

## ANNEXATION AGREEMENT

This Agreement between the **City of Columbia, Missouri**, a municipal corporation (hereinafter "City") and **VH Properties LLC**, a Missouri limited liability company, (hereinafter "Owner") is entered into as of the last date of all of the parties to execute the Agreement (the "Effective Date"). In consideration of the mutual covenants contained herein, the parties agree as follows:

1. Owner hereby represents that Owner is the sole legal owner of the following described real estate located in Boone County, Missouri and has the capacity to enter into this Agreement:

Lots 1 and 2 of VH Acres as shown by plat recorded in Plat Book 44, Page 25, Records of Boone County, Missouri; AND

Lots 1, 2, 3 and 4 of VH Acres Plat No. 2 as shown by plat recorded in Plat Book 49, Page 14, Records of Boone County, Missouri; AND

Lot 9 of Walnut Hills Plat 2 as shown by plat recorded in Plat Book 16, Page 29, Records of Boone County, Missouri.

(hereinafter the "Property").

2. City hereby agrees to design and construct the trunk line sanitary sewer extension known as the "Henderson Branch Sewer Extension" in the general location as shown on Exhibit A attached hereto and incorporated herein by this reference (the "Project"). Owner shall dedicate at no cost to the City sewer easements reasonably necessary for the construction, operation and maintenance of the Project through Owner's property. As part of the construction of the Project, the City will install four (4), six (6) inch diameter service laterals under the pavement of Van Horn Tavern Road to serve Lots 1, 2, 3 and 4 of VH Acres Plat No. 2, in the general location shown on Exhibit A, to allow the Boone County Regional Sewer District to remove from service the existing onsite wastewater treatment facility and connect such lots to the sewer.

3. City agrees to allow Owner to connect sanitary sewer lines serving the Property to the City's sanitary sewer system as set forth herein and in accordance with Amendment 3 to the General Cooperative Agreement Dated March 8<sup>th</sup>, 2011 between the Boone County Regional Sewer District and the City of Columbia, approved August 19, 2015 and attached hereto as Exhibit B, as may be amended from time to time. Owner shall make the connection to the City's sanitary sewer system at Owner's sole cost and expense. Owner shall obtain all necessary permits and shall pay all fees required to connect to the sewer system.

4. All sewer lines and appurtenances shall be located within standard sewer or utility easements dedicated to the public use and constructed in compliance with City regulations and standards and shall, to the extent necessary to transfer title to such lines, be conveyed to the City following construction and approval. Inspection and approval of such construction shall be conducted by the City as though the property were located within the City limits and shall be subject to City approval prior to acceptance of the Project improvements.

5. Owner shall not allow any other property to connect to or utilize the sewer lines constructed in connection with the Project other than the Property specifically set forth in the Agreement without the express written consent of the City.

6. Except as otherwise provided herein, development and construction on the Property by Owner shall conform to all Boone County ordinances and standards for the duration the property remains outside the city limits. Once annexed into the City, development and construction on the Property shall conform to all City standards, including, but not limited to, the Unified Development Code. Provided, however, any phase of development under construction at the time of annexation may be completed under Boone County requirements together with inspections and approvals by Boone County provided the construction is completed within two (2) years following the date of annexation. Notwithstanding the foregoing, in the event of new construction and development on the Property after the date of execution of this agreement but prior to annexation, Owner shall construct and maintain the following items in connection with such development as required by the city code as though the Property is located within the City limits: (1) public sidewalks, (2) landscaping, (3) lighting, and (4) designate appropriate tree preservation areas. Following construction, all sanitary sewers, storm sewers, streets and sidewalks shall be forever dedicated to the public use.

7. So long as the Property remains outside the City limits, any subdivision of the Property shall be prepared in accordance with the applicable requirements of Boone County. The City shall be provided written notice of the subdivision of the property, but there shall be no requirement that the City approve any plat prior to any action taken on a plat by the Boone County Commission.

8. Prior to annexation, if any irreconcilable conflict exists between a County regulation and a City regulation, the Owner, to the extent required by law, shall follow the County regulation. Owner acknowledges that no conflict is involved where a City regulation imposes a more stringent minimum requirement than a corresponding County regulation or in any instance where the City imposes a regulation that is not imposed by the County. In such instance, Owner shall be required to follow the more stringent requirement.

