#0322

**Sponsor:** 

Council Member Oliver WHEREAS, pursuant to City Charter Section 1-101, the City may acquire, hold, manage, and dispose of property on such terms as it deems proper for any municipal purpose; and

**WHEREAS**, City Code Section 2-627 authorizes the Department of Public Works, subject to the approval of Council by resolution, to grant such easements as shall be necessary to facilitate the construction, maintenance, operation, and/or repair of streets, roads, sidewalks, and/or other public rights-of-way; and

WHEREAS, the City currently owns the Seventeenth Street right-of-way between Rising Sun Lane and Tower Road (the "Right-of-Way"); and

WHEREAS, the Tower Hill School Association ("Tower Hill"), located at the property adjacent to the Right-of-Way, namely 2813 West Seventeenth Street, Wilmington, Delaware (being Tax Parcel No. 26-005.30-011), would like to make certain improvements to the Right-of-Way including, but not limited to, the installation of cobblestones and bumpouts for safety purposes (collectively, the "Improvements"); and

WHEREAS, Tower Hill has requested the City grant it an easement accommodating the Improvements, as set forth in a proposed agreement between the City and Tower Hill (the "Right-of-Way Easement Agreement"), a copy of which, in substantial form, is attached hereto and incorporated herein as Exhibit A; and

**WHEREAS**, City Council deems it necessary and appropriate to approve the grant of the easement to Tower Hill as set forth in the Right-of-Way Easement Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY

**OF WILMINGTON** that Council hereby approves the City's grant of an easement to Tower

Hill in the Right-of-Way for Tower Hill to make the Improvements pursuant to the terms of

the Right-of-Way Easement Agreement, a copy of which, in substantial form, is attached

hereto and incorporated herein as Exhibit A.

BE IT FURTHER RESOLVED that the Mayor, or his designee, is hereby authorized

to execute any and all documents necessary to effectuate the grant of the easement, and the

appropriate officers of the City are hereby authorized to take any and all further undertakings

and assurances that may be appropriate.

Passed by City Council,

City Clerk

**SYNOPSIS:** This Resolution approves the City's grant of an easement to the Tower Hill School Association in the Seventeenth Street right-of-way between Rising Sun Lane and Tower Road to accommodate the construction and maintenance of certain improvements.

W0121282

### **EXHIBIT A**

Tax Parcel Nos: 26-005.30-011 and Portion of the Right-of-Way Comprising Seventeenth Street Between Rising Sun Lane and Tower Road

Prepared by and Return to: Elizabeth D. Power, Esquire City of Wilmington Law Department 800 North French Street, 9<sup>th</sup> Floor Wilmington, DE 19801

### RIGHT-OF-WAY EASEMENT AGREEMENT

THIS	RIGHT-OF-WAY EASEMENT AGREEMENT (this "Agreement") is made this
day of	, 2023 by and between the CITY OF WILMINGTON, a municipal
corporation o	f the State of Delaware (the "Grantor" or the "City"), and TOWER HILL SCHOOL
ASSOCIATION	ON, a Delaware corporation (the "Grantee").

WHEREAS, the Grantor owns the Seventeenth Street right-of-way between Rising Sun Lane and Tower Road (the "Right-of-Way");

WHEREAS, the Grantee owns an adjacent parcel of land and the building(s) situated thereon having an address of 2813 West Seventeenth Street, Wilmington, Delaware and being Tax Parcel No. 26-005.30-011 (the "Grantee's Land");

WHEREAS, the Grantee desires to make certain improvements to the Right-of-Way, including, but not limited to, installing cobblestones on a portion of the Right-of-Way;

WHEREAS, the Grantee requires a permanent easement on the Right-of-Way in order to install and maintain such improvements; and

WHEREAS, the Wilmington City Council has approved by resolution the granting of the easement set forth in this Agreement.

NOW THEREFORE, the parties hereto, intending to be legally bound hereby and by the foregoing recitals, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, promise and agree to the following:

1. <u>Easement</u>. The Grantor hereby gives, grants, and conveys to the Grantee a non-exclusive easement over, upon, and across the Right-of-Way as specifically depicted in Exhibit "A" attached hereto and incorporated by reference herein (the "<u>Easement</u>") in order to construct, install, maintain, repair, replace, and remove certain improvements, including, but not limited to, the installation and maintenance of cobblestones, pavers, and bumpouts on a portion of the Right-of-Way, as more fully depicted on Exhibit "A" attached hereto and incorporated by reference herein (collectively, the "<u>Improvements</u>").

- 2. <u>Approval of the Commissioner of Public Works</u>. The Grantee shall obtain the written approval of the Commissioner of Public Works (the "<u>Commissioner</u>") prior to (i) installing each and every one of the Improvements, (ii) altering any of the Improvements, or (iii) removing any of the Improvements.
- 3. <u>Installation and Maintenance of the Improvements</u>. The Grantee shall be responsible, at the Grantee's sole cost and expense, for the construction, installation, maintenance, repair, replacement, and removal of the Improvements.
- 4. <u>Snow Removal</u>. The Grantor shall not be responsible for any snow removal or repair within the Right-of-Way. The Grantee shall be responsible for any and all snow removal and repair in the Right-of-Way at the Grantee's sole cost and expense.
- 5. Right of Grantor to Request Alteration or Removal of Certain Improvements. The Grantor shall have the right to require that the Grantee, at the Grantee's sole cost and expense, alter or remove certain of the Improvements if the Commissioner deems such alteration or removal necessary for any public purpose or the event of an emergency. In such an event (except in the event of an emergency), the Grantor shall provide the Grantee with thirty (30) days' written notice of such demand.
- 6. <u>Reservation of Rights</u>. The Grantor expressly retains for itself, any and all utilities, and members of the public full rights to the use of the Right-of-Way for any lawful purposes that do not interfere with, or impede the use of, the Easement granted to the Grantee herein, including by way of example but not limitation, the right to utilize the Right-of-Way for continued ingress, egress, and regress.
- 7. Abandonment of Easement; Default. If the Grantee, or its successors and permitted assigns, ever abandons the Improvements or defaults on its obligations under this Agreement, the Easement as set forth in Section 1 above shall automatically terminate, be null and void, and will no longer encumber the Right-of-Way of the Grantor. "Abandonment" has its plain and legal meaning but includes the following: the failure to maintain the Improvements to the standards required by all applicable statutes, ordinances, and regulations or any change in use of the building(s) on Grantee's Land. If the Grantee, or its successors and permitted assigns, abandons the Improvements or if this Agreement otherwise terminates, the Grantee, its successors or permitted assigns, shall, at the Grantee's sole cost and expense, remove the Improvements and restore the Right-of-Way to its condition before the installation of the Improvements, or, alternatively, shall be liable to the Grantor for the full amount of the cost to the Grantor of restoring the Right-of-Way to its pre-installation condition, which total cost shall constitute a lien on the Grantee's Land. The Grantee shall notify the Grantor in writing of its intent to abandon the Improvements at least ninety (90) days before it takes any action that is reasonably likely to cause an abandonment of the Improvements, or, if appropriate, immediately following the discovery of any change or condition that necessitates an abandonment of the Easement.

