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Public Works Director  
City of Urbana  
706 Glover Avenue  
Urbana, Illinois 61802

2023R07593  
REC DN: 06/12/2023 10:56:16 AM  
CHAMPAIGN COUNTY  
AARON AMMONS  
REC FEE: 51.00  
RHSPS FEE:  
STATE TAX:  
COUNTY TAX:  
PLAT ACT:  
PAGES: 13

City of Urbana - Champaign County

**AMENDED AND RESTATED LICENSE AGREEMENT**

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MCDJ, LLC  
208 West Griggs Street  
Urbana, Illinois 61801-2608

CLERK'S CERTIFICATE

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF CHAMPAIGN )

I, PHYLLIS D. CLARK, City Clerk of the City of Urbana, Illinois, and keeper of the records, files and seal of said City, do hereby certify that the foregoing is a true and exact copy of an Resolution entitled:

**A Resolution Approving an Amended and Restated Right-Of-Way License Agreement with MCDJ, LLC (208 W. Griggs Street)**

Adopted by the City Council of the City of Urbana, Illinois, on the 9th day of January, AD, 2023, as it appears in the records and files in my office remaining.

Given under my hand and seal of said City of Urbana, Illinois, this 9<sup>th</sup> day of June, AD, 2023.



Phyllis D. Clark  
Phyllis D. Clark, City Clerk

**RESOLUTION NO. 2022-12-092R**

**A RESOLUTION APPROVING AN AMENDED AND RESTATED RIGHT-OF-WAY  
LICENSE AGREEMENT WITH MCDJ, LLC (208 W. GRIGGS STREET)**

**WHEREAS**, on December 19, 2016, the City Council passed Ordinance No. 2016-12-115, approving a right-of-way license agreement between MCDJ, LLC and the City of Urbana for 208 W. Griggs Street; and

**WHEREAS**, on May 21, 2018, the City Council passed Ordinance No. 2018-05-035, approving an amended and restated right-of-way license agreement between MCDJ, LLC and the City of Urbana for 208 W. Griggs Street; and

**WHEREAS**, both parties desire to amend and restate the agreement; and

**WHEREAS**, the City Council, after due consideration, finds that amending and restating the agreement as herein provided is in the best interests of the residents of the City and is desirable for the welfare of the City's government and affairs.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council, of the City of Urbana, Illinois, as follows:

An amended and restated right-of-way license agreement between MCDJ, LLC and the City of Urbana for 208 W. Griggs Street, in substantially the form of the copy of said agreement attached hereto and hereby incorporated by reference, is hereby authorized and approved. The Mayor of the City of Urbana is hereby authorized to execute and deliver said agreement as so authorized and approved for and on behalf of the City of Urbana.

PASSED BY THE CITY COUNCIL this 9<sup>th</sup> day of January, 2023.

AYES: Wu, Evans, Hursey, Kolisetty, Bishop, Wilken, Quisenberry

NAYS: None

ABSTENTIONS: None



*Phyllis D. Clark*

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this 24<sup>th</sup> day of January, 2023.

*Diane Wolfe Marlin*

Diane Wolfe Marlin, Mayor

## AMENDED AND RESTATED LICENSE AGREEMENT

MCDJ, LLC, an Illinois limited liability company ("Company"), and the City of Urbana, an Illinois municipal corporation ("City"), each a "party" and together the "parties," mutually agree to amend and restate the license agreement authorized by Ordinance No. 2016-12-115, dated December 21, 2016, and the amended license agreement authorized by Ordinance No. 2018-05-035, dated May 23, 2018. This amended and restated license agreement is effective on the last date signed by a party hereto and is to read in its entirety as follows:

