

Document Number	<p style="text-align: center;">ACCESS EASEMENTS AND TERMINATION OF EASEMENTS AND RESTRICTIONS</p> <p style="text-align: center;">Document Title</p>
<p>THIS ACCESS EASEMENTS AND TERMINATION OF EASEMENTS AND RESTRICTIONS (this "Agreement") is made as of this ____ day of _____, 2022, by and between St. Joseph Real Estate Services Corporation, f/k/a St. Joseph Orphan Asylum a/k/a St. Joseph Orphan Asylum, Inc. ("St. Joseph") and the Village of Allouez, a municipal corporation and political subdivision of the State of Wisconsin ("Village").</p>	
<p style="text-align: center;">RECITALS</p> <p>A. WHEREAS, St. Joseph is the owner of that certain parcel of land located in the Village of Allouez, Brown County, Wisconsin, legally described on <u>Exhibit A</u> attached hereto and made a part hereof (the "Existing St. Joseph Parcel");</p> <p>B. WHEREAS, the Village is the owner of and, simultaneously with execution of this Agreement, will convey to St. Joseph that certain parcel of land located in the Village of Allouez, Brown County, Wisconsin, legally described on <u>Exhibit B</u> attached hereto and made a part hereof (the "Transfer Parcel" and together with the Existing St. Joseph Parcel, collectively, the "St. Joseph Parcel");</p> <p>C. WHEREAS, Village is the owner of that certain parcel of land located in the Village of Allouez, Brown County, Wisconsin, legally described on <u>Exhibit C</u> attached hereto and made a part hereof (the "Village Parcel"); and</p> <p>D. WHEREAS, subject to the terms and conditions contained in this Agreement, the parties desire to grant the easements set forth herein, and the parties desire to release certain easements and restrictions affecting the Village Parcel, all as more particularly set forth herein.</p>	<p>Recording Area</p> <hr/> <p>Name and Return Address</p> <hr/> <p><u>AL-50-8, AL-50-9-3, AL-50-10</u></p> <p>Parcel Identification Numbers (PINs)</p>

NOW, THEREFORE, in consideration of the foregoing recitals, which by this reference are incorporated into this Agreement, the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto grant, covenant and agree as follows:

1. Grant of Easements.

- a. St. Joseph hereby grants to Village a nonexclusive easement (the "St. Joseph Access Easement") for vehicular and pedestrian access and for ingress and egress over those portions of the St. Joseph Parcel containing the paved areas as approximately depicted on Exhibit D attached hereto (the "St. Joseph Access Easement Area"). St. Joseph shall pay all taxes and assessments relating to the St. Joseph Access Easement Area.
- b. From and after completion of the Development (as hereinafter defined), Village hereby grants to St. Joseph a nonexclusive easement (the "Village Access Easement" and collectively with the St. Joseph Access Easement, the "Access Easements") for vehicular ingress and egress over those portions of the Village Parcel containing the paved areas approximately depicted on Exhibit E attached hereto (the "Village Access Easement Area" and collectively with the St. Joseph Access Easement Area, the "Access Easement Areas"). Village shall pay all taxes and assessments relating to the Village Access Easement Area. (For purposes of clarity, until completion of the Development, St. Joseph shall maintain its existing access rights over the Village Parcel, subject to limitations on use during construction of the Development).
- c. From and after completion of the Development, Village hereby grants to St. Joseph a nonexclusive parking easement (the "Parking Easement" and collectively with the Access Easements, the "Easements") for the parking spaces designated as "Shared Parking Spaces" on Exhibit F attached hereto (the "Parking Easement Area" and collectively with the Access Easement Areas, the "Easement Areas").

2. Limits on Use. St. Joseph and Village shall use the Access Easement Areas only for vehicular and pedestrian ingress and egress by such parties, their invitees including, but not limited to, their tenants and such tenants' invitees (collectively, "Invitees"). Neither St. Joseph nor Village, nor their Invitees, shall make any use of the Access Easement Areas which: (i) blocks or obstructs access to and from the St. Joseph Parcel and/or Village Parcel; (ii) interferes with St. Joseph's use or enjoyment of the Access Easement Areas or St. Joseph Parcel, or interferes with Village's use or enjoyment of the Access Easement Areas or Village's Parcel; or (iii) in any manner which is inconsistent with the purposes of this Agreement. No curbs, barriers, fences, dividers or other obstructions shall be constructed on or across the Access Easement Areas to prevent, prohibit, impede or discourage the free and uninterrupted flow of vehicular and pedestrian traffic. Notwithstanding the aforesaid, the parties agree use of the Village Access Easement Area and Parking Easement Area will be limited during the Development (as defined below) and use of the St. Joseph Access Easement will be limited during the St. Joseph's tenant

construction of the Village approved development plan for the renovation of the existing drive-thru restaurant ("Renovation"), all as described in this Agreement.

3. Development. St. Joseph acknowledges that Village (or its successor and/or assignee) will be undertaking a new development on the Village Parcel (the "Development") as depicted on Exhibit J and as part of the Development, subject to the restrictions described herein, Village shall have the right (but not the obligation), at Village's sole cost and expense, to perform such work within the St. Joseph Access Easement Area as shown on Exhibit G attached hereto, including but not limited to paving areas within such Work Easement Area, landscaping, and adding new curb and gutter (the "Work Easement Area"). During such work, Village (or such successor owner of the Village Parcel) shall ensure at least one lane of traffic within the St. Joseph Access Easement Area remains open during construction and shall prohibit the storage of any equipment or parking of any construction vehicles on the St. Joseph Parcel. St. Joseph acknowledges that the site plans attached hereto as Exhibit J are possible plans for the Development and are not final. Village shall provide the final Development plans to St. Joseph and St. Joseph's tenant for review and approval, which approval shall not be unreasonably withheld, conditioned or delayed. Subject to such approval, in the event the location of the Development varies from that described in Exhibit J, the parties agree to record an amendment to this Agreement providing a corrected depiction of the Development, and if applicable, the Easement Areas.