- 8. <u>Termination of Easement by the Grantor</u>. The Grantor shall have the right to terminate the Easement upon thirty (30) days' written notice to the Grantee for any public purpose deemed necessary by the Commissioner. The thirty-day notice requirement shall not apply to any situation deemed by the Commissioner to be an emergency.
- 9. <u>No Encumbrances or Assignments</u>. The Grantee shall not encumber or assign the Easement without the express prior written approval of the Grantor.
- 10. No Third-Party Beneficiaries. Notwithstanding anything contained in this Agreement to the contrary, this Agreement is solely for the benefit of the parties hereto, their successors and permitted assigns, and shall not benefit any third party or create or operate to create, either expressly or impliedly any rights, title, or interests hereunder in favor of any third party.
- 11. <u>Indemnification</u>. The Grantee shall defend, indemnify, and hold the Grantor, its officers, agents, and employees, safe and harmless from and against from any and all losses, costs, damages, claims, actions, or liabilities on account of the death or injury of any person or persons or and any and all damage or destruction of any property on the Easement whenever such death, injury, property damage, or destruction arises from or grows out of the exercise of the Grantee's rights herein. This section shall survive any subsequent termination of this Agreement.
- 12. <u>Permits</u>. The Grantee, at the Grantee's sole cost and expense, shall obtain all required permits for the construction, installation, maintenance, repair, replacement, and removal of the Improvements.
- 13. <u>Applicable Law.</u> The Grantee shall abide by all laws and regulations whatsoever in effect which govern the construction, installation, use, maintenance, repair, replacement, and removal of the Improvements. In the event the Grantee fails to comply with any such law or regulation, the Grantor shall be afforded all rights and remedies available at law, including, but not limited to, the right to cure any unlawful condition at the sole expense of the Grantee, and, in its discretion, to terminate this Agreement and the Easement it grants.
- 14. <u>Notices</u>. All notices under this Agreement shall be in writing and sent prepaid by (i) certified mail, return receipt requested, (ii) overnight courier of national or regional recognition (such as UPS or Federal Express) or (iii) personal delivery or courier. The written notice shall to the extent practicable cite to the applicable term of this Agreement and must in all cases be accompanied by a copy of the fully executed Agreement:
  - (a) If intended for the City of Wilmington (the Grantor): City of Wilmington Department of Public Works 800 North French Street, Sixth Floor Wilmington, DE 19801 Attn: Commissioner
  - with a copy to -

City of Wilmington Law Department 800 North French Street, Ninth Floor Wilmington, DE 19801 Attn: City Solicitor

(b) If intended for Tower Hill School Association (the Grantee):

Tower Hill School 2813 W. 17<sup>th</sup> Street Wilmington, DE 19806 Attn: Eric Norman, Chief Financial Officer

### 15. Miscellaneous.

- (a) If any provision of this Agreement, or the application thereof to any person or circumstances, is or shall be held invalid or unenforceable, the remainder of this Agreement, or the application of such provision to any other persons or circumstances, shall not be affected thereby.
- (b) The paragraph headings in this Agreement are for convenience only, do not define or limit the scope or content of this Agreement, and shall not be considered in any construction or interpretation of this Agreement or any part thereof.
- (c) This Agreement shall be binding upon the parties and their successors and permitted assigns in title and inure to the benefit of the parties and their employees, successors, permitted assigns, independent contractors and agents and its terms shall run with the land.
- (d) This Agreement shall be governed and construed in accordance with the laws of the State of Delaware. All disputes in connection with this Agreement shall be resolved by a court of competent jurisdiction located New Castle County, Delaware.
- (e) This Agreement constitutes the entire agreement between the parties, and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding on either party except to the extent incorporated in this Agreement.
- (f) This Agreement may not be modified, changed, or supplemented, nor may any of the obligations and rights be waived, except by written instrument signed by both parties to this Agreement.
- (g) This Agreement may be executed in one or more counterparts, and all counterpart-signed documents shall be deemed to be an original and one (1) instrument.
- (h) This Agreement shall be recorded in the office of the Recorder of Deeds for New Castle County, Delaware.

IN WITNESS WHEREOF, the parties executed this Agreement under seal on the date first above written.

		CITY OF WILMINGTON		
		By:		(SEAL)
Witness			ly A. Williams nmissioner of P	ublic Works
		[CO	RPORATE SE	AL]
State of Delaysons	,			
State of Delaware	) ) ss.			
County of New Castle	)			
On this day of _ a Notary Public for the State and Co Public Works of the City of Wilmin Easement Agreement on behalf of the	ngton	aforesaid, Ke , who did ex	elly A. William ecute the foreg	
		No	otary Public	
[s	signat	ures continue	on next page]	

