

12-111-0067.0069, 0152, 0155 RESOLUTION 16-20

A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN ADDENDUM TO A PAYBACK AGREEMENT, APPROVING THE EXTENSION OF THAT AGREEMENT BETWEEN ISLAND VIEW RIDGE DEVELOPMENT, INC. AND LAYTON CITY, ENTITLED IMPROVEMENT PAYBACK AGREEMENT.

WHEREAS, Island View Ridge Development, Inc., (hereinafter "Developer") constructed and installed storm sewer improvements pursuant to developing Island View Ridge Subdivision at approximately 3700 West Gentile Street; and

WHEREAS, the benefits of those improvements constructed and dedicated to the City by Developer, provide for storm sewer service to properties adjacent to Island View Ridge Subdivision; and

WHEREAS, the City entered into a payback agreement with Developer on November 2, 2006, by adopting Resolution 06-71, which proportioned obligations relating to costs for the construction of these improvements between the Developer, the City, and other development that may benefit from the construction and dedication of the identified improvements; and

WHEREAS, in keeping with the Payback Agreement Standards of the City, the duration of the agreement adopted by the City Council is ten years and will expire on November 2, 2016; and

WHEREAS, the City Payback Agreement Standards also allow for the extension of payback agreements under circumstances out of the control of Developer, such as a complete downturn in the market and Developer has petitioned for an extension to their storm sewer payback agreement due to such circumstances; and

WHEREAS, the City Council of Layton City deems that circumstances out of the control of Developer have occurred during the duration of the payback agreement which warrant a five-year extension of the Payback Agreement to the date of November 2, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF LAYTON, UTAH:

1. That the Improvement Payback Agreement between Island View Ridge Development, Inc. and Layton City, as adopted by Resolution 06-71 on November 2, 2006, is hereby extended for five years.
2. That adoption of this Resolution by the Layton City Council shall act as an amendment which extends the date of collection noted in the original Payback Agreement to November 2, 2021.

PASSED AND ADOPTED by the City Council of Layton, Utah, this **21st day of April, 2016.**



[Handwritten Signature]
ROBERT J STEVENSON, Mayor

ATTEST:
755 57 504
[Handwritten Signature]
THIEDA WELLMAN, City Recorder

ISLAND VIEW RIDGE
EXHIBIT "B"
LEGAL DESCRIPTIONS

Serial Number: 12-111-0069
Tax Name & Address for Tax Year 2019:
ROBINSON, BRODY & JESSICA
76 SOUTH 3600 WEST
LAYTON, UT
84041

Abstract
Tax District: 81
Situs Address:

Exempt: No
Parcel Dates: 11/14/91 to Present

Acres: 2.86

Legal Description

BEG AT A PT S 0°13'08" W 412.5 FT ALG THE 1/4 SEC LINE & S 89°53'55" E 188.76 FT FR THE N 1/4 COR OF SEC 26-T4N-R2W, SLM; & RUN TH S 0°13'08" W 528.62 FT; TH S 9°51'11" E 197.83 FT; TH N 60°40' E 177.21 FT; TH N 0°13'08" E 636.39 FT; TH N 89°53'55" W 188.76 FT TO THE POB. CONT. 2.86 ACRES.
(WENT TO 12-111-0070)

Serial Number: 12-111-0067
Tax Name & Address for Tax Year 2019:
MAHAS, KATHLEEN W - TRUSTEE
3689 WEST GENTILE
LAYTON, UT
84041-8777

Abstract
Tax District: 81
Situs Address:
3689 W GENTILE
LAYTON 84041
Acres: 2.90

Exempt: No
Parcel Dates: 11/14/91 to Present

Legal Description

BEG AT A PT S 0°13'08" W 412.5 FT ALG THE 1/4 SEC LINE FR THE N 1/4 COR OF SEC 26-T4N-R2W, SLM; & RUN TH S 0°13'08" W ALG SD 1/4 SEC LINE 598.62 FT; TH S 60°40' E 255.66 FT; TH N 9°51'11" W 197.83 FT; TH N 0°13'08" E 528.62 FT; TH N 89°53'55" W 188.76 FT TO POB. CONT. 2.90 ACRES.

