

Recording requested by:

The Village at Wolf Creek Homeowners Association, Inc.
P.O. Box 1169
Eden, UT 84310

The Peaks Owners Association, Inc.
P.O. Box 1169
Eden, UT 84310



W3291533

For recorder's use only

COMMON AREA MAINTENANCE AGREEMENT (Village at Wolf Creek / The Peaks)

THIS COMMON AREA MAINTENANCE AGREEMENT (“**Agreement**”) dated July 11, 2023, is made by and between The Village at Wolf Creek Homeowners Association, Inc. (“**Village Association**”) and The Peaks Owners Association, Inc., a Utah nonprofit corporation (the “**Peaks Association**”). The Village Association and the Peaks Association are individually referred to as a “**Party**” or an “**Association**” and collectively referred to as the “**Parties**” or the “**Associations**.”

RECITALS

A. On or about April 16, 2002, Triple D Land Development, LLC, a Utah limited liability company, for itself and on behalf of its wholly-owned subsidiary, Triple D Villages LLC, a Utah limited liability company (collectively, the "**Original Declarant**") executed that certain plat map entitled "The Village at Wolf Creek, a Planned Residential Unit Development," which was recorded in the Weber County Recorder's Office on April 16, 2002 in Book 55 beginning at Page 68 as Entry No. 1641069 (the "**Village Plat Map**"), which created the residential subdivision known as "**The Village at Wolf Creek**".

B. The Village Plat Map created and subdivided the Original Village Project into sixty-two (62) lots. The Original Declarant intended to develop the thirty-nine (39) lots numbered 1 through 39 on the Village Plat Map as single-family detached homes, and develop the remaining twenty-three (23) lots, numbered 40 through 62 on the Village Plat Map, as townhomes.

C. The Village Plat Map also created approximately 4.11 acres of common area, which is identified on the Village Plat Map as "NEW COMMON AREA," and is also identified as Weber County Parcel No. 22-191-0017 (the "**Common Area**."))

D. On or about April 16, 2002, the Original Declarant executed that certain "Declaration of Covenants, Conditions, Easements and Restrictions for the Village at Wolf Creek," which was recorded in the Weber County Recorder's Office on April 16, 2002 in Book 2224 at Page 2106 et. seq. as Entry No. 1641070 (the "**Original Village Declaration**").

E. As provided under the Original Village Declaration, The Village at Wolf Creek was governed by The Village at Wolf Creek Homeowners Association, Inc. (the “**Village Association**”).

F. Between July of 2007 and May of 2016, several undeveloped lots located within the Original Village Project (“**Declarant Lots**”) were collectively transferred among a series of various developer-declarant parties, including The Villages at Wolf Creek, LLC (“**VWC**”), which acquired title to the Declarant Lots, and assumed the rights and duties of “**Successor Declarant**,” on or about May 23, 2016.

G. On or about July 16, 2016, VWC executed that certain “Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for the Village at Wolf Creek,” which was recorded in the Weber County Recorder’s Office on July 26, 2018, as Entry No. 2932712 (the “**Amended Village Declaration**”), as may have been subsequently amended.

H. The Amended Village Declaration completely replaced and superseded the Original Village Declaration.

I. On July, 15, 2019, VWC executed that certain plat map entitled “The Village at Wolf Creek, 1st Amendment,” which was recorded in the Weber County Recorder’s Office on July 17, 2019, in Book 85 at Page 92, as Entry No. 2991526 (the “**Village Plat Map Amendment**”).

J. The purpose of the Village Plat Map Amendment was to, among other matters, cause the twenty-seven (27) lots that were numbered 36 through 62 on the Village Plat Map to be designated as townhome lots (“**Townhome Lots**”). The Village Plat Map Amendment also caused the Townhome Lots to be renumbered 63 through 89. The remaining thirty-five (35) lots, numbered 1 through 35 on the Village Plat Map, continued to be designated as single-family detached home lots (“**Single-Family Home Lots**”).

K. The Village Plat Map Amendment did not modify the Common Area in any substantive manner. The Village Plat Map Amendment merely clarified the boundaries of the “private drives” that serve the Townhome Lots.

