

WHEN RECORDED, RETURN TO:
William and Elizabeth Atherton
C/O Andrew W. Gilliland, Esq.
6809 Indiana Ave., Suite 130-B1
Riverside, CA 92506

Affects Parcel Nos.: 52:281:0013
[52:278:0039]

EASEMENT AGREEMENT
[Mandan 13 Deck]

THIS EASEMENT AGREEMENT (“Agreement”) is made by and among SUNDANCE COTTAGES OWNERS ASSOCIATION, a Utah nonprofit corporation (“**Grantor**”), and WILLIAM ATHERTON and ELIZABETH ATHERTON as joint tenants with right of survivorship (collectively, in the singular, “**Grantee**”). Grantor and Grantee are sometimes referred to individually as a “**Party**” and collectively as the “**Parties**.”

RECITALS

A. Grantor operates and manages, and the Owners (as defined in the Declaration (defined later)) own, all of the “**Common Areas and Facilities**” as such term is defined in that certain Condominium Declaration for Sundance Cottages recorded on May 20, 1987 as Entry No. 19868, in Book 2417, at Page 379, with the Utah County Recorder, as amended by that certain First Amendment to Condominium Declaration recorded on June 2, 1987 as Entry No. 21563, in Book 2421, at Page 254, and that certain Second Amendment to Condominium Declaration recorded August 7, 1987 as Entry No. 30294, in Book 2440, at Page 488, and that certain Third Amendment to Condominium Declaration recorded on October 31, 1987 as Entry No. 39179, in Book 2461, at Page 685, and that certain Fourth Amendment to Condominium Declaration recorded on November 23, 1987 as Entry No. 42826, in Book 2470, at Page 563 (collectively and as amended, the “**Declaration**”), which among other things, established the Sundance Cottages, an expandable Utah condominium project (the “**Condominium Project**”).

B. Grantee owns a certain unit within the Condominium Project commonly referred to as “Mandan 13”, more particularly described in Exhibit A attached hereto (the “**Benefitted Property**”).

C. Included in the Common Areas and Facilities is that certain area of real property more particularly described on the attached Exhibit B (the “**Burdened Property**” or the “**Easement Area**”).

D. Grantor desires to grant to Grantee, and Grantee desire to receive from Grantor, an easement related to the construction and maintenance of a deck benefitting the Benefitted Property, which deck will encroach onto the Easement Area, subject to and in accordance with the terms of this Agreement.

E. All Owners have authorized Grantor’s execution of this Agreement and grant of the Easement as provided in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals are expressly made part of this Agreement.

2. **Deck Easement.** Grantor hereby conveys, declares, and grants for the benefit of the Benefitted Property, a perpetual, non-exclusive easement (the “**Easement**”) on, over, across, and under the Easement Area. The purposes of the Easement shall be limited to (i) placement of structural supports for a deck located at second-story height and appurtenant to the Benefitted Property (“**Deck**”) for exclusive use by Grantee, its successors and assigns, tenants, subtenants, invitees, licensees, and contractors (collectively “**Permittees**”), (ii) constructing, using, and maintaining the Deck, and (iii) the overhang of the Deck over the Common Areas and Facilities; provided, however, the area underneath the Deck shall be and remain Common Areas and Facilities. The Deck is depicted on the attached **Exhibit C**. The Deck Easement does not include any rights to modify, expand, or extend the Limited Common Area (as defined in the Declaration) below the Deck and appurtenant to the Benefitted Property. The only improvements and use of the Easement Area permitted on the ground-level below the Deck shall be the structural supports (i.e., the Deck footings) for the Deck. Furthermore, the Deck Easement does not include any rights to alter, modify, or expand the Common Areas and Facilities adjacent to the Benefitted Property, including, without limitation, the creation of holes or openings of any kind, modification of windows, doors, or vents, or the extension of any utilities. The Deck Easement is limited to the express purposes described in this Section, and Grantor shall otherwise be entitled to full use and enjoyment of the Easement Area. Nothing in this Agreement shall affect the boundaries or other components of the Common Areas and Facilities or the Limited Common Area under the Declaration.