1. **Grant of license.** The City hereby grants and the Company hereby accepts a nonexclusive, nontransferable, nonassignable, and revocable license to construct, maintain, operate, repair, and remove a facility ("Facility") consisting of parking, entryways, patios, awnings, and an outdoor serving area, including chairs and tables (comprising approximately 7,160 square feet total), located within public right-of-way or public property on the south, east, and north sides of 208 Griggs Street, Urbana, Illinois ("Licensed Property"), as shown in Exhibit A-2.
  - A. The license gives the Company permission to use the Licensed Property for the limited purposes and term stated in this agreement. The license is not a warranty of title and does not convey any right, title, or interest in the Licensed Property.
  - B. The license is subject to the rights of any public utility or other person or entity currently having rights, licenses, franchises, or easements in and about the Licensed Property.
  - C. The Company shall fully and faithfully perform and comply with all terms, conditions, and covenants contained in this agreement. If the Company fails to perform or comply with any term, condition, or covenant in this agreement, the City may revoke the license after giving the Company a period in which to cure such failure as set forth in this agreement.
  - D. The Company shall not transfer or assign the license.
  - E. The license is nonexclusive and at all times subordinate to the City's and the public's use of the Licensed Property for purposes normally associated with a public right-of-way and/ or public facilities. Accordingly, if necessary to accommodate repair, maintenance, or construction of City utilities or improvements to the Licensed Property, the Company shall, at its sole cost, relocate or remove all or any portion of the Facility not more than 90 days after the City's Public Works Director ("Director") directs such relocation or removal in writing.

- F. The Company shall use its best efforts to maintain contractors on any work project involving the Facility and to work toward its timely completion, barring inclement weather or other situations beyond the Company's control.
  - G. A continuous pedestrian access route, according to the Public Right-of-Way Accessibility Guidelines, shall be maintained along the north side of the Griggs Street right-of-way.
  - H. The license includes the rental lease to the Company of sixteen (16) existing parking spaces located along the north side of 208 Griggs Street and within City Parking Lot #25. These sixteen (16) parking spaces are reserved 24 hours per day, 7 days per week for the Company's use. The Company will be responsible for properly signing the reserved parking spaces and any enforcement required in the event of an unauthorized vehicle in one of the reserved parking spaces. The City will not ticket or tow an unauthorized vehicle in one of the reserved parking spaces.
2. **Term; termination.** This agreement is binding upon the parties hereto for a term of 20 years commencing as of its effective date, unless sooner terminated in accordance with this agreement. The parties may terminate this agreement at any time by mutual written consent. Either party may terminate this agreement for cause by giving written notice to the other party at least 45 days prior to the proposed termination. Such party shall specify the reason or reasons for such termination in the written notice and shall specifically state that such termination will become effective on a date at least 45 days after the date thereof if the other party does not completely cure the reason or reasons for such notice of termination.
3. **Fee.** On the effective date of this agreement and on each anniversary of such date thereafter, the Company shall pay to the City, in advance and without demand, an annual fee of \$7,781.30 as compensation for the license granted under this agreement, minus credits and prorations for amounts paid under the previous version of this agreement. The Company shall pay to the City the annual fee and all other charges required to be paid under this agreement by cash, valid check, or money order at City of Urbana Accounting, 400 S. Vine Street, Urbana, Illinois 61801. The City may adjust the amount set for compensation on January 1 of each year beginning January 1, 2023, in accordance with the Consumer Price Index (CPI-U) published by the United States Department of Labor, Chicago area, all items for all urban consumers, or other generally recognized index which succeeds the Consumer Price Index.
4. **Insurance.** On the effective date of this agreement and on each anniversary of such date thereafter, the Company shall submit to the City, in advance and without demand, a copy of Certificate of Insurance, listing the City of Urbana as additionally insured, for the license granted under this agreement. The Company shall submit a copy of Certificate of Insurance to City of Urbana Accounting, 400 S. Vine Street, Urbana, Illinois 61801.