Serial Number: 12-111-0152
Tax Name & Address for Tax Year 2019:
SCHULZ, ANN - TRUSTEE
479 WEST GENTILE ST
LAYTON, UT
84041

Abstract
Tax District: 39
Situs Address:
202 S 3200 WEST
LAYTON 84041
Acres: 5.594

Exempt: No
Parcel Dates: 3/9/16 to Present

Legal Description

BEG AT A PT ON THE 1/4 SEC LINE, SD PT BEING S 0°11'56" W 1052.60 FT ALG THE 1/4 SEC LINE FR THE NE COR OF SEC 26-T4N-R2W, SLB&M; & RUN TH S 0°11'56" W 295.82 FT ALG THE 1/4 SEC LINE; TH N 89°18'00" W 826.52 FT; TH N 0°12'31" E 291.57 FT; TH S 89°47'29" E 140.03 FT; TH S 89°48'04" E 507.84 FT; TH S 88°51'10" E 178.60 FT TO THE POB. CONT. 5.594 ACRES

ISLAND VIEW RIDGE
EXHIBIT "B"
LEGAL DESCRIPTIONS

Serial Number: 12-111-0155
Tax Name & Address for Tax Year 2019:
SCHULZ, ANN - TRUSTEE
479 WEST GENTILE ST
LAYTON, UT
84041

Abstract
Tax District: 39
Situs Address:

Exempt: No
Parcel Dates: 3/18/16 to Present

Acres: 4.497

Legal Description

BEG S 0°11'56" W 1348.43 FT & N 89°18' W 358.70 FT FR THE NE COR OF SEC 26-T4N-R2W, SLB&M; & RUN TH N 89°18' W 467.82 FT, M/L, TO THE E LINE OF PPTY CONV IN WARRANTY DEED RECORDED 03/09/2016 AS E# 2925234 BK 6469 PG 648; TH ALG SD E LINE THE FOLLOWING TWO COURSES: S 0°12'31" W 216.79 FT & S 0°42'00" W 204.87 FT; TH S 89°18' E 469.47 FT, M/L, TO A PT S 0°11'56" W OF THE POB; TH N 0°11'56" E 421.67 FT, M/L, TO THE POB. CONT. 4.497 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.)

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IMPROVEMENT PAYBACK AGREEMENT

This Agreement, made and entered into this 2nd day of November, 2006, by and between **ISLAND VIEW RIDGE DEVELOPMENT, INC.**, a Utah corporation, hereinafter referred to as "Developer", and **LAYTON CITY CORPORATION**, a municipal corporation of the State of Utah, hereinafter referred to as "City".

WITNESSETH

WHEREAS, Developer has constructed and installed certain improvements pursuant to an Annexation Agreement dated the 18th day of March, 2004, between Developer and Layton City; and

WHEREAS, the benefits of those improvements constructed and dedicated to the City by Developer, will extend to other developments and will also provide for, to a certain extent, existing needs in right-of-way, storm sewer, sanitary sewer, and land drain systems in the Island View Ridge Subdivision (hereinafter referred to as "Developer's Subdivision") located on Gentile Street adjacent to the proposed 3700 West in Layton, Utah; and

WHEREAS, the City desires to enter into an agreement with the Developer providing for proportioning obligations relating to costs for the construction of these improvements between the Developer, the City, and other developments that may benefit from the construction and dedication of the identified improvements; and

WHEREAS, the City Council of Layton City and the Developer have determined that responsibility for the costs for certain improvements within Developer's Subdivision should be distributed in the manner designated in this Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE PROMISES, COVENANTS AND CONDITIONS HEREIN CONTAINED, AND THE SUMS OF MONEY TO BE PAID, IT IS HEREBY AGREED AS FOLLOWS:

I. GENERAL RESPONSIBILITY FOR IMPROVEMENTS

Developer acknowledges that they have previously entered into an Annexation Agreement with the City dated the 18th day of March, 2004, and that, except for the provisions of this Agreement, Developer is responsible for the dedication of property and construction of improvements outlined in that Agreement.

II. STORM DRAIN COSTS

1. A thirty-six inch (36") storm drain line will be constructed by the Developer on 3700 West, running south from Gentile to 750 South, then west to a detention pond on property currently owned by Developer. This storm drain line is shown in Exhibit "A", which is attached hereto and incorporated herein by this reference.

2. The City Engineer has determined the size of the storm drain line necessary to provide for development by Developer and other developments in the surrounding areas. The allocation of costs for that line and the identification of developers that will participate in those costs, are identified in Exhibit "B". The areas and individual properties subject to the payback are identified in Exhibit "A". The City shall, as provided in the terms of this Agreement, collect,

at the time of development approval, the costs required from each property owner identified in Exhibit "A". These costs shall constitute the proportional share for each property owner of "project improvements" for the storm system improvements attributable to their developments.

