

**Office of the Davis County Recorder**



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RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
02/04/2021 02:48 PM  
FEE \$0.00 Pgs: 7  
DEP RT REC'D FOR LAYTON CITY CORP

1/1/2021 10:11 AM

Recorder  
Richard T. Maughan  
Chief Deputy  
Lalle H. Lomax

THE UNDERLYING DOCUMENT ATTACHED HERETO IS AN ORIGINAL DOCUMENT SUBMITTED FOR RECORDING IN THE OFFICE OF THE COUNTY RECORDER OF DAVIS COUNTY, UTAH. THE DOCUMENT HAS INSUFFICIENT MARGIN SPACE FOR THE REQUIRED RECORDING ENDORSMENT STAMP. THIS PAGE BECOMES THE FRONT PAGE OF THE DOCUMENT FOR RECORDING PURPOSES.

THE DOCUMENT HEREIN RECORDED IS A Agreement  
(Document Type)

09-050-0068  
Tax Serial Number(s)

**CULINARY WATERLINE IMPROVEMENTS  
CASING FOR 8-INCH CULINARY WATER  
PAYBACK AGREEMENT**

09-050-0068

**THIS AGREEMENT**, made and entered into this 3<sup>rd</sup> day of December, 2020, by and between Evergreen Holding LLC, a Corporation hereinafter called "Developer" and LAYTON CITY, a Municipal Corporation of the State of Utah, hereinafter called "City".

**WITNESSETH:**

**WHEREAS**, Developer has installed casing for an 8-inch culinary waterline, hereinafter called "Improvements", constructed in connection with the Mecham Towns subdivision located at approximately 1000 East Highway 193 at its own expense, said improvements are located in Layton City, Davis County, State of Utah, and:

**WHEREAS**, land other than that owned by the Developer benefits from the installation of the improvements, and:

**WHEREAS**, the Developer created the need for the improvements, but will dedicate and construct improvements that will benefit other properties, and:

**WHEREAS**, the City desires to provide for the reimbursement to the Developer for the costs of the improvements that would benefit other properties and exceed the Developer's proportionate share of impact costs attributable to the development of the Mecham Towns subdivision;

**NOW, THEREFORE**, in consideration of the promises, the covenants and conditions herein contained, and the sums of money to be paid, it is hereby agreed as follows:

1. Cost – Developer has paid for the construction work, a total sum of \$115,00.00, which represents the full cost of constructing improvements. A portion of the cost for those improvements qualifies for payback.
2. Reimbursable Costs – The reimbursement part of the project is as follows:
  - a. \$115,000 for Off-Site Construction Costs.
3. Reimbursement – The City shall reimburse the Developer in the following way:
  - a. The City has determined that there are 3.04 acres of property outside of the Mecham Towns subdivision that will be served by the improvements constructed by the Developer. The Mecham Towns site contains an additional 7.37 acres that are served by the improvements. The Mecham Towns acreage will not be added to the payback area acreage due to the fact that the Developer has directly paid their prorated share of the cost of improvement installation. The total reimbursable costs divided by 10.41 acres equals \$11,047.07. The City shall collect \$11,047.07 per acre from any other entity that connects to said culinary water facilities. Costs shall be collected up to, but not exceed \$33,583.09. The undeveloped parcels constituting 3.04 acres are identified on a map attached to this Agreement shown as "Exhibit A". Parcels with tax ID numbers shown in the Davis County assessment rolls as of the date of this agreement shall pay their proportionate share in the amount of \$11,047.07 per acre. The parcel number is: 09-050-0068. The City, prior to any

party making any connection to the culinary water system, or upon application for a building permit for a dwelling or other main structure; or, prior to final approval of any subdivision on undeveloped land within the payback area, shall collect the per acre assessment. Said collections shall be forwarded and paid to the Developer on a monthly basis as they are collected until such time as this Agreement has expired, or Developer's cost has been paid in full, whichever comes first.

