

E 3573415 B 8513 P 527-533  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
5/30/2024 2:01 PM  
FEE 420.00 Pgs: 7  
DEP AAM REC'D FOR CAPITAL  
REEF MANAGEMENT LLC

When recorded, return to:  
Craig Jacobsen, Esq.  
520 North Kays Dr.  
Kaysville, UT 84037

**RETURNED**  
**MAY 30 2024**

## OPEN SPACE SHARING AGREEMENT

This Open Space Sharing Agreement (the "Agreement") is entered into this 30<sup>th</sup> day of May, 2024, between Capital Reef Management, LLC (the "Declarant"), The Cottages at Harvest Fields Estates Homeowners Association, Inc. (the "Cottages HOA"), The Cottages at Harvest Fields Estates II Homeowners Association, Inc. (the "Cottages II HOA") and Aspire at Harvest Fields Estates Homeowners Association, Inc. (the "Aspire HOA")<sup>1</sup>, collectively, the "Parties". The Agreement applies to and is enforceable against all of the properties identified in Exhibit "A," hereto, and runs with the land.

### Recitals

1. The Declarant purchased certain undeveloped real property located in West Point, Utah, that ultimately became known as "Harvest Fields PRUD." The HOAs each comprise part of Harvest Fields PRUD. Although The HOAs are separate and distinct homeowners' associations, each owning either no open space/common area or separate and distinct areas of open space/common area within Harvest Fields PRUD, it was the Declarant's intent from the outset as the developer of Harvest Fields PRUD that all homeowners within Harvest Fields PRUD, regardless as to which of the HOAs in which they were located, would have access to all of the open space, common areas and amenities within the project (collectively, the "Common Area"), and that each of the HOAs would make its open space, common areas and amenities available for the use and enjoyment of the of all homeowners of Harvest Fields PRUD as if it all were owned by all of the HOAs.

2. Harvest Fields PRUD was marketed to prospective buyers with the idea that in return for having access to the Common Area all homeowners in each of the HOAs would share equally in the associated costs of the Common Area, including, but not limited to maintenance and insurance. All buyers either understood or should have understood that this would be the arrangement when they purchased their homes.

3. The specific costs to be shared have yet to be agreed upon or completely quantified. In addition, those costs may change from year to year. The premise has been that the HOAs would each pay their proportional share of the costs, which would be based upon the actual number of homeowners within each HOA, relative to the total number of homeowners within Harvest Fields PRUD. Thus, the percentage assessed to each of the HOAs would fluctuate as Harvest Fields PRUD was built out, until all of the lots are occupied by homeowners, at which time the percentage assessed to each of the HOAs could be permanently calculated and set.

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<sup>1</sup> The Cottages HOA, the Cottages II HOA and the Aspire HOA may sometimes be referred to collectively in this Agreement as the "HOAs."

4. The Declarant desires to memorialize the general parameters of an agreement among the Parties, so that there will be an enforceable contract in place to ensure that the intended use and cost sharing of the Common Area is preserved for the long term.

Accordingly, in return for the covenants and mutual consideration set forth herein, the Parties hereby covenant and agree as follows:

### **Agreement**

A. This Agreement applies to all homeowners within Harvest Fields PRUD. All three of the HOAs hereby mutually agree that the Common Area will be available for the use and enjoyment of all homeowners of all three HOAs beginning from the effective date of this Agreement, although rules for such use (other than restrictions that favor one HOA over another) may be made by the HOA that owns any particular portion of the Common Area and the amenities therein.

B. Each HOA shall be responsible to maintain the portion of the Common Area located within its particular plat and conveyed to it through the final, recorded plats.

C. On an annual basis, the management of the HOAs will confer and agree upon an equitable fee sharing arrangement, whereby a total cost will be determined for the care and maintenance of the Common Area and all homeowners of the HOAs will be billed as part of their monthly fee the proportionate share of the total cost. Each of the HOAs will collect the fees from its own respective homeowners and any HOA with the greater proportional costs than collected from its own homeowners shall be reimbursed from the other HOAs' collected fees so that all homeowners ultimately pay the same amount and each HOA receives the appropriate sum to cover its proportional costs.