3. The City has also agreed that a portion of the storm drain line is attributable to over-sizing for the City's storm drain system generally and the City shall pay to the Developer the amount provided for in Exhibit "B".

III. DETENTION BASIN

1. Developer agrees to dedicate to the City approximately 2.59 acres of property to be used as a regional detention basin. (See Exhibit "A")

2. The City agrees to collect from each of the properties identified in Exhibit "A", their proportional share of the costs of the underlying land for the detention basin.

3. The City agrees to pay to the Developer, as received and collected from the developments described in Exhibit "A", that portion of the costs of the land for the detention basin as defined in Exhibit "C". Developer agrees to accept a property value of Seventy Thousand Dollars (\$70,000.00) per acre in determining that cost.

4. Repayment to the Developer for the detention basin shall be based on the following formula. The City shall determine Developer's total cost for the underlying land for the detention basin and the improvements required for the detention basin as approved by the City Engineer. The Developer shall be entitled to receive from impact fees, a credit against impact fees paid by Developer of the full Ninety-Two Thousand Dollars (\$92,000.00), which shall consist of the amount in the City's Capital Facilities Plan attributable to the acquisition and construction of the detention basin for Developer's property and surrounding properties. The difference between this amount paid from impact fees and the actual costs of construction and acquisition of the detention basin shall be divided equally between all those properties that have benefited by the construction of the basin, including Developer. These calculations are set forth in Exhibit "C".

5. The Developer shall construct and dedicate to the City, the land and improvements for Developer's proportional share of the detention basin as determined by the City Engineer. Each subsequent developer within the area benefited by the detention basin shall be responsible for their proportionate share of the enlargement of the detention basin to accommodate their developments. Construction shall also include final grading and landscaping as approved by the City.

IV. 3700 WEST

Except as otherwise provided herein, Developer shall construct and dedicate one-half (1/2) of 3700 West, consisting of all utilities, the underlying ground and surface improvements.

V. DEVELOPMENT OF 750 SOUTH

The Developer has agreed to grant to the City, all of the required property that will constitute 750 South, and the City has agreed to accept the donation of one half of the property adjacent to Developer's Subdivision and all of the right-of-way on property owned by Developer

that runs to the west as shown on Exhibit "A". The right-of-way for 750 South is eighty-four feet (84') in width.

VI. OFF-SETS

The costs identified above, may be off-set by monies paid by other developments to Developer for the same land and improvements provided for in this Agreement.

VII. OWNERSHIP, MAINTENANCE, AND INSPECTION

Ownership of all improvements in connection with Developer's Subdivision shall, upon acceptance by the City be with the City. The City will assume full responsibility for maintenance of the improvements in the time and manner consistent with maintenance policies and ordinances of the City.

VIII. LIMITATION OF COLLECTION

It is agreed that the City will collect fees as provided in Exhibit "B", 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 (10) year period as full and final payment under this Agreement. Further the Developer agrees to hold the City harmless for any fees, which, for any reason, are not collected.

IX. MODIFICATIONS

Any changes or modifications of this Agreement by either party shall be in writing signed by the parties.

X. BINDING EFFECT OF THE AGREEMENT

This Agreement is binding on and shall inure to the benefit of the executors, administrators, heirs, successors, and assigns of the parties.

