



2016-006627

Klamath County, Oregon

06/23/2016 09:20:58 AM

Fee: \$117.00

After Recording, Return to:
U.S. Bank National Association
555 S.W. Oak Street
PD-OR-P7TD
Portland, OR 97204
Attention: Cheryl K. Nelson

RECORDING COVER SHEET

SECOND MODIFICATION TO AMENDED AND RESTATED
COMMERCIAL DEED OF TRUST AND FIXTURE FILING
WITH ASSIGNMENT OF LEASES AND RENTS

1. Title of Transaction:

Second Modification to Commercial Deed of Trust and Fixture Filing With Assignment of Leases and Rents

2. Parties to Transaction:

Grantor: Sky Lakes Medical Center, Inc.
2865 Daggett Avenue
Klamath Falls, OR 97603

Beneficiary: U.S. Bank National Association
555 SW Oak Street
MS: PD-OR-P6TD
Portland, OR 97204

3. Maximum Principal Amount of the Obligations Secured Under Secured Instruments: \$73,713,275

4. Maturity Date: September 1, 2046

5. Tax Account Numbers: R751822, R752073, R751840 and R751797

**SECOND MODIFICATION
TO
AMENDED AND RESTATED COMMERCIAL DEED OF TRUST
AND FIXTURE FILING WITH ASSIGNMENT OF LEASES AND RENTS**

This Second Modification to Amended and Restated Commercial Deed of Trust and Fixture Filing With Assignment of Leases and Rents (the "Agreement") is dated as of June 1, 2016, by and among **SKY LAKES MEDICAL CENTER, INC.**, an Oregon nonprofit corporation formerly known as Merle West Medical Center, Inc. (the "Grantor"), **FIRST AMERICAN TITLE INSURANCE COMPANY OF OREGON** (the "Trustee"), as trustee for the benefit of **U.S. BANK NATIONAL ASSOCIATION** (the "Beneficiary"), as Master Trustee under the Master Indenture (defined below).

RECITALS

A. Grantor executed an Amended and Restated Commercial Deed of Trust and Fixture Filing With Assignment of Leases and Rents dated August 31, 2006 and recorded August 31, 2006, in Volume M06, Page 17547, Records of Klamath County, Oregon (the "Deed of Trust"), securing payment and performance of the Secured Obligations, the Grantor's obligations under the Secured Instruments and the other obligations described therein.

B. Grantor executed a First Modification to Amended and Restated Commercial Deed of Trust and Fixture Filing With Assignment of Leases and Rents, dated as of November 1, 2016, and recorded November 29, 2012, as recording number 2012-013207, Records of Klamath County, Oregon (the "First Modification").

C. The Grantor has requested that the Klamath Falls Intercommunity Hospital Authority (the "Authority") issue its Revenue and Refunding Bonds, Series 2016 (Sky Lakes Medical Center Project) in the aggregate principal amount of \$53,325,000 (the "2016 Bonds") pursuant to a Bond Trust Indenture between the Authority and the Beneficiary, as Bond Trustee (the "Bond Trustee"), dated as of June 1, 2016 (the "2016 Bond Indenture"), and loan the proceeds of the 2016 Bonds to the Grantor pursuant to a Loan Agreement between the Authority and the Grantor, dated as of June 1, 2016 (the "2016 Loan Agreement"), for the purposes described in the 2016 Bond Indenture and 2016 Loan Agreement.

D. Pursuant to the Master Trust Indenture dated as of April 1, 2002 (the "Master Indenture") between the Grantor, as Obligated Group Representative, and the Beneficiary, as Master Trustee (the "Master Trustee") and a Fourth Supplemental Master Trust Indenture between the Grantor, as Obligated Group Representative, and the Master Trustee, dated of even date herewith (the "Fourth Supplement"), the Grantor issued its Obligation No. 4 ("Obligation No. 4") to the Bond Trustee to secure the Grantor's obligations with respect to the 2016 Bonds, including all obligations of the Borrower under the 2016 Loan Agreement, the 2016 Indenture, the Master Trust Indenture, the Fourth Supplement and all other documents related to the 2016 Bonds.