3. **Construction; Maintenance.** Grantee shall be solely responsible to ensure that the Deck is constructed in a workmanlike and timely manner by a contractor licensed and insured in the State of Utah and that the Deck is constructed pursuant to all applicable governmental requirements. The Deck must match and comply with all existing design and aesthetic elements of the Condominium Project, including the Benefitted Property, as determined in Grantor’s sole and absolute discretion. The Deck shall comply with all restrictions or requirements of the Declaration. Grantee shall be solely responsible for the construction, ownership, and regular inspection, repair, replacement, and maintenance of the Deck, and shall bear all costs associated with same. Grantee shall maintain the Deck and Easement Area in good condition, free of defects or hazards, and shall be responsible for any damage to the Easement Area, any personal property, or improvements, suffered by Grantor by reason of Grantee’s or Permittees’ use of the Easement Area. Grantee shall, at Grantee’s sole cost and expense, promptly repair any such damage so as to return the damaged property and improvements to their condition immediately prior to such damage. Litter and other debris resulting from use of the Deck shall be cleaned up by Grantor, as necessary and in a timely manner.

4. **Insurance.** Grantee shall carry and maintain, at its expense, commercial general liability insurance insuring against claims for personal injury, bodily injury or death, and property damage or destruction, with respect to the Deck, the Easement Area, and the effect of this Agreement. The limits of liability of such insurance policy required under the preceding sentence shall be not less than \$1,000,000 for personal injury or bodily injury or death of any one person and \$2,000,000 for personal injury or bodily injury or death in the aggregate. The insurance policy required under this Section shall be written with an insurer licensed to do business in the State of Utah and shall name Grantor as an additional insured. Within thirty (30) days after written request, Grantee shall provide Grantor with a certificate of insurance that shall indicate all insurance coverage required by the provisions herein. Such insurance policy shall contain a clause stating that there shall be no reduction, modification, cancellation, or non-renewal of coverage without giving Grantor thirty (30) days’ prior written notice. Such insurance shall also be issued by insurers having an A.M. Best rating of at least A- VII, be endorsed to provide that the insurance shall be primary to and not contributory to any similar insurance carried by Grantor, and shall contain a severability of interest clause.

5. **Indemnification.** Grantee will at all times indemnify, protect, defend, save, and hold Grantor harmless with respect to any and all loss, claim, damage, cost (including reasonable attorneys' fees), or liability suffered or sustained by reason of any injury or damage to any person or property, resulting from or in any way related to Grantee's or Permittees' use of the Easement Area and Deck, or Grantee's breach of this Agreement.

6. **Effective Date.** This Agreement shall not become effective until the date when Grantee has paid all legal fees and costs incurred by Grantor in connection with Grantor's entering into this Agreement (the "**Effective Date**").

7. **Successors and Assigns.** This Agreement and the terms contained herein shall run with the land and shall be binding upon and shall inure to the benefit of the Parties and their respected heirs, successors, and assigns.

8. **No Public Dedication.** The provisions of this Agreement are not intended to and do not constitute a dedication for public use of the Deck Easement, and the rights herein created are for the private use and for the benefit only of the Parties hereto and their respective successors and assigns.

9. **Amendments.** No modification, waiver, or amendment of any provision of this Agreement shall be made except by a written agreement signed by the Parties hereto, or their successors or assigns, and recorded with the Utah County Recorder.

10. **Miscellaneous.** This Agreement may be executed in one or more counterparts, each of which, when taken together, constitutes the original. If any term, provision or condition contained in this Agreement shall to any extent be deemed invalid or unenforceable, the remainder of the Agreement shall not be affected thereby, and each remaining term, provision and condition of this agreement shall be valid and enforceable to the fullest extent permitted by law. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in this Agreement. All prior and contemporaneous agreements, representations and understandings of the Parties regarding this easement and its improvements, oral or written, are superseded by and merged in this Agreement. In the event of any action to enforce the provisions of this Agreement, the prevailing Party shall be entitled to receive its costs and attorney fees. This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Utah and both Parties shall be considered the drafters of this Agreement. The Recitals are true and correct and incorporated herein.