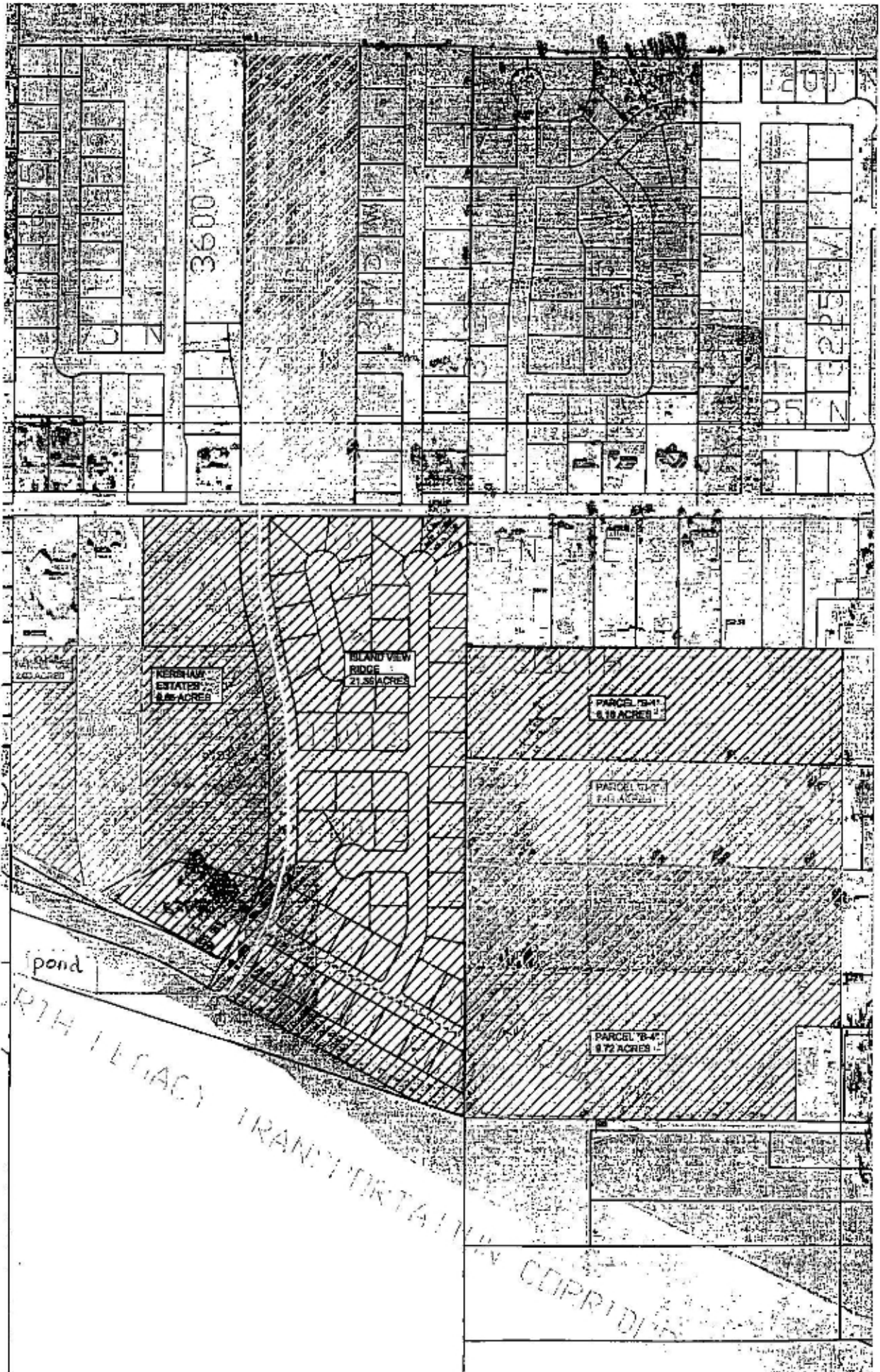
XI. THIRD PARTIES

Nothing in this Agreement shall be construed to confer any rights upon any third party.

XII. VALIDITY AND SEVERABILITY

If any part of this Agreement is found to be invalid by a Court of competent jurisdiction, both parties shall be relieved from any and all responsibility under those provisions of this Agreement. Upon such a finding, all other provisions of this Agreement shall remain in force. If the Legislature of the State of Utah should pass a law, which would invalidate any portion of this Agreement, both parties are released from further responsibility hereunder.

EXHIBIT A



1" = 400 FEET

PARCEL "A"
TAX ID 121-08-0049
PPTY OWNER: TERRY N. HINES
8.75 ACRES

PARCEL "B-1"
TAX ID 121-11-0077
PPTY OWNER: LELAND BONE
8.16 ACRES

PARCEL "B-2"
TAX ID 121-11-0079
PPTY OWNER: CLYDE MORGAN
7.41 ACRES

PARCEL "B-3"
TAX ID 121-11-0081
PPTY OWNER: LELAND BONE
7.55 ACRES

PARCEL "B-4"
TAX ID 121-11-0083
PPTY OWNER: SARAH ALLRED
8.72 ACRES

KENSLOW ESTATES
8.86 ACRES

ISLAND VIEW RIDGE
21.38 ACRES

PARCEL "C-1"
TAX ID 12-111-0088
PPTY OWNER: THOMAS ROBINS
2.86 ACRES

PARCEL "C-2"
TAX ID 12-111-0087
PPTY OWNER: KATHLEEN MAHAS
2.90 ACRES

STORM DRAIN PAYBACK -
TERRY HINES PARCEL

STORM DRAIN PAYBACK - 4
EASTERN PARCELS

STORM DRAIN PAYBACK - 4
EASTERN PARCELS &
TERRY HINES

Island View Ridge Payback Exhibit B

Storm Drain Payback

Island View Ridge / Kershaw Estates

Storm Drain sizing that does not include additional properties

Location	Size	Quantity	Unit	Unit Price	Amount
Overlook Drive	24"	636	LF	\$31.00	\$19,716.00

