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DOC # 20160039598

Easements Page 1 of 5  
Russell Shirts Washington County Recorder  
10/21/2016 10:00:47 AM Fee \$ 0.00  
By WASHINGTON COUNTY WATER CONSERV DIST



WHEN RECORDED RETURN TO:

WCWCD  
533 East Waterworks Dr.  
St. George, Utah 84770

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Space Above This Line for Recorder's Use

Serial No. SG-5-3-34-120

WATER CONSERVATION EASEMENT

THIS GRANT DEED OF WATER CONSERVATION EASEMENT is made this 19 day of October 2016, by Curt Gordon, the President of DESERT CANYONS DEVELOPMENT, INC., ("Grantor"), in favor of the WASHINGTON COUNTY WATER CONSERVANCY DISTRICT, a political subdivision of the State of Utah, ("Grantee"), Grantor and Grantee hereinafter jointly referred to as the "Parties."

WITNESSETH

WHEREAS, Grantor is the owner in fee simple of certain real property more particularly described in Exhibit "A" attached hereto and incorporated by this reference (the "Property"), and intends to develop the Property into a residential subdivision to be known as DESERT HEIGHTS - PHASE 1 containing 15 lots ; and

WHEREAS, Grantee has established a water impact fee (Water Availability Fee, "WAF") which is required to be paid prior to issuance of a building permit; and

WHEREAS, Grantor desires to limit the use of water for outside irrigation on the Property and thereby avoid payment of the WAF for areas over 5,000 square feet per lot on the Property; and

WHEREAS, Grantee is willing to waive a portion of the WAF that would otherwise be owed on each lot on the Property and limit the amount paid per lot to the amount applicable to one equivalent residential unit as set forth in the Grantee's Capital Facilities Plan ("CFP"), subject to the conditions set forth herein; and

WHEREAS, Grantor intends, as owner of the Property, to convey to Grantee the right to ensure that water used for outside irrigation is limited as set forth herein or, if such water use is not limited, to collect the WAF which would otherwise have been owed.

NOW THEREFORE, in consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, including the mutual covenants, terms, conditions, and restrictions contained herein, the Grantor does hereby voluntarily grant and convey to Grantee a water conservation easement in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

1. Purpose. The purposes of this Easement are to ensure that water used for outside irrigation on the Property is limited as set forth herein or, if such water use is not limited, to allow the Grantee to collect the WAF which would otherwise have been owed. Grantor intends that this Easement will confine the use of the Property to such activities as are consistent with this Easement and the provisions of this Easement. The Grantor executes this Easement to be recorded and which shall be an encumbrance upon the Property.
2. Rights of Grantee. To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:
  - (a) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement, provided that such entry shall be upon prior reasonable notice to Grantor and Grantee shall not unreasonably interfere with Grantors' use and quiet enjoyment of the Property;
  - (b) To remedy any violation of this Easement as set forth below.
3. City Ordinances. The Grantor agrees to comply with any ordinance passed by the City which applies to the Property restricting outside irrigation or imposing water conservation rates, even if subsequently passed.
4. Prohibited Uses. **Any activity which increase the total are of landscaping requiring irrigation on the Property to more than five thousand (5,000) square feet per lot is prohibited.**
5. Reserved Rights. Grantor reserves to itself, and to its representatives, heirs, successors, and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein.

6. General Provisions.

(a) Duration of Easement. This easement shall continue in perpetuity.

(b) Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

7. Violations and Remedies. Grantee may enforce the terms and conditions of this Easement as follows:

(a) Remedies. If Grantee believes that Grantor is in violation of the terms of this easement or that a violation is threatened, Grantee shall give written notice to Grantor of the alleged violation and request corrective action. Grantor and Grantee agree to endeavor in good faith to resolve any dispute regarding any alleged violation of the easement. If Grantor and Grantee are unable to resolve a dispute regarding an alleged violation within 45 days from Grantor's receipt of written notice, Grantor shall pay to Grantee the WAF owed in that year for every square foot in excess of 10,000 (for example, if the lot is 12,000 sf, the impact fee would be owed for an additional 2,000 sf).

(b) Costs of Enforcement. The parties shall bear their own costs, including attorney's fees, in any action brought with respect to this easement.

(c) Waiver. The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed to be a continuing waiver or a waiver of any subsequent breach, whether of the same or any other provision of this Agreement.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF, Grantor has set his/her hand on the day and year first above written.

