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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
09/06/2024 10:28:03 AM
FEE: \$40.00 Pgs: 11
DEP eCASH REC'D FOR: COTTONWOOD TITLE
INSURANCE AGENCY, INC.

Prepared by, and after recording
return to:

Marshall D. Tucker, Jr., Esquire
Troutman Pepper Hamilton Sanders LLP
P.O. Box 1122
Richmond, Virginia 23218-1122

Tax Parcel Identification Number: 12-930-0001
12-930-0002

17769-MCP

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

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(Multipurpose)

This FIRST AMENDMENT TO MULTIFAMILY DEED OF TRUST, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "**Amendment**") dated as of September 6, 2024, is executed by **101 NORTH MAIN (CLEARFIELD), LLC**, a limited liability company organized and existing under the laws of Delaware, as grantor ("**Borrower**") and **FANNIE MAE**, a corporation duly organized under the Federal National Mortgage Association Charter Act, as amended, 12 U.S.C. §1716 et seq. and duly organized and existing under the laws of the United States ("**Fannie Mae**").

RECITALS:

A. Berkadia Commercial Mortgage LLC, a Delaware limited liability company ("**Prior Lender**") made a loan to Borrower in the original principal amount of Twenty Million Eight Hundred Twenty-Six Thousand and 00/100 Dollars (US \$20,826,000.00) (the "**Mortgage Loan**"), as evidenced by that certain Multifamily Note dated as of February 17, 2022 (the "**Effective Date**"), executed by Borrower and made payable to Prior Lender in the amount of the Mortgage Loan (as amended, restated, replaced, supplemented, or otherwise modified from time to time, the "**Note**").

B. The Mortgage Loan and the Note are secured by, among other things, a certain Multifamily Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of the Effective Date and recorded on February 17, 2022 in the land records of Davis County, State of Utah (the "**Land Records**") as Entry No. 3457860 (as amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Security Instrument**"), which encumbers the Land more particularly described on Exhibit A attached to this Amendment, together with all other real and personal property encumbered by the Security Instrument and the other Loan Documents (the "**Mortgaged Property**").

C. Fannie Mae is the successor-in-interest to the Prior Lender as the holder of the Note and the grantee or beneficiary under the Security Instrument. The Assignment of Security Instrument was recorded on February 17, 2022 in the Land Records as Entry No. 3457861.

D. Prior Lender services the Mortgage Loan on behalf of Fannie Mae.

E. The parties wish to amend the Security Instrument to cross-collateralize the Mortgaged Property and cross-default the Mortgage Loan with the Borrower Projects and Other Loan (as such terms are defined in the Security Instrument) (the "**Additional Cross-Collateralization**"), and this Amendment is made to effectuate the Additional Cross-Collateralization.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual promises contained in this Amendment and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Fannie Mae agree as follows:

Section 1. Recitals.

The recitals set forth above are incorporated herein by reference as if fully set forth in the body of this Amendment.

Section 2. Defined Terms.

Capitalized terms used and not specifically defined herein shall have the meanings given to such terms in the Security Instrument.

Section 3. Modification.

The Security Instrument is amended to add Exhibit B (Modifications to Security Instrument (Phased Properties – Full Cross)) and Exhibit C (Modifications to Security Instrument (Phased Properties – Full Cross) Borrower Projects and Other Loan) attached to this Amendment and are hereby added to the Security Instrument and made a part thereof.

Section 4. Authorization.

Borrower represents and warrants that Borrower is duly authorized to execute and deliver this Amendment and is and will continue to be duly authorized to perform its obligations under the Security Instrument, as amended hereby.

Section 5. Compliance with Loan Documents.

The representations and warranties set forth in the Loan Documents, as amended hereby, are true and correct with the same effect as if such representations and warranties had been made on the date hereof, except for such changes as are specifically permitted under the Loan Documents. In addition, Borrower has complied with and is in compliance with all of the covenants set forth in the Loan Documents, as amended hereby.

Section 6. No Event of Default.

Borrower represents and warrants that, as of the date hereof, no Event of Default under the Loan Documents, as amended hereby, or event or condition which, with the giving of notice or the passage of time, or both, would constitute an Event of Default, has occurred and is continuing.

Section 7. Costs.

Borrower agrees to pay all fees and costs (including attorneys' fees) incurred by Fannie Mae and any Loan Servicer in connection with this Amendment.

Section 8. Continuing Force and Effect of Loan Documents.

