

3084486  
BK 6982 PG 991

E 3084486 B 6982 P 991-1001  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
3/29/2018 4:36:00 PM  
FEE \$37.00 Pgs: 11  
DEP eCASH REC'D FOR COTTONWOOD TITLE

WHEN RECORDED MAIL TO:

ZB, N.A., dba Zions First National Bank  
Enterprise Loan Operations - UT RDWG 1970  
PO Box 25007  
Salt Lake City, Utah 84125-0007

File No.: 100820-ETF

**Assignment of Leases  
(Davis County)**

In Reference to Tax ID Number(s):

07-278-0103, 07-278-0108, 07-278-0109, 07-278-0111, 06-324-0227, 06-343-0310, 06-343-0316,  
06-343-0320

Loan No. 254-1916165-9001

**WHEN RECORDED, RETURN TO:**

ZB, N.A., dba Zions First National Bank  
Enterprise Loan Operations – UT RDWG 1970  
PO Box 25007  
Salt Lake City, Utah 84125-0007

**ASSIGNMENT OF LEASES**  
(Davis County)

This Assignment of Leases (the “Assignment”) is made and executed this 21 day of March, 2018 (the “Closing Date”), by Fame Holdings LLC, a Utah limited liability company (“Borrower”) and ZB, N.A., dba Zions First National Bank, (“Lender”).

RECITALS

A. Pursuant to the Promissory Note dated the Closing Date in which Borrower appears as “Borrower” and Lender appears as “Lender” and which is in the original principal amount of Nine Million Two Hundred Forty Thousand Dollars (\$9,240,000.00) (the “Note”), and pursuant to the Term Loan Agreement dated the Closing Date wherein Borrower appears as “Borrower” and Lender appears as “Lender” (the “Loan Agreement”), Lender has loaned the proceeds of the Note to Borrower.

B. This Assignment also secures any and all obligations of Borrower to Lender arising now or in the future under or in connection with any interest rate derivative transactions, including without limitation, rate swaps, basis swaps, forward rate transactions, commodity swaps, commodity options, equity or equity index swaps, equity or equity index options, bond options, interest rate options, foreign exchange transactions, cap transactions, floor transactions, collar transactions, forward transactions, currency swap transactions, cross-currency rate swap transactions, currency options or any other similar transaction (including any option with respect to any of these transactions) or any combination thereof, whether linked to one or more interest rates, foreign currencies, commodity prices, equity prices or other financial measures, including without limitation, any interest rate hedging transactions under any ISDA Master Agreement and Schedule thereto to be entered into between Borrower and Lender, and all Confirmations (as such term is defined in such ISDA Master Agreement) between Borrower and Lender executed in connection therewith (collectively the “Interest Rate Hedging Transaction”), together with all renewals of, extensions of, modifications of, consolidations of and substitutions for any of the foregoing.

C. Pursuant to three Term Loan Trust Deed, Assignment of Rents, Security Agreement and Fixture Filings dated the Closing Date (individually and collectively the “Trust Deed”) in which Borrower appears as “Trustor”, and Lender appears as “Trustee” and

“Beneficiary” and which encumber the real property (the “Property”) together with the improvements thereon located in Salt Lake County, Davis County and Utah County State of Utah, as the case may be, including the real property and improvements more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the “Project”), Borrower has granted to Lender a lien on the Project to secure the Note.

D. Lender desires and Borrower agrees to further secure the Note and the Loan Agreement with an assignment of the leases now and hereafter affecting the Project.

