

## **DEVELOPMENT AGREEMENT FOR THE BAILEY ROAD MIDDLE SCHOOL**

THIS DEVELOPMENT AGREEMENT FOR THE BAILEY ROAD MIDDLE SCHOOL (“**Agreement**”) is made this \_\_\_\_ day of \_\_\_\_\_, 2020, by and between Lee’s Summit R-7 School District, a Missouri school district (hereinafter called “**District**”), and the City of Lee’s Summit, Missouri, a municipal corporation (“**City**”) (each is a “**Party**” and collectively the “**Parties**”)

WHEREAS, on July 23, 2020, the Lee’s Summit Planning Commission concluded a public hearing for Application #PL2020-134 - PRELIMINARY DEVELOPMENT PLAN - Lee’s Summit R-7 Middle School #4, 1001 SE Bailey Rd; DLR Group, applicant, for the construction of a public middle school and associated facilities and improvements (the “**Development**”) which will be located on approximately 51.7 acres of land generally lying south of SE Bailey Road and east of SE Dalton Drive, on property legally described in **Exhibit A** (“**Property**”) at the location depicted on the Preliminary Development Plan which is set forth in **Exhibit B**;

WHEREAS, on July 23, 2020, after concluding the public hearing, the Planning Commission voted to approve the location, extent and character of the proposed middle school development and approved the Preliminary Development Plan pursuant to Section 89.380, RSMo;

WHEREAS, the Planning Commission’s vote of approval was subject to certain conditions, including Condition #5 which provides: “The District shall execute a mutually satisfactory development agreement with the City, which addresses, at a minimum, the traffic-related improvements included in the Transportation Impact Analysis (TIA), off-site sanitary sewer improvements, future sanitary sewer and water main extensions to the plat boundary and a future box culvert. No building permits shall be issued for any structure in the development until written proof is provided to the City that the development agreement has been recorded in the Jackson County Records’ Office. All required public improvements, not future improvements, shall be substantially complete prior to any occupancy.”;

WHEREAS, in satisfaction of the Planning Commission’s conditions of approval for Application #PL2020-134, the District and the City now desire to enter into this Agreement;

WHEREAS, the Parties agree that the obligations assumed by the District pursuant to this Agreement are reasonably related to the impact that will be caused by the Development on the public services provided by the City and other public jurisdictions and on facilities that are constructed and maintained by the City, and are reasonably related to the impact of the Development; and

WHEREAS, the Parties seek to establish their respective rights, duties and obligations for engineering, design and construction of the public improvements that serve development of the Property, and have freely negotiated in good faith and this Agreement reflects the desires of the Parties.

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Definitions.** Words or terms not defined elsewhere in this Agreement, including **Exhibit C**, shall have the following definitions:

**“Acquisition Costs”** shall have the meaning set forth in **Section 2**.

**“Applicable Laws”** means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, policy, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any governmental authorities that may apply to the Improvements or the other matters in this Agreement.

**“Cape Drive Deposit”** shall have the meaning set forth in **Exhibit C**.

**“Certificate of Final Acceptance”** shall have the meaning assigned in UDO Section 3.475 as adopted by the City of Lee’s Summit, and as such section may be amended from time to time.

**“Certificate of Occupancy”** shall have the meaning assigned in Division X (Certificates of Occupancy) of Chapter 3 of the UDO.

**“Certificate of Substantial Completion”** shall have the meaning set forth in UDO Section 3.475 as adopted by the City of Lee’s Summit, and as such section may be amended from time to time.

**“City Engineer”** shall mean the City Engineer or his/her designated representative.

**“Design and Construction Manual”** shall mean the Design and Construction Manual as approved by the City Council through the adoption of numerous City ordinances and published on the City’s website, as such document may be amended from time to time.

**“District”** shall have the meaning as set forth on page 1.

**“Development”** shall have the meaning set forth on page 1.

**“Escrow Agreement”** shall have the meaning set forth in **Exhibit C**.

**“Extension Point”** shall have the meaning set forth in **Exhibit C**.

**“Improvements”** shall have the meaning set forth in **Exhibit C**.

**“MoDOT”** means the Missouri Department of Transportation, acting legislatively through the Missouri Highways and Transportation Commission.

**“Property”** shall have the meaning set forth in **Exhibit A**.

**“Sewer Improvements”** shall have the meaning set forth in **Exhibit C**.

**“Sewer Upsizing Improvements”** shall have the meaning set forth on page 3.

**“Sewer Upsizing Payment”** shall have the meaning set forth in **Exhibit C**.

**“Staff”** shall mean employees of the City of Lee’s Summit.

**“Temporary Certificate of Occupancy”** shall have the meaning as set forth in Chapter 7, Lee’s Summit Building Code, as adopted by the City of Lee’s Summit.

**“Termination Point #1”** shall have the meaning set forth in **Exhibit C**.

**“Termination Point #2”** shall have the meaning set forth in **Exhibit C**.

**“Termination Point #3”** shall have the meaning set forth in **Exhibit C**.

**“UDO”** means the Unified Development Ordinance as set forth in Chapter 33 of the City Code.

2. **Requirements for Improvements.** Unless otherwise specified herein, the provisions set forth in this Section shall be applicable to the financing, design, engineering and construction of the Improvements to be constructed by the District as required by this Agreement. The requirements of this Section shall be applicable to those Improvements that are within the jurisdiction and the permitting authority of the City.

- A. **Requirement to design, engineer and construct.** The District, at its sole cost and expense, shall design, engineer and construct the Improvements.
- B. **Construction Costs.** Except as provided in **Exhibit C** and this subsection, all costs associated with designing, engineering and constructing the Improvements shall be paid by the District. No cost shall be paid by the City for designing, engineering, constructing or managing the construction of any of the Improvements except for the following:

**Payment for Sewer Upsizing Improvements:** The City will pay to the District as reimbursement for the Sewer Upsizing Improvements the actual out of pocket third party cost to construct the Sewer Upsizing Improvements, including overhead and profit (the **“Sewer Upsizing Payment”**). The District will provide to the City an engineer’s opinion of probable construction costs for the Sewer Upsizing Payment. The City will evaluate the amount of the proposed Sewer Upsizing Payment, and provide either (i) written confirmation that the proposed amount of the Sewer Upsizing Payment is acceptable or (ii) a response which indicates that the amount is unacceptable and further evaluation of such amount is required before it will be accepted by the City. In the event that the amount is found to be unacceptable by the City, the District and the City agree to engage in discussions to reach agreement on an amount that is acceptable for the Sewer Upsizing Payment. Prior to receiving a payment from the City, the District shall provide proof of the actual costs of the Sewer Upsizing Improvement in the form of paid invoices and processed and paid checks. After evaluating the actual cost documentation and determining the amount of the Sewer Upsizing Payment, the City shall make the Sewer Upsizing Payment

within fifteen days after a Certificate of Substantial Completion has been issued by the City for the Sewer Upsizing Improvement.

