

**REAL ESTATE SALE AGREEMENT**

**THIS REAL ESTATE SALE AGREEMENT** (this “**Agreement**”), dated as of \_\_\_\_\_, 2023 (the “**Effective Date**”), is made between:

**AT&T:**                   **SOUTHWESTERN BELL TELEPHONE COMPANY**  
215 SE Green Street  
Lee’s Summit, Missouri 64063

**City:**                   **CITY OF LEE’S SUMMIT MISSOURI**  
a charter city and political subdivision of the State of Missouri  
220 SE Green Street  
Lee’s Summit, Missouri 64063

**1.     Transfer of West Lot.**

AT&T agrees to sell to City that certain real property consisting of the west parking lot as legally described and illustrated in **Exhibit A** which is attached hereto and incorporated herein by reference, and all rights and appurtenances belonging or in any way pertaining thereto (collectively, the “**West Lot**”) and City agrees to buy the West Lot from AT&T, for the consideration and upon the terms and conditions set forth in this Agreement. The West Lot is currently part of the property located at 202 SE Third Street which is owned by Southwestern Bell Telephone (the “**Central Office Property**”). To the maximum extent permitted by applicable law and except for AT&T’s express representations and warranties in this Agreement and the warranties of title in the deed delivered at the Closing (“**AT&T’s Warranties**”), this sale is made and will be made without representation, covenant, or warranty of any kind (whether express, implied, or, to the maximum extent permitted by applicable law, statutory) by AT&T. **AS A MATERIAL PART OF THE CONSIDERATION FOR THIS AGREEMENT, CITY AGREES TO ACCEPT THE PROPERTY ON AN “AS IS” AND “WHERE IS” BASIS, WITH ALL FAULTS AND ANY AND ALL LATENT AND PATENT DEFECTS, AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES, ALL OF WHICH AT&T HEREBY DISCLAIMS, EXCEPT FOR AT&T’S WARRANTIES. EXCEPT FOR AT&T’S WARRANTIES, NO WARRANTY OR REPRESENTATION IS MADE BY AT&T AS TO (A) FITNESS FOR ANY PARTICULAR PURPOSE, (B) MERCHANTABILITY, (C) DESIGN, (D) QUALITY, (E) CONDITION, (F) OPERATION OR INCOME, (G) COMPLIANCE WITH DRAWINGS OR SPECIFICATIONS, (H) ABSENCE OF DEFECTS, (I) ABSENCE OF HAZARDOUS OR TOXIC SUBSTANCES, WASTE MATERIALS OR THE ENVIRONMENTAL CONDITION OF THE PROPERTY, (J) ABSENCE OF FAULTS, (K) FLOODING, OR (L) COMPLIANCE WITH LAWS AND REGULATIONS INCLUDING, WITHOUT LIMITATION, THOSE RELATING TO HEALTH, SAFETY, ZONING, AND THE ENVIRONMENT. CITY AGREES THAT CITY HAS ENTERED INTO THIS AGREEMENT WITH THE AGREEMENT TO MAKE AND RELY UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC USE, COMPLIANCE, AND LEGAL CONDITION OF THE PROPERTY AND THAT CITY IS NOT NOW RELYING, AND WILL NOT LATER RELY, UPON ANY REPRESENTATIONS AND WARRANTIES MADE BY AT&T OR ANYONE ACTING OR CLAIMING TO ACT, BY, THROUGH OR UNDER OR ON**

AT&T'S BEHALF CONCERNING THE PROPERTY, EXCEPT FOR AT&T'S WARRANTIES.

CONSISTENT WITH THE FOREGOING AND SUBJECT SOLELY TO THE AT&T'S WARRANTIES, EFFECTIVE AS OF THE CLOSING DATE, CITY, FOR ITSELF AND ITS AGENTS, AFFILIATES, SUCCESSORS AND ASSIGNS, HEREBY RELEASES, COVENANTS NOT TO SUE, AND FOREVER DISCHARGES AT&T, AT&T INC., AT&T SERVICES, INC. AND AT&T INC.'S AGENTS, AFFILIATES, SUBSIDIARIES, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "RELEASEES") FROM ANY AND ALL RIGHTS, LOSSES, LIABILITIES, DAMAGES, COSTS, CLAIMS AND DEMANDS AT LAW OR IN EQUITY, WHETHER KNOWN OR UNKNOWN OR FORESEEN OR UNFORESEEN AT THE TIME OF THIS AGREEMENT, WHICH CITY HAS OR MAY HAVE IN THE FUTURE, ARISING OUT OF THE PHYSICAL, ENVIRONMENTAL (INCLUDING THOSE RELATED TO THE PRESENCE OF HAZARDOUS OR TOXIC SUBSTANCES OR WASTE MATERIALS), ECONOMIC OR LEGAL CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ALL CLAIMS IN TORT OR AGREEMENT AND ANY CLAIM FOR INDEMNIFICATION OR CONTRIBUTION ARISING UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (42 U.S.C. SECTION 9601, ET SEQ.) OR ANY SIMILAR FEDERAL, STATE OR LOCAL STATUTE, RULE OR REGULATION. THE PROVISIONS OF THIS SECTION 1 INCLUDE A RELEASE OF THE RELEASEES FOR THEIR OWN NEGLIGENCE OR STRICT LIABILITY. CITY, UPON CLOSING, SHALL BE DEEMED TO HAVE WAIVED, RELINQUISHED AND RELEASED AT&T AND ALL OTHER RELEASEES FROM AND AGAINST ANY AND ALL MATTERS AFFECTING THE PROPERTY, OR ANY PARTICULAR PORTION THEREOF, AS OF THE CLOSING.

The provisions of this Section 1 shall survive indefinitely any closing or termination of this Agreement and shall not be merged into the closing documents.

B. In order to more formally establish the boundaries of the West Lot, the preliminary development plan shall serve as the preliminary plat pursuant to the requirements of the City's Unified Development Ordinance ("UDO") as part of the Zoning Actions (as defined below). The West Lot shall be transferred by a metes and bounds legal description using the legal description as set forth in **Exhibit A**.

2. **Exceptions.** Transfer of the West Lot to the City shall be subject to only the Permitted Exceptions (as defined below).

3. **Consideration for the West Lot.** The consideration for transfer of the West Lot shall be (i) the Parking Improvements, (ii) the Access Improvements, (iii) the Zoning Actions, and (iv) the Utility Relocation, all as defined in this section (collectively the "**West Lot Consideration**"). The West Lot Consideration shall be provided as set forth in the definition of the Parking Improvements, the Access Improvements, the Zoning Actions, and the Utility Relocation. All requirements to provide all consideration for the West Lot shall survive the closing of the real estate transaction for the West Lot and shall remain in effect until such requirements

are completed, unless such requirements are voluntarily waived in writing by AT&T or its successors and assigns, or modified in writing by both parties to this Agreement.

