



*Highline Public Schools Board Action Report*

DATE: ~~June~~ April 14 16, 2023

FROM: Dr. Ivan Duran, Superintendent

LEAD STAFF: Scott Logan, Chief Operations Officer, and Ellie Daneshnia, Executive Director of Capital Planning and Construction

For Introduction: April 19, 2023      For Action: ~~June 21~~ May 3, 2023

**I. TITLE** Motion to Approve Resolution 17-23 City of Des Moines Right of Way Expansion and Temporary Construction Easement

Select one:     New Item     Renewed Item     Annual Item     Revised Item

**II. WHY BOARD ACTION IS NECESSARY**

The Highline School District’s Board of Directors is required by Policy 6801, Capital Assets and Small and Attractive Items, to fulfill its stewardship responsibilities and maintain a comprehensive capital assets program. Capital Assets include easements and improvements to the land. Also pursuant to RCW Chapter 39.33, the Intergovernmental Disposition of Property Act, municipal corporations of the State of Washington with the authority to transfer real property and interests therein on such terms and conditions as may be mutually agreed upon by the proper authorities of such municipal corporations.

**III. BACKGROUND INFORMATION**

The City of Des Moines intends to proceed with the 24th Ave. South roadway improvement. This project will improve pedestrian and roadway safety along 24th Avenue South, between Kent-Des Moines Road and South 223rd Street. This improvement may include sidewalks, bike lanes, reduced travel lane widths, a two-way left turn lane, storm drainage, and/or decorative street lighting. Therefore, the city requires the district’s conveyance of a portion of the property adjacent to the Pacific Middle School to accommodate the enhancement.

The City of Des Moines also wishes to acquire a temporary construction easement over the area described and depicted in the temporary construction easement as a work area for constructing improvements associated with the improvement project. The area will not be subject to authorized school use and is no longer required for school purposes during the term of the temporary construction easement. The term of this temporary easement will commence on the date of acceptance of the temporary easement and will terminate on March 31, 2025. The agreement also reserves the right to the City to extend the easement up to one year beyond the termination terms. The agreement and their exhibits will be available in the Chief Operations Officer’s (COO) office after being finalized via flash drive.

The City of Des Moines estimated the value of the district property and the temporary construction easement to be \$2,550.

By approving this resolution, the Board declares the easement area will not be subject to authorized school use nor will it be needed for school purposes during the term of the temporary construction easement. Also, the Board will authorize the conveyance of property and will transfer the Deed to the city in accordance with applicable law.

The final agreement and exhibits are currently in negotiation between the District's outside legal counsel and the City's legal counsel. The final package and exhibits will be provided to the School Board prior to action at the May 3, 2023, School Board Meeting.

**IV. RECOMMENDED MOTION**

I move that the Board of Directors approves Resolution No. 17-23, City of Des Moines Right of Way Expansion and Temporary Construction Easement.

**V. FISCAL IMPACT/REVENUE SOURCE**

Fiscal impact of this action will be \$2,550 in revenue, being allocated to Non-Bond Capital Funds.

Expenditure:  One-time  Annual

**VI. APPLICABLE POLICY(S)**

This action complies with the following policies: Board Policy 6801, Capital Assets, and Small and Attractive Items

**VII. ALTERNATIVES**

The alternative is to not authorize the conveyance and then the City will use its right under Chapter 39.33 RCW and condemn the property.

**VIII. COMMUNITY ENGAGEMENT**

Community Engagement Required:  Yes  No

**IX. ATTACHMENTS**

1. Resolution No. 17-23- Authorizing Conveyance to the City of Des Moines (for approval)

2. Highline SD Des Moines - Temporary Construction Easement (TCE) - 24th Ave Improvement Project Final Offer Package to Highline School District from the City of Des Moines (for review, on file in COO office)

3. Highline SD Des Moines - Warranty Deed - 24th Ave Improvement Project (for review, on file in COO office)

2-4. Construction MOU between City and District.

HIGHLINE SCHOOL DISTRICT NO. 401

RESOLUTION NO. 17-23

WHEREAS, Highline School District No. 401 (the "District") owns certain real property generally located at 22705 24<sup>th</sup> Ave S. in Des Moines, Washington, the site of Pacific Middle School (the "Property"); and

WHEREAS, the City of Des Moines (the "City") requires the conveyance by the District of a portion of the Property (the "Fee Real Estate"), as described and depicted in the deed attached as Exhibit A ("Deed"), on which the City intends to construct roadway improvements, which may include sidewalks, bike lanes, reduced travel lane widths, a two-way left turn lane, storm drainage and/or decorative street lighting, as part of the City's 24<sup>th</sup> Ave. S. roadway improvements infrastructure project (the "Project").

