



AFTER RECORDING PLEASE RETURN TO:

Aaron Langston  
1593 Grapevine Crossing  
Washington, UT 84780

St. George City  
175 East 200 North  
St. George, Utah 84770

Tax ID Nos: SG-5-3-31-433-STL

## EASEMENT NO. 2660

Fund: School

THIS EASEMENT NO. 2660 (the "Agreement") is entered into effective this 30th day of October 2023 (the "Effective Date"), by and between the STATE OF UTAH, acting by and through the SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION, 102 South 200 East, Suite 600, Salt Lake City, Utah 84111 (the "GRANTOR"), and City of St. George, 175 East 200 North, St. George UT 84770 (the "GRANTEE") and Desert Color St. George, LLC, a Utah limited liability company ("DEVELOPER").

A. GRANTOR is an independent state agency responsible for the management of state trust lands, including the lands that are the subject of this Agreement.

B. GRANTOR'S development partners, DEVELOPER, will be installing certain ingress, egress, utility and drainage improvements (collectively, the "Improvements") to provide access and services to certain future projects within the Desert Color Community. GRANTEE desires to assume and perform the continued maintenance and operation of these improvements.

C. GRANTEE now desires to secure an easement for the improvements.

D. Article 10.1 and Article 10.5 of the development agreement dated September 11, 2017 between GRANTOR and DEVELOPER ("Development Lease"), provides for the granting of certain public improvement easements.

NOW, THEREFORE, for good and valuable consideration, the parties agree as follows:

1. **Grant of Easement.** GRANTOR hereby grants to GRANTEE an easement over the portion of those lands generally depicted in **Exhibit A** and more particularly described in **Exhibit B** (the "Easement Lands"), for ingress/egress and the construction, operation, maintenance, repair, and or replacement of the Improvements. DEVELOPER shall construct the Improvements in a first-class workmanlike manner, and in accordance with the requirements of any and all engineering construction plans, laws, and GRANTEE ordinances and regulations applicable

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thereto. DEVELOPER shall operate and maintain the Improvements and Easement Lands in good condition, in a first-class workmanlike manner in accordance with the requirements of all construction plans, laws, and GRANTEE ordinances and regulations applicable thereto until such time if and when the Improvements are dedicated to GRANTEE.

2. **Improvement Costs.** GRANTOR will not be responsible to participate in any costs for the Improvements, including the construction, operation, repair, replacement, and maintenance of such. DEVELOPER shall pay all costs associated with the construction, operation, maintenance, repair, or replacement of the Improvements until such time if and when the Improvements are dedicated to GRANTEE. With respect to any future Improvements constructed on the Easement Lands, upon dedication to and acceptance of the same by GRANTEE in accordance with GRANTEE'S ordinances, specifications, and development approvals, GRANTEE shall pay all costs associated with the operation, maintenance, repair, or replacement of such future Improvements.

3. **Term.** The easement granted herein is temporary and will terminate if and when the Easement Lands are dedicated by final plat. This easement is granted only for the purposes described herein as far as it is consistent with the principles and obligations in the Enabling Act of Utah (Act of July 16, 1894, Ch. 138, 28 Stat. 107) and the Constitution of the State of Utah.

4. **Relocation.** Either GRANTOR or DEVELOPER, may, at DEVELOPER'S sole cost and expense, relocate and/or modify the easement, in whole or in part, as such party deems convenient in its sole discretion to accommodate future use and/or development of the Easement Lands or the adjoining lands for any purpose.

5. **Negligent Acts.** GRANTOR and GRANTEE shall each be responsible for their own negligent acts which they commit or which are committed by their agents, contractors, officials or employees. Nothing in this Agreement limits, restricts or waives any of the Governmental Immunity Act provisions as they may apply to the GRANTOR or GRANTEE. DEVELOPER assumes liability for and shall indemnify and hold harmless GRANTOR, its officers, board of trustees, and employees for, from and against any and all liability and claims, including attorney's fees, of any nature imposed on, incurred by, or asserted against GRANTOR that in any way relates to or arises out of DEVELOPER'S activity or presence on the Easement Lands. As between GRANTOR and DEVELOPER, in the event of any conflict between this Agreement and the Development Lease, the Development Lease will control.

