

DOC # 20200014810

Page 1 of 7  
Agreement  
Russell Shirts Washington County Recorder  
03/25/2020 11:09:24 AM Fee \$ 40.00  
By RANDY T SIMONSEN LTD



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. H-3-1-33-447-A

**Impact Fee Promissory Note and Security Agreement**

THIS AGREEMENT is entered this 11 day of February, 2020 between the Washington County Water Conservancy District, hereinafter referred to as "District", and Sky Mountain Holdings 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 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 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 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.

8. The parties intend, declare and covenant that the terms, conditions, agreements 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.

**WASHINGTON COUNTY WATER  
CONSERVANCY DISTRICT:**

By *Patricia McAllister*

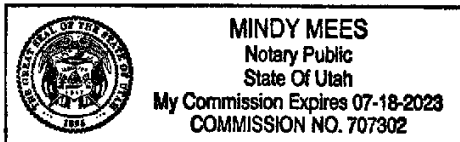
**OWNER:**

By *Randy T. Simonsen*

Randy Simonsen, Partner, of Randy T. Simonsen, LTD, Manager of Sky Mountain Holdings, LLC

STATE OF UTAH )  
: ss.  
COUNTY OF WASHINGTON )

On the 13 day of February, 2020, personally appeared before me Randy Simonsen, Partner, of Randy T. Simonsen, LTD, Manager of Sky Mountain Holdings, LLC, who acknowledged to me that he 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.



*Mindy Mees*  
NOTARY PUBLIC

**Exhibit A**

All of lot numbers 45 through 65, inclusive, and all common areas, in  
Fire Rock Phase II which is located in Section 33, Township 41  
South, Range 13 West, SLB&M, Washington County, Utah, as per plat thereof recorded in the  
office of the Washington County Recorder, State of Utah.

District Initials: MM

Owner Initials: [Signature]

**WHEN RECORDED RETURN TO:**

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

Space Above This Line for Recorder's Use

Tax LD. No. H-3-1-33-447-A

**SUBORDINATION AGREEMENT  
FOR  
IMPACT FEE PROMISSORY NOTE AND SECURITY AGREEMENT**

THE UNDERSIGNED, State Bank of Southern Utah <sup>SC</sup> as the  
BENEFICIARY under the herein described Trust Deed which covers the real property more  
particularly described below, does hereby subordinate and make junior the said Trust Deed and  
the Note secured thereby to that certain Impact Fee Promissory Note and Security Agreement  
("IFPNSA") granted to the Washington County Water Conservancy District, Dated  
<sup>to</sup> February 11, 2020

The said Beneficiary understands that the lien, which WAS a first lien is being  
Subordinated hereby to the IFPNSA, which IFPNSA shall have precedence and prior right over  
the Trust Deed being subordinated herewith:

Said Trust Deed being subordinated is more particularly described as follows:

DATED: January 22, 2019  
TRUSTOR: Sky Mountain Holdings, LLC  
TRUSTEE: State Bank of Southern Utah  
BENEFICIARY: State Bank of Southern Utah  
AMOUNT: \$ 2,000,000.00  
Recorded: Feb 1, 2019, as Entry No. N/A  
in Book N/A, at page(s) N/A or  
as Document No. 20190003964 of  
Official Records, Washington County, Utah

The Real Property subject to the IFPNSA is more particularly described on **Exhibit A**, attached hereto and incorporated herein by this reference.

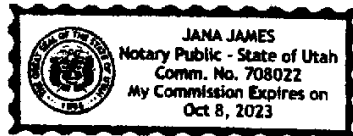
DATED this 11 day of February, 2020.

By: [Signature]  
Title: Senior Vice President

STATE OF UTAH            )  
                                      :SS  
COUNTY OF Washington )

On the 11 day of February, 2020, personally appeared before me [NAME] Brandon Condie, [TITLE] Senior Vice President of the State Bank of Southern Utah, 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.

[Signature]  
NOTARY PUBLIC



**Exhibit A**

All of lot numbers 45 through 65, inclusive, in  
Fire Rock Phase II which is located in  
Section 33, Township 41 South, Range 13 West, SLB&M,  
Washington County, Utah, as per plat thereof recorded in the office of the  
Washington County Recorder, State of Utah.