E. The Grantor, the Beneficiary and others have agreed to make certain changes to the Deed of Trust to ensure (a) that Obligation No. 4 is secured on a parity basis with Obligation

No. 3 and any other Obligations issued and outstanding under the Master Trust Indenture which are secured by the Deed of Trust and (b) that the 2016 Bonds are issued and secured on a parity basis with the 2012 Bonds and any other Related Bonds secured on a parity basis.

F. The parties hereto desire to modify the Deed of Trust on the terms and conditions described herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree to further modify the Deed of Trust as follows:

1. **Modification of and Additional Definitions in Recitals in Deed of Trust.**

(a) Definitions of “Fourth Supplement” and “Obligation No. 4.” A new Recital is added following the second Recital in the Deed of Trust, which new recital will read as follows:

WHEREAS, pursuant to the Master Indenture, the Grantor, as Obligated Group Representative, and the Master Trustee have entered into a Fourth Supplemental Master Trust Indenture dated as of June 1, 2016 (the “Fourth Supplement”), and the Grantor, as Obligated Group Representative, has issued its Obligation No. 4 (“Obligation No. 4”), to evidence the Obligated Group’s obligation to make payments sufficient to pay the principal of, premium, if any, and interest on the 2016 Bonds (as defined below); and

(b) Definition of “Secured Obligations.” The third Recital in the Deed of Trust containing the definition of “Secured Obligations” is hereby amended and restated to read as follows:

WHEREAS, Obligation No. 3, Obligation No. 4 and any future Obligations issued on a parity basis with Obligation No. 3 and Obligation No. 4 under the Master Indenture shall hereafter be referred to as the “Secured Obligations;” and

(c) Definitions of “2016 Bond Indenture,” “2016 Bonds” and “2016 Loan Agreement.” Two new Recitals are added following the ninth Recital of the Deed of Trust as follows:

WHEREAS, Beneficiary, as Bond Trustee, and the Authority entered into that certain Bond Trust Indenture dated as of June 1, 2016 (the “2016 Bond Indenture”) for the issuance of the Authority’s \$53,325,000 Revenue and Refunding Bonds, Series 2016 (Sky Lakes Medical Center Project), as further described in the 2016 Bond Indenture; and

WHEREAS, the Authority and the Grantor have entered into that certain Loan Agreement dated as of June 1, 2016 (the “2016 Loan Agreement”) specifying the terms and conditions of a loan by the Authority to the Grantor of

the proceeds of the 2016 Bonds (the Master Indenture, the Fourth Supplement, the 2016 Bond Indenture and the 2016 Loan Agreement, each as defined herein, and collectively referred to as "2016 Secured Instruments").

(d) Definition of "Secured Instruments." The tenth Recital in the Deed of Trust containing the definition of "Secured Instruments" is hereby amended and restated to read as follows:

WHEREAS, the 2012 Secured Instruments, the 2016 Secured Instruments, any other Supplements, bond indentures, loan agreements or other documents or instruments secured by and payable from one or more Secured Obligations (collectively, "Future Permitted Instruments"), and the Secured Obligations are hereinafter collectively referred to as the "Secured Instruments;" and

2. **Refunding of Series 2006 Bonds and Modification of Definitions of Secured Instruments and Secured Obligations.** A portion of the proceeds of the Series 2016 Bonds is being used to refinance all of the 2006 Bonds that are outstanding on the date of the issuance of the 2016 Bonds. Concurrently with the issuance of the 2016 Bonds and the recording of this Agreement, the 2006 Bonds are being defeased in accordance with the 2006 Bond Indenture and Obligation No. 2 related to the 2006 Bonds is correspondingly being terminated. In connection therewith, the Deed of Trust is hereby modified to discharge Obligation No. 2 and the 2006 Secured Instruments, and the definitions of "Secured Obligations" and "Secured Instruments" are hereby amended and restated as provided in Section 1 of this Agreement to eliminate Obligation No. 2 and the 2006 Secured Instruments. The Deed of Trust is hereby further modified to include Obligation No. 4, the 2016 Secured Instruments and Future Permitted Instruments in the definitions of "Secured Obligations" and "Secured Instruments," respectively, as provided in Section 1 of this Agreement.

