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RASHELLE HOBBS
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 9 P.

Transaction No. ZFN-3182052

WHEN RECORDED, RETURN TO:

Zions Bancorporation, N.A.,
dba Zions First National Bank
Enterprise Loan Operations-UT RDWG 1970
PO Box 25007
Salt Lake City, UT 84125-0007

26-24-411-001
26-24-411-003

GROUND LEASE ESTOPPEL CERTIFICATE AND CONSENT

This Ground Lease Estoppel Certificate and Consent (the "Certificate") is made and executed this 3 day of December, 2019 (the "Closing Date") by and between University of Utah, a body politic and corporate of the State of Utah ("Ground Lessor"), and Gardner-Daybreak Office 1, L.C., a Utah limited liability company ("Borrower"), to and for the benefit of Zions Bancorporation, N.A., dba Zions First National Bank ("Lender").

RECITALS

A. Ground Lessor and Borrower entered into a Ground Lease Agreement effective as of July 2, 2019, and which is further evidenced by a Memorandum of Ground Lease dated July 2, 2019 (the "Ground Lease"), whereby Ground Lessor agreed to lease to Borrower a leasehold interest in the real property described in the Ground Lease, which is located in Salt Lake County, State of Utah, and more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "Property").

B. Pursuant to the Promissory Note dated the Closing Date in which Borrower appears as "Borrower" and Lender appears as "Lender" and which is in the original principal amount of Nine Million Dollars (\$9,000,000.00) (the "Note"), and pursuant to the Construction and Term Loan Agreement dated the Closing Date wherein Borrower appears as "Borrower" and Lender appears as "Lender" (the "Loan Agreement"), Lender has loaned the proceeds of the Note to Borrower in connection with the development of the Property (the "Loan").

C. In connection with the Loan, Borrower has agreed to grant to Lender a lien on its leasehold interest in the Property, and to assign to Lender all of Borrower's interest as tenant in the Ground Lease.

D. As a condition to making the Loan and entering into the Interest Rate Hedging Transaction (as defined in the Loan Agreement), Lender is requiring and Ground Lessor has agreed to make certain representations and warranties concerning the Ground Lease and to consent to the other transactions described in this Certificate.

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ESTOPPEL CERTIFICATE AND CONSENTS

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Ground Lessor agrees as follows:

1. Estoppel Certificate. Ground Lessor hereby certifies to and agrees with Lender that as of the date of this Agreement, Lender is relying on all of the following certifications, representations, warranties and agreements of Ground Lessor in consideration for Lender making the Loan to Borrower and hereby makes all of the following representations, warranties, and agreements:

a. The Ground Lease is in full force and effect and is the valid and binding obligation of Ground Lessor and Borrower, enforceable in accordance with its terms.

b. All requirements for the commencement and validity of the Ground Lease have been satisfied.

c. Neither Ground Lessor nor Borrower, to the best of Ground Lessor's knowledge, is in default under the Ground Lease and no event has occurred and no condition exists, which with the giving of notice, the passage of time, or both, would constitute a default by Ground Lessor or Borrower under the Ground Lease.

d. To the best of Ground Lessor's knowledge, there are no defenses, counterclaims or setoffs against rents or charges due or which may become due under the Ground Lease and no claim by Borrower of any nature exists against Ground Lessor under the Ground Lease. All obligations of Ground Lessor have been fully performed under the Ground Lease.

e. None of the rent which Tenant is required to pay under the Ground Lease has been prepaid, or will in the future be prepaid, more than one month in advance.

f. Borrower has no right or option contained in the Ground Lease or in any other document to purchase all or any portion of the Property.

g. The Ground Lease has not been modified, terminated, or amended, by "side letter" or otherwise. Any modification, termination, cancellation or amendment of the Ground Lease without the prior written consent of Lender shall be void as to Lender.

h. Ground Lessor has not mortgaged, pledged, encumbered, or otherwise transferred the Property or its interest in the Property, except to Lender as collateral for the Loan.

2. Notice and Opportunity to Cure. Ground Lessor, on giving Borrower any notice of default pursuant to the terms of the Ground Lease, shall also give a copy of such notice to Lender at the last address which Ground Lessor has been given by Lender. Lender's address as of the date of the execution of this Certificate is set forth in this Certificate. Lender, its successor or

assign, may, within the period given to Borrower in the Ground Lease, and for an additional thirty (30) days after the expiration of the period given to Borrower in the Ground Lease, remedy such default or cause such default to be remedied, and Ground Lessor shall accept such performance by or at the instance of Lender, its successor or assign, as if such performance had been made by Borrower. Ground Lessor shall accept performance by Lender, its successor or assigns, or any purchaser at a foreclosure sale, of any term, covenant, condition, or agreement to be performed by Borrower under the Ground Lease with the same force and effect as though performed by Borrower, specifically including, but without limitation, any payment of rent under the Ground Lease.