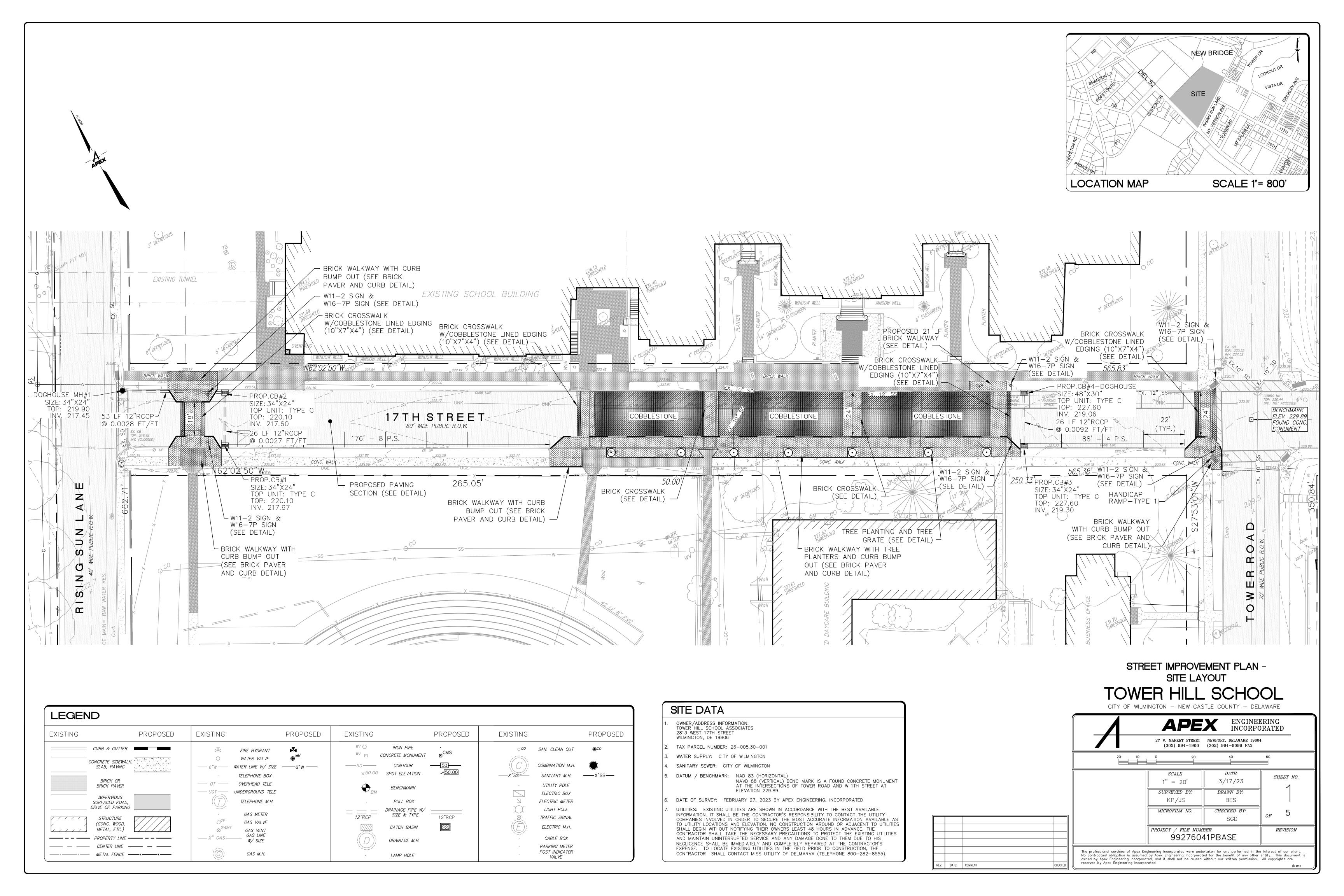
### TOWER HILL SCHOOL ASSOCIATION

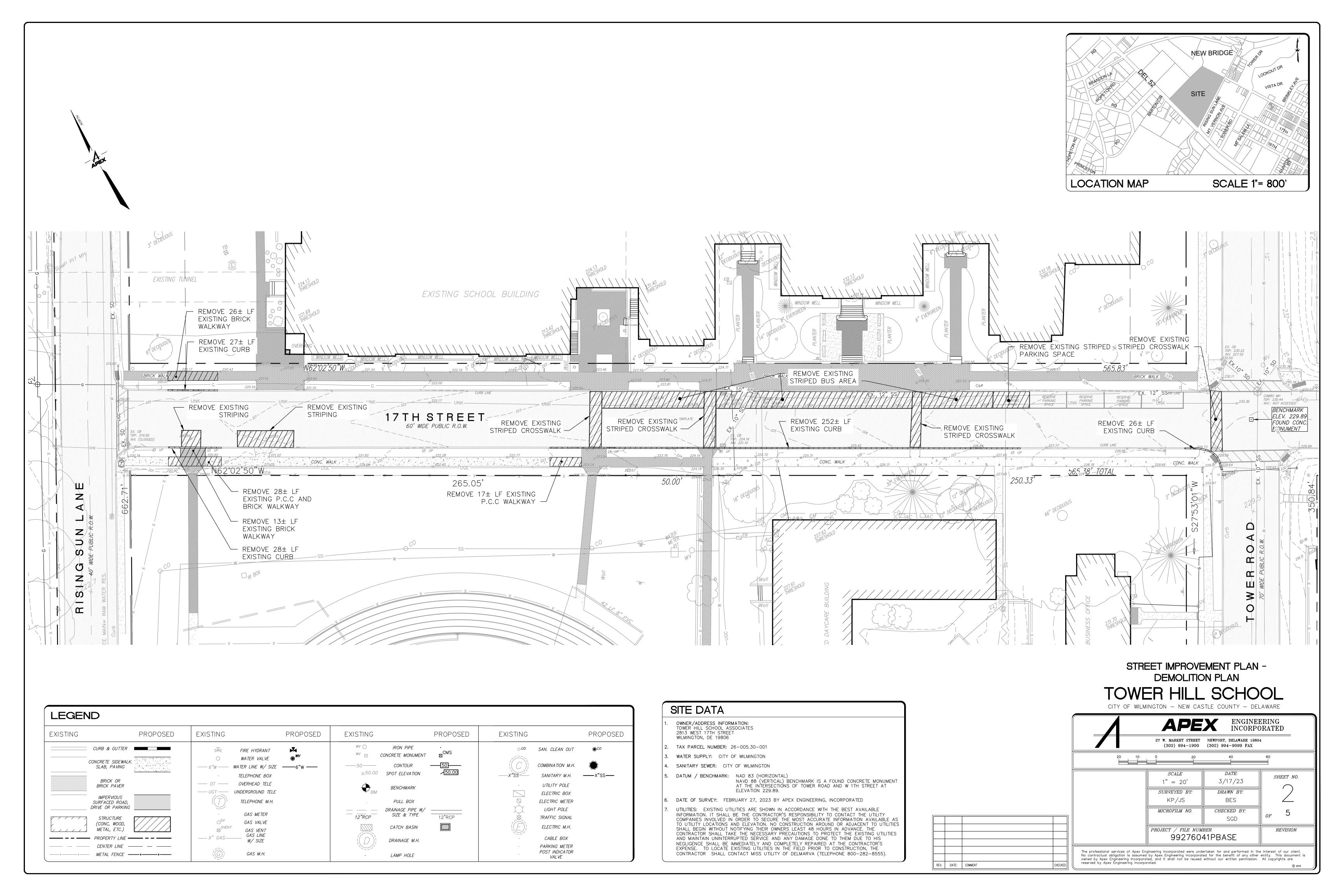
	By:	(SEAL)
	Eric Norman	
Witness	Chief Financial Officer	f
	[CORPORATE	SEAL]
State of Delaware	)	
	) ss.	
County of New Castle	)	
On this day of a Notary Public for the State and Officer of the Tower Hill School Way Easement Agreement on beh	Association, who did execute half of the Tower Hill School As	an, the Chief Financial the foregoing Right-of-sociation.
	Notary Public	;

