATES X, L.C.,  
a Utah limited liability company

By: The Boyer Company, L.C.,  
a Utah limited liability company

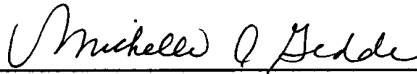


By: \_\_\_\_\_  
Name: Brian Gochnour  
Title: Manager

STATE OF UTAH )  
 ) :ss  
COUNTY OF SALT LAKE )



The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of November, 2019, by Brian Gochnour, as Manager of The Boyer Company, L.C., a Utah limited liability company, Manager of Boyer Research Park Associates X, L.C., a Utah limited liability company.



NOTARY PUBLIC  
Residing at: Salt Lake County

My commission expires:  
September 6, 2023

**Signature Page for Lender:**

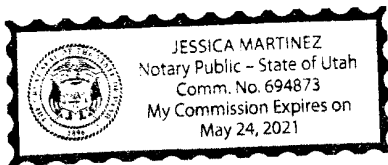
"LENDER"

WELLS FARGO BANK, NATIONAL ASSOCIATION

By: Ben Bliss  
Ben Bliss, Vice President

STATE OF UTAH                    )  
  ) :SS  
COUNTY OF SALT LAKE        )

The foregoing instrument was acknowledged before me this 6<sup>th</sup> day of NOVEMBER, 2019, by Ben Bliss, as Vice President of Wells Fargo Bank, National Association.



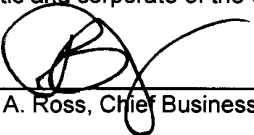
Jessica Martinez  
NOTARY PUBLIC  
Residing at: SALT LAKE CITY, UT

My commission expires:  
May 24, 2021

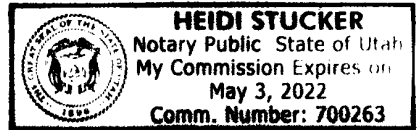
**Signature Page for Licensee:**

"LICENSEE"

UNIVERSITY OF UTAH,  
a body politic and corporate of the State of Utah

By:   
Patricia A. Ross, Chief Business Strategy Officer

STATE OF UTAH )  
COUNTY OF SALT LAKE ) : ss



The foregoing instrument was acknowledged before me this 13 day of November, 2019, by  
Patricia A. Ross, Chief Business Strategy Officer of  
University of Utah, a body politic and corporate of the State of Utah.

  
Notary Public  
Residing at: SALT LAKE COUNTY  
My commission expires: 5/3/22



**DESCRIPTION OF PROPERTY**

EXHIBIT A to Subordination Agreement; Acknowledgment of License Assignment, Estoppel, Attornment and Non-Disturbance Agreement dated as of November 7, 2019, executed by BOYER RESEARCH PARK ASSOCIATES X, L.C., a Utah limited liability company, as "Licensor", the UNIVERSITY OF UTAH, a body politic and corporate, as "Licensee", and WELLS FARGO BANK, NATIONAL ASSOCIATION, as "Lender".

All that certain real property located in the County of Salt Lake, State of Utah, described as follows:

A part of the Northwest quarter of Section 3, Township 1 South, Range 1 East, Salt Lake Base and Meridian:

Beginning at a point which is 628.46 feet North 76°24'28" West from a Salt Lake City monument in the intersection of Wakara Way (2235 East) and Colorow Road (2410 East) and North 42°32'38" West 3,908.91 feet between said Salt Lake City monument and the Southeast corner of Section 3, Township 1 South, Range 1 East, Salt Lake Base and Meridian and running thence Northwesterly along the arc of a 20.00 foot radius curve to the right a distance of 28.62 feet (Central Angle equals 81°58'45" and Long Chord bears North 51°22'27" West 26.24 feet); thence North 10°23'04" West 34.75 feet to a point of curvature; thence Northwesterly along the arc of a 200.00 foot radius curve to the right a distance of 56.13 feet (Central Angle equals 16°04'48" and Long Chord bears North 02°20'40" West 55.95 feet); thence North 05°41'44" East 29.41 feet to a point of curvature; thence Northeasterly along the arc of a 572.00 foot curve to the right a distance of 159.23 feet (Central Angle equals 15°57'00" and Long Chord bears North 13°40'13" East 158.72 feet); thence North 21°37'55" East 146.11 feet to a point of curvature; thence Northeasterly along the arc of a 12.00 foot radius curve to the right a distance of 18.88 feet (Central Angle equals 90°08'27" and Long Chord bears North 66°42'30" East 16.99 feet); thence South 68°14'59" East 427.21 feet to a point of curvature; thence Southeasterly along the arc of a 15.00 foot curve to the right a distance of 24.99 feet (Central Angle equals 95°26'45" and Long Chord bears South 20°31'36" East 22.20 feet); thence Southwesterly along the arc of a 472.30 foot curve to the right a distance of 123.11 feet (Central Angle equals 14°56'06" and Long Chord bears South 34°39'49" West 122.76 feet); thence South 43°02'19" West 19.39 feet to a point of curvature; thence Southwesterly along the arc of a 506.73 foot curve to the right a distance of 74.90 feet (Central Angle equals 08°28'10" and Long Chord bears South 48°43'04" West 74.84 feet); thence South 55°39'00" West 15.83 feet to a point of curvature; thence Southwesterly along the arc of a 458.47 foot curve to the right a distance of 66.32 feet (Central Angle equals 08°17'15" and Long Chord bears South 58°48'03" West 66.26 feet); thence South 64°39'01" West 12.37 feet to a point of nontangent curvature; thence Southwesterly along the arc of a 433.88 foot curve to the right a distance of 88.82 feet (Central Angle equals 11°43'46" and Long Chord bears South 69°44'20" West 88.67 feet); thence Southwesterly along the arc of a 490.73 foot curve to the right a distance of 161.25 feet (Central Angle equals 18°49'38" and long Chord bears South 86°19'25" West 160.53 feet); thence North 88°11'14" West 21.84 feet to the point of beginning.

**PARCEL 1A:**

The non-exclusive easements relating to Common Access Road, appurtenant to Parcel 1, as described and defined in that certain Declaration of Nonexclusive Easements recorded November 6, 2019 as Entry No. 13117743 in Book 10856 at Page 6304 of official records.