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BK 7450 PG 2197

C12-02

09-119-0015,0019

RETURNED

FEB 14 2020

**STORM DRAINAGE IMPROVEMENTS
PAYBACK AGREEMENT**

THIS AGREEMENT, made and entered into this 7th day of NOVEMBER 2011, by and between EAST LAYTON, LLC, hereinafter referred to as "Developer", and LAYTON CITY, a Municipal Corporation of the State of Utah, hereinafter referred to as "City"

E 3226798 B 7450 P 2197-2202
RECORDED BY: RICHARD J. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
11/14/2020 03:22 PM
FEE \$0.00 Pgs: 6
DEPT. REC'D FOR LAYTON CITY CORP

WITNESSETH:

WHEREAS, Developer has installed off-site storm drain improvements constructed in connection with the Greyhawk Plaza Subdivision at its own expense, said storm drainage improvements are located in Church Street, Layton City, Davis County, State of Utah; and

WHEREAS, land other than that owned by the Developer benefits from the installation of the off-site storm drainage 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 off-site storm drainage improvements that would benefit other properties and exceed the Developer's proportionate share of impact costs attributable to their development.

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 off-site storm drain construction work, a total sum of \$160,751.00 which represents the full cost of constructing the off-site storm drainage improvements in Church Street, which are improvements that qualify for payback of those costs.
2. Reimbursable Costs – The total reimbursable cost for the installed off-site storm drainage improvements is \$160,751.00.
3. Storm Drain Reimbursement – The City shall reimburse the Developer \$160,751.00 for the off-site storm drain improvements as follows:
 - a. The City has determined there are 20.682 acres of property to be developed, including future development in the Greyhawk Plaza Subdivision that will be served by the off-site storm drain improvements constructed by the Developer. To determine the prorated share of the cost to install the off-site storm drain improvements, the total storm drainage construction costs, equaling \$160,751.00, is divided by a total of 20.682 acres, which equals \$7,773.00 per acre. The City shall collect \$7,773.00 per acre from any entity, including future development in the Greyhawk Plaza Subdivision that will be served by the off-site storm drain improvements constructed by the Developer. Costs shall be collected up to, but not exceed \$160,751.00. The payback area constituting 20.682 acres is identified on a map attached to this agreement shown as "Exhibit A". The parcels are further identified on the current Davis County assessment rolls as parcel numbers 09-051-0043, 09-051-0053, 09-051-0054, 09-051-0057, 09-051-0060, 09-119-0011.

- b. The City, prior to any party making any connection from this date forward, to the storm drain system noted above, or upon application for a building permit for a dwelling or other main structure; or, prior to final approval of any subdivision or parcel on undeveloped land within the payback area, shall collect the assessment or credit the Developer against storm drain impact fees, in the manner prescribed in this section. Said collections shall be forwarded and paid to the Developer or credited to the Developer on a monthly basis as they are collected until such time as the Agreement has expired, or Developer's cost has been reimbursed a total of \$160,751.00, whichever comes first.
4. Ownership, Maintenance, and Inspection – Ownership of all the storm drainage improvements, which are the subject of this Agreement, shall be with the City. The City will assume full responsibility and maintenance of said storm drainage improvements 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 or credit the Developer 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 or credited during said ten (10) 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 or credited.
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 Developer may not rely on the CIP for reimbursement by a particular date for system improvements, which are indicated, for reimbursement in this Agreement.
7. Capital Facilities Plan - The storm drain improvements outlined in this Agreement and the storm drain improvements installed within the Greyhawk Plaza development are part of the CFP as Project K-20 in the Phase 1 Storm Drain Master Plan. The capital facility cost for this project in the CFP is \$160,946.40. The reimbursement from the CFP cannot exceed this amount. If additional reimbursement is required, a "third party" (benefited properties) payback agreement would need to be created and recorded against all benefited property owners.
8. 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.
9. Modifications – Any changes or modification of this Agreement by either party shall be in writing and signed by the City Manager.
10. 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.
11. Third Parties – Nothing in this Agreement shall be construed to confer any rights upon any third party.

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



LAYTON CITY CORPORATION

By: [Signature]
J. Stephen Curtis, MAYOR

ATTEST

[Signature]
Thieda Wellman, City Recorder

APPROVED AS TO FORM

[Signature]
Gary Crane, City Attorney

[Signature]
East Layton LLC

Manager
Title

STATE OF UTAH)
 : ss
COUNTY OF DAVIS)

On the 7th day of November, 2011, personally appeared before me Gardner S. Crane, the signer(s) of the foregoing instrument, who duly acknowledged to me that he, executed the same.



