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BK 7628 PG 1672

E 3310187 B 7628 P 1672-1686  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
10/30/2020 11:03:00 AM  
FEE \$0.00 Pgs: 15  
DEP eCASH REC'D FOR MILLER HARRISON LLC

**When Recorded Return To:**

CW Land Co.  
1222 W. Legacy Crossing Blvd., Suite 6  
Centerville, Utah 84014

Affecting Parcel Numbers: 121030107, 121030039, 121030114 & 121030097

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*(Space Above for Recorder's Use Only)*

**PAYBACK AGREEMENT**

**WATER, SANITARY SEWER, STORM DRAIN AND RIGHT-OF-WAY  
IMPROVEMENTS INSTALLED BY CW LAND CO, LLC ABUTTING THE FIELDS  
SUBDIVISION, SYRACUSE, UTAH**

**PAYBACK AGREEMENT**  
**WATER, SANITARY SEWER, STORM DRAIN AND RIGHT-OF-WAY**  
**IMPROVEMENTS INSTALLED BY CW LAND CO, LLC**  
**ABUTTING THE FIELDS SUBDIVISION, SYRACUSE, UTAH**

This Agreement made and entered into this 27 day of ~~September~~<sup>October</sup>, 2020, by and between the City of Syracuse, a municipal corporation of Utah, hereinafter referred to the "CITY" and CW Land Co, LLC, whose address is 1222 Legacy Crossing Blvd #6, Centerville, UT 84014, hereinafter referred to as the "DEVELOPER."

**WHEREAS**, pursuant to Syracuse City Municipal Code Title VIII, Section 8.10.140, the CITY has by Resolution No. R2031 adopted by the City Council of the CITY on the 13 day of Oct, 2020, approved the execution of this Payback Agreement with the DEVELOPER above and referring to facilities described herein; and

**WHEREAS**, the above-described DEVELOPER has offered to install upsized improvements to the 3200 South and 2400 West Right of Ways and vicinity, including: asphalt, curb, gutter and sidewalk; culinary and secondary water lines; sanitary sewer and storm drain lines improvements, as part of the utility systems of the CITY;

**WHEREAS**, the above-described improvements benefits another land owner who would or should in equity normally pay a portion of the improvements;

**NOW THEREFORE**, IN CONSIDERATION OF THE CONDITIONS AND COVENANTS HEREIN, THE PARTIES AGREE AS FOLLOWS:

**I. DEVELOPER**

The above-described DEVELOPER is the record OWNER of real property legally described as shown on Exhibit B submitted by the DEVELOPER and attached hereto. The real property described is also known as the Plat of (The Fields Subdivision), Davis County, Utah.

Map showing said property is attached hereto as Exhibit C.

**II. FACILITIES**

The facilities which have been constructed by the DEVELOPER herein are as shown in the attached Exhibit A, Improvement Plans, incorporated herein by these references. The facilities have been constructed in accordance with the ordinances and requirements of the CITY governing the construction specifications for facilities of such type and have been approved by the City Engineer.

**III. AREA OF FACILITY SERVICE BENEFIT**

The properties benefited by the facilities constructed by the DEVELOPER are shown on Exhibits B & C which are by this reference incorporated herein as if fully set forth herein. Any owner of real estate legally described within the benefit boundary as shown on the attached Exhibits B & C, shall pay as a condition for connecting to the facilities, an amount as identified in Section V. All property within the benefit boundary shall be subject to the connection fee as provided in this agreement as a condition of issuance of the connection permit by the CITY.

#### IV. TERMS

For a period of ten (10) years from the date that the City formally accepts the developer's utility extension, any owner (latecomer) of real estate legally described in Section III, and which owner has not fully contributed their pro rata share to the original cost of the above-described facility, shall pay to the CITY the amounts shown in Exhibit D attached hereto. The charge herein represents the fair pro rata share of the cost of construction of said facilities payable by properties benefited. Such properties are shown in Exhibits B and C. Payment of the latecomers pro rata share is a condition of issuance of the connection permit by the CITY.

The CITY shall reimburse the DEVELOPER at six (6) month intervals any such amounts collected.

