

**DEVELOPMENT AGREEMENT
(McFarlin Road Property)**

This DEVELOPMENT AGREEMENT (the “*Agreement*”) is made and entered into as of _____, 2022 (the “*Effective Date*”), by and between the Town of Nolensville, a Tennessee municipal corporation, with an address of 7218 Nolensville Road, Nolensville, TN 37135 (the “*Town*”), and Nolensville Owner, LLC, a Delaware limited liability company, with an address of c/o Southern Land Company, 3990 Hillsboro Pike, Suite 400, Nashville, Tennessee 37215 (“*Developer*”) (each a “*Party*” and collectively the “*Parties*”).

BACKGROUND

A. Developer is the owner of the real property more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the “*Property*”).

B. Developer wishes to develop the Property (the “*Development*”), and has filed an application for approval of the subdivision plat for the Development (the “*Final Plat*”).

C. The Town and Developer mutually acknowledge and agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the Town in connection with its approval of the Development, and that such matters are necessary to protect, promote and enhance the public health, safety and welfare of the Town.

D. The Town and Developer acknowledge that this Agreement is a condition of Ordinance 21-34 and Resolution 21-94, creating the McFarlin PD. The approval of this Agreement by the Town and the Developer is a condition precedent to final approval of the McFarlin PD by the Town. This Agreement, and all of its terms, are incorporated into Ordinance 21-34 and Resolution 21-94.

AGREED TERMS

1. Purpose. The purpose of this Agreement is to set forth the terms, conditions and fees to be paid by Developer in connection with the improvements for the Development. All conditions in this Agreement are in addition to any requirements of the Nolensville Municipal Code (the “*Code*”), state law, and other Town ordinances, and are not intended to supersede any requirements contained therein.

2. Construction of Improvements.

a. *General*. Developer shall, at its own expense, design, construct and install all public improvements on the Property necessary for the Development, including without limitation streets, alleys, curbs, gutters, sidewalks, landscaping, irrigation, streetlights, water, wastewater, storm sewer and drainage facilities, and trails and park improvements (collectively the “*Improvements*”).

b. *Testing and Inspection*. Developer shall employ, at its own expense, a licensed testing company to perform all testing of materials or construction reasonably required by the Town.

c. *Rights-of-way and Easements*. Prior to construction of any Improvements that require additional rights-of-way or easements (including, without limitation, any roadway and utility easements), Developer shall acquire at its own expense all such rights-of-way and easements. Any easements or rights-of-way conveyed to the Town shall be free and clear of liens, taxes and encumbrances and shall be conveyed on documents in a form acceptable to the Town.

d. *Permits.* Developer shall, at its own cost, obtain the following permits, as applicable: (i) any permits required by the United States Corps of Engineers; (ii) Tennessee Department of Environment and Conservation General Permit for Stormwater Discharges Associated with Construction Activity; and (iii) Town grading, stormwater quality and right-of-way permits.

e. *As-Built Drawings.* Upon completion of construction of the Improvements, Developer shall provide the Town with complete “as-built” drawings.

f. *Applicable Law.* Developer shall at all times comply with all applicable law, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to: the emission, discharge, release or threatened release of a Hazardous Material into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a Hazardous Material; and the protection of human health, safety or the indoor or outdoor environment, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, *et seq.* (“*CERCLA*”); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, *et seq.* (“*RCRA*”); the Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; the Clean Water Act, 33 U.S.C. § 1251, *et seq.*; the Clean Air Act; the Federal Water Pollution Control Act; the Occupational Safety and Health Act; all applicable environmental statutes of the State of Tennessee; and all other federal, state or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

3. Specific Improvements. In accordance with the Phasing Plan (as defined herein), Developer shall cause to be constructed or furnished and installed, at Developer's own expense and in conformance with the approved plans and Town standards, all of the following Improvements on the Property:

a. *Streets, Alleys and Sidewalks.* Developer shall construct all required street and sidewalk improvements in conformance with the approved plans and Town standards.

b. *Signs and Striping.* Developer shall install street name signs, striping, stop signs, speed limit and other signs on all streets, in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways, as amended, and other applicable legal requirements.

