

SUPERIOR METROPOLITAN DISTRICT NO. 1
RESOLUTION NO. R-5
SERIES 2022

A RESOLUTION OF THE SUPERIOR METROPOLITAN DISTRICT NO. 1
BOARD OF DIRECTORS APPROVING A UTILITY EASEMENT AGREEMENT
WITH ROCKY EDWARD KUPFNER AND BETSY LEE KUPFNER

NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN DISTRICT
NO. 1 BOARD OF DIRECTORS, AS FOLLOWS:

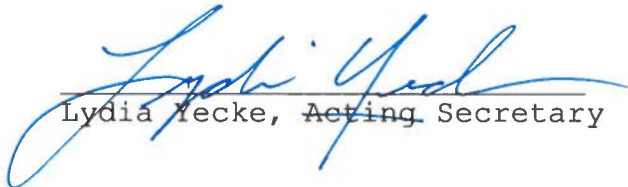
Section 1. The Utility Easement Agreement between the Superior
Metropolitan District No. 1 and Rocky Edward Kupfner and Betsy Lee
Kupfner is hereby approved in substantially the same form as
attached hereto, subject to final approval by the Town Attorney

ADOPTED this 26th day of September, 2022.



Clint Folsom, President

ATTEST:



Lydia Yecke, Acting Secretary



UTILITY EASEMENT

This UTILITY EASEMENT (the "Easement") is made and executed this 26th day of September, 2022, by and among Rocky Edward Kupfner and Betsy Lee Kupfner, individuals with a legal address of 7508 Coal Creek Drive, Superior, CO 80027 (collectively "Grantor"), the Town of Superior, a Colorado municipal corporation with a legal address of 124 East Coal Creek Drive, Superior, CO 80027 (the "Town"), and the Superior Metropolitan District No. 1, a Colorado special district with an address of 124 East Coal Creek Drive, Superior, CO 80027 (the "District") (each a "Party" and collectively the "Parties").

WHEREAS, Grantor is the owner of certain real property in the Town of Superior, Colorado, more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference, with an address of 7508 Coal Creek Drive (Lot 16A) Superior, CO 80027 (the "Property");

WHEREAS, the Town wishes to install a sanitary sewer main and related appurtenances on the Property for the purposes of providing sanitary sewer services to the Kupfner Subdivision and Superior Self Storage as depicted on **Exhibit B**, attached hereto and incorporated herein by this reference (the "Sewer Line"); and

WHEREAS, to accomplish this purpose, Grantor agrees to grant to the Town this Easement, which allows the Town to install the Sewer Line on the Property and to thereafter maintain the sewer line, and in exchange, the District agrees to provide Grantor with a sewer tap credit, contingent upon payment of appropriate stand-by fees.

NOW THEREFORE, in and for the consideration set forth herein, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Grant of Easement. Grantor hereby grants to the Town a perpetual non-exclusive easement to enter, re-enter and use the Property for the following purposes:
 - a. To install the Sewer Line as depicted on **Exhibit B**.
 - b. To access the Sewer Line for inspection and maintenance purposes, including cleaning and the making of all necessary repairs thereto.
 - c. To perform any other acts reasonably necessary to protect the Sewer Line from damage.
2. Town's Rights. The Town shall have and exercise the right to ingress and egress in, to, over and across the Property for any lawful purpose needed for the full enjoyment of the rights granted by Grantor to the Town hereunder.
3. Grantor's Rights. Grantor retains the right to the undisturbed use and occupancy of the Property insofar as such use and occupancy is consistent with and does not impair any grant herein contained.
4. District's Obligations. The District shall waive the Sewer Collection System Development

Fee ("SDF") for Grantor's connection to the District's system, which is currently valued at \$5,558. To maintain this waiver, Grantor shall pay the monthly Sewer Collection Standby Fee in the amount established by the District (currently \$16.15/month). If at any point, the Sewer Collection Standby Fee is not timely paid, the waiver will terminate, and the SDF will be charged when connection is made to the District's system. Grantor shall be solely responsible for all design and installation costs for the connection, in full compliance with all Town standards and regulations.

5. Town's Obligations.

a. The Town shall cause any of the Property, including landscaping and fences, which is disturbed by the Town during the Town's activities on the Property to be returned to its original condition, or as near thereto as may be reasonably accomplished, all at the expense of the Town or its contractors or agents.

b. The Town shall not use the Property as a staging area for repair or maintenance activities, and no equipment shall be stored on the Property.

c. The Town shall be solely responsible for the maintenance of the Sewer Line.

d. The Town shall comply with all applicable laws concerning the construction, maintenance, repair and replacement of the Sewer Line.