6. **Insurance.** DEVELOPER (when constructing the Improvements), and GRANTEE (when operating the Improvements) shall carry liability insurance covering bodily injury, loss of life or property damage arising out of or in any way related to DEVELOPER'S and GRANTEE'S activities on the Easement Lands, in amounts no less than \$1,000,000.00 for each claim of an individual and \$3,000,000.00 for each occurrence. The insurance may be in the form of blanket liability coverage so long as such blanket policy does not act to reduce the limits or diminish the

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coverage required hereunder. Liability or the coverage limits required by this easement shall not be reduced by any insurance held by GRANTOR, or any of the lessees, permittees or assigns thereof.

7. **Consent to Suit.** The parties consent to suit in the courts of the State of Utah in any dispute arising under the terms of this Agreement or as a result of operations carried on under this Agreement.

8. **Assignment.** The acquisition or assumption by another party under an agreement with GRANTEE of any right or obligation of DEVELOPER or GRANTEE under this Agreement shall be ineffective as to the GRANTOR unless and until GRANTOR shall have been notified of such agreement and shall have recognized and approved the same in writing.

9. **Compliance with Law.** DEVELOPER and GRANTEE, in exercising the privileges granted by this Agreement, shall comply with the provisions of all valid Federal, State, County, and Municipal laws, ordinances, and regulations which are applicable to the Easement Lands and covered by this Agreement. Neither DEVELOPER nor GRANTEE shall commit nor permit any waste on the Easement Lands. DEVELOPER and GRANTEE shall take reasonable precautions to prevent pollution or deterioration of lands or waters which may result from the exercise of the privileges granted pursuant to this Agreement.

10. **Easement Non-Exclusive.** It is expressly understood and agreed that the right herein granted is non-exclusive, and GRANTOR hereby reserves the right to issue other non-exclusive easements, leases, or permits on or across the Easement Lands where such uses are appropriate and compatible (including, without limitation, for the exploration, development and production of oil, gas and all other minerals) or to dispose of the property by sale or exchange.

11. **Existing Interests.** GRANTEE shall be responsible to notify holders of state issued interests on the Easement Lands, as such interests are set forth on **Exhibit C** attached hereto, of GRANTEE rights and plans hereunder.

12. **Covenants Against Liens; Indemnity.** Neither DEVELOPER NOR GRANTEE shall suffer or permit to be enforced against the Easement Lands or any part thereof, and shall indemnify and hold GRANTOR, its directors, officers and employees or any of the lessees and assigns thereof harmless for, from, and against (i) any mechanics', materialman's, contractor's, or subcontractor's liens arising from DEVELOPER and GRANTEE'S use of the Easement Lands; and (ii) any claim, loss or liability for damage (including personal injury, death or damage to property) growing out of, the work of, any construction, repair, restoration, replacement, improvement or other operations done by or on behalf of DEVELOPER or GRANTEE on the Easement Lands. DEVELOPER or GRANTEE shall pay or cause to be paid all of such liens, claims, or demands before any action is brought to enforce the same against the Easement Lands. If DEVELOPER or GRANTEE in good faith contests the validity of any such lien, claim, or

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demand, then DEVELOPER or GRANTEE shall, at its expense, defend itself and GRANTOR and any of the lessees and assigns thereof against the same and shall pay and satisfy any adverse judgment that may be rendered thereon prior to execution thereof and in the event of any such contest DEVELOPER or GRANTEE shall at the request of GRANTOR provide such security and take such steps as may be required by law to release the Easement Lands from the effect of such lien.

13. **Notices.** Notices shall be in writing and shall be given by (a) personal delivery, (b) deposit in the United States mail, certified mail, return receipt requested (which receipt shall be preserved as evidence of delivery), postage prepaid, or (c) overnight express delivery service, addressed or transmitted to DEVELOPER, GRANTOR, or GRANTEE at the addresses first set forth herein, or to such other addresses as either party may designate to the other in a writing delivered in accordance with the provisions of this Paragraph:

If to DEVELOPER: Desert Color St. George, LLC  
730 North 1500 West  
Orem, UT 84057

If to GRANTOR: School and Institutional Trust Lands Administration  
Attn: Assistant Director – Planning and Development  
675 East 500 South, Suite 500  
Salt Lake City, UT 84102

If to GRANTEE: City of St. George  
A Utah municipal corporation  
175 East 200 North  
St. George, UT 84470

All notices shall be deemed to have been delivered and shall be effective upon the date on which the notice is actually received, if notice is given by personal delivery or by overnight express delivery service, or on the third day after mailing if notice is sent through the United States mail.