c. *Streetlights.* Developer shall install or cause to be installed streetlights, of a type and in accordance with the approved plans and Town standards and of a type that are regularly available from the electric utility provider, concurrently with the construction of the streets on which they are located.

d. *Water.* Developer shall install all required water mains, lines, and appurtenances. Developer shall pay all potable water dedication fees, for both residential and landscaping uses, prior to the issuance of residential building permits and the installation of landscaping in parks, open space and right-of-way tracts.

e. *Wastewater.* Developer shall install all required sewer lines and appurtenances. Prior to the issuance of any building permits for the Development, all sanitary sewer improvements shall be substantially completed as determined by the Town and all associated wastewater capacity fees shall be paid.

f. *Drainage Facilities.* Developer shall install all required drainage facilities, in compliance with Town standards.

g. *Landscaping.* Developer shall install all required landscaping, structures, trails and sidewalk improvements in accordance with a Town-approved landscape plan.

h. *Utilities.* Developer shall install all on-site and off-site electric, natural gas, telephone, cable other utilities, underground as required by the Code.

4. Acceptance of Improvements and Warranty.

a. *Acceptance.* Once the Improvements are substantially complete for each Phase, Developer shall request an inspection by the Town. If the Improvements for such Phase are satisfactory, the Town shall grant acceptance of such Improvements (“*Acceptance*”). If the Improvements are not satisfactory, the Town shall provide written notice to Developer of the repairs, replacements, construction or other work required to receive Acceptance for such Phase. Developer shall complete all needed repairs, replacements, construction or other work within 60 days of said notice, or such longer period as may be reasonably necessary. After Developer completes the repairs, replacements, construction or other work required, Developer shall request of the Town a re-inspection of such work to determine if Acceptance can be granted, and the Town shall provide written notice to Developer of the acceptability or unacceptability of such work.

b. *Warranty.* For all Improvements to be dedicated to the Town, Developer shall provide the Town with a one-year warranty, commencing on the date of Acceptance for such Phase (the “*Warranty Period*”). Specifically, but not by way of limitation, Developer shall warrant that: the title is marketable and its transfer rightful; the Improvements are free from any security interest or other lien or encumbrance; and the Improvements are free of defects in materials or workmanship. During the Warranty Period, Developer shall, at its own expense, take all actions necessary to maintain the Improvements and make all necessary repairs or replacements. In any Phase of the Development, the Developer will be liable for any action by the Developer that damages and/or results in a failure and/or partial failure of any Improvements previously dedicated to and accepted by the Town when said Improvements are outside the Warranty Period. If a reasonable plan of action, secured by a Letter of Credit, is not agreed to by Developer and Town to alleviate such damage, the Town may refuse to issue any additional building permits and/or certificates of occupancy. Absent an Agreement the Town may repair the damage by calling any outstanding Letter of Credit that is surety for the Phase of the Development that caused the damage and/or failure of a previously accepted Improvement.

5. Improvement Guarantee.

a. *Amount and Form.* To secure the construction and installation of the Improvements, Developer shall provide a financial guarantee in the form of a letter of credit in an amount equal to 110% of the total Improvement cost for each Phase (each, an “*Improvement Guarantee*”). Each Improvement Guarantee shall be evidenced by a “Performance Agreement” to be entered into between Town and Developer.

b. *Timing.* Developer shall not commence construction on any Phase, including without limitation, staking, earth work, overlot grading or the erection of any structure, temporary or otherwise, until the Town has received and approved the Improvement Guarantee for that Phase.

c. *Draw.* If Developer fails to complete Improvements per the terms of this Agreement, the Town may draw on the associated Improvement Guarantee to complete the Improvements.

If the Town has drawn on the Improvement Guarantee, and a satisfactory replacement guarantee is provided or the Improvements have been completed, then the Town will release any funds received as a result of its draw within a reasonable period of time, or within 10 calendar days of a request by Developer.

d. *Reduction.* Upon Acceptance of all of the Improvements for a particular Phase, the Improvement Guarantee shall be reduced to the amount of 30% of the total Improvement Guarantee. The reduced Improvement Guarantee shall be held by the Town during the Warranty Period and promptly released to Developer upon the expiration of the Warranty Period.

e. *Roadway Projects.* Developer shall obtain Improvement Guarantees for each of the McFarlin Roadway Project, Fly Roadway Project, and Intersection Improvement Project before Developer begins such projects pursuant to the terms of this Agreement.

