

Parcel Numbers:  
09-029-0034 thru 09-029-0045  
09-029-0001 through 09-029-0032 0032  
09-030-0046 through 09-030-0053  
09-030-0054 through 09-030-0093  
09-031-0094 through 09-031-0115  
09-183-0001 through 09-183-0021  
09-219-0001 through 09-219-0030  
(166 Total  
Parcels)

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RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
11/22/2023 12:37 PM  
FEE 350.00 Pgs: 7  
DEP SMM REC'D FOR SUNDOWNER  
HOMEOWNERS ASSOCIATION INC

## SHARED ROAD MAINTENANCE AGREEMENT

This SHARED ROAD MAINTENANCE AGREEMENT ("Agreement") is made and entered into by and between Sundowner Homeowners Association, Inc. ("Sundowner Condos") and Summer Place Homeowners Association, Inc. ("Summer Place HOA"). Each of the foregoing parties is referred to herein as a "Party" and collectively as the "Parties." This Agreement shall be effective as of the date it is recorded with the Davis County Recorder's Office.

### RECITALS

- A. Sundowner Condos is a Utah nonprofit corporation that governs the Sundowner condominiums community located in Clearfield, Davis County, Utah ("Sundowner Condominiums Community").
- B. The Sundowner Condominiums Community is described with particularity on Exhibit A, attached hereto.
- C. The owners of units within the Sundowner Condominiums Community are members of Sundowners Condos.
- D. Summer Place HOA is a Utah nonprofit corporation that governs the Summer Place planned unit development located in Clearfield, Davis County, Utah ("Summer Place Development").
- E. The Summer Place Development is described with particularity on Exhibit B, attached hereto.
- F. The owners of lots within the Summer Place Development are members of Summer Place HOA.
- G. The Sundowner Condominiums Community and the Summer Place Development are adjacent to each other.
- H. The roads in the Sundowner Condominiums Community are private roads and are owned by Sundowner Condos. One of the private roads is 800/900 South ("Shared Road") that extends approximately the width of the Sundowner Condominiums Community.
- I. In 1988, the Sundowner Condos granted an easement across the Shared Road that allows the owners and residents of the Summer Place Development to use the Shared Road for ingress and egress to the Summer Place Development. That easement was recorded on April 26, 1988, in the Office of the Davis County Recorder as Entry Number 822956.
- J. The Parties now desire to establish a mutual agreement for the maintenance, repair, and upkeep of the Shared Road as the Parties both use the Shared Road.

## AGREEMENT

In consideration of the foregoing and the mutual covenants of the parties contained in this Agreement, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Incorporation of Recitals.** The recitals set forth above are incorporated into this Agreement.
2. **Maintenance/Repair of the Shared Road.** Sundowner Condos shall be responsible for arranging and executing all necessary maintenance and repair work of the Shared Road. Summer Place HOA shall cooperate with Sundowner Condos in providing access to the Shared Road for maintenance and repair purposes. Sundowner Condos shall keep the Shared Road in good repair.
3. **Maintenance/Repair Bids and Contracts.** Sundowner Condos shall obtain bids from and, in the Sundowners Condos' name, enter into contracts with reputable contractors for Shared Road maintenance and repair as follows:
  - a. Sundowner Condos shall take the lead in obtaining bids from reputable contractors for any Shared Road maintenance or repairs. However, both Parties shall be required to approve a bid before Sundowner Condos may enter into a contract with a contractor to perform any Shared Road maintenance or repairs. If either Party rejects a bid, the Parties shall work together in good faith to achieve a resolution, either to solicit additional bids or agree on an existing bid. The Parties agree to not unreasonably reject a bid. Sundowner Condos shall provide the bids via email to the Summer Place HOA representative who is currently listed on the Utah Division of Corporations website to receive notices. Summer Place HOA shall review the bids promptly and provide its agreement or feedback to Sundowner Condos within fifteen (15) days. If no response is received by Sundowner Condos from Summer Place HOA within the fifteen (15) days, the bid may be accepted by Sundowner Condos and the work may commence.
  - b. Summer Place HOA shall have a representative from its board of directors participate with the Sundowner Condos board of directors in the process of reviewing bids and selecting contractors for any Shared Road maintenance and repair. Summer Place HOA's representative shall have authority to approve or reject a bid on behalf of Summer Place HOA.
  - c. Except for emergency repairs, if Sundowner Condos enters into a contract without a Summer Place HOA representative from its board of directors participating in the review and selection process, then Summer Place HOA will have no financial obligation to pay any portion of the cost of the work being done by the selected contractor.
4. **Cost Sharing for Maintenance/Repair of the Shared Road.**
  - a. the Parties shall share all actual costs incurred to maintain, repair, or replace the Shared Road, except for the installation, maintenance, repair or replacement of lighting along the Shared Road, and the maintenance, repair or replacement of the concrete curbing at the side of the Shared Road ("Shared Maintenance Expenses").
  - b. Sundowner Condos shall be responsible for 65% of the Shared Maintenance Expenses. Summer Place HOA shall be responsible for 35% of the Shared Maintenance Expenses.
  - c. The Parties agree that the Shared Road comprises 19.5% of all the private roads in the Sundowner Condos Community. As such, should work be performed on all private roads in the Sundowner Condos Community as part of a single project under a single bid and contract, the Shared Maintenance Expenses shall be 19.5% of the total costs, with the Shared Maintenance Expenses being divided 65/35 as