Except as specifically modified or amended by the terms of this Amendment, all other terms and provisions of the Security Instrument and the other Loan Documents are incorporated by reference herein and in all respects shall continue in full force and effect. Borrower, by execution of this Amendment, hereby reaffirms, assumes and binds itself to all of the obligations, duties, rights, covenants, terms and conditions that are contained in the Security Instrument and the other Loan Documents.

Section 9. Counterparts.

This Amendment may be executed in any number of counterparts with the same effect as if the parties hereto had signed the same document and all such counterparts shall be construed together and shall constitute one instrument.

Section 10. Construction/Governing Law.

This Amendment shall be governed by and construed in accordance with the laws of the Property Jurisdiction, and shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, successors, legal representatives and assigns.

IN WITNESS WHEREOF, Borrower and Fannie Mae have signed and delivered this Amendment under seal (where applicable) or have caused this Amendment to be signed and delivered under seal (where applicable) by their duly authorized representatives. Where applicable law so provides, Borrower and Fannie Mae intend that this Amendment shall be deemed to be signed and delivered as a sealed instrument.

[Remainder of Page Intentionally Blank]

BORROWER:

101 NORTH MAIN (CLEARFIELD), LLC, a
Delaware limited liability company

By: Four Peaks Fund 1, LP, a Delaware limited
partnership, its Sole Member

By: Four Peaks Fund GP 1, LLC, a Delaware
limited liability company, its General
Partner

By: 
Daniel Ross
Authorized Signatory

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.


State of California
County of Los Angeles

On September 3, 2024, before me, Rachel Mintz

Notary Public, personally appeared Daniel Ross who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

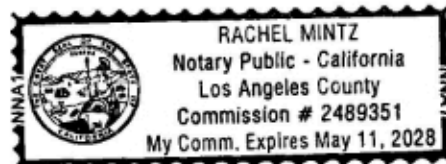
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal.

Signature 

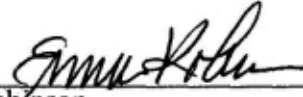
(Seal)

**First Amendment to Multifamily
Mortgage, Assignment of Leases and Rents,
Security Agreement and Fixture Filing
Fannie Mae**



ASSIGNOR:

**BERKADIA COMMERCIAL MORTGAGE
LLC, a Delaware limited liability company**

By: 
Emma Robinson
Authorized Representative

STATE OF PENNSYLVANIA)
COUNTY OF Montgomery) ss:

On the 30 day of AUGUST, 2024, personally appeared before me Emma Robinson, Authorized Representative of Berkadia Commercial Mortgage LLC, a Delaware limited liability company, the signer of the foregoing instrument, who duly acknowledged to me that she executed the same for and on behalf of said limited liability company.


Notary Public
Residing at 323 NORRISTOWN RD AMBER PA 19002

My Commission Expires: 11/25/26

Commonwealth of Pennsylvania - Notary Seal
Linda C. Kershaw-Tiegs, Notary Public
Montgomery County
My commission expires November 25, 2026
Commission number 1084463
Member, Pennsylvania Association of Notaries

EXHIBIT A
DESCRIPTION OF THE LAND

PARCEL 1:

All of Lots 1 and 2, CLEARFIELD JUNCTION SUBDIVISION, Clearfield City, Davis County, Utah, according to the official plat thereof, recorded November 28, 2018 as Entry No. 3130707 in Book 7148 at Page 400.

PARCEL 1A:

A perpetual, non-exclusive easement for ingress and egress, as established by that certain plat for Clearfield Junction Subdivision recorded November 28, 2018 as Entry No. 3130707 in Book 7148 at Page 400, and that certain Cross Access Agreement, dated September 17, 2019 and recorded November 12, 2019, as Entry No. 3202949, in Book 7387 at Page 2486.

EXHIBIT B
MODIFICATIONS TO SECURITY INSTRUMENT
(Phased Properties – Full Cross)

The foregoing Security Instrument is hereby modified as follows:

1. Capitalized terms used and not specifically defined herein have the meanings given to such terms in the Security Instrument.

2. Section 1 of the Security Instrument (Defined Terms) is hereby amended by amending and restating the following definition:

“Indebtedness” means the principal of, interest on, and all other amounts due at any time under the Note, the Loan Agreement, this Security Instrument and any other Loan Document (other than the Environmental Indemnity Agreement and Guaranty), the Other Security Instrument, and any Other Loan Document (other than the Environmental Indemnity Agreement for the Other Loan and the Guaranty for the Other Loan), including Prepayment Premiums, late charges, interest charged at the Default Rate, and accrued interest as provided in the Loan Agreement and this Security Instrument, advances, costs and expenses to perform the obligations of Borrower or to protect the Mortgaged Property or the security of this Security Instrument, all other monetary obligations of Borrower under the Loan Documents (other than the Environmental Indemnity Agreement) and the Other Security Instrument, and any Other Loan Document (other than the Environmental Indemnity Agreement for the Other Loan) including amounts due as a result of any indemnification obligations, and any Enforcement Costs.