WHEREAS, the City also wishes to acquire a temporary construction easement in accordance with the Temporary Construction Easement agreement attached as Exhibit B (the "TCE") over the area described and depicted in the TCE ("Easement Area"), as a work area for constructing improvements associated with the Project in or around the Fee Real Estate.

WHEREAS, the Fee Real Estate is not subject to an authorized school use and is no longer required for school purposes; and

WHEREAS, the Easement Area will not be subject to an authorized school use nor required for school purposes during the term of the TCE; and

WHEREAS, the District estimates the value of the Fee Real Estate and the TCE to be less than \$50,000; and

WHEREAS, the Intergovernmental Disposition of Property Act, Chapter 39.33 RCW, provides municipal corporations of the State of Washington with the authority to transfer real property and interests therein on such terms and conditions as may be mutually agreed upon by the proper authorities of such municipal corporations.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors, pursuant to the District's authority under Chapter 39.33 RCW for the disposition of property to a municipal corporation for a public purpose, that:

- a) the Board of Directors declare, and hereby declares, the Fee Real Estate is not subject to an authorized school use and is no longer needed for school purposes; and
- b) the Board of Directors declare, and hereby declares, the Easement Area will not be subject to an authorized school use, nor will it be needed for school purposes during the term of the TCE; and

c) the Superintendent of the District (or the Superintendent's designee) is authorized and directed to: execute, acknowledge and deliver the Deed in substantially the form attached hereto as Exhibit A, conveying the Fee Real Estate; execute, acknowledge and deliver the TCE, in substantially the form attached hereto as Exhibit B, granting the TCE; and to do all other things necessary and advisable to be done to accomplish the sale of the Fee Real Estate and the grant of the TCE to the City in accordance with applicable law.

ADOPTED at a regular meeting of the Board of Directors of Highline School District No. 401, this \_\_\_\_ day of \_\_\_\_\_, 2023.

HIGHLINE SCHOOL DISTRICT NO. 401  
Board of Directors

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Dr. Ivan Duran,  
Superintendent and Secretary to the Board

EXHIBIT A  
Form of Deed

EXHIBIT B  
Form of Temporary Construction Easement

After recording return document to:

City of Des Moines 21630  
11th Ave S.  
Des Moines, WA 98198

**Document Title: Temporary Construction Easement**

**Reference Number of Related Document: N/A**

**Grantor(s): HIGHLINE SCHOOL DISTRICT NO. 401**

**Grantee(s): CITY OF DES MOINES**

**Legal Description: PTN N ½ SEC 16 SW QT SEC 9 TWP 22 N RNG 04 E, W.M.**

**Additional Legal Description is on Page 6 of Document.**

**Assessor's Tax Parcel Number: 162204-9239**

## TEMPORARY CONSTRUCTION EASEMENT

### 24th Ave South Roadway Improvements

**HIGHLINE SCHOOL DISTRICT NO. 401, KING COUNTY, WASHINGTON, a municipal corporation of the State of Washington** (“Grantor”), for and in consideration of TEN AND NO/100 DOLLARS (\$10.00), and other valuable consideration, hereby grants and conveys unto the **CITY OF DES MOINES, a municipal corporation of the State of Washington** (“Grantee”), a temporary, non-exclusive easement (the “Easement”) over, under, in, along, across and upon the property described on Exhibit A attached hereto and depicted on Exhibit B attached hereto (the "Easement Area") for use in the initial construction and installation of the Project on adjacent real property and Other Construction Purposes, all under the imminent threat of the Grantee’s exercise of its right of Eminent Domain.

**The Project.** The “Project” means Grantee’s planned improvements on 24th Ave S, between Kent-Des Moines Road and S 223rd Street, including sidewalks, bike lanes, reduced travel lane widths, a two-way left turn lane, storm drainage, and decorative street lighting.

**Other Construction Purposes.** “Other Construction Purposes” means removing vegetation that interferes with Grantee’s use of the Easement Area, the modification or reconstruction of driveways on the Easement Area to blend with Project-related new construction, and all other purposes related to the initial construction of the Project.

