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Book - 11117 Pg - 5382-5388
RASHELLE HOBBS
Recorder, Salt Lake County, UT
COTTONWOOD TITLE
BY: eCASH, DEPUTY - EF 7 P.

**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: Ben Bliss
Loan No. 1019254

CT-140125-CAF

TIN 16-03-100-004-0001

**MEMORANDUM OF ASSUMPTION AND FIRST MODIFICATION AGREEMENT
AMENDING LEASEHOLD DEED OF TRUST**

THIS MEMORANDUM OF ASSUMPTION AND FIRST MODIFICATION AGREEMENT AMENDING LEASEHOLD DEED OF TRUST ("**Agreement**") dated as of February 11, 2021, is entered into by WELLS FARGO BANK, NATIONAL ASSOCIATION (collectively, with its successors or assigns, "**Beneficiary**"), BOYER RESEARCH PARK ASSOCIATES X, L.C., a Utah limited liability company ("**Released Trustor**"), and BOYER 102, L.C., a Utah limited liability company ("**New Trustor**"). Beneficiary, Released Trustor and New Trustor are sometimes individually referred to herein as a "**Party**" and, collectively, as the "**Parties**". Beneficiary is the beneficiary hereunder for indexing purposes by the clerk of court. This is not a novation.

RECITALS

- A. Pursuant to the terms of that certain Construction Loan Agreement by and between Released Trustor, as Borrower, and Beneficiary, as Lender, dated November 7, 2019, as amended and modified by that certain Assumption and First Modification Agreement dated as of even date herewith (the "**Modification Agreement**") (collectively, as the same may be further amended, modified, supplemented or replaced from time to time, "**Loan Agreement**"), Beneficiary made a loan to Released Trustor in the original principal amount of Forty-Two Million and No/100ths Dollars (\$42,000,000.00) (the "**Loan**").
- B. The Loan is evidenced by that certain Promissory Note Secured by Deed of Trust dated November 7, 2019, executed by Released Trustor payable to the order of Beneficiary, in the original principal amount of the Loan (as amended, modified, supplemented or replaced from time to time, "**Original Note**") and is further evidenced and secured by certain other documents described in the Loan Agreement as Loan Documents.
- C. The Original Note is secured by, among other things, a Leasehold Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing, dated November 7, 2019, executed by Released Trustor, in favor of Wells Fargo Bank Northwest, National Association, as Trustee, for the benefit of Beneficiary, and recorded November 14, 2019, as Instrument No. 13124292 of the Office of the County Recorder of Salt Lake County, Utah, as amended by this Agreement (collectively, and as the same may be further amended, modified, supplemented or replaced from time to time, "**Deed of Trust**") encumbering real property described more particularly on Exhibit A attached hereto (the "**Property**").
- D. Concurrently herewith, Released Trustor, New Trustor, and Beneficiary have entered into the Modification Agreement. In connection with the Modification Agreement, New Trustor shall execute that certain Amended and Restated Promissory Note Secured by Deed of Trust, dated as of even date herewith and payable to the order of Beneficiary in the principal amount of the Loan ("**Amended Note**"). The Amended Note evidences the Loan and amends and restates the

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Original Note in its entirety. Any and all subsequent references herein and in each of the other Loan Documents (as defined below in Recital E) to the "Note" shall be construed to mean the Amended Note.

- E. The Note, Loan Agreement, Deed of Trust, this Agreement, the other documents described in the Loan Agreement as Loan Documents, together with all modifications, extensions, renewals and amendments thereto and any document required hereunder, are collectively referred to hereinafter as the "Loan Documents".
- F. Released Trustor has conveyed (or is about to convey) its interest in and to the Property to New Trustor. Accordingly, Released Trustor and New Trustor have requested that Beneficiary consent to said conveyance and permit the assumption by New Trustor of the obligations of Released Trustor to Beneficiary under the Loan Documents, and Beneficiary has agreed to said conveyances and assumption on the terms and conditions contained herein.
- G. The Parties now desire to amend and modify the Deed of Trust as described below.

NOW, THEREFORE, New Trustor, Released Trustor and Beneficiary hereby agree as follows:

1. **ASSUMPTION**. New Trustor hereby assumes and agrees to pay when due all sums now due and owing or which hereafter become due and owing under the Note and/or any other Loan Documents and New Trustor shall hereafter faithfully perform all of Released Trustor's obligations under and be bound by all of the provisions of the Loan Documents as if New Trustor were an original signatory thereto and the execution of this Agreement by New Trustor shall be deemed its execution of each of the Loan Documents originally signed by Released Trustor, as the same have been modified, amended, supplemented and/or replaced from time to time.
2. **RELEASE OF RELEASED TRUSTOR**. The parties acknowledge that Released Trustor shall be released from liability as the "Borrower" under the Loan Documents upon the satisfaction of each of the conditions precedent to the Modification Agreement. In partial consideration of such release, Released Trustor warrants to Beneficiary that Released Trustor has no further interest in the Property or in any other real or personal property in which Beneficiary has a security interest under any Loan Documents.
3. **ADDITIONAL DOCUMENTATION**. In addition to this Agreement and any other contract, instrument or document required hereunder, New Trustor and Released Trustor shall deliver or cause to be delivered to Beneficiary any additional agreements or documentation required by Beneficiary, in form and substance satisfactory to Beneficiary, including without limitation, evidence of insurance coverage on the Property, UCC financing statements or amendments, and policies of title insurance or endorsements to existing title policies insuring the continued validity and priority of Beneficiary's lien on the Property subject only to such exceptions as Beneficiary shall approve in its discretion. New Trustor and Released Trustor shall pay or reimburse Beneficiary immediately upon demand for all costs and expenses incurred by Beneficiary in connection with any of the foregoing.
4. **AMENDMENT AND MODIFICATION OF DEED OF TRUST**. The Deed of Trust is hereby amended and modified as described below, it being the intent of the parties that such amendments and modifications shall supersede and prevail over any conflicting provisions in the Deed of Trust or any of the other Loan Documents:
 - 4.1 **New Trustor**. The Deed of Trust is hereby amended and modified such that any and all references contained therein to "Trustor" shall hereinafter be construed to mean BOYER 102, L.C., a Utah limited liability company.

