

5
DOC # 20200007609

Easements Page 1 of 5
Russell Shirts Washington County Recorder
02/13/2020 03:56:00 PM Fee \$ 0.00
By WASHINGTON COUNTY WATER CONSERV DIST



WHEN RECORDED RETURN TO:

Washington County Water Conservancy District
533 East Waterworks Dr.
St. George, Utah 84770

Space Above This Line for Recorder's Use

Serial No. W-6334-A.1 JW

WATER CONSERVATION EASEMENT

THIS GRANT DEED OF WATER CONSERVATION EASEMENT is made this 27 day of January, 2020 [NAME] Justin Whitworth [TITLE]
Manager of [BUSINESS NAME] Triple Cherry, LLC the ("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 Whitworth Estates, Phase 1, containing 26 lots; and

WHEREAS, Grantee has established a water impact fee ("IMPACT FEE") 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 IMPACT FEE for areas over 5,000 square feet per lot on the Property; and

WHEREAS, Grantee is willing to waive a portion of the IMPACT FEE 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 Impact Fee Facilities Plan ("IFFP"), 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 IMPACT FEE 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 IMPACT FEE 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 increases 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 IMPACT FEE 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

/

/

/

/

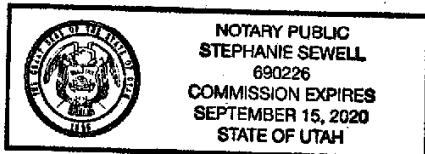
/

GRANTOR

By: Justin Whitworth
Name: Justin Whitworth
Title: Manager

STATE OF UTAH }
DAVIS } ss.
COUNTY OF WASHINGTON }

On the 27 day of January, 2020, personally appeared before me
[NAME] Justin Whitworth, [TITLE] Manager of the
Triple Chernes LLC, 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.



Stephanie Sewell
NOTARY PUBLIC

EXHIBIT 'A'

WHITWORTH ESTATES

BEGINNING AT A POINT NORTH 01°02'48" EAST 1642.72 FEET ALONG THE SECTION LINE AND NORTH 90°00'00" EAST 16.40 FEET TO A POINT ON THE EAST RIGHT OF WAY OF 240 WEST STREET FROM THE SOUTHWEST CORNER OF SECTION 26, TOWNSHIP 42 SOUTH, RANGE 15 WEST, SALT LAKE BASE AND MERIDIAN AND RUNNING THENCE ALONG SAID RIGHT OF WAY NORTH 01°02'48" EAST 348.08 FEET; THENCE SOUTH 89°12'45" EAST 1297.14 FEET ALONG THE SOUTH BOUNDARY OF BRIDGER LANE SUBDIVISION AND FARMLAND ESTATES TO A POINT ON THE WEST RIGHT OF WAY OF 20 EAST STREET; THENCE RUNNING ALONG SAID RIGHT OF WAY SOUTH 00°46'55" WEST 343.79 FEET; THENCE NORTH 89°24'06" WEST 1298.75 FEET ALONG THE NORTH BOUNDARY OF THE FIELDS - PHASE 1 AND THE FIELDS - PHASE 2 TO THE POINT OF BEGINNING.

CONTAINING: 10.308 ACRES