6. Grantor's Obligations.

a. Grantor shall not interfere with the Town's exercise of any of its rights under this Easement, including without limitation the installation of the Sewer Line and related appurtenances on the Property and the maintenance of the Sewer Line.

b. Grantor shall not install or permit the installation of any fence, wall, structure (above or below ground) or landscaping that would hinder the operation of the Sewer Line or impair the Town's rights under this Easement.

7. Indemnification. Grantor shall indemnify, hold harmless and defend the Town and its representatives, officers, employees, agents and contractors from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney fees, to the extent arising from or in any way connected with injury to or the death of any person or physical damage to any property resulting from Grantor's negligent or intentional acts or omissions and related to or occurring on or about the Property under this Easement.

8. Warranty. Subject to all existing matters of record currently encumbering the Property, Grantor warrants that it has the full right and legal authority to make the grant of this Easement.

9. Miscellaneous.

a. Recordation. Except as otherwise expressly provided herein, all provisions in this Easement, including the benefits, burdens and covenants, are intended to run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the

Parties. The Town shall record this Easement in the official records of Boulder County, and may re-record it at any time as may be required to preserve its rights in this Easement.

b. *Governing Law and Venue.* This Easement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

c. *Modification.* This Easement may only be modified upon written agreement of the Parties.

d. *Integration.* The foregoing constitutes the entire agreement between the Parties regarding the Easement and no additional or different oral representation, promise or agreement shall be binding on any of the Parties with respect to the Easement.

e. *Governmental Immunity.* The Town and the District and their officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Easement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and the District and their officers, attorneys or employees.

f. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town or the District not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

g. *Third Parties.* There are no intended third-party beneficiaries to this Easement.

h. *Severability.* If any provision of this Easement 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.


IN WITNESS WHEREOF, the Parties have executed this Easement as of the day and year first above set forth.

TOWN OF SUPERIOR



Clint Folsom, Mayor

ATTEST:


Lydia Yecke, Acting Town Clerk

SUPERIOR METROPOLITAN DISTRICT NO. 1

Clint Folsom
Clint Folsom, Chair

ATTEST:

Matthew G. Magley
Matthew G. Magley, Secretary



GRANTOR:

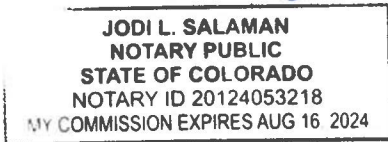
REK

STATE OF COLORADO)
COUNTY OF Boulder) ss.

Subscribed, sworn to and acknowledged before me this 9th day of September, 2022, by Rocky Edward Kupfner.

My Commission expires Aug. 16, 2024

(SEAL)



Jodi L. Salaman
Notary Public

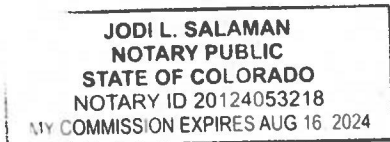
Betsy Lee Kupfner

STATE OF COLORADO)
COUNTY OF Boulder) ss.

Subscribed, sworn to and acknowledged before me this 9th day of September, 2022, by and Betsy Lee Kupfner.

My Commission expires Aug. 16, 2024

(SEAL)



Jodi L. Salaman
Notary Public

EXHIBIT A
LEGAL DESCRIPTION

10 FOOT UTILITY EASEMENT
LOT 16A, KUPFNER SUBDIVISION REPLAT A

A 10 FOOT UTILITY EASEMENT, BEING A PART OF LOT 16A, KUPFNER SUBDIVISION REPLAT A AS DESCRIBED UNDER RECEPTION NO. 2419528 IN THE BOULDER COUNTY CLERK AND RECORDERS OFFICE, LYING IN THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 1 SOUTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 16A, ALSO BEING THE SOUTHEAST CORNER OF LOT 17A OF SAID KUPFNER SUBDIVISION REPLAT A, WHENCE A LINE TO THE NORTHWEST CORNER OF SAID LOT 16A, ALSO BEING THE SOUTHWEST CORNER OF SAID LOT 17A IS ASSUMED TO BEAR S 90°00'00" W, A DISTANCE OF 162.59 FEET, SAID LINE BEING THE BASIS OF BEARINGS FOR THIS DESCRIPTION;

THENCE ALONG THE EASTERLY LINE OF SAID LOT 16A, S 28°02'00" E, A DISTANCE OF 11.33 FEET;

THENCE ALONG A LINE BEING 10 FEET SOUTHERLY AND PARALLEL WITH SAID NORTHERLY LINE S 90°00'00" W, A DISTANCE OF 167.91 FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 16A;

THENCE ALONG SAID WESTERLY LINE N 00°00'00" W, A DISTANCE OF 10.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 16A; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 16A, N 90°00'00" E, A DISTANCE OF 162.59 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIPTION CONTAINS 1,653 SQUARE FEET OR 0.04 ACRES MORE OR LESS.