Upon the expiration of the 10-year term, after the 27 Day of October 2030, any moneys collected by the CITY will not be reimbursed to the DEVELOPER.

#### V. AMOUNT OF REIMBURSEMENT

The DEVELOPER, his successors, heirs and assigns, agrees that the amounts which the DEVELOPER is reimbursed from the property owners as specified in Section III of this Agreement, represents a fair pro rata share reimbursement for the DEVELOPER'S construction of the facilities described in Section II of this Agreement. The amounts per parcel are separately itemized as shown in Exhibit D attached hereto, and totaling to not more than \$735,843<sup>13</sup> in full amount.

Prior to recordation by the DEVELOPER as described in Section X, the CITY, shall mail to the property owners, as reflected in the records of the Davis County Assessor's Office, as specified in Section III, notification of the allocation of costs to be levied against the properties which are payable prior to connection to the systems. The property owner shall have the right to a review of the costs with the Director of Public Works within 21 days from the date of said notice for the purpose of requesting an adjustment in the allocation of the charge to the property.

If the Director of Public Works, upon requested review by a notified property owner(s), does find cause for adjustment in the allocation of the charge to the benefited property(s), such adjustment will be made and the DEVELOPER will be notified of the adjusted amount(s) prior to recordation. The resulting adjusted Exhibits C and D shall govern reimbursement amounts to be received by the DEVELOPER.

#### VI. EFFECT OF AGREEMENT

The provisions of this Agreement shall not be effective as to any owner of real estate not a party hereto unless this Agreement has been recorded in the office of the County Recorder of Davis County in which

the real estate is located prior to the time such owner receives a permit to tap into or connect to said facilities.

If for any reason, the CITY fails to secure a latecomer payment for Owner's fair pro rata share of the cost of the facilities, before connection to the extension, the CITY is not liable for payment to the DEVELOPER.

The entire responsibility for notices, recordation and completion of this Agreement is upon the DEVELOPER, who agrees to do all and to hold the CITY harmless.

#### VII. OWNERSHIP OF FACILITY

The DEVELOPER has constructed the facilities described in Section II of this Agreement, which facilities have been accepted by the CITY as satisfactory. The facilities have become a part of the municipal system of the CITY. All maintenance and operation costs of said facility shall be borne by the CITY, except as noted otherwise.

#### VIII. UNAUTHORIZED CONNECTION

Whenever any connection is made into the facilities described in Exhibit A under this Agreement which is not authorized by the CITY, the CITY shall have the absolute authority to remove or cause to be removed such unauthorized connections and all connecting lines or pipes located in the facility's right-of-way.

The CITY shall incur no liability for any damage to any person or property resulting from removal of the unauthorized connection.

#### IX. CURRENT ADDRESS & TELEPHONE NUMBER

The DEVELOPER shall keep a current record of his/her address and telephone number on file with the Director of Public Works of the CITY, and shall within 30 days of any change of said address and/or telephone number, notify the Director of Public Works of the CITY in writing. If the DEVELOPER fails to do so, the parties agree that the CITY may authorize connections resulting therefrom and not incur any liability for the non-collection and/or non-reimbursement of charges to the DEVELOPER under this Agreement.

#### X. COVENANT RUNNING WITH THE LAND

This Agreement shall be binding on the DEVELOPER, its successors, heirs and assigns and shall so be binding on the legal owners of all properties described within the benefit boundary of the area as shown in the attached Exhibits B and C, their successors, heirs and assigns. The DEVELOPER agrees to pay all fees for recording this Agreement with the County Recorder. The DEVELOPER shall make the actual recording and provide the CITY with confirmation thereof, but such recordation shall only be made after expiration of review period specified in Section V.

