

## STAFF REPORT

**Planning Commission Meeting: August 12, 2019**

<b>Application</b>	<b><u>PR19-0016</u> Final Site Development Plan for WaterOne Elevated Tank</b>
<b>Location</b>	22175 W. 103 <sup>rd</sup> Terrace
<b>Applicant</b>	Michelle Wirth, Water District No. 1 of Johnson County
<b>Owner</b>	Water District No. 1 of Johnson County
<b>Engineer</b>	Jeff Heidrick, P.E., Burns & McDonnell Engineering Company
<b>Staff Contact</b>	Kim Hollingsworth, AICP, Senior Planner

**Site Area:** 4.92± acres

**Proposed Use:** Utility Facility

**Zoning:** CTY RUR (County Rural District)

**Plat:** Unplatted

Plan Olathe Land Use Category		Existing Use	Current Zoning
<b>Site</b>	<b>Employment Area</b>	<b>Vacant</b>	<b>CTY RUR</b>
<b>North</b>	N/A (City of Lenexa)	K-DOT Right-of-Way	N/A
<b>South</b>	Employment Area	Vacant	BP
<b>East</b>	Employment Area	Agriculture	CTY RUR
<b>West</b>	Employment Area	ALDI Distribution Center	BP

### 1. Introduction

The following item is a request for acceptance of a final development plan for the WaterOne Elevated Tank located southeast of K-7 and K-10 Highway. The Water District No. 1 of Johnson County Kansas (WaterOne) 2008 Master Plan indicated the need for additional storage and pumping facilities to convey water from the Crouthers System to the South Booster System. The Wyss Pump Station near 159<sup>th</sup> Street and Hedge Lane is already in service. A site selection study for the elevated storage was completed in 2011 and identified the southeast quadrant of the K-7 and K-10 Highway Interchange along a 48-inch transmission main as the most feasible and hydraulically appropriate location for the elevated storage tank.

An intergovernmental agreement (Exhibit A) between WaterOne and the City of Olathe was executed in September 2013 for the planned storage and pumping facilities. The comprehensive agreement outlines the agreed upon development requirements and review procedures for the facilities.

The property is zoned CTY RUR (County Rural District) and was annexed in 1996 (ANX96-0008) with additional properties owned by ALDI INC. in the surrounding vicinity. The property is designated as Employment Area on the PlanOlathe future land use map and is surrounded by properties within the Employment Area. The property is also located within the K-7 Corridor Design Guideline area that outlines expectations for high-quality design within the corridor. City staff has worked with the applicant to increase the amount of screening to limit visual impacts of the facility on surrounding properties and determine future participation by the applicant in roadway improvements.

The planned K7/K10 Elevated Tank primarily provides backup and emergency storage to supplement the existing elevated tank located at WaterOne Headquarters on Renner Boulevard. The planned two-million-gallon tank is 175 feet tall and is consistent with the design and scale of the Renner tank in Lenexa.



*(Existing site, looking southwest)*



*(View towards the site, from K-10 Highway)*



*(Rendering of proposed Tank, looking northeast towards K-10 Highway)*

## 2. Development Requirements

- a. **Site Access** – The site is accessible by traveling north on Lone Elm Road and west on a portion of 103<sup>rd</sup> Terrace that is not maintained by the City. The access road will be improved by the applicant as a gravel roadway for the purpose of construction and access by WaterOne personnel for ongoing maintenance of the water tank. The site will be accessed approximately once a month for general work and weekly for landscape maintenance.

The gravel access road transitions to an asphalt drive within the limits of the site. The Fire Department and Engineering Division reviewed the access road and internal paving areas for compatibility with code requirements. The City and WaterOne will maintain access to the site including access gates to the property. The City has requested WaterOne to participate in future improvements to the roadway. WaterOne provided a letter to the City (Exhibit B) outlining their participation in future improvements including working with ALDI Inc. on future development and negotiating site access.

- b. **Landscaping/Screening** – Landscaping will be provided along the perimeter of the site to provide screening of ground-level components within the development from surrounding properties. A six-foot tall chain-link security fence topped with three strand barbed wire is planned to enclose the property. Landscaping including a variety of evergreen and deciduous trees will be located outside the security fence. Various shrubs and grasses will add additional variety and texture within the development especially within the southern portion of the property. A four-foot tall galvanized rolled wire fence is planned adjacent to the east and south perimeter of the property.

- City staff have requested that the applicant provide a black anodized coating on the chain-link security fence. According to the K-7 Corridor Design Guidelines, fences visible from highways or streets are expected to be decorative in nature and chain-link fences are not typically permitted. WaterOne must meet explicit security requirements for the protection of the facility but Planning Staff have emphasized that a coating on the proposed fencing will more closely align with the expectations within the K-7 Corridor while still providing flexibility for the applicant to meet security requirements.
- c. **Tree Preservation** – The site and surrounding vicinity contain several mature tree stands north and west of the proposed development. The landscape plan indicates areas for tree preservation. The property is heavily screened from K-10 Highway through a variety of existing vegetation located between the highway and access road. Tree preservation fencing to delineate areas for preservation will be required throughout the construction process.
  - d. **Lighting** – The applicant will not install lighting projecting onto the elevated tank to illuminate the structure. The tank will include obstruction lighting similar to other structures of a comparable height to meet FAA regulations.
  - e. **Signage** – The applicant provided elevations of the proposed elevated tank including the proposed signs within the upper bowl portion of the tank. The tank would be wrapped with three identical signs of the WaterOne logo. City staff asked the applicant to explore other variations of the proposed quantity and design of the proposed signage. The applicant is interested in maintaining the proposed design due to the attention to consistent branding with other standalone elevated tanks in the WaterOne system.
  - f. **Stormwater/Detention** – The applicant submitted a Stormwater Management Plan detailing the methods to mitigate impacts of the development. An overflow channel to capture potential water overflow from the tank is proposed in the northeast portion of the site. If the tank were to overflow, a continuous monitoring system will send an alarm to WaterOne. The stormwater management practices also include a small detention basin with an outlet culvert that discharges to an existing stormwater collection system.
  - g. **Public Utilities** – The site is located within the City of Olathe sewer and WaterOne service areas. An existing WaterOne water main is located within the eastern portion of the site within an existing easement.

### 3. **Neighborhood Meeting/ Public Correspondence**

The applicant sent notice and held a neighborhood meeting with properties within 200 feet of the proposed tower site. The meeting was held July 31, 2019 at the Kansas State University Boardroom in Olathe. The applicant, including representatives from WaterOne and Burns & McDonnell, were present to provide an overview of the project and answer questions. There were no other individuals in attendance at the meeting and Planning Staff have not received any public feedback regarding the proposed project.



