

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement"), made this 8<sup>th</sup> day of February 2024, by and between the City of Lee's Summit, Missouri, a Missouri constitutional charter city, by and through the Lee's Summit Parks and Recreation Board ("City"), and Woodland Oaks, LLC ("Developer"). City and Developer are sometimes referred to herein individually as the "Party" or collectively as the "Parties."

### WITNESSETH:

WHEREAS, the Developer is in the process of developing the Woodland Oaks subdivision, which requires certain improvements upon and access through City property in order to connect the subdivision to NE Blackwell Parkway as outlined in the approved development plan on file with the City ("Project"). In order to complete the Project, the Developer will need a license to access and maintain real property owned by the City and easements granted to the City, if any, as described in Paragraph 1 below ("Licensed Premises"); and

WHEREAS, the City desires to license to Developer and Developer desires to license from City the Licensed Premises solely for the purpose of the Project; and

WHEREAS, the City is granting this license based upon the Developer's agreements made in this Agreement.

NOW, THEREFORE, City, in consideration of the obligations hereby assumed by Developer, hereby licenses and authorizes Developer, its officers, members, contractors, agents, and guests, to enter and go upon the Licensed Premises, at all times during the continuance of this Agreement, and there to use and enjoy the Licensed Premises for the Project, subject to the following terms and conditions about the license and such usage:

1. **LICENSED PREMISES.** The "Licensed Premises" as referenced in this Agreement includes the area described and depicted on **Exhibit A**, attached hereto and incorporated herein by reference.

2. **USE OF LICENSED PREMISES.** Developer, its officers, members, contractors, agents, and guests shall have the right to use the Licensed Premises solely for the Project. Any improvements on the Licensed Premises are subject to approval by the City, and shall comply with all existing and future federal, state, and local laws and regulations, including the ordinances and regulations of the City. Nothing in this Agreement shall bar, or in any respect prevent, the City from imposing lawful conditions related to other activities by Developer, or prevent the City from requiring additional reasonable authorizations in connection with the use and occupancy of the Licensed Premises for purposes other than those expressly authorized herein.

3. **RESTRICTION ON MODIFICATIONS AND IMPROVEMENTS.** Except as specifically allowed by this Agreement, Developer, 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.

4. **CONDITIONS OF LICENSE.** Without limiting the City's authority to regulate the use of the rights-of-way and public or private property pursuant to its police powers, Developer shall comply with the following:

- A. Any improvements shall be performed in accordance with best industry practices and other applicable federal, state, or local laws and regulations that may apply to the construction, installation, and maintenance of any improvements.
- B. The Developer shall at all times employ ordinary care and shall install and maintain commonly accepted methods and devices that prevent failures and accidents that are likely to cause damage, injury, or nuisance to the Licensed Premises.
- C. If the Developer chooses to install underground irrigation on the Licensed Premises, Developer shall provide plans for the irrigation improvements to the City before commencing the improvements on the Licensed Premises. The City shall have 10 calendar days to either approve, reject, or return to the Developer for comments on the plans, if it chooses. Any irrigation improvements, including but not limited to installation, maintenance, repairs, utility costs, and permitting costs, shall be at the sole expense of the Developer.
- D. The Developer shall take the steps required to incorporate any improvements into the Missouri One-Call program so that the location of any improvements will be known upon inquiry of underground facilities. The Developer shall provide proof to the City that this requirement has been satisfied prior to any improvements being placed in service.
- E. The Developer shall notify the City in writing of all subcontractors along with a point of contact and contact information for each subcontractor who will be performing work on the Project so the City can contact the subcontractor as needed.
- F. As the Project will occur on public property designated as a City Park, communication between the Developer and City is important so the City can provide updates to users of the Park on a timely basis. The Developer shall notify the Administrator of Parks and Recreation in writing at least 72 hours before commencing any work for the Project on the Licensed Premises. Developer shall further



notify the Administrator of Parks and Recreation in writing on, at minimum, bi-weekly on the Project's progress and estimated completion date.