### AGREEMENT

In exchange for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Borrower and Lender agree as follows:

1. Assignment. Borrower hereby absolutely and unconditionally assigns and transfers unto Lender all right, title, and interest of Borrower in and to all leases of the Project or any portion of the Project, now existing or hereafter created, together with all rents, subrents and other amounts received for the use of all or any portion of the Property or the Improvements, including without limitation, any and all rental agreements and arrangements of any kind for all or any portion of the Project now owned or hereafter acquired, and all proceeds from such leases, rents, subrents and other amounts received for the use of all or any portion of the Property or the Improvements, now or hereafter existing or entered into, together with all right, title and interest of Borrower in and to all other leases or subleases covering the Project or any portion of the Project, now or hereafter existing or entered into, together with all security deposits made by the lessees thereunder (the “Lessee” or “Lessees”) and together with all extensions, renewals, modifications or replacements thereof, as well as all guaranties of Lessee’s obligations under any provisions thereof and under any and all extensions and renewals thereof (collectively the “Lease”).

2. License to Collect. This Assignment shall inure to the benefit of Lender, its successors and assigns for the payment of the principal and interest provided to be paid in or by the Note, any amounts owing under any Interest Rate Hedging Transaction, the performance of the agreements of Borrower contained in the Loan Agreement and the Trust Deed, and the performance of the agreements of Borrower contained in the Loan Documents and any other document evidencing, securing, or relating to the disbursal or administration of the proceeds of the Note or any amounts owing under any Interest Rate Hedging Transaction (all of which agreements and obligations are collectively referred to as the “Obligation”), reserving to Borrower, however, a revocable, temporary right and license only to collect, except as hereinafter provided, the rents, income, and profits accruing by virtue of the Lease as they respectively become due (the “License”), but not in advance, and to enforce the agreements of the Lease, as long as Borrower does not default under the Obligation, or this Assignment.

3. Lender as Creditor of Lessee. Lender, and not Borrower, shall be the creditor of each Lessee in respect of assignments for the benefit of creditors and bankruptcy, reorganization, insolvency, dissolution, or receivership proceedings affecting such Lessee. Lender, however, shall not be the party obligated to make timely filings of claims in such proceedings or to otherwise

pursue creditor's rights therein. Lender shall have the option to apply any monies received by Lender as such creditor towards the reduction of the principal or interest of the Obligation as Lender may elect.

4. Default Remedies of Lender. If Borrower defaults on the Obligation or this Assignment, and until such default shall have been fully cured, the License of Borrower to collect rents, income, and profits shall cease and terminate. Lender would thereby be authorized at its option to enter and take possession of all or part of the Project, and to perform all acts necessary for the operation and maintenance of the Project in the same manner and to the same extent that Borrower might reasonably so act. In furtherance thereof, Lender shall be authorized, but shall be under no obligation, to collect the rents, income, and profits arising from the Lease, and to enforce performance of any other terms of the Lease including, but not limited to, Borrower's rights to fix or modify rents, sue for possession of the Project, or any part thereof, relet all or part of the Project, and collect all rents, income, and profits under such new lease. Lender shall, after payment of all proper costs, charges, and any damages, apply the net amount of income to the sums then due to Lender under the Obligation as set forth in the Loan Agreement. Lender shall have sole discretion as to the manner in which such net income is applied, and the items that shall be credited thereby.

5. Termination of Assignment. When Lender has been paid for the full amount of the Obligation and such payment is evidenced by a recorded satisfaction or release of the Trust Deed, this Assignment shall no longer be in effect and shall be void.

6. Notice to Lessees of Borrower's Default. Borrower shall irrevocably authorize each Lessee, upon demand and notice from Lender of Borrower's default under the Obligation, to pay all rents, income, and profits under the Lease to Lender. In such situation, Lender shall not be liable to Lessee for the determination of the actual existence of any default claimed by Lender. Lessees shall have the right to rely upon any such notices of Lender that Lessees shall pay all rents, income, and profits to Lender, without any obligation or right to inquire as to the actual existence of the default, notwithstanding any claim of Borrower to the contrary. Borrower shall have no claim against Lessees for any rents paid by Lessees to Lender. Upon the curing of all defaults caused by Borrower under the Obligation, the Trust Deed, this Assignment, and any other Loan Document, Lender shall give Lessees written notice of such cure, and thereafter, until further notice from Lender, Lessees shall pay the rents, income, and profits to Borrower.