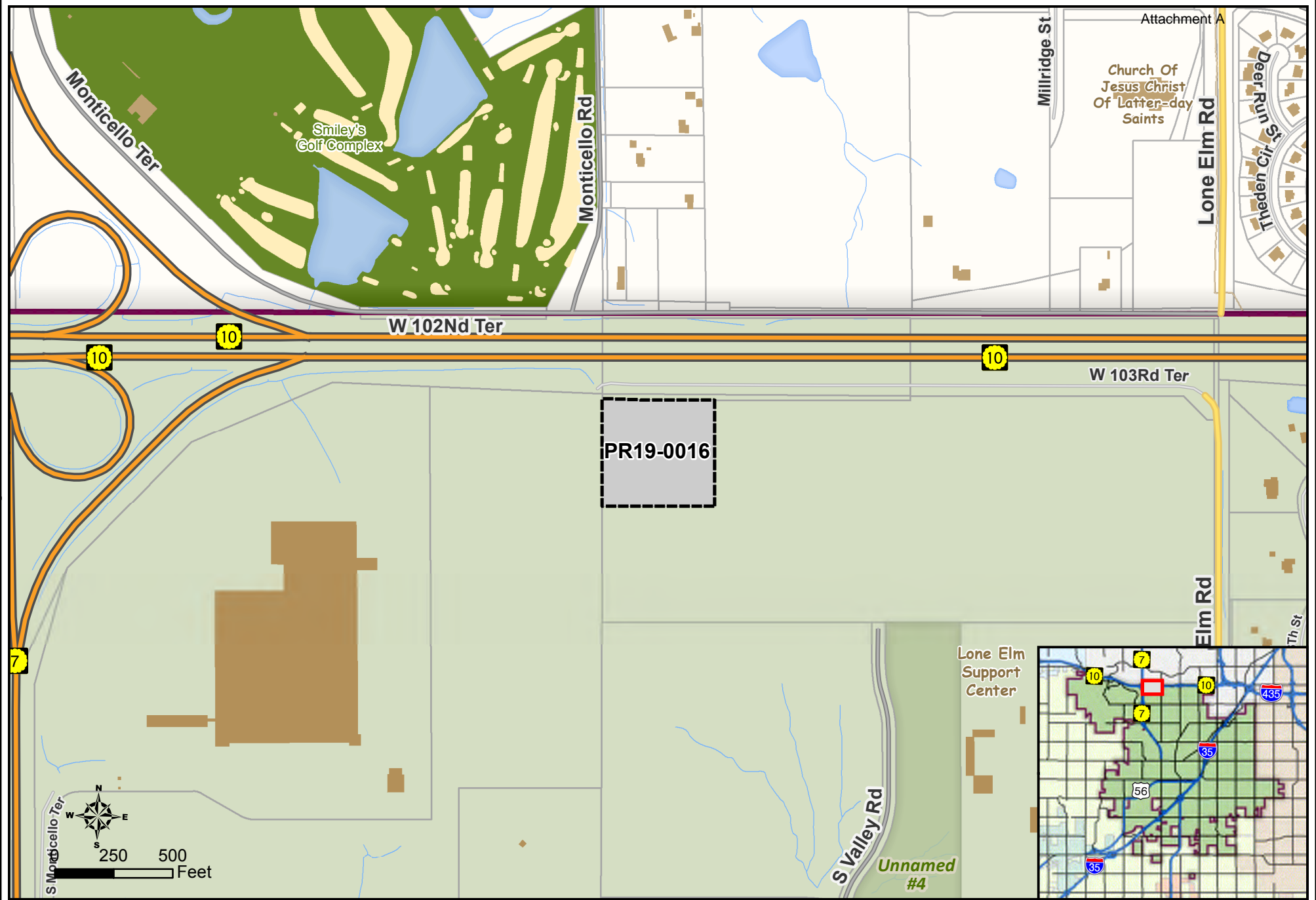
#### **4. Process**

After Planning Commission review, the City Council will adopt a resolution accepting the planned facility as proposed with stipulations or objecting to the plan with specified reasons and proposed changes. Following the City Council meeting, the WaterOne Board will review and consider the resolution. If an agreement is reached, both governing bodies will adopt a resolution authorizing an amendment of the Intergovernmental Agreement. The site must be maintained in compliance with the agreement and future improvements to the site would be subject to the requirements as listed in the agreement.

#### **5. Recommendation**

Staff recommends acceptance of the final site development plan (PR19-0016) with the following stipulations:

- a. The development shall be maintained in accordance with the provisions and requirements of the Intergovernmental Agreement signed September 3, 2013 and attached as Exhibit A, and all subsequent amendments to the referenced agreement.
- b. WaterOne will participate in future roadway access improvements determined when future development plans are prepared as identified in the letter provided to the City of Olathe dated August 5, 2019 and attached as Exhibit B.
- c. The six-foot tall chain-link security fence shall be finished in a black anodized coating.
- d. Tree protection fencing shall be installed within all tree preservation areas as shown on the landscape plan dated July 31, 2019.
- e. Wireless communication facilities including towers or antennae located outside any building shall only be allowed by separate approval of the City of Olathe.
- f. Any buildings and accessory structures must be approved by the City of Olathe and in accordance with the requirements of the Intergovernmental Agreement.



# **WATERONE ELEVATED WATER TANK** **PR19-0016**



## **INTERGOVERNMENTAL AGREEMENT**

**Between:**

**CITY OF OLATHE, KANSAS**

**And**

**WATER DISTRICT NO. 1 OF JOHNSON COUNTY**

**Dated:**

**September 3, 2013**

**Return to:**

**Water District No. 1 of Johnson County**

**10747 Renner Boulevard**

**Lenexa, KS 66219**

**Atten: Guy Lawler**

## INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into this 3 day of September, 2013, by and between the City of Olathe, Kansas, a political subdivision of the State of Kansas, hereinafter referred to as "Olathe", and Water District No. 1 of Johnson County, Kansas, a quasi-municipal corporation of the State of Kansas, hereinafter called "WaterOne",

WITNESSETH,

### Preamble

**WHEREAS**, WaterOne is a quasi-municipal body corporate, organized and existing pursuant to K.S.A. 19-3501, et seq.; and

**WHEREAS**, Olathe is a municipal body organized and existing under the laws of the State of Kansas with zoning authority over real property within its boundaries; and

**WHEREAS**, Olathe and WaterOne are both political subdivisions of the State of Kansas and are authorized to enter into agreements with one another pursuant to K.S.A. 12-2901 et seq. for the promotion of intergovernmental cooperation; and

**WHEREAS**, WaterOne has determined an immediate need for a pump station and reservoir and a future need for an elevated water storage tank to meet the water supply needs of its current and future customers; and

**WHEREAS**, after considerable study and site evaluation, WaterOne identified vacant property in the vicinity of 159<sup>th</sup> & Hedge Lane in Olathe, Kansas to locate a pump station and reservoir(s); and

**WHEREAS**, after considerable study and site evaluation, WaterOne identified vacant property in the vicinity of K-7 & K-10 in Olathe, Kansas to locate a future elevated water storage tank; and

**WHEREAS**, Olathe and WaterOne have engaged in discussions related to construction of the pump station and reservoir in the vicinity of 159<sup>th</sup> & Hedge Lane and the elevated water storage tank in the vicinity of K-7 & K-10, said lands, pump station, reservoir(s), water storage tank and related amenities hereinafter referred to as the "Planned Facilities" and have identified opportunities for municipal cooperation; and

**WHEREAS**, Olathe and WaterOne desire to enter into a comprehensive agreement to memorialize their municipal cooperation related to the Planned Facilities; and

**WHEREAS**, WaterOne desires to cooperate and consult with Olathe concerning the configuration, aesthetics and impacts of the Planned Facilities and to consider local objections, concerns and input in order to minimize, to the extent possible, any negative effects of the Planned Facilities on surrounding properties in recognition of Olathe's essential function and authority in land use planning; and

**WHEREAS**, Olathe desires to support improvement of WaterOne's supply and distribution system for the benefit of its citizens by cooperating with WaterOne in recognition of its essential function and authority; and

**WHEREAS**, Olathe and WaterOne have consulted on the construction of the Planned Facilities and have reached this agreement; and

**WHEREAS**, Olathe asserts that the Olathe Development Ordinance is applicable to this land, and WaterOne believes that under the law it is entitled to qualified immunity from such zoning procedures so long as the public health, safety and welfare are adequately and reasonably evaluated and protected by WaterOne; and

**WHEREAS**, by entering into this Agreement, the parties acknowledge that neither waives its rights to assert its position regarding zoning authority in Court; and

**WHEREAS**, both Olathe and WaterOne are performing essential functions of local government in exercising their respective duties and authorities; and



**WHEREAS**, the parties concur that the governmental agreement to be executed herein creates an agreed upon lawful method for resolving such questions without recourse to courts of the State of Kansas; and

**WHEREAS**, the parties each hereby reserve their respective rights under the laws of the State of Kansas and their respective jurisdictions and the same are not waived or extinguished by this agreement or upon expiration of this document; and

**WHEREAS**, by this Agreement, and pursuant to the statutes aforesaid, Olathe and WaterOne now undertake to record the agreed terms and conditions of WaterOne's use and operation of the Planned Facilities without having to determine any issues of law and without either party to this Agreement conceding, waiving or relinquishing any legal right, authority or immunity which either may have; and

**NOW, THEREFORE**, in consideration of the premises, provisions, conditions and covenants of this Intergovernmental Agreement, "Agreement", the parties hereto agree as follows:

### **Covenants and Provisions**

#### **Section 1: Purpose**

The parties hereto enter into this Agreement for the purpose of establishing Olathe's and WaterOne's rights, powers, duties and responsibilities to each other hereto in connection with the location, configuration, construction, aesthetics and maintenance of the Planned Facilities.