L. On or about July 5, 2023, the members of the Village Association voted to allow the 27 Townhome Lots to be governed by a newly-formed homeowners association, while the 35 Single-Family Home Lots would continue to be governed by the Village Association (the “**Separation Election**”).

M. On April 19, 2023, the Articles of Incorporation for The Peaks Owners Association, Inc. (the “**Peaks Association**”) were filed with the Utah Division of Corporations for the purpose of governing the Townhome Lots.

N. On July 20, 2023, the Peaks Association and the Village Association recorded that certain “Declaration of De-annexation from Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for the Village at Wolf Creek” in the Weber County Recorder’s Office as Entry No. 3291528 (the “**Declaration of De-annexation**”).

O. Immediately upon such recording of the Declaration of De-annexation, the Amended Village Declaration no longer governed the Townhome Lots in any manner whatsoever.

P. On July 20, 2023, the Peaks Association recorded that certain “Declaration of Covenants, Conditions, Easements and Restrictions for the Peaks” in the Weber County Recorder’s Office as Entry No. 3291530 (the “**Peaks Declaration**”).

Q. Immediately upon such recording of the Peaks Declaration, the Townhome Lots (i) were solely governed by the Peaks Declaration and the Peaks Association, and (ii) were named and became known as “**The Peaks**.”

R. At any time following the recordation of this Agreement, the Village Association may choose to record, in the Weber County Recorder’s Office, a document entitled “Second Amended and Restated Declaration of Covenants, Conditions, Easements and Restrictions for the Village at Wolf Creek,” which will solely govern the Single-Family Home Lots, which will be named and known as “**The Village**.”

S. The Peaks Association and the Village Association have agreed to execute and record this Agreement in the Weber County Recorder’s Office in order to describe which portion of the areas identified on the Village Plat Map as “**NEW COMMON AREA**” will be maintained and controlled by the Peaks Association, and which portion of such areas will be maintained and controlled by the Village Association. This Agreement also addresses how such areas will be maintained, used and insured.

T. This Agreement has been reviewed and approved by the Board of Directors of the Peaks Association, and by the Board of Directors of the Village Association, as authorized pursuant to the Separation Election.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Peaks Association and the Village Association hereby agree as follows:

1. Incorporation of Recitals. The Recitals set forth above are incorporated into and made part of this Agreement.

2. Capitalized Terms. As used in this Agreement:

a. The Peaks Association and the Village Association may be individually referred to as an “**Association**” and collectively referred to as the “**Associations**.”

b. The Peaks Declaration and the Village Declaration may be individually referred to as “**Declaration**” and collectively referred to as the “**Declarations**.”

- c. The term "**Common Area**" means and refers to that certain area identified on the Village Plat Map as "NEW COMMON AREA", which is also identified as Weber County Parcel No. 22-191-0017. The term "Common Area" may also individually or collectively refer to the Village Common Area and the Peaks Common Area, as depicted on that certain diagram attached to and made part of this Agreement as "Exhibit A." (the "**Common Area Diagram**").
- d. The term "**Landscaping**" means and refers to any vegetation or flora (e.g. grass, flowers, plants, hedges, shrubs, bushes, trees, or any similar vegetation or flora). The term "Landscaping" also refers to any rock features, including any rock walls located on any portion of the Common Area.

3. **Village Common Area**. The Village Association shall be solely responsible for managing and maintaining that certain portion of the Common Area identified on the Common Area Diagram as "Village Common Area".

4. **Peaks Common Area**. The Peaks Association shall be solely responsible for managing and maintaining that certain portion of the Common Area identified on the Common Area Diagram as "Peaks Common Area."

5. **Common Area Maintenance**. The Village Association shall be solely responsible for managing and reasonably maintaining the Village Common Area, while the Peaks Association shall be solely responsible for managing and reasonably maintaining the Peaks Common Area.

Each Association must keep and maintain its Common Area in a reasonably clean, safe, and debris-free condition. Likewise, each Association shall take reasonable measures to prevent any damage, destruction or degradation to any portion of its Common Area by refraining from allowing the deposit or storage of any trash, debris or unsightly personal property or belongings on any portion of such Common Area.