**Term.** The term of this Easement shall commence on the later of (i) the date of Grantee’s signature below and (ii) March 31, 2023, and shall terminate on the first to occur of (x) March 31, 2025 or (y) the completion of the Project or the Easement Area no longer being required for

the Other Construction Purposes (the “Term”).

**Extension Option.** Grantee shall have a one-time option to extend the Term for up to twelve (12) months. Grantee shall notify Grantor in writing of its intent to extend the Term no less than thirty (30) days prior to the end of the initial Term. The Easement fee rate associated with this extension shall be the higher of (i) the same rate as during the initial Term, and (ii) a newly established rate determined by an updated Administrative Offer. Grantee must render payment for the extension period prior to commencement of the same.

**Indemnification.** Grantee shall protect, indemnify, defend, and hold harmless Grantor from any and all claims, demands, loss, damage, expense (including reasonable attorneys’ fees), liens, charges and liability of every kind and description, including personal injury and for any damage to or loss of or destruction of property whatsoever suffered by Grantor because, by reason of, or arising from the exercise of any of the rights granted herein; provided that, Grantee shall not be obligated to indemnify Grantor for the portion of any claim or liability caused by the sole or contributory negligence of Grantor or its agents. The provisions of this Section (Indemnification) shall survive the expiration or earlier termination of this Easement.

**Restoration.** Grantee agrees to promptly restore the property contained in the Easement Area to its condition existing before the work, or if impractical to a condition of a nature and quality as good to that which existed prior to the time the work began, subject to the modification or reconstruction of driveways on the Easement Area to blend with Project related new construction.

**Binding Effect.** This Easement is binding upon Grantor’s property affected hereby, Grantor, and Grantee. This Easement constitutes the entire agreement of the parties with respect to the Easement and Easement Area. Grantor and Grantee acknowledge that this Easement has been freely negotiated by both parties and that each party has had the opportunity to consult with legal counsel. This Easement cannot be amended except in writing signed by both parties.

**Choice of Law.** This Easement shall be governed by and construed and enforced in accordance with the laws of the State of Washington without regard to its choice of law rules or conflicts of law provisions, and venue shall lie exclusively in King County Superior Court in Seattle, Washington.

**Compliance With Laws.** Grantee shall construct any improvements permitted in the Easement Area under this Easement in a workmanlike manner and in compliance with the applicable statutes, ordinances, rules and regulations of all governing public authorities as those statutes, ordinances, rules and regulations are amended from time to time.

**Attorneys’ Fees.** In the event of litigation, including alternative dispute resolution, with respect to the enforcement or interpretation of this agreement, including appeals, the prevailing party in



such litigation shall be entitled to recover, from the non-prevailing party, the prevailing party's reasonable attorneys' fees, costs and disbursements.

**Authorized Representative.** Each individual signing on behalf of a party to this agreement states that he or she is the duly authorized representative of the signing party and that his or her signature on this agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

[Signature page follows]

It is understood and agreed that delivery of this Easement is hereby tendered and that the terms and obligations hereof shall not become binding upon the **CITY OF DES MOINES** unless and until accepted and approved hereon in writing for the **CITY OF DES MOINES**, by its authorized agent.

**HIGHLINE SCHOOL DISTRICT NO. 401**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Accepted and Approved

**CITY OF DES MOINES**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

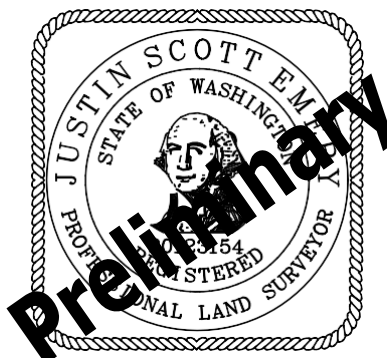


**EXHIBIT A**  
**TEMPORARY CONSTRUCTION EASEMENT DESCRIPTION**  
**SECTION 16, TOWNSHIP 22 N, RANGE 4 E, W.M. CITY OF DES MOINES, KING**  
**COUNTY**  
**TPN 162204-9239**