7. Assignment of Borrower's Interest in Lease. Lender shall have the right to assign Borrower's right, title, and interest in the Lease to any subsequent holder of the Trust Deed and to any person acquiring title to the mortgaged premises through foreclosure or otherwise. After Borrower shall have been barred and foreclosed of all right, title, interest, and equity of redemption in the premises, no assignee of Borrower's interest in the Lease shall be liable to account to Borrower for the rents, income and profits thereafter accruing.

8. Indemnification of Lender. Borrower shall pay, protect, defend, indemnify and hold Lender harmless of and from any and all liability, loss, or damage that Lender may incur under the Lease or by reason of this Assignment other than such liability, loss, or damage as may

be occasioned by Lender's gross negligence or willful misconduct. Such indemnification shall also cover any and all claims that may be asserted against Lender by reason of any alleged obligation to be performed by Lender under the Lease or this Assignment. Nothing in this paragraph shall be construed to bind Lender to the performance of any Lease provisions, or to otherwise impose any liability upon Lender including, without limitation, any liability under the Lease's covenant of quiet enjoyment in the event that any Lessee shall have been joined as party defendant in any action to foreclose the Trust Deed and shall have been barred thereby of all right, title, interest, and equity of redemption in the premises. This Assignment shall not impose liability upon Lender for the operation and maintenance of the premises or for carrying out the Lease terms before Lender has entered and taken possession of the premises. Any loss or liability incurred by Lender by reason of actual entry and taking possession under the Lease or this Assignment or in the defense of any claims shall, at Lender's request, be reimbursed by Borrower. Such reimbursement shall include interest at the default rate set forth in the Note, costs, expenses, and reasonable attorneys' fees. Lender may, upon entry and taking of possession, collect the rents, income, and profits, and apply them toward reimbursement for the loss or liability.

9. Quality of Borrower's Title to Lease. Borrower represents itself to be the absolute owner of the Lease, with absolute right and title to assign it and the rents, income, and profits due or to become due thereunder; that the Lease is valid, in full force and effect, and has not been modified or amended except as stated herein; that there is no outstanding assignment or pledge thereof or of the rents, income, and profits due or to become due thereunder; that there are no existing defaults under the provisions thereof on the part of any party; that Lessees have no defense, setoff or counterclaim against Borrower, that Lessees are in possession and paying rent and other charges under the Lease as provided therein; and that no rents, income, and profits payable thereunder have been or will hereafter be anticipated, discounted, released, waived, compromised, or otherwise discharged except as may be expressly permitted by the Lease. Borrower covenants not to cancel, abridge, surrender, or terminate the Lease or change, alter, or modify it, either to reduce the amount of the rents, income, and profits payable thereunder, or otherwise change, alter, abridge or modify the Lease, or make any subsequent assignment of the Lease, or consent to subordination of the interest of any Lessee in the Lease without the prior written consent of Lender. Any attempt at cancellation, surrender, termination, change, alteration, modification, assignment, or subordination of the Lease without the written consent of Lender shall be null and void.

10. Delivery of Necessary Instruments to Lender. Borrower shall execute and deliver to Lender and hereby irrevocably appoints Lender, its successors, and assigns as its attorney in fact to execute and deliver during the term of this Assignment, all further instruments as Lender may deem necessary to make this Assignment and any further assignment effective. The power hereby granted is coupled with an interest in the Project and is irrevocable.

11. Transfer of Title to Lessees; Cancellation of Lease. The Lease shall remain in full force and effect despite any merger of Borrower's and any Lessee's interest thereunder. In the event the Lease permits cancellation thereof on payment of consideration and the privilege of cancellation is exercised, the payments made or to be made by reason thereof are hereby assigned to Lender to be applied, at the election of Lender, to reduce the amount of the principal of the

Obligation in the inverse order of maturity or to be held in trust by Lender as further security without interest for the payment of the principal and interest provided to be paid on the Obligation.