(A) The **“Parking Improvements”** shall mean and consist of the following terms and requirements:

(i) The construction of thirty (30) accessible parking spaces for the exclusive use by AT&T (the **“Replacement Parking Spaces”**) at locations which are within 600 feet walking distance from the front door of the Central Office Building after the West Lot is transferred to the City (the **“Distance Requirement”**), as outlined on the attached **Exhibit C**. The following additional provisions shall govern the Replacement Parking Spaces as consideration for this Agreement:

(a) The parties agree that it is the present intention of the City to construct the Replacement Parking Spaces at those locations designated in **Exhibit B**. The parties further agree that if the City is able to purchase or obtain additional property, or obtain the right to use additional property, at one or more locations that allows the City to construct one or more of the Replacement Parking Spaces at locations other than the locations shown on **Exhibit B**, but still within the Distance Requirement, then the City may construct and make available some or all of the Replacement Parking Spaces at such alternative locations which meet the Distance Requirement. It is the intention of the parties that all of the thirty (30) Replacement Parking Spaces shall be constructed in compliance with the Distance Requirement and be made available in accordance with the provisions of this section.

(b) Reasonably adequate ingress and egress to all Replacement Parking Spaces shall be provided by the City at all times after such spaces are made available in accordance with this Agreement.

(c) The parking spaces that are currently in the West Lot shall remain open and available for exclusive use by AT&T pursuant to the West Lot License Agreement (as defined below) until the Northern Access Improvements and the Southern Access Improvements, as defined below, are complete, and the Replacement Parking Spaces have been constructed and are available for use by AT&T. The parties acknowledge that the public drive on the west side of the Central Building cannot be constructed until the West Lot is taken out of service and is no longer available for parking. However, AT&T shall at all times have access to make deliveries to its loading dock on the west side of the Central Office Building.

(d) The City will provide written notice at least thirty (30) calendar days prior to the date that the initial Replacement Parking Spaces are available for use in accordance with this Agreement. The West Lot may be closed for use by the City and the West Lot License Agreement shall terminate when all of the initial thirty (30) Replacement Parking Spaces are open and available for use by AT&T. Prior to making the Replacement Parking Spaces available in accordance with this Agreement, the parties

shall enter into a license agreement for the Replacement Parking Spaces which is substantially identical to the West Lot License Agreement.

(e) The City may relocate one or more of the initial thirty (30) Replacement Parking Spaces to one or more other locations, each which shall meet the Distance Requirement, after the initial thirty (30) Replacement Parking Spaces are in service in accordance with this Agreement. The City shall provide notice not less than 30 calendar days prior to the date that such new Replacement Parking Spaces are open and available for use by AT&T. It is the intention of the parties that thirty (30) Replacement Parking Spaces shall be continuously open and available for exclusive use by AT&T after the date that the West Lot parking spaces are no longer available for use. The license agreement shall apply to any relocated Replacement Parking Spaces.

(ii) Design and construction of the Replacement Parking Spaces shall be paid by the City.

(iii) At closing of title, the parties shall execute a **West Lot License Agreement** in the form attached as **Exhibit C** which shall provide AT&T with access to use the West Lot for parking purposes until the Replacement Parking Spaces are completed. No payment shall be due from AT&T to City for the rights granted under the West Lot License Agreement, and the consideration for such license agreement shall be the consideration as described in this Agreement.

(iv) The property where the Replacement Parking Spaces are located shall be owned by the City and shall be licensed to AT&T pursuant to a License Agreement.

(iv) The provisions of this Agreement governing the design, construction, payment, placement and relocation of the Replacement Parking Spaces shall survive the closing of the real estate transaction for the West Lot and shall remain in effect until such requirements are completed, unless such requirements are voluntarily waived in writing by AT&T or its successors and assigns or modified in writing by both parties to this Agreement.

(B) The “**Access Improvements**” shall mean and consist of the following:

(1) Public Drive on West Side of Central Office Building. The construction of public right-of-way on the eastern edge of the West Lot and the eastern edge of the lot currently owned by the City at 200 SE Third Street, from Third Street on the south to the northern border of the West Lot. Such public right-of-way shall function as a public drive in the nature of an alley that provides access to the public improvements that will be constructed as part of the City’s Market Plaza Project. Such right-of-way shall be designed and constructed in a manner consistent with the approved Preliminary Development Plan, as defined below. If the public drive contains parking then the City will provide to AT&T at least two (2) of the exclusive Replacement Parking Spaces in the public drive as shown on **Exhibit B**. It is the intention of the parties to locate such Replacement Parking Spaces on the eastern side of the public drive, with the intention of providing readily

available access to the Central Office Building on the AT&T Property by (1) persons who use such parking spaces and (2) AT&T personnel and vendors making deliveries at the Central Office loading dock. In no event shall the public drive be blocked so that AT&T is unable to access its loading dock areas.

(2) Northern Access on Johnson Street. The City will design, fund and construct improvements consisting of the widening of the existing driveway from the AT&T Property to Johnson Street (the “**Northern Access Improvements**”). Such widening improvements are intended to accommodate a truck with trailer, and shall include an automatic gate. Such driveway improvements shall be constructed as set forth on the Preliminary Development Plan and Final Development Plan, as defined below.

(3) Southern Access on Johnson Street. The City will design, fund and construct a second driveway for ingress and egress between the AT&T Property and Johnson Street, at a location south of the current driveway (the “**Southern Access Improvements**”). Such new driveway is intended to accommodate a truck with trailer, and shall include an automatic gate. Such driveway improvements shall be as set forth on the Preliminary Development Plan and Final Development Plan, as defined below.

The above three requirements comprise the Access Improvements. The Northern Access Improvements and the Southern Access Improvements are intended to be completed after the transfer of the West Lot is completed, but prior to the expiration or termination of the West Lot License Agreement. The requirement to complete the Access Improvements shall survive the closing of the real estate transaction for the West Lot and shall remain in effect until such requirements are completed, unless such requirements are voluntarily waived in writing by AT&T or its successors and assigns, or modified in writing by both parties to this Agreement.

(C) The “**Zoning Actions**” shall mean and consist of the following terms and requirements:

(i) The City shall prepare and process an application for rezoning and approval of a preliminary development plan in accordance with the requirements of the UDO. The approved preliminary development plan shall be the document that controls the location and placement of the initial Replacement Parking Spaces, the public drive on the west side of the Central Office Building, the northern access on Johnson Street and the southern access on Johnson Street that are part of the consideration for the Agreement as set forth above (the “**Preliminary Development Plan**”). A draft of the Preliminary Development Plan shall be provided to AT&T for review and comment prior to its submission to the Planning Commission.