[Signatures and Acknowledgements Follow]

GRANTEE:

William Atherton

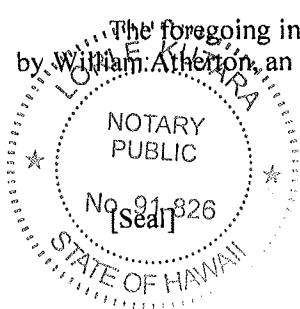
William Atherton

Elizabeth Atherton

Elizabeth Atherton

STATE OF Hawaii)
City)
COUNTY OF Honolulu) ss.

The foregoing instrument was acknowledged before me this 15 day of July, 2019,
by William Atherton, an individual.

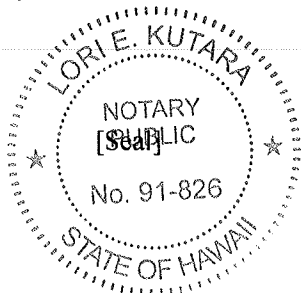


[Signature]

Notary Public

STATE OF Hawaii)
City)
COUNTY OF Honolulu) ss.

The foregoing instrument was acknowledged before me this 15 day of July, 2019,
by Elizabeth Atherton, an individual.



[Signature]

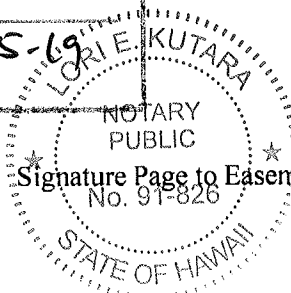
Notary Public

Doc. Date: 7-15-19 # of Pages: 16
Notary Name: Lori E. Kutara First Circuit
Doc. Description: Settlement Agreement
+ Release of Claims

[Signature] _____
Notary Signature Date 7-15-19

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Notary Signature Date 7-15-19



Signature Page to Easement Agreement [Mandan 13 Deck]

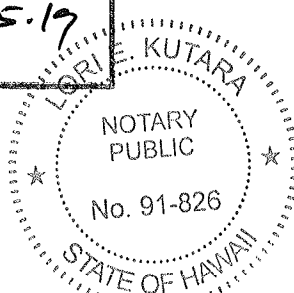


EXHIBIT A**Legal Description of the Benefitted Property**

UNIT 13, FIRST SUPPLEMENTAL RECORD OF SURVEY MAP OF SUNDANCE COTTAGES, AN EXPANDABLE UTAH CONDOMINIUM PROJECT CONTAINING CONVERTIBLE LAND, PART OF SUNDANCE RECREATIONAL RESORT, AS THE SAME IS IDENTIFIED IN THE RECORD OF SURVEY MAP RECORDED MAY 20, 1987, AS ENTRY NO. 19867, AND MAP FILING NO.3452, THE FIRST SUPPLEMENTAL RECORD OF SURVEY MAP RECORDED AUGUST 7, 1987, IN SAID OFFICE IN UTAH COUNTY, UTAH, AS ENTRY NO.30293, MAP FILING NO. 3490, ARM 39, THE SECOND SUPPLEMENTAL RECORD OF SURVEY MAP RECORDED OCTOBER 21, 1987, IN SAID OFFICE IN UTAH COUNTY, UTAH, AS ENTRY NO. 39178, MAP FILING NO. 3524, ARM 39, AND THE AMENDMENT TO RECORD OF SURVEY MAP, FIRST SUPPLEMENTAL RECORD OF SURVEY MAP, AND SECOND SUPPLEMENTAL RECORD OF SURVEY MAP RECORDED NOVEMBER 23, 1987, IN SAID OFFICE IN UTAH COUNTY, UTAH, AS ENTRY NO. 42825, MAP FILING NO. 3534, ARM 39, (AS SAID RECORD OF SURVEY MAP, FIRST SUPPLEMENTAL RECORD OF SURVEY MAP, SECOND SUPPLEMENTAL RECORD OF SURVEY MAP, AND AMENDMENT TO RECORD OF SURVEY MAP MAY HAVE HERETOFORE BEEN AMENDED OR SUPPLEMENTED) AND IN THE CONDOMINIUM DECLARATION THEREFORE RECORDED MAY 20, 1987, IN SAID OFFICE OF IN UTAH COUNTY, UTAH, AS ENTRY NO. 19868, IN BOOK 2417, AT PAGE 379, IN THE FIRST AMENDMENT TO CONDOMINIUM DECLARATION RECORDED JUNE 2, 1987, IN SAID OFFICE IN UTAH COUNTY, UTAH, AS ENTRY NO. 21563, IN BOOK 2421, AT PAGE 254, THE SECOND AMENDMENT TO CONDOMINIUM DECLARATION RECORDED AUGUST 7, 1987, IN SAID OFFICE IN UTAH COUNTY, UTAH, AS ENTRY NO. 30294, IN BOOK 2440, AT PAGE