- C. Applicable Standards and Approvals. The Improvements shall be designed, engineered, constructed, placed into service and dedicated to the City in accordance with (i) the ordinances of the City, including, but not limited to, the City's Design and Construction Manual then in effect at the time the Plans for the Improvements are submitted, (ii) any other applicable rules, requirements and standards established by the City, and (iii) the Project Schedule. All such work shall be done in good and workmanlike manner. The District shall be responsible for obtaining approval for any portion of the Improvements that require approval of another jurisdiction. The City agrees to cooperate in good faith with the District in obtaining said required approvals from other jurisdictions for the Improvements.
- D. Fire Department Access. The District shall comply with applicable Fire Code requirements to ensure that the Fire Department has access to the Property at all times while construction is underway by means of a hard surface for fire truck access.
- E. Schedule. Prior to the construction of the Improvements, the District shall submit to the City Engineer a proposed Project Schedule for the Improvements to be constructed by the District. No permits will be issued for the Development until the schedule has been reviewed by the City Engineer and Staff of departments directly impacted by the timing of the Improvements. If conflicts with the schedule are determined, Staff shall return the schedule with comments, to be resubmitted by the District.
- F. Design Phase. The District shall submit all preliminary design documents to the City for approval before proceeding with the construction of the Improvements. On the basis of such approved preliminary design documents, the District shall:
  - (1) Prepare detailed drawings, plans, design data, and estimates to show the character and scope of the work to be performed by contractors for all Improvements ("Plans").
  - (2) Furnish to the City Engineer copies of such Plans and other documents and design data as may be required to secure approval of such governmental authorities as may have jurisdiction over design criteria applicable to the Improvements.
  - (3) Furnish the number of approval copies of the final Plans for the Improvements as the City may require.
  - (4) Ensure that the Plans conform to all Applicable Laws of the City.
  - (5) All final Plans shall be presented to the City Engineer for approval.

G. Construction. The District will construct or cause the construction of all the Improvements according to the approved Plans. The requirements set forth in **Exhibit C** shall apply to the construction of the Improvements. The District shall maintain, at its sole cost and expense, the Improvements until such time as said Improvements are accepted by the City or other appropriate governmental entity. The District shall not do or permit others, by contract or otherwise, to do any work related to the construction of the Improvements until the District has paid for all required City and other governmental required permits and authorizations.

H. Right of Way Acquisition.

- (1) The District shall be responsible for acquiring or negotiating for the donation of all right-of-way or easements that are needed to construct the Improvements that will be dedicated to the City, including all necessary temporary construction easements.
- (2) In the event that the District is unable, after good faith negotiations, to acquire some or all of the right-of-way or easements necessary for those Improvements over which the City exercises jurisdiction, the District may submit a request to the City in the manner prescribed by **Section 26**, “Notice” below requesting that the City use its authority to acquire the property interests necessary for the Improvements. The City will respond to such a request within thirty (30) days of receipt of same, and in such response the City will indicate whether it agrees to enter into good faith negotiations or exercise its power of eminent domain to acquire the right-of-way or easements necessary for Improvements over which the City exercises jurisdiction. The City is not obligated to use its authority to assist in the acquisition of property interests necessary for the Improvements.
- (3) In the event the City agrees to enter into good faith negotiations or exercise its power of eminent domain to acquire the right-of-way or easements necessary for Improvements over which the City exercises jurisdiction, prior to beginning any work to acquire said right-of-way or easements, the District shall first execute an Acquisition Funding Agreement with the City which provides for the terms and conditions under which the District will place all estimated costs associated with acquiring the property (the “**Acquisition Costs**”) in escrow with the City prior to commencement of condemnation for right-of-way or easements. The Acquisition Costs shall include, but shall not be limited to: the actual price paid for all right-of-way or easements, whether determined by negotiation or eminent domain; expenses related to the establishment of acquisition values of right-of-way or easements, including appraisals; legal fees, other expenses paid to third parties, and expenses incurred by the City related to acquisition of right-of-way or easements, whether through negotiation or eminent domain; and any other reasonable and necessary costs or expenses related to acquisition of the right-of-way or easements. The Acquisition Funding Agreement shall obligate the District to reimburse the City in full for all Acquisition Costs

that result from the City's use of its authority to acquire any portion of the Improvements.

- (4) The District shall dedicate or convey, as applicable, to the City, at no cost to the City, all property interests owned by the District which are necessary for the Improvements.

- I. Utility Relocation. The Parties agree that all costs associated with relocating any existing utilities from any existing public or private easement, as a result of construction of the Improvements, shall be paid by the District, and are not the responsibility of the City. The Parties agree that all costs associated with relocating any existing utilities from any existing right-of-way as a result of construction of the Improvements, which are not paid by a utility company, shall be paid by the District and are not the responsibility of the City.
- J. Inspections and Revisions. The District agrees to permit City employees, agents and contractors to inspect, observe, and oversee the construction of all Improvements in order to ascertain and determine that the standards of the City have been met. The District shall obtain the City Engineer's approval of all revisions materially altering the design or specifications of the Improvements.
- K. Dedication. Upon completion, inspection and approval of the Improvements that are within the jurisdiction of the City, the District will dedicate the applicable Improvements to the City, for its use, operation and maintenance. The City shall be under no obligation to accept the dedication or conveyance of any Improvements constructed pursuant to this Agreement until it has been inspected and approved to the satisfaction of the City Engineer. Upon written notice of the inspection and approval of the City Engineer, the District agrees to convey all the Improvements to the City free and clear of all liens and encumbrances or other obligations. Said conveyance shall be by appropriate document, and shall be sufficient, in the opinion of the City Attorney, to convey marketable title of record, as set forth in Title Standard 4 of the Missouri Bar. The City acknowledges that the right of the District in the Improvements is subject to any liens and encumbrances on the Property entered into by the District, and any such lienholder shall possess all rights to enjoy the Improvements as may be possessed by the District and intended for the Property, but the District shall not specifically enter into any lien or encumbrance that gives any entity rights to the Improvements dedicated to the City other than the right to use said Improvements as intended for the Property.