(ii) The City shall prepare and process a final development plan in accordance with the requirements of the UDO, which shall carry out the purposes of the Preliminary Development Plan and which shall establish the final design, engineering and construction details for the Replacement Parking Spaces and the Access Improvements as described above (the “**Final Development Plan**”). A draft of the Final Development Plan shall be provided to AT&T for review and comment prior to its approval by the City.

(iii) The Preliminary Development Plan shall serve as a preliminary plat for the property included in the plan. The City shall prepare and process a final plat in accordance with the requirements of the UDO. The West Lot shall be transferred by a metes and bounds legal description using the legal description of the West Lot as set forth in **Exhibit A**.

(iv) To the extent that the parking shown on the Preliminary Development Plan would result in AT&T's Central Office property violating any parking requirements of the UDO, such violations shall be cured by the City processing and approving a modification to such parking requirements as provided in the UDO. The parties acknowledge that the City Council ultimately controls all parking requirements as a matter of zoning and subdivision legal requirements; in the event the City Council fails to approve the attempted cure, the City and AT&T shall reasonably cooperate to identify an alternative solution to resolving the parking requirement issue.

(D) The "**Utility Relocation**" shall mean and consist of the relocation of any underground utilities which are currently present under the West Lot, which shall be relocated at the City's cost and expense as part of the Downtown Market Plaza Project. Such Utility Relocation shall be consistent with the approved Preliminary Development Plan and Final Development Plan and the City's Design and Construction Manual. It is the intention of the City to conduct utility relocation for the West Lot in coordination with the relocation of any other needed utility relocation in and adjacent to Green Street for the Downtown Market Plaza Project.

**4. Prorations.** The parties agree that all general state, county, school and municipal taxes (exclusive of penalties and interest) pertaining to the West Lot during the calendar year of Closing shall not be due and payable because the City is a political subdivision, and the West Lot will be exempt from such taxes during the year of the transaction.

**5. Closing Date.**

(A) The closing under this Agreement (the "**Closing**") shall take place at the offices of the Title Company (defined below) at a time to be mutually agreed upon by the parties on a day that occurs fifteen (15) days after the end of the Inspection Period, or another day that is reasonably close to such day as mutually agreed by the parties (the "**Closing Date**"). AT&T shall deliver possession of the West Lot to City upon Closing, which shall then be subject to the West Lot License Agreement until its termination. The West Lot License Agreement shall be dated as of the Closing Date. The City may opt to provide notice of the waiver of any or all of the remaining days in the Inspection Period and proceed to closing on the Closing Date that is fifteen (15) days after the City's delivery of such written notice to AT&T, or another day that is reasonably close to such day as mutually agreed by the parties.

(B) The parties acknowledge that the Closing Date will occur prior to the completion of all items that comprise the West Lot Consideration, and the parties further acknowledge that the provision of the West Lot Consideration in accordance with this Agreement shall survive past the Closing Date and shall continue to be enforceable contractual requirements pursuant to the terms of this Agreement, unless such requirements are voluntarily waived by AT&T or its successors and assigns, or modified in writing by both parties to this Agreement.

**6. Deliveries.**

(A) Each party shall provide to the other all environmental reports, engineering reports, soil reports, surveys, plats, development plans and correspondence relating to the West Lot that are readily available, without a duty to investigate, and in possession of the applicable party.

(B) The City shall obtain, within fifteen (15) days after the date of this Agreement, a title insurance commitment for the West Lot (the “**Commitment**”), by the terms of which a title company selected by the City (the “**Title Company**”) agrees to issue to the City an ALTA Owner’s Policy of Title Insurance (the “**Title Policy**”) in the amount of \$323,000, insuring a merchantable fee simple title in the name of the City as of the time of the recording of the deed for the West Lot. The Title Policies shall contain no “standard” exceptions other than a survey exception limited to matters of record if a given party does not obtain a survey of the real property they are acquiring in accordance with this Agreement.

**4. Inspections.** AT&T will provide the City and its respective agents with reasonable access to the West Lot from the Effective Date to the date that occurs 90 days after the Effective Date, or such other date as specified by the City in writing to AT&T which is less than 90 days after the Effective Date (the “**Inspection Period**”) for all or any of the following to be done at the option and expense of the party acquiring the real property that is being investigated (collectively, the “**Assessments**”):

(A) physical condition inspections;

(B) investigations as to title and survey, including obtaining or completing a current ALTA Survey (a “**Survey**”) at the sole cost and expense of the City;

(C) an environmental assessment conducted in accordance with the provisions of the “Environmental Matters” section below by a qualified environmental professional chosen by the party acquiring the West Lot, as the case may be (the “**Environmental Assessment**”). Before any such entry, City shall provide, or cause to be provided, AT&T with a certificate of insurance naming AT&T as an additional insured and with an insurer and insurance limits and coverage as set forth on Exhibit “C” attached hereto (“**Insurance Requirements**”). City shall not disturb AT&T’s business operations on the Property. City may not perform any invasive testing or drilling on, at or under the Property as a part of City’s environmental due diligence or otherwise (“**Invasive Testing**”), without first providing AT&T with documentation on the scope of work for AT&T’s prior written approval, which AT&T may grant or deny in its sole discretion. City agrees that, in making any physical or environmental inspections of the Property, City or City's agents will not reveal to any third party not approved by AT&T (other than City's agents, employees, contractors, design professionals, and lenders with a need to know) the results of its inspections, and will restore promptly any physical damage caused by the inspections. This restoration obligation shall survive the termination of this Contract.

City may enter and inspect the Improvements only when accompanied by a representative of AT&T. In conducting any inspections or tests of the Property, City shall keep the Property free and clear of any liens arising from work performed on behalf of City. This obligation shall survive the termination of this Contract.

**AS A CONDITION TO ENTERING ONTO AND INSPECTING THE PROPERTY AND TO THE EXTENT ALLOWED BY LAW, CITY AGREES TO INDEMNIFY AND HOLD AT&T HARMLESS FROM AND AGAINST ANY CLAIMS AND LIABILITIES ASSERTED AGAINST AT&T ARISING OUT OF CITY'S INSPECTIONS.**

**5. Objections.**

(A) **Title.** If either Title Policy or the Assessments disclose any title defects or encumbrances to which the City objects (“**Title Objections**”), the City may, prior to the expiration of the Inspection Period, deliver written notice to AT&T specifying the objections. AT&T shall remedy all such Title Objections susceptible of being remedied and shall deliver to the City, not less than ten (10) days prior to the Closing Date, a revised Commitment reflecting that the Title Objections have been cured. If AT&T fails to or is unable to cure, remove or otherwise correct any of the Title Objections to the satisfaction of the City, then the City may either: (a) elect to accept such Title Policy can be delivered and proceed to Closing, or (b) terminate this Agreement. Any matters disclosed by a Title Policy acceptable to the City will be deemed “**Permitted Exceptions**”. If the City is not satisfied with AT&T’s attempt to cure the Title Objections, the City may terminate this Agreement at any time prior to Closing.