WILLIAM G BUNTROCK, PLS
COLORADO LICENSED LAND SURVEYOR NO. 35585
TRUE NORTH SURVEYING & MAPPING, LLC
TN 22051 16A R1

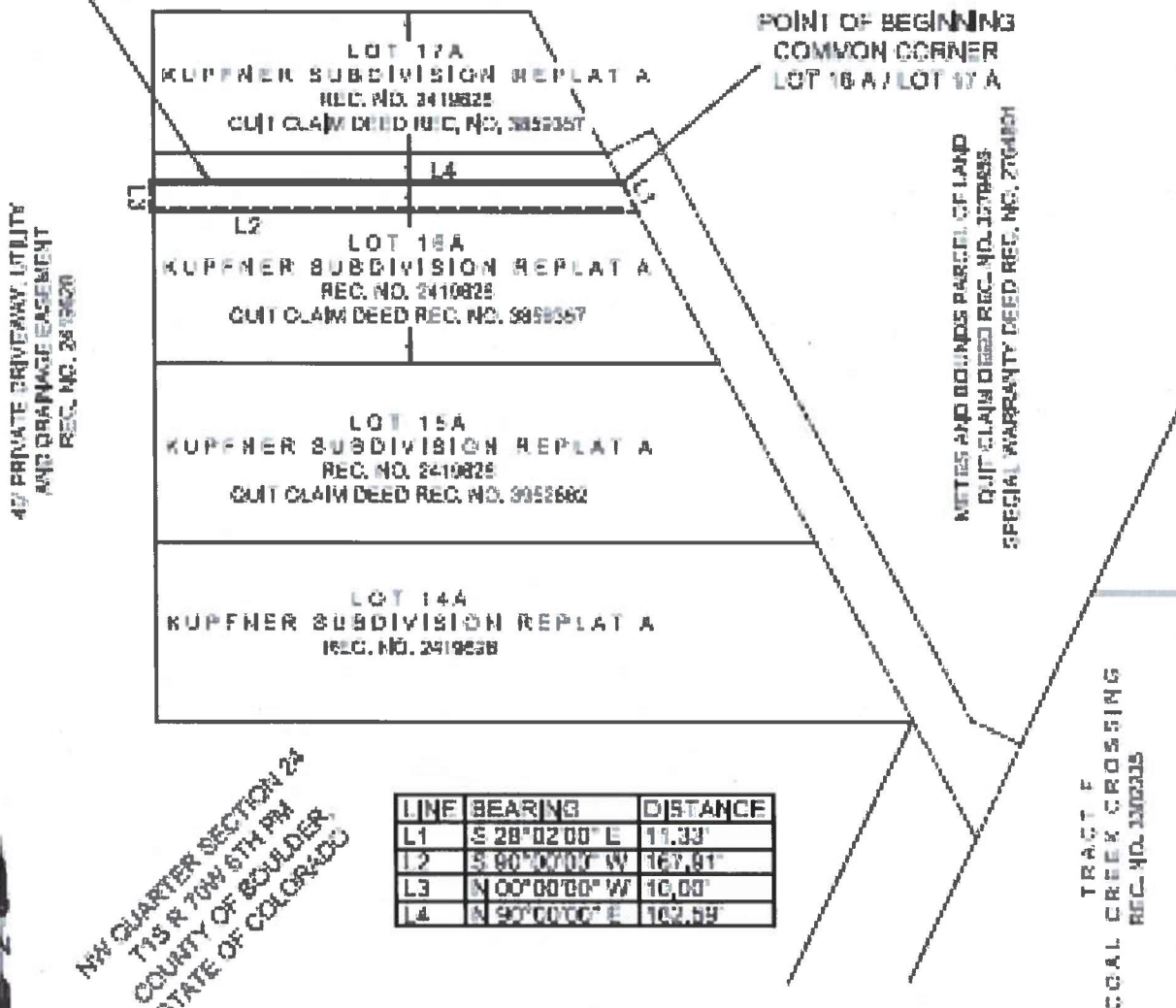
LOT 16A
10.00 FOOT
UTILITY EASEMENT

EXHIBIT A

PAGE 2 OF 2

1,653 SQUARE FEET
OR 0.04 ACRES +/-

BASIS OF BEARINGS
COMMON LINE LOT 16A AND LOT 17A



LINE	BEARING	DISTANCE
L1	S 28°02'00" E	11.33'
L2	S 90°00'00" W	167.81'
L3	N 00°00'00" W	10.00'
L4	N 90°00'00" E	162.59'