5. **Installation.** The Company warrants that installation of the Facility will be done and completed in a good and competent manner, in accordance with all requirements of law, and at no expense to the City.
6. **Plan submission.** Upon completion of construction of the Facility, or each segment thereof, the Company shall provide as-built plans to the City in an electronic format compatible with the City's Geographic Information System.
7. **Maintenance.** The Company shall maintain the Facility in good and safe condition and in a manner that complies with all applicable laws. In the outdoor area on the east side of the building, the Company shall, at its sole expense, provide for regular landscaping, including without limitation mowing, watering, weeding, edging, trimming, pruning, fertilizing, mulching, and removing and replacing dead or dying plants, as needed to maintain high aesthetic standards.
8. **Repair.** After doing any work, the Company at its sole cost and expense shall promptly repair and restore to the extent practicable any right-of-way and/ or property disturbed by the Company, including without limitation all sidewalks, parkways, or pavements, to their original condition or better in accordance with the specifications of the City.
  - A. If any such sidewalk, parkway, or pavement becomes uneven, unsettled, or otherwise requires repairing, because of such disturbance by the Company, the Company, as soon as climatic conditions reasonably permit, shall promptly, and no more than 15 days from receipt of notice from the City to do so, cause such sidewalk, parkway, or pavement to be repaired or restored. The Company shall complete such restoration no more 10 days after the date of commencement of such restoration work. If the Company fails to commence and complete the restoration work in the manner and within the times prescribed in this section, the City may perform such work, and the Company shall pay any costs and expenses the City incurs upon written demand by the City.
  - B. If such right-of-way or improvement cannot be so repaired, replaced, or restored, the Company shall compensate the City for the cost or reasonable value of such improvements in an amount estimated by an independent architect, engineer, or contractor mutually agreed upon by the parties.
  - C. Within a reasonable time after completion of any excavations in lawns or grassy parkways, the Company shall backfill, tamp, and restore with seed or mulch all disturbed areas to at least as good a condition as existing immediately preceding the excavation.
  - D. At the Director's discretion, the Company shall repair or replace any shrubs, bushes, or trees existing within the Licensed Property that are disturbed by reason of the construction, maintenance, or repair of the Facility.

- E. The Company shall promptly repair and restore at its own expense all damage it causes to any other utility, including but not limited to storm and sanitary sewers and their services, street lighting, traffic signals, field tiles or facilities from any other utility company.
- F. The provisions in this section 7 will survive the termination of this agreement.

**9. Removal.**

- A. The City may remove and dispose of the Facility, or any portion thereof, upon occurrence of any of the following:
  - (1) an emergency that presents imminent peril to person or property;
  - (2) the Company's non-compliance with any term, provision, or covenant that is not cured within the time provided for in this agreement following notice of such non-compliance tendered to the Company;
  - (3) the Director or other responsible City official, in good faith, deems the procedure in section 7 impracticable under the circumstances present;
  - (4) termination of this agreement for any reason;
  - (5) the Company's abandonment of the Facility's in accordance with the provisions in section 9 of this agreement; or
  - (6) expiration of this agreement in the absence of any renewal thereof.
- B. The Company shall bear all costs and expenses incurred in the removal and disposal of the Facility and the restoration of the Licensed Property.
- C. If the Company fails in any way to make timely payment to the City for such costs and expenses, the Company shall pay, in addition to any amount so owed, the City's reasonable attorneys' fees and court costs incurred in the collection of such amount. This provision will survive the termination of this agreement.

- 10. Lapse and termination.** The license granted in this agreement is limited to the construction, maintenance, operation, repair, and removal of the Facility. Any additional use other than that specifically named in this agreement, without the further express written consent of the City, is a violation of this agreement. Upon cessation of such use, as determined by the Director, this agreement immediately and automatically will lapse and terminate. If the Director believes the Company is no longer using the Facility or that it otherwise has been abandoned, he or she shall notify the Company in writing that the City is asserting its right to declare this agreement lapsed and terminated. Such notice will state that the Company has 30 days to reassert its rights under this agreement and demonstrate that it has not in fact abandoned the license granted by this agreement. If the Company demonstrates



within the 30-day period that it has not abandoned the Facility, this agreement will remain in force and effect according to its terms. If the Company does not demonstrate within the 30-day period that it has not abandoned the Facility, this agreement will be deemed lapsed, terminated, and no longer in effect.