#### **Section 2: Mutual Responsibilities**

Both Olathe and WaterOne have the authority and responsibility to ensure and protect the public health, safety and welfare and to ensure that the location and use of the Planned Facilities benefit the community and do not unreasonably adversely affect surrounding properties. In order to avoid potential conflicts in their respective considerations and determinations, which would be costly and disruptive in intergovernmental cooperation and harmony, the parties agree that it would be mutually advantageous to enter into this Agreement.

### Section 3: Olathe Regulation and Review

A. WaterOne agrees to submit the following to Olathe for review:

1. Legal description of the property.
2. Names, addresses, telephone number and e-mail address of the applicant.
3. A statement of the reasons why the application is being requested.
4. The minutes of the meeting(s) between the applicant and the property owners and homes associations within the notification area, if determined to be required during the pre-application meeting.
5. A site development plan as set forth in Section 18.12.170, namely, to wit:

All site development plans are to be drawn to a standard engineer's scale. The actual scale used will depend on the development and shall be subject to the approval of the Development Services Director or designee. Nine (9) copies of the site development plan shall be submitted in support of the application. In addition, one (1) copy of the proposed site plan and one (1) copy of the proposed building elevations, reduced onto eight and one-half (8½) inch by eleven (11) inch paper and one (1) digital file shall be submitted with the application. The site development plan shall contain the following information:

(A) Existing uses, activities and influences on the site and adjacent properties, within two hundred (200) feet:

- (1) All public streets and easements which are of record. Sufficient dimensions and information to indicate existing and proposed rights-of way, pavement width and type, number of lanes, medians and median breaks, sidewalks, existing and proposed driveways (to the degree that they appear on plans on file with the City).
- (2) Any buildings which exist or are proposed to the degree that their location and size are shown on plans on file with the City. One (1) and two (2) family residential buildings may be shown in approximate location and general size and shape. Indicate the status of structures on the site (i.e., vacant, to be removed; good condition, interior remodel only; new, as is; etc.). Indicate the style, type and construction materials of buildings on adjoining properties (i.e., two-story, brown brick ranch residence; 20 foot tall tinted concrete panel industrial building; etc.)
- (3) Existing and proposed finished grades or contours at two (2) foot intervals. Identify any land areas within the one hundred (100) year floodplain. Existing streams, drainage channels and other bodies of water. All existing and proposed slopes in excess of ten (10) percent.

- (4) The location, size, cross-section and calculation of any drainage structures, such as culverts, paved or earthen ditches or storm water sewers and inlets.
- (5) Location, massing and pattern of existing vegetation. Indicate proposed on-site preservation.
- (6) Existing zoning and land use of site and surrounding properties.

(B) Proposed development of the site including:

- (1) Proposed location of buildings and other structures, parking areas, driveways, walks, noise generation sources (refrigeration units, mechanical equipment, loading docks, etc.) screening, drainage control, landscaping and proposed utility connection layouts for water and sewer. Sufficient dimensions to indicate setbacks, relationship between buildings, property lines, intersections, easements, parking areas and other elements of the plan. If applicable, indicate focal points, site amenities, views within and vistas from the site which are to be emphasized.
- (2) Building elevations depicting the architectural style, size, exterior construction materials, colors, of the buildings proposed. Where several building types are proposed, such as, one and two unit dwellings, apartments and commercial buildings, a separate sketch shall be prepared for each type. If an architectural theme is planned, elaborate on the intent and extent of the scheme and provide details, focal points, etc., (i.e., material rustification, period lighting, pavement patterns). Elevations shall be drawn to a standard architectural scale and dimensions provided to determine relationship between various elements, building height, proportion, adequate screening of mechanical equipment, etc.
- (3) A schedule shall be included indicating total floor area, dwelling units, land area, parking spaces, land use intensity and all other quantities relative to the submitted plan that are required to determine compliance with this ordinance.
- (4) Proposed neighborhood amenities, if required, and construction phasing.
- (5) General extent and character of all proposed landscaping noting common and botanical names and planting size. Site plans submitted for a plan review, special use permit, or final plat shall submit a complete landscaping plan pursuant to Section 18.62.030, namely, to wit:

All landscaping plans shall include the following information:

- (a) North arrow and scale.
- (b) Topographic information and final grading adequate to identify and properly specify planting for areas needing slope protection.



(c) The location, size and type of all above-ground and underground utility easements and structures with proper easement notation, where appropriate, as to any safety hazards to avoid during installation of landscaping.

(d) The location and size and surface of materials of all existing and proposed structures, parking lots and drives, sidewalks, refuse disposal areas, fences, recreational facilities, and other freestanding structural features as determined necessary by the City.

(e) The location, size, spread (at the time of planting), type and quantity of all proposed landscaping materials, along with common and botanical names of all plant species. The size, grading and condition shall be specified according to *The American Standard for Nursery Stock*, as published by the American Association of Nurserymen.

(f) Mature sizes of plant materials shall be drawn to scale and identified on the plan by its common and botanical name.

(g) Location and identification of hose connections and other watering sources.

(h) Location of the boundaries of any required tree preservation area, traffic sight distance triangle, buffer, and/or landscape easement and/or area.

(i) The location of all existing trees, 8-inch caliper or larger, measured at 4-1/2 feet above ground level, that are proposed for removal and/or to be preserved.

(j) All screening required by this chapter.

(k) The plan shall identify how the City's Crime Prevention through Environmental Design (CPTED) techniques have been incorporated into the layout and design of the landscape plan. Such techniques are optional, but encouraged, and are site specific."

(6) Proposed utility connection layouts.

(C) Other relevant information including:

(1) Name and address of the landowner.

(2) The boundary lines of the area included in the site plan, including bearings, dimensions and reference to a section corner, quarter corner or point on a recorded plat.

- (3) North arrow and scale (standard engineer for site development plan and standard architectural for building elevations/details).
- (4) A small key map indicating the location of the property within the City.
- (5) Name and address of the architect, landscape architect, Planner, engineer, surveyor, or other person involved in the preparation of the plan.
- (6) Date of preparation of the plan.

6. All studies as may reasonably be required by the Development Services Director or designee pursuant to Section 18.12.040, namely, to wit:

(A) If required by the Development Services Director or his designee, Planning Commission or the Governing Body of the City the applicant shall submit such technical studies as may be necessary to enable the Planning Commission or Governing Body to evaluate the application. Examples of technical studies that may be required shall include, but not limited to, traffic studies, engineering studies, geologic or hydrologic studies, environmental impact assessments, noise studies, market studies, economic impact reports or architectural surveys. The persons or firms preparing the studies shall be subject to the approval of the Development Services Director or designee. The costs of all studies shall be borne by the applicant. Any decision of the Development Services Director or designee to require any such study or to disapprove the person or firm selected by the applicant to perform the study may be appealed to the Planning Commission. The decision of the Planning Commission on any such appeal can be appealed to the Governing Body. If the applicant appeals the Development Services Director's requirement for a study to the Planning Commission, the rezoning, special use permit, preliminary plat or preliminary site development plan shall also be scheduled for Planning Commission consideration.