- G. The Developer shall take all reasonable steps to ensure the public roadway, the curb and gutter, or any other public improvements are not damaged by the Developer's use of the Licensed Premises. Should any damage occur to the City's property both inside or outside of the right-of-way as a result of the Developer's use of the Licensed Premises the Developer agrees to promptly repair any damage to the satisfaction of the City.
- H. Developer shall access and perform work on the Licensed Premises only between the hours of 7:00 am to 7:00 pm, Monday through Friday, unless the City has given written permission to Developer to extend the listed times and days.
- I. Any and all easements, rights-of-way, public property, or private property that are disturbed or damaged during the construction, installation, or maintenance of any improvements shall be promptly restored by the Developer to at least its prior conditions, and as may otherwise be reasonably required by City law, ordinance, resolution, or regulation, unless the City and the Developer mutually agree in writing otherwise. If the Developer fails to restore the affected property to the City's reasonable satisfaction within ten (10) calendar days of receipt of written notice to Developer, City may restore the property and charge the cost thereof to Developer. Provided that, where any work presents an immediate hazard to public health or safety, the City may, without notice, remove the hazard, and the Developer shall pay all costs incurred by the City. If trenching and/or land disturbance occurs on City property or right-of-way, the Developer shall repair, regrade, compact, re-seed, and straw mat all areas to return areas to like or better condition and provide necessary watering for 14 days after the seeding. Any trees removed on the Licensed Premises, shall be strictly limited to the removal necessary to complete the improvements and only after written agreement from the City to ensure the best possible use of the Licensed Premises is maintained. Only best management practices shall be allowed for the removal and processing of trees and brush on the Licensed Premises. Incineration or burning of trees or brush shall not be allowed on the Licensed Premises. If grinding of the trees or brush is utilized on the Licensed Premises, all mulch created by the grinding must be promptly removed from the Licensed Premises unless the mulch is being used in accordance with an approved erosion and sediment control plan. The Developer shall replace and install equivalent tree size and species agreed to in writing by the Administrator of Parks and Recreation

over 4" caliper for any trees removed within the Licensed Premises after the effective date of this Agreement. Any trees removed prior to the effective date of this Agreement shall be considered replaced under this Agreement if replacement occurs according to the approved landscape plan shown on Exhibit B with the updated medium landscape shown on Exhibit C, attached hereto and incorporated herein ("**Landscape Plan**"). Replacement plant material shall be equivalent to the amount of tree removal. Species shall be selected and locations approved by the Administrator of Parks and Recreation. If any damage occurs to existing park trails or sidewalks, the Developer shall promptly, but not later than ten (10) business days after the damage occurs, repair the trail or sidewalks to the APWA trail specification at the Developer's own expense.

- J. All landscaping shall be installed according to the Landscape Plan in the Licensed Premises and maintained in the same manner as show in the Landscape Plan in perpetuity by the Developer, all at the Developer's cost. The Developer shall install all landscaping according to the Landscape Plan within 120 days after the effective date of this Agreement.
- K. All maintenance in the Licensed Premises shall be performed by the Developer, at the Developer's cost, with the same standard of care and appearance, equivalent or equal to that of Legacy Park on the east side of Blackwell Parkway, to provide a uniform appearance in the area.
- L. The only items permitted in the Licensed Premises are the landscaping approved in the landscaping plan. No temporary or permanent signage and no structures or other improvements shall be allowed in the licensed area without the written consent of the Parks and Recreation Administrator.
- M. The City shall have the right to enter, maintain, or remove anything in the Licensed Premises if, after notice to Developer, the Developer fails in their obligation. The Developer shall be responsible for the costs of such action.
- N. The Developer shall maintain the sidewalk in the Licensed Premises in a safe and esthetically pleasing manner.
- O. Erosion control and stream protection are required by permitting agencies and shall be installed at the Developer's own expense. All erosion control maintenance and removal shall be completed by the Developer at the Developer's own expense.



- P. The Developer agrees the Project involves work on the Licensed Premises that involve a public City Park. As such, special care needs to be observed in using Park Property. The Developer shall provide signage at each end of the park trail or sidewalk where construction is adjacent to notifying patrons of the construction and the length of time the park will be under construction, with suggested signage approved by the Administrator of Parks and Recreation prior to posting. The Developer shall install orange construction fence along the repair area as it extends through the Licensed Premises. Construction operations will be required to remain within these limits, and fencing shall be maintained during the duration of the Project.
- Q. Although the Project is on the City's Property, the Developer shall be responsible for all permits necessary for any improvements.

5. **RESTRICTION AS TO WASTE.** The Developer shall not, except so far as may be reasonably necessary for the improvements on the Licensed Premises, commit or permit any waste thereon. Developer shall be liable for any damage done to the Licensed Premises, except as is permitted by this Agreement, by any persons entering upon the Licensed Premises on behalf of Developer pursuant to the terms of this Agreement.