6. **Landscaping**. Each Association shall be solely responsible for maintaining the Landscaping on its Common Area in accordance with the provision of their respective governing Declarations. In order to minimize water usage, each Association may employ "xeriscaping" practices by installing and maintaining on its Common Area landscaping that includes native or drought-tolerant plants that grow and sustain themselves with low water requirements, tolerate heat and drought conditions, and are compatible with existing natural environmental conditions. Xeriscaping plant species may be recommended by the Utah Native Plant Society or similar organizations. Such "xeriscaping" may include natural, non-living materials including, for example, rocks and rock structures.

7. **New Improvements**. Each Association shall be solely responsible for paying any and all costs associated with the construction or installation of any new improvements located on that portion of the Common Area that is managed and maintained by such Association (*i.e.* the Village Common Area versus the Peaks Common Area). Any such new improvements must be constructed and installed in compliance with any applicable requirements of the Village Plat Map. Any such new improvements must also be constructed and installed in compliance with any applicable open space requirements, or any other requirements, as may be imposed or enforced by the County. Neither Association is permitted to construct or install any new improvements on any

portion of the Common Area that is managed or maintained by the other Association without obtaining such other Association's prior written permission, which must be approved by a majority of the total voting interest of the members of the Association granting such permission.

8. Maintenance of Improvements. Each Association shall be solely responsible for maintaining, repairing and replacing any and all improvements located on that portion of the Common Area that is managed and maintained by such Association, including, for example but without limitation, any sprinkler system components, fencing, sidewalks, trails or other walkways.

9. Sprinkler Systems / Water Service. Each Association shall be solely responsible for monitoring, operating, maintaining, repairing and replacing any components of any sprinkler/irrigation systems that are located on and/or serve its Common Area. Likewise, each Association shall be solely responsible for paying for any water service connected to such sprinkler/irrigation systems. If the water service connected to any sprinkler/irrigation system that serves the Village Common Area cannot be separately metered from the water service connected to any sprinkler/irrigation system that serves the Peaks Common Area, the Associations shall equally share the cost of any such water service.

10. Use / Access. Each Association shall be solely responsible for ensuring its Common Area is preserved and used as open space for the benefit of its members/owners. The members/owners of each Association shall continue to have the right to reasonably access and use the entire Common Area, including the Village Common Area and the Peaks Common Area.

11. Insurance. Because the Village Common Area and the Peaks Common Area will continue to be identified as the same legal parcel, each Association shall simultaneously and continuously maintain insurance covering the entire Common Area, including the entirety of the Village Common Area and the entirety of the Peaks Common Area (collectively, "**Common Area Insurance**").

11.1 Scope of Common Area Insurance Coverage. The Common Area Insurance shall, to the extent reasonably available, include the following coverage:

11.1.1 Property insurance on the Common Area and any improvements located thereon must insure against all risk of direct physical loss, including loss and damage by fire and other perils normally covered by the standard extended coverage endorsement, insured against in an amount equal to the maximum insurable replacement value of the insurable Common Areas and any improvements located thereon, as determined by the Board of each Association; provided however, that the total amount of such insurance shall not be less than one hundred percent (100%) of the full replacement cost of the insured property at the time the insurance is purchased and at each renewal date (less reasonable deductibles), exclusive of the land, excavations, foundations and other items normally excluded from a property policy;

- 11.1.2 Comprehensive general liability insurance, including medical payments insurance, in an amount determined by the Board, but not less than Two Million Dollars (\$2,000,000). Such insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Areas and any improvements located thereon; and
- 11.1.3 Workers compensation insurance to the extent necessary to meet the requirements of applicable law, if any.

