

E 3168311 B 7291 P 525-533
RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
06/25/2019 11:47 AM
FEE \$0.00 Pgs: 9
DEP RTT REC'D FOR LAYTON CITY CORP
ORATION

When recorded, mail to:

Layton City Recorder
437 N. Wasatch Dr.
Layton, Utah 84041

Affects Parcel No(s): 110010004

**LAYTON CITY
STORM WATER FACILITIES
MAINTENANCE AGREEMENT**

This Storm Water Facilities Maintenance Agreement ("Agreement") is made and entered into this 19th day of April, 2019, by and between Layton City, a Utah municipal corporation ("City"), and Adams Court, LLC, a Utah Limited Liability Company ("Owner").

RECITALS

WHEREAS, the City is authorized and required to regulate and control the disposition of storm and surface waters within the City, as set forth in the Layton City Storm Water Ordinance, as amended ("Ordinance"), adopted pursuant to the Utah Water Quality Act, as set forth in *Utah Code Ann. §§ 19-5-101, et seq.*, as amended ("Act"); and

WHEREAS, the Owner hereby represents and acknowledges that it is the owner in fee simple of certain real property more particularly described in Exhibit "A," attached hereto and incorporated herein by this reference ("Property"); and

WHEREAS, the Owner desires to build or develop the Property and/or to conduct certain regulated construction activities on the Property which will alter existing storm and surface water conditions on the Property and/or adjacent lands; and

WHEREAS, in order to accommodate and regulate these anticipated changes in existing storm and surface water flow conditions, the Owner desires to build and maintain at Owner's expense a storm and surface water management facility or improvements ("Storm Water Facilities"); and

WHEREAS, the Storm Water Facilities are more particularly described and shown in the final site plan or subdivision approved for the Property and related engineering drawings, and any amendments thereto, which plans and drawings are on file with the City and are hereby incorporated herein by this reference ("Development Plan"); and

WHEREAS, as a condition of Development Plan approval, and as required as part of the City's Small MS4 UPDES General Permit from the State of Utah, Owner is required to enter into this Agreement addressing the maintenance requirements for the Storm Water Facilities and control measures installed on the Property.

NOW, THEREFORE, in consideration of the benefits received and to be received by the Owner, its successors and assigns, as a result of the City's approval of the Development Plan, and the mutual covenants contained herein, the parties agree as follows:

1. Construction of Storm Water Facilities. The Owner shall, at its sole cost and expense, construct the Storm Water Facilities in strict accordance with the plans and specifications identified in the Development Plan, and any amendments thereto which have been approved by the City.
2. Maintenance of Storm Water Facilities. The Owner shall, at its sole cost and expense, adequately maintain the Storm Water Facilities. Owner's maintenance obligations shall include all pipes and channel built to convey storm water, as well as all structures, improvements, and vegetation provided to control the quantity and quality of the storm water. Adequate maintenance, for purposes of this Agreement, is defined as good working condition so that the Storm Water Facilities are performing their design functions. The Owner shall, at its sole cost and expense, perform all work necessary to keep the Storm Water Facilities in good working condition. In the event that a maintenance schedule is set forth in the Development Plan, such maintenance schedule shall be followed.
3. Annual Inspection of Storm Water Facilities. The Owner shall, at its sole cost and expense, inspect the Storm Water Facilities and submit an inspection report and certification to the City annually. The purpose of the inspection and certification is to assure safe and proper functioning of the Storm Water Facilities. The annual inspection shall cover all aspects of the Storm Water Facilities, including, but not limited to, the structural improvements, berms, outlet structure, pond areas, access roads, vegetation, landscaping, etc. Deficiencies shall be noted in the inspection report. The report shall also contain a certification as to whether adequate maintenance has been performed and whether the structural controls are operating as designed to protect water quality. The annual inspection report and certification shall be due by July 31st of each year and shall be on forms acceptable to the City.
4. City Oversight Inspection Authority. The Owner hereby grants permission to the City, its authorized agents and employees, to enter upon the Property and to inspect the Storm Water Facilities whenever deemed necessary by the City. Such inspections shall be conducted in a reasonable manner and at reasonable times, as determined appropriate by the City. The purpose of the inspection shall be to determine and ensure that the Storm Water Facilities are being adequately maintained, are continuing to perform in an adequate manner, and are in compliance with the Act, the Ordinance, and the Development Plan.
5. Notice of Deficiencies. If the City finds that the Storm Water Facilities contain any defects or are not being maintained adequately, the City shall send Owner written notice of the defects or deficiencies and provide Owner with a reasonable time to cure such defects or deficiencies. Such notice shall be hand-delivered to the Owner or sent certified mail to the Owner at the Property address.