6. **GENERAL INDEMNITY.**

- A. **GENERAL.** To the extent permitted by law, Developer shall indemnify, 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, or fines or clean-up actions imposed by any local, state, or federal government, to the extent arising out of or resulting from any negligent act, error or omission of Developer or its agents, employees, or subcontractors, arising out of or in any way connected with the operations expressly authorized herein; provided, however, that Developer need not save harmless the City from claims, demands, losses and expenses to the extent arising out of the sole negligence or misconduct of the City, its employees, agents, or contractors. Notwithstanding any provision of this Agreement to the contrary, nothing in this Agreement shall be construed to prohibit one Party from seeking and receiving contributions from the other Party, to the extent that one Party must pay damages that are partially the fault of the other Party.

- 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 Developer 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 Developer. The City does not, and shall not, waive any rights against Developer which it may have by reason of this indemnification, because of the acceptance by the City, or the deposit with the City by Developer, of any of the insurance policies described in this Agreement. Except as otherwise provided in this Agreement, this indemnification by the Developer 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, each Party shall immediately notify the other of any and all claims filed against Developer, the City, or Developer and the City jointly, and shall provide the other Party with a copy of the same.
- D. USE OF INDEPENDENT CONTRACTORS. The fact that Developer carries out any activities under this Agreement through independent contractors shall not constitute an avoidance of, or defense to, Developer's duty of defense and indemnification under this section.
7. INSURANCE.
- A. GENERAL PROVISIONS. The Developer 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 and subject to the indemnification provisions set forth in this Agreement, Developer 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 the Developer and the City, its officers, agents, employees, and elected officials, each in their official and individual capacities, from any liability for bodily injury, death, and property damage occasioned by the activities of the Developer, or any person acting on their behalf, under this Agreement, including, but not limited to, Developer's operations, products, services, or use of automobiles or construction equipment. As proof of this compliance, the Developer 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 the Developer, or an employee or officer of the Developer who has knowledge of the Developer'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.

- 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:	\$3,000,000
Products-Completed Operations Aggregate:	\$3,000,000
Personal & Advertising Injury:	\$3,000,000
Each Occurrence:	\$3,000,000

**Automobile Liability:** \$3,000,000 for Each Accident for All Owned, Non-Owned & Hired Vehicles

The following coverages should be included:

- (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 and include an endorsed waiver of subrogation in favor of the City.
- (5) Standard form of cross-liability shall be afforded.
- (6) The policy shall not be canceled 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.

The limits of liability for each policy coverage amount stated above shall be automatically adjusted upward as necessary to remain at all times not less than the maximum amount of liability set forth in Chapter 537.610 RSMo. applicable to political subdivisions pursuant to 537.600; provided that nothing herein or in any such policy shall be deemed to waive the City's sovereign immunity.

C. **USE OF CONTRACTORS AND SUBCONTRACTORS.** Developer shall not permit any contractor or subcontractor to commence or continue work until they shall have obtained or caused to be obtained all insurance required under this Paragraph. Said insurance shall be maintained in full force and effect until the completion of the work performed and approval thereof by the City.

D. **WORKERS' COMPENSATION.** Developer shall ensure they, that all contractors or subcontractors performing work for Developer, obtain and maintain Workers' Compensation Insurance for all employees, and in case any work is sublet, Developer shall require any subcontractors to provide Workers' Compensation insurance for all subcontractor's employees, in compliance with State laws, and to fully protect the City from any and all claims of such employees arising out of occurrences during work performed hereunder. Developer hereby indemnifies the City for any damage resulting to it from the failure of either Developer or any contractor or subcontractor to obtain and maintain such insurance. The Developer further waives its rights to subrogation with respect to any claim against the City for injury arising out of performance under this Agreement.

8. **REVOCATION.** The City may cancel this Agreement and revoke the license hereby granted as to all or any part of the Licensed Premises by providing written notice of such to the Developer with thirty (30) calendar days advance notice. No such termination shall negate any rights or obligations of the parties accrued through the date of such termination.

9. **TERMINATION.** This Agreement shall terminate in one of the following ways, whichever occurs first:

A. By the mutually written agreement of the parties;

B. Pursuant to Section 8 (Revocation).

10. **CONSTRUCTION OF AGREEMENT.**

A. **SIMPLE LICENSE.** The license created by this Agreement shall be construed as a simple license (sometimes referred to as a "bare," "mere" or "naked" license).

