



**Development Agreement between the  
City of Hilliard, Ohio and the Hilliard City School District  
For the Walker Road Elementary School (New Brown) Site**

This Development Agreement (the "Agreement") is made by and between the City of Hilliard, Ohio (the "City"), a municipal corporation organized under the laws of the State of Ohio, with an office located at 3800 Municipal Way, Hilliard, Ohio 43026, and the Board of Education of the Hilliard City School District, a public school district and political subdivision in Franklin County Ohio, with offices located at 2140 Atlas St., Columbus, Ohio 43026 (the "HCSD").

**WITNESSETH:**

**WHEREAS**, HCSD owns or is in the process of acquiring 18.268± acres located along Walker Road in Brown Township (the "Property"); and

**WHEREAS**, HCSD is currently seeking approval to annex the Property into the City; and

**WHEREAS**, HCSD intends to construct the Walker Road Elementary School (New Brown) on the Property (the "School"); and

**WHEREAS**, the City has requested HCSD to make certain public infrastructure improvements to support the School, consistent with the City of Hilliard Thoroughfare Plan and Water Master Plan, as described in Exhibit "A"; and

**WHEREAS**, to support the construction of the School, the City is willing to waive certain utility fees and reimburse HCSD for construction of fiber optic conduit and related infrastructure.

**NOW THEREFORE**, for good and valuable consideration received, the receipt and sufficiency of which is hereby acknowledged, the City and HCSD agree as follows:

1) **Definitions**

- A. **Agreement** shall mean this Agreement including the Exhibits which are incorporated herein by reference.
- B. **Public Infrastructure Improvements** mean the improvements required to be constructed for the School.

2) **List of Exhibits**

- a) Exhibit A. Depiction of Property
- b) Exhibit B. List and Description of Public Infrastructure Improvements

3) **Waiver of Fees and Sources of Reimbursement.** The following City of Hilliard utility fees, as established in Exhibit A of Section 190 of Hilliard City Code, shall be waived as permitted by Section 190.04 of Hilliard City Code and the City shall ensure certain funds to be utilized for reimbursement.

- a) **Sanitary Sewer Capacity and Tap Fee Waiver.** The City agrees to waive the payment of the City Sanitary Sewer Capacity and Tap Fee in the amount of \$47,583 to support the

construction of the School. HCSD will be responsible for the payment of any City of Columbus Sanitary Sewer Capacity and Tap Fee.

- b) **Fire Line Charge, Water System Capacity Charge and Water Tap Permit Fee Waiver.** The City agrees to waive the payment of an 8-inch Fire Line Charge, Water System Capacity Charge and Water Tap Permit fee in the amount \$77,987 to support the construction of the School. HCSD will be responsible for the payment of any City of Columbus Water System Capacity Charge and Water Tap.
  - c) **Future Hilliard Capital Improvement Budget Appropriation.** The City shall appropriate sufficient funds in its 2027 or 2028 Capital Budget in the amount of \$25,000 to support HCSD's installation of Fiber Optic Conduit and Related Infrastructure.
- 4) **Public Infrastructure Improvements.** The following Public Infrastructure Improvements are to be completed by HCSD.
- a) **Regional Infrastructure Improvements.**
    - i) *Description of Improvement.* HCSD is required to construct approximately 850' of Muir Parkway and approximately 950' of a 16-inch Water Main along the north side of Muir Parkway, as described in Exhibit "B".
    - ii) *Waiver of Fees.* The City shall waive certain Sanitary and Water fees as described in Section 3(a) and (b) above to support HCSD's construction of a regional 16-inch water main.
  - b) **Installation of Fiber Optic Conduit and Related Infrastructure**
    - i) *Description of Improvement.* HCSD is required to install and provide two 2 inch HDPE conduit from the ROW to Optical Termination Panel in the building, fiber vault in the ROW and outside building if needed, per the City's specifications.
    - ii) *Reimbursement.* The City shall appropriate sufficient funds in its 2027 or 2028 Capital Budget in order to reimburse HCSD at a maximum amount of \$25,000. The City understands that HCSD shall not permit the City to have access to the Fiber Optic Conduit and Related Infrastructure until the City reimburses HCSD. Upon completion, HCSD shall send an invoice to the City for this amount in order to receive reimbursement in the amount of \$25,000.
  - c) **Fee Waiver and Reimbursement Terms.**
    - i) *Total Fee Waiver and Reimbursement.* In no instance shall the City waive more than \$125,570 in utility fees and/or reimburse HCSD more than \$25,000, for the construction of the public infrastructure improvements and fiber optic conduit described above.
    - ii) *Limits of Reimbursement.* Under the terms of this Agreement, HCSD understands and agrees that the waived fees or the funds to be conveyed to HCSD may be insufficient to fully reimburse HCSD, and HCSD understands and agrees that nothing in this Agreement shall be interpreted otherwise and that it alone bears the risk that a shortfall may exist. Nothing in the Agreement shall be construed as pledging the full faith and credit of either the Board or the City for any costs or reimbursements in this Agreement, nor to issue any bonds or notes for any Reimbursement Amount.