3. **Amounts Secured by Deed of Trust.** The Deed of Trust is hereby modified to expressly include and secure as part of the obligations under the Secured Instruments described in Section 2.1 of the Deed of Trust, the repayment of the 2012 Bonds in the original principal amount of \$17,000,000 and the 2016 Bonds in the principal amount of \$53,325,0000, as part of the obligations under the Secured Instruments secured by the Deed of Trust.

4. **Status of Title.** To induce the Beneficiary to execute and deliver this Agreement, the Grantor represents and warrants that title to the Land is vested in the Grantor free and clear of all liens and encumbrances other than the encumbrances described on Exhibit A attached hereto ("Permitted Encumbrances").

5. **Priority of Deed of Trust Not Affected.** This Agreement constitutes a modification only of the Deed of Trust and shall not be deemed to constitute a novation thereof. The priority of the Deed of Trust shall not be affected by this Agreement.

6. **All Other Terms Unmodified.** Except as specifically provided herein, the Deed of Trust shall remain in full force and effect in accordance with its terms and conditions. This Agreement is subject to all of the conditions and covenants expressed in the Deed of Trust, the Secured Obligations and the Secured Instruments, including, among others, conditions and

covenants providing for the use of the proceeds, acceleration of maturity and for the enforcement of the provisions of the Deed of Trust and the Secured Instruments, in the event of default in the performance of any obligation, which provisions relating to default and/or acceleration shall be applicable to obligations hereby amended as well as to obligations not so amended.

7. **Effect of Agreement.** This Agreement constitutes a modification to the Deed of Trust and is not and shall in no circumstances whatsoever be construed as a novation thereof and shall not adversely affect the Deed of Trust as first recorded.

8. **Counterparts.** This Agreement may be executed in two or more counterparts, all of which shall be deemed one and the same instrument.

9. **No. Waiver.** Nothing contained in this Agreement shall prejudice, act or be deemed to be a waiver of any right or remedy available to Beneficiary by reason of the occurrence or existence of any fact or circumstance or event constituting a default under the Deed of Trust.

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BENEFICIARY:

U.S. BANK NATIONAL ASSOCIATION

By: *Cheryl Nelson*
Cheryl Nelson
Vice President

STATE OF OREGON)
)
COUNTY OF MULTNOMAH)

On this 20th day of June, 2016, before me, *Karen L Nelson*, personally appeared Cheryl Nelson as Vice President of U.S. Bank National Association, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal




Karen L Nelson
Notary Public for the State of Oregon
My Commission Expires: April 07, 2017

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

GRANTOR:

SKY LAKES MEDICAL CENTER, INC.

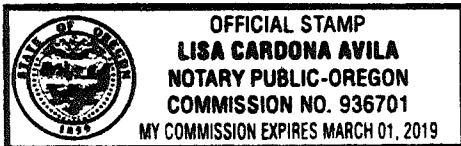
By: 
Richard E. Rico
Vice President and Chief Financial
Officer

STATE OF OREGON)
)
COUNTY OF KLAMATH)

On this 21st day of June, 2016, before me, Lisa Cardona Avila, personally appeared Richard E. Rico as Vice President and Chief Financial Officer of Sky Lakes Medical Center, Inc., who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal



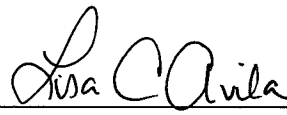

Notary Public for the State of Oregon
My Commission Expires: March 1, 2019

EXHIBIT A
Permitted Encumbrances

EXCEPTIONS FROM COVERAGE

Except as provided in Schedule B-Part II, this policy does not insure against loss or damage and the Company will not pay costs, attorneys' fees or expenses that arise by reason:

PART I

GENERAL EXCEPTIONS

1. *Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records; proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the public records.*
2. *Facts, rights, interests or claims which are not shown by the public records but which could be ascertained by an inspection of the land or by making inquiry of persons in possession thereof.*
3. *Easements, or claims of easement, not shown by the public records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.*
4. *Any encroachment (of existing improvements located on the subject land onto adjoining land or of existing improvements located on adjoining land onto the subject land), encumbrance, violation, variation, or adverse circumstance affecting the title that would be disclosed by an accurate and complete land survey of the subject land.*
5. *Any lien, or right to a lien, for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the public records.*
6. *Unpatented mining claims whether or not shown by the public records.*

SPECIAL EXCEPTIONS

7. Taxes, including the current fiscal year, not assessed because of Fraternal Exemption. If the exempt status is terminated under the statute prior to the date on which the assessment roll becomes to tax roll in the year in which said taxes were assessed, an additional tax may be levied.

| | | | |
|--------------|----------------------|----------|--------|
| Account No.: | 3809-020AC-00300-000 | Key No: | 751822 |
| | | Code No: | 001 |
| Account No: | 3809-020AC-01100-000 | Key No: | 895090 |
| | | Code No: | 001 |
| Account No: | 3809-020AC-01101-000 | Key No: | 751840 |
| | | Code No: | 001 |
8. City liens, if any, due to the City of Klamath Falls.

9. The rights of the public in and to that portion of the premises herein described lying within the limits of streets, roads or highways.
10. Easement for existing public utilities in vacated street area, if any, and the conditions imposed thereby.
11. An easement created by instrument, subject to the terms and provisions thereof,
Recorded: November 22, 1976
Volume: M76, page 18545, Microfilm Records of Klamath County, Oregon
In favor of: Pacific Power & Light Company
For: Public utilities
12. An easement created by instrument, subject to the terms and provisions thereof,
Recorded: November 22, 1976
Volume: M76, page 18547, Microfilm Records of Klamath County, Oregon
In favor of: Pacific Power & Light Company
For: Public utilities
13. An easement created by instrument, subject to the terms and provisions thereof,
Recorded: February 2, 1978
Volume: M78, page 2049, Microfilm Records of Klamath County, Oregon
In favor of: Pacific Power & Light Company
For: Public utilities
14. An easement created by instrument, subject to the terms and provisions thereof,
Recorded: February 2, 1978
Volume: M78, page 2051, Microfilm Records of Klamath County, Oregon
In favor of: Pacific Power & Light Company
For: Public utilities
15. Encroachment Permit Agreement, subject to the terms and provisions thereof;
Dated: January 12, 1985
Recorded: April 24, 1985
Volume: M85, page 5907, Microfilm Records of Klamath County, Oregon.
From: The City of Klamath Falls, Oregon, a Municipal corporation
To: Merle West Medical Center, an Oregon non-profit corporation
16. An easement created by instrument, subject to the terms and provisions thereof,
Dated: January 27, 1986
Recorded: January 31, 1986
Volume: M86, page 1888, Microfilm Records of Klamath County, Oregon
Re-recorded: April 28, 1987
Volume: M87, page 7112, Microfilm Records of Klamath County, Oregon.
In favor of: Pacific Power & Light Company, a corporation, its successors and assigns
For: Underground electric distribution line

