

5
DOC # 2020062895

Page 1 of 5
Agreement
Russell Shirts Washington County Recorder
11/05/2020 08:20:30 AM Fee \$ 0.00
By FIRST AMERICAN TITLE CO - SG



WHEN RECORDED RETURN TO:

WCWCD

533 East Waterworks Dr.

St. George, Utah 84770

Space Above This Line for Recorder's Use

Serial No. SG-5-3-31-433-SLL

Impact Fee Promissory Note and Security Agreement

THIS AGREEMENT is entered this 8th day of October, 2020, between the
Washington County Water Conservancy District, hereinafter referred to as "**District**", and
Desert Color St. George, LLC hereinafter referred to as "**Owner**".

WHEREAS, the **District** has established a water impact fee ("IMPACT FEE") which is
required to be paid at the recording of subdivision plats; and

WHEREAS, the **Owner** has a vested interest in the project by virtue of a signed
agreement with Desert Color St. George, LLC to purchase all the lots within Auburn Hills Phase 14A and
Desert Color St. George, LLC has a vested interest in the project by virtue of a MEMORANDUM
OF LEASE pursuant to that certain Development Lease Number 1100 (the "Lease") by and

between THE STATE OF UTAH, acting through the School and Institutional Trust Lands Administration ("SITLA") and Desert Color St. George, LLC, recorded September 12, 2017, as Document No. 20170037014, Official Washington County Records (affects this and other property); and

WHEREAS, the Owner desires to record a plat, the legal description of which is attached hereto and incorporated herein by this reference as Exhibit A (the "Property"); and

WHEREAS, the parties desire to reach an arrangement to allow Owner to postpone payment of some or all of the IMPACT FEE until after recording of the subdivision plat while providing for the orderly payment of fees;

NOW, THEREFORE, the District and Owner agree as follows:

1. The Owner executes this agreement to be recorded with the subdivision plat and which shall be an encumbrance upon each and every residential lot and any common area for which the IMPACT FEE is to be charged.

2. The IMPACT FEE shall be paid for each residential lot upon the earlier of the following events:

- a. upon the sale of the lot by the Owner to a third party;
- b. upon the issuance of a building permit for construction on the lot; or
- c. three years from the date of this agreement.

3. The IMPACT FEE for common areas shall be due and payable upon the earliest of issuance of a water meter for the common area or three years from the date of this agreement.

4. If the requirement of provision 2.a., above, is not met for any lot or if provision 3 is not

met, the IMPACT FEE shall be immediately due and payable in full for all lots and all common area in the subdivision.

5. The amount paid will be the amount of the applicable IMPACT FEE in effect at the time of payment.

6. This agreement will be recorded simultaneously with the recording of the final plat with the Washington County Recorder's Office. The District shall release each individual lot upon the payment of the IMPACT FEE for that lot as set forth above.

7. In the event the Owner has not paid in full the IMPACT FEES for all lots within the subdivision when due and payable as set forth above, the District shall have the right to foreclose the Property and/or foreclose Owner's interest in the Lease, as applicable, as if it were a trust deed, with all the rights granted by the laws of the State of Utah for foreclosure and shall also be entitled to recover all costs including but not limited to court costs and attorney's fees.

During such time as title to the property is held by SITLA, the District may only foreclose on Owner's interest in the property pursuant to the Desert Color St. George, LLC Agreement.

8. The parties intend, declare and covenant that the terms, conditions, agreement and covenants set forth in this Agreement shall run with the land and shall bind, and the benefits and burdens shall inure to, the parties and their respective successors and assigns.

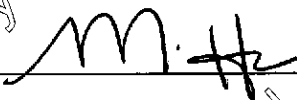
Signatures on succeeding page

/

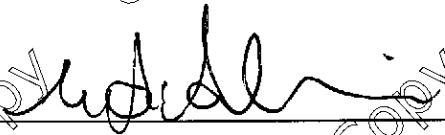
/

/

**WASHINGTON COUNTY WATER
CONSERVANCY DISTRICT:**

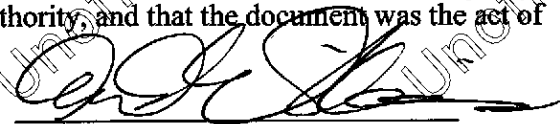
By 

OWNER: Desert Color St. George, LLC

By 

STATE OF UTAH)
)ss.
COUNTY OF WASHINGTON)

On the 8th day of October, 2020, personally appeared before me
[Name] Mitchell A. Damsie, [Title] Manager of Desert Color St.
George, LLC, hereinafter "LLC", who acknowledged to me that he/she executed the foregoing
instrument on behalf of the LLC, by appropriate authority, and that the document was the act of
LLC for its stated purpose.



NOTARY PUBLIC

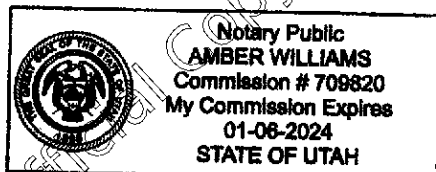


Exhibit A

All of lot numbers 1-7 inclusive, in the Auburn Hills, Phase 4 A which is located in Section 36 Township 43 South, Range 16 West SLB&M, Washington County, Utah, as per plat thereof recorded in the office of the Washington County Recorder, State of Utah.

District Initials:

MA

Owner Initials:

WR