[Signature]
NOTARY PUBLIC

AREA	ACRES	TAXID
HIGHWAY 199 ASSOC	10.73	09-119-0011
FUTURE PARCEL @ 199	0.50	09-051-0054
FUTURE PARCEL @ 199	0.50	09-051-0053
PH 4 - LOT 1	5.65	09-051-0057
PH 4 - LOT 3	2.39	09-051-0043
PH 4 - LOT 4	0.92	09-051-0060
TOTAL ACREAGE	20.62	

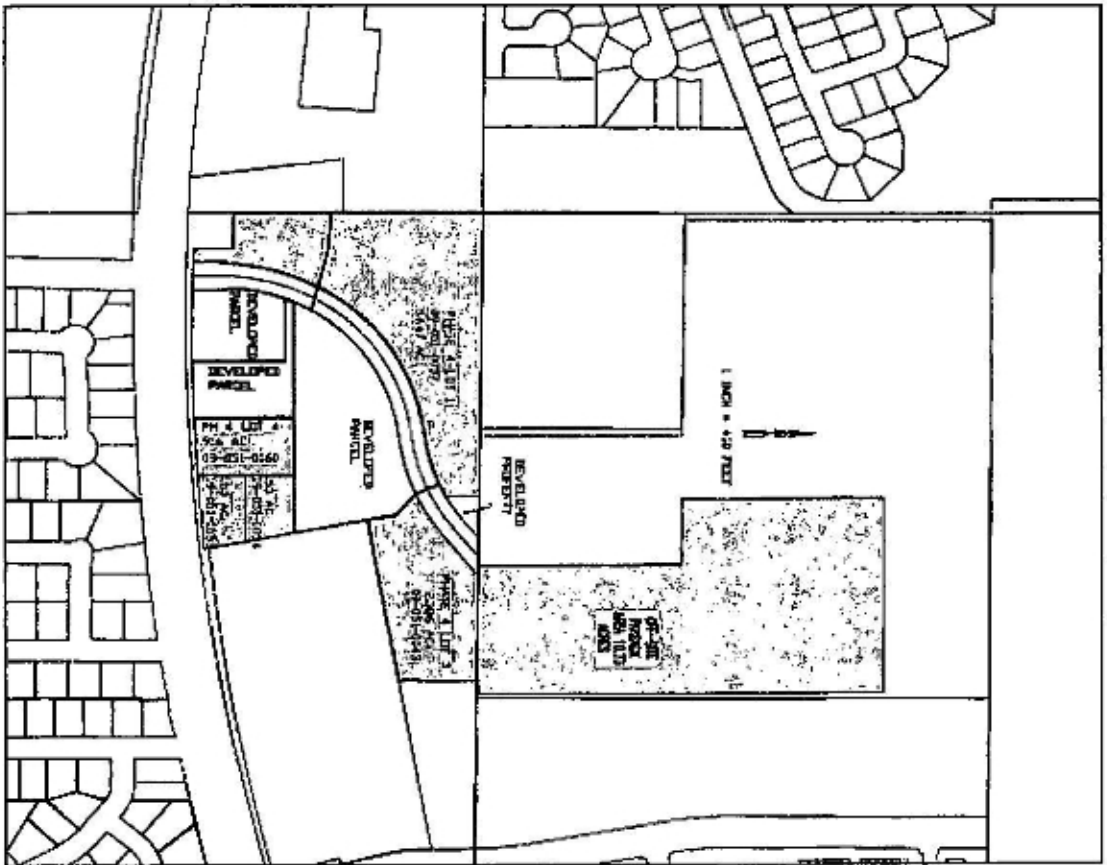
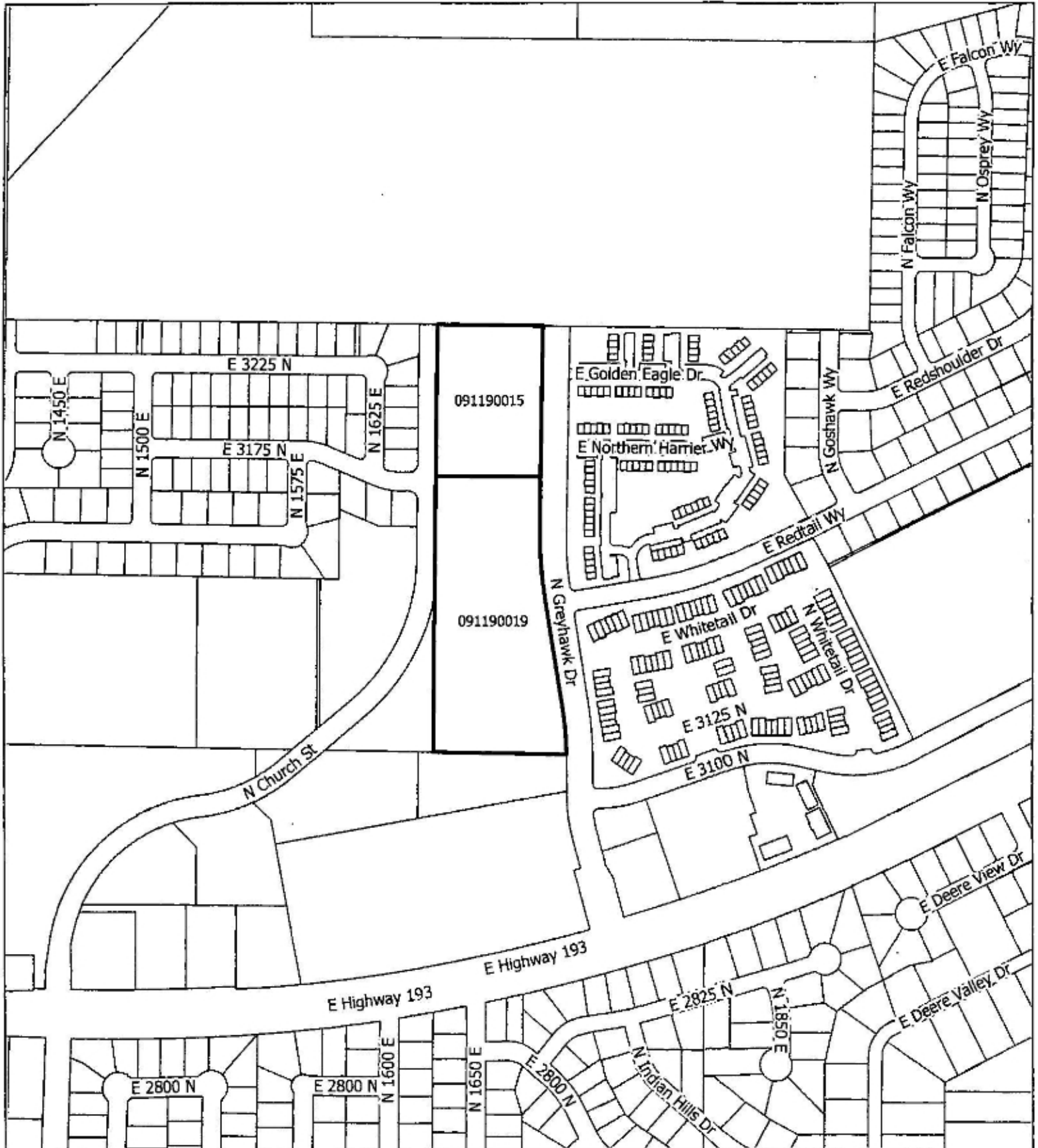