11.2 Common Area Insurance Policy Requirements. The Common Area Insurance policy purchased by each Association shall, to the extent reasonably available, contain the following provisions:

- 11.2.1 The insurer issuing such policy shall have no rights of subrogation with respect to claims against the Association or its agents, servants or employees, or with respect to claims against any members or owners or occupants of their dwelling units;
- 11.2.2 No act or omission by any member or owner or occupant of their dwelling unit will void the policy or adversely affect recovery on the policy;
- 11.2.3 The coverage afforded by such policy shall not be brought into contribution or proration with any insurance which may be purchased by any members or owners or occupants of their dwelling units;
- 11.2.4 A “severability of interest” endorsement which shall preclude the insurer from denying the claim of any member, owner or occupant of their dwelling unit due to the negligent acts of the Association or any members or owners or occupants of their dwelling units;
- 11.2.5 Statement that the policy is primary in the event any member/owner has other insurance covering the same loss;
- 11.2.6 Statement naming the Association as the insured;
- 11.2.7 For policies of hazard insurance, a standard mortgagee clause providing that the insurance carrier shall notify any mortgagee named in the policy at least ten (10) days in advance of the effective date of any substantial modification, reduction or cancellation of the policy; and
- 11.2.8 Each policy of hazard insurance obtained pursuant hereto shall be obtained from an insurance company authorized to write such insurance in the State of Utah which has a “B” or better general policyholder’s rating or a “6” or better financial performance index rating in Best’s Insurance Reports, an “A” or better general policyholder’s rating and a financial size category of “VIII” or better in Best’s Insurance Reports-international edition, an “A” or better rating in Demotech’s Hazard Insurance Financial Stability Ratings, a

“BBBQ” qualified solvency ratio or a “BBB” or better claims-paying ability rating in Standard and Poor’s Insurer Solvency Review, or a “BBB” or better claims-paying ability rating in Standard and Poor’s International Confidential Rating Service. Insurance issued by a carrier that does not meet the foregoing rating requirements will be acceptable if the carrier is covered by reinsurance with a company that meets either one of the A.M. Best general policyholder’s ratings or one of the Standard and Poor’s claims-paying ability ratings mentioned above.

11.3 Certificates of Insurance. An insurer which has issued an insurance policy under this Section 11 shall issue a certificate or a memorandum of insurance to the Association and to the other Association upon its request. Any insurance obtained pursuant to this Section 11 shall not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association to whom certificates of insurance have been issued, if any.

11.4 Periodic Review. Each Association shall periodically review its Common Area Insurance to determine whether the coverage contained in its policy or policies is sufficient to maintain compliance with this Section 11. In the event any of the insurance coverage provided for in this Section 11 is not available at a reasonable cost or is not reasonably necessary to provide adequate insurance protection, as determined by the Board, the Board shall have the right to obtain different insurance coverage or insurance coverage which does not meet all of the requirements of this Section 11 so long as, at all times, the Board maintains insurance coverage on a basis which is consistent with the types and amounts of insurance coverage obtained for similar residential developments that are governed by a homeowners association.

12. Property Taxes/Assessments. The Parties acknowledge, understand and agree that, even after this Agreement has been recorded in the Weber County Recorder’s Office, governmental agencies or authorities will continue to recognize and identify the Common Areas as a single parcel (Weber County Parcel No. 22-191-0017) that is utilized for common area/open space purposes only.

As of the recording date of this Agreement, neither the Weber County Tax Assessor, nor any other governmental agency or authority, imposes any real property taxes, assessments or any other charges against the Common Area. In the unlikely event any such governmental agency or authority were to impose any real property taxes, assessments or any other charges against the Common Area, the Peaks Association and the Village Association shall each pay 50% of any such amounts. If any governmental agency or authority imposes any such real property taxes, assessments or any other charges against the Common Area solely due to any actions taken by either Association, or any member(s)/owners(s) of either Association, then that Association shall be solely responsible for payment of 100% of any such amounts so imposed.

13. **Governmental Notifications.** The Parties acknowledge that, as of the recording date of this Agreement, the records of the Weber County Tax Assessor identify the owner of the Common Area as the "Village At Wolf Creek Unit Owners Association." Accordingly, the Village Association will continue to receive any notices related to the Common Area that may be sent by the Weber County Tax Assessor, and perhaps any other governmental agency or authority ("Governmental Notifications"). The Village Association shall immediately provide the Peaks Association with a copy of any such Governmental Notifications or related matters. Likewise, if the Peaks Association receives or becomes aware of any such Governmental Notifications or related matters related to the Common Area, the Peaks Association shall immediately provide the Village Association with a copy or notice thereof.

