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FIRST AMENDMENT TO DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, ASSIGNMENT OF CONTRACTS, SECURITY AGREEMENT AND FIXTURE FILING

This **FIRST AMENDMENT TO DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, ASSIGNMENT OF CONTRACTS, SECURITY AGREEMENT AND FIXTURE FILING** (the "**Amendment**") is dated January 24, 2023, by and between **BELLA VEA PARTNERS, LLC**, a Utah limited liability company ("**Trustor**"), whose mailing address is 67 South Main Street, Suite 300, Layton, Utah 84041, and **WASHINGTON FEDERAL BANK**, a Washington state chartered commercial bank, formerly known as **WASHINGTON FEDERAL BANK, NATIONAL ASSOCIATION** ("**Beneficiary**"), whose mailing address is 405 South Main Street, Salt Lake City, Utah 84111.

Recitals

A. Beneficiary previously extended a term loan to Trustor in the original principal amount of **TWENTY-NINE MILLION NINE HUNDRED EIGHTY THOUSAND AND NO/100 DOLLARS (\$29,980,000.00)** (the "**Loan**") pursuant to that certain Construction Loan Agreement dated as of June 8, 2021 (as the same may be amended, modified, extended, and renewed from time to time, the "**Loan Agreement**"), and evidenced by that certain Promissory Note dated as of June 8, 2021 (as amended, the "**Note**"). Capitalized terms used in this Agreement and not otherwise defined in this Agreement shall have the meanings given to such terms in the Loan Agreement.

B. The Loan is secured by, among other things, that certain Deed of Trust, Assignment of Leases and Rents, Assignment of Contracts, Security Agreement and Fixture Filing dated June 8, 2021, and recorded on June 9, 2021, in the Official Records of Salt Lake County, Utah, as Entry No. 13686737 in Book 11188 at Page 453 (as the same may be amended, modified, extended, and renewed from time to time, the "**Deed of Trust**").

C. Pursuant to a First Modification Agreement of even date herewith (the "**First Modification**"), Trustor and Beneficiary agreed to modify the Loan and Loan Documents to, among other things, increase the maximum amount of the Loan to **\$36,700,000.00**.

D. Trustor and Beneficiary desire to amend the Deed of Trust, as more particularly set forth herein.

Agreement

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Trustor and Beneficiary agree as follows:

1. **Recitals**. Trustor hereby acknowledges the accuracy of the Recitals which are incorporated herein by reference.

2. **Notice of Modification; Modifications to Deed of Trust**

(a) **Notice of Modification; Conforming Modifications**. Notice is hereby given that the Loan Agreement, Note, Deed of Trust and other Loan Documents have been amended and modified pursuant to the First Modification. The Deed of Trust is hereby amended and modified as necessary to be consistent with the Modification Agreement.

All references to the Loan Agreement, Note, and other Loan Documents in the Deed of Trust are hereby amended to refer to such documents as amended by the Modification Agreement.

(b) Amended and Restated Promissory Note. All references in the Deed of Trust to the Note are hereby amended to refer to that certain Amended and Restated Promissory Note of even date herewith in the principal amount of up to THIRTY-SIX MILLION SEVEN HUNDRED THOUSAND AND NO/100 DOLLARS (\$36,700,000.00) (the "**Amended and Restated Note**"). All references to the Note in the Deed of Trust and other Loan Documents are hereby amended to individually and collectively refer to the amended and restated versions of the Amended and Restated Note.

(c) Loan Amount Increase. In accordance with the terms of the Second Modification Agreement, the Deed of Trust is specifically amended to reflect that the total principal amount of the Loan and Note has been increased to THIRTY-SIX MILLION SEVEN HUNDRED THOUSAND AND NO/100 DOLLARS (\$36,700,000.00), which amount is secured by the lien of the Deed of Trust. All of Trustor's obligations arising under the Loan Agreement and Note, as modified by the Modification Agreement, shall be included in the term "**Obligations**" as defined in the Deed of Trust.

(d) Obligations Under the Loan. Section 1.2.1.1 of the Security Instrument is hereby amended and restated in its entirety as follows:

"1.2.1.1 Payment of all obligations at any time owing under a promissory note (the "**Note**") of even date herewith, payable by Trustor, as maker, in the stated principal amount of Thirty-Six Million Seven Hundred Thousand and 00/100 Dollars (\$36,700,000.00) to the order of Beneficiary;"

3. Not a Novation. The parties each agree and acknowledge that the modifications set forth herein are not intended to be a novation or to constitute or evidence a new loan but rather a continuation of the existing Loan and the lien and charge of the Deed of Trust against the Property and all assets and properties described in the Deed of Trust shall continue unabrogated and in full force and effect.