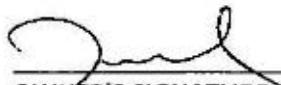
6. Owner to Make Repairs. The Owner shall, at its sole cost and expense, make such repairs, changes or modifications to the Storm Water Facilities as may be determined as reasonably necessary by the City within the required cure period to ensure that the Storm Water Facilities are adequately maintained and continue to operate as designed and approved.
7. City's Corrective Action Authority. In the event the Owner fails to adequately maintain the Storm Water Facilities in good working condition acceptable to the City, after due notice of deficiencies as provided in Section 5, the City may enter upon the Property and take whatever steps necessary to correct deficiencies and to charge the costs of such repairs to the Owner. It is expressly understood and agreed that the City is under no obligation to maintain or repair the Storm Water Facilities, and in no event shall this Agreement be construed to impose any such obligation on the City. The actions described in this Section are in addition to and not in lieu of any and all legal remedies available to the City as provided by law for Owner's failure to remedy deficiencies or any other failure to perform under the terms and conditions of this Agreement.
8. Reimbursement of Costs. In the event the City, pursuant to this Agreement, performs work of any nature, or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Owner shall reimburse the City upon demand, within thirty (30) days of receipt thereof for all actual costs incurred by the City. After said thirty (30) days, such amount shall be deemed delinquent and shall be subject to interest at the rate of ten percent (10%) per annum. Owner shall also be liable for any collection costs, including attorneys' fees and court costs, incurred by the City in collection of delinquent payments.
9. Successors and Assigns. This Agreement shall be recorded in the Davis County Recorder's Office and the covenants and agreements contained herein shall run with the land and whenever the Property shall be held, sold, conveyed or otherwise transferred, it shall be subject to the covenants, stipulations, agreements and provisions of this Agreement which shall apply to, bind and be obligatory upon the Owner hereto, its successors and assigns, and shall bind all present and subsequent owners of the Property described herein.
10. Severability Clause. The provisions of this Agreement shall be severable and if any phrase, clause, sentence or provision is declared unconstitutional, or the applicability thereof to the Owner, its successors and assigns, is held invalid, the remainder of this Covenant shall not be affected thereby.
11. Utah Law and Venue. This Agreement shall be interpreted under the laws of the State of Utah. Any and all suits for any claims or for any and every breach or dispute arising out of this Agreement shall be maintained in the appropriate court of competent jurisdiction in Davis County, Utah.
12. Indemnification. This Agreement imposes no liability of any kind whatsoever on the City, and the Owner agrees to hold the City harmless from any liability in the event the Storm Water Facilities fail to operate properly. The Owner shall indemnify and hold the City harmless for any and all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against the City from the construction, presence, existence, or maintenance of the Storm Water Facilities.

13. Amendments. This Agreement shall not be modified except by written instrument executed by the City and the Owner of the Property at the time of modification, and no modification shall be effective until recorded in the Davis County Recorder's Office.
14. Subordination Requirement. If there is a lien, trust deed or other property interest recorded against the Property, the trustee, lien holder, etc., shall be required to execute a subordination agreement or other acceptable recorded document agreeing to subordinate their interest to the Agreement.

[Signature and Notary pages to follow]

IN WITNESS WHEREOF, the OWNER has executed this Storm Water Facilities Maintenance Agreement
this 19th day of Apr. 1, 2019.

OWNER:



OWNER'S SIGNATURE

(Signature must be notarized on following pages)

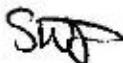
Tyrell J. Wall for Benchmark Holding, LLC as
OWNER'S NAME & TITLE Manager of Adams Court, LLC



LAYTON CITY ACCEPTANCE:



ALEX R. JENSEN, City Manager



ATTEST:

Kimberly S Read

KIMBERLY S READ, City Recorder

Approved as to Form:

By: Abby Brinkhoff
Date: 5/28/19

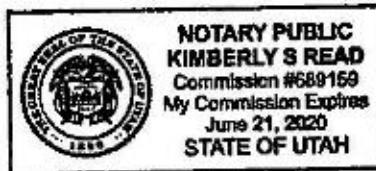
CITY ACKNOWLEDGMENT

STATE OF UTAH

:ss.

COUNTY OF DAVIS

On this 30th day of May, 2019, personally appeared before me Alex Jensen, who being duly sworn, did say that he/she is the CITY MANAGER of LAYTON CITY, a municipal corporation of the State of Utah, and that the foregoing Storm Water Facilities Maintenance Agreement was signed in his/her capacity as land use authority on behalf of the City for approval of Storm Water Facilities Maintenance Agreements.