14. **No Subdivision/Partition.** This Agreement shall not in any way be interpreted or construed to subdivide or partition the Common Area in any manner whatsoever. The Village Common Area and the Peaks Common Area will continue to share the same legal description and the same Weber County Tax Parcel Number. Likewise this Agreement does not authorize either Association to seek any such subdivision or partition.

15. **Recordation.** This Agreement shall be recorded in the Office of the Weber County Recorder against the entire Common Area, and against each Townhome Lot and Single-Family Lot (as described under the legal description attached to made part of this Agreement as Exhibit "B"). This Agreement is intended to and shall be deemed to run with the land, and shall be binding upon and shall inure to the benefit of all successors and assigns of each Association and their respective members/owners, including any current or future owners of any Townhome Lot and any Single-Family Lot.

16. **Miscellaneous.**

16.1 **Notices.** All notices under this Agreement must be in writing and shall be deemed given only if delivered by registered or certified mail (return receipt required) or delivered via express courier (with confirmation required) to the mailing address of the Parties' Utah registered agent as filed with the Utah Division of Corporations.

16.2 **Entire Agreement.** This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

16.3 **Modification.** This Agreement may be modified only by a written amendment that has been signed by the President and Secretary of each Association and subsequently recorded in the Weber County Recorder's Office.

16.4 **Waiver.** Any waiver by either Party of any breach of any kind or character whatsoever by the other Party whether such waiver be direct or implied, shall not be construed as a continuing waiver of or consent to any subsequent breach of this Agreement on the part of the other Party.

16.5 Severability. The provisions of this Agreement are severable, and should any provision hereof be void, unenforceable, or invalid, such void, unenforceable, or invalid provisions shall not affect any other portion or provision of this Agreement.

16.6 Governing Law. This Agreement shall be interpreted and construed and enforced according to the laws of the State of Utah.

16.7 Venue. Venue for the resolution of any disputes related to this Agreement shall be Weber County, Utah.

16.8 Attorney Fees. If any action or proceeding is brought by either Party against the other under this Agreement the prevailing Party shall be entitled to recover attorney's fees in such amounts as the court may be adjudged reasonable.

16.9 Effective Date. This Agreement shall become effective immediately upon its recordation in the Weber County Recorder's Office.

IN WITNESS WHEREOF, the Board of Directors of the Peaks Association, and the Board of Directors of the Village Association, have each caused this Agreement to be executed by their respective President and Secretary, as provided below.

“Peaks Association”

The Peaks Owners Association, Inc.
a Utah nonprofit corporation

By: Stephanie Haymond
Name: Stephanie Haymond
Title: President

By: John Harold
Name: John Harold
Title: Secretary

“Village Association”

The Village at Wolf Creek Homeowners
Association, Inc., a Utah nonprofit corporation

By: Benjamin Taylor
Name: Benjamin Taylor
Title: President

By: Rachelle Hard
Name: Rachelle Hard
Title: Secretary

Acknowledgment

State of Utah)

County of Weber)

On this 14th day of JULY, in the year 2023, before me, Alex Greenwell a notary
date month year notary public name

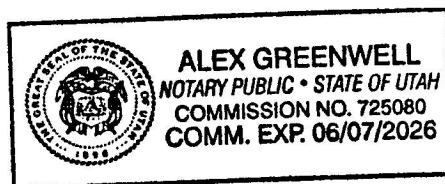
public, personally appeared Stephanie Haymond, proved on the basis of satisfactory
name of document signer

evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged
(he/she/they) executed the same.

Witness my hand and official seal.

Alex Greenwell

(notary signature)



(seal)

ACKNOWLEDGEMENT

(The Peaks Owners Association, Inc. – Secretary)

STATE OF UTAH

)

COUNTY OF Weber

)
ss.

On this 14 day of July in the year 2023, before me

Alex Greenwell, a notary public, personally appeared

Notary Public Name

John Harold, in his/her capacity as the Secretary of The Peaks

Name of Document Signer

Owners Association, Inc., a Utah nonprofit corporation, proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same.