3. **Non-Disturbance.** Ground Lessor agrees not to disturb the possession of the Property by Borrower and to cause all lienholders of the Property to agree, in a form acceptable to Lender, not to disturb the possession of Borrower, Lender, its successors and assigns, and any purchaser at a foreclosure sale, under the Ground Lease. Ground Lessor agrees to perform and be bound by all of the obligations imposed on Ground Lessor by the Ground Lease for the balance of the term of the Ground Lease, and any extension or renewals of the Ground Lease, as long as no event of default has occurred under the Ground Lease which has continued to exist for such period of time, after notice and opportunity to cure, if any, required by the Ground Lease, as would entitle Ground Lessor under the Ground Lease to terminate the Ground Lease, or would cause, without any further action of Ground Lessor the termination of the Ground Lease or would entitle Ground Lessor to dispossess Borrower under the Ground Lease.

Ground Lessor agrees that it will not grant any liens on or otherwise grant any rights of any kind in the Property, unless and until such party to which the lien or interest is granted first grants to Lender notice, a right to cure, and a non-disturbance covenant, similar to the covenant set forth in this Section 3 acceptable to Lender. During the term of the Loan, Ground Lessor shall not grant any liens or rights in the Property senior to the Ground Lease or Lender's lien on the Property.

4. **No Liability of Lender.** Nothing contained in this Certificate or any other agreement is intended to constitute an agreement by Lender to perform any obligation of Borrower under the Ground Lease. Furthermore, notwithstanding any provision herein to the contrary, Ground Lessor acknowledges that in the event Lender obtains either possession of the Property or ownership of Borrower's interest in the Ground Lease as a result of Borrower's default of Borrower's obligations under the Loan, Lender shall not be deemed to have assumed any of Borrower's obligations under the Ground Lease except those obligations that run with the Property and accrue during the period of Lender's possession of the Property or ownership of Borrower's interests in the Ground Lease. Such an assumption shall require an express written affirmation by Lender.

5. **Right to Sublease and Mortgage.** Notwithstanding anything to the contrary in the Ground Lease, upon the transfer of a leasehold interest to the Property to Lender pursuant to a foreclosure sale or deed in lieu of foreclosure, Ground Lessor agrees that Lender, its successor or assign, or any purchaser at a foreclosure sale, may sublease the Property or assign all of its or Borrower's rights in the Ground Lease without the consent of Ground Lessor. In addition,

Lender, its successor or assign, or any purchaser at a foreclosure sale, may mortgage, lien, encumber, or otherwise transfer the Ground Lease.

6. **Future Estoppel Certificates.** Ground Lessor agrees to execute and deliver to Lender, within ten (10) days of request by Lender, estoppel certificates in a form similar to this Certificate regarding such matters as Lender requests. Ground Lessor shall not be obligated to deliver an estoppel certificate more often than one (1) time per calendar year, unless Lender determines, in its reasonable discretion, that an estoppel certificate is required more often.

7. **No Merger.** If any lien granted on the Property or assignment of any lease of the Property made to Lender and the fee title to the Property shall at any time become vested in one owner, the lien created under any trust deed granted or assignment made to Lender shall not be destroyed or terminated by application of the doctrine of merger and, in such event, Lender shall continue to have and enjoy all of the rights and privileges of Lender, beneficiary, and assignee and, if applicable, fee title owner, as to the separate estates. In addition, upon the foreclosure of any such lien or assignment, any leases or subleases then existing and created by Ground Lessor or Borrower, shall not be destroyed or terminated by application of the law of merger or as a matter of law or as a result of such foreclosure unless Lender, its successor or assign, or any purchaser at any such foreclosure sale shall so elect. No act by or on behalf of Lender, its successor or assign, or any such purchaser shall constitute a termination of any lease or sublease unless Lender, its successor or assign, or such purchaser shall give written notice of such termination to such tenant or subtenant.

8. **Consents.** Notwithstanding anything to the contrary in the Ground Lease, Ground Lessor hereby consents to the following transactions, and documents entered into in connection with the following transactions, and to the exercise by Lender, or its successor or assign, or any purchaser at a foreclosure sale, of all rights and remedies available under the following documents, at law, in equity, or by statute; provided, however, all of the interests assigned as collateral are subject to the Ground Lease:

The lien on the Property and the collateral assignments created pursuant to a Construction and Term Loan Trust Deed, Assignment of Rents, Security Agreement, and Fixture Filing dated the Closing Date and executed by Borrower as “trustor”, to and for the benefit of Lender as “beneficiary”, together with all other documents executed in connection with the Loan.