B. **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.

C. **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.



D. 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.

E. APPLICABLE LAW. This Agreement shall be governed by the laws of the State of Missouri, and a suit pertaining to this Agreement may be brought only in courts in eastern Jackson County, Missouri. The Parties expressly and irrevocably consent to the exclusive jurisdiction and venue of such courts and expressly waive the right to transfer or remove any such action.

11. UNASSIGNABLE. The license created by this Agreement is solely for the Developer, its officers, members, servants, agents, and guests, and no others. Neither the license nor this Agreement, in whole or part, is assignable without the written consent of the City.

12. SEVERABILITY. If any term or provision of this Agreement is held illegal or unenforceable in a judicial proceeding, such term or provision shall be severed and shall be inoperative, and provided that the fundamental terms and conditions of this Agreement remain legal and enforceable, and that the essential purposes of this Agreement can still be effectuated, the remainder of this Agreement shall remain operative and binding on the parties.

13. 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 of Lee's Summit  
ATTN: City Manager  
220 SE Green Street  
Lee's Summit, Missouri 64063

and notices to the Developer shall be addressed to:

Woodland Oaks, LLC  
Attn: Dana Wieneck  
656 SE Duxberry Lane, suite 101  
Lee's Summit, MO 64063

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.

14. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties with respect to this Agreement 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. The Development Agreement remains a separate valid agreement between the Parties and nothing contained in this Agreement expands, deletes, or modifies the Development Agreement.

15. COUNTERPARTS. The Parties agree that this Agreement may be signed in two or more counterparts, and all such counterparts together shall constitute one and the same contract; such signatures shall bind the signing party in the same manner as if a handwritten signature had been delivered.

16. 22. RECORDING AND BINDING EFFECT. The City may file a copy of this Agreement or a memorandum of this Agreement in the office of the Recorder of Deeds for Jackson County, Missouri. This Agreement shall run with the land and be binding on and inure to the benefit of the Parties and their respective legal representatives, successors in interest, successors and assigns.


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.

[Remainder of page intentionally left blank]



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

By:

  
Mark Dunning, City Manager

ATTEST:

  
Trisha Fowler Arcuri, City Clerk Deputy



**LEE'S SUMMIT PARKS AND RECREATION**

By:

  
Joe Snook, Administrator of Parks and Recreation

APPROVED AS TO FORM:



Digitally signed by Scott Ison  
Date: 2024.02.09 10:57:28  
-06'00'

Scott Ison, Chief Counsel of Infrastructure and Recreation

[Remainder of page intentionally left blank]

Woodland Oaks, LLC

By: Dana Wienczek

MANAGER, DANA WIENCEK  
(Printed Name)

manager  
(Title)

NOTARY FOR WOODLAND OAKS LLC

STATE OF MISSOURI                    )  
  )     ss.  
COUNTY OF LAFAYETTE            )

On this 8<sup>th</sup> day of February, 2024, before me, ADAM MURRY, a Notary Public in and for said State, personally appeared DANA WIENCEK, the MANAGER of Woodland Oaks, LLC, duly existing under and by virtue of the laws of the State of Missouri as a Limited Liability Company, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said company, and such person duly acknowledged the execution of the same to be the act and deed of said company.

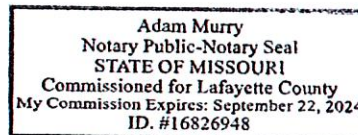
IN TESTIMONY WHEREOF I have hereunto set my hand and affixed my official seal at my office in said county and state on the day and year last above written.  
My Commission Expires:

[SEAL]