(B) **Environmental Matters.** The City may conduct its own non-invasive environmental audit of the West Lot, as applicable. The scope, sequence and timing of an Environmental Assessment shall be at the discretion of the City; no invasive or destructive testing shall be done without prior written consent of AT&T. The City may terminate this Agreement at any time prior to Closing if an Environmental Assessment reveals or, if at any time prior to the expiration of the Inspection Period, the City becomes aware of, the existence of any violation of an environmental law or other environmental conditions that the City is unwilling to accept.

**6. Conditions Precedent to Closing.** Each party’s obligations hereunder are contingent upon the satisfaction of the following conditions precedent prior to the expiration of the Inspection Period (collectively, the “**Conditions**”):

(A) The City being satisfied with the status of title and the Survey;

(B) The City being satisfied with the results of all engineering, feasibility and environmental studies performed or caused to be performed by the City.

(C) AT&T being satisfied with the provision of the Replacement Parking Spaces, the Access Improvements, and the plans for the Utility Relocations, to the extent that actions have taken place in furtherance of these items prior to Closing.

In the event that either party is not satisfied with the status of any Conditions prior to the expiration of the Inspection Period, that party may terminate this Agreement.

**7. Mutual Representations.** Each party covenants, represents and warrants to the other, as follows:

(A) They are possessed and vested with full power and authority to enter into and consummate this Agreement and to perform the obligations hereunder.

(B) There are no leases, tenancies or other rental arrangements or rights of possession pertaining to any portion of the West Lot, and AT&T owns fee simple title to



the West Lot, as applicable, and each have full right and lawful authority to enter into and perform their obligations under this Agreement.

(C) Neither party has actual knowledge of any special taxes or assessments levied against the West Lot which are not yet due and payable at the office of the tax collection authority having jurisdiction or any existing or proposed improvements to be paid for by special taxes or assessments subsequent to the date of this Agreement.

(D) .

(E) Neither party is aware of any hazardous materials in or about the West Lot, and has not received any notice of any hazardous material violation of similar notice from any governmental authority.

(F) Each party asserts that all statements made by that party in this Agreement are true and correct and the information that party has provided or will provide relating to this Agreement does not and will not contain any statement which, at the time and in the light of the circumstances under which it was made, is false or misleading with respect to any material fact, or omits to state any material fact (which is actually known by the applicable party), thereby making any statement false or misleading in any material respect.

(G) This Agreement is a valid and binding contract, enforceable against either party in accordance with its terms.

**8. AT&T's Representations:**

(A) The West Lot Consideration described in Section 3, in lieu of a cash payment for the West Lot, is adequate and sufficient consideration and compensation to AT&T and provides sufficient value for transfer of the West Lot to City pursuant to this Agreement.

**9. City's Representations.** City covenants, represents and warrants to AT&T, as follows:

(A) City is a duly organized, validly existing charter city and political subdivision of the State of Missouri, and is possessed and vested with full power and authority to enter into and consummate this Agreement and to perform City's obligations under this Agreement.

(B) City has duly approved the transaction contemplated by this Agreement, and the City is authorized to execute this Agreement and to do all other such acts and to take such other action as may be necessary to consummate this Agreement.

**10. Survival of Representations and Agreements.** All representations, warranties and agreements contained in this Agreement or in any certificate, instrument or document delivered by or on behalf of any parties to this Agreement or in connection with the transaction contemplated by this Agreement shall be deemed representations, warranties or agreements of that party, and shall survive, except to the extent waived by the party for whose benefit they exist, the Closing or termination of this Agreement.

**11. Brokers and Commissions.** The parties represent to one another that neither has dealt with any brokers or persons who may claim any commissions or fees in connection with the transaction contemplated by this Agreement.

**12. Closing.** The Closing shall be by escrow through the Title Company as follows:

(A) On or before the Closing Date, AT&T shall deliver to the Title Company a special warranty deed for the West Lot (the “**Deed**”) for the West Lot, conveying title free and clear of all liens and encumbrances other than the Permitted Exceptions. The form of the Deed shall be mutually agreed to by the parties prior to the end of the Inspection Period.

(B) Each party shall deliver all other documents reasonably necessary to complete the Closing and may deliver closing or escrow instructions to the Title Company consistent with the provisions of this Agreement.

(C) Each party shall deliver and execute West Lot License Agreement.

**13. Closing Costs.** Closing costs shall be paid as follows:

(A) City’s closing costs shall be the title and survey of the West Lot, City’s Title Policy, recording fees pertaining to the West Lot, City’s attorneys’ fees, and all title insurance, transfer fees, document stamps, escrow fees related to transfer of the West Lot;

(B) AT&T’s closing costs shall be AT&T’s attorneys’ fees.

**14. Default and Remedies.**

If either party defaults in the performance of their obligations under this Agreement, and does not cure the same within ten (10) business days after receipt of written notice from the other party (or such longer time as reasonably necessary to effect such cure), the other party may (i) terminate this Agreement, or (ii) elect to treat this Agreement as being in full force and effect, in which case the other party may take such other actions as are available under or with respect to this Agreement or otherwise at law or equity, including but not limited to the remedy of specific performance. With respect to any obligations accruing after or surviving termination or Closing of this Agreement, both parties shall be entitled to all remedies provided by law and equity.

**15. Miscellaneous.**

(A) **Time for Performance.** If the date for the performance of the obligations under this Agreement falls on a Saturday, Sunday or observed banking holiday by national banks in Lee’s Summit, Missouri, the date of performance shall be extended to the next regular business day.

(B) **Business Day.** A “**business day**” as used herein is a day other than a Saturday, Sunday or observed banking holiday by national banks in Lee’s Summit, Missouri.

(C) **Entire Agreement; Amendment.** This Agreement constitutes the entire agreement of the parties concerning the West Lot and supersedes any and all prior oral representations, covenants, understandings or agreements between the parties or their agents, and may be modified only by written agreement signed by both parties.

(D) **Governing Law.** This Agreement shall be governed by Missouri law.