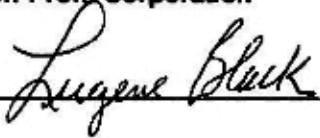
described above. For example, if all the private roads in the Sundowner Condos Community were repaired and if the total cost was \$5,000, then the Shared Maintenance Expenses would be \$975 ( $= \$5,000 \times .195$ ) and Sundowner Condos would be responsible for \$633.75 ( $= \$975 \times .65$ ) and Summer Place HOA would be responsible for \$341.25 ( $= \$975 \times .35$ ).

5. **Snow Removal.** Sundowner Condos shall be responsible for the snow removal on the Shared Road. Snow removal shall be performed in a manner reasonable in the industry.
6. **Cost Sharing for Snow Removal.**
  - a. The Parties shall share the costs incurred for snow removal on the Shared Road during the months of November, December, January, February, March and April ("Shared Snow Removal Expenses").
  - b. The Shared Snow Removal Expenses shall be calculated based on the monthly fee under the monthly maintenance contract entered into by Sundowner Condos or, if there is no monthly maintenance contract, by a separate snow removal contract entered into by Sundowner Condos, in accordance with the allocation set forth in subparagraph c., below. If there is no snow removal contract, then the Parties shall share the actual costs for snow removal during the months of November, December, January, February, March, and April based on the allocation set forth in subparagraph c., below.
  - c. The Shared Snow Removal Expenses shall be calculated by multiplying the monthly fee under the monthly maintenance contract (or the monthly cost under a snow removal contract or the actual amount spent for the month if no contract is in place) by 19.5%. Sundowner Condos shall be responsible for 65% of the Shared Snow Removal Expenses and Summer Place HOA shall be responsible for 35% of the Shared Removal Expenses. For example, the monthly fee under the monthly maintenance/snow removal monthly contract for 2023/2024 is \$5,500 a month. Multiplying that amount by 19.5% calculates to be \$1,072.50 (the Shared Snow Removal Expense). Sundowner Condos would be responsible for \$697.12 ( $= \$1,072.50 \times .65$ ) and Summer Place HOA would be responsible for \$375.38 ( $= \$1,072.50 \times .35$ ).
  - d. Shared Snow Removal Expenses calculated using the monthly maintenance contract fee shall be assessed for each month in which snow removal occurs (from November through April). Shared Snow Removal Expenses calculated under a separate snow removal contract shall be assessed for all snow removal costs invoiced by the snow removal company (from November through April).
7. **Payment of Shared Maintenance Expenses and Shared Snow Removal Expenses.**
  - a. Shared Maintenance Expenses. Sundowner Condos shall send an invoice to Summer Place HOA for Summer Place HOA's share of the Shared Maintenance Expenses after the respective maintenance/repair work is completed. Summer Place HOA shall remit payment to Sundowner Condos within thirty (30) days of receipt of the invoice.
  - b. Shared Snow Removal Expenses. Sundowner Condos shall send a monthly invoice to Summer Place HOA for Summer Place HOA's share of the Shared Snow Removal Expenses incurred during the prior month (from November through April). Summer Place HOA shall remit payment to Sundowner Condos within thirty (30) days of receipt of the invoice.
  - c. Failure of Sundowner Condos to send an invoice to Summer Place HOA for any Shared Maintenance Expenses or Shared Snow Removal Expenses shall not relieve Summer Place HOA of its responsibility to pay its share of the costs. However, no late fees or interest may accrue until an invoice is sent by Sundowner Condos to Summer Place HOA.