12. Lease Guaranties; Assignment of Lease; Alterations of Premises. Borrower shall not alter, modify, cancel or terminate any guaranties of the Lease without the written consent of Lender. Nor shall Borrower consent to any Lease assignment or subletting, nor agree to a subordination of the Lease to any mortgage or other encumbrance, other than that of Lender, now or hereafter affecting the Project without Lender's prior written consent. Borrower shall not permit a material alteration of or addition to the Project by any Lessee without Lender's prior written consent unless the right to alter or enlarge is expressly reserved by such Lessee in the Lease.

13. Borrower to Ensure Continued Performance under Lease. Borrower shall not execute any other assignment of the Lease, of any interest therein, or of any rents payable thereunder. Borrower shall perform all of its covenants as Lessor under the Lease, and shall not permit to occur any release of liability of any Lessee, or any withholding of rent payments by any Lessee. Lender shall promptly receive from Borrower copies of all notices of eviction Borrower has sent to any Lessee. Borrower shall, at Lender's request, enforce the Lease and all remedies available to Borrower thereunder upon any Lessee's default thereunder.

14. Changes in Obligation Terms. Notwithstanding any variation of the terms of the Obligation and/or the Trust Deed including increase or decrease in the principal amount thereof or in the rate of interest payable thereunder or any extension of time for payment thereunder or any release of part or parts of the real property subject to the Trust Deed, the Lease and the benefits hereby assigned shall continue as additional security in accordance with the terms of this Assignment.

15. Additions to and Replacement of Obligation. Lender may take security in addition to the security already given Lender for the payment of the principal and interest provided to be paid in or by the Obligation or by the Trust Deed or release such other security, and may release any party primarily or secondarily liable on the Obligation, may grant or make extensions, renewals, modifications, or indulgences with respect to the Obligation or Trust Deed and replacements thereof, which replacement of the Obligation or Trust Deed may be on the same or on terms different from the present terms of the Obligation or Trust Deed, and may apply to any other security thereof held by it to the satisfaction of the Obligation, without prejudice to any of its rights hereunder.

16. Future and Additional Leases. This Assignment shall apply and be effective with respect to any and all leases entered into by Borrower and any lessee which may cover or affect any portion of the Project, which lease(s) may be entered into at any time during the period the Obligation remains outstanding and secured by the Trust Deed, regardless of whether such lease(s) is/are in effect on the date this Assignment is executed. Upon the written request of Lender, Borrower shall give Lender prompt notice and provide Lender with a copy of any lease covering any portion of the Project it enters into, if the lease is not listed in this Assignment or is not in effect on the date of this Assignment. Upon notice from Lender to that effect, such lease shall be

deemed included in this Assignment as though originally listed therein, and shall be subject to this Assignment in all respects.

17. Exercise of Lender's Rights. Lender's failure to avail itself of any of its rights under this Assignment for any period of time, or at any time or times, shall not constitute a waiver thereof. Lender's rights and remedies hereunder are cumulative, and not in lieu of, but in addition to, any other rights and remedies Lender has under the Obligation and Trust Deed. Lender's rights and remedies hereunder may be exercised as often as Lender deems expedient.

18. Amendment, Modification, or Cancellation of Assignment. No amendment, modification, cancellation, or discharge hereof, or of any part hereof, shall be enforceable without Lender's prior written consent.