4. Maintenance of the Easement Areas.

- a. St. Joseph, and its successors and assigns, shall, maintain and repair the Access Easement Areas designated on Exhibit H as the "St. Joseph Maintenance Areas" in good condition and repair, and in accordance with all applicable statutes, ordinances and regulations, at St. Joseph's sole cost and expense, including but not limited to routine cleaning and sweeping, prompt removal of snow, ice, refuse and debris, striping, repair and replacement of pavement and curbing and resurfacing, and maintenance of landscaping, all of which shall be performed in a manner to maintain such areas in as good condition as upon completion of the Development and in accordance with all applicable laws and governmental rules and regulations.
- b. Village, and its successors and assigns, shall, maintain and repair the Parking Easement Area and the Access Easement Areas designated on Exhibit I as the "Village Maintenance Areas" in good condition and repair, and in accordance with all applicable statutes, ordinances and regulations, at Village's sole cost and expense, including but not limited to routine cleaning and sweeping, prompt removal of snow, ice, refuse and debris, striping, repair and replacement of pavement and curbing and resurfacing, and maintenance of landscaping, all of which shall be performed in a manner to maintain such areas in as good condition as upon completion of the Development and in accordance with all applicable laws and governmental rules and regulations. Until such time as completion of the Development, the parties acknowledge that the paved surface and existing parking

spaces located within the Village Maintenance Areas, may remain in their current condition.

- c. Except as to the initial construction of the Development, in the event of any planned major repairs, maintenance or replacements to the Easement Areas by any party (the "Undertaking Party") which could materially disrupt access or parking, such Undertaking Party shall provide the other party at least thirty (30) days prior written notice of the same before commencing such work, and shall use good faith efforts to minimize any disruption to such other party's use of the Easements, and further provided that (i) Village and its Invitees shall, at all times, despite such work, have reasonable access to the Village Parcel and (ii) St. Joseph and its Invitees shall, at all times, despite such work, have reasonable access to the St. Joseph Parcel.

5. No Relocation/Alterations. Neither party, without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed, may relocate its respective Access Easement Area, or alter the grade of its Access Easement Area (following completion of the Development), or make any other alterations to its Access Easement Area in any manner (other than the maintenance, repair and replacement obligations set forth in Section 4 above). Each party acknowledges that the other party will be using the Access Easement Areas for its access to its respective parcel and development thereon, and each party has received sufficient consideration for the restrictions set forth herein, including fee simple ownership to the Transfer Parcel (defined below) that was previously owned in fee simple by Village, and relinquishment by St. Joseph of the easements, rights and restrictions described in Section 11 and other benefits. In no event may the access to each party's parcel over and across the other party's Access Easement Area be impaired (provided, however, that each party acknowledges that access to the other party's Access Easement Area and the Parking Easement Area maybe limited during construction of the Development and the Renovation).

6. Transfer Parcel. In consideration of the mutual grants herein, simultaneously with execution and recording of this Agreement, the Village agrees to execute and record a Special Warranty Deed, conveying to St. Joseph title to the Transfer Parcel, as legally described on Exhibit B attached hereto (the "Transfer Parcel"). The deed for the Transfer Parcel shall be recorded immediately prior to recording of this Agreement.

7. Indemnification/Insurance.

- a. Village shall indemnify, defend, and hold harmless St. Joseph, its members, managers, officers, director, shareholders, employees, agents, successors and assigns (collectively, the "St. Joseph Parties") for, from, and against any and all liabilities, losses, damages, costs, and expenses (including, without limitation, reasonable attorneys' fees) incurred by St. Joseph or the St. Joseph Parties in connection with Village's (or Village's Invitees') use of the Easement Areas, except to the extent caused by the negligence or intentional misconduct of St. Joseph or the St. Joseph Parties. Village shall maintain, at its sole cost, in full force and effect, a policy of commercial general liability insurance insuring

against any liability arising out of its use of the Easement Areas in an amount of not less than \$1 million per occurrence, \$2 million in the aggregate. Upon request, Village shall provide St. Joseph with evidence of such coverage.

- b. St. Joseph shall indemnify, defend, and hold harmless Village, its members, managers, officers, director, shareholders, employees, agents, successors and assigns (collectively, the "Village Parties") for, from, and against any and all liabilities, losses, damages, costs, and expenses (including, without limitation, reasonable attorneys' fees) incurred by Village or the Village Parties in connection with St. Joseph's (or St. Joseph's Invitees') use of the Easement Areas, except to the extent caused by the negligence or intentional misconduct of Village or Village Parties. St. Joseph shall maintain in full force and effect, a policy of commercial general liability insurance insuring against any liability arising out of its use of the Easement Areas in an amount of not less than \$1 million per occurrence, \$2 million in the aggregate. Upon request, St. Joseph shall provide Village with evidence of such coverage.

8. Non-Dedication. Nothing in this Agreement shall be deemed to be a gift or dedication of any portion of the Easement Areas or any other portion of the St. Joseph Parcel or the Village Parcel to the general public or for any public purpose whatsoever.

9. Duration. All of the terms and conditions in this Agreement, including the benefits and burdens, shall run with the land and shall be binding upon, inure to the benefit of, and be enforceable by St. Joseph and Village and their respective successors and assigns. The specific parties named herein, and each of their respective successors and assigns as fee simple owners of the St. Joseph Parcel and Village Parcel respectively, shall cease to have further liability under this Agreement (including with respect to any indemnity obligations herein) with respect to facts or circumstances first arising after such party has transferred its fee simple interest in the particular property. Notwithstanding anything to the contrary in Wisconsin Statute Section 893.33(6), each party agrees to cooperate with the other party, and its successors and assigns, to re-record a notice of this easement (even if outside of the 40-year statutory period) to ensure that the easement rights herein permanently run with the land. Each party agrees, for itself and its successors and assigns, that it will not object to any such re-recording at any time.

10. Default. In the event that either party defaults in the performance of any of its obligations under the terms of this Agreement, the non-defaulting party shall send written notice to the defaulting party outlining such default. The defaulting party shall cure such default within 10 days after receipt of such notice, except that the cure period shall be extended to a reasonable time to cure any default that cannot reasonably be cured within the 10-day period, provided the defaulting party has commenced to cure within the 10-day period and diligently pursues a cure at all times thereafter until the default is cured, within a period not to exceed 30 days. If the defaulting party fails or refuses to cure such default within the applicable cure period, the non-defaulting party may attempt to cure the default and shall be reimbursed by the defaulting party for all reasonable, actual costs incurred in so doing (within 10 days of request therefor, which request shall include reasonable detail as to such costs), and the non-defaulting party can take any action allowed by law or equity to enforce its (their) rights, including, without limitation,

obtaining injunctive relief, which the parties recognize is an appropriate remedy since monetary damages may not be sufficient. However, in no case shall any party have the unilateral right to terminate, cancel or otherwise render null and void any portion of this Agreement. If a suit is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs, including reasonable attorney fees, from the non-prevailing party. Each party hereto covenants and agrees that any breach or violation of the grant of the rights herein to the other may cause immediate and irreparable harm and injury to the non-breaching party, for which money damages may not be an adequate remedy. Accordingly, without limiting any other right or remedy that may be available at law or in equity or specified in this as a consequence of the breach (including the right to money damages), each party hereto agrees that a breach may be enforced by injunctive or other equitable relief to prevent a continuance or repetition of the breach.