Kimberly S. Read
Notary Public

OWNER NOTARY

(Complete only if signing as an Individual)

STATE OF _____

:ss.

COUNTY OF _____

On this _____ day of _____, 20____, personally appeared before me _____, who being duly sworn, did say that he/she is the legal property owner of record of the property subject to this Storm Water Facilities Maintenance Agreement and that he/she has executed this Agreement with full authority to do so.

Notary Public

(See Following Page for Corporation/Partnership and Limited Liability Company Notaries)

(Complete only if signing on behalf of a Corporation/Partnership)

STATE OF _____
ss.

COUNTY OF _____

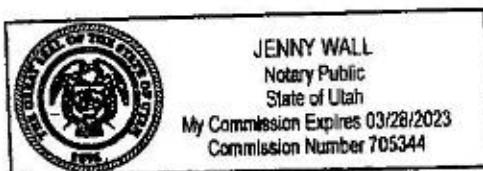
On this _____ day of _____, 20 ___, personally appeared before me _____ who being by me duly sworn did say that he/she is the _____ of _____, a _____ corporation/partnership, and that _____ is the legal property owner of record of the property subject to this Storm Water Facilities Maintenance Agreement and that the foregoing Storm Water Facilities Maintenance Agreement was signed in behalf of said corporation/partnership by authority of its Board of Directors/by-laws, and he/she acknowledged to me that said corporation/partnership executed the same.

NOTARY PUBLIC

(Complete only if signing on behalf of a Limited Liability Company)

STATE OF Utah
ss.
COUNTY OF DAVIS

On this 11 day of April, 2019, personally appeared before me Jenny J. Wall who being by me duly sworn did say that he/she is the Authorized Agent of Benchmark Holdings LLC who is the manager of Mainscourt LLC, and that the foregoing Storm Water Facilities Maintenance Agreement was signed in behalf of said company by authority, and he/she acknowledged to me that said company executed the same.



Jenny Wall
NOTARY PUBLIC

IF ADDITIONAL SIGNERS AND/OR NOTORIAL WORDING ARE NECESSARY, PLEASE NOTATE ANY ADDITIONS ON THIS NOTARY PAGE AND ATTACH A STATE APPROVED NOTARIAL CERTIFICATE, WHICH IDENTIFIES THE DOCUMENT THE ATTACHED NOTARIAL CERTIFICATE RELATES TO, AS WELL AS, THE NUMBER OF PAGES IN THE DOCUMENT

Exhibit "A"

PROPERTY DESCRIPTION

BEGINNING AT A POINT LOCATED SOUTH 00°02'40" WEST ALONG QUARTER SECTION LINE 1055.20 FEET FROM THE NORTHWEST CORNER OF SECTION 22, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE & MERIDIAN, SAID POINT BEING ON THE SOUTHERLY LINE SURVEY # 950, A SURVEY RECORDED AT THE DAVIS COUNTY SURVEYORS OFFICE, AND RUNNING THENCE EAST ALONG SAID SURVEYED LINE 89.45 FEET; THENCE SOUTH ALONG SAID SURVEYED LINE 92.87 FEET TO AN EXISTING CHAIN LINK FENCE; THENCE NORTH 89°56'07" WEST ALONG SAID FENCE LINE AND THE PROLONGATION THEREOF 21.98 FEET TO THE PROLONGATION OF THE WESTERLY LINE OF LOT 56, ASPEN HEIGHTS SUBDIVISION UNIT ONE, AS RECORDED AT THE DAVIS COUNTY RECORDERS OFFICE; THENCE SOUTH 01°10'00" WEST TO AND ALONG THE WEST LINE OF SAID LOT 108.65 FEET TO THE NORTHERLY LINE OF ASPEN WAY BASED UPON THE CENTERLINE OF THE EXISTING STREET IMPROVEMENTS; THENCE NORTH 88°38'49" WEST ALONG THE NORTHERLY LINE OF SAID STREET 193.42 FEET TO THE EASTERLY LINE OF FAIRFIELD ROAD BASED UPON THE CENTERLINE OF THE EXISTING STREET IMPROVEMENTS; THENCE NORTH 00°04'05" EAST ALONG THE EASTERLY LINE OF SAID STREET 196.90 FEET TO THE SOUTHERLY LINE OF SAID RECORD OF SURVEY #950; AND THENCE EAST ALONG THE SOUTHERLY LINE OF SAID SURVEYED LINE 127.88 FEET TO THE POINT OF BEGINNING.