4. Ratification of Deed of Trust. As amended by this Amendment, the Deed of Trust is ratified and confirmed and continues in full force and effect and contains the entire understanding and agreement of the parties in respect of the Deed of Trust and supersedes all prior representations, warranties, agreements and understandings. The Deed of Trust as modified herein shall be binding upon and inure to the benefit of Trustor and Beneficiary and their respective successors and assigns. No provision of this Amendment may be changed, discharged, supplemented, terminated or waived except in a writing signed by Beneficiary.

5. Release and Discharge. Trustor fully, finally, and forever releases and discharges Beneficiary and its respective successors, assigns, directors, officers, employees, agents, and representatives from any and all actions, causes of action, claims, debts, demands, liabilities, obligations, and suits, of whatever kind or nature, in law or equity, that Trustor has or in the future may have, whether known or unknown, (i) in respect of the Loan, the Loan Documents, or the actions or omissions of Beneficiary in respect of the Loan or the Loan Documents and (ii) arising from events occurring prior to the date of this Amendment.

6. Governing Law. This Amendment to Deed of Trust shall be governed by and construed in accordance with the laws of the State of Utah, without giving effort to conflict of laws principles.

7. Counterparts. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document. Signature pages may be detached from the counterparts and attached to a single copy of this Amendment to physically form one document.

8. Miscellaneous. Except for the amendment above stated, all of the conditions and covenants of the Deed of Trust shall remain in full force effect, unchanged, and the Deed of Trust is in all respects ratified, confirmed and approved. All of the terms and conditions of the Deed of Trust are incorporated herein by reference.

9. Binding Effect. The Deed of Trust as modified herein shall be binding upon and inure to the benefit of Trustor and Beneficiary and their respective successors and assigns.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Trustor and Beneficiary have caused this Amendment to be executed as of the date first above written.

TRUSTOR:

BELLA VEA PARTNERS, LLC
a Utah limited liability company

By: **NEWTOWN RESIDENTIAL, LLC**
a Utah limited liability company
its Manager

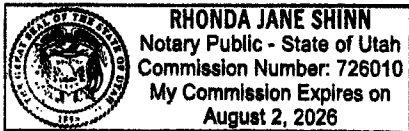
By: 
Name: Bradley R. Wilson
Title: Manager

STATE OF UTAH)
COUNTY OF Davis) : ss.

On this 19 day of January, in the year 2023, before me Rhonda Jane Shinn a notary public, personally appeared **BRADLEY R. WILSON**, an individual, in his capacity as a Manager of NEWTON RESIDENTIAL, LLC, a Utah limited liability company, the Manager of **BELLA VEA PARTNERS, LLC**, a Utah limited liability company, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged he executed the same for and on behalf of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Seal]




Rhonda Jane Shinn
NOTARY PUBLIC

BENEFICIARY:

WASHINGTON FEDERAL BANK

a Washington state chartered commercial bank, *formerly known as*
WASHINGTON FEDERAL BANK, NATIONAL ASSOCIATION

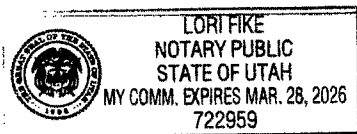
By: 
Name: Justin Thorn
Title: Vice President, Commercial Division Manager

STATE OF UTAH)
COUNTY OF Salt Lake) : ss.

On this 20 day of January, in the year 2023, before me Lori Fike, a notary public, personally appeared **JUSTIN THORN**, an individual, in his capacity as a Vice President and Commercial Division Manager of **WASHINGTON FEDERAL BANK**, a Washington state chartered commercial bank, formerly known as Washington Federal Bank, National Association, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged he executed the same on behalf of such state chartered commercial bank.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Seal]




NOTARY PUBLIC

EXHIBIT A

LEGAL DESCRIPTION

That certain real property located in the County of Salt Lake, State of Utah, more particularly described as follows:

Lot 2, BELLA VEA PHASE 3 SUBDIVISION, A MIXED USE SUBDIVISION, according to the Official Plat thereof as recorded in the Office of the Salt Lake County Recorder, State of Utah.