

RECORDING REQUESTED BY
FIRST AMERICAN TITLE

Recording Requested by:
Mark P. Levy, Esq.

When Recorded, Mail to:
Levy, Levy & Levy
1299 Fourth Street, Suite 400
San Rafael, CA 94901-3030
Attn: Mark P. Levy, Esq.

FIRST AMENDMENT TO CORRECTIVE MORTGAGE

FOR VALUE RECEIVED, THIS FIRST AMENDMENT TO CORRECTIVE MORTGAGE (herein called this "Amendment") is dated as of the **first day of September, 2020**, and made effective as defined below (the "Effective Date"), by and between **BD & E Properties, L.C., a Utah limited liability company** (together with its successors and assigns, the "Mortgagor") and **Prudential Huntoon Paige Associates, LLC, a Delaware limited liability company** (together with its successors and assigns, the "Mortgagee").

WITNESSETH:

WHEREAS, the Mortgagor is the owner of a nursing care facility known as **Parkway Health Center, FHA Project No. 105-43074**, hereinafter referred to as the "Project";

WHEREAS, the Project is located in the **City of Payson, County of Utah, State of Utah**, as more particularly described in Exhibit A attached hereto and incorporated herein;

WHEREAS, Mortgagor previously executed a certain **Mortgage Note** dated as of **September 1, 2013**, in favor of the Mortgagee, in the original principal amount of **Seven Million, Three Hundred Fourteen Thousand, Nine Hundred and 00/100ths Dollars (\$7,314,900.00)**, and insured by the Secretary of Housing and Urban Development acting by and through the Federal Housing Commissioner ("HUD") under **Section 232 pursuant to Section 223(a)(7)** of the National Housing Act of 1934, as amended (the "Note"). The Note is secured by a **Corrective Mortgage** dated as of **September 1, 2013**, and recorded on **September 19, 2013**, in the **Office of the Recorder of Utah County, State of Utah** (the "Official Records"), as **Entry Number 89810:2013** which was recorded to correct the original **Mortgage filed as Entry Number 89194:2013** recorded on **September 18, 2013** in the Official Records (collectively the "Mortgage");

WHEREAS, in conjunction with the terms of that certain First Amendment to Mortgage Note (the "Note Modification") of even date herewith, the Mortgagor and Mortgagee have agreed to modify the Mortgage.

NOW, THEREFORE, for and in consideration of the above premises, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, and in further consideration of the agreements, covenants and stipulation hereinafter set forth, the parties for themselves and for their respective successors and assigns, do hereby agree and covenant as follows:

1. As of the Effective Date, the second and third paragraph on the first page of the Mortgage, which begins with “**WITNESSETH: THAT WHEREAS . . .**” and concludes with “**...be applied on account of principal.**” are hereby deleted in their entirety and replaced with the following paragraphs:

WITNESSETH: THAT WHEREAS the Mortgagor is indebted to the Mortgagee in the principal sum of **Seven Million, Three Hundred Fourteen Thousand, Nine Hundred and no/100ths Dollars (\$7,314,900.00)** evidenced by a promissory note, bearing even date herewith, with interest thereon from the date hereof through and including **September 30, 2020** at the rate of **four and seventy-seven hundredths per centum (4.77%) per annum**, and thereafter interest from **October 1, 2020** until paid at the rate of **two and seventy hundredths per centum (2.70%) per annum** (the “Note”); principal sum and the interest thereon being payable at the office of the Mortgagee in **Dallas, Texas**, or at such other place as the holder of the Note may designate in writing, in monthly installments, as follows:

Interest alone payable monthly on the **first day of October, 2013**. Thereafter commencing on the **first day of November, 2013**, installments of interest and principal shall be paid in the sum of **Thirty-Five Thousand, Four Hundred Ninety-Eight and 24/100ths Dollars (\$35,498.24)**, each, such payments to continue monthly thereafter on the first day of each succeeding month until through and until **September 1, 2020**. The installments of interest and principal shall be applied first to interest at the rate of **four and seventy-seven hundredths per centum (4.77%) per annum** upon the principal sum or so much thereof as shall from time to time remain unpaid, and the balance thereof shall be applied on account of principal. Interest only from **September 1, 2020**, through and including **September 30, 2020**, at the rate of **four and seventy-seven hundredths per centum (4.77%) per annum** shall be due and payable on **October 1, 2020**. From **October 1, 2020** the Interest Rate, as modified by this Amendment, will thereupon accrue and on **September 30, 2020** the unpaid principal balance of the Note will be **\$6,676,012.78**.