CONTAINING: 40,860 SQ.FT. (0.94 ACRES)



Davis County, Government

REDI Web Land Information System

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[Abstract](#) | [Assessment](#) | [Legal](#) | [Vesting](#) | [Entry Numbers](#)
Serial Number: 11-001-0004 [Search Again](#)Printer Friendly: [Landscape](#) / [Portrait](#)

Abstract

Serial Number: 11-001-0004 <input checked="" type="checkbox"/>	Tax District: 39	Exempt: No
Tax Name & Address for Tax Year 2019	Situs Address:	Parcel Dates: 1/1/81 to
ADAMS COURT LLC 1565 WEST HILLFIELD RD #104 LAYTON, UT 84041	796 N FAIRFIELD RD LAYTON 84040	Acres: 1.00000

Dedication Plat

No Dedication Plat found
for this Serial Number

Legal Description

BEG AT A PT LOC S 00°02'40" W ALG THE 1/4 SEC LINE 1055.20 FT FR THE NW COR OF SEC 22-T4N-R1W, SLB&M, SD PT
 BEING ON THE S'LY LINE OF SURVEY #950, A SURVEY FILED AT THE DAVIS COUNTY SURVEYORS OFFICE; & RUN TH E ALG
 SD SURVEYED LINE 89.45 FT; TH S ALG SD SURVEYED LINE 92.87 FT TO AN EXIST CHAIN LINK FENCE; TH N 89°56'07" W ALG
 SD FENCE LINE & THE PROLONGATION THEREOF 21.98 FT TO THE PROLONGATION OF THE WLY LINE OF LOT 56, ASPEN
 HEIGHTS SUB UNIT ONE; TH S 01°10'00" W TO & ALG THE W LINE OF SD LOT 108.65 FT TO THE NLY LINE OF ASPEN WAY
 BASED UPON THE CENTERLINE OF THE EXIST STR IMPROVEMENTS; TH N 88°38'49" W ALG THE NLY LINE OF SD STR 198.42
 FT TO THE E'LY LINE OF FAIRFIELD RD BASED UPON THE CENTERLINE OF THE EXIST IMPROVEMENTS; TH N 00°04'05" E ALG
 THE E'LY LINE OF SD STR 198.80 FT TO THE S'LY LINE OF SD RECORD OF SURVEY #950; & TH E ALG THE S'LY LINE OF SD
 SURVEYED LINE 127.88 FT TO THE POB. CONT. 1.00 ACRE.

Parent	Child	Effective Date
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Type	Party	KOI	Entry Number	Book & Page	Inst. Date	Rec. Date & Time	Consideration	Vesting Doc.	See Also	X-Ref
Grantor:	BUNDY, MARY ANN STR	WARRANTY DEED	3144257 <input checked="" type="checkbox"/>	7204-221	02/20/2019	2/21/19 11:01:00	\$10.00	Yes		X-Ref
Grantor:	NELSON, JAN STR									
Grantor:	JOHN VERNON ADAMS FAMILY LIVING TRUST 03/01/1977,									
Grantee:	ADAMS COURT LLC, FOUNDERS TITLE CO - LAYTON, FOUNDERS TITLE CO - LAYTON,									
Grantor:	ADAMS, JOHN VERNON	RELEASE	827734 <input checked="" type="checkbox"/>	1240-160	05/31/1988	6/10/88 03:08:00	\$0.00			X-Ref
Grantor:	ADAMS, DOROTHY H									
Grantor:	NELSON, JAN									
Grantor:	BUNDY, MARY ANN									
Grantee:	OSMOND, JAMES A SEAL & KENNEDY, SEAL & KENNEDY,									
Grantor:	OSMOND, JAMES A	JUDGMENT	780585 <input checked="" type="checkbox"/>	1157-833	12/17/1986	4/8/87 09:17:00	\$0.00		13-031-0008	X-Ref
Grantee:	ADAMS, JOHN VERNON									
Grantee:	ADAMS, DOROTHY H									
Grantee:	NELSON, JAN									
Grantee:	BUNDY, MARY ANN									
Grantee:	JOHN VERNON ADAMS FAMILY LIVING TRUST, BY TRS, SEAL & KENNEDY, SEAL & KENNEDY,									
Grantor:	ADAMS, JOHN VERNON	LIS PENDENS	729989 <input checked="" type="checkbox"/>	1078-883	03/17/1986	3/17/86 12:50:00	\$0.00			X-Ref
Grantor:	ADAMS, DOROTHY H									
Grantor:	NELSON, JAN, CO-TRUSTEE									
Grantor:	BUNDY, MARY ANN, CO-TRUSTEE									
Grantor:	JOHN VERNON ADAMS FAMILY LIVING TRUST, BY TRUSTEES, BY ATY,									
Grantee:	OSMOND, JAMES A MCGEE, MARY PAXMAN MCGEE, MARY PAXMAN									