**16. Notices.** All notices or deliveries required under this Agreement shall be hand delivered or given by mail (return receipt requested) or overnight courier (signature required) directed to City at the address listed above in preamble and to AT&T at the following:

AT&T Services, Inc.  
Corporate Real Estate  
200 West Adams Street, 9th Floor  
Chicago, IL 60606  
Attn: PM&T – Missouri

With a copy to: AT&T Services, Inc.  
208 S. Akard Street  
Dallas, TX 75202  
Attn: General Attorney – Real Estate

with a copy to:  
**Luke Maher**  
Norton Rose Fulbright US LLP  
7676 Forsyth Blvd, Suite 2230  
St. Louis, Missouri 63105, United States  
[luke.maher@nortonrosefulbright.com](mailto:luke.maher@nortonrosefulbright.com)

All notices so given shall be considered effective if hand delivered, when received; if delivered by courier, one (1) business day after timely deposit with the courier service, charges prepaid; or if mailed, three (3) days after deposit, first class postage prepaid, with the United States Postal Service. Either party may change the address to which future notices shall be sent by notice given in accordance with this Section.

*[Remainder of this page intentionally left blank, signature pages to follow]*

**EXECUTED** as of the Effective Date written above.

**CITY:**

**CITY OF LEE'S SUMMIT,**  
A charter city and political subdivision of the  
State of Missouri

---

William A. Baird  
*Mayor*

Attest:

---

Trisha Fowler Arcuri, City Clerk

Approved as to form:

---

David Bushek, Chief Counsel of Economic  
Development & Planning

**AT&T:**

**SOUTHWESTERN BELL TELEPHONE  
COMPANY**





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[Name]  
[Title]

**EXHIBIT A**

**LEGAL DESCRIPTION AND MAP OF THE WEST LOT**

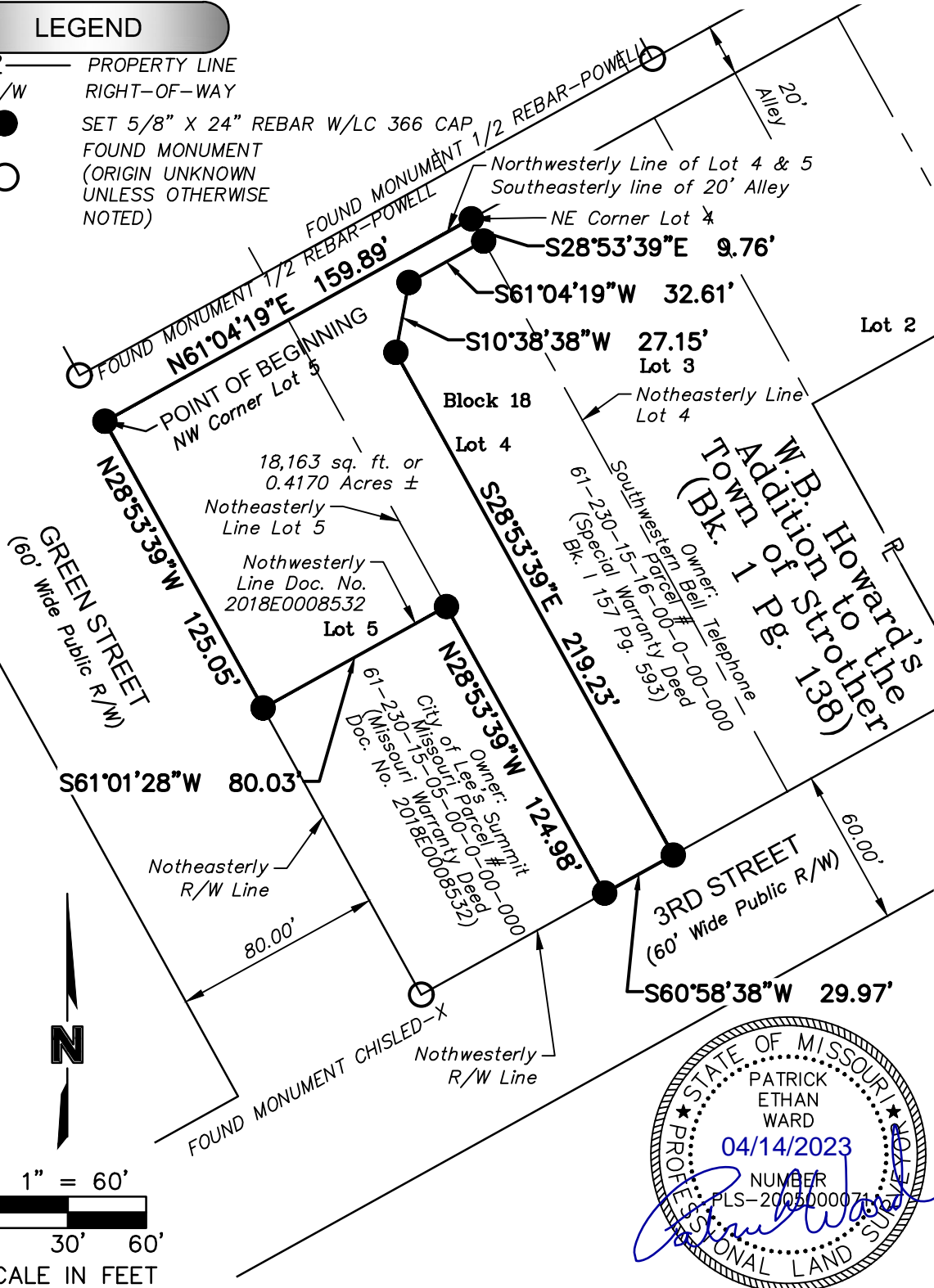
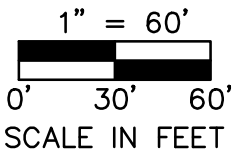
**LEGEND**

-  PROPERTY LINE
-  RIGHT-OF-WAY
-  SET 5/8" X 24" REBAR W/LC 366 CAP  
FOUND MONUMENT  
(ORIGIN UNKNOWN  
UNLESS OTHERWISE  
NOTED)
-  (ORIGIN UNKNOWN  
UNLESS OTHERWISE  
NOTED)

USER: evallentine

DWG: F:\2022\00001-00500\022-00393\40-Design\Survey\SRV\Sheets\EXH1\_02200393.dwg  
 DATE: Apr 14, 2023 11:04am  
 XREFS: V\_XBASE\_62252 V\_XTOP0\_02200393

DWG: F:\2022\00001-00500\022-00393\40-Design\Survey\SRV\Sheets\EXH1\_02200393.dwg  
 DATE: Apr 14, 2023 11:04am  
 XREFS: V\_XBASE\_62252 V\_XTOP0\_02200393



|             |            |
|-------------|------------|
| PROJECT NO: | 02200393   |
| DRAWN BY:   | EDV        |
| DATE:       | 04.14.2023 |