488, IN THE THIRD AMENDMENT TO CONDOMINIUM DECLARATION RECORDED OCTOBER 31, 1987, IN SAID OFFICE IN UTAH COUNTY, UTAH, AS ENTRY NO. 39179, IN BOOK 2461, AT PAGE 685, AND IN THE FOURTH AMENDMENT TO CONDOMINIUM DECLARATION RECORDED NOVEMBER 23, 1987, IN SAID OFFICE IN UTAH COUNTY, UTAH, AS ENTRY NO. 42826, IN BOOK 2470, AT PAGE 563 (AS SAID DECLARATION, FIRST AMENDMENT, SECOND AMENDMENT, THIRD AMENDMENT, AND FOURTH AMENDMENT MAY HERETOFORE BEEN AMENDED OR SUPPLEMENTED).

TOGETHER WITH THE RESPECTIVE UNDIVIDED INTEREST IN SAID PROJECT'S COMMON AREAS AND FACILITIES WHICH ARE APPURTENANT TO SAID UNITS AS ESTABLISHED BY SAID RECORD OF SURVEY MAP, SUPPLEMENTAL RECORD OF SURVEY MAP, SECOND SUPPLEMENTAL RECORD OF SURVEY MAP, AMENDMENT TO RECORD OF SURVEY MAP, CONDOMINIUM DECLARATION, FIRST AMENDMENT, SECOND AMENDMENT, THIRD AMENDMENT, AND FOURTH AMENDMENT AND ALLOWING FOR PERIODIC ALTERATION BOTH IN THE MAGNITUDE OF SAID UNDIVIDED INTEREST AND IN THE COMPOSITION OF THE COMMON AREAS AND FACILITIES TO WHICH INTEREST RELATES.

SAID CONDOMINIUM PROJECT IS SITUATED WITHIN THE FOLLOWING DESCRIBED PROPERTY:

BEGINNING AT THE CORNER COMMON TO SECTIONS 10, 11, 14, AND 15, TOWNSHIP 5 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 0°07'50" EAST 168.25 FEET; THENCE NORTH 49°01'00" EAST 497.93 FEET; THENCE NORTH 0°50'00" EAST 259.71 FEET; THENCE ALONG THE ARC OF A 211.27 FOOT RADIUS CURVE TO THE RIGHT 89.51 FEET, THE CHORD OF WHICH BEARS NORTH 66°55'14" EAST 88.85 FEET; THENCE ALONG THE ARC OF A 87.70 FOOT RADIUS CURVE TO THE LEFT 66.28 FEET, THE CHORD OF WHICH BEARS NORTH 57°24'22" EAST 64.72 FEET; THENCE NORTH 92.23 FEET; THENCE NORTH 42°57'18" WEST 329.41 FEET TO THE SOUTHEAST CORNER OF THE KENNETH FRANCK PROPERTY DESCRIBED AS LOT "A" AND LOT "B" ON ADMINISTRATIX'S DEED #6437; THENCE ALONG THE SOUTH LINE OF SAID FRANCK PROPERTY SOUTH 89°52'10" WEST 293.71 FEET TO THE EAST LINE OF TIMPHAVEN HOMES PLAT "2"; THENCE SOUTH 0°07'50" EAST ALONG SAID PLAT LINE 820.35 FEET TO THE POINT OF BEGINNING. BASIS OF BEARINGS; THE SECTION LINE BETWEEN THE SOUTHWEST CORNER OF SECTION 11 AND THE WEST QUARTER OF SECTION 11, TOWNSHIP 5 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN, BEING NORTH 0°07'50" WEST.

TOGETHER WITH (1) A PERPETUAL, NON-EXCLUSIVE EASEMENT OVER, ALONG, AND ACROSS THE PROPERTY DESCRIBED IN THE IMMEDIATELY SUCCEEDING PARAGRAPH (THE "SERVIENT TENEMENT") FOR PEDESTRIAN AND VEHICULAR INGRESS TO AND EGRESS FROM THE PROPERTY DESCRIBED IN THE IMMEDIATELY PRECEDING PARAGRAPH (THE "DOMINANT TENEMENT"); AND (2) A PERPETUAL, NON-EXCLUSIVE EASEMENT IN, THROUGH, ALONG, AND ACROSS THE SERVIENT TENEMENT TO INSTALL, USE, KEEP, MAINTAIN, REPAIR, AND REPLACE, AS REQUIRED, UTILITY LINES, PIPES, AND CONDUITS OF ALL TYPES FOR THE BENEFIT OF AND APPURTENANT TO THE DOMINANT TENEMENT;

BEGINNING AT A POINT ON THE EASTERLY FEE TITLE BOUNDARY OF SUNDANCE COTTAGES, A UTAH CONDOMINIUM PROJECT, SAID POINT BEING NORTH 487.69 FEET AND EAST 516.31 FEET FROM THE SOUTHWEST CORNER OF SECTION 11, TOWNSHIP 5 SOUTH, RANGE 3 EAST, SALT LAKE BASE AND MERIDIAN; THENCE ALONG THE ARC OF A 87.70 FOOT RADIUS CURVE TO THE LEFT 12.43 FEET, THE CHORD OF WHICH BEARS NORTH 31°41'31" EAST 12.42 FEET; THENCE NORTH 27°37'50" EAST 167.29 FEET; THENCE ALONG THE ARC OF A 98.81 FOOT RADIUS CURVE TO THE RIGHT 18.28 FEET TO THE SOUTHWESTERLY RIGHT OF WAY OF THE ALPINE LOOP HIGHWAY, THE CHORD OF WHICH BEARS NORTH 32°55'47"

EAST 18.25 FEET; THENCE ALONG THE ARC OF A 578.72 FOOT RADIUS CURVE TO THE RIGHT 30.30 FEET ALONG SAID RIGHT OF WAY, THE CHORD OF WHICH BEARS NORTH 42°33'01" WEST 30.30 FEET; THENCE ALONG THE ARC OF A 128.81 FOOT RADIUS CURVE TO THE LEFT 28.68 FEET, THE CHORD OF WHICH BEARS SOUTH 34°00'35" WEST 28.62 FEET; THENCE SOUTH 27°37'50" WEST 124.06 FEET TO THE EASTERLY FEE TITLE BOUNDARY OF SAID COTTAGES; THENCE SOUTH 62.79 FEET ALONG SAID EASTERLY BOUNDARY TO THE POINT OF BEGINNING.

