

E 2788625 B 5948 P 360-368
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
02/04/2014 12:21 PM
FEE \$39.00 Pgs: 9
DEP RTT REC'D FOR CENTERVILLE CITY

When recorded, return to:

Centerville City
Attn: City Recorder
250 North Main Street
Centerville, Utah 84014

Affects Parcel: 006-336-0008, 06-36-0010, 06-336-0012, 06-336-0013

**ASSIGNMENT AND ASSUMPTION AGREEMENT
(Lot 4)**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is made and entered into as of the 28 day of November, 2013, by and between **LEGACY CROSSING LLC**, a Utah limited liability company ("Assignor"), **LEGACY OFFICE BUILDING, LLC**, a Utah limited liability corporation, **SUMMERWOOD HOLDINGS II, LLC**, a Utah limited liability corporation, and **ES 135488 LC**, a Utah limited liability company, ("Assignees"), and **CENTERVILLE CITY**, a Utah municipal corporation ("City"), collectively, the "Parties", or individually, a "Party".

RECITALS:

WHEREAS, Assignor and the City have previously entered into that certain Development Agreement dated September 21, 2010 ("Development Agreement"), regarding the development of a mixed commercial/residential planned development known as the Legacy Crossing at Parrish Lane Planned Development on property located at approximately 1250 West and Parrish Lane in Centerville, Utah, as more particularly described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Property");

WHEREAS, the Development Agreement has been recorded against the Property in the Davis County Recorder's Office as Entry No. 2555652, Book 5118, Pages 526-622; and

WHEREAS, Assignees are purchasers and/or owners of a portion of the Property known as Lot 4 of the Legacy Crossing at Parrish Lane Planned Development which is more particularly described in **Exhibit "B,"** attached hereto and incorporated herein by reference, and referred to in the Development Agreement as Phase 4 ("Lot 4"); and

WHEREAS, Assignor desires to joint and severally assign its rights and obligations under the Development Agreement to Assignees with respect to the development of Lot 4 under the terms and conditions of the Development Agreement as more particularly provided herein; and

WHEREAS, the Parties are entering into this Agreement in order to effect, joint and severally, an assignment by Assignor and acceptance and assumption by Assignees of the Development Agreement as it pertains to Lot 4, as their interests appear, and any other property within the project which Assignees have an interest, as more particularly provided herein;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Assignment and Assumption.** Assignor hereby assigns to Assignees joint and several liability and responsibility for Assignor's right, title and interest in and to the Development Agreement as it pertains to Lot 4 together with Assignor's rights, powers and privileges thereunder existing from and after the date of this Agreement. Assignees hereby accept the same and assume the rights and responsibilities of the Development Agreement as it pertains to Lot 4 and agree to timely pay and perform each and every obligation to be paid and performed under the Development Agreement as it pertains to Lot 4 from and after the date of this Agreement. It is expressly agreed and understood by the parties that both Assignor and Assignees shall be joint and severally liable and responsible for the performance of the obligations of the Development Agreement with respect to Lot 4. Pursuant to Section 60 of the Development Agreement, Assignees further agree to be bound by the terms of the Development Agreement and to be liable, with Assignor, for the performance of each of the obligations contained in the Development Agreement as it relates to Lot 4 and any other applicable obligation.

2. **Acknowledgment of Recording.** Assignees hereby acknowledge the recording of the Development Agreement and authorizes the recording of this Assignment against Lot 4 and any other property within the project in which Assignees have an interest.

3. **Successors and Assigns.** This Agreement shall bind the Parties, their personal representatives, successors and assigns. Any assignment of the rights and duties of Assignees as assigned herein shall be subject to and comply with the terms of the Development Agreement, including, but not limited to Section 60 of the Development Agreement.

4. **Attorneys' Fees.** Should any Party commence a legal proceeding to enforce any of the terms or provisions of this Agreement, the prevailing Party in such proceeding shall recover reasonable attorneys' fees and costs from the defaulting Party, as fixed by the court in such proceeding.

5. **Effective Date of Assignment.** The provisions of this Agreement shall become effective immediately upon proper execution by the Parties.

6. **Miscellaneous.** Nothing herein shall be deemed to create the relationship of principal and agent, partnership or joint venture between the Parties. This Agreement shall be interpreted and construed only by the content hereof, and there shall be no presumption or standard of construction in favor of or against any Party. This Agreement may be amended or modified only in writing. The invalidity or unenforceability of any provision of this Agreement, as determined by a court, shall in no way affect the validity or enforceability of any of the remaining provisions hereof. This Agreement shall be construed according to and governed by the laws of the State of Utah.