3. Timing of Issuance of Certificates of Occupancy. A Temporary Certificate of Occupancy shall not be issued for the Development until the requirements set forth in **Exhibit C** have been satisfied with respect to each particular Improvement. A Final Certificate of Occupancy for the Development will not be issued until a Certificate of Final Acceptance has been issued for Improvements described in **Exhibit C**.

4. **Indemnification.**

- A. **General Indemnity.** To the extent allowed by law, the District shall indemnify, release, defend, be responsible for and forever hold harmless the City, its officers, agents, employees, elected officials, and attorneys, each in their official and individual capacities, from and against all lawsuits, suits, actions, costs, claims, demands, damages, disability, losses, expenses, including reasonable attorney's fees and other defense costs or liabilities of any character and from any cause whatsoever, brought because of bodily injury or death received or sustained, or loss or damage received or sustained, by any person, persons, or property arising out of or resulting from any act, error, or omission of the District or its officers, agents, employees, or subcontractors, to the extent such loss or injury arises in connection with or on account of the District's work or in consequence of any negligence in connection with the same, or on account of any poor workmanship, or on account of any act of commission or omission of District of their agents or employees, or for any cause arising during the course of construction; provided, however, that the District need not save harmless the City from claims, demands, losses and expenses arising out or to the extent caused by the negligence of the City, its employees or agents. This indemnification obligation shall survive the termination or expiration of this Agreement.
- B. **No Limitations or Waiver.** The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement, or by a limitation of the amount or type of damages or compensation payable by or for the District under Workers' Compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this Agreement, or the terms, applicability or limitation of any insurance held by the District. The City does not, and shall not, waive any rights against the District which it may have by reason of this indemnification, because of the acceptance by the City, or the deposit with the City by the District, of any of the insurance policies described in this Agreement. In addition, the Parties agree that this indemnification by the District shall not be limited by reason of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.
- C. **Notification of Claims.** With respect to any claims which are subject to indemnity hereunder, the District shall immediately notify the City of any and all claims filed against the District or the District and the City jointly, and shall provide the City with a copy of the same. Such notice shall be given in the manner prescribed by **Section 26** of this Agreement.
- D. **Use of Independent Contractors.** The fact that the District carries out any activities under this Agreement through independent contractors shall not constitute an avoidance of, or defense to, the District's duty of defense and indemnification under this section.

5. **Insurance.** Prior to commencing construction of the Improvements, the District shall file with the City evidence of liability insurance that is consistent with the requirements of the City's Standard Insurance and Indemnification Requirements in the category of Construction Insurance in such document.
6. **Bonds.** The District shall, or shall ensure that its contractors shall, provide for the following bonds for the Improvements and all other public infrastructure improvements that are constructed by the District and dedicated to the City.
  - A. **Performance Bond.** Prior to commencement of construction and ending upon acceptance of the Improvements by the City, the District shall, or shall ensure that its contractors shall, maintain a Performance Bond in a form approved by the City Attorney, in an amount equal to the cost of the Improvements covered by such bond, as determined by the City Engineer, conditioned upon the faithful performance of the provisions, terms and conditions of the construction contract. The Performance Bond shall name the City as an obligee and copies of certificates of such bond shall be delivered to the City.
  - B. **Payment Bonds.** Prior to commencement of construction and ending upon acceptance of the Improvements by the City, the District shall, or shall ensure that its contractors shall, maintain a Payment Bond in a form approved by the City Attorney, in an amount equal to the cost of the Improvements covered by such bond, as determined by the City Engineer, conditioned upon the faithful payment of the provisions, terms and conditions of the construction contract. The Payment Bond shall name the City as an additional obligee and copies of certificates of such bond shall be delivered to the City.
  - C. **Maintenance Bonds.** Prior to acceptance and dedication of the Improvements, the District shall, or shall ensure that its contractors shall, provide a Maintenance Bond in a form approved by the City Attorney, in an amount equal to fifty percent (50%) of the cost of the Improvements as approved by the City Engineer, which shall be in effect for a term of three (3) years from the date that the City issues a Certificate of Substantial Completion for such Improvements covered by the bond, conditioned upon the faithful performance of the provisions, terms and conditions of the construction contract. The Maintenance Bond shall name the City as an obligee and copies of certificates of such bond shall be delivered to the City.
  - D. **Indemnity for Failure to Provide Bonds.** The District shall indemnify the City and its officers and employees for any damage or loss incurred or sustained by the City, its officers or employees, as a result of the failure of the District or its contractors to provide the bonds set forth in this Section.
7. **Prevailing Wage.** To the extent required by law, the District, and all contractors and subcontractors performing work for or on behalf of the District with respect to the Improvements, shall pay wages in accordance with, and in all respects comply with, Missouri's Prevailing Wage Law (Sections 290.210 to 290.340, RSMo.) and all other laws relating to the payment of wages. The District agrees to hold harmless, indemnify and



reimburse the City for any damage, loss, costs, payments or expenses of any kind (including the City's reasonable attorney's fees) incurred or sustained by the City with regard to the failure of the District or any contractor or subcontractor to pay prevailing wages as required by law or this Agreement. When requested, the District shall submit sufficient information to the City's Director of Finance to allow Staff to verify that the District, and its contractors and subcontractors, have complied with prevailing wage laws and regulations.