11. Release of Existing Easements and Restrictions.

- a. From and after completion of the Development, notwithstanding anything to the contrary in any recorded or unrecorded existing document, existing lease affecting the St. Joseph Parcel or Village Parcel, or any existing easements, St. Joseph, for itself and its successors, assigns and tenants, forever releases any and all rights to parking or access on, through or over the Village Parcel, except as granted in this Agreement.
- b. St. Joseph, for itself and its successors, assigns and tenants, forever releases any right of first refusal that St. Joseph or such parties may have to purchase the Village Parcel or any portion thereof, including but not limited to, the right of first refusal set forth in the Warranty Deed recorded as document number 854933 on March 23, 1977, with the Register of Deeds for Brown County (the "ROFR"). Such ROFR is hereby fully terminated, void and of no further force or effect.
- c. St. Joseph, for itself and its successors, assigns and tenants, forever releases the use restrictions set forth in the Warranty Deed recorded as document number 854933 on March 23, 1977, with the Register of Deeds for Brown County, restricting a portion of the Village Parcel from being used for any purposes related to the usage or sale of beer, liquor or other intoxicating beverages, and any other use restrictions set forth or referenced in such document (collectively, the "Use Restrictions"). Such Use Restrictions are hereby fully terminated, void and of no further force or effect.
- d. St. Joseph releases any rights that it may have in that certain Easement dated as of May 30, 1989 and recorded with the Register of Deeds for Brown County on May 15, 1989 as document number 1184702 (the "Sign Easement").

12. Choice of Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Wisconsin.

13. Entire Agreement. This Agreement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by St. Joseph and Village, or their respective successors and assigns, and duly recorded in the office of the Register of Deeds for Brown County, Wisconsin.

14. Severability. All provisions of this Agreement are deemed severable, and if any one or more provision is deemed unenforceable for any reason, the remaining provisions shall remain in full force and effect.

15. Counterparts. This Agreement may be signed in one or more identical counterparts, which taken together, shall constitute a single, binding agreement.

16. Notices. All notices to either party to this Agreement shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested, or by national courier, to such party at such party's last known address. If a party's address is not known to the party desiring to send a notice, the address to which property tax bills for the property owned by such party are sent may be used. Either party may change its address for notice by written notice to the other party.

17. No Waiver. No delay or omission by any party in exercising any right or power accruing upon any default, non-compliance or failure of performance of any of the provisions of this Agreement shall be construed to be a waiver thereof. A waiver by a party of any of the obligations of the other party shall not be construed to be a waiver of any breach of any other terms, covenants or conditions of this Agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the date first above written.

ST. JOSEPH:

**St. Joseph Real Estate Services
Corporation, f/k/a St. Joseph Orphan
Asylum a/k/a St. Joseph Orphan
Asylum, Inc.**

By: _____
Name: _____
Its: _____

State of Wisconsin)
 : SS
County of _____)

This instrument was acknowledged before me on _____, _____, by _____, the _____ of St. Joseph Real Estate Services Corporation, f/k/a St. Joseph Orphan Asylum a/k/a St. Joseph Orphan Asylum, Inc., to me known to be the same person described in and who executed the foregoing instrument and acknowledged the same.

(* _____)
Notary Public
_____ County, Wisconsin
My commission _____

IN WITNESS WHEREOF, the Village has caused this Agreement to be executed on the date first written above.

VILLAGE:

Village of Allouez

By: _____
Name: James F. Rafter
Its: Village President

State of Wisconsin)
 : SS
County of _____)

This instrument was acknowledged before me on _____, _____, by _____, the _____ of Village of Allouez, to me known to be the same person described in and who executed the foregoing instrument and acknowledged the same.

(* _____)
Notary Public
_____ County, Wisconsin
My commission _____

Drafted by:

Leah R. Wyant
Wyant Law Offices, S.C.
601 Lake Avenue
Racine, WI 53403

EXHIBIT A

EXISTING ST. JOSEPH PARCEL LEGAL DESCRIPTION

Part of Parcel B, of Volume 2, Certified Survey Maps, Page 195, Map No. 447, recorded as Document No. 644539, being part of Private Claim 14, East side of Fox River, Village of Allouez, Brown County, Wisconsin, LESS AND EXCEPTING the Southerly 95 feet of the Westerly 173.00 feet thereof.

AND

Part of Parcel B, of Volume 2, Certified Survey Maps, Page 195, Map No. 447, recorded as Document No. 644539, being part of Private Claim 14, East side of Fox River, Village of Allouez, Brown County, Wisconsin more fully described as follows:

Commencing at the Northwest corner of Parcel B, Volume 2, Certified Survey Maps, Page 195, Map No. 447, recorded as Document No. 644539, said point also being on the East 40 foot Right of Way line of South Webster Avenue (a.k.a. C.T.H. X); thence S26°20' 15"W, 88.50 feet along said Right of Way line and the West line of said Certified Survey Map to the point of beginning; thence S64°00'49" E, 172.67 feet; thence S26°16'56"W, 11.00 feet; thence N 64°00'49" W, 172.68 feet to said Right of Way line; thence N26°20'15" E, 11.00 feet along said Right of Way line and parcel to the point of beginning.