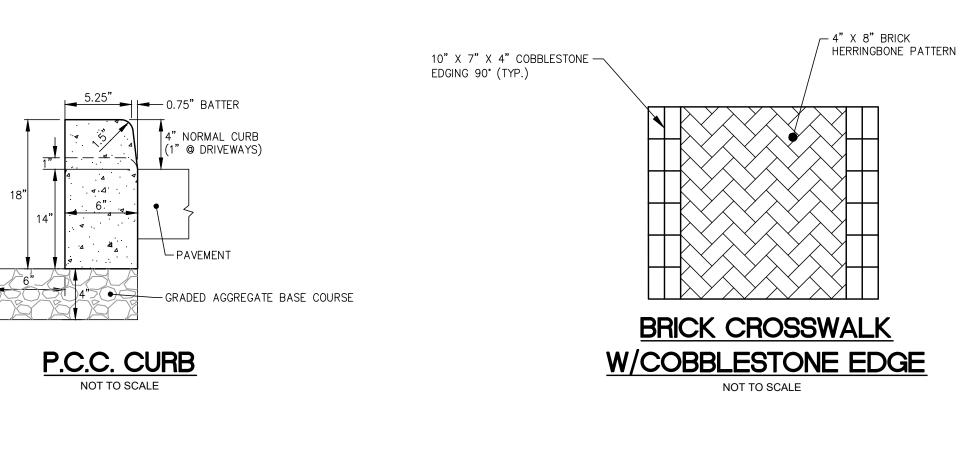
W0121178

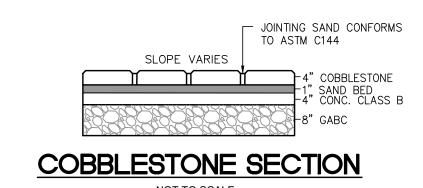
### **EXHIBIT A**

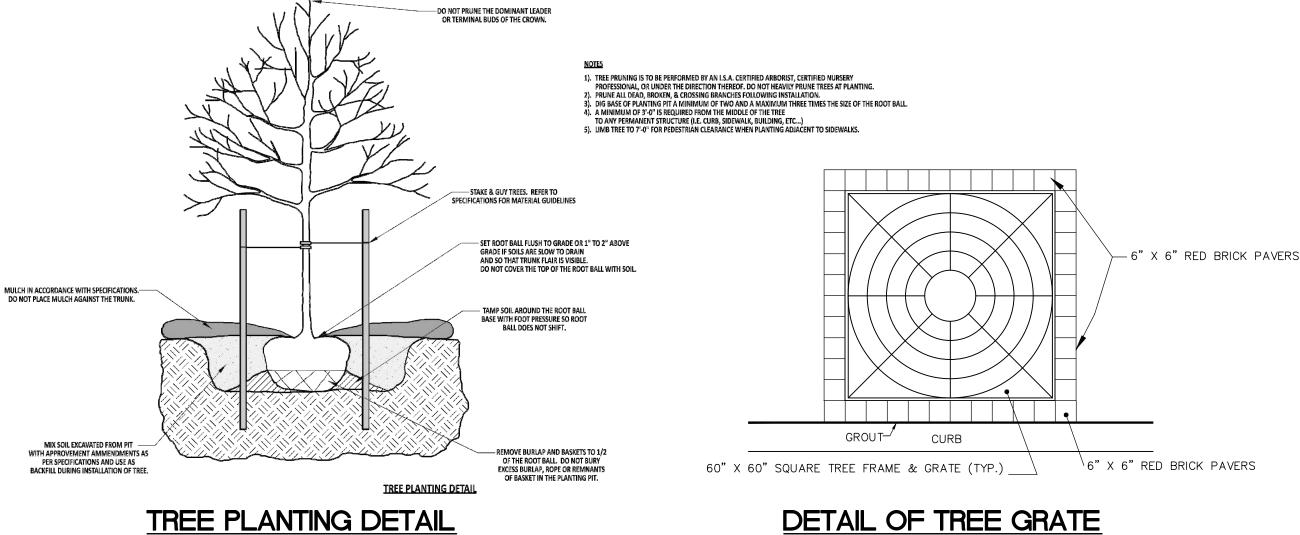
(DEPICTION OF EASEMENT AND IMPROVEMENTS)

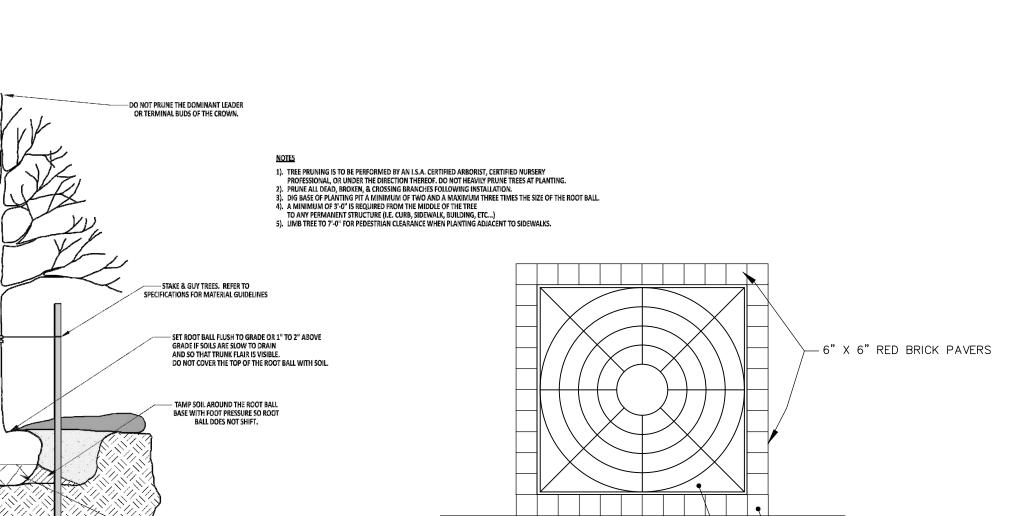












## NOT TO SCALE

# LIMIT OF PAYMENT SEE NOTE 3 EARTH CUSHION

— FINISHED GRADE

SLOPE VARIES

-1 1/4" THICK, BITUMINOUS CONCRETE PAVEMENT, TYPE C.

└ 2 1/4" THICK, BITUMINOUS CONCRETE PAVEMENT, TYPE B.

-8" THICK GRADED AGGREGATE BASE COURSE TO BE

NOTE: MATCH EXISTING PAVEMENT SECTION FOR PATCHING WITHIN R.O.W.

PAVEMENT SECTION

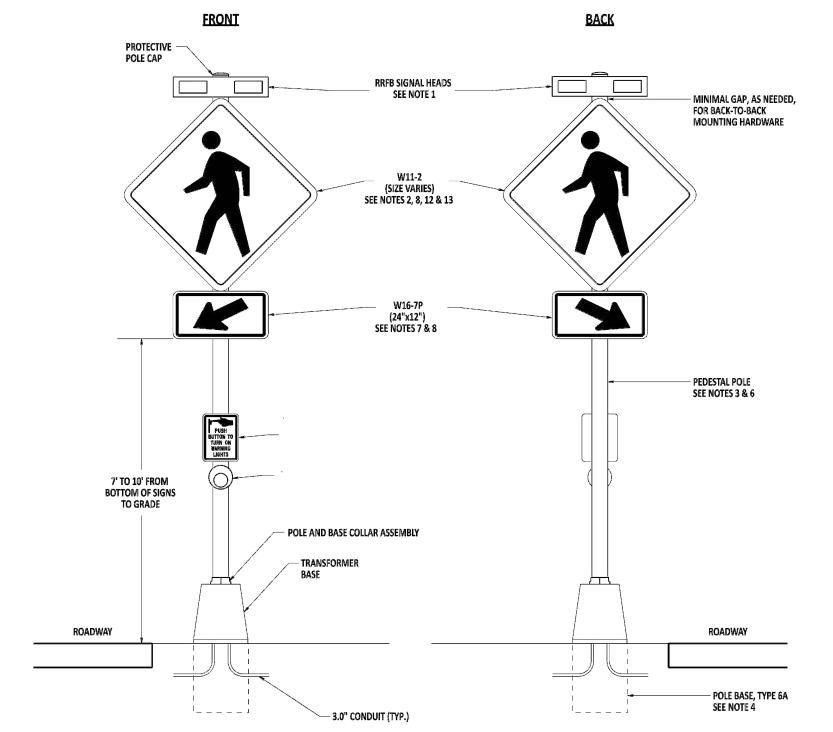
INSTALLED IN 2 EQUAL LIFTS

- COMPACTED SUBGRADE

**CLASS C PIPE BEDDING** 

PIPE BEDDING

PIPE BEDDING DETAIL



NOT TO SCALE

1). USE CLASS C BEDDING UNLESS OTHERWISE INDICATED. 2). FOR CLASS A BEDDING, IMBED PIPE IN CONCRETE 6" FOR PIPES SMALLER THAN 24" I.D., 10" FOR PIPES 24" TO 60", AND FOR

PIPES LARGER THAN 60" SEE PROJECT DETAILS. 3). USE IN SITU MATERIAL AS APPROVED BY THE ENGINEER OR AS

4). USE CLASS B CONCRETE FOR CONCRETE CUTOFF WALLS, PRECAST

PER MANUFACTURER REQUIREMENTS.