8. **Remedies.** Each Party to this Agreement agrees that if it fails to perform when due any act required by this Agreement to be performed, then, in addition to whatever other remedies are available to the non-defaulting Parties hereto, the non-defaulting Party shall have the right to enforce specific performance of this Agreement against the defaulting Party, and such non-defaulting Party shall, to the extent permitted by law, be entitled to its reasonable costs, attorneys' fees and court costs in connection with such enforcement.
9. **Rights and Remedies Non-Exclusive.** No right or remedy conferred upon or reserved to any Party in this Agreement is intended to be exclusive of any rights or remedies, and each and every right and remedy shall be cumulative and shall be in addition to every right and remedy given now or hereafter existing at law or in equity.
10. **Non-Waiver.** No waiver of any condition or covenant contained in this Agreement or of any breach thereof, shall be taken to constitute a waiver of any subsequent condition, covenant or breach.
11. **Applicable Law.** This Agreement shall be governed by and construed according to the laws of the State of Missouri.
12. **Venue.** In the event this Agreement is litigated, venue shall be proper only in the Circuit Court of Jackson County, and the Parties expressly waive any rights to venue inconsistent therewith.
13. **City Requirements and Prior Approval.** The District agrees to comply with all Applicable Laws, including, but not limited to, the UDO, the Design and Construction Manual, and all planning or infrastructure requirements related to the development of the Property. The District acknowledges and agrees that the City's review and approval of any Plans or Plats and the issuance of any such approvals, permits, certificates or acceptances does not, and shall not, in any way be deemed to insure the District, or any of its successors, assigns, tenants, licensees or any third Party, against damage or injury of any kind at any time. The Parties agree that execution of this Agreement in no way constitutes a waiver of any requirements of applicable City ordinances or policies with which the District must comply and does not in any way constitute prior approval of any future proposal for development.
14. **Recording and Binding Effect.** No building permits shall be issued for the Development until the agreement has been fully executed. The City shall file a copy of this Agreement or a memorandum of this Agreement in the office of the Recorder of Deeds for Jackson County, Missouri ("**Office**"). This Agreement shall run with the land and be binding on

and inure to the benefit of the Parties and their respective legal representatives, successors in interest, successors and assigns. Upon certification by the City Engineer of the completion of the District's obligations under this Agreement, Staff will execute, on behalf of the City, a document suitable for recording in the Office, in such form as is approved by the City Attorney that acknowledges the completion of the District's obligations under the Agreement.

15. **Time of Essence.** Time is of the essence with respect to the duties and obligations set forth herein.
16. **Estoppel Letter.** Upon request by District, the City shall prepare and deliver to District an estoppel letter confirming for the benefit of any purchaser or lender whether the District is or is not in default under this Agreement and verifying the status of District's performance of its obligations under this Agreement.
17. **Representations.** The District represents that it owns the Property described in **Exhibit A** on the date that this Agreement is executed. Each Party represents and warrants that it (a) has made due and diligent inquiry into the facts and matters which are the subject matter of this Agreement; (b) fully understands the legal effect of this Agreement; (c) is duly authorized and empowered to execute, deliver and perform this Agreement according to its terms and conditions; and (d) has not assigned or transferred any claim against the other Party that is the subject of this Agreement.
18. **No Waiver of Breach.** No waiver of any condition or covenant contained in this Agreement or any breach thereof shall be taken to constitute a waiver of any subsequent condition, covenant or breach.
19. **Rules of Construction.** Each Party to this Agreement has received independent legal advice from its attorneys of choice with respect to entering this Agreement and the advisability of agreeing to the provisions herein. Because each Party has had its respective legal counsel review the terms of this Agreement, the normal rules of construction to the effect that any ambiguities in its terms be resolved against the drafting Party shall not be employed with regard to issues of its validity, interpretation, performance or enforcement.
20. **Assignment.** The Agreement may not be assigned or transferred, in whole or part, to any other person, firm, corporation, or entity without the prior, express, written consent of the other Party, which consent shall not be unreasonably withheld. The District shall request the assignment of the Agreement, with the consent of the City, to any person, firm, corporation, or entity to which any ownership interest in the Property is transferred after the date of execution of this Agreement.
21. **Scope of Agreement.** This Agreement and the acts provided for herein is the entire agreement between the Parties with respect to the engineering, design and construction of the Improvements, the terms and provisions of this Agreement are contractual and not mere recitals and no alterations, amendment, modification, or interpretation hereof shall be binding unless in writing and signed by all Parties. The Parties acknowledge that other

contracts have been executed which provide for the terms and conditions under which funding and ownership shall be handled for the Improvements.

22. **Exhibits.** All Exhibits referenced in this Agreement are incorporated into this Agreement by such reference as if set forth in full in the text of this Agreement.
23. **Headings.** The paragraph headings contained herein are for convenience in reference and are not intended to modify, expand or limit the scope of any provision of the Agreement.
24. **Severability.** Any provision of this Agreement which is not enforceable according to law will be severed from this Agreement, and the remaining provisions shall be enforced to the fullest extent permitted by law. If any one or more of the terms, provisions or conditions of this Agreement shall be declared unconstitutional, invalid, illegal or unenforceable by a court of competent jurisdiction, the validity of the remaining terms, conditions and provisions contained herein shall in no way be affected, prejudiced, limited or impaired thereby.
25. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original but all of which together shall be deemed to be one and the same instrument.
26. **Notice.** Any notice required by this Agreement shall be deemed to be given if it is mailed by United States registered mail, postage prepaid, and addressed as hereinafter specified.

Any notice to the City shall be addressed to:

City Manager  
City Hall  
220 SE Green Street  
Lee's Summit, Missouri 64063

With a copy to:

City Attorney  
City Hall  
220 SE Green Street  
Lee's Summit, Missouri 64063

Director of Development Services  
City Hall  
220 SE Green Street  
Lee's Summit, Missouri 64063

Notices to District shall be addressed to:

Lee's Summit School District  
301 NE Tudor Road

Lee's Summit, MO 64086  
Attn. Superintendent

With a copy to:

Lee's Summit School District  
301 NE Tudor Road  
Lee's Summit, MO 64086  
Attn. Kyle Gorrell

Each Party shall have the right to specify that notice be addressed to any other address by giving to the other Party ten (10) days' written notice thereof.

**[Remainder of this page intentionally left blank]**

IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto on the date first above written.

