

**LEASE AGREEMENT**

BETWEEN

**BOARD OF EDUCATION OF THE  
ELIZABETHTOWN INDEPENDENT  
SCHOOL DISTRICT**

AND

**ELIZABETHTOWN INDEPENDENT  
SCHOOL DISTRICT FINANCE  
CORPORATION**

AND

**HARDIN COUNTY WATER  
DISTRICT No. 2**

\_\_\_\_\_, 2024

# LEASE AGREEMENT

## Table of Contents

<b>Paragraph Headings</b>	<b>Page</b>
<b>1. Term .....</b>	<b>4</b>
<b>2. Leased Premises .....</b>	<b>4</b>
<b>3. Title Reference .....</b>	<b>5</b>
<b>4. Ingress and Egress .....</b>	<b>5</b>
<b>5. Water Tank.....</b>	<b>7</b>
<b>6. Display of Logo.....</b>	<b>7</b>
<b>7. Storage Space.....</b>	<b>7</b>
<b>8. Lighting .....</b>	<b>9</b>
<b>9. Use of Leased Premises.....</b>	<b>9</b>
<b>10. Payment of Rent .....</b>	<b>9</b>
<b>11. Maintenance.....</b>	<b>9</b>
<b>12. Damages .....</b>	<b>10</b>
<b>13. Utilities .....</b>	<b>10</b>
<b>14. Taxes .....</b>	<b>10</b>
<b>15. Liability Insurance .....</b>	<b>10</b>
<b>16. Subrogation.....</b>	<b>11</b>
<b>17. Indemnification.....</b>	<b>12</b>
<b>18. Quiet Enjoyment.....</b>	<b>12</b>

<b>19. Force Majeure.....</b>	<b>13</b>
<b>20. Eminent Domain.....</b>	<b>13</b>
<b>21. Termination.....</b>	<b>14</b>
<b>22. Removal of Equipment .....</b>	<b>15</b>
<b>23. Notices .....</b>	<b>15</b>
<b>24. Cooperation .....</b>	<b>16</b>
<b>25. Non-Waiver .....</b>	<b>16</b>
<b>26. Binding Effect .....</b>	<b>16</b>
<b>27. Assignment .....</b>	<b>16</b>
<b>28. Section Headings.....</b>	<b>16</b>
<b>29. Severability.....</b>	<b>16</b>
<b>30. Governing Law .....</b>	<b>17</b>
<b>31. Entire Agreement .....</b>	<b>17</b>
<b>32. Memorandum of Lease .....</b>	<b>17</b>
<b>33. Counterparts.....</b>	<b>17</b>

**EXHIBITS**

**Exhibit A** Water Storage Tank Site

**Exhibit B** Tank Logo

# LEASE AGREEMENT

THIS LEASE AGREEMENT (the “Lease”), having an effective date of \_\_\_\_\_, 2024, is made and entered into by and between the **Board of Education of the Elizabethtown Independent School District**, 219 Helm Street, Elizabethtown, Kentucky 42701, the **Elizabethtown Independent School District Finance Corporation**, 219 Helm Street, Elizabethtown, Kentucky 42701, as Lessors (hereinafter collectively referred to as “EIS”), and **Hardin County Water District No. 2**, P. O. Box 970, 1951 West Park Road, Elizabethtown, Kentucky 42702, as Lessee.

## WITNESSETH:

**WHEREAS**, the Board of Education of the Elizabethtown Independent School District (the “School Board”), in order to carry out the duty and authority vested in it as the governing body of EIS, desires to provide and maintain adequate school facilities and to provide adequate fire protection for these school facilities;

**WHEREAS**, the Elizabethtown Independent School District Finance Corporation (the “Finance Corporation”) is a nonstock, nonprofit corporation organized under the provisions of KRS Chapter 273, KRS 58.180, and KRS 162.385 to act as an agent, instrumentality, and constituted authority of the School Board in the acquisition and financing of school building facilities;

**WHEREAS**, Hardin County Water District No. 2 (the “Water District”) is a water district organized under the provisions of KRS Chapter 74;