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

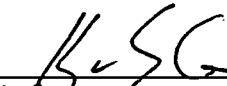
"Assignor"

LEGACY CROSSING LLC

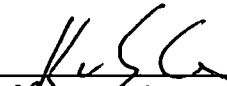
By: 
Its: Manager

"Assignees"


Legacy Office Building, LLC

By: 
Its: Manager
Kevin S. Garn

Summerwood Holdings II, LLC

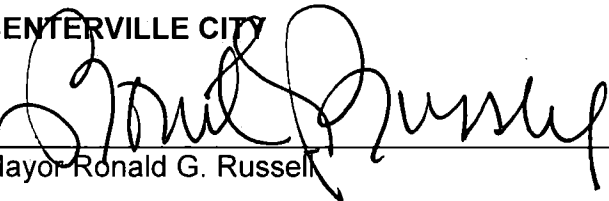
By: 
Its: Manager
Kevin S. Garn

ES 135488 LC, a Utah limited liability company
by: Teton Investment Holding LLC, a
Utah limited liability company

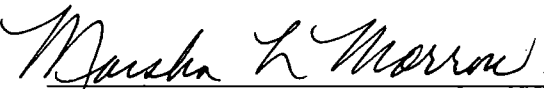
By: 
Its: Member
Gary M. Wright, Operating Manager

"City"

CENTERVILLE CITY


Mayor Ronald G. Russell

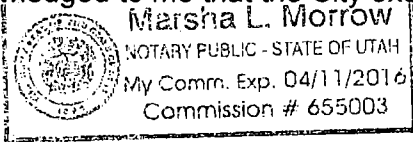
ATTEST:


Marsha L. Morrow, City Recorder

CITY ACKNOWLEDGMENT

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On the 3 day of December, 2013, personally appeared before me Ronald G. Russell, who being duly sworn, did say that he is the Mayor of **CENTERVILLE CITY**, a municipal corporation of the State of Utah, and that the foregoing instrument was signed in behalf of the City by authority of its governing body and said Ronald G. Russell acknowledged to me that the City executed the same.



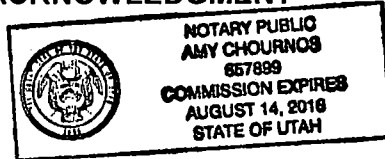
Marsha L Morrow
Notary Public

My Commission Expires:
4-11-2016

Residing at:
Centerville

LEGACY CROSSING ACKNOWLEDGMENT

STATE OF Utah)
 : ss.
COUNTY OF Davis)



On the 22 day of November, 2013, personally appeared before me Kevin S. Garn, who being by me duly sworn did say that he is the managing member of **LEGACY CROSSING LLC**, a Utah limited liability company, and that the foregoing instrument was signed on behalf of said limited liability company by authority of its Articles of Organization and duly acknowledged to me that said limited liability company executed the same.

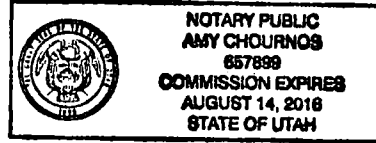
Amy Chournos
Notary Public

My Commission Expires:
8.14.16

Residing at:
Davis County

LEGACY OFFICE BUILDING ACKNOWLEDGMENT

STATE OF UTAH)
)
COUNTY OF Davis) :ss.
)



On the 22 day of November, 2013, personally appeared before me Kevin S. Garn who being by me duly sworn did say that he is the managing member of Legacy Office Building, LLC, a Utah limited liability company, and that the foregoing instrument was signed on behalf of said limited liability company by authority of its Articles of Organization and duly acknowledged to me that said limited liability company executed the same.

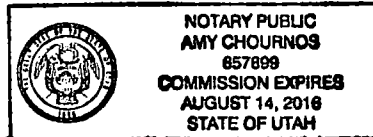
Amy Chournos
Notary Public

My Commission Expires:
8-14-16

Residing at:
Davis County

SUMMERWOOD HOLDINGS II ACKNOWLEDGMENT

STATE OF Utah)
)
COUNTY OF Davis) :ss.
)



On the 22 day of November, 2013, personally appeared before me Kevin S. Garn, who being by me duly sworn did say that he is the managing member of **SUMMERWOOD HOLDINGS II, LLC**, a Utah limited liability company, and that the foregoing instrument was signed on behalf of said limited liability company by authority of its Articles of Organization and duly acknowledged to me that said limited liability company executed the same.

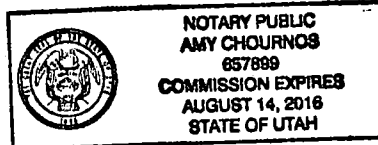
Amy Chournos
Notary Public

My Commission Expires:
8-14-16

Residing at:
Davis County

ES 135488 ACKNOWLEDGMENT

STATE OF Utah)
)
COUNTY OF Davis) :ss.



On the 22 day of November, 2013, personally appeared before me Gary M. Wright, who being by me duly sworn did say that he is the operating managing of Teton Investment Holding LLC, a Utah limited liability company that is the member of **ES 135488 LC**, a Utah limited liability company, and that the foregoing instrument was signed on behalf of said limited liability company by authority of its Articles of Organization and duly acknowledged to me that said limited liability company executed the same.

Amy Chournos
Notary Public

My Commission Expires:
8-14-16

Residing at:
Davis County

EXHIBIT "A"

Legal Description of Property

All of the Legacy Crossing at Parrish Lane Subdivision Plat located in Centerville, Utah,
as recorded at the Davis County Recorder's Office, State of Utah

06-336-0001 → 0003, 0008
0010 → 0013

EXHIBIT "B"

Legal Description of Lot 4

All of Lot 4 of the Legacy Crossing at Parrish Lane Subdivision Plat located in Centerville, Utah, as recorded at the Davis County Recorder's Office, State of Utah
Parcel No. 06-336-0008, 06-336-0010, 06-336-0012, 06-336-0013