AS DIRECTED BY THE ENGINEER.

PEDESTRIAN CROSSING SIGN

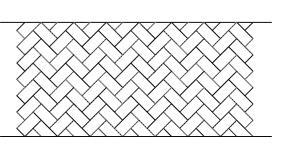
1). INSTALL RRFB SIGNAL HEADS IN ACCORDANCE WITH SECTION 834 OF THE STANDARD SPECIFICATIONS. 2). INSTALL SIGNS IN ACCORDANCE WITH SECTION 822 OF THE STANDARD SPECIFICATIONS. 3). INSTALL PEDESTAL POLE IN ACCORDANCE WITH SECTION 836 OF THE STANDARD SPECIFICATIONS. 4). REFER TO T-5, SHEET 3 FOR INFORMATION ON POLE BASE TYPE 6A. 5). REFER TO T-18, SHEET 1 FOR INFORMATION ON PEDESTRIAN PUSHBUTTON LOCATION.

6). THE PEDESTAL POLE SHALL BE CONTINUOUS SPUN ALUMINUM, SCHEDULE 80. SPLICING POLE EXTENSIONS SHALL BE PROHIBITED. 7). W16-7P PLAQUES ON ROADWAY EDGES SHALL POINT TOWARDS THE ROAD. W16-7P PLAQUES IN THE MEDIAN SHALL POINT TO THE RIGHT. 8). SIGNS, PLAQUES, AND RRFB BEACONS SHALL BE INSTALLED ON RRFB SIGNAL POLES AS FOLLOWS: TRAFFIC NUMBER OF MEDIAN POLES & BEACONS & PUSHBUTTON

0 DOUBLE-SIDED ONE PER 1-WAY ANY SINGLE-SIDED\* POLE SINGLE-SIDED ASSEMBLIES SHALL FACE APPROACHING TRAFFIC.

**DESIGNER NOTES:** 9). REFER TO FHWA INTERIM APPROVAL 21 FOR ADDITIONAL DESIGN 10). REFER TO STANDARD DETAIL T-17, SHEETS 6 AND 7 FOR INFORMATION ON THE DESIGN OF RRFB POWER METERS AND CABINETS.

11). RRFB POLE(S) SHOULD BE INSTALLED IN THE MEDIAN TO ALLOW USERS TO REACTIVATE THE RRFB BEACONS. 12). SIGNS SHALL BE 30"x30" ON SINGLE-LANE APPROACHES AND 36"x36" ON MULTI-LANE APPROACHES. 48"x48" SIGNS MAY ONLY BE INSTALLED WITH APPROVAL OF THE CHIEF OF TRAFFIC ENGINEERING. 13). RRFB'S SHALL ONLY BE INSTALLED WITH S1-1, W11-2, AND W11-15 SIGNS. SUPPLEMENTARY PLAQUES, SUCH AS W11-15P, MAY BE USED.

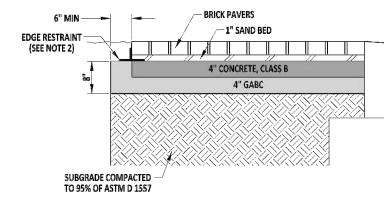


4" x 8" HERRINGBONE PATTERN

1. CONSTRUCT THE PATTERN SPECIFIED ON THE PLANS. COLOR IS TO BE "BRICK RED" UNLESS OTHERWISE NOTED ON THE PLANS.

2. MATERIALS AND PAVEMENT BOX VARY DEPENDING ON PLANS. 3. FOR CROSSWALK APPLICATIONS, REFER TO THE DE MUTCD CONTROL DEVICES FOR STRIPING WIDTH.
4. THE PATTERNS ABOVE ARE THE PREFERRED PATTERNS AVAILABLE FOR SIDEWALK OR CROSSWALK

4" x 8" RUNNING BOND PATTERN



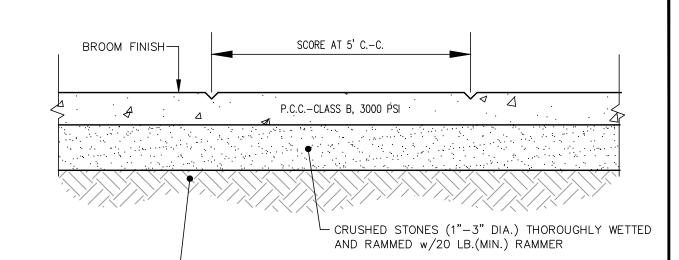
### BRICK PAVER SIDEWALK DETAIL

NOTES:

1. WHEN SIDEWALK IS CONFINED BY A RIGID STRUCTURE ON BOTH SIDES, PLACE EXPANSION JOINT MATERIAL FROM TOP OF BRICK TO BOTTOM OF CONCRETE BASE ON AT LEAST ONE SIDE OF THE SIDEWALK.

2. EDGE RESTRAINT TO BE APPROVED BY THE ENGINEER IN THE FIELD AND INSTALLED AS PER MANUFACTURER'S RECOMMENDATIONS.

> **BRICK PAVER** NOT TO SCALE



\* - STANDARD SIDEWALK SHALL BE 4" THICK. FOR DEPRESSED AND TRANSITION

L TAMPED/PROOF ROLLED AND COMPACTED SUBGRADE TO 95% TO ASTM D1557

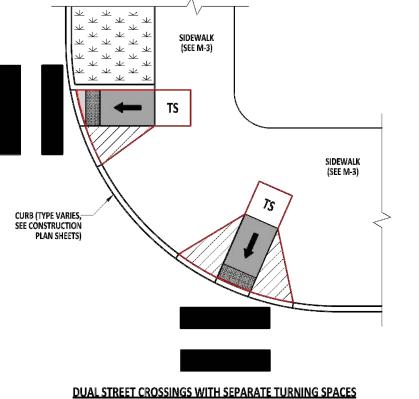
\*\* -STANDARD SIDEWALK OF 4" THICKNESS SHALL BE PLACED OVER 4" G.A.B.C.-TYPE B. SIDEWALK FOR DEPRESSED AND TRANSITION AREAS OF 6" THICKNESS SHALL BE PLACED OVER 6" G.A.B.C.-TYPE B

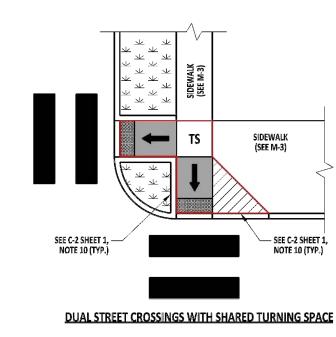
- 1. MARK IN 5' SQUARES, USE PREMOLDED EXPANSION CORKS AT INTERVALS NOT GREATER THAN 20'.
- 2. CONCRETE SIDEWALKS SHALL BE CONSTRUCTED TO CITY OF WILMINGTON