19. Notices. All notices shall be in writing and shall be deemed to have been sufficiently given or served when personally delivered, deposited in the United States mail, by registered or certified mail, or deposited with a reputable overnight mail carrier which provides delivery of such mail to be traced, addressed as follows:

Lender: ZB, N.A., dba Zions First National Bank  
Real Estate Banking Group  
One South Main Street, Suite 470  
Salt Lake City, Utah 84133  
Attn: Timothy P. Raccuia

With copies to: Prince, Yeates & Geldzahler  
15 West South Temple, Suite 1700  
Salt Lake City, Utah 84101  
Attn: Lynda Cook

Borrower: Fame Holdings LLC  
978 Woodoak Lane  
Salt Lake City, Utah 84117  
Attn: Richard D. Lifferth

With copies to: Kirton McConkie  
50 East South Temple, Suite 400  
Salt Lake City, Utah 84111  
Attn: Benson L. Hathaway, Jr.

Such addresses may be changed by notice to the other party given in the same manner provided in this Section.

20. Binding Effect. All agreements herein shall inure to the benefit of, and bind the respective heirs, executors, administrators, successors, and assigns of Borrower and Lender.

21. Governing Law. This Assignment shall be governed by, construed and interpreted in accordance with the laws of the State of Utah.

22. Attorneys' Fees. Upon the occurrence of an Event of Default, Lender may employ an attorney or attorneys to protect Lender's rights under this Assignment, and Borrower shall pay Lender reasonable attorneys' fees and costs actually incurred by Lender, whether or not action is actually commenced against Borrower by reason of such breach. Borrower shall also pay to Lender any attorneys' fees and costs incurred by Lender with respect to any insolvency or bankruptcy proceeding or other action involving Borrower or any guarantor as a debtor. If Lender exercises the power of sale contained in the Trust Deed or initiates foreclosure proceedings, Borrower shall pay all costs incurred and attorneys' fees and costs as provided in the Trust Deed.

23. Integrated Agreement and Subsequent Amendment. The Loan Documents, the Note, and the other agreements, documents, obligations, and transactions contemplated by this Assignment, constitute the entire agreement between Lender and Borrower with respect to the subject matter of these agreements, and may not be altered or amended except by written agreement signed by Lender and Borrower. PURSUANT TO UTAH CODE SECTION 25-5-4, BORROWER IS NOTIFIED THAT THESE AGREEMENTS ARE A FINAL EXPRESSION OF THE AGREEMENTS BETWEEN LENDER AND BORROWER AND THESE AGREEMENTS MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY ALLEGED ORAL AGREEMENT.

All prior and contemporaneous agreements, arrangements and understandings between the parties to this Assignment as to the subject matter of this Assignment, are, except as otherwise expressly provided in this Assignment, rescinded.

24. Counterparts. This Assignment may be executed in any number of counterparts, each of which shall be deemed an original for all purposes, but all of which taken together shall constitute only one agreement. The production of any executed counterpart of this Assignment shall be sufficient for all purposes without producing or accounting for any other counterpart. Copies of this Assignment, and fax signatures thereon, shall have the same force, effect and legal status as an original.

25. Defined Terms. Unless otherwise defined in this Assignment, capitalized terms used herein have the meanings given them in the Loan Agreement.

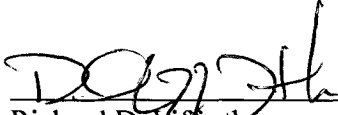
***[SIGNATURE PAGE(S) AND EXHIBIT(S),  
IF ANY, FOLLOW THIS PAGE]***



DATED: March 21, 2018.

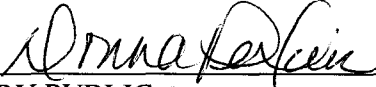
BORROWER

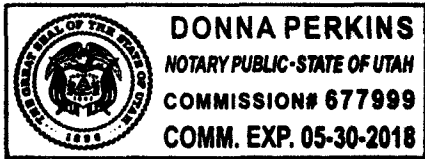
**FAME HOLDINGS LLC,**  
a Utah limited liability company

By:   
Richard D. Lifferth  
Manager

STATE OF UTAH )  
: ss.  
COUNTY OF SALT LAKE )


On this 21 day of March, in the year 2018, before me Donna Perkins, a notary public, personally appeared Richard D. Lifferth, Manager of Fame Holdings 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/she executed the same.