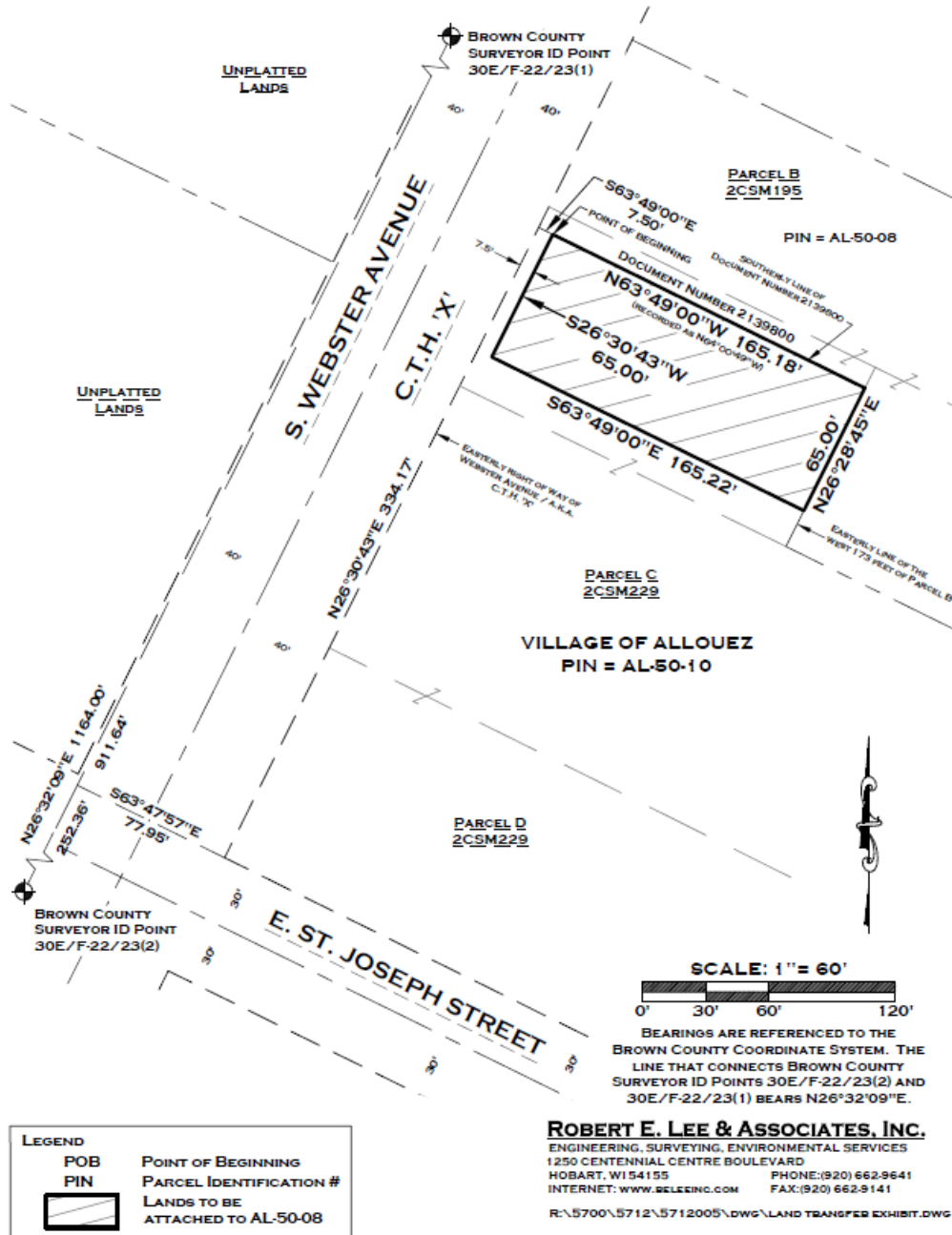
For Informational Purposes Only:

Tax Parcel No. AL-50-8

Property Address: 1903 S. Webster Avenue, Green Bay, WI 54301

EXHIBIT B

TRANSFER PARCEL LEGAL DESCRIPTION



Legally Described as:

Part of Parcel B, Volume 2, Certified Survey Maps, Page 195, Map Number 447, Document Number 644539, located in part of Private Claim 14, East Side of Fox River, Village of Allouez, Brown County, Wisconsin more fully described as follows:

Commencing at Brown County Surveyor ID point 30E/F-22/23(2); thence N26°32'09"E, 252.36 feet on a line that connects said ID point 30E/F-22/23(2) and Brown County Surveyor ID Point 30E/F-22/23(1) to the westerly extension of the northerly right of way of East St. Joseph Street; thence S63°47'57"E, 77.95 feet on said westerly extension to the easterly right of way of South Webster Avenue - a.k.a. C.T.H. 'X'; thence N26°30'43"E, 334.17 feet on said easterly right of way to the southerly line of lands described in Document Number 2139800; thence on said southerly line S63°49'00"E, 7.50 feet to the **POINT OF BEGINNING**; thence S26°30'43"W, 65.00 feet on a line that is 7.50 feet easterly of and parallel to said easterly right of way; thence S63°49'00"E, 165.22 feet to the easterly line of the west 173 feet of said Parcel B; thence N26°28'45"E, 65.00 feet on said easterly line to said southerly line of lands described in Document Number 2139800; thence N63°49'00"W, 165.18 feet on said southerly line to the Point of Beginning.

As shown and dimensioned above.

Said described lands contain 10,738 sq.ft. or 0.247 acres more or less subject to easements and restrictions of record.

The purpose of this transaction is to attach the above described lands to tax parcel AL-50-08

EXHIBIT C

VILLAGE PARCEL LEGAL DESCRIPTION

Parcels "C" and "D", Volume 2 Certified Survey Maps, Page 229, Map No. 464, recorded as Document No. 648594, and the South 95 feet of the West 173 feet of Parcel "B" in Volume 2 Certified Survey Maps, Page 194, Map No. 447, recorded as Document No. 644539; all being part of Private Claim Fourteen (14), East side of Fox River, in the Village of Allouez, Brown County, Wisconsin, EXCEPTING THEREFROM that part as conveyed in Document No. 2139800.

And

Lot Three (3), Volume 59 Certified Survey Maps, Page 6, Map No. 8376, recorded as Document No. 2649118; being part of Private Claim Fourteen (14), East side of Fox River, Village of Allouez, Brown County, Wisconsin.