**CITY OF LEE'S SUMMIT, MISSOURI**

\_\_\_\_\_  
William A. Baird, *Mayor*

Attest:

\_\_\_\_\_  
Trisha Fowler Arcuri, *City Clerk*

Approved as to form:

\_\_\_\_\_  
David Bushek, *Chief Counsel of  
Economic Development & Planning*

Notary for City of Lee's Summit

STATE OF MISSOURI     )  
  )   ss.  
COUNTY OF JACKSON    )

BE IT REMEMBERED, that on this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came William A. Baird, the Mayor of the City of Lee's Summit, Missouri, a City duly incorporated and existing under and by virtue of the laws of the State of Missouri, who are personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_

**LEE'S SUMMIT R-7 SCHOOL DISTRICT**

\_\_\_\_\_  
Dr. David Buck, *Superintendent*

Notary for School District

STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF JACKSON    )

BE IT REMEMBERED, that on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Dr. David Buck, the Superintendent of the Lee's Summit R-7 School District, who is personally known to me to be the same person who executed the within instrument on behalf of the School District, and such person duly acknowledged the execution of the same to be the act and deed of the School District.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

\_\_\_\_\_  
[SEAL]

## **EXHIBIT A**

### **LEGAL DESCRIPTION OF THE PROPERTY**

All that part of Northeast Quarter of Section 16, Township 47 North, Range 31 West, in the City of Lee's Summit, Jackson County, Missouri, as described by Timothy Blair Wiswell, Missouri Professional Licensed Surveyor, PLS-2009000067, and being more particularly described as follows:

COMMENCING at the Northwest corner of the Northeast Quarter, of said Section 16-T47N-R31W; thence South 02 degrees 20 minutes 19 seconds West, along the West line of said Northeast Quarter, a distance of 20.00 feet, to a point on the South Right-of-Way line of Bailey Road as now established, said point also being the Northeast corner of Lot 164 of Newberry Second Plat, Lots 1-65, 163 and 164, a subdivision in the City of Lee's Summit, Jackson County, Missouri; thence South 88 degrees 07 minutes 48 seconds East, on the South Right-of-Way line of said Bailey Road, a distance of 1,350.00 feet, to a point; thence South 35 degrees 20 minutes 58 seconds West, departing the South Right-of-Way line of said Bailey Road, a distance of 517.08 feet, to a point; thence South 07 degrees 56 minutes 53 seconds West, a distance of 320.18 feet, to a point; thence South 12 degrees 12 minutes 42 seconds West, a distance of 1,168.07 feet, to a point; thence South 27 degrees 41 minutes 50 seconds West, a distance of 480.35 feet, to a point on a line that is 300.00 feet North of and parallel to the South line of said Northeast Quarter; thence North 88 degrees 04 minutes 43 seconds West, on said parallel line, a distance of 630.96 feet, to a point on the West line of said Northeast Quarter, said point also being on the East line of Newberry Fourth Plat, a subdivision in the City of Lee's Summit, Jackson County, Missouri; thence North 02 degrees 20 minutes 19 seconds East, on the West line of said Northeast Quarter, and on the East line of said Newberry Fourth Plat, and on the East line of Newberry Third Plat, a subdivision in the City of Lee's Summit, Jackson County, Missouri, and on the East line of said Newberry Second Plat, Lots 1-65, 163 and 164, a distance of 2,330.63 feet, to the POINT OF BEGINNING, containing 2,250,248 square feet or 51.6586 acres, more or less.

**EXHIBIT B**

**MAP OF THE PRELIMINARY DEVELOPMENT PLAN**

*[Attached]*



EXHIBIT B

SITE DATA		
ZONING & SITE AREA		
PROPOSED USE: PUBLIC MIDDLE SCHOOL/ BALLFIELD COMPLEX		PROPOSED/EXISTING ZONING: AG AGRICULTURE
SITE AREA		
XX ACRES (XX SQ.FT.)		51.66 AC. (2,250,248.11 SF)
IMPERVIOUS		14.99 AC. (652,941 SF)
PERVIOUS		36.67 AC. (1,597,307.11 SF)
FAR (0.55 MAX):		0.084
BUILDING AREA		
BUILDING TYPE	# STORIES	AREA
BUILDING 1	2	1ST FLOOR: 129,739 SQ.FT.
BUILDING 2 (CONCESSIONS)	1	2ND FLOOR: 60,256 SQ.FT. (54,971 _5,285 SQ.FT. MECH MEZZANINE
		5,000 SQ.FT.
		TOTAL 189,995 SQ.FT.
PARKING		
USE	REQUIRED	PROVIDED
SCHOOL (36 CLASSROOMS)	2 SPACES PER CLASSROOM (72)	191
GYM OCCUPANCY (600)	1 SPACE PER 3 SEATS (200)	200
BALLFIELD COMPLEX OCCUPANCY(600)	1 SPACE PER 3 SEATS (200)	200
VAN ACCESSIBLE ADA		4
STANDARD ADA	13	9
TOTAL	472	604

LEGEND	
	PROPERTY LINE
	LOT LINE
	UTILITY EASEMENT
	CONSTRUCT CONCRETE CURB & GUTTER
	SAWCUT PAVEMENT FULL DEPTH
	ADA PATH — SIDEWALKS NOT DELINEATED AS ADA PATHS WILL NOT BE ADA COMPLIANT.
	HEAVY DUTY ASPHALT PAVEMENT
	STANDARD DUTY ASPHALT PAVEMENT
	HEAVY DUTY CONCRETE PAVEMENT
	CONCRETE PAVEMENT
	STORM SEWER
	SANITARY SERVICE LINE
	WATER SERVICE LINE
	UNDERGROUND POWER SERVICE LINE
	FIRE PROTECTION LINE
	COMMUNICATIONS SERVICE LINE
	LANDSCAPE/ROOF DRAIN
	ADA CONCRETE SIDEWALK AND RAMP
	EXISTING SANITARY SEWER MAIN
	EXISTING WATER MAIN
	EXISTING COMMUNICATIONS LINE
	EXISTING ELECTRIC LINE
	EXISTING GAS MAIN

SE WARREN DRIVE

R-1 RESIDENTIAL

SE COUNTRY LANE

SE 13TH STREET

SE DALTON COURT

R-1 RESIDENTIAL

SE DALTON DRIVE

SE 14TH TERRACE

SE 15TH STREET

BUS PARKING AND OVERFLOW PARKING

SE CAPE DRIVE

SE HOCKER CIRCLE

SE DALTON DRIVE

AG- AGRICULTURE

PROPOSED BUILDING  
FFE=1017.75

PRACTICE FIELD AND  
TRACK THROWING EVENTS

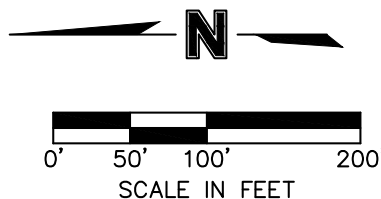
6 LANE TRACK  
AND FOOTBALL FIELD

AG- AGRICULTURE

PROPOSED SANITARY SEWER ESMT.  
FOR FUTURE CONNECTION TO EAST

FUTURE PUBLIC SANITARY  
MAIN EXTENSION AND ESMT.