THAT PORTION OF PARCEL C OF CITY OF DES MOINES LOT LINE ADJUSTMENT NO. LUA2004-023, RECORDED ON FEBRUARY 01, 2005 UNDER RECORDING NO. 20050201900013, RECORDS OF KING COUNTY, WASHINGTON, BEING IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, SECTION 16, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., KING COUNTY, WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE SOUTHEAST CORNER OF SAID PARCEL C;  
THENCE ALONG THE EAST LINE OF SAID PARCEL NORTH 25°02'27" WEST  
35.11 FEET TO THE **TRUE POINT OF BEGINNING**;  
THENCE SOUTH 64°57'33" WEST 10.00 FEET TO A POINT ON A LINE PARALLEL WITH AND 10.00 WEST OF THE EAST LINE OF SAID PARCEL;  
THENCE ALONG SAID PARALLEL LINE NORTH 25°02'27" WEST 23.62 FEET TO A POINT ON A TANGENT CURVE THE RIGHT, WITH A RADIUS OF 1472.69 FEET;  
THENCE CONTINUING NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°06'09", FOR AN ARC LENGTH OF 54.04 FEET;  
THENCE NORTH 67°02'05" EAST 10.00 FEET TO THE EAST LINE OF SAID PARCEL, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE TO THE NORTHEAST, THE RADIAL LINE WHICH BEARS SOUTH 67°03'42" WEST,  
WITH A RADIUS OF 1462.69 FEET;  
THENCE CONTINUING SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 02°06'09", FOR AN ARC LENGTH OF 53.68 FEET;  
THENCE ALONG SAID EAST LINE SOUTH 25°02'27" EAST, 23.62 FEET TO THE  
**TRUE POINT OF BEGINNING**

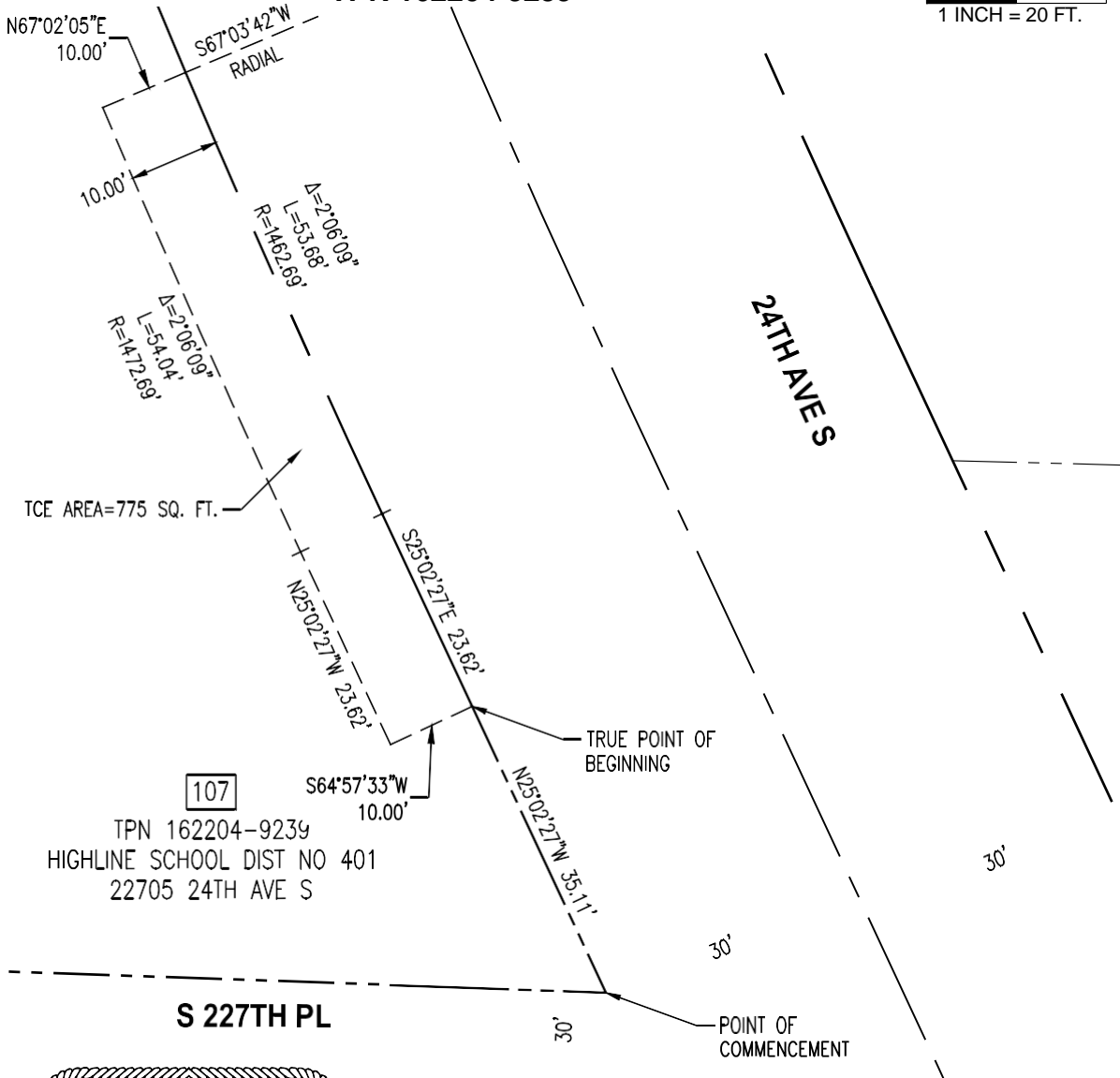
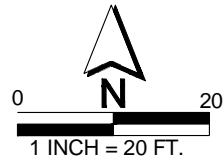
SAID PORTION CONTAINING 775 SQUARE FEET, MORE OR LESS