Less and except:

Part of Parcel B, Volume 2, Certified Survey Maps, Page 195, Map Number 447, Document Number 644539, located in part of Private Claim 14, East Side of Fox River, Village of Allouez, Brown County, Wisconsin more fully described as follows:

Commencing at Brown County Surveyor ID point 30E/F-22/23(2); thence N26°32'09"E, 252.36 feet on a line that connects said ID point 30E/F-22/23(2) and Brown County Surveyor ID Point 30E/F-22/23(1) to the westerly extension of the northerly right of way of East St. Joseph Street; thence S63°47'57"E, 77.95 feet on said westerly extension to the easterly right of way of South Webster Avenue - a.k.a. C.T.H. 'X'; thence N26°30'43"E, 334.17 feet on said easterly right of way to the southerly line of lands described in Document Number 2139800; thence on said southerly line S63°49'00"E, 7.50 feet to the **POINT OF BEGINNING**; thence S26°30'43"W, 65.00 feet on a line that is 7.50 feet easterly of and parallel to said easterly right of way; thence S63°49'00"E, 165.22 feet to the easterly line of the west 173 feet of said Parcel B; thence N26°28'45"E, 65.00 feet on said easterly line to said southerly line of lands described in Document Number 2139800; thence N63°49'00"W, 165.18 feet on said southerly line to the Point of Beginning.

For Informational Purposes Only:

Ta Parcel No. AL-50-9-3

Tax Parcel No. AL-50-10

EXHIBIT D

ST. JOSEPH ACCESS EASEMENT AREA

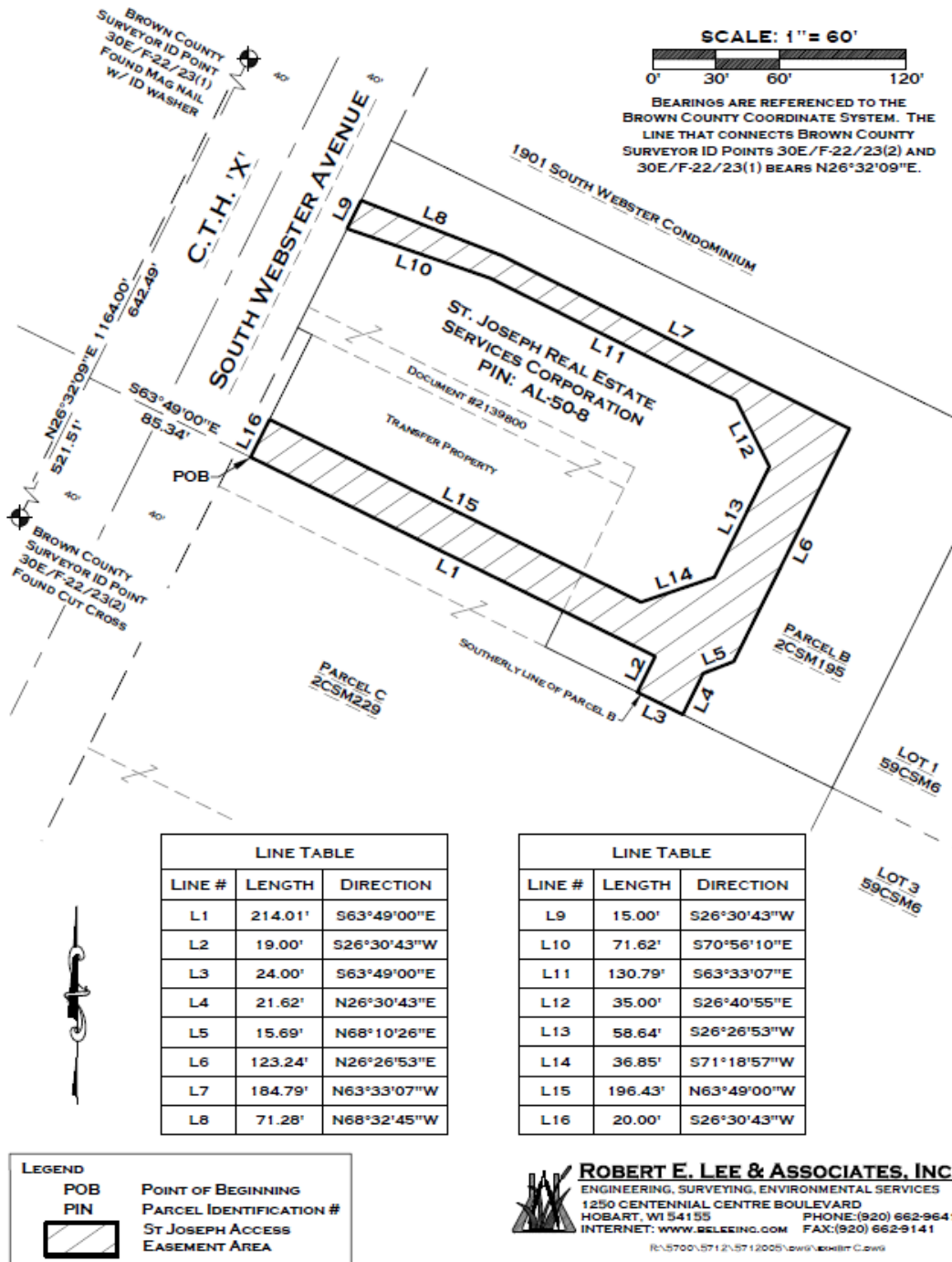


EXHIBIT E

VILLAGE ACCESS EASEMENT AREA

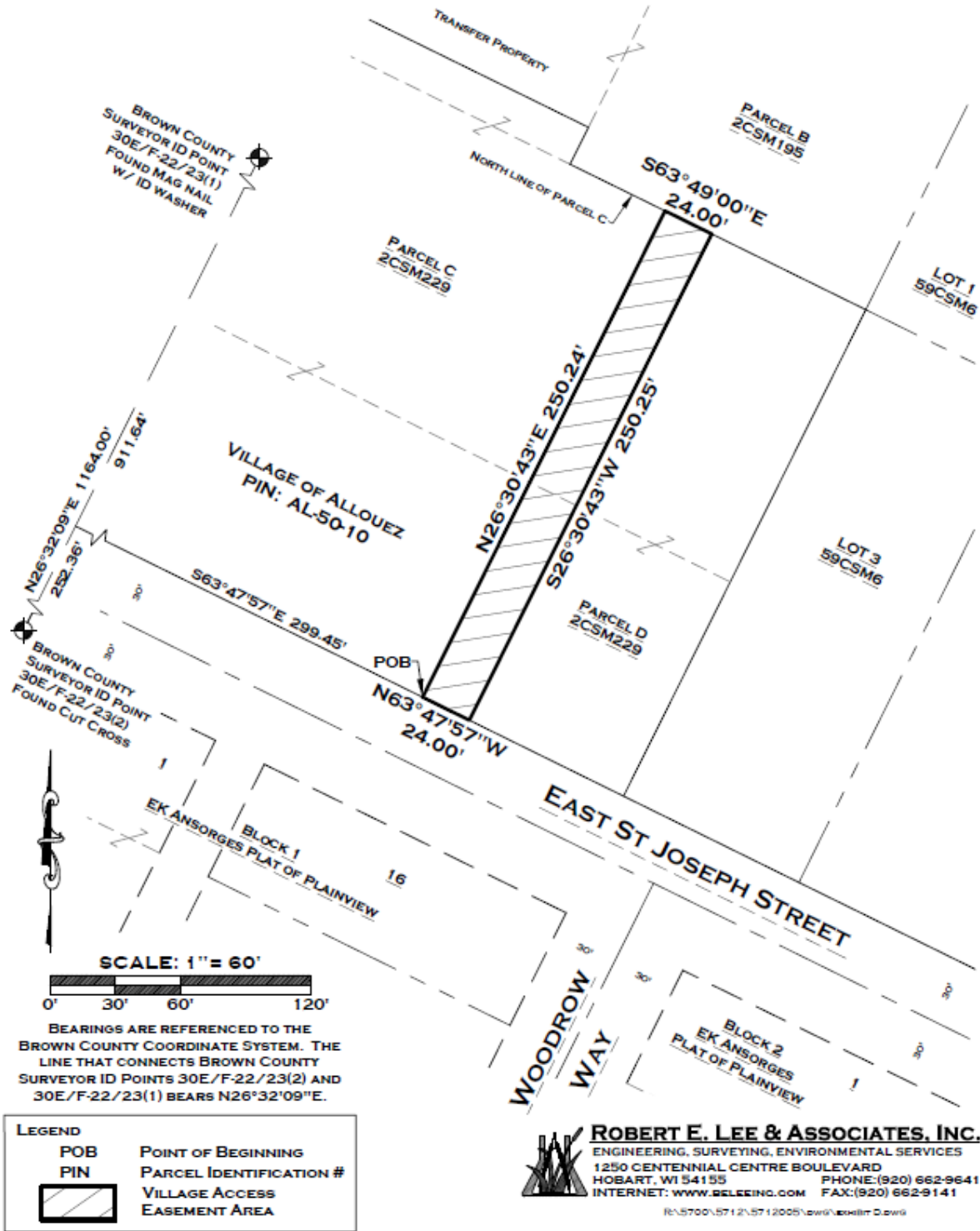