**WHEREAS**, the Finance Corporation currently owns a certain tract of land upon which Elizabethtown High School (the “School”) operates several of the School’s athletic facilities (the “EIS Athletic Complex”);

**WHEREAS**, on March 17, 2020, the School Board approved the Water District’s proposal (the “Proposal”) to construct a 750,000-gallon elevated Water Storage Tank (the “Water Tank”) on certain real property owned by the Finance Corporation and located within the EIS Athletic Complex;

**WHEREAS**, EIS and the Water District have agreed upon a precise location within the EIS Athletic Complex for the construction of the Water Tank, as depicted in **Exhibit A**, consisting of approximately one-hundred (100) feet by one-hundred (100) feet of vacant real property owned by the Finance Corporation (the “Water Tank Site”);

**WHEREAS**, as consideration for EIS to lease the Water Tank Site to the Water District, the Water District is willing to grant EIS the right to utilize a substantial portion of the space on the interior of the pedestal of the Water Tank for storage;

**WHEREAS**, as additional consideration for EIS to lease the Water Tank Site to the Water District, the Water District is willing to prominently display on the

Water Tank the Panther logo and another graphic design selected by EIS, and to be responsible for both the initial costs of painting the logo and the name on the Water Tank and the subsequent costs of maintaining and, as necessary, re-painting the logo over time;

**WHEREAS**, in order to construct, operate, maintain and repair the Water Tank, the Water District will require reasonable rights of ingress and egress to access the Water Tank;

**WHEREAS**, to enable the Water District to construct, operate, maintain and repair the Water Tank, EIS is willing to grant the Water District, in addition to the lease of the Water Tank Site, reasonable rights of ingress and egress over other designated areas of the EIS Athletic Complex as depicted in **Exhibit A**;

**WHEREAS**, the Water District will need to acquire a temporary construction easement and a permanent utility easement, as depicted on **Exhibit A**, to enable it to construct a water line from its existing tank to the Water Tank;

**WHEREAS**, EIS and the Water District desire for EIS to remain the fee simple owner of the Water Tank Site and for the Water District to have the right to use the Water Tank Site, together with reasonable rights of ingress and egress, for a term of approximately ninety-nine (99) years;

**WHEREAS**, EIS and the Water District desire for the Water District to remain the owner of the Water Tank, as well as any improvements or other assets

incidental to the operation of the Water Tank located on, above, or underneath the Water Tank Site or the EIS Athletic Complex;

**WHEREAS**, the Water District has now obtained the necessary funding to proceed with construction of the Water Tank; and

**WHEREAS**, this Lease is necessary to enable the Water District to advertise for bids for construction of the Water Tank and to commence construction of the Water Tank.

**NOW, THEREFORE, FOR AND IN CONSIDERATION** of the mutual promises, covenants, and conditions contained herein, EIS does hereby rent and lease to the Water District and the Water District does hereby rent and lease from EIS the Water Tank Site hereinafter described, along with the easements and rights of ingress and egress described herein, all subject to the terms and conditions set forth herein, and it is agreed by and between EIS and the Water District (each, a “Party” and collectively, the “Parties”) as follows:

1. **Term.** The Term of this Lease shall be for a period of approximately ninety-nine (99) years commencing on \_\_\_\_\_, 2024, and ending on June 30, 2123, at midnight EDT.

2. **Leased Premises.** The leased premises (the “Leased Premises”) consist of a designated plat of vacant real property, approximately one-hundred (100) feet by one-hundred (100) feet, owned by the Finance Corporation and located

within the EIS Athletic Complex. **Exhibit A**, which is attached hereto and incorporated herein by reference, depicts the approximate boundaries of the Leased Premises, as well as the location of the Leased Premises relative to North Mulberry and French Streets and the means of gaining access to the Leased Premises.

3. **Title Reference.** The Leased Premises is located on real property owned by the Finance Corporation and described in Deed Book 919, Page 109 in the office of the Hardin County Clerk.