9. Following construction of the Project and to the extent allowed by law, at such time as the Property becomes contiguous to the corporate limits of the City, City may, but shall not be obligated to, annex the Property into the City, without further action of the Owner. The City in its sole discretion may, but shall not be required to, delay annexation of the Property until such time the Property is contiguous to the City by property having frontage on an adjacent roadway which serves the Property, or until any other such time the City reasonably and solely determines to be appropriate to annex the Property and provide available municipal services to the Property.

10. Owner irrevocably appoints the City Manager of Columbia, Missouri, as its attorney-in-fact for the sole purpose of presenting a verified petition requesting annexation of the Property to the City Council of Columbia, Missouri. The City Manager may exercise this power of attorney at any time after the Project has been constructed and the Property becomes contiguous to the corporate limits of the City. Any delay in filing such petition shall not be deemed a waiver of any right of the City

to file such petition at such time in the future when, in the sole discretion of the City Manager, the filing of such petition is deemed advisable.

11. In lieu of the power of attorney granted to the City Manager herein, the City Manager may request the Owner to submit a verified petition requesting annexation. In such event, Owner shall, within such time as specified by the City Manager, submit a verified petition requesting annexation of the Property to the Director of Community Development for presentation to the City Council of Columbia, Missouri. The City Manager may request Owner to present an annexation petition at any time after the Project has been constructed and the Property becomes contiguous to the corporate limits of the City. The provisions of this paragraph shall be enforceable by specific performance.

12. The petition for annexation may request that upon annexation the Property be placed in zoning districts with corresponding PD plans, if applicable, as follows:

VH Acres, Lots 1 and 2 – District A, or equivalent;

VH Acres Plat 2, Lots 1, 2, 3 and 4 – District PD (with current county plan requirements), or equivalent; and

Lot 9 of Walnut Hills Plat 2 – District PD (with current county plan requirements), or equivalent.

The location of the parcels with the intended zoning districts is shown on Exhibit C. If the proposed ordinance annexing the Property does not place the Property, or any portion thereof, in the zoning district(s) specified herein or if the then existing uses of the Property would not be permitted following annexation of the Property (the “Conditions Precedent”), Owner may withdraw the petition for annexation as to any portion of the Property for which the Conditions Precedent have not been met and City may not proceed with annexation of such portions of the Property until the Conditions Precedent have been met for such portions of the Property. In the event a Condition Precedent does not apply to an entire tract or parcel, the portion of the Property excluded from annexation for failure to meet a Condition Precedent shall be limited to such limited geographical area of any parcel to which the Condition Precedent applies. Such withdrawal shall not affect the parties’ remaining obligations under this Agreement, including City’s obligation to provide sewer service.

13. Except as expressly set forth and authorized in paragraph 12 hereof, Owner agrees not to take any action to oppose any annexation initiated by the City which includes the Property. Owner further agrees not to take any action to oppose any annexation initiated by the City or by any property owner which includes any property lying between the Property and the City limits.

14. Owner shall give a copy of this Agreement to each person who buys all or a portion of the Property.

15. If Owner fails to annex the Property as provided herein, City may terminate sewer service to the Property and disconnect the sewer lines serving the Property from the City’s sanitary sewer system. City shall give Owner one hundred eighty (180) days prior written notice of its intent to terminate sewer service.

16. This Agreement is not intended to confer any rights or remedies on any person other than the parties.

17. The benefits and burdens of this Agreement are intended to attach to and run with the land and shall be binding on and inure to the benefit of the parties and their respective legal representatives, successors, heirs and assigns. All persons claiming under the parties shall conform to and observe the provisions of this Agreement.

18. This Agreement shall be construed according to the laws of the State of Missouri. The parties shall comply with all local, state, and federal laws and regulations relating to the performance of this Agreement.

19. Any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Boone County, Missouri.

20. This Agreement contains the entire and complete agreement between the City and the Owner. The parties agree that this Agreement constitutes a lawful contract between the parties and the Owner hereby acknowledge and agree that this Agreement and the City's ordinances and regulations applicable to this Agreement constitute lawful exercises of the City's authority and police power.

21. The City shall record this Agreement in the office of the Boone County Recorder of Deeds.

22. This agreement shall be null and void upon the occurrence of one or more of the following: (1) failure of the City Council to authorize construction of the Project by enactment of a Bid Call Ordinance on or before May 31, 2018, OR (2) failure of the city to commence construction of the Project on or before August 31, 2019, OR (3) upon annexation of the Property, OR (4) by written agreement of the Parties to terminate the rights and obligations set forth herein.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day set forth below each of their signatures.