ATT  
WEST LOT



7301 West 133rd Street  
 Suite 200  
 Overland Park, KS 66213-4750  
 TEL 913.381.1170

|         |
|---------|
| EXHIBIT |
| B       |

Exhibit "A"

File No.: 022-00393  
Project Name: GLMV Lee's Summit Market Place  
Owner: Southwestern Bell Telephone  
April 14, 2023

ATT WEST LOT DESCRIPTION:

All that part of Lots 4 and 5, Block 18, W.B. Howard's Addition to the Town of Strother, a recorded subdivision in the City of Lee's Summit, Jackson County, Missouri, lying in the Southwest Quarter of Section 5, Township 47 North, Range 31 West, being described on April 14, 2023, by Patrick Ethan Ward, PLS-2005000071 of Olsson, Inc., LC-366, as follows:

BEGINNING at the Northwest corner of said Lot 5; thence North 61 degrees 04 minutes 19 seconds East (Basis of Bearings - Held Southwesterly Line of Lot 5, W.B. Howard's Addition to the Town of Strother at North 28°53'39" West, Missouri Coordinate System, 1983, West Zone, US Survey Feet) on the Northwesterly line of said Lot 5 and Lot 4 and Southeasterly line of a 20.00 feet wide alley a distance of 159.89 feet to the Northeast corner of said Lot 4; thence South 28 degrees 53 minutes 39 seconds East, on the Northeasterly line of said Lot 4 a distance of 9.76 feet to a point; thence South 61 degrees 04 minutes 19 seconds West, departing said Northeasterly line a distance of 32.61 feet to a point; thence South 10 degrees 38 minutes 38 seconds West a distance of 27.15 feet to a point; thence South 28 degrees 53 minutes 39 seconds East a distance of 219.23 feet to a point on the Northwesterly right of way line of 3<sup>rd</sup> Street, as now established; thence South 60 degrees 58 minutes 38 seconds West on said Northwesterly right of way line a distance of 29.97 feet to a point on the Northeasterly line of said Lot 5; thence North 28 degrees 53 minutes 39 seconds West, departing said Northwesterly right of way line, on said Northeasterly line a distance of 124.98 feet to the North corner of a tract of land conveyed Missouri Warranty Deed Document Number 2018E0008532, recorded at the Jackson County, Missouri Recorder of Deeds office; thence South 61 degrees 01 minutes 28 seconds West on the Northwesterly line of said tract a distance of 80.03 feet to a point on the Northeasterly line of Green Street, as now established; thence North 28 degrees 53 minutes 39 seconds West on said Northeasterly right of way line a distance of 125.05 feet to the POINT OF BEGINNING, containing 18,163 Square Feet or 0.4170 Acres, more or less.

(As depicted on Exhibit "B", attached and incorporated herein).



Olsson Inc.  
7301 W 133<sup>rd</sup> Street, Suite 200  
Overland Park, KS 66213  
(913) 381-1170

**EXHIBIT B**

**MAP OF REPLACEMENT PARKING SPACES AND ACCESS DRIVES**

*[Attached]*





# Exhibit B

Red: Initial Location of Replacement Parking Spaces

Blue: Access Drives, with possible replacement parking

Replacement Parking Spaces

3 Parking Spaces

Possible Replacement Parking Spaces





**EXHIBIT C**

**WEST LOT LICENSE AGREEMENT**

*[Attached]*

## LICENSE AGREEMENT FOR WEST LOT

THIS LICENSE AGREEMENT FOR THE WEST LOT (the “**License Agreement**”), made this \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the City of Lee’s Summit, Missouri, (hereinafter called “**City**”), and Southwestern Bell Telephone Company, a Delaware corporation (hereinafter called “**AT&T**”).

WITNESSETH:

WHEREAS, City presently owns certain land known as the West Lot pursuant to the Real Estate Sales Agreement dated \_\_\_\_, 2023 between the City and AT&T (the “**Real Estate Agreement**”) which is more particularly described on **Exhibit A** which is attached hereto and incorporated herein by reference; and

WHEREAS, City desires to license to AT&T and AT&T desires to license from City the West Lot for the provision of parking spaces for the benefit of AT&T’s business operations at Central Office Property the (“**Licensed Premises**”).

NOW, THEREFORE, City, in consideration of the obligations hereby assumed by AT&T hereby licenses and authorizes AT&T, its officers, members, contractors, agents and guests, to enter and go upon the Licensed Premises, at all times during the continuance of this License Agreement, and there to use and enjoy the Licensed Premises for parking purposes, subject to the following:

*All capitalized words and terms which are not defined in this License Agreement shall have the meanings as assigned in the Real Estate Agreement.*

1. LICENSED PREMISES. The Licensed Premises referenced in this Agreement are generally depicted on **Exhibit B**, and are legally described as:

North half of Lot 5, Block 18 of “W.B. Howard’s First Addition to the Town of Strother,” a plat in Lee’s Summit, Jackson County, Missouri

2. USE OF LICENSED PREMISES. AT&T, its officers, members, contractors, agents and guests shall have the right to exclusively use the Licensed Premises solely for parking and storage of personal and company vehicles associated with AT&T’s business operations at the Central Office Property.

3. RESTRICTION ON MODIFICATIONS AND IMPROVEMENTS. AT&T, its officers, members, contractors, agents and guests are prohibited from making any addition, modification or improvement to any part of the Licensed Premises, and are prohibited from placing, affixing or constructing any structure, utility, signage or markings on the Licensed Premises, without City’s consent, which consent shall not be unreasonably withheld.

4. Reserved.

5. RULES AND REGULATIONS. AT&T, its officers, members, contractors, agents and guests shall comply with all reasonable ordinances, rules and regulations of the City concerning use of the Licensed Premises, provided such ordinances, rules and regulations do not limit AT&T's right to use the Licensed Premises as intended by this License Agreement.

6. MAINTENANCE. City agrees to maintain, at its sole cost and expense, the parking spaces on the Licensed Premises, at all times during the continuation of this Agreement.

7. RESTRICTION AS TO WASTE. AT&T shall not, except so far as may be reasonably necessary for the maintenance of the parking spaces of the Licensed Premises as aforesaid, commit or permit any waste thereon, and in particular AT&T shall not without the permission in writing of City cut down or destroy or injure any bushes or trees. AT&T shall be liable for any damage done to the Licensed Premises directly by AT&T or any of its users, except as is permitted by this Agreement, by any persons entering upon the Licensed Premises on behalf of AT&T pursuant to the terms of this Agreement.