4. **Ingress and Egress.**

A. **Water Tank Access Road.** Upon the commencement of the Term of this Lease, the Water District shall have the right to construct the road identified as the Access Road for the purpose of gaining access, ingress, and egress to the Leased Premises. This Access Road, approximately twenty-five (25) feet in width, is depicted on **Exhibit A**. During the Term of this Lease, the Water District shall have the right to use the Access Road for the purpose of gaining access, ingress, and egress to the Leased Premises. EIS shall also have the right to utilize the Access Road, and both the Water District and EIS shall have keys to the existing gate located across the route of the Access Road near its intersection with French Street. The Water District shall be responsible for the costs of constructing and maintaining the Access



Road. The Water District shall blacktop the Access Road once the Water Tank construction has been completed. The width of the blacktop will be approximately twelve (12) feet.

**B. Waterline to Existing Water Tank.** Upon the commencement of the Term of this Lease, the Water District shall have the right to install an underground waterline (the “Waterline”) from the Water Tank to the Water District’s existing water tank located nearby on North Mulberry Street. **Exhibit A** depicts the approximate location for the installation of the Waterline. During the Term of this Lease, the Water District shall have the right to operate, maintain, repair, and replace the Waterline. The Water District shall be responsible for the costs of the constructing and maintaining the Waterline. EIS shall execute a separate, permanent utility easement in favor of the Water District concerning the construction, operation, maintenance, repair, and replacement of the Waterline.

**C. Overflow Drainage Pipe.** The Water District shall have the right to install, at its own expense, an underground overflow drainage pipe from the Water Tank to EIS’s existing water detention basin as depicted on **Exhibit A**.

5. **Water Tank.** The Water Tank will consist of a concrete column or pedestal, with an inside diameter of approximately forty (40) feet, and a bowl, approximately seventy-four (74) feet in diameter, which will be painted steel. The height of the Water Tank will be approximately one hundred five (105) feet.

6. **Display of Logo.** The Water Tank will prominently feature the Panther logo and a Tradition of Excellence graphic design, as depicted in **Exhibit B**. The Water District shall be responsible for both the initial costs of painting the logo and the other graphic design and the permanent maintenance and re-painting of the logo and graphic design.

7. **Storage Space.**

A. **Joint Use.** Commencing upon the completion of the construction of the Water Tank and continuing for the Term of this Lease, EIS shall have the qualified right to utilize a designated portion of the space inside the pedestal of the Water Tank for storage (the “Storage Area”); provided, however, that the Water District shall have the simultaneous right to utilize the remaining portion of the space inside the pedestal of the Water Tank to access and maintain the Water Tank and for the purpose of monitoring, operating, maintaining, and replacing certain equipment located inside the pedestal. The Water District shall install a fence to separate the Storage Area to be utilized

by EIS from the remaining portion of the space which will be utilized by the Water District. Both Parties shall be able to access the interior of the pedestal via the large overhead garage door and the smaller “man” door.

B. **Only EIS Employees.** The right of EIS to utilize the Storage Area is expressly conditioned upon EIS’s agreement to permit only EIS employees to enter or access the Storage Area. EIS hereby covenants and agrees to prohibit, and to take such precautions as are reasonably necessary to prevent, any student, school volunteer, EIS contractor, agent, or anyone other than an EIS employee from entering or accessing the Storage Area. Violation of this covenant by EIS shall constitute just cause for the Water District to immediately terminate the right of EIS to access or utilize the Storage Area.

C. **Indemnification.** EIS hereby agrees to indemnify the Water District for, and hold the Water District harmless from, any and all losses, liabilities, costs, and expenses (including, but not limited to, reasonable attorneys’ fees) incurred by the Water District as a result of EIS violating any of the provisions of paragraph 7B of this Lease or as a result of any negligence or willful misconduct by EIS, its employees, students, school volunteers, contractors, or agents arising from EIS’s access or use of the Storage Area.

8. **Lighting.** The Water District shall install LED lights to illuminate the logo at night. The Water District shall be responsible for all costs of illuminating the logo, including, but not limited to, the electricity costs and the costs of repairing or replacing the LED lights.

9. **Use of Leased Premises.** The Water District shall be entitled to use and occupy the Leased Premises for the purpose of constructing, operating, and maintaining the Water Tank. In exercising its respective rights, each Party shall take all reasonable steps to minimize the disruption to, and avoid unreasonable interference with, the other Party's operations. Furthermore, the Parties agree to use their best efforts to coordinate planned activities that might disrupt, impact, or interfere with the other Party's operations and to amicably resolve unavoidable conflicts.

