



ENT 48964:2010 PG 1 of 5
RODNEY D. CAMPBELL
UTAH COUNTY RECORDER
2010 Jun 14 2:45 pm FEE 18.00 BY CS
RECORDED FOR UNITED WEST TITLE INSURANCE

When Recorded, Return To:
Zions First National Bank
One South Main Street #1400
Salt Lake City, UT 84133
UW-1074

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT AND ESTOPPEL CERTIFICATE

This Subordination, Non-Disturbance and Attornment Agreement (the "Agreement") is made and executed as of the 11 day of JUNE, 2010 by and between Zions First National Bank located at One South Main Street #1400, Salt Lake City, UT 84133 ("Lender"), Richard W. Francis, D.D.S., P.C. located at 378 East 400 South, Springville, UT 84663 ("Tenant"), and York Development, LC located at 378 East 400 South, Springville, UT 84663 ("Landlord").

LEASE. Landlord and Tenant have executed and entered into a Lease Agreement, dated December 6, 2002 and Recorded December 9, 2002 as Entry No. 149316:2002 (the "Lease"), whereby Tenant has agreed to lease the real property located at 378 East 400 South, Springville, UT 84663 together with improvements now or hereafter located thereon and are more particularly described (the "Property"):

Unit 2, Plat A, contained within BROOKSIDE CROSSING CONDOMINIUMS, as the same is identified in the recorded Survey Map in Utah County, Utah, as Entry No. 143853:2002 (as said Record of Survey Map may have heretofore been amended or supplemented) and in the Declaration of Condominium recorded in Utah County, Utah, as Entry No. 143854:2002 of official records (as said Declaration may have heretofore been amended or supplemented).

TOGETHER WITH the undivided ownership interest in said Project's common areas as established in the Declaration of Condominium and allowing for periodic alteration both in the magnitude of said undivided ownership interest and in the Composition of the Common Areas and Facilities to which said interest relates.

Together with the Easement Agreement dated September 15, 1992, and recorded September 15, 1992, as Entry No. 48132, in Book 3000, at Page 868.

LENDER'S FINANCIAL ACCOMMODATION TO BORROWER. On the condition that the Lease and all of Tenant's rights in the Property (the "Lease Rights") be subordinated as provided below, Lender has agreed to make a loan (the "Loan") to Landlord, which is evidenced by various loan documents (together, the "Loan Documents").

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Lender, Landlord, and Tenant agree as follows:

1. Estoppel Certificate. Lender is relying on all the following certifications and agreements of Tenant as consideration for Lender executing this Agreement and in the making of the Loan and Tenant hereby certifies to and agrees with Lender that as of the date of this Agreement:

a. The Lease is in full force and effect, is the valid and binding obligation of Tenant, enforceable in accordance with its terms and all requirements for the commencement and validity of the Lease have been satisfied.

b. Neither Tenant nor Landlord is in default under the 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 Tenant or Landlord under the Lease.

c. There are no defenses, counterclaims or setoffs against rents or charges due or which may become due under the Lease and no claim by Tenant of any nature exists against Landlord under the Lease. All obligations of Landlord have been fully performed.

d. None of the rent which Tenant is required to pay under the Lease has been prepaid, or will in the future be prepaid, more than one month in advance and Tenant has no right or option contained in the Lease or in any other document to purchase all or any portion of the Property.

e. The Lease has not been modified, terminated, or amended and the provisions of the Lease relating to rental amount, duration or any provision set forth herein shall not after the date of this Agreement be modified, terminated, or amended without Lender's prior written consent. Any attempted modification, termination, or amendment of such provisions without the prior consent of Lender shall be void.

f. Tenant has not assigned, mortgaged, sublet, encumbered, or otherwise transferred any or all of its interest under the Lease and during the term of the Loan, agrees not to assign, mortgage, sublet, encumber, or otherwise transfer any or all of its interest under the Lease without the Lender's prior written consent.

2. Subordination to Loan Documents. Notwithstanding anything in the Lease to the contrary, the Lease and Lease Rights are hereby made subject to and subordinate to the Loan Documents and the liens created by the Loan Documents, including all renewals, modifications, consolidations, replacements, and extension of the Loan and any of the Loan Documents, and any future lien or liens affecting the Property held by or made for the benefit of Lender. Tenant will not cause the Lease to be subordinated to any interests other than those held by or made for the benefit of Lender, and its successors and assigns, without the prior written consent of Lender.

3. Acknowledgement of Assignment of Rents. In the event that Lender notifies Tenant of a default under any of the Loan Document and demands that Tenant pay its rent and all other sums due under the Lease to Lender, Tenant shall honor such demand and pay its rent and all other sums due under the Lease directly to Lender or as otherwise directed pursuant to such notice. Landlord hereby expressly authorizes Tenant to make such payments to Lender, and hereby releases and discharges Tenant from any liability to Landlord after receipt of such notice from Lender.