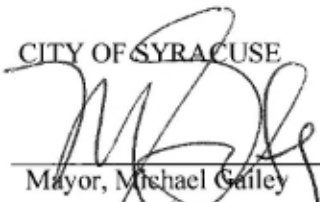
#### XI. HOLD HARMLESS

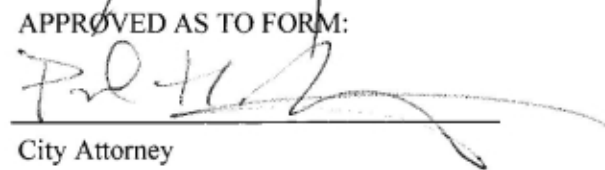
The DEVELOPER will indemnify and save the CITY and the CITY'S officials and agents harmless from all claims and costs of defense, arising out of this agreement, as a result of DEVELOPER actions,

misconduct or breach of contract, including but not limited to attorney's fees, expert witness fees, and the cost of the services of engineering and other personnel who's time is reasonably devoted to the preparation and attendance of depositions, hearings, arbitration proceedings, settlement conferences and trials growing out of the demands and/or actions of property owners incurred in the performance or completion of this Agreement.

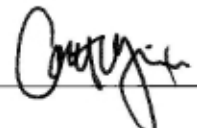
XI. CONSTITUTIONALITY OR INVALIDITY

If any section, subsection, clause or phrase of this Agreement is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Agreement, as it being hereby expressly declared that this Agreement and each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted and approved and ratified irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid or unconstitutional.

CITY OF SYRACUSE  
  
\_\_\_\_\_  
Mayor, Michael Gailey

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
City Attorney

ATTEST:  
  
\_\_\_\_\_  
City Recorder

DEVELOPER:  
  
\_\_\_\_\_  
Signature  
Title: Manager

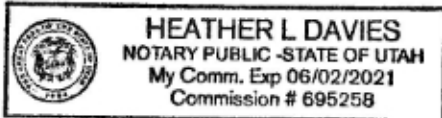
\_\_\_\_\_  
Signature  
Title: \_\_\_\_\_

STATE OF UTAH )

COUNTY OF DAVIS ) ss

On this day of, 2020, before me, the undersigned, a Notary Public in and for the State of Utah, duly commissioned and sworn, personally appeared Michael Gailey and Cassie Brown, to me known as the Mayor and City Recorder, for the City of Syracuse, the corporation who executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said City of Syracuse, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute said instrument on behalf of said municipal corporation.

GIVEN under my hand and official seal this day 27 of October, 2020



Heather Davies  
NAME

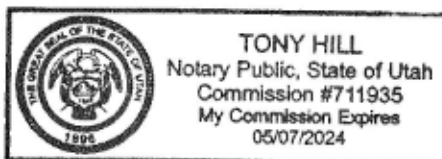
NOTARY PUBLIC in and for the State of Utah,  
residing at Syracuse City  
My Commission Expires: 06/02/2021

STATE OF UTAH )

COUNTY OF DAVIS ) ss

ON THIS 28 day of OCTOBER, 2020, before me, personally appeared and, to me known to be the MANAGER and of the Developer the party(ies) who executed - the corporation/company that executed the within and foregoing instrument, and acknowledged said instrument to be his/her/their the free and voluntary act and deed of said corporation/company, for the uses and purposes therein mentioned, and on oath stated that they were authorized to execute said instrument.

GIVEN under my hand and official seal this 28 day of OCTOBER, 2020.



Tony Hill  
NAME

NOTARY PUBLIC in and for the State of Utah, residing  
at DAVIS COUNTY  
My Commission Expires: 05/07/24