[remainder of page left blank - signature pages and exhibits to follow]

**CITY OF COLUMBIA, MISSOURI**

By: \_\_\_\_\_  
Mike Matthes, City Manager

ATTEST:

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

\_\_\_\_\_  
Sheela Amin, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Nancy Thompson, City Counselor

STATE OF MISSOURI            )  
  ) ss  
COUNTY OF BOONE            )

On this \_\_\_\_ day of \_\_\_\_\_, 2017, before me appeared Mike Matthes, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the City of Columbia, Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of the City and that this instrument was signed and sealed on behalf of the City by authority of its City Council and the City Manager acknowledged this instrument to be the free act and deed of the City.

IN TESTIMONY WHEREOF, I have hereunto set by hand and affixed my official seal, at my office in Columbia, Boone County, Missouri, the day and year last above written.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_.

OWNER  
VH PROPERTIES, LLC

By: [Signature]  
Larry W. Potterfield, Member

Date: 4/12/18

By: [Signature]  
Brenda D. Potterfield, Member

Date: 4/12/18

STATE OF MISSOURI )  
 ) ss  
COUNTY OF Boone )

On this 12<sup>th</sup> day of April, 2018, before me, a Notary Public in and for said state, personally appeared Larry W. Potterfield, known to me to be the person who executed the above agreement and acknowledged that he is a member of VH Properties LLC, a Missouri limited liability company, and that said instrument was signed in behalf of said limited liability company and further acknowledged to me that he executed the same as the free act and deed of said limited liability company for the purposes therein stated and that he has been granted the authority by said limited liability company to execute the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the County and state aforesaid the day and year first above written.

[Signature]  
Notary Public

My commission expires: 6/25/19.

STATE OF MISSOURI )  
 ) ss  
COUNTY OF Boone )

JASON M. KEMINA  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Boone County  
My Commission Expires: June 25, 2019  
Commission Number: 15180419

On this 12<sup>th</sup> day of April, 2018, before me, a Notary Public in and for said state, personally appeared Brenda D. Potterfield, known to me to be the person who executed the above agreement and acknowledged that she is a member of VH Properties LLC, a Missouri limited liability company, and that said instrument was signed in behalf of said limited liability company and further acknowledged to me that she executed the same as the free act and deed of said limited liability company for the purposes therein stated and that she has been granted the authority by said limited liability company to execute the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, at my office in the County and state aforesaid the day and year first above written.

JASON M. KEMINA  
Notary Public - Notary Seal  
State of Missouri  
Commissioned for Boone County  
My Commission Expires: June 25, 2019  
Commission Number: 15180419

[Signature]  
Notary Public

My commission expires: 6/25/19.