4. Notice and Opportunity to Cure. Tenant agrees to deliver to Lender, within five (5) business days of deliver to Landlord, a copy of all notices and other documents delivered to Landlord in connection with the Lease, specifically including, but without limitation, any notices of default or termination. If any default occurs under the Lease, Lender shall have the right for a period of sixty (60) days after receipt of notice of the default from Tenant to cure such default. If the nature of the default is such that it cannot reasonably be cured within such sixty (60) day period, then Lender shall have such longer period as is reasonably necessary to cure such default. No default shall be deemed to exist under the Lease so long as the Lender is seeking, in good faith, to cure the default.

5. Non-Disturbance. In the event of the foreclosure, sale or transfer of the Property (collectively, a "Transfer"), then so long as Tenant complies with this Agreement and is not in default under the Lease, Lender shall not join Tenants in any foreclosure proceeding, unless such joinder is necessary, in Lender's discretion, to complete the foreclosure, nor shall Lender disturb the possession of Tenant. In the event of a Transfer, Lender or any successor owner of the Property resulting from a Transfer will perform and be bound by all of the obligations imposed on Landlord by the Lease for the balance of the term of the Lease, as long as no event of default has occurred under the Lease.

6. **Attornment.** Tenant hereby agrees to attorn to, adhere to and accept any such successor owner, including Lender, as landlord under the Lease, and to be bound by and perform all of the obligations imposed by the Lease, such attornment to be self-operative without the execution of any further instruments, upon a Transfer of the Property.

7. **No Liability for Lender.** Lender, or any successor owner of the Property resulting From a Transfer, shall not be (a) liable for any obligations under the Lease which arise or accrue prior to a Transfer or which arise or accrue at any time after Lender ceases to be the owner of the Property; (b) liable for any damages or other relief attributable to any act or omission of a prior landlord, including landlord; (c) liable for any damages or other relief attributable to any latent or patent defect in the Property; (d) subject to any offsets or defenses which Tenant might have against any prior landlord; (e) bound by any security deposit. Cleaning deposit or other prepaid charge which Tenant might have paid in advance to any prior landlord; (f) liable for any indirect or consequential damages, including loss of sublet rentals, loss of profits, or damage to goodwill or reputation. Nothing in this Agreement is intended to constitute an agreement by Lender obtains title to the Property by Transfer or otherwise obtains possession of the Property pursuant to the terms of the Loan Documents.

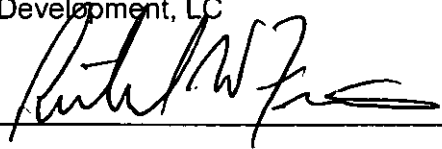
8. **Acknowledgement and Agreement by Landlord.** Landlord acknowledges and agrees for itself and its heirs, successors, and assigns that this Agreement does not constitute a waiver by Lender of any of its rights under the Loan Documents and does not in any way release Landlord from its obligations to comply with the Loan Documents. Lender shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by Lender.

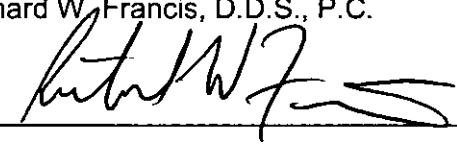
9. **Miscellaneous.** This Agreement is and shall be binding upon and shall inure to the benefit of Landlord, Tenant, Lender and their respective successors and assigns. This Agreement shall be governed by and construed in accordance with the laws of the state of Utah and the Parties agree to submit to the jurisdiction of the courts of Utah. This Agreement constitutes the entire understand and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to the Agreement shall be effective unless given in writing and signed by all of the parties. 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 tot he addresses set forth in this Agreement. Upon the occurences of a default under this Agreement, the defaulting party shall pay the reasonable attorney's fees and costs incurred by the non-defaulting party to enforce this Agreement.

EXECUTED as of the day and year first above written.

LANDLORD:
York Development, LC

TENANT:
Richard W. Francis, D.D.S., P.C.

* By: 
Its: _____

* By: 
Its: _____

State of Utah)
County of Utah)

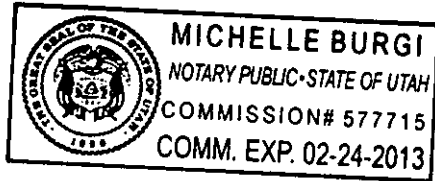
The foregoing instrument was acknowledged before me this 11 day of JUNE, 2010 by RICHARD FRANCIS who is the MEMBER of Richard W. Francis, D.D.S., P.C.. ~~who is the~~ WHO IS THE



[Signature]
Notary Public

State of Utah)
County of Utah)

The foregoing instrument was acknowledged before me this 11 day of JUNE, 2010 by RICHARD FRANCIS who is the MEMBER of York Development, LC.



[Signature]
Notary Public

Exhibit A

UW-1074

Unit 2, Plat A, contained within BROOKSIDE CROSSING CONDOMINIUMS, as the same is identified in the recorded Survey Map in Utah County, Utah, as Entry No. 143853:2002 (as said Record of Survey Map may have heretofore been amended or supplemented) and in the Declaration of Condominium recorded in Utah County, Utah, as Entry No. 143854:2002 of official records (as said Declaration may have heretofore been amended or supplemented).

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