17. An easement created by instrument, subject to the terms and provisions thereof,
Dated: February 15, 1990
Recorded: March 1, 1990
Volume: M90, page 3947, Microfilm Records of Klamath County, Oregon
In favor of: Pacific Power & Light Company, a corporation, its successors and assigns
For: Underground electric distribution line
18. Easement for existing public utilities in vacated street area and the conditions imposed hereby.
Reserved by vacating order;
Recorded: November 12, 1992
Volume: M92, page 26872, Microfilm Records of Klamath County, Oregon
19. An easement created by instrument, subject to the terms and provisions thereof,
Dated: November 8, 1994
Recorded: December 19, 1994
Volume: M94, page 38135, Microfilm Records of Klamath County, Oregon
In favor of: Pacificorp, a corporation, dba Pacific Power & Light Company, its successors and assigns
For: Underground electric distribution line
20. Reciprocal Access Easement Agreement, subject to the terms and provisions thereof;
Dated: June 8, 2001
Recorded: June 8, 2001
Volume: M01, page 27242, Microfilm Records of Klamath County, Oregon.
By and Between: Merle West Medical Center, Inc.; Crystal Terrace Retirement Community, LLC; CT Acres, LLC; Plum Ridge Care Community, LLC; and Klamath Falls Intercommunity Hospital Authority
21. Geothermal and Water Supply Lines and Equipment Easement Agreement, subject to the terms and provisions thereof;
Dated: June 8, 2001
Recorded: June 8, 2001
Volume: M01, page 27309, Microfilm Records of Klamath County, Oregon.
By and Between: Merle West Medical Center, Inc., Crystal Terrace Retirement Community, LLC, Plum Ridge Care Community, LLC, and Klamath Falls Intercommunity Hospital Authority
22. Communication Lines and Equipment Easement Agreement, subject to the terms and provisions thereof;
Dated: June 8, 2001
Recorded: June 8, 2001
Volume: M01, page 27325, Microfilm Records of Klamath County, Oregon.
By and Between: Merle West Medical Center, Inc., and Klamath Falls Intercommunity Hospital Authority

23. Reciprocal Access to Walkway Easement Agreement, subject to the terms and provisions thereof;
Dated: June 8, 2001
Recorded: June 8, 2001
Volume: M01, page 27333, Microfilm Records of Klamath County, Oregon.
By and Between: Merle West Medical Center, Inc., Plum Ridge Care Community, LLC, and Klamath Falls Intercommunity Hospital Authority
24. Commercial Deed of Trust and Fixture Filing with Assignment of Leases and Rents, subject to the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advance as may be provided therein;
Dated: April 4, 2002
Recorded: April 5, 2002
Volume: M02, page 20178, Microfilm Records of Klamath County, Oregon
Amount: Not disclosed
Grantor: Merle West Medical Center, Inc., an Oregon nonprofit corporation
Trustee: First American Title Insurance Company of Oregon
Beneficiary: U.S. Bank, N.A., as Master Trustee under the Master Indenture
(Affects the property herein described and other property)
25. Easement for Sanitary Sewer Line(s) and Agreement, subject to the terms and provisions thereof;
Dated: March 8, 2005
Recorded: March 9, 2005
Volume: M05, page 15792, Microfilm Records of Klamath County, Oregon.
From: Merle West Medical Center, Inc.
To: The City of Klamath Falls, Oregon, an Oregon municipal corporation

PART II

In addition to the matters set forth in Part I of this Schedule, the Title is subject to the following matters, and the Company insures against loss or damage sustained in the event that they are not subordinate to the lien or the Insured Mortgage:

1. An easement created by instrument, subject to the terms and provisions thereof,
Dated: May 16, 2006
Recorded: February 23, 2007
Volume: 2007-003077, Microfilm Records of Klamath County, Oregon
In favor of: PacifiCorp
For: Public utilities
2. Easement for Reciprocal Parking Lot Access, subject to the terms and provisions thereof,
Dated: February 22, 2007
Recorded: March 23, 2007
Volume: 2007-005326, Microfilm Records of Klamath County, Oregon
3. Subject to any unrecorded leases and tenancies, if any.
4. Any conveyance or encumbrance by Sky Lakes Medical Center, Inc., an Oregon public benefit corporation should be executed pursuant to a proper resolution of the members voted on at a duly called meeting of the membership in accordance with the bylaws or other authority of the corporation. Certified copies of the resolution authorizing the conveyance and encumbrance and of the minutes of the meeting of the membership copies of the by-laws or other authority for such conveyance encumbrance should be furnished for examination.