  
NOTARY PUBLIC  
Residing at: Salt Lake




LENDER

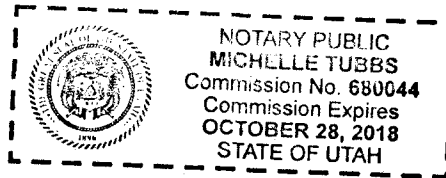
**ZB, N.A., DBA ZIONS FIRST NATIONAL BANK,**

By:   
Timothy P. Raccuia  
Vice President

STATE OF UTAH                    )  
  : ss.  
COUNTY OF SALT LAKE        )

On this 21 day of March, in the year 2018, before me Michelle Tubbs, a notary public, personally appeared Timothy P. Raccuia, Vice President of ZB, N.A., dba Zions First National Bank, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged he/she executed the same.

  
NOTARY PUBLIC  
Residing at: Salt Lake City



**EXHIBIT A**

**REAL PROPERTY DESCRIPTION**

The real property located in Davis County, State of Utah, and more particularly described as follows:

**PARCELS 35 THROUGH 38:**

All of Lots 103, 108, 109 and 111, contained within ORCHARD FARMS P.R.U.D. PHASE 1, a Utah Planned Residential Unit Development, as the same is identified in the Record of Plat Map recorded in Davis County, Utah as Entry No. 2598883 in Book 5274 at Page 401 (as said Record of Plat Map may have heretofore been amended or supplemented) and in the Neighborhood Declaration of Covenants, Conditions, Restrictions and Reservations of Easements for Orchard Farms Town Homes, recorded in Davis County, Utah as Entry No. 2598886 in Book 5274 at Page 529 (as said Declaration may have heretofore been amended or supplemented).

TOGETHER WITH a membership in the Sub-Association and the right to use and access the Common Areas and Facilities, and any Exclusive Common Area for this Neighborhood, subject to provisions of the Master Declaration of Covenants, Conditions, Restrictions and Reservations or Grant of Easements for Orchard Farms Planned Residential Unit Development recorded as Entry No. 2598884 in Book 5274 at Page 402 of the official records of the County Recorder of Davis County, Utah.

**PARCEL 39:**

Unit 227, MOUNTAIN VIEW TOWNS P.U.D. PHASE 2, according to the official plat thereof as recorded in the office of the Davis County Recorder.

TOGETHER WITH the undivided ownership interest in and to the Common Areas and Limited Common Areas and Facilities which is appurtenant to said lot as shown on the official recorded Plat and in the Declaration of Protective Covenants for Mountain View Subdivision, an expandable planned residential development, recorded in Davis County, Utah on August 28, 2006 as Entry No. 2196530 in Book 4105 at Page 413 and in the Amended and Restated Declaration of Covenants, Conditions and Restrictions, Reservation of Easements and Bylaws for Mountain View Subdivision, recorded June 9, 2009 as Entry No. 2457829 in Book 4793 at Page 113 (as said Declaration may have heretofore been amended or supplemented).

**PARCELS 40 THROUGH 42:**

Units 310, 316 and 320, MOUNTAIN VIEW TOWNS P.U.D. PHASE 3, according to the official plat thereof as recorded in the office of the Davis County Recorder.

TOGETHER WITH the undivided ownership interest in and to the Common Areas and Limited Common Areas and Facilities which is appurtenant to said lot as shown on the official recorded Plat and in the Declaration of Protective Covenants for Mountain View Subdivision, an expandable planned residential development, recorded in Davis County, Utah on August 28, 2006 as Entry No. 2196530 in Book 4105 at Page 413 and in the Amended and Restated Declaration of Covenants, Conditions and Restrictions, Reservation of Easements and Bylaws for Mountain View Subdivision, recorded June 9, 2009 as Entry No. 2457829 in Book 4793 at Page 113 (as said Declaration may have heretofore been amended or supplemented).