Thereafter, commencing on the first day of **November 1, 2020**, installments on interest and principal shall be paid in the sum of **Twenty-Seven Thousand, Seven Hundred Thirty-Seven and 83/100ths Dollars (\$27,737.83)** each, such payments to continue monthly thereafter on the first day of each succeeding month. The installments of interest and principal shall be applied first to interest at the rate of **two and seventy hundredths per centum (2.70%) per annum** upon the principal sum or so much thereof as shall from time to time remain

unpaid, and the balance thereof shall be applied on account of principal until the entire indebtedness has been paid. In any event, the balance of principal, if any, remaining unpaid, plus accrued interest shall be due and payable on the **first day of September, 2049**.

2. The paragraph on the second page of the Mortgage, which begins with "The Mortgagor is justly indebted to the Mortgagee in the total principal sum . . ." is hereby deleted and its entirety replaced with the following paragraph:

The Mortgagor is justly indebted to the Mortgagee in the total principal sum of **Seven Million, Three Hundred Fourteen Thousand, Nine Hundred and no/100ths Dollars (\$7,314,900.00)**, evidenced by a Note of even date herewith, in the amount of **Seven Million, Three Hundred Fourteen Thousand, Nine Hundred and no/100ths Dollars (\$7,314,900.00)**, bearing interest from date on outstanding balance at **four and seventy-seven hundredths per centum (4.77%) per annum**, through and until **September 30, 2020**, and thereafter, commencing on **October 1, 2020** until paid in full at **two and seventy hundredths per centum (2.70%) per annum**, said principal and interest being payable in monthly installments beginning on the first day of *the 2nd month following* the date hereof with a final maturity of **September 1, 2049**, which is identified as being secured hereby by a certificate thereon. Said Note and all of its terms are incorporated hereby by reference and this conveyance shall secure any and all extensions thereof, however evidenced.

3. Nothing herein contained shall in any way impair the Note, as amended by the Note Modification, or the security now held for the indebtedness evidenced by the Note, as amended by the Note Modification, or alter, waive, annul, vary or affect any provision, covenant or condition of the Mortgage or the Regulatory Agreement executed by the Mortgagor and HUD and recorded of even date with the Mortgage (the "HUD Regulatory Agreement") or the security agreement executed by the Mortgagor and Mortgagee of even date with the Mortgage (together with the corresponding Uniform Commercial Code (UCC) Financing Statements, the "Security Agreement"), except as specifically modified and amended herein, nor affect or impair any rights, powers or remedies of the Mortgagee under the Note, as amended by the Note Modification, and Mortgage, as amended by this Amendment, or the HUD Regulatory Agreement or Security Agreement, nor create a novation or new agreement by and between the parties thereto, it being the intent of the parties to this Amendment that all of the terms, covenants, conditions and agreements of the Note, the Mortgage, the HUD Regulatory Agreement and the Security Agreement are expressly approved, ratified and confirmed, shall continue and remain in full force and effect except as amended hereby or by the Note Modification and that the lien of the Mortgage and the encumbrance of the HUD Regulatory Agreement on the Project and the priority thereof shall be unchanged.

4. Mortgagor hereby acknowledges and affirms to Mortgagee that as of the Effective Date, there are no counter-claims, defenses or set-offs, whether legal or equitable, to Mortgagor's obligations under either the Mortgage or the Note, and Mortgagor hereby waives the right to assert

or raise any such counter-claims, defenses or set-offs which Mortgagor may have had with respect to any suit, proceeding or foreclosure action under the Mortgage that the Mortgagor, or any of its predecessors in interest in and to the Note, Mortgage or any other documents executed by the Mortgagor and/or Mortgagee in connection with the indebtedness described herein, may or could have brought against Mortgagee prior to the Effective Date.