6. Maintenance.

a. *Improvements.* Unless dedicated to and accepted by the Town for maintenance, all Improvements shall be maintained by Developer. Acceptance by the Town of ownership of any Improvement does not constitute acceptance by the Town of maintenance for such Improvement. If Developer wishes to transfer maintenance obligations for any Improvement, including landscape medians, to a homeowners association or any other entity, Developer shall obtain prior approval from the Town.

b. *Vacant Lots.* Developer shall be responsible for landscaping maintenance, including weed control, on all vacant lots until such time as the lot is developed and conveyed to an individual owner.

7. Phasing. The Development shall be constructed in phases in accordance with Exhibit B (the "**Phasing Plan**"), attached hereto and incorporated herein by this reference. The following limitations and modifications shall apply to the Phasing Plan:

a. Prior to the issuance of any building permits for each phase, all of the following Improvements shall be installed and shall have received preliminary approval from the Town for that Phase: streets (which may be an all-weather surface); street signage; water; wastewater; drainage facilities; utilities; and streetlights, provided that such streetlights may be temporary at the time of issuance of building permits for such phase, but must be permanent prior to issuance of any certificates of occupancy for such phase.

b. A homeowner's association created by Developer shall be responsible for maintaining all landscaped islands within all Town-owned rights-of-way and such responsibility shall be detailed in the governing documents for the Development (i.e., the covenants, conditions, and restrictions). Following recordation of the Final Plat and this Agreement, the Town shall provide a form of "Landscape Maintenance Agreement" for Developer's review and such agreement shall be executed prior to the Town granting Acceptance of the subject Improvements.

8. Reimbursement to Developer.

a. Developer may seek reimbursement for the oversize portion of infrastructure and disproportionate right-of-way acquired and/or granted and a pro rata portion of the cost of off-site Improvements required under this Agreement; *provided*, that the Developer's right to reimbursement under this Section shall be limited to a period of five years following Acceptance of any reimbursable Improvements.

b. At the time of final approval of a subdivision plat or other development plan for properties that use these Improvements, the Town shall require, as a condition of approval, a proportional reimbursement to Developer based upon values given by Developer. Nothing contained in this Agreement shall (i) operate to create an obligation on the part of the Town to pay or reimburse any costs to Developer in the event such costs are not recovered by the Town as contemplated herein, for any reason, from the properties or property owners that use the Improvements; or (ii) require the Town to disapprove any project where there is a disagreement as to the reimbursement value between the Developer and the new development. The Town, as a condition of approval of the new development, shall require the developer of the new development to engage in good faith negotiations with the Developer. While the actual costs of the improvements described in this Section is unknown at this time, any reimbursement requested by Developer will be based on actual costs incurred for engineering, planning, and all other development consulting services related to the specific offsite improvements as well as the actual hard construction costs incurred in building such offsite improvements. Developer may request a reimbursement based on a pro-rata allocation of such costs between Developer and any developments that are either adjacent to the Development, in proximity to the Development, or otherwise benefit from the Development.

c. In calculating the reimbursement, the Developer shall consider all factors reasonable to the analysis, including, without limitation, proportional linear footage, projected traffic generation, and/or utility usage. The specific improvements eligible for reimbursement shall include: (i) the right-of-way dedication for McFarlin Road and any improvements to McFarlin Road, including, without limitation, widening the travel lanes and shoulders, constructing a decel lane, constructing a walking/bike path and additional landscaping in such right-of-way (collectively, “**Roadway improvements**”), (ii) the right-of-way dedication for Fly Road and any Roadway Improvements to Fly Road, and (iii) the intersection improvement to Fly Road and Rocky Springs Road and, if required in the future according to the terms of this Agreement, improvements to the intersection of Kidd Road/Battle Road and McFarlin Road.