(B) Upon the submission of any technical or related studies and/or upon any further determination by City staff, certain easements and related improvements such as streets, drainage, water courses, creek erosion control, utilities, tree preservation, open areas, or recreational amenities may be required as a condition for approval of the application. Performance and maintenance bonds or other approved surety for said improvements shall be approved by City staff prior to the issuance of a building permit.

(C) Notwithstanding the fact that the Development Services Director or designee did not require submission of any such technical study in support of the application, either the Planning Commission or the Governing Body may require the submission of such study prior to taking action on the application. In such case, the persons or firms selected to perform the studies shall be subject to the approval of the entity requesting that the study be performed. Any decision of the Planning Commission or the Governing Body to require that a study be performed or to disapprove the person or firm selected by the applicant to perform the study shall be final.



- B. WaterOne will, as soon as the plans and specifications for such Planned Facilities are prepared, submit them to Olathe for review. Olathe agrees to timely review the plans and specifications for Planned Facilities in accordance with Olathe's normal procedure. The information submitted by WaterOne shall consist of at least the same information ordinarily required by Olathe for a BP Business Park zoning and a Special Use Permit approval process as more specifically set forth herein. Any request by an interested Olathe official or staff for modification to the design of the Planned Facilities will be submitted in a timely manner to WaterOne in writing or as indicated by the Planning Commission or Governing Body.

#### **Section 4: Public Participation**

The parties agree that adequate and meaningful public participation is critical to both entities in the exercise of their respective essential local government functions. WaterOne agrees to hold a neighborhood informational meeting as contemplated by the Olathe Development Code. This meeting shall allow for open dialogue between WaterOne and affected neighborhoods regarding issues and the perceived impact of the Planned Facilities to the surrounding neighborhoods. These meetings will provide an opportunity for citizens to learn about the Planned Facilities as well as provide feedback to WaterOne. WaterOne shall maintain and submit to Olathe a written summary of the general content and comments generated at the informational meetings outlining concerns or issues raised by all parties, with an indication of any issues that remain unresolved.

In addition, after due notice, WaterOne agrees to make a presentation to the Olathe Planning Commission and Olathe Governing Body. WaterOne agrees to provide knowledgeable representatives to discuss the Planned Facilities, to observe and respond to public comments or concerns and well as respond to any questions or concerns raised by the Planning Commission, Governing Body or Olathe Staff.

#### **Section 5: Procedure**

The parties agree to the following procedure:

After staff review, WaterOne's plan for the Planned Facilities shall be scheduled for hearing by the Planning Commission. Notice of the hearing shall be mailed and published in accordance

with the Olathe Development Ordinance. At the Planning Commission meeting, WaterOne shall present its plan and the Planning Commission shall hear public comment and address the plan and any questions it has. At the close of the hearing, the Planning Commission may ask for additional information, if additional time is not necessary, then the Planning Commission shall, by affirmative vote of a majority of the members present and voting, make a recommendation to the Olathe Governing Body to include recommended stipulations, if any. The matter shall then be set for hearing in front of the Governing Body as soon as practicable, allowing 14 days to elapse between the Planning Commission decision and the Governing Body meeting.

All stipulations approved by the Governing Body of the City of Olathe will be in the form of an amendment to this Agreement and will become a part hereof.

At the next possible scheduled meeting but no later than the second regularly scheduled meeting of the Olathe Governing Body after the presentations indicated above, the Governing Body shall adopt a Resolution either accepting the Planned Facilities as proposed with stipulations, if any, or objecting to the Planned Facilities with specified reasons and proposed changes. Olathe shall submit a copy of the Resolution to WaterOne for review and consideration.

At the next possible scheduled meeting but no later than the second regularly scheduled meeting of the WaterOne Board after receiving the Resolution referenced above, WaterOne shall consider the findings and conclusions of Olathe regarding the Planned Facilities. WaterOne, by Resolution may 1) to the extent that WaterOne can accommodate without substantially affecting the project budget or operation and maintenance of the Planned Facilities, accept those modifications proposed in the Resolution or 2) if WaterOne finds that any concerns, suggestions or objections of Olathe are unreasonable, impractical, irrelevant or otherwise unacceptable, submit a written reply to Olathe identifying the reasons WaterOne cannot accommodate any or all of those concerns.

If an agreement is reached, both Governing Bodies shall adopt a Resolution authorizing the amendment of this Agreement accordingly.

In the event WaterOne does not accept the Amendment authorized by the City of Olathe, then this Agreement shall be deemed null and void.

After this Agreement and associated amendment have been executed, minor changes to the approved plan may be allowed by the Olathe City Administrator or the WaterOne General

Manager. Should the City Administrator or General Manager deny such change or amendment or if the change or amendment is not deemed to be minor in the sole discretion of the City Administrator or General Manager, then such change or amendment shall require approval of the respective governing bodies subject to the procedures stated above.

For purposes of considering the amendments to this Agreement, each governing body shall follow their respective voting procedures.

#### **Section 6: Continuing Obligations**

WaterOne agrees that, at the City's request, it will give a report regarding the ongoing operation of the Planned Facilities to the City's Governing Body, provided, however, that such request is not made more frequently than every 5 years.

#### **Section 7: Violations, Enforcement, Notice**

Should Olathe determine that a violation of this Agreement [including its attachments and amendments] has occurred or is occurring, then Olathe shall notify WaterOne in writing and WaterOne shall have ten business days to respond to the notification. If WaterOne elects not to conform to the request of Olathe to remedy a violation, that matter shall be referred to the Olathe City Manager and WaterOne General Manager for resolution. If the dispute cannot be timely resolved by the City Manager and General Manager, then the City may proceed with the violation under the procedures provided in the Olathe Development Ordinance, including issuing a citation for violation of stipulations for decision by the Municipal Court. Should WaterOne dispute the ruling of the Municipal Court, then WaterOne may proceed with an appeal as provided by law.

#### **Section 8: Other Laws**

WaterOne specifically agrees to the following:

- It is subject to and will comply with Olathe's Property Maintenance Code.
- It is subject to and will comply with Olathe's Building and Fire Codes.
- It is subject to and will comply with the Municipal Code of the City of Olathe, 2000, except as such incorporates the Olathe Development Ordinance.
- The provisions contained in Appendix A attached hereto and incorporated herein by reference. {this is where we can include specific requirements and any agreed exceptions to Olathe Codes. For example, we must comply with security guidelines related to fencing that may conflict with the zoning height requirement}

The remedies for violations of these provisions are as stated in the Municipal Code of the City of Olathe.



**Section 9: Notification**

All notifications from Olathe to WaterOne shall be directed specifically to:

General Counsel  
10747 Renner Blvd.  
Lenexa, KS 66219

All notifications from WaterOne to Olathe shall be directed specifically to:

City Attorney  
100 East Santa Fe  
Olathe, KS 66051

**Section 10: Duration of Agreement**

This Agreement shall remain in full force and effect for a period of time equivalent to the time WaterOne operates and maintains the Planned Facilities.

**Section 11: Non-Waiver of Respective Rights and Authorities**

The parties hereto agree that during continued compliance with the mutual covenants herein that none of the findings or agreement shall constitute a waiver or estoppels to exercise or compromise either party's legal authority or immunity with respect to the other, but is limited to the rights to performance and enforcement of this Agreement between them.

**Section 12: Recording**

This Agreement shall be filed with the offices of the Register of Deeds of Johnson County, Kansas.

IN WITNESS WHEREOF, Olathe and WaterOne hereto have caused this Intergovernmental agreement to be executed on behalf of their respective governing bodies the day and year first above written.