# EXHIBIT B

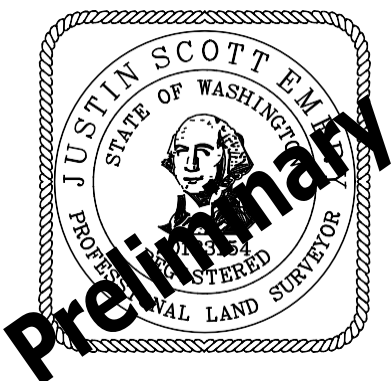
TEMPORARY CONSTRUCTION EASEMENT AREA SECTION 16,  
TOWNSHIP 22 N, RANGE 4 E, W.M.  
CITY OF DES MOINES, KING COUNTY

TPN 162204-9239



TCE AREA=775 SQ. FT.

**107**  
TPN 162204-9239  
HIGHLINE SCHOOL DIST NO 401  
22705 24TH AVE S



**HORIZONTAL DATUM**  
NAD83/11 NORTH ZONE

- LEGEN**
- 107 IMPACTED PARCEL NUMBER
  - RIGHT OF WAY
  - EASEMENT AREA

**Parametrix**  
ENGINEERING . PLANNING . ENVIRONMENTAL SCIENCES

After recording return document to:

**City Clerk  
21630 11<sup>th</sup> Ave S. Ste. A  
Des Moines, WA 98198**

**Document Title: Statutory Warranty Deed  
Reference Number of Related Document:  
Grantor(s): HIGHLINE SCHOOL DISTRICT NO. 401  
Grantee(s): CITY OF DES MOINES  
Legal Description: PTN N ½ SEC 16 SW QT SEC 9 TWP 22 N RNG 04 E, W.M.  
Additional Legal Description is on Page 5 of Document.  
Assessor's Tax Parcel Number: 162204-9239**

## **STATUTORY WARRANTY DEED**

### **24th Ave South Roadway Improvements**

The Grantor, **HIGHLINE SCHOOL DISTRICT NO. 401**, a municipal corporation of the State of **Washington**, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00), and other valuable consideration, receipt and sufficiency of which are hereby acknowledged, hereby conveys and warrants to the **CITY OF DES MOINES**, a municipal corporation of the State of Washington ("Grantee"), for the use of the public, the real estate situated in the County of King, State of Washington, as more particularly described on **Exhibit A** and depicted in **Exhibit B**, and subject to the permitted exceptions in **Exhibit C**, all under the imminent threat of the Grantee's exercise of its rights of Eminent Domain. All Exhibits are attached hereto and incorporated herein by reference

[Signature page follows]

FA No.  
Project No.

It is understood and agreed that delivery of this deed is hereby tendered and that the terms and obligations hereof shall not become binding upon the **CITY OF DES MOINES** unless and until accepted and approved hereon in writing for the **CITY OF DES MOINES**, by its authorized agent.

