

UNOFFICIAL COPY

THIS DOCUMENT PREPARED BY
AND AFTER RECORDING
RETURN TO:

Much Shelist
191 North Wacker Drive
Suite 1800
Chicago, IL 60606.1615
Attn: Michael Wolfe



Doc#: 0815844020 Fee: \$60.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 06/06/2008 12:54 PM Pg: 1 of 13

This space reserved for Recorder's use only

FIRST MODIFICATION OF LOAN DOCUMENTS

THIS FIRST MODIFICATION OF LOAN DOCUMENTS (this "Agreement") is made as of the 20th day of March, 2008 (the "Effective Date"), by and among **Oak Knoll Partners, LLC**, an Illinois limited liability company ("Borrower"), **W. Philip Wilmington, McCue Family Limited Partnership, Jon E. Hardison, Robert T. Rasmussen and Brad J. Schreiner** (collectively the "Guarantor"), and **The Leaders Bank** its successors and assigns ("Bank").

RECITALS:

A. Bank previously made a loan (the "Loan") to Borrower in the principal amount of Two Million Nine Hundred Forty Thousand and 00/100 Dollars (\$2,940,000.00) as evidenced by that certain Mortgage Note dated March 20, 2006 in the principal amount of \$2,940,000.00 ("Note") made payable by Borrower to the order of Bank.

B. The Note is secured by, among other things, (i) that certain Mortgage and Security Agreement - Fixture Filing dated March 20, 2006, recorded with the Recorder of Deeds in Cook County, Illinois (the "Recorder's Office") on April 4, 2006 as Document No. 0609435207 (as amended, restated or supplemented from time to time, the "Mortgage"), which Mortgage encumbers the real property and all improvements thereon legally described on Exhibit A hereto (the "Property"), (ii) that certain Assignment of Rents and Leases dated March 20, 2006, from Borrower to Bank and recorded in the Recorder's Office on April 4, 2006 as Document No. 0609435208 (the "Assignment of Leases"); (iii) that certain Environmental Certificate dated March 20, 2006, from Borrower and Guarantor to Bank (the "Environmental Certificate"); (iv) those certain Guaranty Agreements dated March 20, 2006 from each Guarantor to Bank (collectively the "Guaranty Agreements"); and (v) certain other loan documents (the Note, the Mortgage, the Assignment of Leases, the Environmental Certificate, the Guaranty Agreements and the other documents evidencing, securing and guarantying the Loan, in their original form and as amended, are sometimes collectively referred to in this Agreement as the "Loan Documents").

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C. Borrower desires to amend certain terms in the Note and the Loan Documents in order to among other things, extend the Maturity Date of the Note and to modify the Interest Rate charged in the Note.

D. Capitalized terms used in this Agreement which are not otherwise defined herein shall have the meanings ascribed to them in the Loan Documents.

AGREEMENTS:

NOW, THEREFORE, in consideration of (i) the facts set forth above (which are incorporated into and made a part of this Agreement), (ii) the agreements by Bank to modify the Loan Documents as provided in this Agreement, (iii) the covenants and agreements contained in this Agreement, and (iv) for other good and valuable consideration, the receipt, adequacy and sufficiency of which are acknowledged, the parties agree as follows:

1. Amendment of Loan Documents.

(a) All references to the Maturity Date in the Loan Documents shall be amended to reflect the Maturity Date as extended to March 20, 2010.

(b) The second sentence of the Note shall be deleted in its entirety and the following sentence inserted in its place:

"The unpaid principal balance of the Loan Amount shall bear interest from March 20, 2008 until paid, computed at a daily rate equal to the daily rate equivalent of two and fifteen one-hundredths percent (2.15%) in excess of the 180 day LIBOR RATE (as hereinafter defined) (the "Interest Rate")."

2. Reaffirmation of Guaranty.

Each Guarantor ratifies and affirms the Guaranty and agrees that the Guaranty is in full force and effect following the execution and delivery of this Agreement. The representations and warranties of Guarantor in the Guaranty are, as of this date, true and correct and Guarantor does not know of any default thereunder. Each Guaranty, as amended, continues to be the valid and binding obligation of Guarantor, enforceable in accordance with their terms and Guarantor has no claims or defenses to the enforcement of the rights and remedies of Bank thereunder, except as provided in the Guaranty.

3. Reaffirmation of Environmental Certificate.

Borrower and each Guarantor ratify and affirm the Environmental Certificate, and agree that the Environmental Certificate is in full force and effect following the execution and delivery of this Agreement. The representations and warranties of Borrower and Guarantor in the Environmental Certificate are true and correct as of the date of this Agreement. The Environmental Certificate continues to be the valid and binding obligation of Borrower and Guarantor, enforceable in accordance with its terms and neither Borrower nor Guarantor has any

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claims or defenses to the enforcement of the rights and remedies of Bank thereunder, except as provided in the Environmental Certificate.