CITY OF OLATHE, KANSAS

WATER DISTRICT NO. 1 OF  
JOHNSON COUNTY, KANSAS

By: 

Michael E. Copeland, Mayor

By: 

Brenda Cherpitel, Board Chair

Attest: 

Donald T. Howell, City Clerk

Attest: 

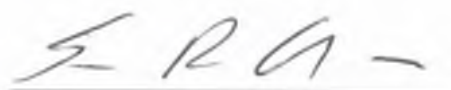
Jill C. Bell, Secretary to Board

Approved as to form:



Thomas A. Glinstra, City Attorney

Approved as to form:



Eric R. Arner, General Counsel



## ACKNOWLEDGMENTS

STATE OF KANSAS )  
 ) ss:  
 COUNTY OF JOHNSON )

BE IT REMEMBERED that on this 3rd day of September, 2013, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Michael E. Copeland, Mayor of the City of Olathe, Kansas, a political subdivision of the State of Kansas, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed as such officer, the within instrument on behalf of the City of Olathe, Kansas, and such person duly acknowledged the execution of the same to be the act and deed of said City of Olathe, Kansas.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal, the day and year last above written.



12-11-14

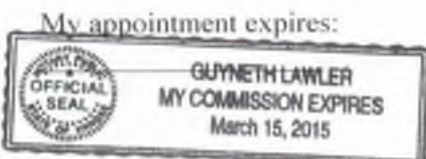
My appointment expires:  
December 11, 2014

Carolyn K. Hendley  
 Notary Public

STATE OF KANSAS )  
 ) ss:  
 COUNTY OF JOHNSON )

BE IT REMEMBERED that on this 12th day of Nov., 2013, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Brenda Cherpitel, Chair of the Board of Water District No. 1 of Johnson County, Kansas, a quasi-municipal corporation of the State of Kansas, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed as such officer, the within instrument on behalf of said Water District No. 1 of Johnson County, Kansas and such person duly acknowledged the execution of the same to be the act and deed of said Water District No. 1 of Johnson County, Kansas.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal, the day and year last above written.



My appointment expires:

Guyneth Lawler  
 Notary Public

## Appendix A

WaterOne shall comply with the following:

1. Any cabinet, pedestal, box, vault, building or other accessory facility used for public utility services, public service corporations, or tele-communications providers including any associated equipment such as condensing units and generators (hereinafter collectively referred to as "facilities" or "utility boxes") not expressly authorized by the stipulations attached hereto shall meet the following:

a) All facilities shall be placed underground unless otherwise authorized in this Agreement.

b) Aboveground pedestals, vaults, or other aboveground facilities may be installed only if approved by the City where alternative underground facilities are not reasonably feasible or where above-ground placement is otherwise authorized in this section.

c) The design, location, and nature of all facilities shall require approval of the City Engineer, which approval shall be considered in a nondiscriminatory manner and subject to reasonable conditions as may be necessary.

d) All aboveground facilities, not otherwise approved by the Governing Body, shall be screened. Unless otherwise approved, screening shall include use of evergreen trees, shrubs, or other landscaping, planted to form an effective and actual sight barrier within two years. A landscape plan signed by a Kansas registered landscape architect shall be submitted and approved by the city. Where shrubbery is the primary screening element, minimum shrub height shall be seven feet for the bulk of the screen, with lower shrubs in foreground to eliminate any gaps in screening. The utility shall be responsible for the installation, maintenance, repair, or replacement of the aforementioned screening materials when the real property on which the aboveground facility is located is owned by the utility. When said aboveground facility is located on non-utility owned real property, maintenance of all landscaping shall be the responsibility of the utility, unless the property owner provides written acceptance of such responsibility, running with the land. All facilities will be constructed in such a manner so as not to emit any unnecessary intrusive noise.



- e) Facilities shall be prohibited from being located within the right-of-way, unless otherwise approved by the City Engineer if necessary and appropriate.
  - f) Any material changes or extensions to such facilities or the construction of any additional structures shall be subject to the requirements and approval of the City Engineer in conformance with the requirements of this section.
  - g) As technology permits, permit holder shall reduce the size or remove the utility boxes at this site.
  - h) All facilities and utility boxes shall be deemed abandoned after six continuous months of non-use, and thereafter the approval for such facilities shall be deemed null and void and shall be removed within 30 days thereafter at the cost of the utility.
  - i) All new utility boxes with a height of less than 36 inches, a footprint of less than 5 square feet in area, or a pad footprint of less than 5 square feet, may be installed only with the prior approval of the Director of Community Development. All other utility boxes require approval of the Governing Body in accordance with the procedures set forth in this Agreement.
2. No buildings or other accessory structures may be constructed on site unless permitted by the Code of the City of Olathe or they have been approved by the Olathe Governing Body in accordance with the procedures set forth in this Agreement.
3. No uses other than those specified in this Agreement are allowed on the Planned Facilities property [the "Property"].
4. The Planned Facilities shall be constructed and maintained in accordance with the plan approved by the Olathe Governing Body.
5. WaterOne represents that this Property is not in the floodplain, however, should it be determined that the Property is now or in the future in the floodplain, then WaterOne shall conform with the Olathe floodplain ordinance unless it is determined in a court of competent jurisdiction that such ordinance does not apply to WaterOne.
6. The use of this Property for the Planned Facilities shall not create noise in excess of that of normal daily traffic measured at the lot lines of the premises. In

no event shall the noise level exceed 60 dB at repeated intervals or for a sustained length of time, measured at any point along the property line.

7. The use of this Property for the Planned Facilities shall not create dust, dirt, particulate matter, smoke, noxious odor, radiation, noxious gases, heat, unscreened glare, vibration or concussion which is perceptible without special instruments at the lot lines of the premises.
8. No portable storage container for temporary on-site storage shall be permitted unless such container is less than 8 feet in width and 16 feet in length and 8 feet in height and a permit is obtained for such container.
9. Temporary protective coverings [i.e. tarp, salvage covers, tarpaper) are not allowed on external portions of buildings, structures or appurtenances for more than 30 days.
10. No trailers, recreational vehicles, or box trucks shall be stored or parked outside of the Facility for more than 12 hours in any 24 hour period.
11. No vehicle, recreational vehicle, pickup camper, camping trailer or similar item shall be used as living or sleeping quarters on the Property.
12. Signs are limited only to those approved on the plan as stated in this Agreement. Each such sign shall be designed and maintained in good structural condition.
13. Landscaping shall conform to the plan approved by this Agreement. WaterOne agrees to install and maintain such landscaping in accordance with the provisions herein. Plant materials which exhibit evidence of insect pests, disease or damage shall be appropriately treated, and dead plants promptly removed and replaced within the next planting season after installation. All landscaping will be subject to periodic inspection by Olathe.
14. Wireless communication facilities, towers and antennae located outside any building shall only be allowed upon separate approval of the Olathe Governing Body.
15. Authorized Olathe staff have the right of entry onto the Property to determine if a violation of this Agreement has occurred or is occurring. This does not provide a right of entry inside any enclosed facility.
16. No building or other structure shall be erected, moved, added to or structurally altered without a building permit issued in accordance with the Municipal Code of the City of Olathe, Kansas.





Setting the Standard for  
Utility Excellence

Water District No. 1 of Johnson County

August 5, 2019

Kim Hollingsworth  
Senior Planner  
City of Olathe  
100 E Santa Fe St  
Olathe, KS 66061

Re: K7/K10 Elevated Tank Access Road – PR19-0016: Final Development Plan for WaterOne Elevated  
Water Tank  
WaterOne PN: MP-18002

Dear Ms. Hollingsworth:


This letter is in response to your email correspondence to Burns & McDonnell on August 1, 2019 requesting that WaterOne outline plans for future participation in providing access to the K7/K10 Elevated Tank site. The site plan submitted to the City's Development Review committee (DRC) on July 3, 2019 shows access to WaterOne's property by travelling north on S. Lone Elm Road continuing west on W. 103<sup>rd</sup> Terrace, portions of which are located on City right-of-way, KDOT right-of-way, and on property owned by ALDI Inc. WaterOne intends to improve this access road to a condition suitable for construction traffic, intermittent access by WaterOne, and for access by emergency responders; however, finds that paving this road is not a prudent use of public dollars given the uncertainty of the future widening of Highway K-10 (Gateway Project) and future development of surrounding property by ALDI Inc.