3. Section 1 of the Security Instrument (Defined Terms) is hereby amended by adding the following new definitions in the appropriate alphabetical order:

“Borrower Projects” means all of the properties owned by Borrower or Future Borrower, as described on Exhibit C, attached hereto, together with the Mortgaged Property, that secure the Indebtedness and each Other Loan.

“Future Borrower” means Borrower Affiliate or a Person Controlled by Key Principal.

“Other Loan” means, individually and collectively, each additional loan extended from Lender to Borrower or Future Borrower, as described on Exhibit C, attached hereto.

“Other Loan Documents” means each Other Security Instrument and any other loan documents, including any loan agreement or note evidencing any Other Loan.

“Other Security Instrument” means, individually and collectively, each multifamily mortgage, deed of trust or deed to secure debt encumbering each of the Borrower Projects (other than the Mortgaged Property) securing each Other Loan.

4. The first full paragraph of the Security Instrument is revised to delete clause (i) and restate it as follows:

(i) the loan in the original principal amount of Twenty Million Eight Hundred Twenty-Six Thousand and 00/100 Dollars (US \$20,826,000.00) (the **“Mortgage Loan”**) evidenced by that certain Multifamily Note dated as of the date of this Security Instrument, executed by Borrower and made payable to the order of Lender (as amended, restated, replaced, supplemented, or otherwise modified from time to time, the **“Note”**) and the Other Loan in the original principal amount of Sixteen Million Three Hundred Thirty-Six Thousand and 00/100 Dollars (\$16,336,000.00) as evidenced by the Other Loan Documents;

5. The following section is hereby added to the Security Instrument as Section 17 (Cross-Default and Cross-Collateralization):

17. Cross-Default and Cross-Collateralization.

(a) Cross-Default.

Borrower hereby agrees and consents that the occurrence of an “Event of Default” (as defined in each Other Security Instrument) shall be an Event of Default under the Loan Agreement.

(b) Cross-Collateralization; Remedies Against Other Collateral.

Borrower hereby agrees and consents that the Indebtedness and each Other Loan are and shall be collateralized and secured by the lien of this Security Instrument on the Mortgaged Property and by the liens of each Other Security Instrument on each of the Borrower Projects. Borrower further agrees that the Mortgaged Property shall secure both the Indebtedness of Borrower and the obligations of Borrower or Future Borrower, pursuant to each Other Loan and the Other Loan Documents.

Borrower further agrees and consents that upon the occurrence and during the continuance of an Event of Default, Lender shall have the right, in its sole and absolute discretion, to exercise any and all rights and remedies in and under any of the Loan Documents, including the right to proceed, at the same or at different times, to foreclose any or all liens against such collateral (or sell such collateral under power of sale) in accordance with the terms of this Security Instrument or any Other Security Instrument, by any proceedings appropriate in the state where such collateral is located, and that no enforcement action taking place in any state

shall preclude or bar enforcement in any other state. Any Foreclosure Event brought in any state in which collateral is located may be brought and prosecuted as to any part of such collateral without regard to the fact that a Foreclosure Event has not been instituted elsewhere on any other part of the collateral for the Indebtedness. No notice, except as may be expressly required by the Loan Documents or by any applicable law, shall be required to be given to Borrower in connection with (1) the occurrence of such Event of Default, or (2) Lender's exercise of any and all of its rights or remedies after the occurrence of such Event of Default.

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**EXHIBIT C
TO MULTIFAMILY SECURITY INSTRUMENT
(Phased Properties – Full Cross)**

[Borrower Projects and Other Loan]

Property Name and Address	Borrower Name	Loan Amount	Effective Date
Clearfield Junction Phase I 101 N Main Street Clearfield, UT 84015	101 North Main (Clearfield), LLC, a Delaware limited liability company	\$20,826,000.00	February 17, 2022
Clearfield Junction Phase II 19 and 49 North Main Street Clearfield, Utah 84015	49 North Main (Clearfield), LLC, a Delaware limited liability company	\$16,336,000.00	September 6, 2024