Storm Drain sizing that includes runoff from 4 eastern parcels

Location	Size	Quantity	Unit	Unit Price	Amount
Overlook Drive	30"	636	LF	\$37.75	\$24,009.00

4 Eastern Parcels

Area =	32.84 ACRES
PAYBACK =	\$130.74 /ACRE

Island View Ridge / Kershaw Estates + Additional Property

Storm Drain sizing that does not include additional properties

Location	Size	Quantity	Unit	Unit Price	Amount
3700 W-Gentile to Overlook Dr	15"	1208	LF	\$27.00	\$32,616.00

Storm Drain sizing that includes runoff from Terry Hines property north of Gentle Street

Location	Size	Quantity	Unit	Unit Price	Amount
3700 W-Gentile to Overlook Dr	24"	1208	LF	\$31.00	\$37,448.00

Terry Hines Parcel

Area =	9.75 ACRES
PAYBACK =	\$495.59 /ACRE

Storm Drain sizing that does not include additional properties

Location	Size	Quantity	Unit	Unit Price	Amount
3700 W-Gentile to Overlook Dr	36"	1208	LF	\$53.75	\$64,930.00

Storm Drain sizing that includes runoff from 4 eastern parcels + Terry Hines property north of Gentle Street

Location	Size	Quantity	Unit	Unit Price	Amount
3700 W-Gentile to Overlook Dr	36"	1208	LF	\$53.75	\$64,930.00

4 Eastern Parcels + Terry Hines property

Area =	42.59 ACRES
PAYBACK =	\$387.56 /ACRE
PAYBACK =	\$151.40 /ACRE
PAYBACK =	\$518.96 /ACRE

Storm Drain sizing that does not include additional properties

Location	Size	Quantity	Unit	Unit Price	Amount
3700 W-13+20.67 to 15+59.67	24"	239	LF	\$31.00	\$7,409.00
3700 W 15+59.67 to pond	30"	403	LF	\$37.75	\$15,213.25

Storm Drain sizing that includes runoff from 4 eastern parcels + Terry Hines property north of Gentle Street

Location	Size	Quantity	Unit	Unit Price	Amount
3700 W-13+20.67 to 15+59.67	36" w.	239	LF	\$96.50	\$23,063.50
3700 W 15+59.67 to pond	36"	403	LF	\$53.75	\$21,661.25

4 Eastern Parcels + Terry Hines property

Area =	42.59 ACRES
PAYBACK =	\$387.56 /ACRE
PAYBACK =	\$151.40 /ACRE
PAYBACK =	\$518.96 /ACRE

COLOR LEGEND

Island View Ridge	_____
Kershaw Estates	_____
4 Eastern Parcels	_____
Terry Hines	_____
2 Western Parcels	_____
Lorton City	_____

Difference
(30"-24")
\$4,283.00

Difference
(24"-15")
\$4,832.00

Difference
(36"-24")
\$27,482.00 Possible reduction at storm drain impact fee

Difference
\$15,654.50
\$6,448.00

EXHIBIT "C"

COST OF DETENTION BASIN

Total Cost of Basin Improvements	\$ 42,041.00
Total Value of 2.59 Acres of Land at \$70,000.00 per acre	<u>181,300.00</u>
	\$223,341.00
Less: Impact Fee Reimbursement	<u>92,000.00</u>
	\$131,341.00

	<u>Acres</u>	<u>Percentage</u>	<u>Total</u>
Island View Ridge	21.36	27	\$ 35,350.80
Kershaw Estates	9.65	12.1	15,970.75
Terry Hines Property	9.75	12.3	16,136.25
4 Parcels East of Island View Ridge	32.84	41.4	54,350.20
2 Parcels West of Kershaw Estates	5.76	7.1	9,532.80
TOTAL	79.36	100%	\$131,340.80

\$1,655/Acre