WaterOne intends on improving the existing access road with 8 inches of KDOT AB-3 aggregate to meet truck load requirements of 75,000 pounds for Fire Safety Vehicles with the layout and alignment as shown on the submitted site plan. A gate on S. Lone Elm Road currently limits access to the property to the City, KDOT, ALDI Inc., and emergency responders by means of daisy-chained locks and will remain along with addition of a Knox Box. . The general public does not have access to this road; therefore, WaterOne is uncertain as to why the City believes it should meet public road paving standards. Paving of this access road may encourage public access potentially leading to illegal dumping on the undeveloped property which already appears to be problematic.

At this time, given the speculative nature of the development surrounding the WaterOne property, WaterOne will work with ALDI Inc. as plans for future development are prepared, future site access will be negotiated, and improvements will be made in accordance with ALDI Inc.'s future development.

Please let me know if you require any additional information.

Sincerely,



Michelle Wirth, P.E.  
Director of Production  
WaterOne

cc: Eric Arner, General Counsel, WaterOne



# Memorandum



Date: June 24, 2019

To: City of Olathe Planning Commission

From: Burns & McDonnell Engineering Company

Subject: Statement of Purpose – WaterOne K7/K10 Elevated Tank

The Water District No. 1 of Johnson County Kansas (WaterOne) 2008 Master Plan indicates the need for additional storage and pumping facilities to convey water from the Crouthers System to the South Booster System. The pumping portion of the improvements, the Wyss Pump Station, has already been put in service. A site selection study for the additional elevated storage was completed (Black & Veatch, 2011) and identified the southeast quadrant of the Highway K-7 and Highway K-10 Interchange (K7/K10) along a 48-inch transmission main as the most feasible and hydraulically appropriate location for the 2.0 million gallon (MG) elevated storage tank.

The K7/K10 Elevated Tank is located in the south-western portion of the Crouthers System and will provide additional operational and emergency storage on the system supplementing the existing 2.0-MG Elevated Tank located on Renner Road near Eicher Dr. The K7/K10 Elevated Tank will provide backup for the Renner Elevated Tank to allow for scheduled painting and maintenance, and unscheduled shutdowns of one of the elevated tanks (Black & Veatch, 2011).

The tank will connect to the distribution system along the existing 48-inch Hedge Lane Pump Station Transmission Main and will fill and draft hydraulically. Site development includes yard piping and associated valve vaults, stormwater drainage improvements, landscaping, and security fencing. Required obstruction lighting will be provided to conform to FAA requirements.

Please contact Sarah Tuite, P.E. at Burns and McDonnell at 816-822-3225 or [stuite@burnsmcd.com](mailto:stuite@burnsmcd.com) if any additional information is required.

no.	date	by	rev	desc
A	2/20/19	MP	JLG	ISSUED FOR REVIEW
B	6/24/19	MP	JLG	ISSUED FOR REVIEW
C	7/11/19	MP	JLG	ISSUED FOR REVIEW
D	7/31/19	MP	JLG	ISSUED FOR REVIEW
E	7/31/19	MP	JLG	ISSUED FOR REVIEW

**PRELIMINARY -  
FOR CONSTRUCTION**

**BURNS  
MEDONNEL**

2803 W 108TH PARKWAY  
KANSAS CITY, MO 64114  
816-335-9400  
BMC@BURNSMEDONNEL.COM

designed: M. PETERSON  
checked: C. JI  
date: FEBRUARY 2019

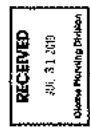
**Water**  
Notar District No. 1  
JOHNSON COUNTY, KANSAS

**ELEVATED TANKS PROJECT  
2 MG ELEVATED STORAGE T**

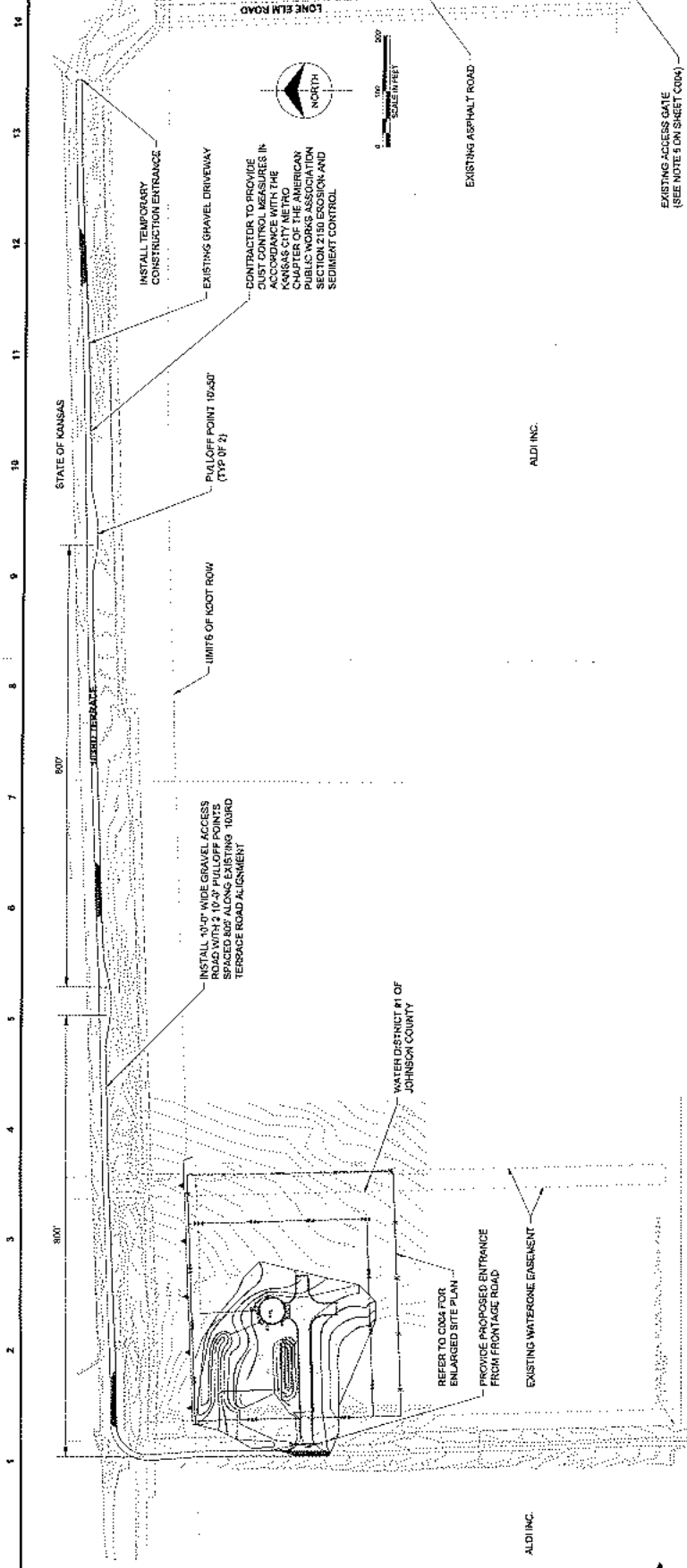
PROJECT: 111657/11858  
CONTRACT: MP-18003

**C003**

Sheet  
of  
111657-11858\_C003.dwg



This document is for the project described above and is not to be used for any other project without the written consent of Burns & McDonnell.