A.P.N.: 52-281-0013

EXHIBIT B

Legal Description of the Burdened Property/Easement Area

LEGAL DESCRIPTION OF SUNDANCE COTTAGES #13 LIMITED COMMON SPACE ADDITION

A portion of Section 11, Township 5 South, Range 3 East, Salt Lake Base and Meridian, located in Sundance, Utah more particularly described as follows:

Beginning at an inside angle point on the northeasterly side of Condominium #13 of the Sundance Cottages filed in the office of the Utah County Recorder, said point being located East 95.84 feet and North 713.55 from the Southwest Corner of Section 11, Township 5 South, Range 3 East, Salt Lake Base and Meridian; thence along said real property the following course N38°13'22"E 2.00 feet; thence N38°13'22"E 5.21 feet; thence S50°47'18"E 18.66 feet; thence S38°13'22"W 7.95 feet; thence N51°46'38"W 8.21 feet; thence N38°39'35"E 1.06 feet; thence N51°46'38"W 10.46 feet to the point of beginning.

Contains: ±140 Sq Ft

EXHIBIT C
Depiction of the Deck

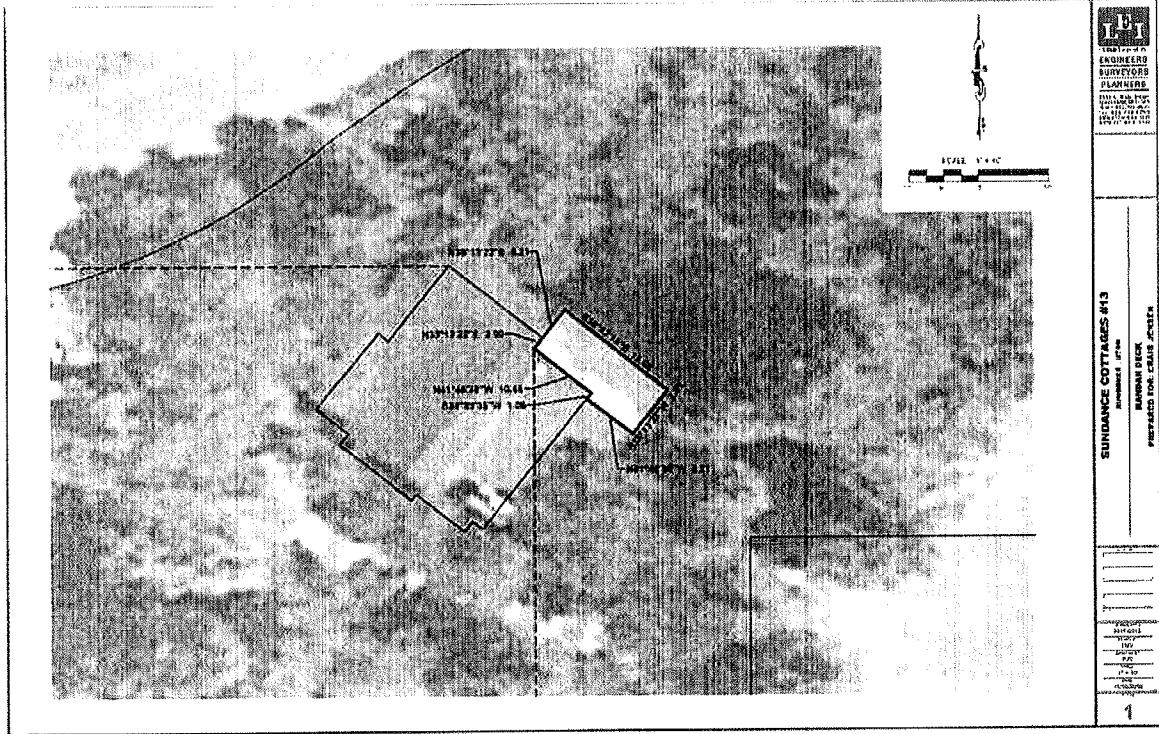


Exhibit C to Easement Agreement [Mandan 13 Deck]