EXHIBIT A

Greyhawk Ponds Paragraph 3a Payback Area

1"-400'



GREYHAWK PONDS 3a
EXHIBIT "B"
LEGAL DESCRIPTIONS

Serial Number: 09-119-0019
Tax Name & Address for Tax Year 2019:
GREEN, EDWARD D
2150 NORTH VALLEY VIEW DR
LAYTON, UT
84040

Abstract
Tax District: 639
Situs Address:

Exempt: No
Parcel Dates: 10/30/08 to Present

Acres: 7.05

Legal Description

BEG AT A PT S 89°13'29" E ALG THE SEC LINE 1340.67 FT FR THE S 1/4 COR OF SEC 3-T4N-R1W, SLB&M; & RUN TH N 00°12'09" E 851.04 FT, M/L, TO THE S LINE OF PPTY CONV IN WARRANTY DEED RECORDED 10/10/2006 AS E# 2209421 BK 4135 PG 1173 & RUN TH ALG SD LINE S 89°47'51" E 325.58 FT; TH S 00°29'51" W 181.57 FT TO A PT OF CURVE TO THE LEFT HAVING A RADIUS OF 1042.00 FT & A CHORD BEARING OF S 04°29'43" E & A CHORD DIST OF 181.37 FT; TH S'LY ALG THE ARC A DIST OF 181.60 FT; TH S 09°29'17" E 360.02 FT TO A PT OF CURVE TO THE RIGHT HAVING A RADIUS OF 958.00 FT & A CHORD BEARING OF S 5°16'38" E & A CHORD DIST OF 138.39; TH S'LY ALG THE ARC A DIST OF 137.88 FT, M/L, TO THE 1/4 SEC LINE; TH N 89°13'30" W 416.35 FT, M/L, TO THE POB. CONT 7.05 ACRES (NOTE: THIS REMAINING LEGAL WAS WRITTEN IN THE DAVIS COUNTY RECORDER'S OFFICE FOR I.D. PURPOSES. IT DOES NOT REFLECT A SURVEY OF THE PROPERTY.)

Serial Number: 09-119-0015
Tax Name & Address for Tax Year 2019:
CORP OF THE PRESIDING BISHOP OF THE
CHURCH OF JESUS CHRIST OF LDS
50 EAST NORTH TEMPLE RM 2225
REAL ESTATE #500-3269
SALT LAKE CITY, UT
84152-0022

Abstract
Tax District: 639
Situs Address:

Exempt: No
Parcel Dates: 10/10/06 to Present

Acres: 3.53

Legal Description

BEG AT A PT S 89°13'29" E ALG THE SEC LINE 1340.67 FT & N 00°12'09" E 851.04 FT FR THE S 1/4 COR OF SEC 3-T4N-R1W, SLM; & RUN TH N 00°12'09" E 471.69 FT; TH S 89°30'09" E 328.00 FT; TH S 00°29'51" W 470.01 FT; TH N 89°47'51" W 325.58 FT TO THE POB. CONT. 3.53 ACRES