10. **Payment of Rent.** The Water District shall **not** make any cash rental payments to EIS for the use of the Leased Premises. The consideration set forth in this Agreement, and the enhanced potable water and fire protection services that EIS will receive as a result of the Water District's construction and operation of the Water Tank, provide adequate consideration for the use of the Leased Premises.

11. **Maintenance.** The Water District shall be responsible for maintaining the Leased Premises, including the Water Tank, as well as any waterlines, pipes, or other assets installed by the Water District on or below any part of the EIS Athletic

Complex, in a good state of repair. The Water District shall also be responsible for maintaining the interior of the pedestal of the Water Tank and making all other general repairs. Further, the Water District is responsible for keeping the Leased Premises reasonably clean, orderly, and free from litter. EIS shall be responsible for mowing the Leased Premises.

12. **Damages.** Any damage done to the Leased Premises, except for damage caused by the intentional acts or negligence of EIS's employees, contractors, or agents, shall be the sole responsibility of, and suitable repairs shall be made by, the Water District.

13. **Utilities.** The Water District shall pay for all utility services which it uses to operate and maintain the Leased Premises, including the cost of lighting the interior of the pedestal of the Water Tank and the cost of illuminating the exterior of the Water Tank.

14. **Taxes.** Both EIS and the Water District are governmental entities and are exempt from the payment of any ad valorem taxes assessed against the Leased Premises.

15. **Liability Insurance.** During the term of this Lease, the Water District shall, at its expense, keep the Water Tank insured with an insurance company or companies against fire and such other hazards as are included in an extended coverage policy. The Water District shall, at its expense, maintain comprehensive

public liability insurance in an amount not less than \$1,000,000 combined single limits for each occurrence for claims for bodily injury or death and property damage along with excess liability coverage (umbrella policy) of not less than \$5,000,000. All such insurance policies shall name EIS as an additional insured or certificate holder.

16. **Subrogation.**

A. **In General.** All insurance policies required under this Lease shall, if possible, contain a waiver of subrogation provision under the terms of which the insurance carrier waives all of its rights to proceed against EIS or the Water District, as the case may be. If waivers of subrogation are obtained, the Party procuring such insurance shall use its best efforts to obtain a certificate of insurance which notes the waiver of subrogation and a copy of the insurance policy endorsement which evidences the insurance carrier's assent to the waiver of subrogation.

B. **Mutual Release.** EIS and the Water District each release the other and their respective representatives from any claims by them or any one claiming through or under them by way of subrogation or otherwise for damage to any person or to the Leased Premises and to the fixtures, personal property, improvements and alterations in or on the Leased Premises that are caused by or result from risks insured against under any insurance policy

carried by them and required by this Lease; provided that such releases shall be effective only if and to the extent that the same do not diminish or adversely affect the coverage under such insurance policies.

17. **Indemnification.** The Water District hereby agrees to indemnify EIS for, and hold EIS harmless from, any and all losses, liabilities, costs and expenses (including, but not limited to, reasonable attorneys' fees) incurred by EIS as a result of any negligence or willful misconduct by the Water District, its employees, contractors, and agents, arising from the Water District's ownership, management, operation, repair, and maintenance of the Water Tank, the Leased Premises, or the improvements and other facilities located on the Leased Premises. To that end, immediately upon notification by EIS, the Water District shall assume, at its own cost, the defense of any such action or suit which may be brought against EIS because of the Water District's ownership, management, operation, repair, and maintenance of the Water Tank, the Leased Premises, or the improvements and other facilities located on the Leased Premises.

18. **Quiet Enjoyment.** EIS covenants and warrants that it is the true and lawful owner of the Leased Premises and has good right and full power to lease the same. EIS agrees that the Water District shall peaceably and quietly hold, possess, and enjoy the Leased Premises without any hindrance or molestation by EIS's employees or agents; subject, however, to the rights, which are described in

paragraph 9 of this Lease, reserved and retained by EIS as the owner of the EIS Athletic Complex, to conduct its athletic operations and property maintenance activities.