8. GENERAL INDEMNITY.

A. GENERAL. AT&T shall cover, release, defend, become responsible for and forever hold harmless the City, its officers, agents, employees, elected officials, and attorneys, each in their official and individual capacities, subject to the provisions set forth in the Missouri Sovereign Immunity Statute, from and against all lawsuits, suits, actions, costs, claims, demands, damages, disability, losses, expenses, including reasonable attorney's fees and other defense costs or liabilities of any character and from any cause whatsoever, brought because of bodily injury or death received or sustained, or loss or damage received or sustained, by any person, persons, or property to the extent directly arising out of or resulting from any act, error, omission, or intentional act of AT&T or its agents, employees, or subcontractors, arising out of or in any way connected with the operations expressly authorized herein; provided, however, that AT&T need not save harmless the City from claims, demands, losses and expenses (A) to the extent arising out of the negligence or misconduct of the City, its employees, agents, or contractors or (B) to the extent the claim, demand, loss, or expense is actually paid by insurance proceeds received by or for the City from its insurance coverages.

B. NO LIMITATIONS OR WAIVER. The indemnity required hereunder shall not be limited by reason of the specification of any particular insurance coverage in this Agreement, or by a limitation of the amount or type of damages or compensation payable by or for AT&T under Workers' Compensation, disability or other employee benefit acts, acceptance of insurance certificates required under this Agreement, or the terms, applicability or limitation of any insurance held by AT&T. The City does not, and shall not, waive any rights against AT&T which it may have by reason of this indemnification, because of the acceptance by the City, or the deposit with the City by AT&T, of any of the insurance policies described in this Agreement. Except as provided in subpart A above, this indemnification by AT&T shall apply regardless of whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages.

C. NOTIFICATION OF CLAIMS. With respect to any claims which are subject to indemnity hereunder, AT&T shall immediately notify the City of any and all claims filed against AT&T or AT&T and the City jointly, and shall provide the City with a copy of the same.

9. WAIVER OF CONSEQUENTIAL DAMAGES. Each party to this License Agreement hereby waives all claims against the other party for incidental and consequential damages arising out of or relating to this License Agreement. For purposes of this License Agreement, incidental and consequential damages shall be defined as and shall include, but shall not be limited to, losses of use, financing, business, reputation, profit, and income.

10. INSURANCE.

A. GENERAL PROVISIONS. AT&T shall file with the City evidence of liability insurance with an insurance company licensed to do business in Missouri. At all times while this Agreement remains in effect, and in recognition of the indemnification provisions set forth above, AT&T shall, at its own cost and expense, maintain a program of commercial general liability insurance and/or self-insurance in the amounts specified below to protect AT&T and the City, its officers, agents, employees, elected officials, and attorneys, each in their official and individual capacities, from any liability for bodily injury, death and property damage occasioned by the activities of AT&T, or any person acting on their behalf, under this Agreement, including, but not limited to, AT&T's operations, products, services or use of automobiles or construction equipment. As proof of this compliance, AT&T shall, during the term of this Agreement, keep on file with the Clerk of the City a certificate of insurance with an insurance company licensed to do business in the State of Missouri and/or affidavit of self-insurance which shall show the types and amounts of coverage. Any affidavit of self-insurance shall be signed by AT&T, or an employee or officer of AT&T who has knowledge of AT&T's self-insurance program and is authorized to make representations as to the scope of said program, and shall contain a statement making such representations. The City shall maintain insurance of types of coverages and at levels determined by the City. The City shall provide to AT&T a certificate of insurance evidencing said insurance coverages and levels.

B. LIMITS AND COVERAGE. Bodily Injury and Property Damage, Commercial General Liability Coverage – Occurrence Form unless otherwise agreed by the City:

**Combined Single Limit –**

|  |             |
|--|-------------|
| General Aggregate:                       | \$3,258,628 |
| Products-Completed Operations Aggregate: | \$3,258,628 |
| Personal & Advertising Injury:           | \$3,258,628 |

For any one person in a single Occurrence: \$488,755

The following endorsements shall attach to the policy:

- (1) The policy shall cover personal injury as well as bodily injury.
- (2) The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries and property damage.
- (3) Broad form property damage liability shall be afforded.
- (4) The City shall be listed as an additional insured.
- (5) Standard form of cross-liability shall be afforded.
- (6) The policy shall not be cancelled, or materially modified so as to be out of compliance with the requirements of this section, or not renewed without thirty (30) days advance written notice of such event being given to the City.

Automobile Liability: \$3,258,628 for Each Accident for All Owned, Non-Owned & Hired Vehicles

10. TERMINATION. This Agreement shall be in effect until the Replacement Parking Spaces have been provided to AT&T in accordance with the Real Estate Agreement. The City shall deliver written notice of the termination of this License Agreement when this condition has been satisfied and AT&T shall return the Licensed Spaces to the City in its then current AS Is condition. The parties may mutually agree in writing to terminate this License Agreement at an earlier date.

#### 11. CONSTRUCTION OF AGREEMENT.

A. HEADINGS. The paragraph headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

B. NON-WAIVER. No waiver of any condition or covenant contained in this Agreement or any breach thereof shall be taken to constitute a waiver of any subsequent condition, covenant or breach.

C. JOINTLY DRAFTED. This Agreement shall be deemed to have been jointly drafted by the parties and shall not be construed more strongly against any party hereto.

D. APPLICABLE LAW. This instrument shall be construed in accordance with the laws of the State of Missouri.

12. UNASSIGNABLE. The license created by this Agreement is solely for AT&T, its officers, members, servants, agents and guests and no others. Neither the license nor this Agreement, in whole or part, is assignable.

13. NON-SEVERABLE. If any term or provision of this Agreement or the application to any person or circumstance shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall be deemed invalid and unenforceable, provided, however, that the terms and provisions of paragraph 10 shall not be affected thereby and each term and provision of said paragraph 10 shall be valid and enforced to the fullest extent permitted by law.

14. NOTICE. Whenever any notice is required by this Agreement to be made, given or transmitted to the City, it shall be enclosed in an envelope with sufficient postage attached to ensure delivery and deposited in the United States Mail, first class, addressed to:

City Manager  
220 SE Green Street  
Lee's Summit, MO 64063

City Attorney  
220 SE Green Street  
Lee's Summit, MO 64063

and notices to AT&T shall be addressed to:

AT&T Services, Inc.  
Corporate Real Estate  
200 West Adams Street, 9th Floor  
Chicago, IL 60606  
Attn: PM&T – Missouri

With a copy to:

AT&T Services, Inc.  
208 S. Akard Street  
Dallas, TX 75202  
Attn: General Attorney – Real Estate

with a copy to:

**Luke Maher**  
Norton Rose Fulbright US LLP  
7676 Forsyth Blvd, Suite 2230  
St. Louis, Missouri 63105, United States  
[luke.maher@nortonrosefulbright.com](mailto:luke.maher@nortonrosefulbright.com)

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or such place as either party shall designate by written notice to the other. Said notices may also be personally hand delivered by each party to the other, at the respective addresses listed above. If hand delivered, the date of actual completion of delivery shall be considered the date of receipt. If mailed, the item shall be considered received the third day after the date of mailing.

15. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement

between the parties hereunder and all other representations of statements heretofore made, verbal or written, are merged herein and this Agreement may be amended only in writing, and executed by duly authorized representatives of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date first above mentioned at Lee's Summit, Missouri.

**CITY OF LEE'S SUMMIT, MISSOURI**

\_\_\_\_\_  
Mark Dunning, City Manager

ATTEST:

\_\_\_\_\_  
Trisha Fowler Arcuri, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
David Bushek, Chief Counsel of  
Economic Development & Planning



**SOUTHWESTERN BELL TELEPHONE COMPANY**

---

[Name]





EXHIBIT A  
REAL ESTATE AGREEMENT

[Attached]

EXHIBIT B  
DEPICTION OF LICENSED PREMISES

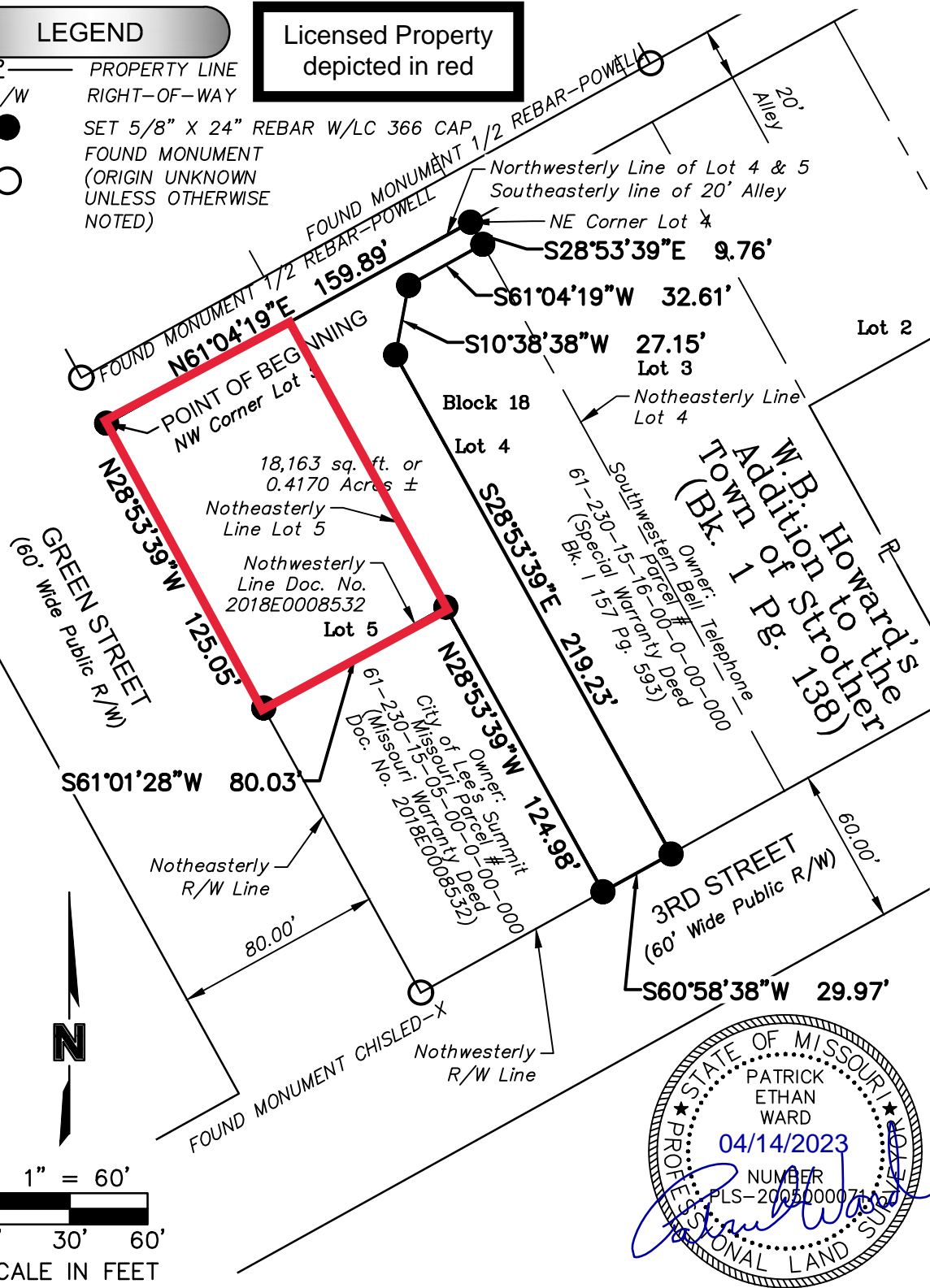
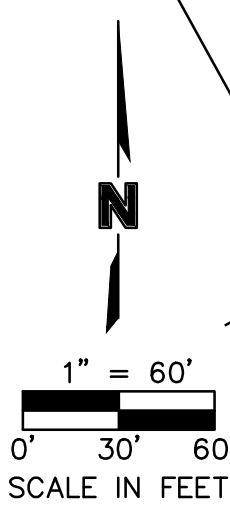
[Attached]

**LEGEND**

-  PROPERTY LINE
-  R/W RIGHT-OF-WAY
-  SET 5/8" X 24" REBAR W/LC 366 CAP FOUND MONUMENT (ORIGIN UNKNOWN UNLESS OTHERWISE NOTED)
-  FOUND MONUMENT 1/2 REBAR-POWELL

**Licensed Property depicted in red**

USER: evallentine  
 F:\2022\00001-00500\022-00393\40-Design\Survey\SRV\Sheets\EXH1\_02200393.dwg  
 V\_XTOP0\_02200393  
 XREFS: V\_XBASE\_62252  
 DATE: Apr 14, 2023 11:04am  
 DWG: F:\2022\00001-00500\022-00393\40-Design\Survey\SRV\Sheets\EXH1\_02200393.dwg  
 DATE: Apr 14, 2023 11:04am



|             |            |
|-------------|------------|
| PROJECT NO: | 02200393   |
| DRAWN BY:   | EDV        |
| DATE:       | 04.14.2023 |

ATT  
WEST LOT



7301 West 133rd Street  
Suite 200  
Overland Park, KS 66213-4750  
TEL 913.381.1170

|         |
|---------|
| EXHIBIT |
| B       |