Witness my hand and official seal

Notary Seal



ALEX GREENWELL
NOTARY PUBLIC • STATE OF UTAH
COMMISSION NO. 725080
COMM. EXP. 06/07/2026

Alex Greenwell

(Signature of Notary)

My Commission Expires: 06/07/2023

Acknowledgment

State of Utah)

County of Weber)

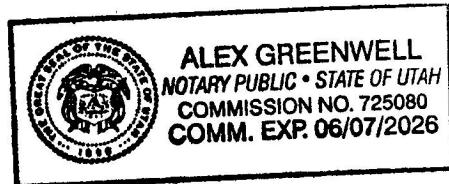
On this 14th day of July, in the year 2023, before me, Alex Greenwell a notary
date month year notary public name

public, personally appeared Benjamin Taylor, proved on the basis of satisfactory
name of document signer

evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged

(he/she/they) executed the same.

Witness my hand and official seal.



Alex Greenwell

(notary signature)

(seal)

ACKNOWLEDGEMENT

(The Village at Wolf Creek Homeowners Association, Inc. – Secretary)

STATE OF UTAH)
)ss.
COUNTY OF Weber)

On this 14 day of July in the year 2023, before me

Alex Greenwell, a notary public, personally appeared

Notary Public Name

Rachelle Hurd, in his/her capacity as the Secretary of The Village

Name of Document Signer

at Wolf Creek Homeowners Association, Inc., proved on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to this instrument, and acknowledged (he/she/they) executed the same.

Witness my hand and official seal

Notary Seal



ALEX GREENWELL
NOTARY PUBLIC • STATE OF UTAH
COMMISSION NO. 725080
COMM. EXP. 06/07/2026

Alex Greenwell

(Signature of Notary)

My Commission Expires: 06/07/2023

Exhibit "A"
to
Common Area Maintenance Agreement

Common Area Diagram

[see attached diagram consisting of one (1) page]