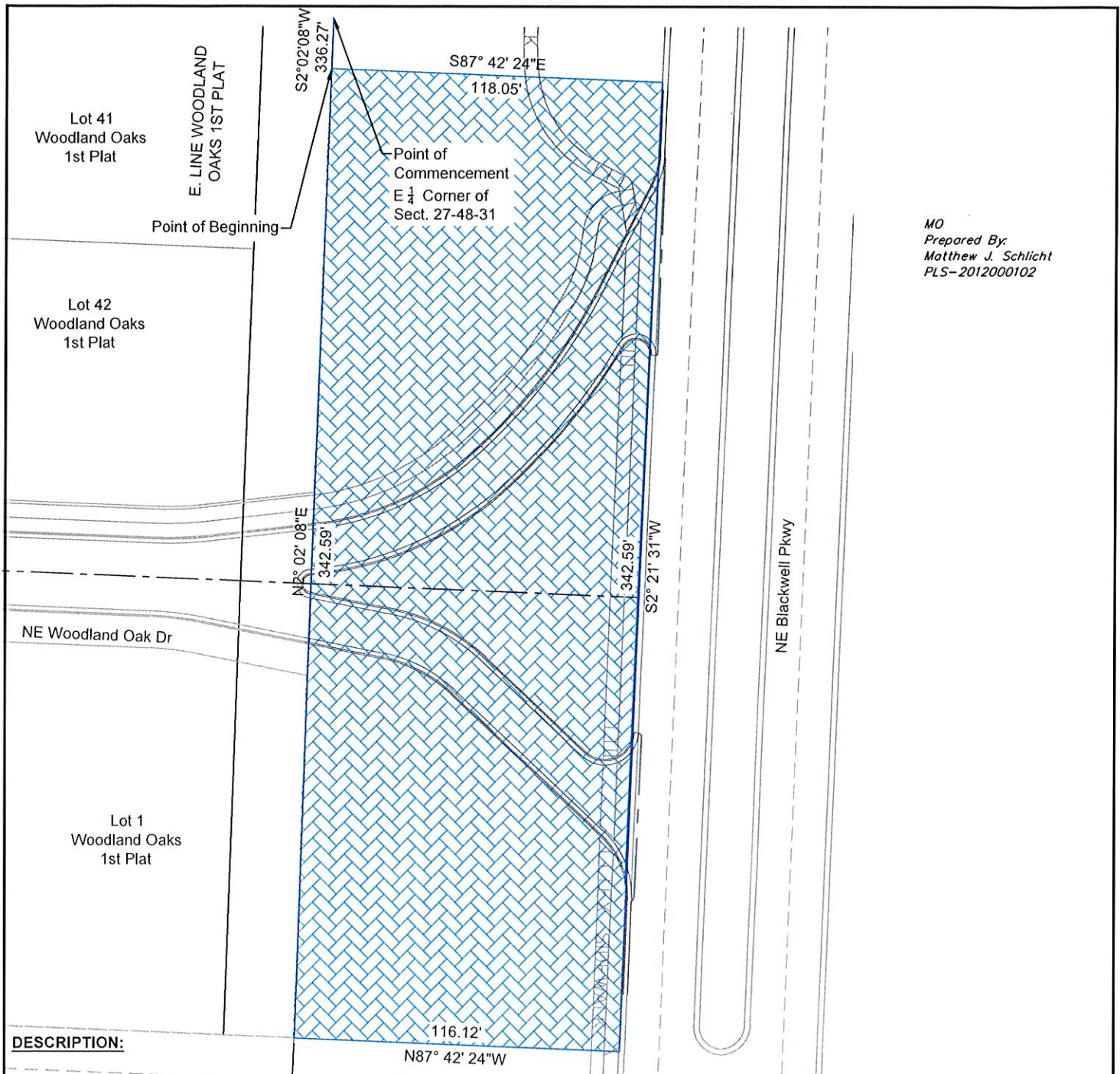


Signature of Notary Public in and for said County and State

Print Name: ADAM MURRY







MO  
Prepared By:  
Matthew J. Schlicht  
PLS-2012000102

A TRACT OF LAND BEING LOCATED IN SECTION 27-48-R31 IN THE CITY OF LEE'S SUMMIT, JACKSON COUNTY, MISSOURI, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 27; THENCE S2°02'08"W, A DISTANCE OF 336.27 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 87°42'24" E, A DISTANCE OF 118.05 FEET; THENCE SOUTH 02°21'31" WEST, A DISTANCE OF 342.59 FEET; THENCE NORTH 87°42'24" WEST, A DISTANCE OF 116.12 FEET; THENCE NORTH 02°02'08" EAST, A DISTANCE OF 342.59 FEET, RETURNING TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED LEGAL DESCRIPTION CONTAINS 40,113.15 SQUARE FEET.

Easement Exhibit

**Entry  
Exhibit**

SHEET 1 OF 1

DATE:

12/6/202

PROJECT NUMBER

Woodland Oaks

REV. TO DWG.

N/A

SCALE

1"=50'

Entry Exhibit

**Woodland Oaks**

Woodland Oaks Lots 1 thru 42

Lee's Summit, Jackson County, Missouri



**ENGINEERING**  
ENGINEERING & SURVEYING  
**SOLUTIONS**

50 SE 30TH STREET  
LEE'S SUMMIT, MO 64082  
P (816) 623-9888 F (816) 623-9849