As set forth in paragraph 9 of this Lease, each Party shall take all reasonable steps to minimize the disruption to, and avoid unreasonable interference with, the other Party's operations. Furthermore, the Parties agree to use their best efforts to coordinate planned activities that might disrupt, impact, or interfere with the other Party's operations and to amicably resolve unavoidable conflicts.

19. **Force Majeure.** The Water District will not be liable for any delay, failure in performance, loss or damage due to fire, explosion, power blackout, earthquake, flood, the elements, strike, embargo, labor disputes, acts of civil or military authority, war, terrorism, acts of God, acts of the public enemy, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies, or other causes beyond the reasonable control of the Water District, whether or not similar to the foregoing.

20. **Eminent Domain.** In the event all or any portion of the Leased Premises is acquired by governmental authorities by the exercise of the power of eminent domain, the award for such acquisition shall be pro-rated between EIS and the Water District as their respective interests may appear.



21. **Termination.** This Lease may be terminated as follows:

A. **By the District.** In the event the Water District determines that it no longer needs to utilize the Leased Premises for operating and maintaining the Water Tank, it shall have the right to terminate this Lease without any penalty; PROVIDED, HOWEVER, it shall give EIS at least one year of advance, written notice of the Water District's intent to terminate;

B. **By EIS.** In the event the Water District abandons the Leased Premises without having formally exercised its right to terminate this Lease, EIS shall have the right to terminate this Lease; PROVIDED, HOWEVER, it shall first give the Water District at least one year of advance, written notice of EIS's intent to terminate. In the event the Water District does not respond to EIS's notice to terminate within 60 days of receipt of the written notice, EIS may proceed to terminate this Lease. In the event the Water District makes a timely written response affirming its intent to commence utilizing the Leased Premises and then makes good faith efforts to commence using the Leased Premises, then EIS shall no longer be entitled to terminate this Lease because of this specific abandonment episode; and

C. **By Either Party.** Either Party may terminate this Lease upon a default in the performance of any covenant or term hereof by the other Party, which default is not cured within 60 days of receipt of written notice of default (without, however, limiting any other rights available to the Parties pursuant to other provisions hereof); PROVIDED, HOWEVER, that if the defaulting

Party commences good faith efforts to cure the default within such period, the non-defaulting Party shall no longer be entitled to declare a default and terminate this Lease.

22. **Removal of Equipment.** Upon expiration of the initial Term of this Lease or a renewal thereof, or upon the termination of this Lease pursuant to paragraph 21 or by operation of law or by any other means, the Water District shall surrender possession of the Leased Premises.

23. **Notices.** All notices or demands by or from EIS to the District, or the Water District to Elizabethtown, shall be in writing. Such notices or demands shall be mailed to the other party at the following address:

School Board: Board of Education of the Elizabethtown  
Independent School District  
219 Helm Street  
Elizabethtown, Kentucky 42701  
Attn: Chairperson

Finance Corporation: Elizabethtown Independent School District  
Finance Corporation  
219 Helm Street  
Elizabethtown, Kentucky 42701  
Attn: President

Water District: Hardin County Water District No 2  
PO Box 970, 1951 West Park Road  
Elizabethtown, Kentucky 42702  
Attn: General Manager

24. **Cooperation.** EIS agrees to cooperate with the Water District in executing any documents necessary to protect the Water District's rights under this Lease or the Water District's use of the Leased Premises and to take any further action which the Water District may reasonably require to effectuate the intent of this Lease.

25. **Non-Waiver.** Neither EIS's failure nor the Water District's failure to assert its respective rights under any provision or term of this Lease shall be construed as a waiver of that right or any other right at any time in the future.

26. **Binding Effect.** This Lease shall be binding upon and inure to the benefit of the parties and their respective successors.

27. **Assignment.** The Water District shall not, without EIS's prior, written consent, which consent shall not be unreasonably withheld, assign, transfer or sublet this Lease or any interest therein; PROVIDED, HOWEVER, nothing herein shall prohibit or preclude the Water District from assigning this Lease to an entity that is the successor of the Water District by operation of law, consolidation, or merger.