11. **Indemnification.** The Company shall indemnify and defend the City, its officers, employees, and agents against all claims, losses, liability, or damage of whatsoever nature, including without limitation reasonable attorney's fees and costs, arising from or in any way related to the Company's construction, maintenance, operation, repair, or removal of the Facility, except to the extent caused by the gross negligence or willful misconduct of the City, its officers, employees, or agents. This section will survive the termination of this agreement.
12. **Entire agreement; amendment.** This agreement, together with its attachment, constitutes the entire agreement between the parties, supersedes all other agreements or understandings between them pertaining to the matter of this agreement, and may not be amended except by a writing signed by both parties.
13. **Notices.** The parties shall give all notices required or permitted by this agreement in writing. All notices will be deemed given when personally delivered; deposited in the U.S. mail, postage prepaid, first class; or delivered to a commercial courier service (e.g., FedEx or UPS). A notice delivered by email will be deemed given when the recipient acknowledges having received the email by an email sent to the sender's email address, as stated in this section, or by a notice delivered by another method in accordance with this section. An automatic "read receipt" will not constitute acknowledgment of an email for purposes of this section. Each party's address is stated below and may be changed to such other address as the party may hereafter designate by notice.

MCDJ, LLC

City of Urbana

MCDJ, LLC  
Attention: Michael D. Hosier, Manager  
1300 S. Neil Street  
Champaign, Illinois 61820-6528

Public Works Director  
City of Urbana  
706 Glover Avenue  
Urbana, Illinois 61802-4427

14. **Non-waiver.** Either party's failure to enforce any provision of this agreement will not be deemed a waiver of future enforcement of that or any other provision. A waiver of any provision of this agreement is valid only if in writing and signed by the parties.
15. **Compliance with governmental requirements.**
  - A. **Right-of-way/ Utility permit.**

- (1) Except in an emergency as provided in this agreement, the Company shall obtain a right-of-way/ utility permit from the City before constructing, installing, extending, removing, or otherwise changing the Facility. The permit will indicate the time, manner, and place of the work to be

performed. Along with each application for a permit, the Company shall provide prints, plans, and maps showing the proposed location and design of the Facility to be constructed, along with the appropriate surety bond, Insurance Certificate, and permit fees required by the Urbana City Code. The Company shall comply with all conditions of any permits issued to it.

(2) In an emergency that the Company believes poses a threat of immediate harm to the public or to any of the Company's facilities, the Company may access the public way to mitigate the threatened harm without the benefit of a permit. In this case, the Company shall advise the City of the emergency at the earliest reasonable opportunity and seek a proper permit within a reasonable period of time thereafter and in the manner as stated in this agreement.

B. **Applicable law.** The Company shall comply with all applicable laws, ordinances, regulations, and requirements of federal, state, county, and local regulatory authorities, including without limitation the applicable provisions of the Urbana City Code regarding rights-of-way and their uses, all of which as may be amended from time to time.

16. **No presumption.** Each party hereto acknowledges that this agreement is the product of good faith negotiations by and between the parties hereto and, as such, neither party may seek to have this agreement strictly construed against the other party as drafter of this agreement.
17. **Due authorization.** Each party represents to the other that the person or persons signing this agreement on behalf of the party is authorized and empowered to enter into this agreement by and on behalf of such party and that this agreement is a legal, valid, and binding obligation of such party, enforceable against the other in accordance with its terms.
18. **Recording.** The City will record this agreement in the Office of the Champaign County Recorder of Deeds at the expense of the Company.
19. **Counterparts.** The parties may sign this agreement in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Signatures delivered by email in Adobe Portable Document Format (PDF) or by facsimile will be deemed original signatures for all purposes.