5. Notwithstanding anything herein contained, if any one or more of the provisions of this Amendments shall for any reason whatsoever be held to be illegal, invalid, or unenforceable in any respect, such illegality, invalidity, or unenforceability shall not affect any other provision of this Amendment, but this Amendment shall be construed as if such illegal, invalid, or unenforceable provision had never been contained herein.

6. The Mortgage, as modified by this Amendment, may not be further amended except by an instrument in writing executed by each of the parties hereto.

7. This Amendment shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

8. This Amendment may be executed in any number of counterparts and all counterparts shall be construed together and shall constitute but one Amendment.

9. Mortgagor and Mortgagee acknowledge and agree that the terms of this Amendment are subject to the approval of HUD, which approval shall be evidenced by the written acknowledgement of HUD affixed to the Note Modification. The Effective Date will be reflected on page 1 of the Note Modification and will occur after such written acknowledgement of HUD is received.

10. Nothing in this Amendment shall waive, compromise, impair or prejudice any right HUD may have to seek judicial recourse of any breach of that certain Regulatory Agreement executed by the parties hereto, recorded on even date with the Mortgage, which breach may have occurred prior to or may occur subsequent to the date of this Amendment. In the event that HUD initiates an action for breach of said Regulatory Agreement and recovers funds, either on HUD's own behalf or on behalf of the Project or Mortgagor, those funds may be applied, at the discretion of HUD, to payment of the delinquent amounts due under the Note or the Mortgage, as amended, or as a partial prepayment of the Note.

11. Mortgagor hereby acknowledges and affirms to Mortgagee that as of the Effective Date, Mortgagor is in compliance with all of Mortgagor's obligations under the loan documents associated with the loan evidenced by the Note.

12. The parties agree that this Amendment is not in any way intended to, and does not affect the priority of the Mortgage, or any other document executed in connection with any of the foregoing, nor enforcement of the same.

13. All individuals signing this Amendment for a party which is a corporation, partnership, limited liability company or other legal entity, or signing under a power of attorney, or as a trustee, guardian, conservator, or in any other legal capacity, covenant to the Mortgagee and HUD that they have the necessary capacity and authority to act for, sign and bind the respective entity or principal on whose behalf they are signing.

14. All capitalized terms not otherwise defined in this Amendment shall have the same meanings ascribed to them in the Mortgage.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Mortgagor and Mortgagee have caused this Amendment to be duly executed and effective as of the Effective Date.

MORTGAGOR:

BD & E Properties, L.C.,
a Utah limited liability company

By: [Signature]
Name: Hans Kuhni
Its: Manager

ACKNOWLEDGMENT

STATE OF UTAH

COUNTY OF Summit

The foregoing instrument was acknowledged before me this 9/16/2020 (date) by Hans R. Kuhni, Manager (person acknowledging, title or representative capacity, if any).

(Seal)

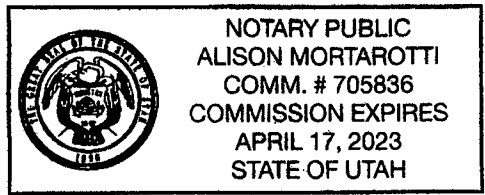
[Signature]

Notary Public

Printed Name: Alison Mortarotti

My Commission Expires:

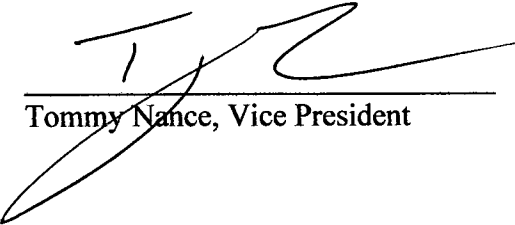
4/17/2023



[Mortgagee signature and notary on following page]

MORTGAGEE:

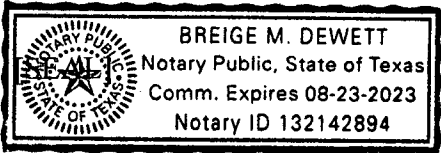
Prudential Huntoon Paige Associates, LLC,
a Delaware limited liability company


By: 
Tommy Nance, Vice President

ACKNOWLEDGMENT

STATE OF TEXAS)
COUNTY OF Collin) ss:)

On this 11th day of September, 2020, before me appeared **Tommy Nance**, to me personally known, and known to me to be the Vice President of Prudential Huntoon Paige Associates, LLC, a Delaware limited liability company, who executed the within instrument on behalf of said limited liability company, and did duly acknowledge the execution of said instrument to be her own free act and deed and the free act and deed of said limited liability company.