5) **Provisions Governing the Design, Construction, and Maintenance of Public Infrastructure Improvements**

a) **Design of Public Infrastructure Improvements.** HCSD shall prepare a separate construction plan for the public infrastructure improvements, consistent with the City of Hilliard Engineering Design Manual and the City of Columbus Division of Water and Power requirements.

b) **Security for Performance.** HCSD shall execute, or cause its contractor(s) to execute, and provide to the City, a bond obligee rider equal to the Construction Bond Amount of the Public Infrastructure Improvements for which HCSD has received approval to construct (per engineering plans and drawings approved by the City Engineer). All forms of financial warranties must be acceptable to the City to ensure faithful performance of the terms and conditions under this Agreement and to ensure completion of all Public Infrastructure Improvements and that they are constructed in accordance with the City's Engineering Design Manual, and as approved by the City.

Reductions in the Construction Bond(s) Amount for the Public Infrastructure Improvements made or being made on City-owned property, City rights-of-way or in easements granted to the City, shall occur only after the City Engineer has been provided evidence that all work on the particular Public Infrastructure Improvement(s) have been performed according to the approved plans and specifications filed with the City Engineer and/or to the City Engineer's satisfaction. Such reductions in the Construction Bond(s) Amount may occur periodically over time if the Public Infrastructure Improvements are accepted by the City in one or more phases.

If the surety of any bond so furnished by HCSD or its contractor(s) declares bankruptcy, becomes insolvent or its right to do business is terminated in Ohio, HCSD shall within five (5) days thereafter cause the substitution of another bond or surety. HCSD shall provide to the City prior to commencement of any work by any contractor a copy of the Security for Performance provided by the contractor pursuant to this Section.

c) **Plan Review and Inspection Cost.** Hilliard City Code Section 190 Exhibit A establishes plan review and construction inspection fees for public and private infrastructure improvements. Prior to receiving all permits required to commence construction of any portion or phase of the School, including the Public Infrastructure Improvements, HCSD shall deposit the amount estimated by the City Engineer to be necessary to pay the cost of plan review and inspection fees for that portion or phase of the School. Construction inspection fees for the Public Infrastructure Improvements required to be deposited prior to construction shall be reduced from ten percent (10%) to seven (7%).

In the event that the amount of actual cost for the City to perform construction inspection exceeds the amount deposited, HCSD shall make such additional deposit as required by the City Engineer, not to exceed the amounts listed in Exhibit A of Chapter 190 of the City's Codified Ordinances. The entire percentage owed by City Code may be paid in installments only as approved by the City Engineer. All plan review and inspection fees are nonrefundable per Chapter 1190 of the City's Codified Ordinances.

d) **Prevailing Wage.** The City acknowledges that per Ohio Revised Code Section 4115.04(B)(3), HCSD is not required to pay prevailing wage for any public improvements it undertakes and the City shall not require prevailing wages for the construction of the public infrastructure improvements described herein.

e) **Insurance.** Prior to the commencement of construction of the Public Infrastructure Improvements, HCSD or its contractor shall take out and maintain, and shall require all contractors to require all subcontractors to take out and maintain, insurance in such amounts as provided below. HCSD or its contractor shall provide sufficient evidence to the City, prior to construction, that such insurance exists and is in effect.

- i) Public Liability Insurance. Shall be taken out and maintained in the amount of \$2,000,000.00 for bodily injuries including those resulting in death of any one person and on account of any one accident or occurrence with an annual aggregate of \$3,000,000.00.
- ii) Property Damage Insurance. Shall be taken out and maintained in an amount of \$1,000,000.00 from damages on account of any one accident or occurrence with an annual aggregate of \$3,000,000.00.