d. There may be additional improvements, specifically utility improvements, required by municipal entities other than the Town that Developer may also be eligible to seek reimbursement for. Nothing in this Agreement shall preclude Developer from seeking such reimbursements. The Town will not be involved in reimbursements sought for improvements required by other entities.

e. Developer agrees it will not file any legal action against the Town regarding the reimbursement obligations described in this Section 8 or allege any fault on the part of the Town that may cause the Town to be joined in any legal action regarding the reimbursement obligations described in this Section 8. Developer further agrees to indemnify and defend the Town in the event of any lawsuit wherein the complaining entity and/or person names the Town as a party and asserts that the Town’s actions pursuant to this Section 8 constitute a taking or a violation of any other law.

9. Specific Requirements.

a. *Open Space and Park Land Dedication.* The Development’s open space and park land dedication requirements will be in accordance with the approved Development Plan (the “**PD**”) for the Development and shall comply with the Planned Development overlay applicable to the Development. Developer shall install amenities for the Development generally in the locations shown on the PD. The amenity on the north portion of the Development shall be an enclosed amenity specifically for the use of the Development’s residents. The amenity on the south portion of the Development shall be an unenclosed amenity for the primary benefit of the residents of the Development but open to the general public.

b. *Impact Fees and Adequate Facilities Tax.*

i. Impact fees and “Adequate Facilities Tax” shall be paid by Developer in accordance with applicable Town ordinances in conjunction with the issuance of building permits for each home constructed in the community.

ii. Developer agrees to pay \$2,000,000.00 of future impact fees due for the Development upon issuance of the first building permit for the Development (the “**Impact Fee Advance**”) and shall thereafter receive an impact fee credit of \$2,721.09 (the “**Impact Fee Credit**”) for the first 735 building permits issued for the Development. Should the total number of lots in the Development increase or decrease from 735, the Impact Fee Credit shall be adjusted such that Developer receives a total credit in the amount of \$2,000,000 upon payment of the final impact fees for the Development. The Town hereby agrees that, Developer’s obligation to pay impact fees and otherwise specifically improve certain roadways in accordance with the terms of this Agreement comprises the Developer’s total obligation for right-of-way improvements and the Town shall not require any additional financial obligation from Developer for any other right-of-way improvements that the Town may deem necessary for the Development.

c. *School Site.*

i. Developer shall convey to the Williamson County School District the property defined in the PD as the Proposed Elementary School Site as depicted on Exhibit C-1 attached hereto. Such dedication shall be a condition to the Town’s approval of a site development plan for the Proposed Elementary School Site.

ii. If the location of the Proposed Elementary School Site cannot be agreed upon with the adjacent landowner, the revised location and total acreage of land set aside for such elementary school must be approved by the Williamson County School District prior to approval of site plans within the red hatched area depicted on Exhibit C-2.

d. *Threatened and Endangered Species.* Developer shall comply with the conclusion and construction recommendations with respect to endangered species identified on the Property by Lord & Winter, TWRA, TN-NHP or and any other regulating governmental agency, and as approved by the Town, to protect the species identified on the property, including the Nashville crayfish and the streamside salamander.

e. *ROW and Roadway Improvements.*

i. Developer shall (a) dedicate the land required for McFarlin Road to achieve a 50-foot right-of-way section as depicted on Exhibit D, (b) widen the portions of McFarlin Road adjacent to the Development from its current condition to include two 12-foot-wide travel lanes with shoulders, and (c) add decel lanes at all entrances to the Development (collectively, the “**McFarlin Roadway Project**”). The McFarlin Roadway Project shall be completed by Developer prior to the issuance of the 250th certificate of occupancy in the Development.

ii. Developer shall (a) dedicate the land required for Fly Road to achieve a 50-foot right-of-way section as depicted on Exhibit D, (b) widen the portions of Fly Road adjacent to the Development from its current condition to include two 12-foot-wide travel lanes with shoulders, and (c) add decel lanes at all entrances to the Development (collectively, the “**Fly Roadway Project**”). The Fly

Roadway Project shall be completed by Developer prior to the issuance of the 400th certificate of occupancy in the Development.