Notary Public

My commission expires: 08/23/2023

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL A:

A PARCEL OF LAND LYING IN THE SOUTHWEST 1/4 OF SECTION 10, AND THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 9 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN, UTAH COUNTY, UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE BRASS CAP MONUMENT IN THE SOUTHWEST CORNER OF SAID SECTION 10, THENCE N. 89°31'31" E. A DISTANCE OF 401.83 FEET ALONG THE SECTION LINE; THENCE NORTH A DISTANCE OF 499.67 FEET TO THE REAL POINT OF BEGINNING.

THENCE N. 89°39'14" W. A DISTANCE OF 353.98 FEET TO A POINT OF CURVATURE OF A 18.00-FOOT RADIUS NON-TANGENT CURVE TO THE LEFT; THENCE NORTHEASTERLY A DISTANCE OF 13.30 FEET ALONG THE ARC OF SAID CURVE HAVING A CENTRAL ANGLE OF 42°20'42" AND A CHORD THAT BEARS N. 20°59'49" E. A DISTANCE OF 13.00 FEET; THENCE N. 00°00'01" W. A DISTANCE OF 177.22 FEET TO A POINT OF CURVATURE OF A 5.00-FOOT RADIUS TANGENT CURVE TO THE LEFT; THENCE NORTHWESTERLY A DISTANCE OF 7.85 FEET ALONG THE ARC OF SAID CURVE HAVING A CENTRAL ANGLE OF 89°58'58" AND A CHORD THAT BEARS N. 44°59'36" W. A DISTANCE OF 7.07 FEET; THENCE N. 89°59'57" W. A DISTANCE OF 321.45 FEET; THENCE N. 00°01'56" W. A DISTANCE OF 31.00 FEET; THENCE S. 89°59'57" E. A DISTANCE OF 321.29 FEET TO A POINT OF CURVATURE OF A 5.00-FOOT RADIUS TANGENT CURVE TO THE LEFT; THENCE NORTHEASTERLY A DISTANCE OF 7.85 FEET ALONG THE ARC OF SAID CURVE HAVING A CENTRAL ANGLE OF 89°58'58" AND A CHORD THAT BEARS N. 44°59'57" E. A DISTANCE OF 7.07 FEET; THENCE N. 00°00'00" E. A DISTANCE OF 179.69 FEET; THENCE S. 89°42'47" E. A DISTANCE OF 185.00 FEET; THENCE N. 45°00'00" E. A DISTANCE OF 236.73 FEET; THENCE S. 00°17'13" W. A DISTANCE OF 578.66 FEET TO THE REAL POINT OF BEGINNING.

PARCEL B:

RIGHTS TO CONNECT AND USE FACILITIES OF MOUNTAIN VIEW HOUSING LIFT STATION CONTAINED IN THAT CERTAIN JOINT USE AGREEMENT DATED 19 SEPTEMBER 2007, AS AMENDED, BY AND BETWEEN MOUNTAIN VIEW HOSPITAL, INC., A UTAH CORPORATION, GRANTOR, AND BAR K. DEVELOPMENT, LLC, A UTAH LIMITED LIABILITY COMPANY AND B D & E PROPERTIES, L.C., A UTAH LIMITED LIABILITY COMPANY, WHICH JOINT USE AGREEMENT, AS AMENDED, WAS RECORDED ON 16 MAY 2008, AS INSTRUMENT NO. 58332:2008, IN THE OFFICES OF THE UTAH COUNTY RECORDER.

PARCEL C:

TOGETHER WITH AND SUBJECT TO AN EASEMENT OVER PROFESSIONAL WAY AS SHOWN ON SPECIAL WARRANTY DEED ENTRY #143812:2007.