28. **Section Headings.** The section headings in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

29. **Severability.** If any provision of this Lease is found to be invalid or unenforceable, such invalidity shall not affect the remaining provisions of this Lease, which shall continue in full force and effect.

30. **Governing Law.** This Lease shall be construed in accordance with the laws of the Commonwealth of Kentucky.

31. **Entire Agreement.** This Lease, including all of its exhibits, which are hereby incorporated by reference, constitutes the entire agreement and understanding of EIS and the Water District with respect to the Leased Premises. Any modifications or amendments to this Lease must be in writing, must specifically refer to this Lease, and must be executed by EIS and the Water District.

32. **Memorandum of Lease.** The Parties shall execute a Memorandum of this Lease so that it may be recorded in the Office of the Hardin County Clerk.

33. **Counterparts.** This Lease may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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

**IN TESTIMONY WHEREOF**, this Lease Agreement has been executed in multiple counterparts, each of which is deemed to be an original, by the duly authorized officers and officials of the Parties, as of its effective date.

**LESSORS:**

**BOARD OF EDUCATION OF THE ELIZABETHTOWN  
INDEPENDENT SCHOOL DISTRICT**

By: \_\_\_\_\_  
Guy Wallace, Chairperson

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

Attest: \_\_\_\_\_  
Paul M. Mullins, Secretary

**ELIZABETHTOWN INDEPENDENT SCHOOL DISTRICT  
FINANCE CORPORATION**

By: \_\_\_\_\_  
Guy Wallace, President

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

Attest: \_\_\_\_\_  
Paul M. Mullins, Secretary

**LESSEE:**

**HARDIN COUNTY WATER DISTRICT NO. 2**

By: \_\_\_\_\_  
Michael L. Bell, Chairman

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

Attest: \_\_\_\_\_  
Bian S. Woosley, Secretary

STATE OF KENTUCKY     )  
  ) SS  
COUNTY OF HARDIN     )

The foregoing Lease Agreement was subscribed, sworn to, and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Guy Wallace, as Chairperson of the **Board of Education of the Elizabethtown Independent School District**, Lessor, for and on behalf of the Lessor.

\_\_\_\_\_  
NOTARY PUBLIC, State at Large  
  
MY COMMISSION EXPIRES: \_\_\_\_\_  
  
NOTARY REGISTRATION NO.: \_\_\_\_\_

STATE OF KENTUCKY     )  
  ) SS  
COUNTY OF HARDIN     )

The foregoing Lease Agreement was subscribed, sworn to, and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Guy Wallace, as President of **Elizabethtown Independent School District Finance Corporation**, Lessor, for and on behalf of the Lessor.

\_\_\_\_\_  
NOTARY PUBLIC, State at Large  
  
MY COMMISSION EXPIRES: \_\_\_\_\_  
  
NOTARY REGISTRATION NO.: \_\_\_\_\_

STATE OF KENTUCKY )  
 ) SS  
COUNTY OF HARDIN )

The foregoing Lease Agreement was subscribed, sworn to, and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by **MICHAEL L. BELL** as Chairman of the **HARDIN COUNTY WATER DISTRICT NO. 2**, Lessee, for and on behalf of said Lessee.