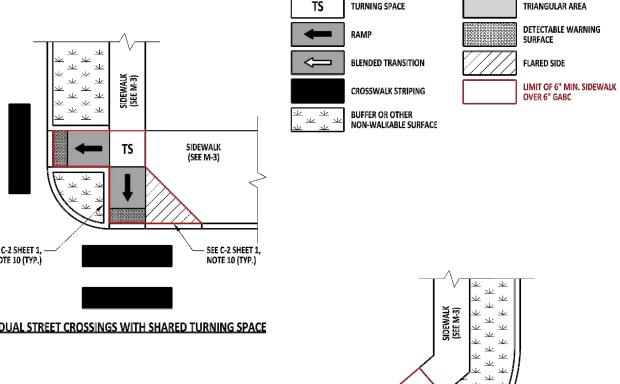
AREAS, THE SIDEWALK SHALL BE 6" THICK

3. MAXIMUM CROSS SLOPE OF SIDEWALK SHALL BE 2%.

P.C.C. SIDEWALK







SEE C-2, SHEET 1 FOR GENERAL PEDESTRIAN CONNECTION NOTES AND ELEMENT REQUIREMENTS PERPENDICULAR CURB RAMPS HAVE A RAMPED SECTION THAT CUTS THROUGH THE CURB AT AN ANGLE. SEE THE CURRENT DELDOT PAS MANUAL FOR ADDITIONAL INFORMATION. A SINGLE PERPENDICULAR CURB RAMP LOCATED ON THE APEX OF A CURB RETURN AND WHICH SERVES TWO SEPARATE CROSSWALKS IS CONSIDERED A DIAGONAL CURB RAMP. INSTALLATION OF A DIAGONAL CURR RAMP REQUIRES APPROVAL FROM THE DEPARTMENT'S OFFICE OF CIVIL RIGHTS.

LOCATE THE BACK OF PEDESTRIAN PATH IN A MANNER THAT ALLOWS FOR THE INSTALLATION OF

A TURNING SPACE AT THE TOP OF THE PERPENDICULAR CURB RAMP.

PEDESTRIAN CONNECTION, TYPE 1: PERPENDICULAR CURB RAMPS

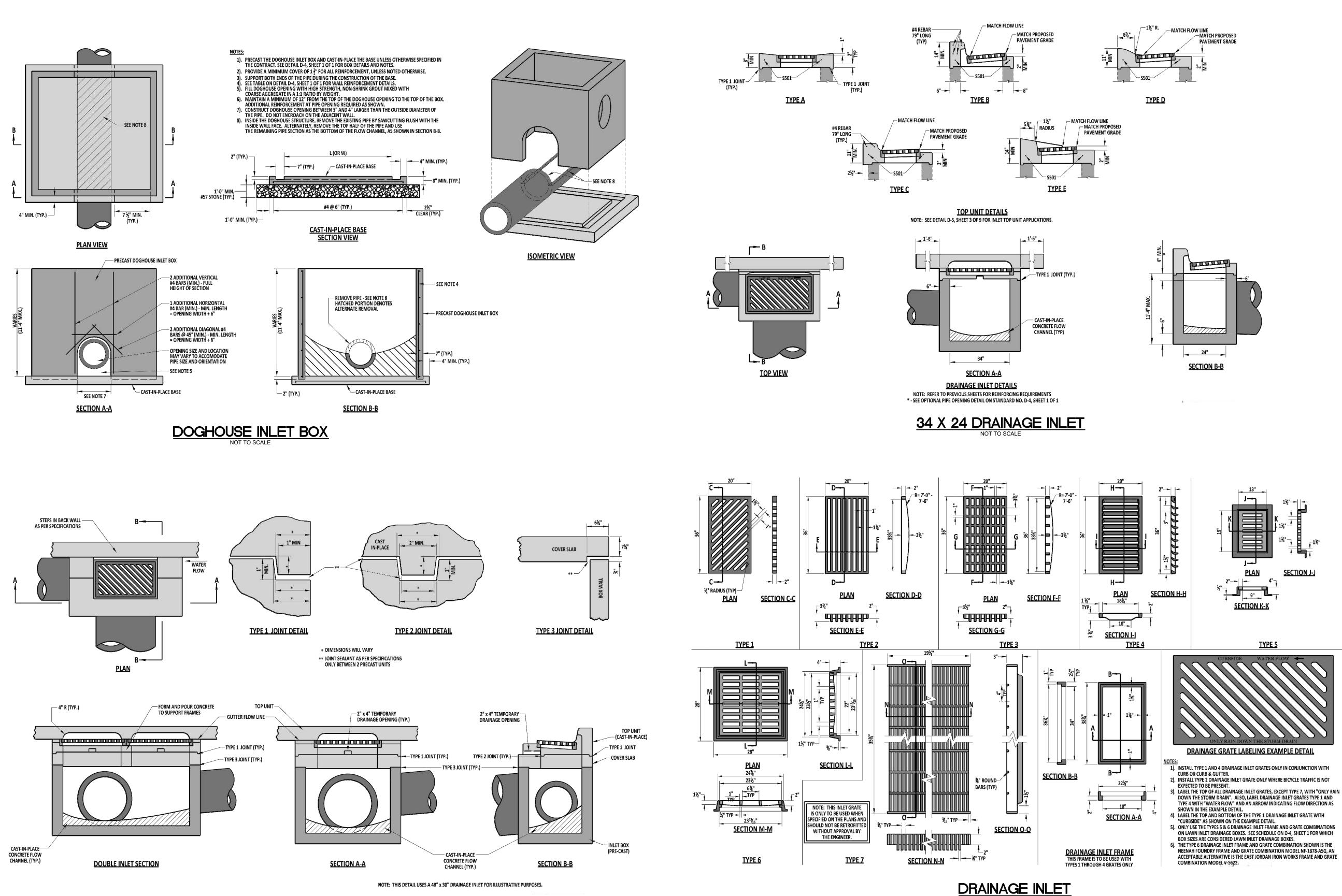
HANDICAP RAMP DETAIL



CITY OF WILMINGTON - NEW CASTLE COUNTY - DELAWARE INCORPORATED 27 W. MARKET STREET NEWPORT, DELAWARE 19804 (302) 994-1900 (302) 994-9099 FAX SCALESHEET NO. 3/20/23 1" = 20'SURVEYED BY: DRAWN BY: KP/JS BES MICROFILM NO. CHECKED BY: SGD PROJECT / FILE NUMBER REVISION 99276041PBASE

The professional services of Apex Engineering Incorporated were undertaken for and performed in the interest of our client. No contractual obligation is assumed by Apex Engineering Incorporated for the benefit of any other entity. This document is owned by Apex Engineering Incorporated, and it shall not be reused without our written permission. All copyrights are reserved by Apex Engineering Incorporated. © 2019