**Exhibit A**

General Location of Henderson Branch Sewer Extension Project

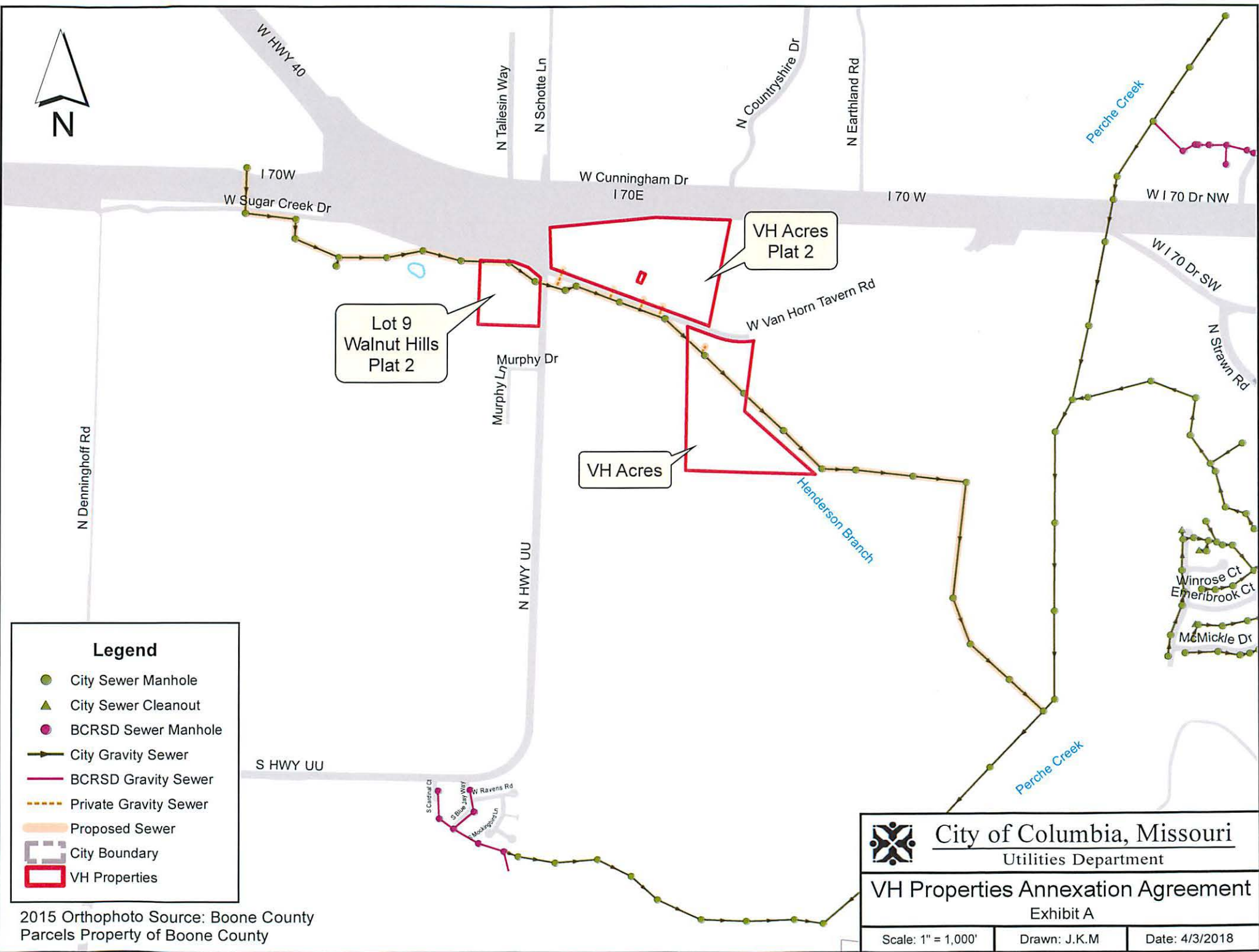
**Exhibit B**

Amendment 3 to the General Cooperative Agreement Dated March 8th, 2011 between the Boone County Regional Sewer District and the City of Columbia, approved August 19, 2015

**Exhibit C**

Diagram of Property with Intended Zoning District Classifications  
(per paragraph 12)






**Legend**

- City Sewer Manhole
- City Sewer Cleanout
- BCRSD Sewer Manhole
- City Gravity Sewer
- BCRSD Gravity Sewer
- Private Gravity Sewer
- Proposed Sewer
- City Boundary
- VH Properties

2015 Orthophoto Source: Boone County  
Parcels Property of Boone County

 **City of Columbia, Missouri**  
Utilities Department

**VH Properties Annexation Agreement**  
Exhibit A

Scale: 1" = 1,000'	Drawn: J.K.M	Date: 4/3/2018
--------------------	--------------	----------------



**Exhibit B**

**AMENDMENT 3 TO THE GENERAL COOPERATIVE  
AGREEMENT DATED MARCH 8<sup>TH</sup>, 2011**

On this 19<sup>th</sup> day of August, 2015, the Boone County Regional Sewer District, a common sewer district organized pursuant to Chapter 204 RSMo ("District") and the City of Columbia, Missouri, a municipal corporation ("City") hereby amend their agreement of March 8<sup>th</sup>, 2011 (hereinafter the General Cooperative Agreement).

WHEREAS, the General Cooperative Agreement contemplated that said agreement may be amended from time to time by adding, deleting, and/or revising the Special Conditions and Exhibits as needed and as mutually agreed upon by the Board of Trustees of the District and the City Council of the City; and

WHEREAS, the following are the revisions to the GENERAL CONDITIONS and the SPECIAL CONDITIONS of the General Cooperative Agreement.