EXHIBIT F

PARKING EASEMENT AREA

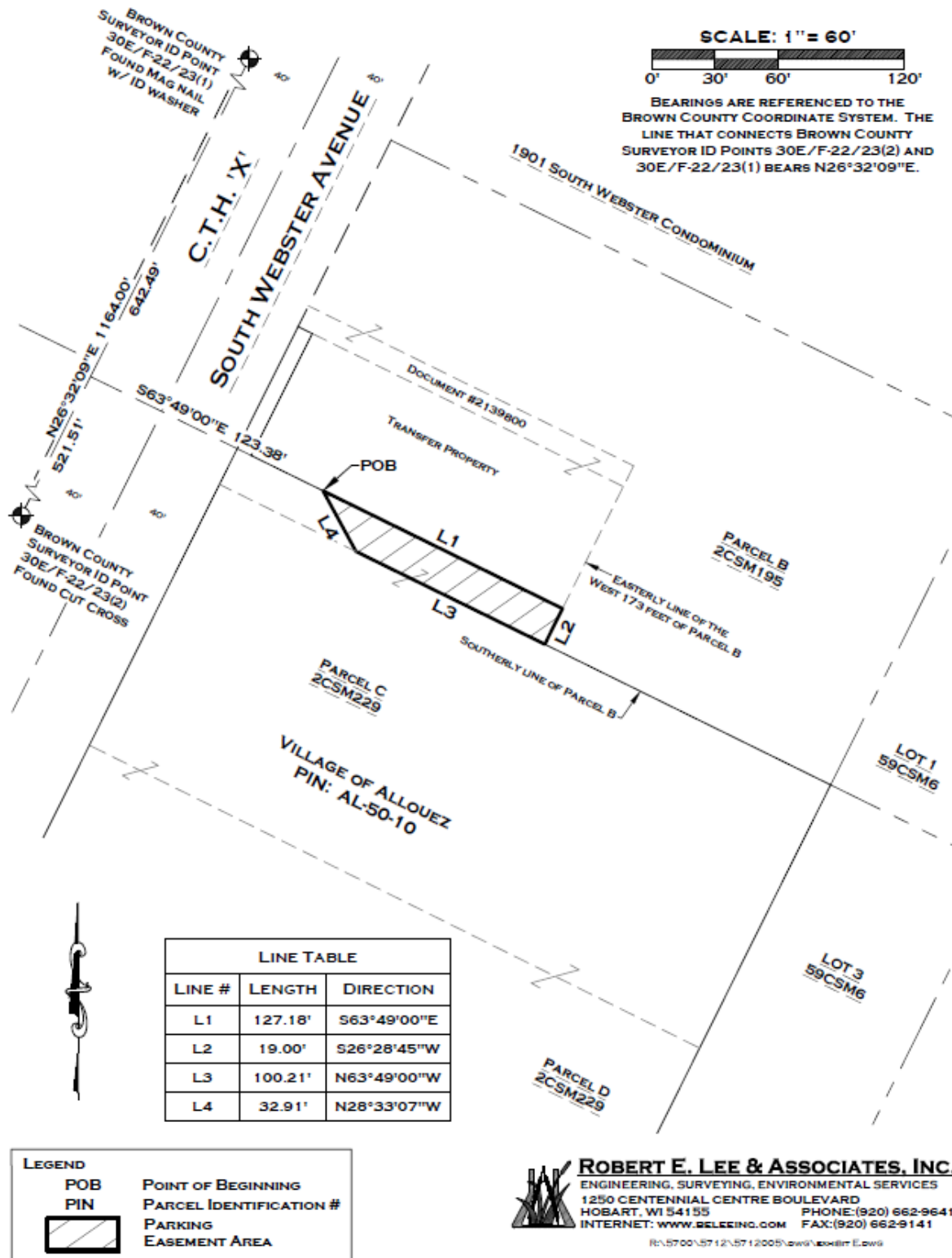


EXHIBIT G

WORK EASEMENT AREA

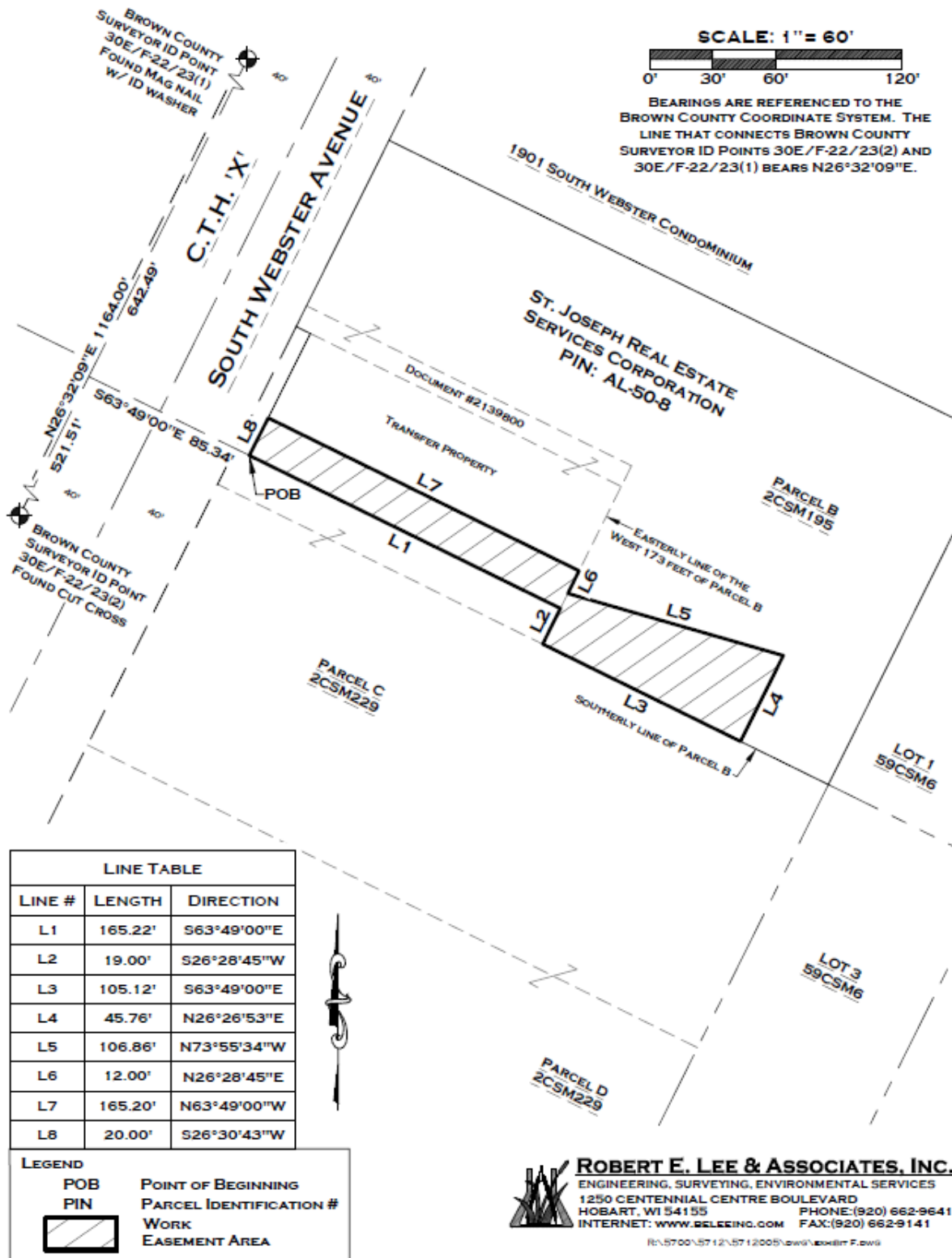
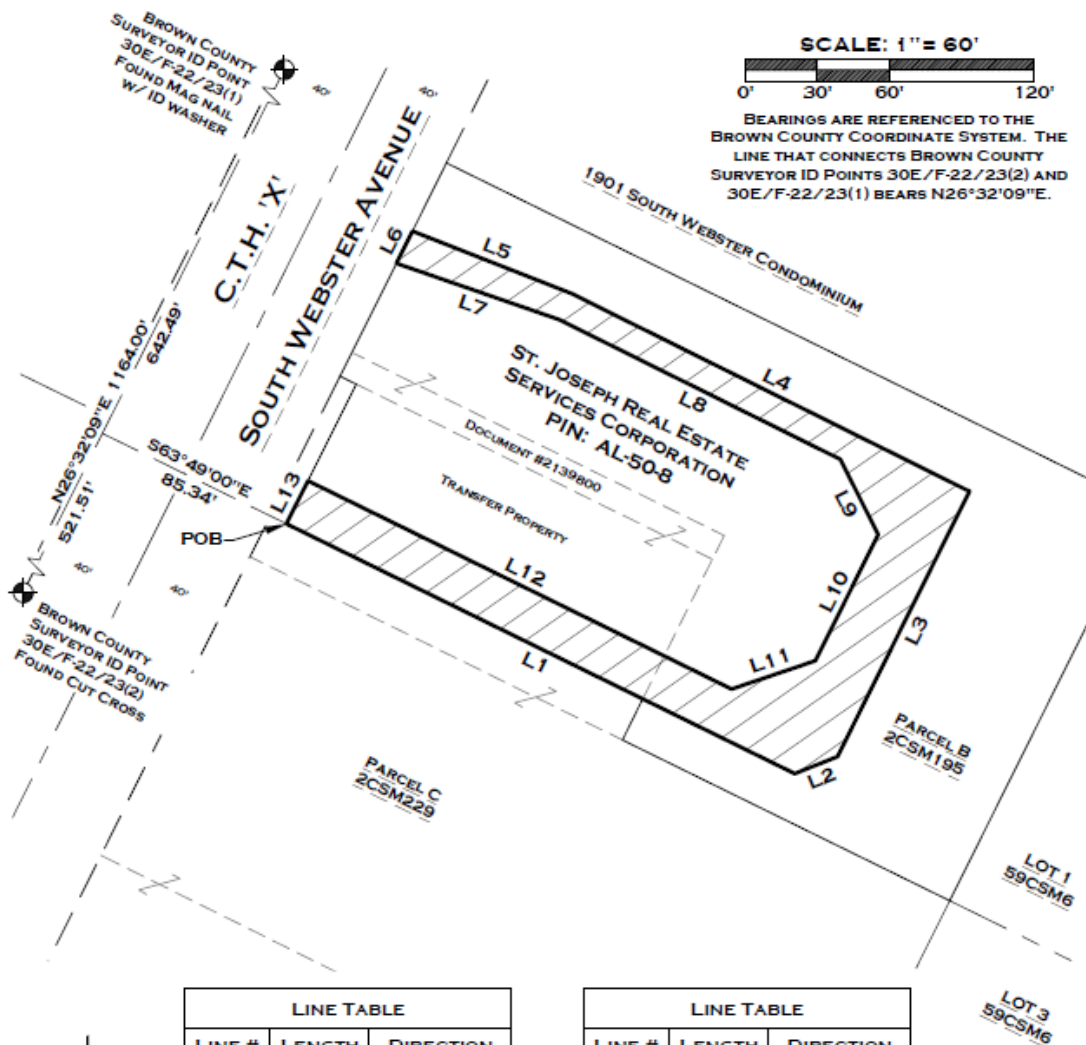