Borrower acknowledges and consents to the agreements, terms, and conditions set forth in this Certificate.

9. **Notices.** All notices shall be in writing and shall be deemed to have been sufficiently given or served when personally delivered or when deposited in the United States mail, by registered or certified mail, addressed as follows:

Lender: Zions First National Bank
Real Estate Banking Group
One South Main Street, Suite 470
Salt Lake City, Utah 84133
Attn: Jeffrey A. Holt

With copies to: Kirton McConkie
50 East South Temple, Suite 400
Salt Lake City, Utah 84111
Attn: John B. Lindsay

Ground Lessor: University of Utah
505 Wakara Way, Suite 210
Salt Lake City, Utah 84108
Attn: Jonathon Bates

With copies to: University of Utah
Office of General Counsel
201 South Presidents Circle, Room 309
Salt Lake City, Utah 84112
Attn: James R. Haisley

Such addresses may be changed by notice to the other party given in the same manner provided in this section.

10. Attorneys' Fees. Upon the occurrence of a default by Ground Lessor under this Certificate, Lender may employ an attorney or attorneys to protect Lender's rights under this Certificate, and Ground Lessor shall pay Lender reasonable attorneys' fees and costs actually incurred by Lender, whether or not action is actually commenced against Ground Lessor by reason of such breach. Ground Lessor shall also pay to Lender any attorneys' fees and costs incurred by Lender with respect to any insolvency or bankruptcy proceeding or other action involving Ground Lessor.

11. No Further Consent. Lender and Borrower, at any time and from time to time, without notice to or consent of Ground Lessor and without affecting or impairing the obligations, terms or conditions of this Certificate or the Ground Lease, may renew, extend or refinance any part or all of any indebtedness of Borrower or any guarantor under the Loan.

12. Governing Law. This Certificate shall be governed by, construed and interpreted in accordance with the laws of the State of Utah.

13. Successors and Assigns. This Certificate shall be binding upon any successors or assigns of Ground Lessor and Borrower, and shall inure to the benefit of Lender and its successors and assigns.

14. **Counterparts.** This Certificate may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, but all of which taken together shall constitute only one agreement. The production of any executed counterpart of this Certificate shall be sufficient for all purposes without producing or accounting for any other counterpart. Copies of this Certificate, including pdf copies of the executed signatures hereto, shall have the same force, effect and legal status as an original.


15. **Defined Terms.** Unless otherwise defined in this Certificate, capitalized terms used herein have the meanings given them in the Loan Agreement.

***[SIGNATURE PAGE(S) AND EXHIBIT(S),
IF ANY, FOLLOW THIS PAGE]***

Dated: December 4th, 2019.

GROUND LESSOR


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

By: 
Patricia A. Ross,
Chief Business Strategy Officer

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

The foregoing instrument was acknowledged before me this 4th day of December, 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 City

BORROWER

GARDNER-DAYBREAK OFFICE 1, L.C.,
a Utah limited liability company

By: KC Gardner Company, L.C.,
a Utah limited liability company,
Manager of Gardner-Daybreak Office 1, L.C.

By: [Signature]
Name: Christian Gardner
Title: Manager of KC Gardner Company, L.C.

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

The foregoing instrument was acknowledged before me this 3 day of ~~November~~ ^{DECEMBER}, 2019, by CHRISTIAN GARDNER, Manager of KC Gardner Company, L.C., a Utah limited liability company, Manager of Gardner-Daybreak Office 1, L.C., a Utah limited liability company.



[Signature]
NOTARY PUBLIC
Residing at: DAVIS COUNTY, UT

EXHIBIT A

REAL PROPERTY DESCRIPTION

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

The leasehold estate created by the Lease executed by the University of Utah, a body politic and corporate of the State of Utah as Lessor and Gardner-Daybreak Office 1, L.C., a Utah limited liability company as Lessee, dated July 2, 2019 as disclosed by a Memorandum of Ground Lease recorded July 3, 2019 as Entry No. 13022678 in Book 10799 at Page 5359, the following described land, to-wit:

Lot C-101, DAYBREAK SOUTH STATION PLAT 2 SUBDIVISION, Amending Lot T4 of the Kennecott Master Subdivision #1 Amended and Also Amending Lot O-103 of the Kennecott Daybreak Plat 4 Subdivision, recorded April 2, 2019 as Entry No. 12961128 in Book 2019P of Plats at Page 110, on file in the office of the Salt Lake County Recorder, State of Utah.