14. **Default.** In the event of a default or breach of any of the terms of this Agreement by one party, the non-defaulting party shall provide the defaulting party with written notice of the default and shall provide the non-defaulting party with thirty (30) days from the date of the notice to remedy the default or such time as is reasonably required to remedy the default. In the event the defaulting party does not remedy the default in the 30-day or other time period set forth in the written notice, or such longer time as granted in GRANTOR's sole discretion. GRANTOR may terminate this Agreement for their respective portion of the Easement Lands. Such termination shall be effective upon GRANTOR's giving written notice. Upon receipt of such notice, GRANTEE shall immediately surrender possession of the Easement Lands to GRANTOR as

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applicable, and all Improvements on the applicable portion of the Easement Lands shall, at GRANTOR's discretion, be forfeited and become the property of GRANTOR, as applicable. In addition, the parties may exercise any other right or remedy they may have at law or equity.

15. **Fire Suppression.** DEVELOPER and GRANTEE shall at all times observe reasonable precautions to prevent fire on the Easement Lands and shall comply with all applicable laws and regulations of any governmental agency having jurisdiction. In the event of a fire on the Easement Lands owned by GRANTOR proximately caused by DEVELOPER or GRANTEE, which necessitates suppression action that incurs cost, DEVELOPER or GRANTEE, as applicable, shall pay for such costs caused by it.

16. **Cultural Resources.** It is hereby understood and agreed that all treasure-trove, all articles of antiquity, and critical paleontological resources in or upon the Easement Lands owned by GRANTOR are and shall remain property of the State of Utah. DEVELOPER or GRANTEE agrees to cease all activity on the Easement Lands and immediately notify GRANTOR if any discovery of human remains or a "site" or "specimen," as defined in Section 9-8-302 or 63-73-1 Utah Code Annotated (1953), as amended, is made on the Easement Lands and continue to cease all construction or maintenance therein until such time as the human remains, "site" or "specimen" in question has been treated to the satisfaction of GRANTOR.

17. **No Warranty of Title.** GRANTOR claims title in fee simple to the Easement Lands but does not warrant to GRANTEE the validity of title to the Easement Lands. Neither DEVELOPER nor GRANTEE shall have any claim for damages or refund against GRANTOR for any claimed failure or deficiency of GRANTOR'S title to said lands or for interference by any third party.

18. **Inspection.** GRANTOR reserves the right to inspect the Easement Lands at any time and recall DEVELOPER or GRANTEE for correction of any violations of stipulations contained herein.

19. **Granted Pursuant to Law.** This Agreement is granted pursuant to the provisions of all applicable laws and subject to the rules of the departments and agencies of the State of Utah presently in effect and to such laws and rules as may be hereafter promulgated by the State.

20. **Covenants Run with the Land.** The grant and other provisions of this Agreement shall constitute a covenant running with the land and shall be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns, all of which persons may enforce any obligation created by this Agreement.

21. **Interpretation.** This Agreement shall be interpreted and governed by the laws of the State of Utah, without regard to its choice or conflict of laws principles that may refer the interpretation hereof to the laws of another state.

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22. **No Waiver.** No waiver of conditions by GRANTOR of any default of DEVELOPER or GRANTEE, or failure of GRANTOR to timely enforce any provisions of this Agreement, shall constitute a waiver of or constitute a bar to subsequent enforcement of the same or other provisions of this easement. No provision in this Agreement shall be construed to prevent GRANTOR, DEVELOPER, or GRANTEE from exercising any legal or equitable remedy it may have.

23. **Entire Agreement.** This easement, attachments, and documents incorporated hereunder constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written.

[Remainder of Page Intentionally Left Blank.  
Signature Page to Follow.]