**HIGHLINE SCHOOL DISTRICT NO. 401**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Accepted and Approved

**CITY OF DES MOINES**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_



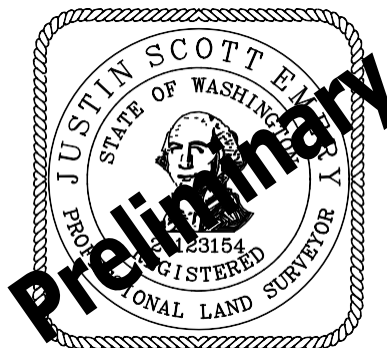


**EXHIBIT A**  
**RIGHT OF WAY AQUISITION AREA**  
**SECTION 16, TOWNSHIP 22 N, RANGE 4 E, W.M.**  
**CITY OF DES MOINES, KING COUNTY**  
**TPN 162204-9239**

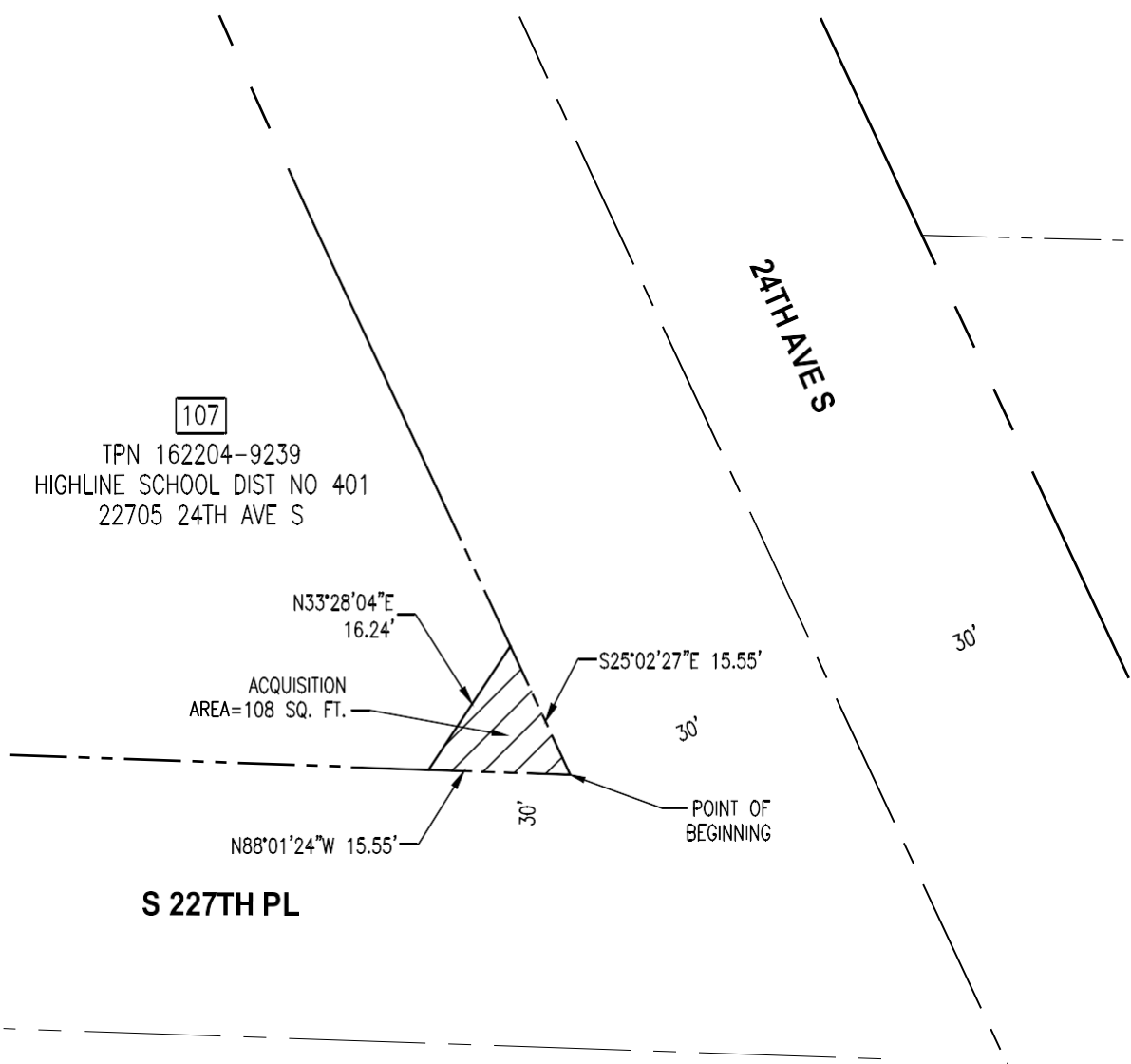
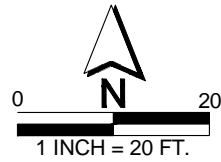
THAT PORTION OF PARCEL C OF CITY OF DES MOINES LOT LINE ADJUSTMENT NO. LUA2004-023, RECORDED ON FEBRUARY 01, 2005 UNDER RECORDING NO. 20050201900013, RECORDS OF KING COUNTY, WASHINGTON, BEING IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, SECTION 16, TOWNSHIP 22 NORTH, RANGE 4 EAST, W.M., KING COUNTY, WASHINGTON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BEGINNING** AT THE SOUTHEAST CORNER OF SAID PARCEL C;  
THENCE ALONG THE SOUTH LINE OF SAID PARCEL NORTH 88°01'24" WEST 15.55 FEET;  
THENCE NORTH 33°28'04" EAST 16.24 FEET TO THE EAST LINE OF SAID PARCEL;  
THENCE ALONG SAID EAST LINE SOUTH 25°02'27" EAST 15.55 FEET TO THE  
**POINT OF BEGINNING**