HCSD agrees, on behalf of itself and its agents/contractors, that the insurance policies required herein (excluding the professional liability insurance) shall require the insurer to name the City as an additional insured, and to provide the City with prior written notice before the cancellation of a policy according to not less than the timeframe stated in the policy or policies.

f) **Acceptance of Public Infrastructure Improvements.**

- i) *Formal Acceptance by Hilliard City Council.* Upon completion of the Public Infrastructure Improvements and final inspection by the City, the City shall submit to Hilliard City Council legislation documenting the City Engineer's approval of the Public Infrastructure Improvements. Formal Acceptance of the Public Infrastructure Improvements shall not be unreasonably withheld.
- ii) *Warranty Maintenance Period.* HCSD shall be responsible for the maintenance, repair and/or reconstruction of any and all defective materials or workmanship for a period of one year from the date of acceptance by Hilliard City Council.

HCSD shall be responsible for all utility charges and installation costs applicable to the period of construction. The utility user charges shall be paid by HCSD and maintained in continuous use throughout the construction and testing phases until accepted for operation and maintenance by the City. HCSD shall not be responsible for utility user charges with respect to any particular Public Infrastructure Improvement(s) after formal acceptance of the dedication of the particular Public Infrastructure Improvement(s) by Hilliard City Council.

- iii) *Maintenance Bond.* Concurrent with formal acceptance by the Hilliard City Council, HCSD or its contractor shall submit a maintenance bond, certified check or irrevocable letter of credit shall be in an amount estimated by the City Engineer for the one-year maintenance period, not to exceed 10% of the cost of the accepted Public Infrastructure Improvement(s). This one-year term may be extended by the City upon reasonable request by the HCSD.

If no claims for repair or replacement are pending, the Maintenance Bond Amount shall be reduced to zero immediately after the expiration of the above-described one year period for the improvement accepted, after which the City shall assume all responsibility for the operation and routine maintenance of the formally accepted Public Infrastructure Improvements.

- iv) *As-builts*. HCSD shall, within sixty (60) days following the completion of the Public Infrastructure Improvement(s) and prior to final acceptance by the City, furnish to the City, as required, "as built" drawings of the Public Infrastructure Improvement(s), which drawings shall become the property of the City and remain in the office of the City Engineer.
- v) *Liens*. HCSD shall, within sixty (60) days of completing a Public Infrastructure Improvement or all of the Public Infrastructure Improvements, furnish to the City an itemized statement showing the cost of the Public Infrastructure Improvements and a notarized affidavit stating that all material and labor costs have been paid and there are no liens.

HCSD shall provide the City with evidence satisfactory to it that all liens affecting the Public Infrastructure Improvements, including but not limited to liens for delinquent taxes, the lien of any mortgage, and any mechanic's liens, have been released. The City shall not accept the Public Infrastructure Improvements until such satisfactory evidence is provided to the City Engineer.

- g) **Continued Maintenance of Muir Parkway**. HCSD shall be responsible for the on-going maintenance, repair, and replacement of Muir Parkway (including all street pavement, pavement marking, signage, street drainage, street lighting, removal of snow, ice, the cost of electricity for all public lights, and the replacement of light bulbs in public light fixtures.) This on-going maintenance will continue until Muir Parkway is extended and connected to the east and Muir Parkway ceases to be utilized solely for entry to the School Property.
- h) **Dedication of Right-of-Way and Easements**. HCSD agrees that it shall dedicate, and the City agrees that it shall accept (subject to the City Engineer's approval) all right-of-way and easements required for the construction of the Public Infrastructure Improvements. Dedication of rights-of-way and easements shall be made to the City without charge and HCSD shall not be entitled to, nor shall it request, any compensation or reimbursement therefor, nor at any time in the future. HCSD is responsible for recording all public right-of-way or easements following acceptance by Hilliard City Council.
- i) **Future Responsibilities and Dedication upon Extension of Muir Parkway**. The City will require the extension of Muir Parkway as a two-lane street with sidewalks and shared-use path extensions as part of development proposals in the area, consistent with the Hilliard Thoroughfare Plan and Hilliard Active Transportation Plan. Upon the future connection of Muir Parkway to the east, the following items shall be the responsibility of the respective parties:
  - i. **Turn Lanes**. No turn lanes are planned at the School entrance when Muir Parkway is extended. If, based on the School traffic operations between the time of opening of the School and the extension of Muir Parkway it is necessary to provide right turn or left turn lanes on Muir Parkway to accommodate school traffic at arrival or dismissal without queuing onto Muir Parkway, HCSD will work in good faith to amend this Development Agreement, the City shall include any necessary turn lanes into the design of the Muir Parkway extension, and the cost for the additional turn lanes shall be the responsibility of HCSD. If HCSD and the City do not come to an agreement to pay the cost for necessary turn lanes for the school, the City will not include any turn lanes in the design of Muir Parkway, and it is HCSD's responsibility to design and construct turn lanes in the future or modify the school site to accommodate vehicle queuing on the school site.