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IN WITNESS WHEREOF, the parties have caused these presents to be executed this 30th  
day of October 2023.

GRANTOR:

STATE OF UTAH  
SCHOOL AND INSTITUTIONAL  
TRUST LANDS ADMINISTRATION

APPROVED AS TO FORM  
SEAN D. REYES  
ATTORNEY GENERAL

By: [Signature]  
Name: Kyle Pasley  
Title: Managing Director

By: [Signature]  
Special Assistant Attorney General

GRANTEE:

CITY OF ST. GEORGE  
A Utah municipal corporation  
175 East 200 North  
St. George, UT 84770

By: [Signature]  
Name: Michele Randall  
Its: Mayor [Signature]

ATTEST:  
[Signature]  
Christina Fernandez, City Recorder



Approved as to form:

[Signature]  
, Assistant City Attorney

DEVELOPER:  
DESERT COLOR ST. GEORGE, LLC

By: [Signature]  
Name: Mitchell Dansie  
Title: Manager

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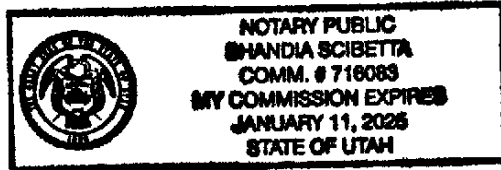
STATE OF UTAH )  
 )  
 ) §  
COUNTY OF Washington)

On the 30th day of October 2023 personally appeared before me Kyle Pasley, who being duly sworn did say that he is the Managing Director of the STATE OF UTAH, SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION, and authorized to execute the above instrument.

My commission expires:  
January 11 2025




Notary Public, residing at:



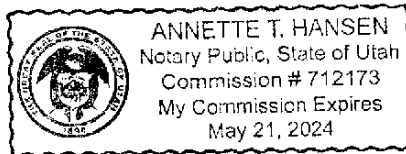
STATE OF UTAH )  
 )  
 ) §  
COUNTY OF )

On this 30 day of October 2023, personally appeared before me Annette Hansen, the Mayor Pandal of, St. George City who acknowledged that (s)he, being duly authorized, did execute the foregoing instrument on behalf of St. George City.

My Commission expires:  
May 21 2024



Notary Public, residing at:





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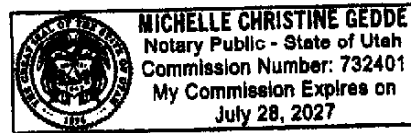
STATE OF UTAH )  
 )  
 )  
COUNTY OF WASHINGTON )

On the 23 day of October 2023, personally appeared before me Mitchell Dansie, who being duly sworn did say that he is the Manager of Desert Color St. George, LLC, and is authorized to execute the above instrument.

My commission expires:  
July 28, 2027

*Michelle Christine Gedde*

Notary Public, residing at:  
Washington, UT



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**EXHIBIT A**  
 Easement Lands

**TRUST LANDS ADMINISTRATION**  
**Development Easement No. 2660 - Wood Peg Apartment Easements**  
 Township 43 South, Range 16 West, SLB&M;  
 Within Sections 25 & 26 ;  
 Washington County



**Development Easement No. 2660 - 0.80 Acres**  
 Certificate of Sale No. 27158 - 8.62 Acres

**Land Ownership and Administration**

- Private
- State Trust Lands
- Other State

Data represented on this map is for REFERENCE USE ONLY and is not suitable for legal, engineering, or planning purposes. Users of this information should review all records, the primary data and information sources to ascertain the usability of the information. The Trust Lands Administration provides this data in good faith and shall in no event be liable for any incorrect results or any special, indirect or consequential damages to any party, arising out of or in connection with the use of the inability to use the data herein. Line patterns, lease boundaries and associated Trust Lands Administration data layers may have been adjusted to allow for visual 'best fit'. The Surface Ownership Land Status data (if present) are maintained by the Trust Lands Administration to reflect current trust lands status and surface ownership. Lakes, rivers, streams, highways, roads, county and state boundaries are distributed by the Utah Geological Survey. Contact and/or other sources as specified. Contact lines (if present) were generated from USGS 10 meter DEM. Please Note: While the Trust Lands Administration seeks to verify data for accuracy and content, discrepancies may exist within the data. Acquiring the most updated Trust Lands Administration ownership GIS data may require contacting the GIS team directly @011381500 or TLA@utah.gov. The Trust Lands Administration GIS Department welcomes your comments and concerns regarding the data and will attempt to resolve issues as they are brought to our attention. Produced September 20, 2023 - Veterinary