8. **Late Fees and Interest.** Each instance that Summer Place HOA does not pay its share of any Shared Maintenance Expenses or Shared Snow Removal Expenses pursuant to the terms contained in this Agreement, Sundowner Condos may charge a late fee of fifty dollars (\$50). No late fees shall be applied to the same costs twice. Interest at the rate of ten percent (10%) per annum may also be charged.
9. **Agreement to Run with the Land.** This Agreement shall run with the land as to all property benefited and burdened thereby. The rights, covenants, and obligations contained in this Agreement shall bind, burden, and benefit the Parties and their respective successors, assigns, and beneficiaries.
10. **Dispute Resolution.** In the event of any disputes or disagreements arising under this Agreement, the Parties agree to resolve such issues amicably through mediation with a professional mediator mutually selected by the Parties. No Party may file a lawsuit related to any dispute or disagreement arising under this Agreement unless and until the Party intending to initiate the lawsuit offers to mediate the dispute. If one Party fails to agree to a mediator or participate in mediation, the requirement of mediation shall be waived, and the Party intending to initiate the lawsuit may file suit without first mediating the dispute. The Parties shall bear their own costs incurred in participating in mediation. The Parties shall divide the mediator's costs equally between them.
11. **Attorney Fees.** For any and all disputes between the Parties up through the date of this Agreement, each Party shall pay its own attorney fees and costs. For any and all disputes between the Parties after the date of this Agreement, if a suit, action, or other proceeding of any nature whatsoever is instituted arising out of or related to this Agreement, or to enforce any rights hereunder, the prevailing party shall be entitled to recover its reasonable attorney fees and costs, as determined by the court or on any appeal or review.
12. **Waiver.** Failure of any Party at any time to require performance of any provision of this Agreement shall not limit such Party's right to enforce such provision, nor shall any waiver of breach of any provision of this Agreement constitute a waiver of any succeeding breach of such provision or waiver of such provision itself.
13. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the state of Utah.
14. **Amendment and Termination.** This Agreement may be amended and/or terminated only by a written agreement signed by representatives of both Parties, their successors, or assigns. Said amendment and/or notice of termination shall not be effective unless and until recorded in the Office of the Davis County Recorder.

IN WITNESS WHEREOF, the Parties have executed this Agreement.

**Sundowner Homeowners Association,  
Inc. A Utah Non-Profit Corporation**

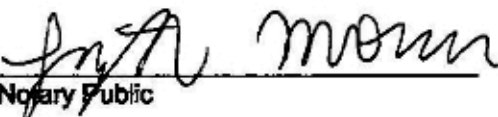


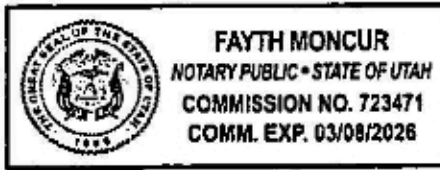
By: Lugene Black

Its: President

STATE OF UTAH )  
 ) SS:  
COUNTY OF DAVIS )

On the 12 day of November 2023, personally appeared before me Lugene Black who by me being duly sworn, did say that she is a representative of Sundowner Homeowners Association, Inc., and that she is authorized to execute this Agreement.

  
Notary Public



**Summer Place Homeowners Association,  
Inc. A Utah Non-Profit Corporation**

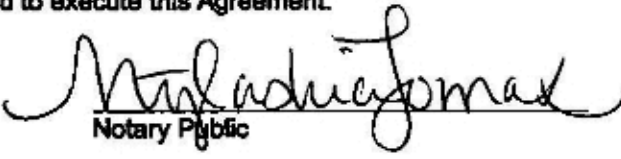


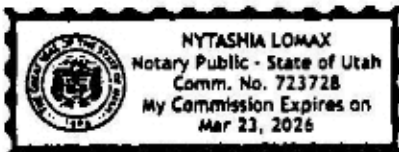
By: Tina Leeman

Its: President

STATE OF UTAH )  
 ) SS:  
COUNTY OF DAVIS )

On the 17 day of November 2023, personally appeared before me Tina Leeman, who by me being duly sworn, did say that she is a representative of Summer Place Homeowners Association, Inc., and that she is authorized to execute this Agreement.

  
Notary Public



**EXHIBIT A**

**LEGAL DESCRIPTION  
Sundowner Condominiums Community**

All of The Sundowner Condo Phase 1, according to the official plat thereof, on file in the office of the Davis County Recorder.

Including all Units in Buildings 1 through 11

**Parcel Numbers:** 09-029-0001 through 09-029-0032  
09-029-0034 thru 09-029-0045

All of The Sundowner Condo Phase 2, according to the official plat thereof, on file in the office of the Davis County Recorder.

Including all Units in Buildings 12 and 13

**Parcel Numbers:** 09-030-0046 through 09-030-0053

All of The Sundowner Condo Phase 3, according to the official plat thereof, on file in the office of the Davis County Recorder.

Including all Units in Buildings 14 through 23

**Parcel Numbers:** 09-030-0054 through 09-030-0093

All of The Sundowner Condo Phase 4, according to the official plat thereof, on file in the office of the Davis County Recorder.

Including all Units in Buildings 24 through 28

**Parcel Numbers:** 09-031-0094 through 09-031-0115

All of The Sundowner Condo Phase 5, Amended, according to the official plat thereof, on file in the office of the Davis County Recorder.

Including all Units in Buildings 29 through 33

**Parcel Numbers:** 09-183-0001 through 09-183-0021

**EXHIBIT B**

**LEGAL DESCRIPTION**  
**Summer Place Development**

All of Summer Place PUD, according to the official plat thereof recorded in the Office of the Davis County Recorder, including Lots 1 through 30.

**Parcel Numbers: 09-219-0001 through 09-219-0030**