D. Should the management of the HOAs be unable to agree upon the appropriate costs, they will retain the services of a professional property manager to determine an appropriate fee. Likewise, should the Parties be unable to agree upon what constitutes normal and necessary maintenance, they shall retain a mutually agreed upon property manager to make such determination.

E. None of the HOAs shall be entitled to upgrade or add to the amenities without a vote and approval by a majority of the homeowners in all of the HOAs.

F. This Agreement shall continue to be enforceable for ninety-nine years from the effective date of this Agreement, as long as the HOAs all remain in existence, and shall run with the land. The Parties acknowledge that this Agreement may be recorded with the Davis County Recorder. Each year after the initial 99 year term, this Agreement shall automatically renew for one year, unless two of the three HOAs provide written notice of termination at least thirty days before the renewal date.

G. The Declarant shall remain obligated to assist the HOAs in determining the first year's equitable fee sharing arrangement following execution of this Agreement, to the extent the HOAs desire to utilize the Declarant's expertise.

H. In the event that any of the HOAs refuses to cooperate in setting, collecting or properly disbursing to the other(s) an annual equitable fee, the aggrieved HOA may recover all reasonable attorney's fees and costs incurred to enforce the Agreement and may prohibit any homeowners living within a non-cooperating HOA from using the Common Area, until any pending dispute is resolved. If necessary for collection, an aggrieved HOA may record liens against all lots of an HOA that is in breach of its obligations under this Agreement, so as to ensure a means to collect payment.

I. This Agreement shall be construed and interpreted under the laws of the State of Utah.

J. This Agreement sets forth the entire agreement between the Parties as it relates to the use and cost sharing of the Common Area. Any other related agreements must be in writing and expressly provide that they will supersede this Agreement.

The Parties have entered into this Agreement on the date and year set forth above.

**Capital Reef Management, LLC**

**Aspire at Harvest Fields Homeowners Association, Inc.**

By *Craig Jordan*  
Its *Authorized Agent*

By *Craig Jordan*  
Its *V.P. / Director*

**The Cottages at Harvest Fields Homeowners Association, Inc.**

**The Cottages at Harvest Fields II Homeowners Association, Inc.**

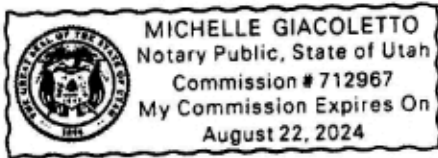
By *Craig Jordan*  
Its *V.P. / Director*

By *Craig Jordan*  
Its *V.P. / Director*

STATE OF UTAH )  
 )  
:SS  
COUNTY OF DAVIS )

On the 30<sup>th</sup> day of MAY, 2024, the foregoing instrument was acknowledged and verified before me, CRAIG JACOBSEN, who personally appeared before me, and being by me duly sworn declare under penalty of perjury that he is the Authorized Agent of Capital Reef Management, LLC, that he signed the forgoing, and that the statements contained therein are true and correct.

In witness whereof, I have set my hand and seal this 30<sup>th</sup> day of MAY, 2024.

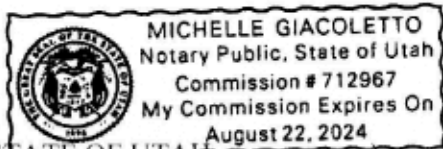


Michelle Giacometto  
Notary Public

STATE OF UTAH )  
 )  
:SS  
COUNTY OF DAVIS )

On the 30<sup>th</sup> day of MAY, 2024, the foregoing instrument was acknowledged and verified before me, CRAIG JACOBSEN, who personally appeared before me, and being by me duly sworn declare under penalty of perjury that he is the Vice President and Director of Aspire at Harvest Fields Homeowners Association, Inc., that he signed the forgoing, and that the statements contained therein are true and correct.