4. Ownership, Maintenance, and Inspection – Ownership of all the storm sewer improvements, which are the subject of this Agreement, shall be with the City, upon acceptance thereof. The City will assume full responsibility of maintenance of said storm sewer in a time and manner consistent with the maintenance policies and ordinances of the City.
5. Limitation of Collection Period – It is further agreed that the City will collect fees under paragraph 3, for a period of ten (10) years from the date of this Agreement and the Developer specifically agrees to accept the fees in fact collected during said ten-year period as full and final payment under this Agreement. Further, the Developer agrees to hold Layton City harmless for any fees, which for any reason are not collected.
6. City Capital Improvements Plan– The City maintains a Capital Improvements Plan (CIP), which delineates various infrastructure projects that are anticipated for construction within the City over a period of years. Said plan is reviewed and readopted on a yearly basis and is subject to change due to budgetary, priority and other reasons. Unless otherwise provided in this Agreement, the District may not rely on the CIP for reimbursement by a particular date for system improvements, which are indicated, for reimbursement in this agreement.
7. Nonappropriation Clause – Developer acknowledges that if the Layton City Council fails, refuses, or otherwise determines to not appropriate funds for the purposes of this Agreement, that the City will be excused from performance hereunder, and not be subject to recourse hereunder. The City represents that it will exercise good faith in obtaining funding herefor.
8. Modifications – Any changes or modification of this Agreement by either party shall be in writing and signed by the City Manager.
9. Binding Affect of Agreement – This Agreement is binding on and shall inure to the benefit of the executors, administrators, heirs, successors, and assigns of the parties.
10. Third Parties – Nothing in this Agreement shall be construed to confer any rights upon any third party.

**[Signature and Notary pages to follow]**

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS Agreement on the date first written above.

LAYTON CITY CORPORATION:



Joy Petro  
Joy Petro, MAYOR

ATTEST:

Kimberly S Read  
Kimberly S Read, CITY RECORDER

APPROVED AS TO FORM:

for J. Munkin  
Gary Crane, CITY ATTORNEY

DEVELOPER: Evergreen Holding, LLC  
CORPORATION.

Tyrell J. Wall  
SIGNED

Tyrell J. Wall  
PRINTED NAME

Manager  
TITLE

STATE OF UTAH  
COUNTY OF DAVIS :SS

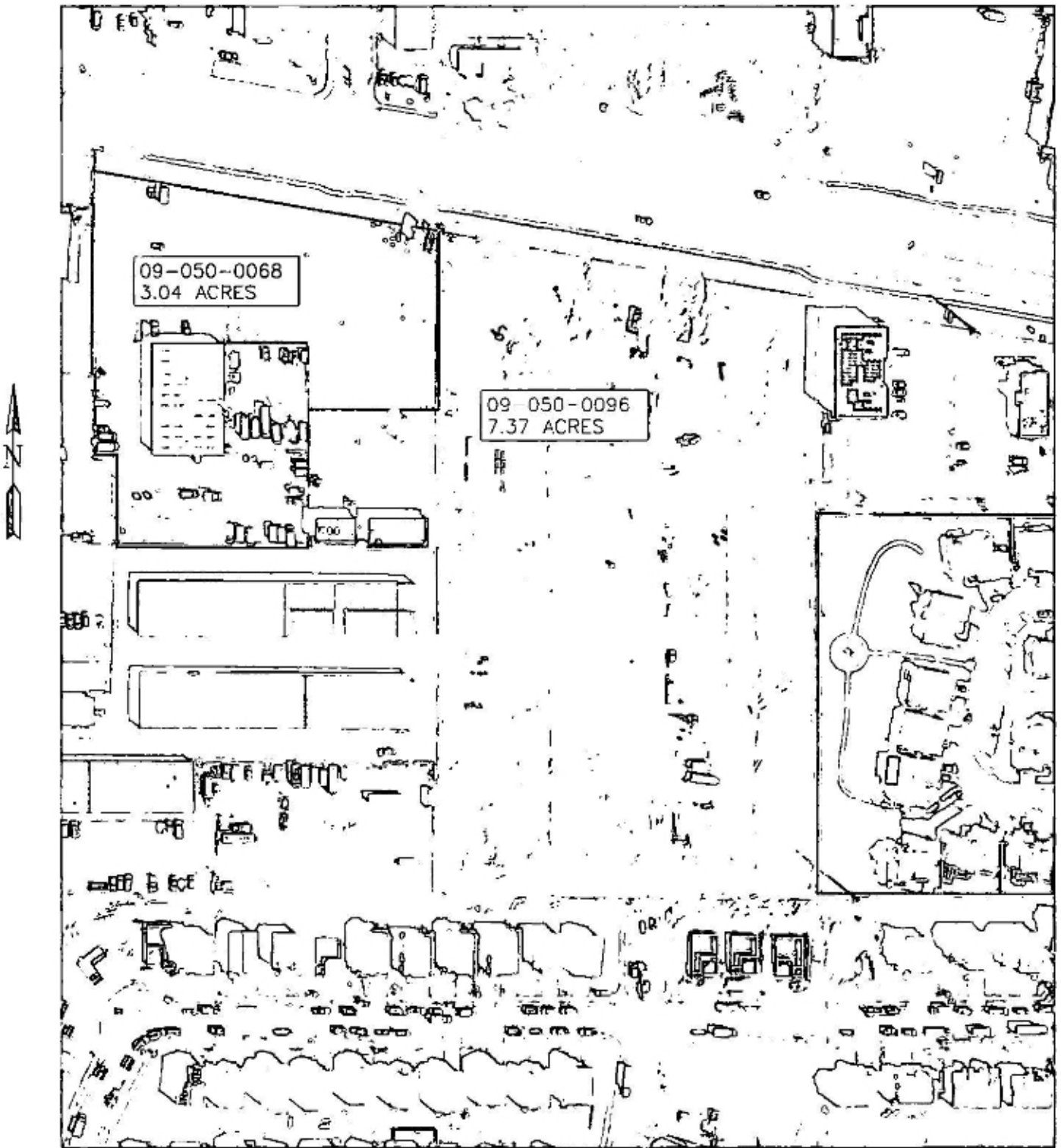
On this 13<sup>th</sup> day of NOVEMBER, 2020, personally appeared before me TYRELL J. WALL, who being by me duly sworn did say that he/she is the MANAGER of EVERGREEN HOLDING, LLC limited liability company, and that the foregoing Improvements Payback Agreement was signed in behalf of said company by authority, and he/she acknowledged to me that said company executed the same.