**REVISIONS TO THE GENERAL CONDITIONS**

1. Section 1 is deleted in its entirety. In its place a new Section 1 is included, as follows:
  1. The scope of the this agreement is limited to those geographic areas within the "Boundary of Area Covered by Agreement" on the attached Exhibits 1 through 9, both inclusive, and which are entitled "State Highway HH Cooperative Agreement", "Westwood Meadows Cooperative Agreement", "El Rey Heights Cooperative Agreement", "Cow Branch Watershed Cooperative Agreement", "Little Bonne Femme Pump Station Cooperative Agreement", "Jerry Morris Subdivision Cooperative Agreement", "Water's Edge, Lakewood Villas, Lakewood Estates, Lakeland Acres and Pin Oak Subdivisions Service Area", "Abilene Acres Cooperative Agreement" and "Midway Area Cooperative Agreement".

All other GENERAL CONDITIONS of the original March 8th, 2011, General Cooperative Agreement shall remain in effect.

**END OF GENERAL CONDITIONS, BEGINNING OF SPECIAL CONDITIONS**

**SPECIAL CONDITIONS**

1. Add the following Special Condition 9 & 10.
  9. The City and District agree that the customers in the District's service area shown on Exhibit 9, "Midway Area Cooperative Agreement" shall be allowed to connect to the City's wastewater treatment and collection system as provided for in the GENERAL CONDITIONS of this agreement.
  10. The City and District agree to share in the cost to construct the "Henderson Branch Sewer Extension" as follows:

a. The Henderson Branch Sewer Extension (HBSE) shall be constructed from the City existing Perche Creek Outfall Sewer to the existing WWTF currently serving the Midway Plaza Truck Stop generally following the Henderson Branch Creek in a route determined by the City.

b. The City shall prepare the construction plans, specifications and bid documents for the HBSE project.

c. The City shall acquire all easements necessary for construction of the HBSE project.

d. The City shall bid the HBSE project pursuant to established City policy. District shall reimburse the City for 31.3%, with a not to exceed amount of \$628,047.00, of the cost to construct the HBSE project which includes construction, engineering, subsurface exploration to determine rock excavation quantities and easement acquisition; but District shall not pay for easement acquisition related to trail easements.

e. The City shall own and maintain the entire length of HBSE project.

f. The City shall provide construction management services for the HBSE project.

g. The project contribution by the District shall be paid in five equal annual installments without interest, commencing within 60 days of District's receipt that construction of HBSE project has been completed and work accepted by the City, and each subsequent installment being due on the anniversary date of the first installment. These payments would be subject to annual appropriations, however if the funds are not appropriated and paid to the City all existing and proposed District's service area shown on Exhibit 9 "Midway Area Cooperative Agreement" may be, refused connection or become City customers at the City's option.

IN WITNESS WHEREOF, the Parties have caused this amendment to be executed by their duly authorized agents on the day and year first above written.

CITY OF COLUMBIA, MISSOURI

BY:   
Michael Matthes, City Manager

ATTEST

  
Sheela Amin, City Clerk


APPROVED AS TO FORM:

Page 2 of 3

C:\Users\Ratermann\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\358N1YU8\Amendment 3 (V2) to the March 8th 2011 General Cooperative Agreement - Midway Area - June 2015.docx

  
Nancy Thompson, City Counselor

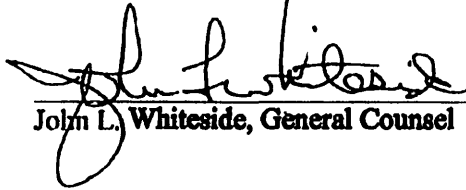
**BOONE COUNTY REGIONAL SEWER DISTRICT**