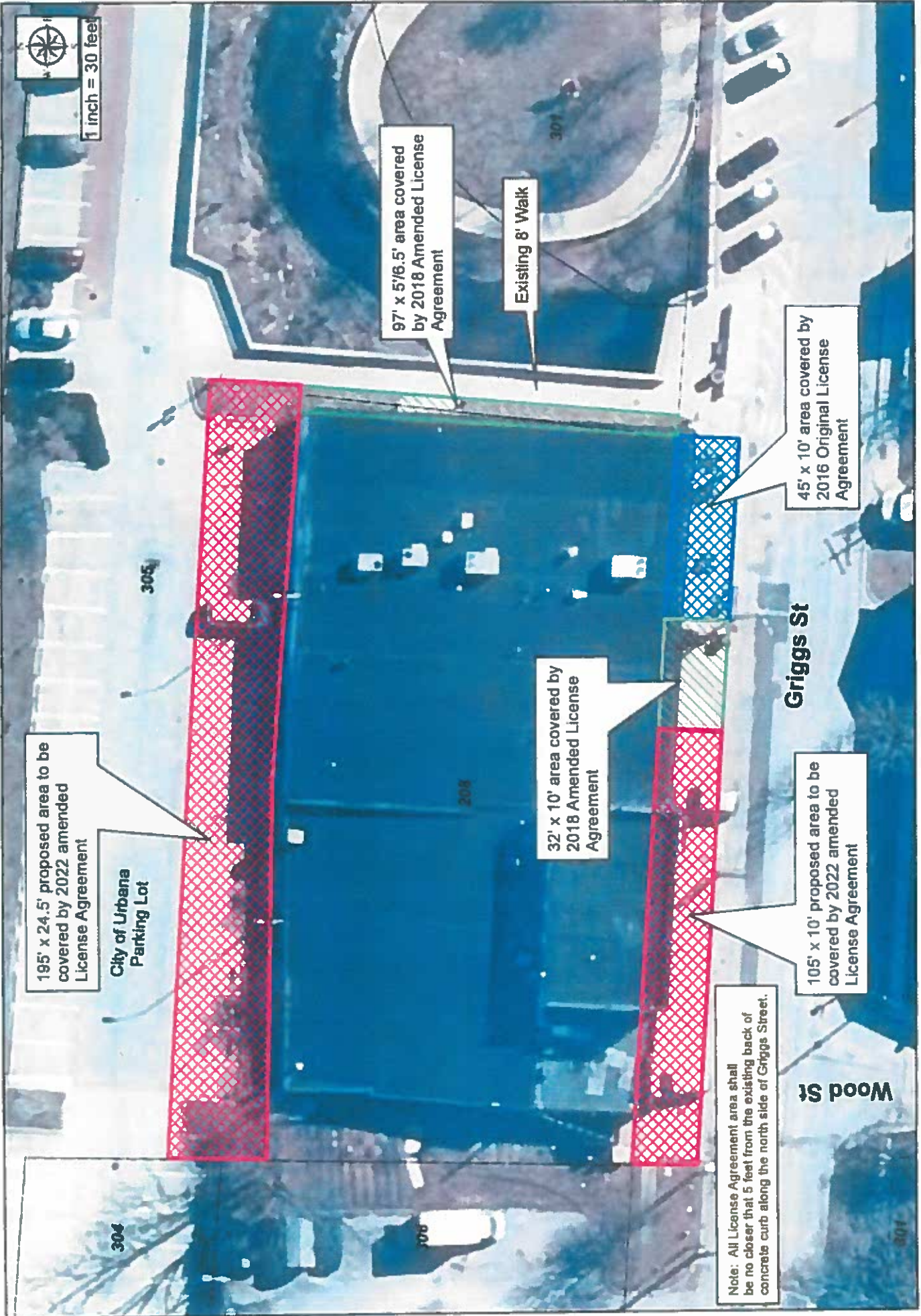
City of Urbana, Illinois

By: Diane Wolfe Marlin  
Diane Wolfe Marlin  
Mayor  
Date: Jan 24, 2023, 2022

Attest:

Phyllis D. Clark Deputy City Clerk  
Phyllis D. Clark  
City Clerk

Attachment: Exhibit A-2 Licensed Property (1 page)



1 inch = 30 feet

195' x 24.5' proposed area to be covered by 2022 amended License Agreement

City of Urbana Parking Lot

97' x 5/6.5' area covered by 2018 Amended License Agreement

Existing 6' Walk

45' x 10' area covered by 2016 Original License Agreement

32' x 10' area covered by 2018 Amended License Agreement

105' x 10' proposed area to be covered by 2022 amended License Agreement

Note: All License Agreement area shall be no closer than 5 feet from the existing back of concrete curb along the north side of Griggs Street.

Griggs St

Wood St

208 Griggs Street Exhibit A-2