iii. Developer shall complete the intersection improvements to Fly Road and Rocky Springs Road as depicted on Exhibit E prior to the issuance of the 400th certificate of occupancy for the Development (the “***Intersection Improvement Project***”).

iv. The improvements to the intersection of McFarlin Road, Kidd Road and Battle Road, as recommended by that certain “Traffic Impact Study for the McFarlin Property” prepared by KCI and dated as of September 2021 (the “***Traffic Study***”) regarding the Property and the property to the immediate west (the “***McFarlin Property***”) shall be the responsibility of any developer that seeks to develop the McFarlin Property. If the Town has not approved a development plan for the McFarlin Property at such time that 400 certificates of occupancy have been issued for the Development, the improvements described in the Traffic Study shall be completed by Developer within one year following the date on which the 400th certificate of occupancy is issued. The cost of the intersection improvements described in this Section shall be fully reimbursed to Developer by the developer of the McFarlin Property at such time as a land development permit is issued to the developer of the McFarlin Property in accordance with the terms of Section 8 of this Agreement; *provided*, that nothing contained in this Agreement shall operate to create an obligation on the part of the Town to pay or reimburse any costs to Developer in the event such costs are not recovered by the Town from the properties or property owners that use the Improvements.

10. Indemnification. Developer hereby agrees to indemnify and hold harmless the Town, its officers, employees, and agents from any and all suits, actions and claims arising from any act or omission of Developer with respect to construction of the Improvements (the “***Claims***”); and Developer shall pay any and all judgments rendered against the Town as the result of any Claims, together with all actual and reasonable expenses, including reasonable attorney fees, incurred by the Town in defending any such Claims.

11. Developer's Representations and Warranties. Developer hereby represents and warrants to the Town that all of the following are true and correct as of the Effective Date: this Agreement has been duly authorized and executed by Developer as the legal, valid and binding obligation of Developer, and is enforceable as to Developer in accordance with its terms; the person executing this Agreement on behalf of Developer is duly authorized and empowered to execute and deliver this Agreement on behalf of Developer; to the best of Developer's knowledge, there is no pending or threatened litigation, administrative proceeding or other proceeding pending or threatened against Developer which, if decided or determined adversely, would have a material adverse effect on the ability of Developer to undertake its obligations under this Agreement nor, to the best of Developer's knowledge, is there any fact or condition of the Property known to Developer that may have a material adverse effect on Developer's ability to Develop the Property as contemplated; and neither the execution of this Agreement nor the consummation of the transaction contemplated by this Agreement will constitute a breach under any contract, agreement or obligation to which Developer is a party or by which Developer is bound or affected.

12. Vested Rights. The Final Plat constitutes a “Development Project” as defined in the Nolensville Municipal Code, and shall create vested property rights for the Developer in accordance with the Tennessee Vested Property Rights Act of 2014. .

13. Breach.

a. *Remedies*. If Developer breaches this Agreement, the Town may take such action as permitted or authorized by law, this Agreement or the ordinances of the Town, as the Town deems necessary to protect the public health, safety and welfare. The remedies include, but are not limited to: (i)

the refusal to issue any building permit or certificate of occupancy; or (ii) the revocation of any building permit previously issued under which construction directly related to such building permit has not commenced, except a building permit previously issued to a third party .

b. *Notice.* Unless reasonably necessary to protect the immediate health, safety and welfare of the Town, the Town shall provide Developer 30 days' written notice of its intent to take any action under this Section, during which Developer may cure the breach and prevent further action by the Town.

14. Miscellaneous.

a. *Assignment.* This Agreement shall not be assigned by Developer in whole or in part without the prior written authorization of the Town.

b. *Governing Law.* The laws of the State of Tennessee shall govern this Agreement.

c. *No Third-Party Beneficiaries.* There are no intended third-party beneficiaries to this Agreement.

d. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

e. *Notice.* Notices under this Agreement shall be sufficiently given if sent by regular U.S. mail, postage prepaid, to the address on the first page of this Agreement.

f. *Integration.* This Agreement, together with all exhibits attached hereto, constitute the entire understanding and agreement of the Parties, integrates all the terms and conditions mentioned herein or incidental thereto, and supersedes all negotiations or previous arrangements between the Parties with respect to any and all of the subject matter hereof.

g. *Recordation.* This Agreement shall be recorded in the real estate records of Williamson County and shall be a covenant running with the Property.

h. *Force Majeure.* No Party shall be in breach of this Agreement if such Party's failure to perform any of the duties under this Agreement is due to Force Majeure, which shall be defined as the inability to undertake or perform any of the duties under this Agreement due to acts of God, floods, storms, fires, sabotage, terrorist attack, strikes, riots, war, labor disputes, forces of nature, public health emergencies (including epidemics and pandemics), and/or the authority and orders of government.