- ii. **School Zone.** The City shall establish a 20-mph school zone in accordance with the Ohio Revised Code and erect the appropriate traffic control devices or have the appropriate traffic control devices be erected by others.
  - iii. **Shared-Use Path.** In accordance with Chapter 909.02(d) of Hilliard City Code, HCSD is responsible for the cost of a shared-use path in the public right-of-way along their frontage with Muir Parkway. The City shall waive this requirement until such time as Muir Parkway is extended and connections are made to adjacent neighborhoods to provide pedestrian access to the school campus. When design of the Muir Parkway extension commences, HCSD will work in good faith to amend this Development Agreement, and the City shall include the shared-use path along the school frontage in the public right-of-way into the design of the Muir Parkway extension. The cost for the shared-use path along the school frontage shall be the responsibility of HCSD, and HCSD will provide and execute a right-of-entry/work agreement for grading or drainage purposes at no cost to tie the shared-use path into school property. If HCSD and the City do not come to an agreement to pay the cost for the shared-use path and dedicate a right-of-entry/work agreement for its construction, the City will terminate the shared-use path at the school property line in the design of Muir Parkway, and it is HCSD's responsibility to design and construct the shared-use path along the school frontage as an independent public improvement to provide pedestrian access to the school campus.
  - iv. **Pedestrian Connection between the Shared-Use Path in the Public Right-of-Way and the School Building Entrance.** HCSD shall plan for and grade for a future pedestrian connection to the school entrance from the future shared-use path as part of the current school site development. HCSD is responsible for the cost of this pedestrian connection on school property either as part of the Muir Parkway extension or as part of an independent improvement to provide pedestrian access to the school campus.
  - v. **School Crosswalk.** The City shall establish a school crosswalk on Muir Pkwy and erect the appropriate traffic control devices or require the establishment of a school crosswalk and appropriate traffic control devices by others. School crossing guards are not the responsibility of the City.
- 6) **General Provisions.**
- a) **Breach and Opportunity to Cure.**
    - i) *Breach.* HCSD and the City agree that any material violations of or noncompliance with any of the terms and conditions of this Agreement shall constitute a breach of contract, and, subject to the notification and cure provisions outlined below, HCSD and the City shall have the right to stop work forthwith and seek any and all remedies available at law or equity.

In the event of a breach by HCSD, the City shall have the right to act against the performance surety, or other financial security accepted by the City, for the purpose of properly completing the Public Infrastructure Improvement(s), or having the Public Infrastructure Improvements completed, as required herein.
    - ii) *Opportunity to Cure.* Prior to either party acting to stop its work in connection with an alleged breach of this Agreement, or to City seeking payment or performance from any surety or on any bond, the non-breaching party shall provide a written notice to the breaching party, which written notice shall contain information about the alleged material violations of or noncompliance with any material term(s) and condition(s) of this Agreement.

- b) **Notices.** Any notices statements, acknowledgements, consents, approvals, certificates, or requests required to be given on behalf of either party to this agreement shall be made in writing addressed as follows and sent by certified mail, return receipt requested, and shall be deemed delivered when the return receipt is signed, refused or unclaimed.

If to the City:

City of Hilliard, Ohio  
3800 Municipal Way  
Hilliard, Ohio 43026

With a copy to:

Thaddeus M. Boggs, Law Director  
One Columbus, Suite 2300  
10 West Broad Street  
Columbus, Ohio 43215

If to HCSD:

[Click or tap here to enter text.](#)

[Click or tap here to enter text.](#)

[Click or tap here to enter text.](#)

With a copy to:

[Click or tap here to enter text.](#)

[Click or tap here to enter text.](#)

[Click or tap here to enter text.](#)

or to any such other persons or addresses as may be specified by either party by written notification.

- c) **Representations.** All representations and warranties of HCSD and the City herein shall be binding upon the parties, their successors and approved assignees, and shall survive the execution and delivery of this Agreement.
- i) *HCSD Representations.* HCSD represents and warrants that the execution and delivery by HCSD of this Agreement and the compliance by HCSD with all of the provisions herein (i) are within the authority and powers of HCSD; (ii) will not conflict with or result in any breach of any of the provisions of, or constitute default under, any agreement, its articles of organization or operating agreement, or other instrument to which HCSD is a party or by which it may be bound, or, to HCSD's knowledge, any license, judgment, decree, law, statute, order, rule or regulation or any court or governmental agency or body having jurisdiction over HCSD or any of its activities or properties; and (iii) have been duly authorized by all necessary action on the part of the HCSD.
- ii) *City Representations.* The City hereby represents and warrants that (i) execution of this Agreement has been approved and authorized by Ordinance No. [Click or tap here to enter text.](#), passed by City Council on [Click or tap to enter a date.](#) and (ii) the City has full power and authority to enter into this Agreement, to carry out its terms and to perform its obligations hereunder.