FUTURE SE CAPE DRIVE  
EXTENSION





## **EXHIBIT C**

### **REQUIREMENTS FOR THE IMPROVEMENTS**

The “**Improvements**” collectively consist of all of the defined Traffic Improvements, Sanitary Sewer Improvements, and Cape Drive Extension Improvements as set forth below in this Exhibit. All Improvements shall be funded, designed, engineered, and constructed by or at the direction of the District in the manner set forth in this Agreement and as set forth in the conditions and requirements below.

**Traffic Improvements** – The “**Traffic Improvements**” consist of the following items:

1. Traffic signal installation at the intersection of Oldham Parkway and Ranson Road/Route RA. (This improvement is currently planned by others.)
2. Traffic signal installation or roundabout construction at the intersection of Bailey Road and Ranson Road/Route RA.
3. Construct an eastbound right-turn lane at the intersection of Bailey Road and Ranson Road/Route RA with a storage length of at least 200 feet plus taper. This turn lane improvement is not applicable if the intersection is a roundabout.
4. Construct a northbound left-turn lane at the intersection of Bailey Road and Ranson Road/Route RA with a storage length of at least 200 feet plus taper. This turn lane improvement is not applicable if the intersection is a roundabout.
5. Construct a southbound right-turn lane at the intersection of Bailey Road and Ranson Road/Route RA with a storage length of at least 200 feet plus taper. This turn lane improvement is not applicable if the intersection is a roundabout.
6. Construct a westbound left-turn lane at the intersection of Bailey Road and Eastern School Driveway (Drive No. 2) with a storage length of at least 200 feet plus taper.
7. Construct a westbound and eastbound left-turn lane at the intersection of Bailey Road and Western School Driveway (Drive No. 1) each with a storage length of at least 200 feet plus taper.
8. Traffic signal installation at the intersection of Bailey Road and Century Drive/Hamblen Road (east).
9. Construct a westbound left-turn lane at the intersection of Bailey Road and Century Drive/Hamblen Road (East) with a storage length of at least 250 feet plus taper.
10. Construct an eastbound left-turn lane at the intersection of Bailey Road and Century Drive/Hamblen Road (East) with a storage length of at least 250 feet plus taper.
11. Construct a southbound left-turn lane at the intersection of Bailey Road and Century Drive/Hamblen Road (East) with a storage of at least 150 feet plus taper.

12. Extend the existing northbound left-turn lane along Ranson Road at Oldham Parkway to provide a minimum storage length of 150 feet, plus taper in compliance with City and/or MoDOT standards. (This improvement is currently planned by others.)
13. Traffic signal interconnect between the intersections of Oldham Parkway at Ranson Road/Route RA, Ranson Road/Route RA/Todd George Parkway at US 50 Highway, Bailey Road at Ranson Road/Route RA, Bailey Road at Century Drive/Hamblen Road, and Bailey Road at Hamblen Road.
14. Verify and mitigate any sight distance obstructions along Bailey Road associated with the School Driveway(s)
15. Installation of Solar Powered School Zone Flasher Assembly (2) for the establishment of School Zone with Reduced Speed Limit along Bailey Road, if so and where determined applicable by decision of the City Traffic Engineer. If a decision by the City Traffic Engineer is not conveyed to the applicant prior to the substantial completion of all other required transportation improvements, it shall not be required at all.
16. Coordinate improvements along Bailey Road to incorporate planned Greenway (Shared-Use Path) and Bikeway (Bike Lane/Paved Shoulder) in accordance with adopted Greenway Master Plan and Bicycle Transportation Plan; including potential bicycle and pedestrian intersection/access crossing maneuvers, where necessary.

The Traffic Improvements shall be funded and constructed by the District. All of the Traffic Improvements shall be substantially complete prior to the issuance of any temporary or final certificates of occupancy for the Development. Written verification from MoDOT that the Traffic Improvements which are located within MoDOT right-of-way are substantially complete shall be submitted to the City prior to the issuance of any temporary or final certificates of occupancy for the Development.

Attached to this **Exhibit C** as **Sheet C1** and **Sheet C2** is a depiction of the road improvements that will be constructed, pursuant to this description of the sheet:

**Sheet C1** – Included on this exhibit sheet is the installation of westbound and eastbound left turn lanes on SE Bailey Road at Drive No. 1 and westbound left turn lanes on SE Bailey Road at Drive No. 2 for the new middle school. Turn lanes shall include 200 feet of storage plus taper. On the west side of the site, SE 13th Street is being extended to where it intersects with the new middle school private drive (Drive No. 1). Said street will be built to public street standards including right of way dedication. The stub extension of SE 15th Street stub which terminates at the west property line for the school site will be removed including utilities and right of way will be vacated. SE Cape Drive will be extended to the intersection of the new middle school private drive (Drive No. 1). Said street will be built to public street standards. A full width right of way (60 feet) will be dedicated for the entire width of the new middle school property, to the east property boundary. Construction

dollars for this future street extension will be escrowed. Public water and sanitary sewer main extensions will occur along the south edge of the property to serve the new middle school. Said extension will be sized and designed to be extended in the future to serve the undeveloped parcel to the east of the new middle school site. Any necessary easements will also be granted for the proposed and future main extensions.

**Sheet C2**– Traffic signals will be installed at the intersections of SE Bailey/Century Lane and SE Bailey/Ranson Road. For the signal at SE Bailey/Century Lane, interconnect communications will be installed to allow for coordination with the planned signal approximately 0.25 miles to the west at Hamblen Road. Also, eastbound/westbound left turn lanes with a storage length of 250 feet plus taper and southbound left turn lane with a storage length of 150 feet plus taper shall be installed at this intersection. For the signal at SE Bailey/Ranson Road, eastbound and southbound right turn lanes and a northbound left turn lane each with a storage length of 200 feet plus taper shall be installed at this intersection.

### **Sanitary Sewer Improvements** –

The “**Sewer Improvements**” consist of the following items:

1. Approximately 1900 linear feet of 15-inch diameter sanitary sewer main and all associated appurtenances.
2. Approximately 4400 linear feet of 18-inch diameter sanitary sewer main and all associated appurtenances.
3. Approximately 1750 linear feet of 21-inch diameter sanitary sewer main and all associated appurtenances.