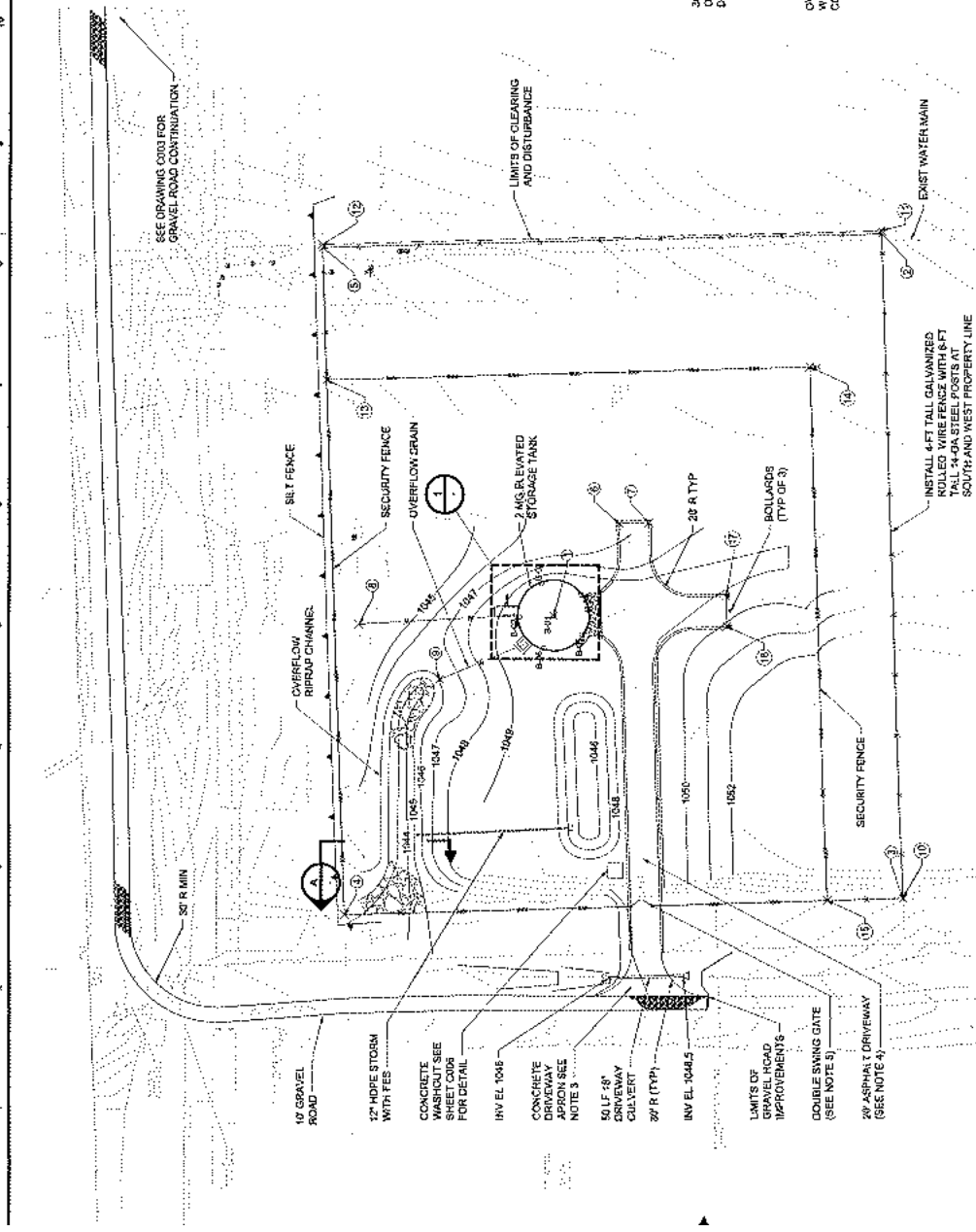
CITY OF GLATHE

No.	Date	By	Chk	Desc
A	12/20/16	MP	JG	ISSUED FOR REVIEW
B	06/16/18	MP	JG	ISSUED FOR REVIEW
C	07/26/18	MP	JG	ISSUED FOR REVIEW
D	12/11/19	MP	JG	ISSUED FOR REVIEW

- NOTES:**
1. ALL PIPE JOINTS FOR THE TANK SUPPLY / DISCHARGE LINE AND TANK FILL LINE ARE TO BE RESTRAINED.
  2. PRIOR TO CLEARING AND GRUBBING, REMAIN ALL TRASH AND DEBRIS ON SITE AND DISPOSE OF MATERIALS IN ACCORDANCE WITH SECTION 251.
  3. CONCRETE DRIVEWAY TO MEET THE REQUIREMENTS OF THE CITY OF OLATHE STANDARD DETAIL 2114, LATEST REVISION.
  4. INITIAL CITY OF OLATHE "TYPE R" RIBBON CURB (STANDARD DETAIL 21-15).
  5. INITIAL EMERGENCY LOCK BOX, XXXX BOX 300 SERIES SURFACE MOUNT OR APPROVED EQUAL 5' ABOVE GRADE ON FENCE POST.

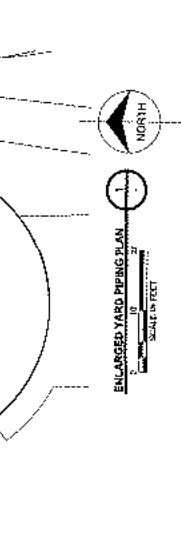
**GENERAL SURVEY NOTES:**

1. TOPOGRAPHIC SURVEY, GROUND, CONTROL AND UTILITY INFORMATION WAS PROVIDED BY:  
KAW VALLEY ENGINEERING  
2319 N JACKSON ST  
JUNCTION CITY, KANSAS 66401  
(785) 742-8040
  2. FIELD WORK WAS COMPLETED FOR THIS PROJECT IN DECEMBER 2016
  3. VERTICAL CONTROL FOR THIS PROJECT IS TIED TO KANSAS STATE PLANE NORTH ZONE, NAD 1983.
- BENCHMARK:**
- BM 450: CHISELED SQUARE ON WEIRWALL APPROXIMATELY 40' NORTH, AND 170' EAST OF THE NORTHWEST CORNER OF SURVEYED PARCEL.  
ELEVATION=1041.09
- BM 451: CHISELED SQUARE ON THE NORTHEAST CORNER OF TRANSFORMER PAD, ON THE ELEVATION=1045.38



**EXISTING POINTS**

POINT NO.	NOTING	EASTING	NORTHING	DESCRIPTION
1	3072.24	10127.81		CENTER OF TANK SECTION
2	3070.91	10127.26		5\"/>



**PRELIMINARY - FOR CONSTRUCTION**

**BURNS & MCDONNELL**  
4409 KANSAS HIGHWAY  
KANSAS CITY, MO 64115  
816-333-4000  
BACCD LICENSE NO. 6-6

DATE: FEBRUARY 2019  
CHECKED BY: J. J.  
DESIGNED BY: J. J.

**Water**  
Water District No. 1 Johnson

**JOHNSON COUNTY, KANSAS**

**ELEVATED TANKS PROJECT**  
2 MG. ELEVATED STORAGE TANK

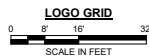
**ENLARGED SITE PLAN**  
PROJECT: 111857/111858  
MP-19003  
DRAWING: C004

Sheet No. 111857-111858 C004.dwg  
Date: 2/20/19





Attachment A





August 5, 2019

Kim Hollingsworth  
Senior Planner  
City of Olathe  
100 E Santa Fe St  
Olathe, KS 66061

Re: Summary of Neighborhood Meeting – PR19-0016: Final Development Plan for WaterOne  
Elevated Water Tank  
WaterOne PN: MP-18002  
Burns & McDonnell PN: 111858

Dear Ms. Hollingsworth:

On behalf of Water District No. 1 of Johnson County (WaterOne), Burns & McDonnell Engineering Company (Burns & McDonnell) herein provides a summary of the City of Olathe Neighborhood Meeting dated July 31, 2019 (Attachment 1).

Letters of invitation to the meeting are included in Attachment 2 and record meeting attendance is included in Attachment 3. A copy of the slides available at the meeting are included in Attachment 4.

Please let me know if you require any additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Sarah C. Tuite".