4. Representations and Warranties of Borrower.

Borrower represents, covenants and warrants to Bank as follows:

(a) The representations and warranties in the Mortgage and the other Loan Documents are true and correct as of the date of this Agreement.

(b) There is currently no Event of Default (as defined in the Mortgage) under the Note, the Mortgage, or the other Loan Documents and Borrower does not know of any event or circumstance which with the giving of notice or passing of time, or both, would constitute an Event of Default under the Note, the Mortgage or the other Loan Documents.

(c) The Loan Documents are in full force and effect and, following the execution and delivery of this Agreement, they continue to be the legal, valid and binding obligations of Borrower enforceable in accordance with their respective terms, subject to limitations imposed by general principles of equity.

(d) There has been no material adverse change in the financial condition of Borrower, Guarantor or any other party whose financial statement has been delivered to Bank in connection with the Loan from the date of the most recent financial statement received by Bank.

(e) As of this date, Borrower has no claims, counterclaims, defenses, or set-offs with respect to the Loan or the Loan Documents as modified in this Agreement.

(f) Borrower validly exists under the laws of the State of its formation or organization and has the requisite power and authority to execute and deliver this Agreement and to perform the Loan Documents as modified in this Agreement. The execution and delivery of this Agreement and the performance of the Loan Documents as modified in this Agreement have been duly authorized by all requisite action by or on behalf of Borrower. This Agreement has been duly executed and delivered on behalf of Borrower.

5. Title Policy.

If required by Bank as a condition precedent to the agreements contained in this Agreement, Borrower shall, at its sole cost and expense, cause Chicago Title Insurance Company to issue an endorsement to title insurance policy No. ST5082899 (the "Title Policy") as of the date this Agreement is recorded, reflecting the recording of this Agreement, and insuring the first priority of the lien of the Mortgage, subject only to the exceptions set forth in the Title Policy as of its date of issuance and any other encumbrances expressly agreed to by Bank.

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6. Expenses.

As a condition precedent to the agreements contained in this Agreement, Borrower shall pay all out-of-pocket costs and expenses incurred by Bank in connection with this Agreement, including, but not limited to, title charges, recording fees, legal fees and appraisal fees, if any.

7. Miscellaneous.

(a) This Agreement is governed by and should be construed in accordance with the laws of the State of Illinois.

(b) This Agreement may not be construed more strictly against Bank than against Borrower or Guarantor merely by virtue of the fact that the same has been prepared by counsel for Bank, it being recognized that Borrower, Guarantor and Bank have contributed substantially and materially to the preparation of this Agreement, and Borrower, Guarantor and Bank each acknowledges and waives any claim contesting the existence and the adequacy of the consideration given by the other in entering into this Agreement. Each of the parties to this Agreement represents that it has been advised by its respective counsel of the legal and practical effect of this Agreement, and recognizes that it is executing and delivering this Agreement, intending to be legally bound by the terms and provisions of this Agreement, of its own free will, without promises or threats or the exertion of duress upon it. The signatories state that they have read and understand this Agreement, that they intend to be legally bound by it and that they expressly warrant and represent that they are duly authorized and empowered to execute it.

(c) Notwithstanding the execution of this Agreement by Bank, nothing contained in this Agreement may be considered to constitute Bank a venturer or partner of or in any way associated with Borrower or Guarantor nor will privity of contract be presumed to have been established with any third party.

(d) Borrower, Guarantor and Bank each acknowledges that there are no other understandings, agreements or representations, either oral or written, express or implied, that are not embodied in the Loan Documents and this Agreement, which collectively represent a complete integration of all prior and contemporaneous agreements and understandings of Borrower, Guarantor and Bank; and that all such prior understandings, agreements and representations are modified as set forth in this Agreement. Except as expressly modified, the terms of the Loan Documents are and remain unmodified and in full force and effect.

(e) This Agreement binds and inures to the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

(f) Any references to the "Note," the "Note," the "Mortgage," the "Environmental Certificate," the "Guaranty" or the "Loan Documents" contained in any of the Loan Documents should be considered to refer to the Note, the Mortgage, the Environmental Certificate, the Guaranty and the other Loan Documents as amended. The

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paragraph and section headings used in this Agreement are for convenience only and shall not limit the substantive provisions hereof. All words in this Agreement that are expressed in the neuter gender should be considered to include the masculine, feminine and neuter genders. Any word in this Agreement that is expressed in the singular or plural should be considered, whenever appropriate in the context, to include the plural and the singular.

(g) This Agreement may be executed in one or more counterparts, all of which, when taken together, constitute one original Agreement.