Attached to this **Exhibit C** as **Sheet C3** is a depiction of the sewer improvements that will be constructed, pursuant to this description of the sheet:

**Sheet C3** – Approximately 1,900 LF of 15” public sanitary sewer extension will be installed extending from existing manhole 47-019 to a Termination Point #3, approximately 70 feet onto the new middle school site. Easements, both temporary and permanent will be obtained for said extension including the easement dedication for a future extension from Termination Point #3 to the Extension Point at the undeveloped parcel to the east. Approximately 6150 LF of interceptor sewer will be upsized to ultimate build out conditions of the watershed from manhole 47-023 to manhole 54-002. Upsizing will be approximately 1890 linear feet of 18-inch to 21-inch, 2510 linear feet of 18-inch to 24-inch and 1750 linear feet of 21-inch to 27-inch. Easements, both temporary and permanent will be obtained for said upsizing as necessary.

Funding for the Sewer Improvements shall be as follows:

- **City Funding** – Construction costs for the upsizing of the following Sewer Improvements shall be funded by the City as set forth in **Section 2.B** of this Agreement, to provide for

upsizing of the improvements to address existing capacity concerns which are not caused by the Development:

- Approximately 1890 linear feet of 18-inch to 21-inch
- Approximately 2510 linear feet of 18-inch to 24-inch
- Approximately 1750 linear feet of 21-inch to 27-inch

Collectively, the upsizing of these improvements are referenced herein as the “**Sewer Upsizing Improvements.**” All design and engineering costs for the Sewer Upsizing Improvements shall be paid by the District.

- District Funding – All design, engineering and construction costs for all remaining sewer improvements besides the costs of the Sewer Upsizing Improvements shall be funded by the District.

No temporary or final certificates of occupancy for the Development shall be issued by the City until a certificate of substantial completion has been issued for all Sewer Improvements.

#### **Cape Drive Extension Improvements** –

The following definitions shall apply to the requirements associated with the Cape Drive Extension:

“**Cape Drive Extension Improvements**” means the following:

1. The construction of the extension of Cape Drive pursuant to all applicable City Code requirements from Termination Point #1 to the Extension Point.
2. The construction of an 8-inch water main from Termination Point #2 to the Extension Point within the future right-of-way of Cape Drive.
3. The construction of a box culvert at the Extension Point pursuant to specifications on the Plans that will be approved by the City Engineer pursuant to Section 2 of this Agreement.
4. Approximately 145 linear feet of sewer line, diameter to be based on the future development of the vacant property to the east of the proposed development, which shall be constructed from Termination Point #3 to the Extension Point.

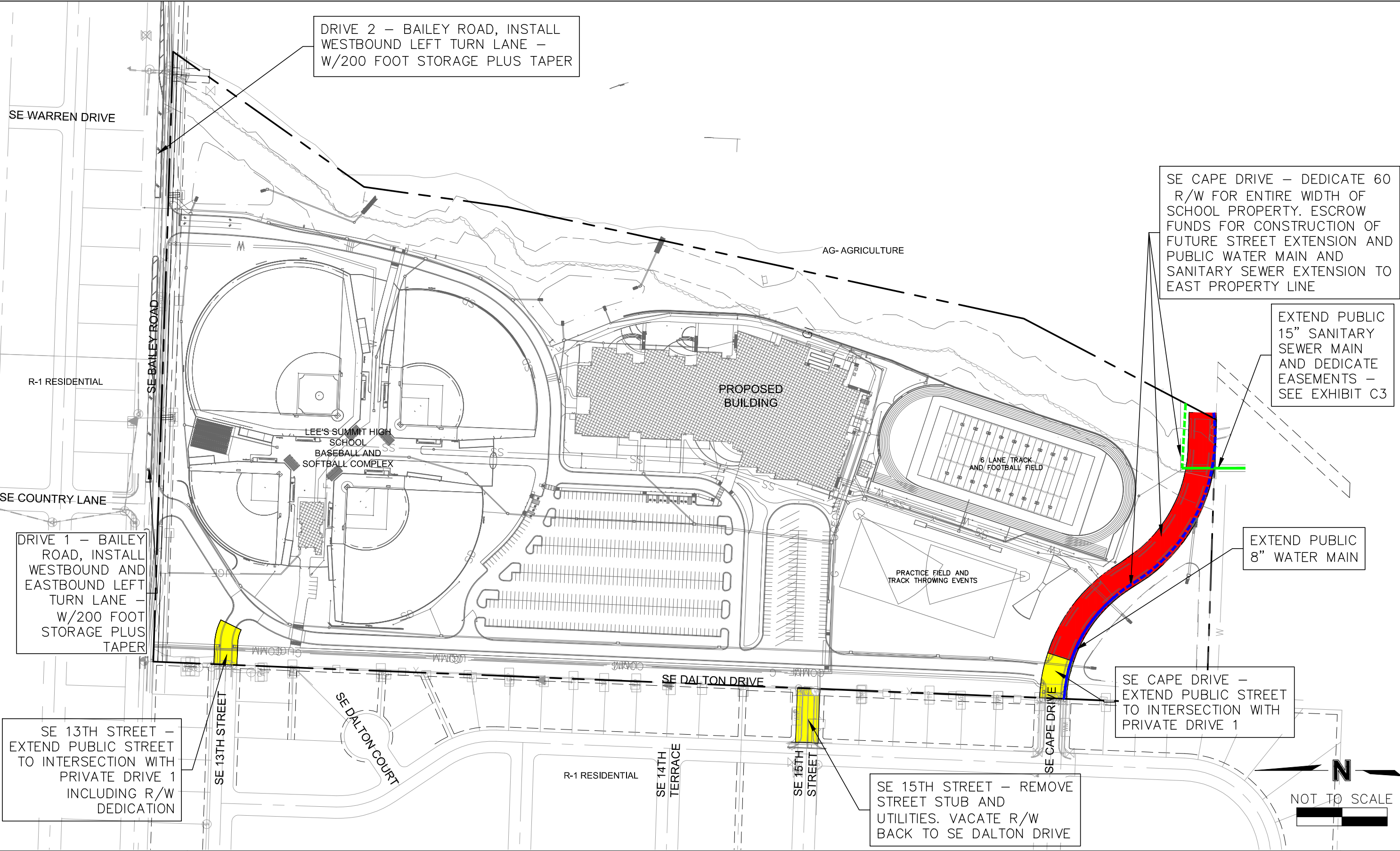
“**Termination Point #1**”, “**Termination Point #2**” and “**Termination Point #3**” means those numbered locations depicted as the three Termination Point on the map attached this Exhibit, the precise locations of which shall be established on the Plans which are approved by the City Engineer pursuant to Section 2 of this Agreement.