Sarah C. Tuite, P.E.  
Project Engineer

SCT/SCT

Attachment

cc: Michelle Wirth, P.E., WaterOne  
Hanley Barker, P.E., WaterOne  
Robert Beason II, WaterOne  
Jeff Heidrick, P.E., Burns & McDonnell

## **Attachment 1**

**WATER DISTRICT NO. 1 OF JOHNSON COUNTY, KANSAS  
ELEVATED TANKS PROJECT  
MP-18002 K7/K10 2.0 MG ELEVATED TANK  
BMcD 111858**

**NEIGHBORHOOD MEETING MINUTES  
July 31, 2019 5:00 – 7:00 PM**

1. Meeting Location:

Kansas State University  
Boardroom  
22201 W Innovation Dr  
Olathe, KS 66061

2. Letters of Notification – Per the WaterOne and City of Olathe Intergovernmental Agreement dated September 3, 2013, property owners within 200 ft of the project property were invited to a neighborhood information meeting held July 31, 2019. Letters of invitation were delivered via Federal Express and are included in Attachment 2.
3. Attendance – Please see the sign in sheet included in Attachment 3 for all in attendance at the neighborhood meeting.
4. Agenda – Representatives from WaterOne and Burns & McDonnell knowledgeable about the project were available the duration of the neighborhood meeting to discuss the project and answer any questions. Presentation materials including architectural renderings, project schedule, and contact information were available at the meeting. A copy of the slides are included in Attachment 4.
5. Questions and Answers – None.



## **Attachment 2**



Setting the Standard for  
Utility Excellence

Water District No. 1 of Johnson County

July 16, 2019

FEDERAL EXPRESS

Chris Herrick, Director of Planning & Development  
Kansas Dept. of Transportation  
700 SW Harrison, 2<sup>nd</sup> Floor West  
Topeka, KS 66603-3745

Dear Property Owner:

As a property owner in close proximity to a new WaterOne construction project, I would like to invite you to an informal informational meeting on Wednesday, July 31, 2019 between 5:00 and 7:00 p.m. at the following address:

Kansas State University  
Boardroom  
22201 W Innovation Dr.  
Olathe, KS 66061

The purpose of the meeting is to provide you an opportunity to learn about a WaterOne project in the neighborhood's vicinity and discuss any questions that you may have.

The WaterOne project includes construction of a 2 million-gallon elevated water storage tank on property located in the southeast quadrant of the Highway K-7 and Highway K-10 interchange.

WaterOne staff will be available, as well as representatives from WaterOne's consulting engineers, Burns & McDonnell, to show you project illustrations and additional information. Refreshments will be provided. This is a "come as you are" come-and-go event. We hope to see you there, if you are interested in the project.

If you cannot attend the meeting, we will have project information on our website at [www.WaterOne.org/K7Tank](http://www.WaterOne.org/K7Tank) starting August 1, 2019 with project contacts listed for future questions.

Sincerely,

A handwritten signature in blue ink that reads "Hanley Barker".

Hanley Barker  
Manager-Facilities Engineering



Setting the Standard for  
Utility Excellence

Water District No. 1 of Johnson County

July 16, 2019

FEDERAL EXPRESS

Bobby Kosmala, Deputy Director  
Department of Administration, Leasing & Real Estate  
700 SW Harrison, Suite 1200  
Topeka, KS 66603

Dear Property Owner:

As a property owner in close proximity to a new WaterOne construction project, I would like to invite you to an informal informational meeting on Wednesday, July 31, 2019 between 5:00 and 7:00 p.m. at the following address:

Kansas State University  
Boardroom  
22201 W Innovation Dr.  
Olathe, KS 66061

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Sincerely,

A handwritten signature in blue ink that reads "Hanley Barker".

Hanley Barker  
Manager-Facilities Engineering



Setting the Standard for  
Utility Excellence

Water District No. 1 of Johnson County

July 16, 2019

FEDERAL EXPRESS

Aldi Inc., Ryan Tax Compliance Services, LLC  
PO Box 460049, Dept. 501  
Houston, TX 77056

Dear Property Owner:

As a property owner in close proximity to a new WaterOne construction project, I would like to invite you to an informal informational meeting on Wednesday, July 31, 2019 between 5:00 and 7:00 p.m. at the following address:

Kansas State University  
Boardroom  
22201 W Innovation Dr.  
Olathe, KS 66061

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Sincerely,

A handwritten signature in blue ink that reads "Hanley Barker".

Hanley Barker  
Manager-Facilities Engineering



### **Attachment 3**



Water District No. 1 of Johnson County



## Meeting Sign in

Meeting Subject: Neighborhood Meeting - Elevated Tanks Project – 2.0 MG Tank near K7/K10 Interchange  
 Meeting Date: July 31, 2019  
 Start Time: 5:00 PM  
 End Time: 7:00 PM  
 Location: Kansas State University Olathe  
 Project Name: Project MP-18002 K7/K10 Elevated Tank  
 Project No.: 111858

Name	Phone	Email Address
MIKE ARMSTRONG	913 579 5204	
Sarah Tuite	5053855743	stuite@burnsmcd.com
Mike O'Connell	816 822 3218	moconnell@burnsmcd.com
HANLEY BARKER	913 895 5826	hbarker@waterone.org
Michelle A. Wirth	913-895-5821	mwirth@waterone.org
Jeff Heidrick	816-349-6769	jheidrick@burnsmcd.com

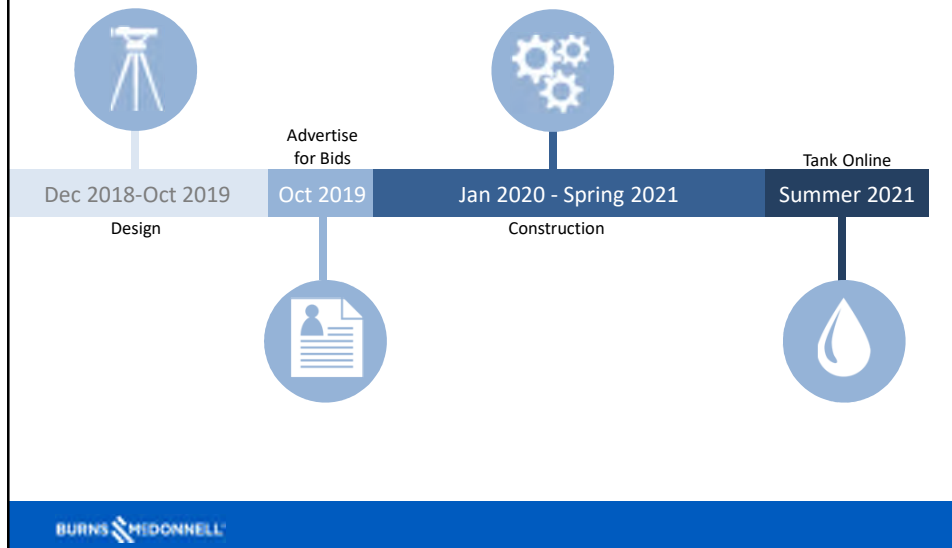
## **Attachment 4**







## Project Schedule



## Questions or Comments?

- ▶ Please visit [waterone.org/k10tower](http://waterone.org/k10tower) for additional information
- ▶ Please feel free to leave questions and/or comments on the available comment cards
- ▶ WaterOne Contact Information
  - Michelle Wirth, P.E., Director of Production [mwirth@waterone.org](mailto:mwirth@waterone.org)
  - Hanley Barker, P.E., Facilities Engineering Manager [hbarker@waterone.org](mailto:hbarker@waterone.org)
  - Robert Beason II, Project Manager [rbeason@waterone.org](mailto:rbeason@waterone.org)
- ▶ Burns & McDonnell Contact Information
  - Jeff Heidrick, P.E. [jheidrick@burnsmcd.com](mailto:jheidrick@burnsmcd.com)
  - Sarah Tuite, P.E. [sctuite@burnsmcd.com](mailto:sctuite@burnsmcd.com)