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DOC # 20200076141

Agreement Page 1 of 3
Russell Shirts Washington County Recorder
12/30/2020 03:06:43 PM Fee \$ 0.00
By SOUTHERN UTAH TITLE CO

WHEN RECORDED RETURN TO:



WCWCD

533 East Waterworks Dr.

St. George, Utah 84770

Space Above This Line for Recorder's Use

Serial No. W-4-2-7-421-SLL

Impact Fee Promissory Note and Security Agreement

THIS AGREEMENT is entered this 20 day of December, 2020, between the Washington County Water Conservancy District, hereinafter referred to as "**District**", and Ivory Southern, 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 Brennan Holdings No. 200, LLC to purchase all the lots within Paseos at Sienna Hills, Phase 3 and Brennan Holdings No. 200 has a vested interest in the project by virtue pursuant an unrecorded Lease, executed by the State of Utah, acting by and through the School and Institutional Trust Lands Administration, as LESSOR and Brennan Holdings No. 200, LLC, a Utah Limited Liability Company, as LESSEE, as disclosed by Memorandum of Lease No. 1133, dated January 1, 2018, executed by and between the State of Utah, acting by and through the School and Institutional Trust Lands Administration and Brennan Holdings No. 200, LLC, a Utah Limited Liability Company, recorded January 31, 2018, as Doc. No. 20180004376, Official Washington County Records. (Affects a portion and other property)

Addendum No. 1 to Development Lease Agreement No. 1133, recorded March 21, 2019, as Doc No. 20190010269 of Official Washington County Records.

Addendum No. 2 to Development Lease Agreement No. 1133, recorded May 8, 2019, as Doc No. 20190017354 of Official Washington County Records.

Addendum No. 3 to Development Lease Agreement No. 1133, recorded May 31, 2019, as Doc No. 20190021191 of Official Washington County Records.

Addendum No. 4 to Development Lease Agreement No. 1133, recorded August 20, 2019, as Doc No. 20190033299 of Official Washington County Records.

Addendum No. 5 to Development Lease Agreement No. 1133, recorded January 13, 2020, as Doc No. 20200001877 of Official Washington County Records.

Addendum No. 7 to Development Lease Agreement No. 1133, recorded August 14, 2020, as Doc No. 20200043144, Official Washington County Records; 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 **Ivory Southern-Brennan 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.

Exhibit A

All of lot numbers 55 through 105 (51 total lots) inclusive, and all common areas, in the Paseos at Sienna Hills, Phase 3 which is located in the NW ¼ of Section 7, Township 42 South, Range 14 West, SLB&M, Washington County, Utah, as per plat thereof recorded in the office of the Washington County Recorder, State of Utah.

District Initials: MH

Owner Initials: DW