SAID PORTION CONTAINING 108 SQUARE FEET, MORE OR LESS



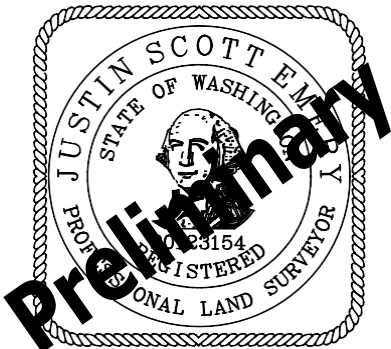
**EXHIBIT B**  
**RIGHT OF WAY ACQUISITION AREA**  
**SECTION 16, TOWNSHIP 22 N, RANGE 4 E, W.M.**  
**CITY OF DES MOINES, KING COUNTY**  
**TPN 162204-9239**



**107**  
 TPN 162204-9239  
 HIGHLINE SCHOOL DIST NO 401  
 22705 24TH AVE S

**S 227TH PL**

**24TH AVE S**



**HORIZONTAL DATUM**  
 NAD83/11 NORTH ZONE

**LEGEND**

- 107** IMPACTED PARCEL NUMBER
- RIGHT OF WAY
- ACQUISITION AREA

**Parametrix**  
 ENGINEERING . PLANNING . ENVIRONMENTAL SCIENCES

# **EXHIBIT C**

## **Permitted Exceptions**

[To be incorporated prior to execution and recording]

Grantor: **HIGHLINE SCHOOL DISTRICT NO. 401**  
Grantee: **CITY OF DES MOINES**  
Abbreviated Legal: **PTN N ½ STR S 16 T 22 N R 4 KING CO., WA**  
Tax Parcel No.: **162204-9239**

**CONSTRUCTION MEMORANDUM OF UNDERSTANDING**

between  
City of Des Moines, a political subdivision of the State of Washington  
and  
Highline School District NO.401, King County, WA, A Municipal Corporation of the state of  
Washington  
(Property Owners)

*The purpose of this document is to memorialize the understanding of City of Des Moines and the Property Owners with respect to the details of the City's exercise of temporary and permanent property rights acquired from the undersigned Property Owners.*

The City and the undersigned Property Owners hereby agree to the following conditions concerning the project named below:

*Unless otherwise approved by the Contracting Agency, no work shall occur on the driveway accesses to Midway Elementary School or Pacific Middle School when classes are in session. It is the Contractor's responsibility to coordinate all work with the Highline School District and the Contractor shall directly coordinate with the school district to ensure that access is maintained to and from the school(s) when classes are in session. At no time shall work occur outside of the approved work hours for the project and it is the Contractor's responsibility to determine when the school district may have alternate student start and release times and to modify their operations accordingly.*

In the event the subject property is sold prior to the commencement of project construction, the undersigned Property Owner agrees to notify any new owners or parties acquiring an interest in the property of the obligations agreed upon in this Memorandum Agreement.

Property Owners:

City of Des Moines:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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

By: \_\_\_\_\_

Title:

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

Acquisition Agent

By: \_\_\_\_\_

Brian Wonderful, Right of Way Agent