REV. DATE: COMMENT



DRAINAGE INLET ASSEMBLY

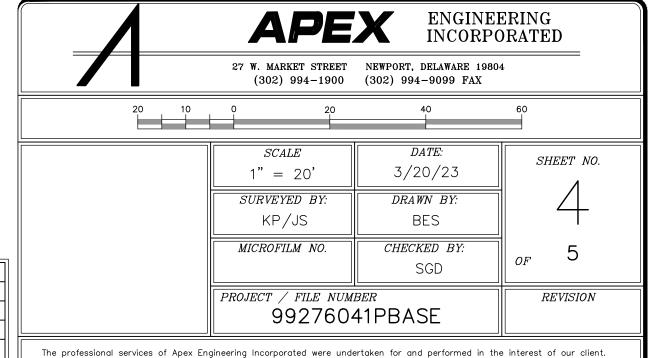
FRAME AND COVER

REV. DATE: COMMENT

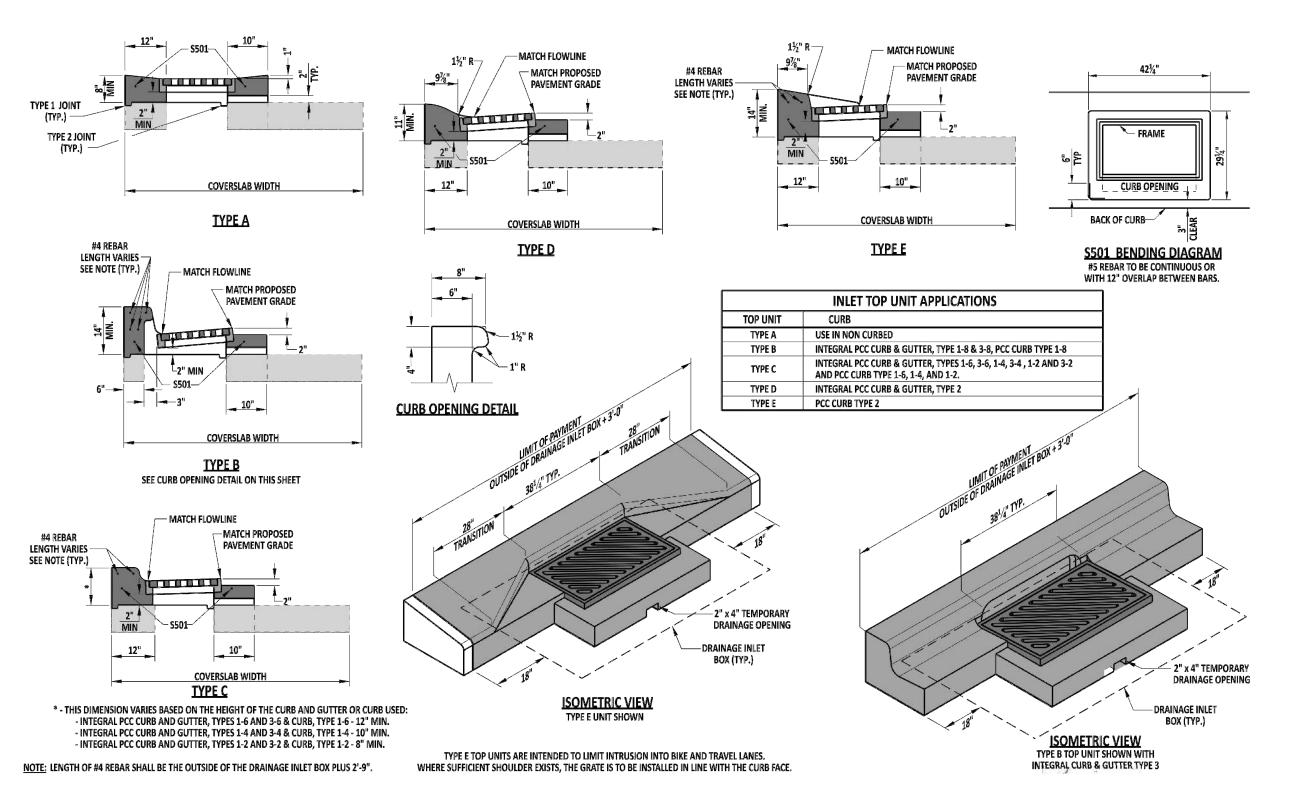
STREET IMPROVEMENT PLAN -CONSTRUCTION DETAILS