KRISTA ALLRED  
NOTARY PUBLIC



EXHIBIT A



Mecham Towns Bore Payback  
Culinary Water

10/30/2020

| Item | Description  | Qty | Unit | Unit Cost     | Item Cost     | 09-050-0068        | 09-050-0096               |
|------|--|-----|------|---------------|---------------|--------------------|---------------------------|
|      |  |     |      |               |               | proportional share | proportional share        |
| 1    | Casing with spacers and end caps under Hwy 193 for 8" pipe | 1   | LS   | \$ 115,000.00 | \$ 115,000.00 | \$ 33,583.09       | \$ 81,416.91              |
|      |  |     |      |               | Project total | \$ 115,000.00      | \$ 33,583.09 \$ 81,416.91 |

|                    | Acres | Proportional share | Cost per acre | \$ | 11,047.07 |
|--------------------|-------|--------------------|---------------|----|-----------|
| Parcel 09-050-0068 | 3.04  | 29.2%              |               |    |           |
| Parcel 09-050-0096 | 7.37  | 70.8%              |               |    |           |
| Total              | 10.41 | 100.0%             |               |    |           |

Parcel 09-050-0096 has been subdivided into Mecham Towns (Parcel IDs 09-448-0101 to 09-448-0181) and two commercial parcels 09-050-0109 and 09-050-0110

Serial Number 09-050-0068

A PART OF SEC 10-T4N-R1W, SLM; BEG AT A PT ON THE S LINE OF HWY 193 WH IS S 0°07'20" W 487.92 FT ALG THE SEC LINE & S 80°09' E 39.54 FT FR THE NW COR OF SD SEC 10 & RUN TH S 80°09' E 405.75 FT; TH S 0°07'20" W 206.11 FT; TH N 89°52'40" W 150.0 FT; TH S 0°07'20" W 160.0 FT; TH N 89°52'40" W 220.66 FT; TH N 107.56 FT; TH W 25.10 FT; TH N 0°07'20" E 92.49 FT; TH N 89°52'40" W 4.04 FT; TH N 0°07'20" E 234.21 FT TO POB. CONT. 3.04 ACRES