

WHEN RECORDED RETURN TO:  
 WCWCD  
 533 East Waterworks Dr.  
 St. George, Utah 84770

**DOC # 20180010293**

**Easements** Page 1 of 5  
 Russell Shirts Washington County Recorder  
 03/13/2018 02:25:20 PM Fee \$ 0.00  
 BY WASHINGTON COUNTY WATER CONSERV DIST



Space Above This Line for Recorder's Use

Serial No. SG-5-3-32-112

### WATER CONSERVATION EASEMENT

THIS GRANT DEED OF WATER CONSERVATION EASEMENT is made this  
12<sup>th</sup> day of MARCH 2018, by Troy Ence, the Manager of FACTION, L.L.C.,  
 ("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 White Sands –  
 Phase 1 containing 12 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 area 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.

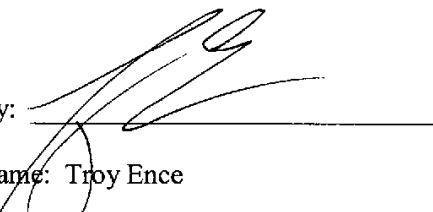
TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

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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/  
/  
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GRANTOR

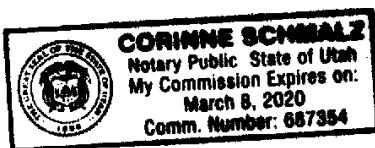
By: 

Name: Troy Ence

Title: Manager

STATE OF UTAH )  
                    )  
                    ) ss.  
COUNTY OF WASHINGTON )

On the 12 day of March, 2018, personally appeared before me, Troy Ence, Manager of Faction, L.L.C., a Utah Limited Liability Company, hereinafter "LIMITED LIABILITY COMPANY", who acknowledged to me that he executed the foregoing instrument on behalf of the LIMITED LIABILITY COMPANY, by appropriate authority, and that the document was the act of said LIMITED LIABILITY COMPANY for its stated purpose



Corinne Schmalz  
NOTARY PUBLIC

**EXHIBIT A**

**LEGAL DESCRIPTION**

BEGINNING AT A POINT SOUTH 88°43'03" EAST ALONG THE SECTION LINE, A DISTANCE OF 53.471 FEET AND SOUTH 01°16'57" WEST 1147.761 FEET FROM THE NORTHWEST CORNER OF SECTION 33, TOWNSHIP 43 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN, (BASIS OF BEARING BEING SOUTH 88°43'03" EAST BETWEEN THE NORTHWEST CORNER AND THE NORTH QUARTER CORNER OF SAID SECTION 33), AND RUNNING THENCE SOUTH 60°59'49" WEST 238.761 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A 1205.500 FOOT RADIUS CURVE TO THE RIGHT, THROUGH A CENTRAL ANGLE OF 20°07'58", A DISTANCE OF 423.594 FEET; THENCE NORTH 08°52'13" WEST 43.000 FEET; THENCE NORTH 18°23'06" WEST 110.050 FEET; THENCE NORTH 28°02'03" WEST 77.415 FEET, THENCE NORTH 59°15'31" EAST 111.224 FEET TO A POINT ON THE ARC OF A NON-TANGENT CURVE, (RADIUS POINT BEARS SOUTH 59°15'31" WEST); THENCE ALONG THE ARC OF A 725.000 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 01°50'30", A DISTANCE OF 23.306 FEET; THENCE NORTH 57°25'00" EAST 50.000 FEET; THENCE NORTH 61°28'57" EAST 109.187 FEET; THENCE NORTH 63°17'12" EAST 373.850 FEET; THENCE SOUTH 26°39'52" EAST 157.231 FEET; THENCE SOUTH 63°20'08" WEST 14.365 FEET; THENCE SOUTH 26°39'52" EAST 114.097 FEET; THENCE SOUTH 29°00'11" EAST 43.000 FEET TO THE POINT OF BEGINNING.

CONTAINS 196,186 SQ. FT., (4.504 ACRES)