- 4.2 **Note.** All references in the Security Instrument to the "Note" are hereby amended to refer to the Amended Note.
5. **EXHIBITS.** All exhibits, schedules or other items attached hereto are incorporated into this Agreement and made a part hereof for all purposes by this reference thereto.
6. **CHOICE OF LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without giving effect to conflicts of law principles.
7. **DEFINED TERMS.** Unless otherwise defined herein, capitalized terms used in this Agreement shall have the meanings attributed to such terms in the Loan Agreement.
8. **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.
9. **EFFECT OF AGREEMENT.** Except as modified herein, all of the terms and provisions of the Deed of Trust shall remain in full force and effect and are hereby ratified and confirmed.

[Remainder of Page Intentionally Left Blank]

BENEFICIARY SIGNATURE PAGE:

IN WITNESS WHEREOF, this Agreement is executed by Beneficiary as of the date first above written.

"BENEFICIARY"

WELLS FARGO BANK, NATIONAL ASSOCIATION

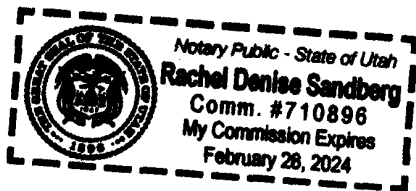
By: Ben Bliss
Name: Ben Bliss
Title: Vice President

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 10 day of February 2021, by Ben Bliss, a Vice President of Wells Fargo Bank National Association, a national banking association, on behalf of such association.

[Signature]
NOTARY PUBLIC
Residing at: Utah

My commission expires:
February 28, 2024



NEW TRUSTOR SIGNATURE PAGE:

IN WITNESS WHEREOF, this Agreement is executed by New Trustor as of the date first above written.

"NEW TRUSTOR"

BOYER 102, L.C.,
a Utah limited liability company

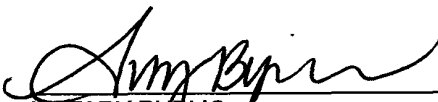
By: The Boyer Company, L.C.,
a Utah limited liability company
Its: Manager



By: _____
Name: Brian Gochnour
Title: Manager

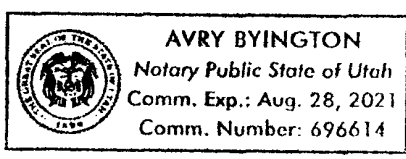
STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 10 day of February, 2021, by Brian Gochnour, as Manager of The Boyer Company, L.C., a Utah limited liability company, Manager of Boyer 102, L.C., a Utah limited liability company, on behalf of such company.



NOTARY PUBLIC
Residing at: Davis County

My commission expires:
8/28/2021




RELEASED TRUSTOR SIGNATURE PAGE:

IN WITNESS WHEREOF, this Agreement is executed by Released Trustor as of the date first above written.

"RELEASED TRUSTOR"

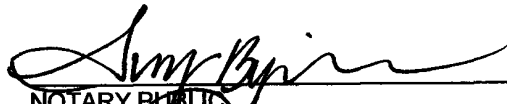
BOYER RESEARCH PARK ASSOCIATES X, L.C.,
a Utah limited liability company

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

By: 
Name: Brian Gochnour
Title: Manager Manager

STATE OF UTAH)
 :SS
COUNTY OF SALT LAKE)

The foregoing instrument was acknowledged before me this 10 day of February, 2021, 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, on behalf of such company.


NOTARY PUBLIC
Residing at: Davis County

My commission expires: 8/28/2021

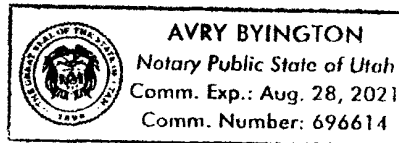


EXHIBIT A - DESCRIPTION OF PROPERTY

Exhibit A to Memorandum of Assumption and First Modification Agreement Amending Deed of Trust between BOYER RESEARCH PARK ASSOCIATES X, L.C., a Utah limited liability company, as "Released Trustor", BOYER 102, L.C., a Utah limited liability company, as "New Trustor", and WELLS FARGO BANK, NATIONAL ASSOCIATION, as "Beneficiary", dated as of February 11, 2021.

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

PARCEL 1:

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.