NW QUARTER SECTION 24
T15 R 70W 6TH PM
COUNTY OF BOULDER
STATE OF COLORADO

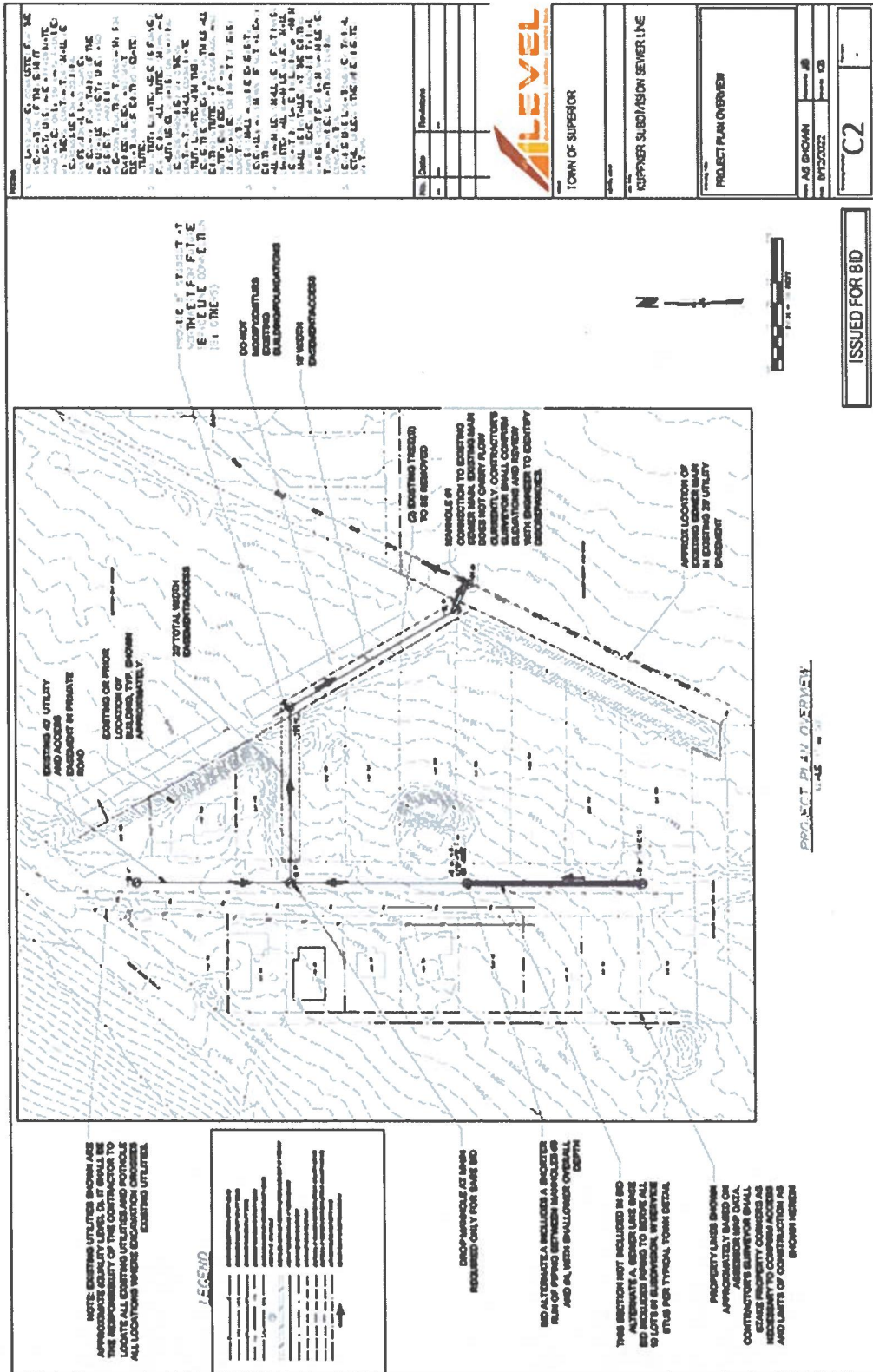
NOTICE - According to Colorado law you may commence any legal action based upon any defect in this survey within 90 days after you first discover such defect. In no event may any action be based upon any defect in this survey be commenced more than 90 days from the date of this certificate of accuracy.

NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED LAND SURVEY. IT IS INTENDED ONLY TO IDENTIFY THE ATTACHED DESCRIPTIONS.



DATE	08/01/2023
DRAWN	BB
CHECKED	BB
APPROVED	BB
PROJECT NO.	TN 22051
HORIZ. SCALE	1"=60'

EXHIBIT B PLANS



<p>NOTES:</p> <ol style="list-style-type: none"> 1. ALL UTILITIES SHOWN ARE APPROXIMATE LOCATIONS BASED ON RECORD DRAWINGS AND FIELD SURVEY. THE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL UTILITIES AND PROVIDE ALL LOCATIONS WHERE EXCAVATION OCCURS EXISTING UTILITIES. 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND EASEMENTS FROM THE TOWN OF SUPERIOR AND ANY OTHER AGENCIES INVOLVED. 3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES. 4. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES AND STRUCTURES FROM DAMAGE DURING CONSTRUCTION. 5. THE CONTRACTOR SHALL MAINTAIN ADEQUATE DRAINAGE AND EROSION CONTROL MEASURES THROUGHOUT THE PROJECT. 6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF ALL UTILITIES AND STRUCTURES ENCOUNTERED DURING CONSTRUCTION. 7. THE CONTRACTOR SHALL MAINTAIN RECORD DRAWINGS AND FIELD NOTES OF ALL UTILITIES AND STRUCTURES ENCOUNTERED DURING CONSTRUCTION. 8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF ALL UTILITIES AND STRUCTURES ENCOUNTERED DURING CONSTRUCTION. 9. THE CONTRACTOR SHALL MAINTAIN ADEQUATE DRAINAGE AND EROSION CONTROL MEASURES THROUGHOUT THE PROJECT. 10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION AND REPAIR OF ALL UTILITIES AND STRUCTURES ENCOUNTERED DURING CONSTRUCTION. 	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; text-align: center;"> </td> <td style="width: 50%; text-align: center;"> <p>TOWN OF SUPERIOR</p> </td> </tr> <tr> <td colspan="2" style="text-align: center;"> <p>KUPFNER SUBDIVISION SEWER LINE</p> </td> </tr> <tr> <td colspan="2" style="text-align: center;"> <p>PROJECT PLAN OVERVIEW</p> </td> </tr> <tr> <td style="width: 50%;"> <p>AS SHOWN</p> </td> <td style="width: 50%;"> <p>DATE</p> </td> </tr> <tr> <td colspan="2" style="text-align: center;"> <p style="font-size: 2em;">C2</p> </td> </tr> </table>		<p>TOWN OF SUPERIOR</p>	<p>KUPFNER SUBDIVISION SEWER LINE</p>		<p>PROJECT PLAN OVERVIEW</p>		<p>AS SHOWN</p>	<p>DATE</p>	<p style="font-size: 2em;">C2</p>	
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<p>AS SHOWN</p>	<p>DATE</p>										
<p style="font-size: 2em;">C2</p>											

ISSUED FOR BID

PROJECT PLAN OVERVIEW
1:40

NOTE: EXISTING UTILITIES SHOWN ARE APPROXIMATE LOCATIONS BASED ON RECORD DRAWINGS AND FIELD SURVEY. THE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL UTILITIES AND PROVIDE ALL LOCATIONS WHERE EXCAVATION OCCURS EXISTING UTILITIES.

LEGEND

	<p>SEWER LINE</p>
	<p>WATER MAIN</p>
	<p>GAS LINE</p>
	<p>ELECTRIC LINE</p>
	<p>TELEPHONE LINE</p>
	<p>CABLE TV LINE</p>
	<p>STORM SEWER LINE</p>
	<p>EASEMENT</p>
	<p>RIGHT OF WAY</p>
	<p>PROPERTY LINE</p>
	<p>CONTOUR LINE</p>
	<p>SPOT ELEVATION</p>

ENCUMBRANCES AT THIS SCALE SHOWN ONLY FOR INFORMATION.

NO ALTERNATE IS PROVIDED FOR THE RISE OF PIPES BETWEEN MANHOLES OR AT A DEPTH SHALLOWER THAN 4 FEET.

THIS SECTION NOT INCLUDED IN BID ALTERNATE A. CHECK LOCAL CODES FOR ALL UTILITIES AND STRUCTURES TO BE EXCAVATED AND MAINTAINED THROUGHOUT THE PROJECT.

PROPERTY LINES SHOWN APPROXIMATELY. THE CONTRACTOR SHALL VERIFY THE LOCATION OF ALL UTILITIES AND STRUCTURES TO BE EXCAVATED AND MAINTAINED THROUGHOUT THE PROJECT.