- d) **Waiver.** In the event that any covenant, agreement, or obligation under this Agreement shall be breached by either HCSD or the City and the breach shall have been waived thereafter by HCSD or the City, as the case may be, the waiver shall be limited to the particular breaches so waived and shall not be deemed to waive any other or any subsequent breach thereunder.
- e) **Severability.** In case any section or provision of this Agreement, or any covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, or any application thereof, is held to be illegal or invalid for any reason,
- i) that illegality or invalidity shall not affect the remainder hereof or thereof; any other section or provision hereof, or any other covenant, agreement, obligation or action, or part thereof, made, assumed, entered into or taken, all of which shall be construed and enforced as if the illegal or invalid portion were not contained herein or therein,
  - ii) the illegality or invalidity of any application hereof or thereof shall not affect any legal and valid application hereof or thereof; and
  - iii) each section, provision, covenant, agreement, obligation or action, or part thereof, shall be deemed to be effective, operative, made, assumed, entered into or taken in the manner and to the full extent permitted by law.
- f) **Assignment.** Except as otherwise provided in this Section, this Agreement may not be assigned by any party hereto without the written consent of the other party which consent shall not be unreasonably withheld, and which consent, if granted, may include reasonable provisions to protect the interest of the non-assigning party.
- The assignment of HCSD's right to receive reimbursement to it under this Agreement, shall in no way affect the HCSD's responsibility hereunder to construct the Public Infrastructure Improvements under this Agreement.
- g) **Jurisdiction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio. All claims, counterclaims, disputes and other matters in question between the City, its agents and employees, and HCSD, its employees, contractors, subcontractors and agents arising out of or relating to this Agreement or its breach will be decided in a court of competent jurisdiction within Franklin County, Ohio.
- h) **Captions.** The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections in this Agreement.
- i) **Entire Agreement/Amendments.** This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof and supersedes all prior negotiations, discussions, undertakings and agreement between the parties. This Agreement may be amended or modified only by a writing executed by the duly authorized officers of the parties hereto.
- j) **Electronic Signatures.** The Parties agree that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that electronic signatures appearing on this Agreement, or such other documents are the same as handwritten for the purposes of validity, enforceability, and admissibility.

**IN WITNESS WHEREOF**, the Parties, each by a duly authorized representative, have executed this Contract on the dates below and it is effective on the date signed by the Acting City Manager, as identified below.

Board of Education of the Hilliard City  
School District

City of Hilliard, Ohio

\_\_\_\_\_

\_\_\_\_\_

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

Daniel Ralley  
Acting City Manager

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

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

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

Approved as to Form:

\_\_\_\_\_  
Thaddeus M. Boggs, Law Director

DRAFT

Exhibit A  
Depiction of Property

[Insert exhibit from HCSD that shows property boundary and alignment of Muir Pkwy and water main]

Exhibit B  
Public Infrastructure Improvements

The public infrastructure improvements associated with the proposed school development, which require a separate plan for review and approval by the City of Hilliard and the City of Columbus, are summarized below.

- 1) **Muir Parkway.** Approximately 850 feet of Muir Parkway, a 2-lane, 26-foot-wide network collector street that intersects Walker Road at Morris Road, which will serve as the school driveway until such time as Muir Parkway is extended to connect to the eastern end of Muir Parkway at Audubon Avenue, consistent with the City's Thoroughfare Plan. This portion of Muir Parkway includes associated pavement, subgrade compaction, drainage infrastructure, intersection lighting, signing, and pavement marking for Muir Parkway, consistent with the Hilliard Engineering Design Manual and associated Standard Drawings. Stormwater management (quantity and quality) shall be included on the school site, outside the Muir Parkway future public right-of-way.
- 2) **Regional Water Main.** Approximately 950 feet of 16-inch water main extension in public right-of-way from its existing terminus in front of Hilliard Memorial Middle School north along the east side of Walker Road and east along the north side of Muir Parkway to the terminus of Muir Parkway serving the school property, consistent with the City's Water Master Plan.