Common Area

Diagram

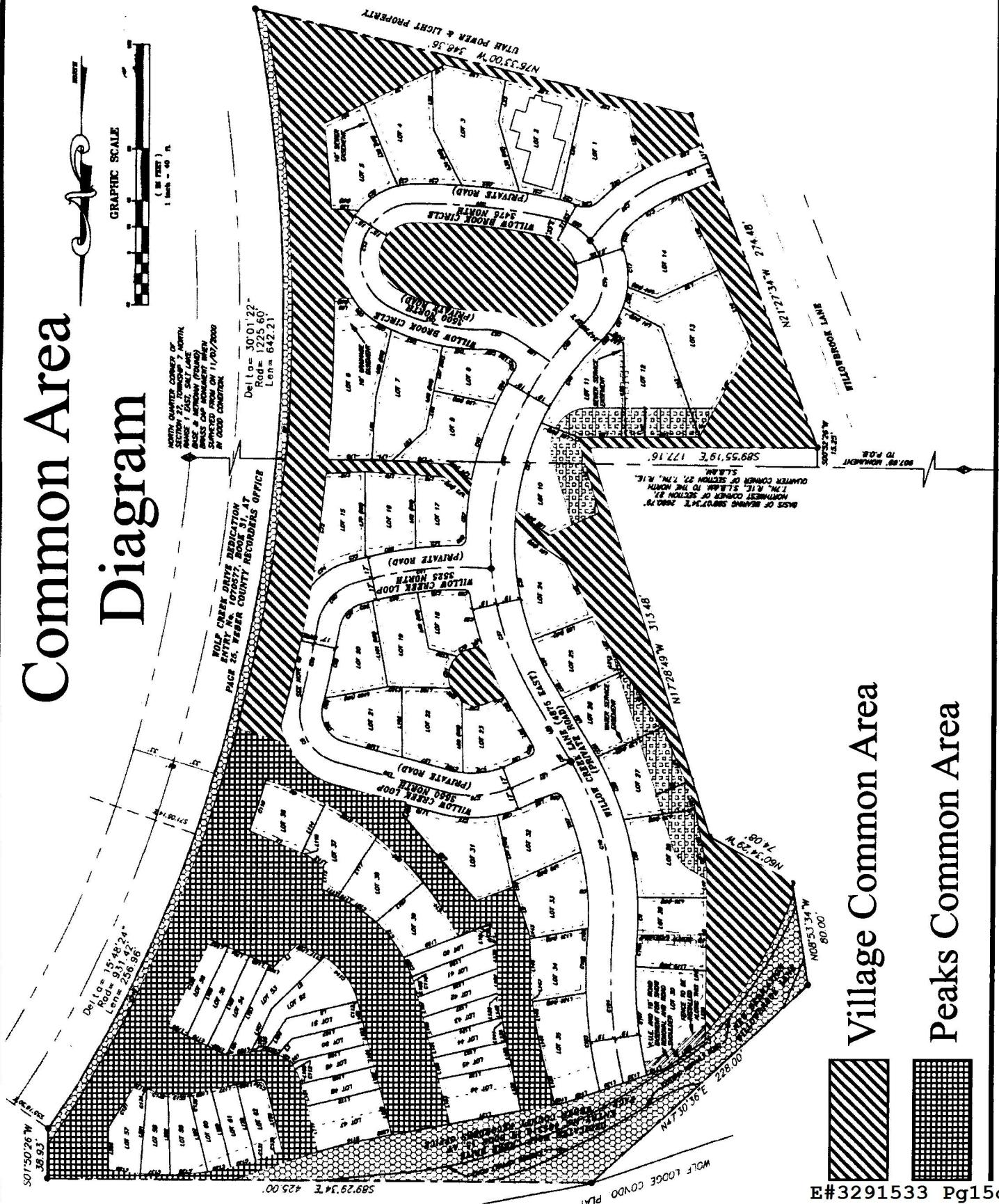


Exhibit "B"
to
Common Area Maintenance Agreement

Legal Description

ALL OF LOTS 63 THROUGH 89, THE VILLAGE AT WOLF CREEK 1ST AMENDMENT, WEBER COUNTY, UTAH.

Weber County Tax Parcel Numbers

22-370-0001, 22-370-0002, 22-370-0003, 22-370-0004, 22-370-0005, 22-370-0006, 22-370-0007, 22-370-0008, 22-370-0009, 22-370-0010, 22-370-0011, 22-370-0012, 22-370-0013, 22-370-0014, 22-370-0015, 22-370-0016, 22-370-0017, 22-370-0018, 22-370-0019, 22-370-0020, 22-370-0021, 22-370-0022, 22-370-0023, 22-370-0024, 22-370-0025, 22-370-0026, 22-370-0027

LOTS 1 THROUGH 35, VILLAGE AT WOLF CREEK (THE) A PRUD, WEBER COUNTY, UTAH

Weber County Tax Parcel Numbers

22-191-0001, 22-191-0002, 22-191-0003, 22-191-0004, 22-191-0005, 22-191-0006, 22-191-0007, 22-191-0008, 22-191-0009, 22-191-0010, 22-191-0011, 22-191-0013, 22-191-0014, 22-191-0016

22-192-0001, 22-192-0002, 22-192-0003, 22-192-0004, 22-192-0005, 22-192-0006, 22-192-0007, 22-192-0008, 22-192-0009, 22-192-0010, 22-192-0011, 22-192-0012, 22-192-0013, 22-192-0014, 22-192-0015, 22-192-0016, 22-192-0017, 22-192-0018, 22-192-0019, 22-192-0020, 22-192-0021

ALL COMMON AREA WITHIN VILLAGE AT WOLF CREEK (THE) A P.R.U.D. WEBER COUNTY, UTAH. LESS AND EXCEPTING: THOSE PORTIONS WITHIN VILLAGE AT WOLF CREEK 1ST AMENDMENT.

ALL PRIVATE DRIVES WITHIN THE VILLAGE AT WOLF CREEK 1ST AMENDMENT, WEBER COUNTY, UTAH.

Weber County Tax Parcel Number

22-191-0017
22-370-0028