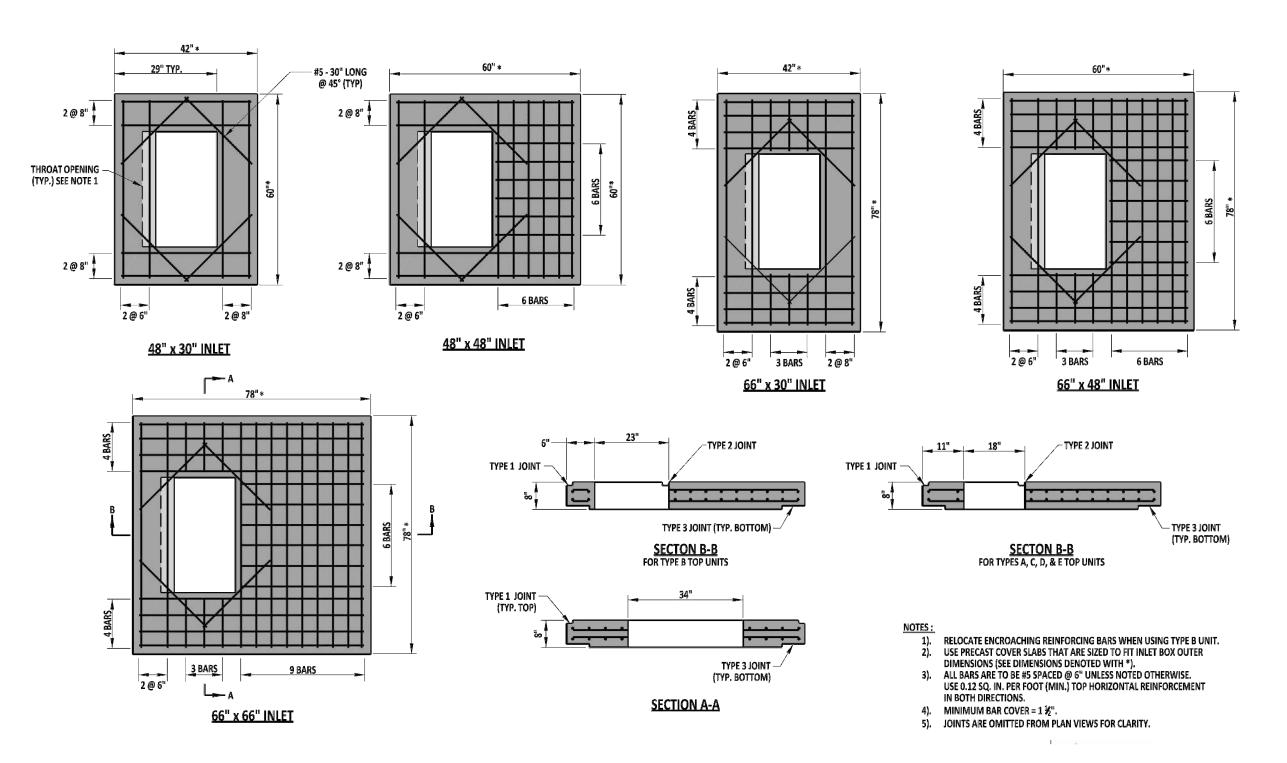
## TOWER HILL SCHOOL

CITY OF WILMINGTON - NEW CASTLE COUNTY - DELAWARE

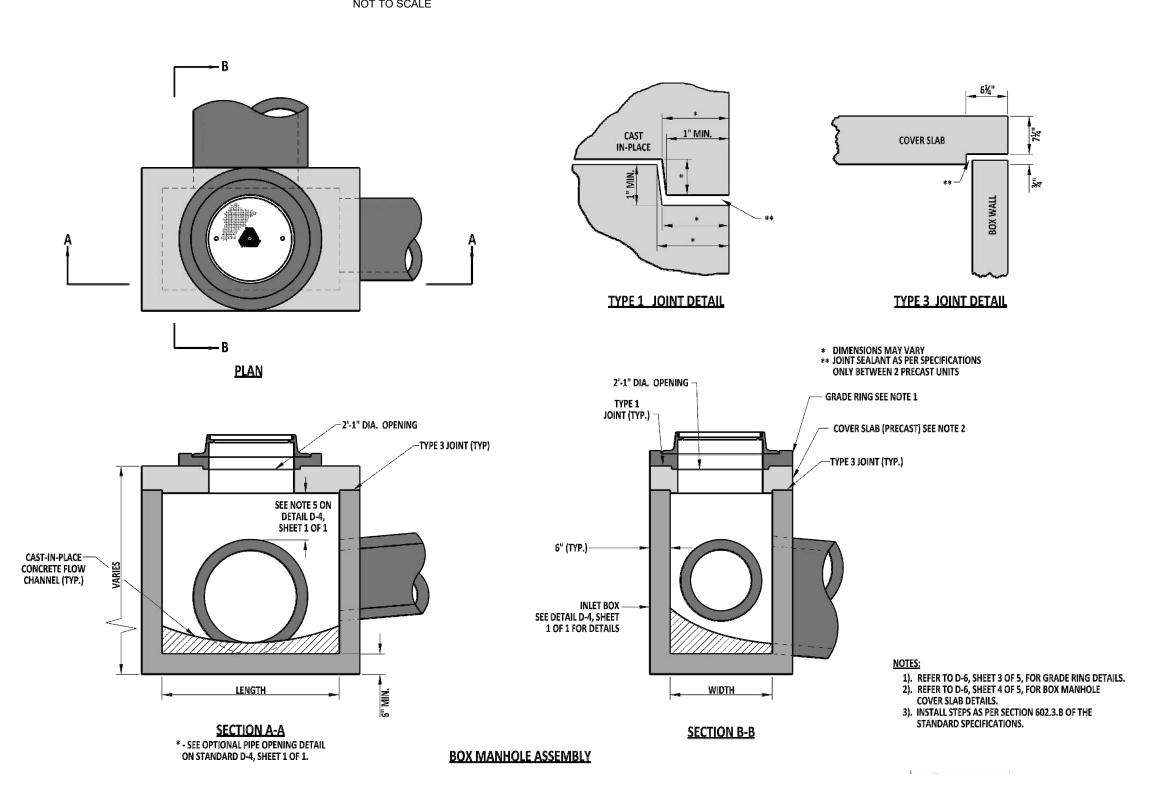


The professional services of Apex Engineering Incorporated were undertaken for and performed in the interest of our client. No contractual obligation is assumed by Apex Engineering Incorporated for the benefit of any other entity. This document is owned by Apex Engineering Incorporated, and it shall not be reused without our written permission. All copyrights are reserved by Apex Engineering Incorporated. © 2019

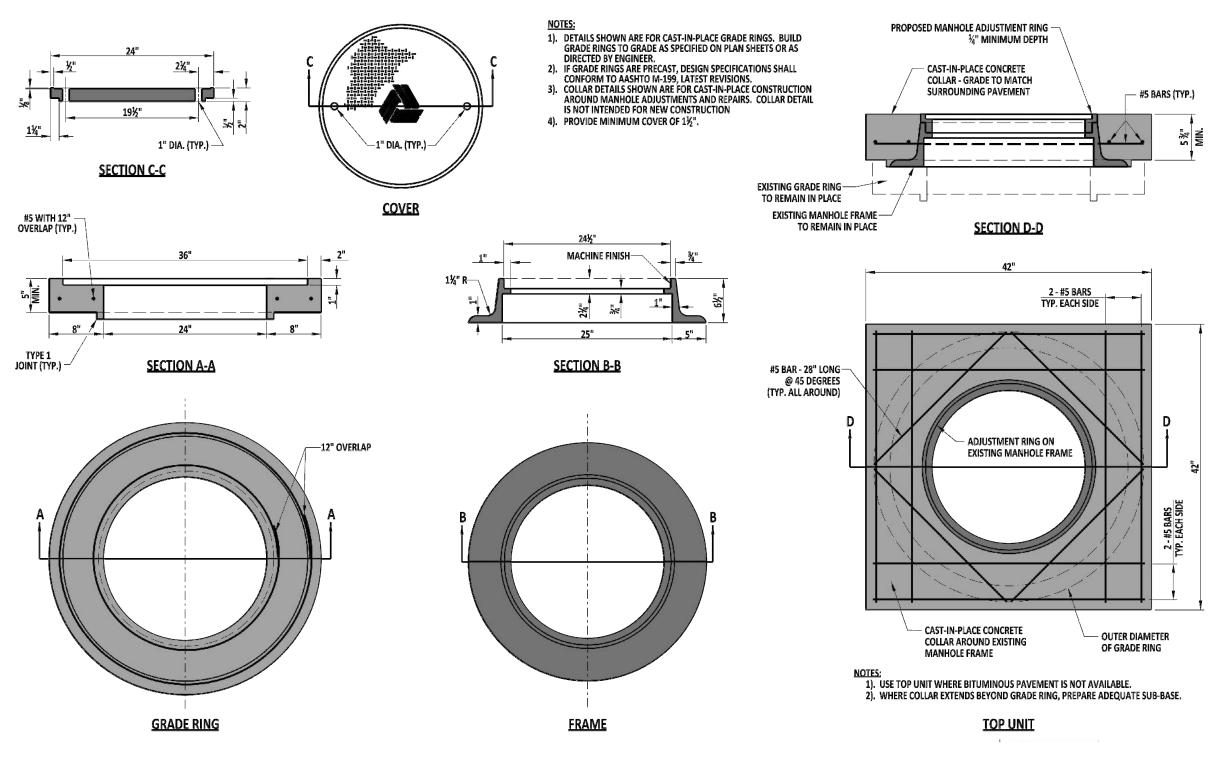




## DRAINAGE INLET TOP UNITS



DRAINAGE INLET COVER SLAB

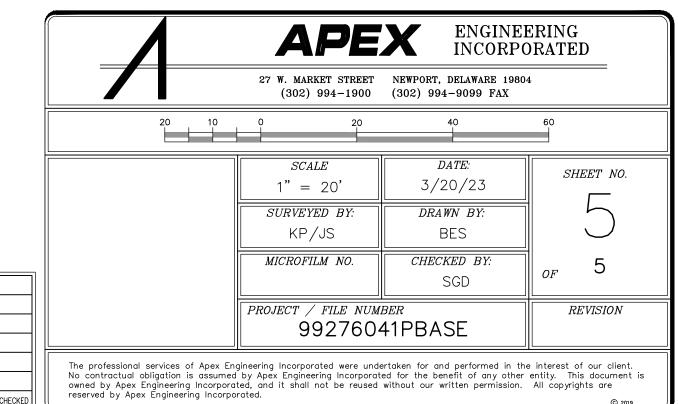


MANHOLE GRADE RING, TOP UNIT, FRAME AND COVER

REV. DATE: COMMENT

STREET IMPROVEMENT PLAN -CONSTRUCTION DETAILS

TOWER HILL SCHOOL CITY OF WILMINGTON - NEW CASTLE COUNTY - DELAWARE



**BOX MANHOLE ASSEMBLY**