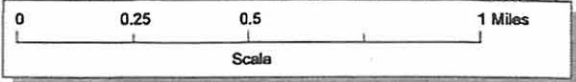
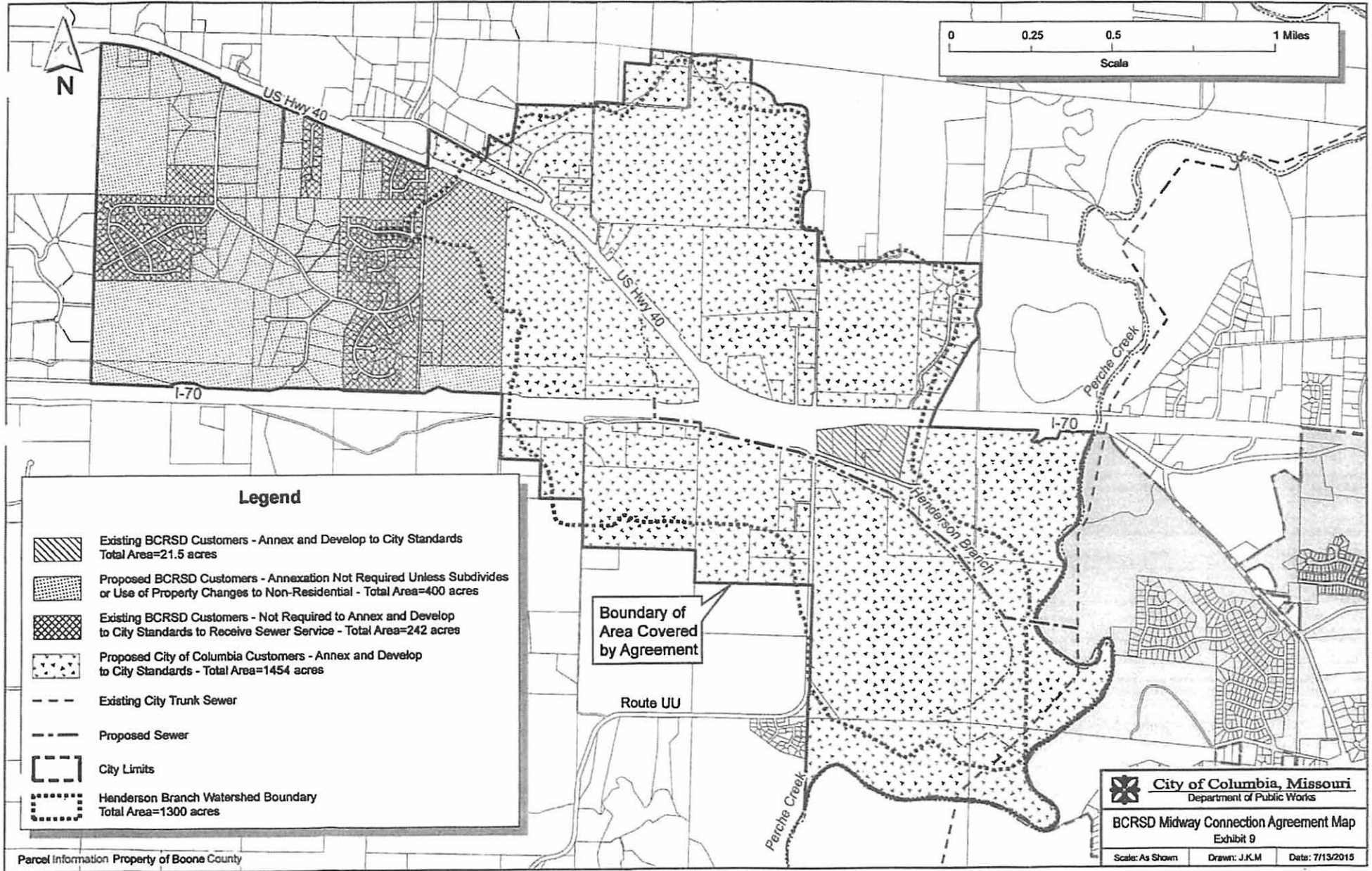
BY:   
Randall Chann, Chair

**ATTEST:**









  
Lesley Oswald, Assistant Secretary

**APPROVED AS TO FORM:**

  
John L. Whiteside, General Counsel




**Legend**

-  Existing BCRSD Customers - Annex and Develop to City Standards  
Total Area=21.5 acres
-  Proposed BCRSD Customers - Annexation Not Required Unless Subdivides  
or Use of Property Changes to Non-Residential - Total Area=400 acres
-  Existing BCRSD Customers - Not Required to Annex and Develop  
to City Standards to Receive Sewer Service - Total Area=242 acres
-  Proposed City of Columbia Customers - Annex and Develop  
to City Standards - Total Area=1454 acres
-  Existing City Trunk Sewer
-  Proposed Sewer
-  City Limits
-  Henderson Branch Watershed Boundary  
Total Area=1300 acres