“**Extension Point**” means the location depicted as the Extension Point on the map attached this Exhibit, the precise location of which shall be established on the Plans which are approved by the City Engineer pursuant to Section 2 of this Agreement.

The District will provide to the City an engineer's opinion of probable construction costs for the Cape Drive Extension Improvements. The City will evaluate the amount of the proposed cost of the Cape Drive Extension Improvements, and provide either (i) written confirmation that the proposed amount is acceptable or (ii) a response which indicates that the amount is unacceptable and further evaluation of such amount is required before it will be accepted by the City. In the event that the amount is found to be unacceptable by the City, the District and the City agree to engage in discussions to reach agreement on an amount that is acceptable for the Cape Drive Extension Improvements.

Upon agreement of such costs, the District will deliver the agreed payment to the City which shall be held by the City pursuant to an escrow agreement in the form attached to this Agreement as **Exhibit D** (the "**Escrow Agreement**"). The purpose of providing the Cape Drive Deposit is to provide a source of funds for the construction of the Cape Drive Extension Improvements by the City or a third party when property to the east is developed, in lieu of the District constructing such improvements at this time to a termination point that may not be suitable for water and access connections to future development to the east. No temporary or final certificates of occupancy for the Development shall be issued by the City until the Cape Drive Deposit is deposited with the City pursuant to the executed Escrow Agreement.

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V\_XA



PROJECT NO:	020-0103
DRAWN BY:	SLG
DATE:	10/13/2020

LSMS PUBLIC ROADWAY IMPROVEMENTS

**olsson**

7301 West 133rd Street  
Suite 200  
Overland Park, KS 66213-4750  
TEL 913.381.1170

EXHIBIT
C1



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USER: sgillard



PROJECT NO:	020-0103
DRAWN BY:	SLG
DATE:	10/13/2020

LSMS PUBLIC ROADWAY IMPROVEMENTS

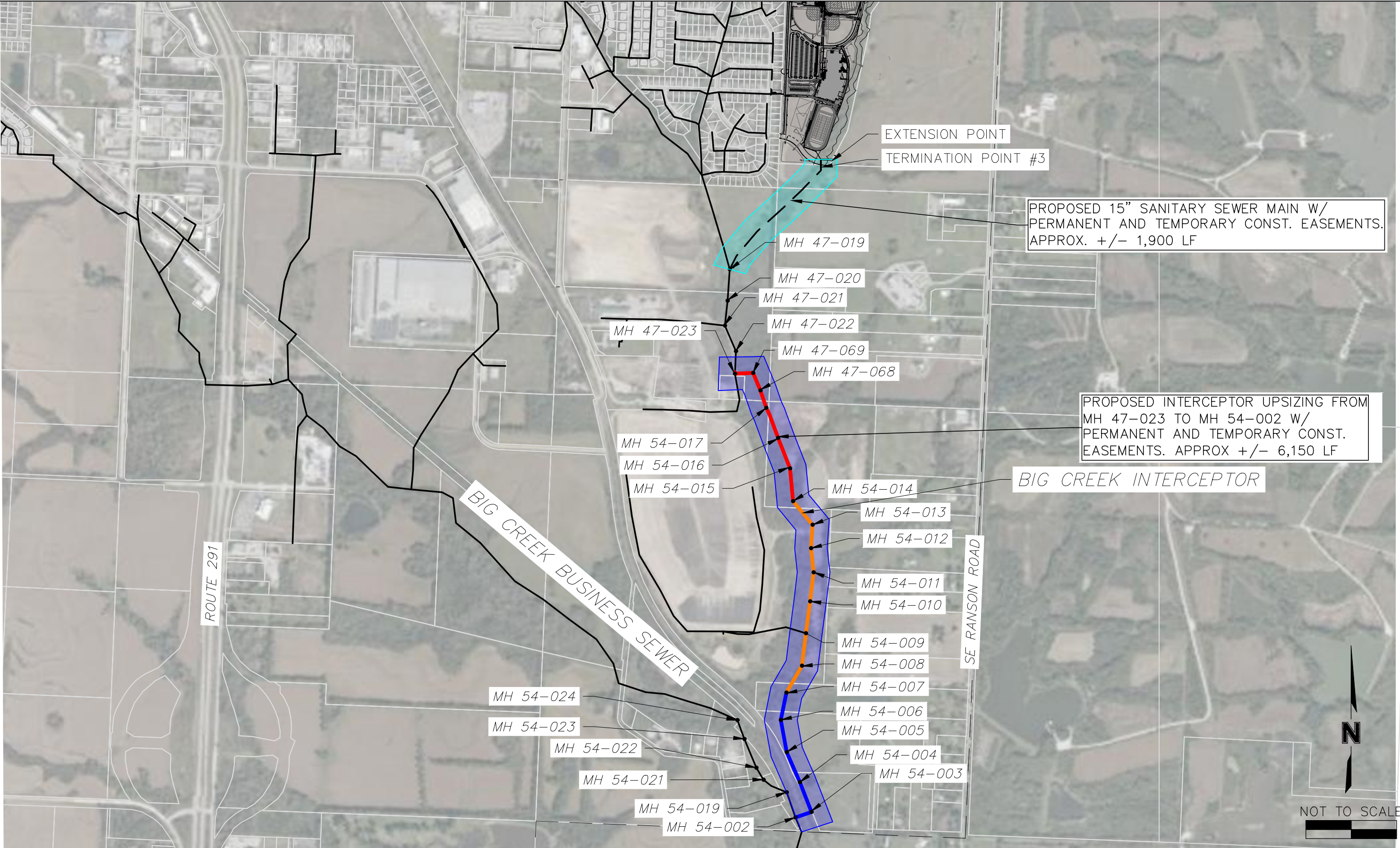
**olsson**

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EXHIBIT  
**C2**



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USER: sgillard



PROJECT NO:	020-0103
DRAWN BY:	SLG
DATE:	10/13/2020

LSMS PUBLIC UTILITY IMPROVEMENTS



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EXHIBIT
C3