\_\_\_\_\_  
NOTARY PUBLIC, State at Large

MY COMMISSION EXPIRES: \_\_\_\_\_

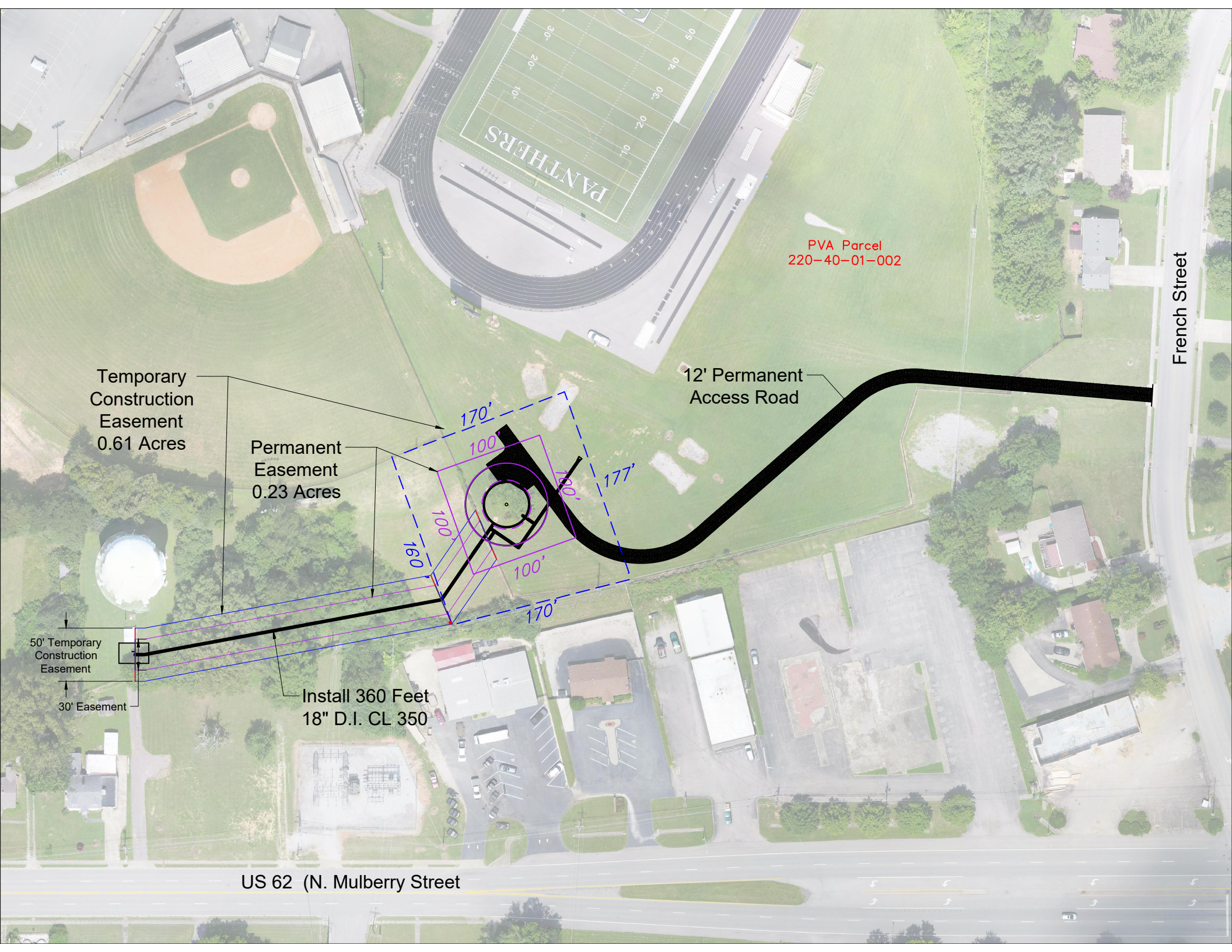
NOTARY REGISTRATION NO.: \_\_\_\_\_

PREPARED BY:

\_\_\_\_\_  
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# **EXHIBIT A**



PVA Parcel  
220-40-01-002

French Street

Temporary  
Construction  
Easement  
0.61 Acres

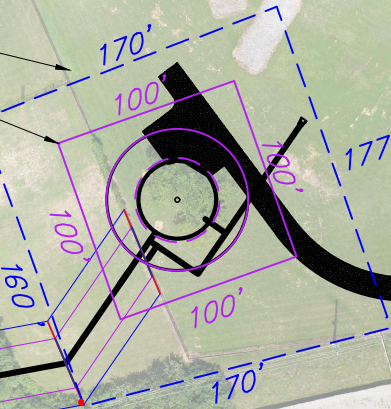
Permanent  
Easement  
0.23 Acres

12' Permanent  
Access Road

50' Temporary  
Construction  
Easement

30' Easement

Install 360 Feet  
18" D.I. CL 350



US 62 (N. Mulberry Street)

# **EXHIBIT B**