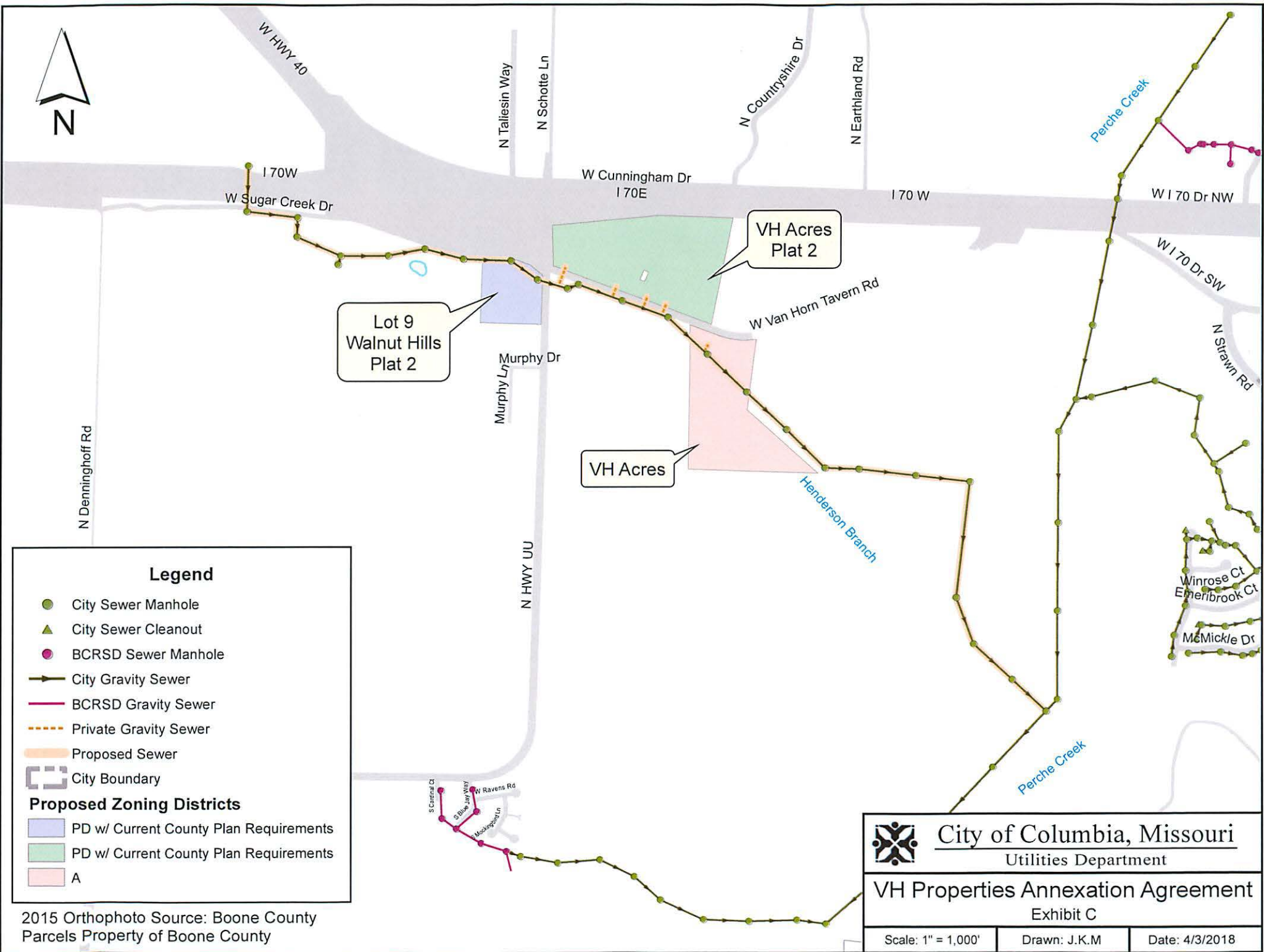
Boundary of  
Area Covered  
by Agreement

Route UU

 **City of Columbia, Missouri**  
Department of Public Works

**BCRSD Midway Connection Agreement Map**  
Exhibit 9

Scale: As Shown    Drawn: J.K.M    Date: 7/13/2015



**Legend**

- City Sewer Manhole
- City Sewer Cleanout
- BCRSD Sewer Manhole
- City Gravity Sewer
- BCRSD Gravity Sewer
- Private Gravity Sewer
- Proposed Sewer

**City Boundary**

**Proposed Zoning Districts**

- PD w/ Current County Plan Requirements
- PD w/ Current County Plan Requirements
- A

2015 Orthophoto Source: Boone County  
Parcels Property of Boone County



**City of Columbia, Missouri**  
Utilities Department

**VH Properties Annexation Agreement**  
Exhibit C

Scale: 1" = 1,000'

Drawn: J.K.M

Date: 4/3/2018