**Signatures on succeeding page**

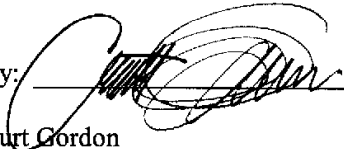
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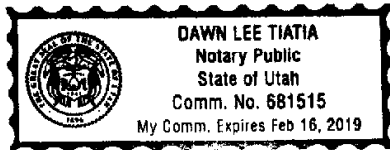
GRANTOR


By: 

Curt Gordon  
President, Desert Canyons Development, Inc.

STATE OF UTAH )  
 ) ss.  
COUNTY OF WASHINGTON )

On the 19 day of October, 2016, personally appeared before me, Curt Gordon, President of Desert Canyons Development, Inc., hereinafter "CORPORATION/PARTNERSHIP", who acknowledged to me that he/she executed the foregoing instrument on behalf of the CORPORATION/PARTNERSHIP, by appropriate authority, and that the document was the act of CORPORATION/PARTNERSHIP for its stated purpose.



  
NOTARY PUBLIC

**EXHIBIT A**

**LEGAL DESCRIPTION**

BEGINNING AT THE SOUTHWEST CORNER OF THE DESERT PLATEAU - PHASE 3 SUBDIVISION, AND A POINT ON THE NORTHERLY BOUNDARY OF THE DESERT PLATEAU - PHASE 5 SUBDIVISION AS RECORDED AND ON FILE WITH THE WASHINGTON COUNTY RECORDER'S OFFICE SAID POINT BEING SOUTH 01°18'40" WEST ALONG THE SECTION LINE, A DISTANCE OF 224.188 FEET AND NORTH 88°49'25" WEST 432.907 FEET FROM THE EAST QUARTER CORNER OF SECTION 34, TOWNSHIP 43 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN, (BASIS OF BEARING BEING SOUTH 88°45'30" EAST ALONG THE CENTER SECTION LINE BETWEEN THE WEST ONE-QUARTER CORNER AND THE EAST ONE-QUARTER CORNER OF SAID SECTION 35), AND RUNNING THENCE ALONG THE BOUNDARY OF SAID DESERT PLATEAU - PHASE 5 SUBDIVISION THE FOLLOWING (4) FOUR COURSES: (1) NORTH 89°25'12" WEST 169.901 FEET; (2) SOUTH 00°51'21" WEST 155.796 FEET; (3) SOUTH 89°08'39" EAST 26.319 FEET; AND (4) SOUTH 00°51'21" WEST 142.047 FEET TO A POINT ON THE UTAH/ARIZONA STATE BORDER; THENCE NORTH 88°46'56" WEST ALONG SAID UTAH/ARIZONA STATE BORDER, (SAID BORDER BEING MARKED BY A 1973 BUREAU OF LAND MANAGEMENT BRASS CAP MARKING MILE 29 ON THE UTAH/ARIZONA STATE BORDER AND A 1973 BUREAU OF LAND MANAGEMENT BRASS CAP MARKING MILE 30 ON THE UTAH/ARIZONA STATE BORDER), A DISTANCE OF 300.006 FEET; THENCE NORTH 00°51'21" EAST 115.715 FEET; THENCE NORTH 88°46'32" WEST 30.181 FEET; THENCE NORTH 01°13'28" EAST 60.000 FEET; THENCE NORTH 00°30'29" EAST 361.477 FEET; THENCE SOUTH 89°29'31" EAST 110.000 FEET; THENCE NORTH 00°30'29" EAST 13.446 FEET; THENCE SOUTH 89°15'14" EAST 45.000 FEET; THENCE SOUTH 89°02'50" EAST 370.951 FEET TO A POINT IN THE WESTERLY BOUNDARY OF THE DESERTS EDGE DRIVE RIGHT-OF-WAY; THENCE ALONG SAID RIGHT-OF-WAY BOUNDARY THE FOLLOWING (2) TWO COURSES: (1) SOUTH 01°09'06" WEST 87.854 FEET TO A POINT OF CURVATURE; AND (2) RUNNING SOUTHWESTERLY ALONG THE ARC OF A 20.000 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 89°21'23", A DISTANCE OF 31.191 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY BOUNDARY OF BLACKBRUSH DRIVE AND THE EXTENSION OF THE BOUNDARY OF SAID DESERT PLATEAU - PHASE 3 SUBDIVISION; THENCE ALONG THE BOUNDARY OF SAID SUBDIVISION AND THE EXTENSION THEREOF THE FOLLOWING (2) TWO COURSES: (1) NORTH 89°29'31" WEST 30.854 FEET; AND (2) SOUTH 00°30'29" WEST 146.250 FEET TO THE POINT OF BEGINNING.

CONTAINS 215,345 20 SQ. FT., (4.944 ACRES)