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Exhibits List

Exhibit A – Legal Description

Exhibit B – Phasing Plan

Exhibit C-1 – Proposed School Site

Exhibit C-2 – Alternate School Site

Exhibit D – ROW Dedication

Exhibit E – Intersection Improvements

Exhibit A
Legal Description

Exhibit B
Phasing Plan
[attached]

Exhibit C-1
Proposed School Site



Exhibit C-2
Alternate School Site

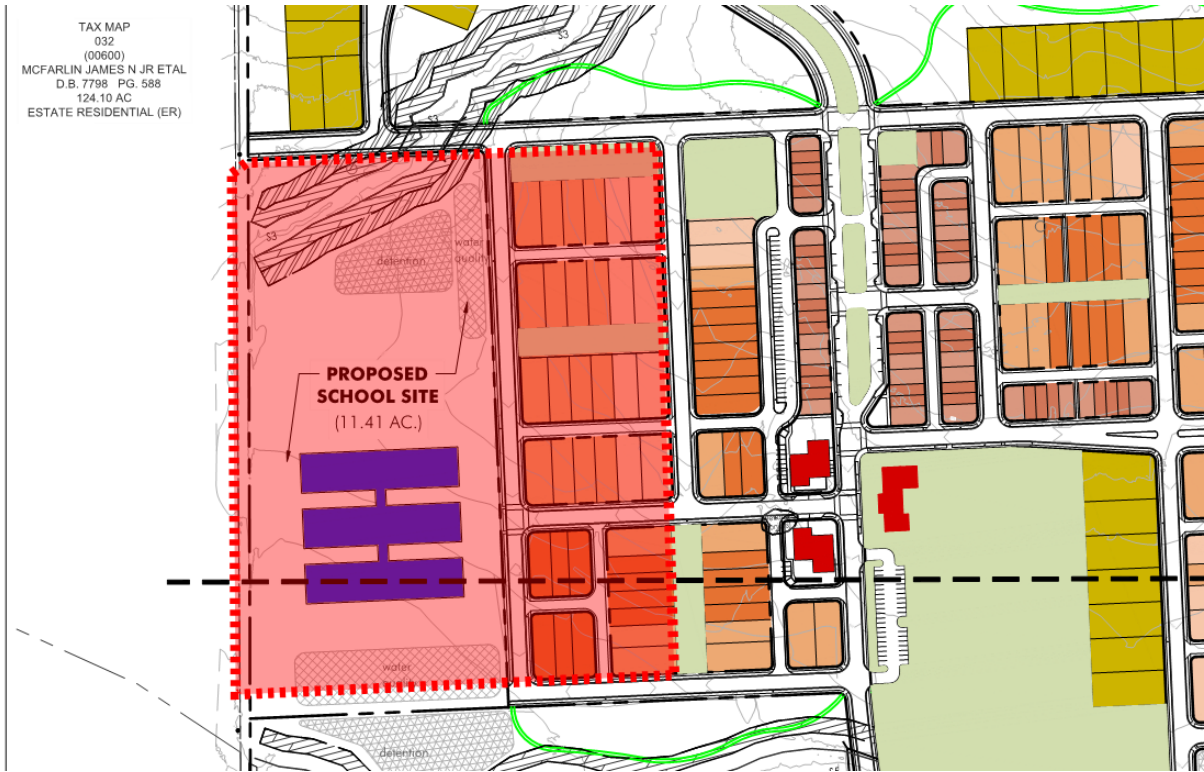


Exhibit D
ROW Dedication

[attached]

Exhibit E
Intersection Improvements

[attached]