In witness whereof, I have set my hand and seal this 30<sup>th</sup> day of MAY, 2024.

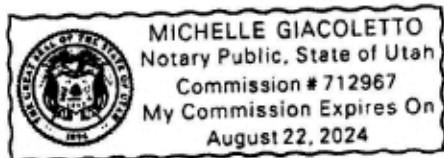


Michelle Giacometto  
Notary Public

STATE OF UTAH )  
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COUNTY OF DAVIS )

On the 30<sup>th</sup> day of MAY, 2024, the foregoing instrument was acknowledged and verified before me, CRAIG JACOBSEN, who personally appeared before me, and being by me duly sworn declare under penalty of perjury that he is the Vice President and Director of The Cottages at Harvest Fields Homeowners Association, Inc., that he signed the forgoing, and that the statements contained therein are true and correct.

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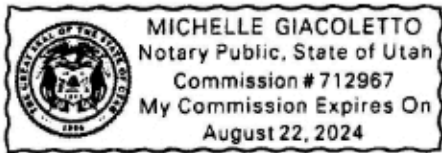


Michelle Giacometto  
Notary Public

STATE OF UTAH                    )  
  :SS  
COUNTY OF DAVIS            )

On the 30<sup>th</sup> day of MAY, 2024, the foregoing instrument was acknowledged and verified before me, CRAIG JACOBSEN, who personally appeared before me, and being by me duly sworn declare under penalty of perjury that he is the Vice President and Director of The Cottages at Harvest Fields II Homeowners Association, Inc., that he signed the forgoing, and that the statements contained therein are true and correct.

In witness whereof, I have set my hand and seal this 30<sup>th</sup> day of MAY, 2024.



Michelle Giacometto  
Notary Public

# Exhibit A

**Harvest Fields PRUD Lots and Other Parcels to which Open Space Sharing Agreement Applies:**

Parcel Numbers:

15-147-0101 through 15-147-0113, Lots 101 through 113, Harvest Fields PRUD, Phase 1A

15-164-0114 through 15-164-0130, Lots 114 through 130, Harvest Fields PRUD, Phase 1B

15-091-0201 through 15-091-0229, Lots 201 through 229, Harvest Fields PRUD, Phase 2

15-057-0301 through 15-057-0320, Lots 301 through 320, Harvest Fields PRUD, Phase 3

15-058-0401 through 15-058-0422, Lots 401 through 422, Harvest Fields PRUD, Phase 4

15-070-0501 through 15-070-0522, Lots 501 through 522, Harvest Fields PRUD, Phase 5

15-071-0601 through 15-071-0622, Lots 601 through 622, Harvest Fields PRUD, Phase 6

15-096-0701 through 15-096-0728, Lots 701 through 728, Harvest Fields PRUD, Phase 7

15-122-0801 through 15-122-0816, Lots 800 through 816, Harvest Fields PRUD, Phase 8

15-147-0114, Parcel A, Harvest Fields PRUD, Phase 1A

15-164-0131, Parcel B, Harvest Fields PRUD, Phase 1B

15-164-1232, Parcel C, Harvest Fields PRUD, Phase 1B

15-164-0133, Parcel D, Harvest Fields PRUD, Phase 1B

15-164-0134, Parcel E, Harvest Fields PRUD, Phase 1B

15-091-0230, Parcel G, Harvest Fields PRUD, Phase 2

15-091-0231, Parcel H, Harvest Fields PRUD, Phase 2

15-057-0321, Parcel A, Harvest Fields PRUD, Phase 3

15-057-0322, Parcel B, Harvest Fields PRUD, Phase 3

15-057-0323, Parcel E, Harvest Fields PRUD, Phase 3

15-058-0423, Parcel A, Harvest Fields PRUD, Phase 4

*Aspire at Harvest Fields Cottages at*

*Aspire at Cottages at*