EXHIBIT A – IMPROVEMENT PLANS







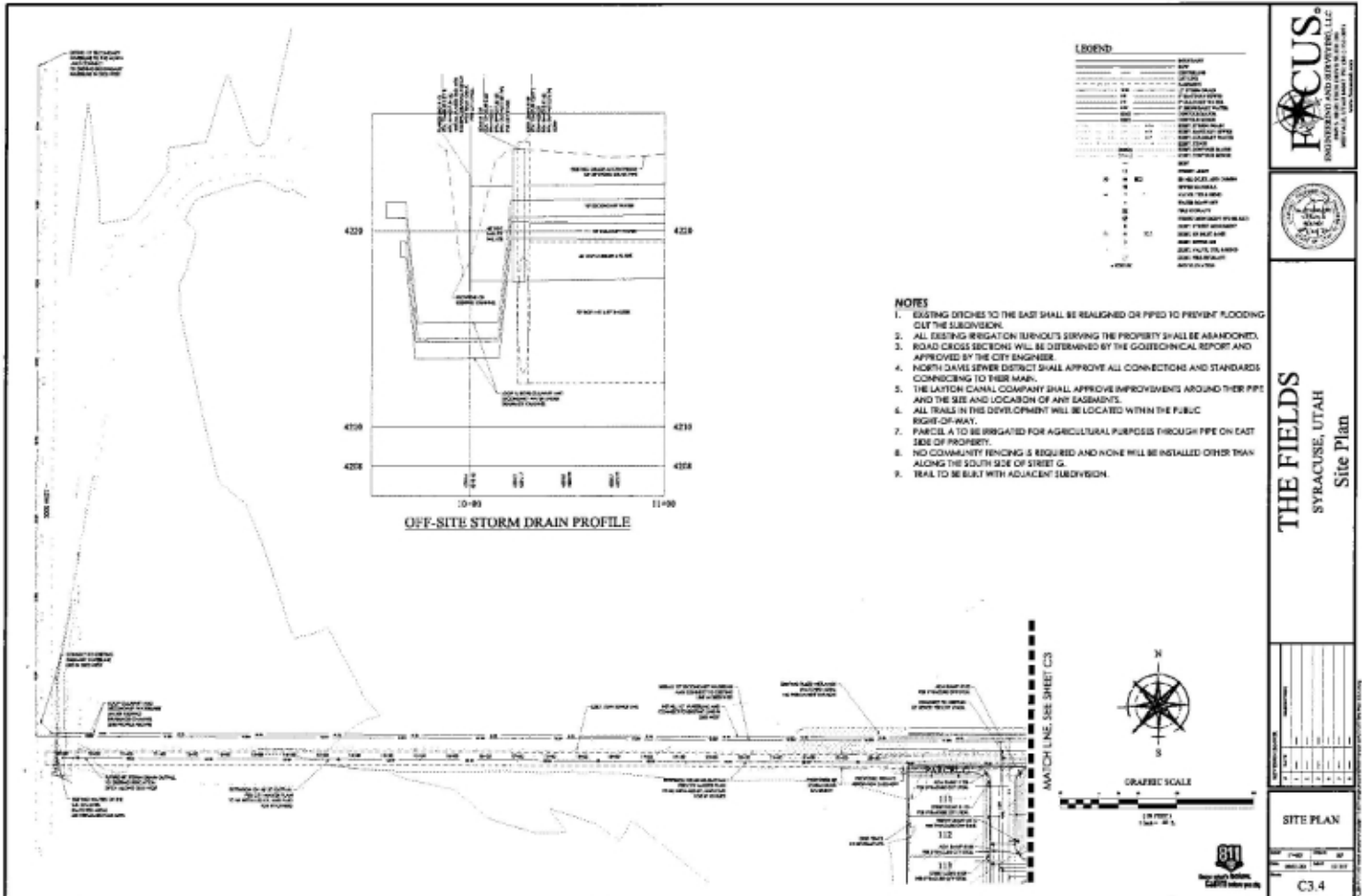


EXHIBIT B – LEGAL DESCRIPTIONS

**LEGAL DESCRIPTIONS  
PREPARED FOR  
CW LAND CO.  
SYRACUSE CITY, UTAH  
(September 21, 2020)  
17-344**

**CHURCH PARCEL NORTH OF CENTER OF OFF-SITE UTILITIES (BENEFITED AREA C)**

A portion of that Real Property described in Deed Book 6787 Page 1040 of the Official Records of Davis County, located in the NW1/4 of Section 21, Township 4 North, Range 2 West, Salt Lake Base and Meridian, Syracuse City, Utah, more particularly described as follows:

Beginning at a point on the Westerly line of that Real Property described in Deed Entry No. 3280589 of the Official Records of Davis County, located N89°48'25"W along the Section line 617.03 feet and North 2,658.33 feet from the South 1/4 Corner of Section 21, T4N, R2W, SLB&M (Basis of Bearing: N89°48'25"W along the Section Line between the Southeast Corner and the South 1/4 Corner of said Section 21); thence N89°40'13"W 2,028.21 feet to the Easterly line of 3000 West Street; thence N00°11'23"E along said street 635.31 feet; thence S89°40'13"E 2,010.02 feet to a point on the Westerly line of said Real Property described in Deed Entry No. 3280589 of the Official Records of Davis County; thence along said deed the following eight (8) courses: 1) S00°13'13"W 129.99 feet; 2) S89°48'47"E 18.24 feet; 3) S00°11'13"W 230.05 feet; 4) S00°19'47"W 39.75 feet; 5) S89°40'13"E 10.10 feet; 6) S00°11'13"W 100.00 feet; 7) N89°48'47"W 10.00 feet; 8) S00°11'13"W 135.55 feet to the point of beginning.

Contains: 29.55 acres+/-

**CHURCH PARCEL SOUTH OF CENTER OF OFF-SITE UTILITIES (BENEFITED AREA D)**

A portion of that Real Property described in Deed Book 6787 Page 1040 of the Official Records of Davis County, located in the NW1/4 & SW1/4 of Section 21, Township 4 North, Range 2 West, Salt Lake Base and Meridian, Syracuse City, Utah, more particularly described as follows:

Beginning at a point on the Westerly line of that Real Property described in Deed Entry No. 3280589 of the Official Records of Davis County, located N89°48'25"W along the Section line 617.03 feet and North 2,658.33 feet from the South 1/4 Corner of Section 21, T4N, R2W, SLB&M (Basis of Bearing: N89°48'25"W along the Section Line between the Southeast Corner and the South 1/4 Corner of said Section 21); thence S00°11'13"W along said deed 24.50 feet to the 1/4 Section line; thence N89°40'13"W along the 1/4 Section line 701.25 feet to the Northwest Corner of THE FIELDS SUBDIVISION PHASE 1, according to the Official Plat thereof on file in the Office of the Davis County Recorder; thence S00°11'16"W along the West line of said plat and along the West line of THE FIELDS SUBDIVISION PHASE 2, according to the Official Plat thereof on file in the Office of the Davis County Recorder 2,153.43 feet to the Centerline of Gentile Street; thence N67°56'40"W along the centerline of said street 1,429.87 feet to the Section line; thence N00°11'20"E along the Section line 1,624.15 feet to the West 1/4 Corner of said Section 21; thence N00°11'23"E along the Section line 24.50 feet; thence S89°40'13"E 2,028.21 feet to the point of beginning.

Contains: 58.68 acres+/-

**SHORELINE WEST (BENEFITED AREA B)**

A parcel of land, situate in the North Half of Section 21, Township 4 North, Range 2 West, Salt Lake Base and Meridian, said parcel also located in Syracuse City, Davis County, Utah. Being more particularly described as follows:

Beginning at a point on the North-South Quarter Section line and the South line of Syracuse Meadows Subdivision Plat A, said point being South 00°11'16" West 396.00 feet along the quarter section line from the North Quarter Corner of said Section 21 and running thence along the South and East lines of Syracuse Meadows Subdivision Plat A the following four (4) courses and distances:

- 1) South 89°40'58" East 247.61 feet;
- 2) North 00°19'02" East 115.00 feet;

- 3) South 89°40'58" East 360.00 feet;
- 4) North 00°19'02" East 280.97 feet to the North line of said Section 21;

thence South 89°32'06" East 4.76 feet along said North line;

thence South 00°19'02" West 1,319.74 feet;

thence South 89°40'16" East 53.05 feet;

thence South 00°11'36" West 658.18 feet to the northerly line of that portion of 2400 West Street previously dedicated as part of The Fields Subdivision Phase 1 (Entry No. 3194802 in Book 7365, Page 1862);

thence along the northerly and westerly lines of 2400 West Street and 3200 South Streets the following five (5) courses and distances:

- 1) North 89°48'15" West 66.97 feet;
- 2) South 00°11'45" West 588.26 feet;
- 3) southwesterly 23.60 feet along the arc of a 15.00-foot radius non-tangent curve to the right (center bears North 89°48'35" West and the long chord bears South 45°15'46" West 21.24 feet with a central angle of 90°08'41");
- 4) North 89°40'13" West 1105.14 feet;
- 5) South 00°04'33" West 58.00 feet to the North line of the Fields Subdivision Phase 1;

thence North 89°40'13" West 102.02 feet along said North line of the Field Subdivision Phase 1 to the easterly limits of Syracuse City as annexed on 3/4/2019 (Entry No. 3148041 in Book 7219, Page 80-86);

thence along said Syracuse City limits the following eight (8) courses and distances:

- 1) North 00°11'13" East 160.02 feet;
- 2) South 89°48'47" East 10.00 feet;
- 3) North 00°11'13" East 100.00 feet;
- 4) North 89°40'13" West 10.10 feet;
- 5) North 00°19'47" East 39.75 feet;
- 6) North 00°11'13" East 230.05 feet;
- 7) North 89°48'47" West 18.24 feet;
- 8) North 00°13'13" East 130.00 feet;

thence North 89°40'20" West 435.61 feet;

thence North 00°19'02" East 241.90 feet;

thence Northwesterly 23.58 feet along the arc of a 14.95-foot radius non-tangent curve to the left (center bears North 89°29'34" West and the long chord bears North 44°40'58" West 21.21 feet with a central angle of 90°22'48");

thence North 00°19'28" East 60.00 feet;

thence Northeasterly 23.55 feet along the arc of a 14.98-foot radius non-tangent curve to the left (center bears North 00°21'33" East and the long chord bears North 45°19'22" East 21.20 feet with a central angle of 90°04'23");

thence North 00°19'02" East 318.54 feet;

thence Northerly 36.67 feet along the arc of a 120.00-foot radius non-tangent curve to the left (center bears North 89°40'58" West and the long chord bears North 08°26'12" West 36.53 feet with a central angle of 17°30'28");

thence Northerly 55.00 feet along the arc of a 180.00-foot radius non-tangent curve to the right (center bears North 72°48'34" East and the long chord bears North 08°26'12" West 54.79 feet with a central angle of 17°30'28");

thence North 00°19'02" East 55.00 feet;

thence northwesterly 23.68 feet along the arc of a 15.21-foot radius tangent curve to the left (center bears North 89°40'58" West and the long chord bears North 44°17'34" West 21.36 feet with a central angle of 89°13'13");

thence North 00°19'02" East 60.00 feet;

thence northeasterly 23.56 feet along the arc of a 15.00-foot radius non-tangent curve to the left (center bears North 00°19'02" East and the long chord bears North 45°19'02" East 21.21 feet with a central angle of 90°00'00");

thence North 00°19'02" East 117.00 feet to the South line of Syracuse Meadows Subdivision Plat 4;

thence South 89°40'58" East 687.90 feet along said South line of Syracuse Meadows Subdivision Plat 4 to and along the southerly line of Syracuse Meadows Subdivision Plat 3;

thence along the southerly and easterly lines of Syracuse Meadows Subdivision Plat 3 the following four (4) courses and distances:

- 1) North 73°57'58" East 107.76 feet;
- 2) North 211.39 feet;
- 3) North 42°16'31" West 65.83 feet;
- 4) North 00°19'05" East 290.18 feet to the South line of Syracuse Meadows Subdivision Plat A;

thence South 89°40'58" East 344.39 feet along the South line of Syracuse Meadows Subdivision Plat A to the Point of Beginning.

Contains: 3,066,137 square feet or 70.398 acres.

**GREEN, CAROLYN C – TRUSTEE (BENEFITED AREA A)**

Beginning at the Southeast Corner of the West One-half of the West One-half of the Southeast Quarter of Section 21, Township 4 North, Range 2 West, Salt Lake Base and Meridian, said point being North 89°48'19" West 1989.94 feet along the section line from the Southeast Corner of Section 21, Township 4 North, Range 2 West, Salt Lake Base and Meridian, and running;  
Thence North 89°48'19" West 663.37 feet along the section line to the South Quarter Corner of Section 21, Township 4 North, Range 2 West, Salt Lake Base and Meridian;  
Thence North 89°48'19" West 331.76 feet along the section line to the Southwest Corner of the East One-half of the East One-half of the East One-half of the Southwest Quarter of Section 21, Township 4 North, Range 2 West, Salt Lake Base and Meridian;