EXHIBIT H

ST. JOSEPH MAINTENANCE AREA



LINE TABLE		
LINE #	LENGTH	DIRECTION
L1	235.66'	S63°49'00"E
L2	19.22'	N68°10'26"E
L3	123.24'	N26°26'53"E
L4	184.79'	N63°33'07"W
L5	71.28'	N68°32'45"W
L6	15.00'	S26°30'43"W
L7	71.62'	S70°56'10"E

LINE TABLE		
LINE #	LENGTH	DIRECTION
L8	130.79'	S63°33'07"E
L9	35.00'	S26°40'55"E
L10	58.64'	S26°26'53"W
L11	36.85'	S71°18'57"W
L12	196.43'	N63°49'00"W
L13	20.00'	S26°30'43"W

LEGEND	
POB	POINT OF BEGINNING
PIN	PARCEL IDENTIFICATION #
	ST. JOSEPH MAINTENANCE AREA

ROBERT E. LEE & ASSOCIATES, INC.
ENGINEERING, SURVEYING, ENVIRONMENTAL SERVICES
1250 CENTENNIAL CENTRE BOULEVARD
HOBART, WI 54155
INTERNET: WWW.RELEEING.COM
PHONE: (920) 662-9641
FAX: (920) 662-9141

Re:\57001\5712\5712005\Draws\Releem G.dwg

EXHIBIT I

VILLAGE MAINTENANCE AREA

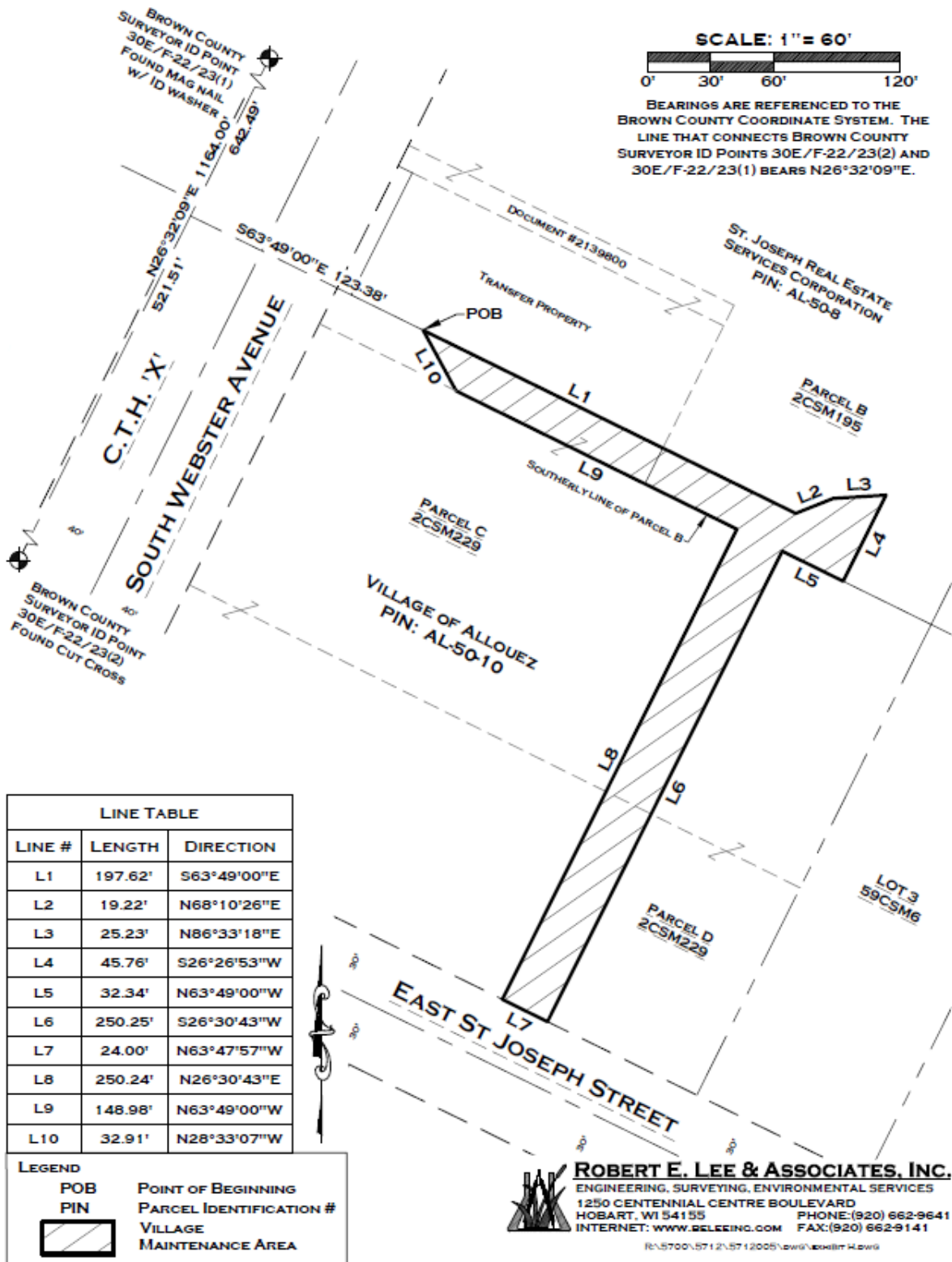


EXHIBIT J

Site Plan