Coordinate System: NAD 83 UTM Zone 12N

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**EXHIBIT B**  
**Legal Description**

**50' Turnaround**

**Ingress Egress and Drainage Easement**

Beginning at a point that lies South 88°54'49" East along the section line 347.53 feet and due North 2116.72 feet, from the West Quarter Corner of Section 25, Township 43 South, Range 16 West, Salt Lake Base and Meridian, and running thence northeasterly along a 50.00 foot radius non-tangent curve to the right, (long chord bears North 57°39'58" East a distance of 75.62 feet), center point lies North 16°47'40" East through a central angle of 261°44'35", a distance of 228.41 feet; thence South 57°39'58" West 75.62 feet to the point of beginning.

Containing 6,947 square feet or 0.16 acres.

**Ingress Egress Utility and Drainage Easement**

Beginning at a point that lies South 88°54'49" East along the section line 34.34 feet and due North 2021.05 feet, from the West Quarter Corner of Section 25, Township 43 South, Range 16 West, Salt Lake Base and Meridian and running thence North 33°01'47" West 36.57 feet; thence westerly along a 12.00 foot radius non-tangent curve to the left, (long chord bears North 69°55'08" West a distance of 14.41 feet), center point lies South 56°58'50" West through a central angle of 73°47'56", a distance of 15.46 feet; thence northwesterly along a 52.00 foot radius reverse curve to the right, (long chord bears North 65°02'39" West a distance of 69.29 feet), center point lies North 16°49'12" West through a central angle of 83°33'07", a distance of 75.83 feet; thence South 72°14'59" West 12.05 feet; thence northerly along a 64.00 foot radius non-tangent curve to the right, (long chord bears North 04°03'01" West a distance of 39.94 feet), center point lies North 67°46'08" East through a central angle of 36°21'40", a distance of 40.62 feet; thence South 85°46'01" East 12.22 feet; thence northeasterly along a 52.00 foot radius non-tangent curve to the right, (long chord bears North 27°26'50" East a distance of 19.85 feet), center point lies South 73°33'16" East through a central angle of 22°00'13", a distance of 19.97 feet; thence North 04°13'59" East 4.76 feet; thence North 85°46'01" West 10.00 feet; thence North 04°13'59" East 15.00 feet; thence South 85°46'01" East 9.00 feet; thence North 04°13'59" East 245.00 feet to a point on the south right of way line of Black Mountain Drive, Document No. 20090041241, Official Records Washington County, Utah; thence South 85°46'01" East along said line 72.56 feet; thence South 04°13'59" West 22.24 feet; thence southerly along a 96.00 foot radius curve to the right, (long chord bears South 12°35'15" West a distance of 27.90 feet), center point lies North 85°46'01" West through a central angle of 16°42'33", a distance of 28.00 feet; thence southerly along a 83.00 foot radius reverse curve to the left, (long chord bears South 12°35'15" West a distance of 24.12 feet), center point lies South 69°03'28" East through a central angle of 16°42'33", a distance of 24.21 feet; thence South 04°13'59" West 174.45 feet; thence southeasterly along a 49.00 foot radius curve to the left, (long chord bears South 27°13'05" East a distance of 51.13 feet), center point lies South 85°46'01" East through a central angle of 62°54'08", a distance of 53.79 feet; thence southeasterly along a 171.00 foot radius reverse curve to the right, (long chord bears South 46°21'41" East a distance of 72.90 feet), center point lies South 31°19'51" West through a central angle of 24°36'57", a distance of 73.47 feet; thence South 56°58'14" West 61.97 feet to the point of beginning.

Containing 27,955 square feet or 0.64 acres

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**EXHIBIT C**  
Existing Encumbrances

DEVL 1100

Desert Color St. George, LLC  
730 North 1500 West  
Orem, UT 84057