Thence North  $0^{\circ}11'19''$  East 2632.93 feet along the west line to the Northwest Corner of the East One-half of the East One-half of the East One-half of the Southwest Quarter of Section 21, Township 4 North, Range 2 West, Salt Lake Base and Meridian;  
Thence South  $89^{\circ}40'01''$  East 331.73 feet along the quarter section line to the Center of Section 21, Township 4 North, Range 2 West, Salt Lake Base and Meridian;  
Thence South  $89^{\circ}40'01''$  East 663.49 feet along the quarter section line to the Northeast Corner of the West One-half of the West One-half of the Southeast Quarter of Section 21, Township 4 North, Range 2 West, Salt Lake Base and Meridian;  
Thence South  $0^{\circ}11'25''$  West 2630.52 feet along the east line of the West One-half of the West One-half of the Southeast Quarter of Section 21, Township 4 North, Range 2 West, Salt Lake Base and Meridian to the point of beginning.

Contains 2,619,017 square feet, 60.124 acres.

EXHIBIT C – BENEFITTED AREAS

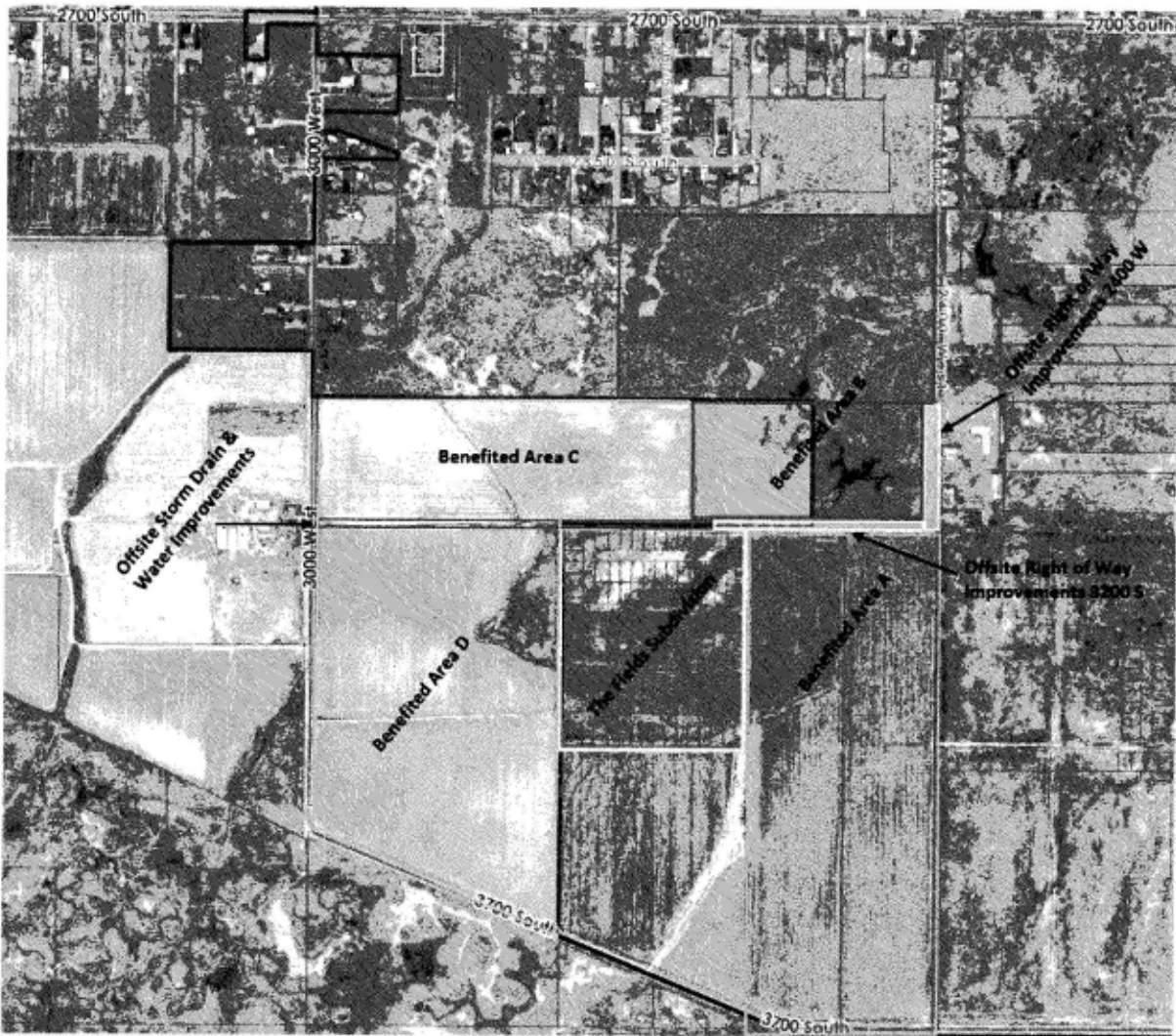


EXHIBIT D - COST APPORTIONMENT & ESTIMATE

Payback Agreement Cost Breakdown For The Fields

	Total Cost Of Improvements	Syracuse Portion Of Improvement Costs	Remaining Cost Of Improvements	The Fields		Area A		Area B		Area C		Area D	
				Percentage Benefited	Portion Of Cost	Percentage Benefited	Portion Of Cost	Percentage Benefited	Portion Of Cost	Percentage Benefited	Portion Of Cost		
<b>2802 West Improvements</b>													
Road Improvements	\$141,236.59	\$25,380.16	\$115,846.43	0.50	\$57,923.22	0.00	\$0.00	0.50	\$57,923.22	0.00	\$0.00	0.00	\$0.00
Storm Drain	\$113,669.70	\$43,718.60	\$79,951.10	0.50	\$39,975.55	0.00	\$0.00	0.50	\$39,975.55	0.00	\$0.00	0.00	\$0.00
Culinary Water	\$41,897.50	\$6,954.00	\$34,943.50	0.50	\$17,471.75	0.00	\$0.00	0.50	\$17,471.75	0.00	\$0.00	0.00	\$0.00
Secondary Water	\$26,900.00	\$3,193.50	\$23,706.50	0.50	\$11,853.25	0.00	\$0.00	0.50	\$11,853.25	0.00	\$0.00	0.00	\$0.00
<b>3200 South Improvements</b>													
Road Improvements	\$150,094.79	\$48,745.54	\$101,349.25	0.33	\$33,713.25	0.33	\$67,237.24	0.33	\$67,237.24	0.50	\$0.00	0.00	\$0.00
Sewer	\$81,049.10	\$0.00	\$81,049.10	0.00	\$0.00	0.00	\$0.00	1.00	\$81,049.10	0.00	\$0.00	0.00	\$0.00
Storm Drain	\$111,000.80	\$15,102.00	\$95,898.80	0.33	\$31,966.27	0.33	\$53,855.59	0.33	\$53,855.59	0.50	\$0.00	0.00	\$0.00
Culinary Water	\$97,861.00	\$8,731.00	\$89,130.00	0.33	\$29,346.37	0.33	\$19,346.57	0.34	\$19,346.57	0.50	\$0.00	0.00	\$0.00
Secondary Water	\$86,516.00	\$13,261.25	\$73,254.75	0.33	\$24,418.99	0.33	\$24,842.99	0.34	\$25,995.81	0.50	\$0.00	0.00	\$0.00
<b>Offsite SD &amp; Waterline Cost</b>													
Storm Drain	\$991,061.50	\$102,552.50	\$888,509.00	0.00	\$0.00	0.00	\$0.00	0.00	\$0.00	1.00	\$980,959.00	0.00	\$0.00
Culinary Water	\$54,236.80	\$4,289.20	\$49,947.60	0.33	\$17,022.52	0.00	\$0.00	0.00	\$0.00	0.33	\$16,502.44	0.33	\$16,502.44
Secondary Water	\$80,933.00	\$10,494.20	\$70,438.80	0.33	\$23,029.05	0.00	\$0.00	0.00	\$0.00	0.33	\$26,224.37	0.33	\$26,224.37
<b>Total</b>					\$647,866.94		\$175,283.90		\$384,998.13		\$133,235.82		\$42,726.82