(h) Time is of the essence of each of Borrower's obligations under this Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK-SIGNATURE PAGE FOLLOWS]

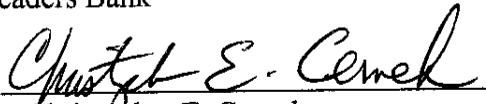
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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

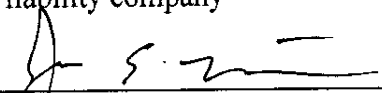
BANK:

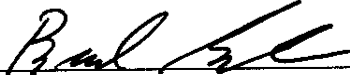
The Leaders Bank

By: 
Christopher E. Cernek,
Senior Vice President

BORROWER:

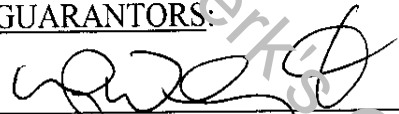
Oak Knoll Partners, LLC, an Illinois limited liability company

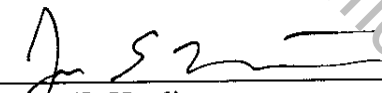
By: 
Jon E. Hardison, Manager

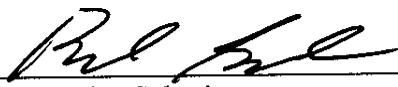
By: 
Brad J. Schreiner, Manager


APPROVED:

GUARANTORS:


W. Philip Wilmington


Jon E. Hardison


Brad J. Schreiner


Robert T. Rasmussen

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McCue Family Limited Partnership, an Illinois limited partnership

By: Donald W. McCue Revocable Trust dated February 28, 1994, its general partner

By: Donald W. McCue
Donald W. McCue, Trustee

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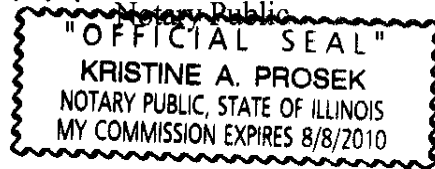
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STATE OF ILLINOIS)
)
COUNTY OF Kane) .SS

I Kristine A Prosek, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Christopher E. Cernek, Senior Vice President of The Leaders Bank, is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act and as the free and voluntary act of the Bank for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20th day of March, 2008.

Kristine A Prosek
Notary Public



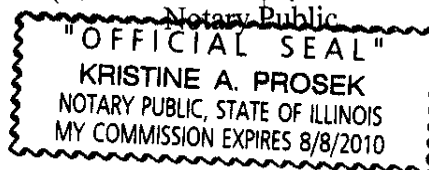
My Commission Expires: 8/8/2010

STATE OF ILLINOIS)
)
COUNTY OF Kane) .SS

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that the above named Jon E. Hardison and Brad J. Schreiner, Managers of Oak Knoll Partners, LLC, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, as such Managers, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act and as the free and voluntary act of said company for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20th day of March, 2008.

Kristine A Prosek
Notary Public



My Commission Expires: 8/8/2010

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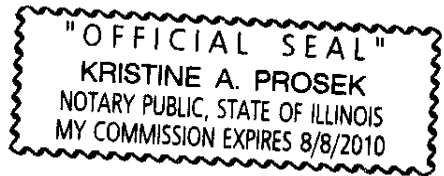
STATE OF ILLINOIS)
).ss
COUNTY OF Kane)

I, Kristine A. Prosek, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that W. Philip Wilmington who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20th day of March, 2008.

Kristine Prosek

Notary Public



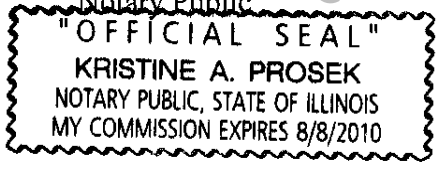
STATE OF ILLINOIS)
).ss
COUNTY OF Kane)

I, Kristine A. Prosek, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Jon E. Hardison who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20th day of March, 2008.

Kristine Prosek

Notary Public



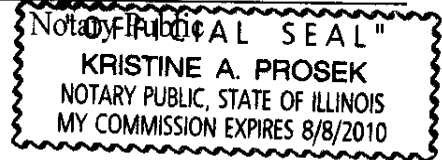
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STATE OF ILLINOIS)
)
COUNTY OF Kane) .ss

I, Kristine A. Prosek, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Robert T. Rasmussen who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20th day of March, 2008.

Kristine A. Prosek

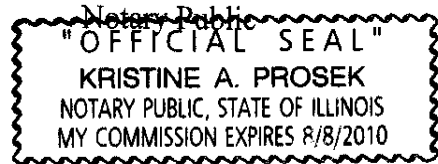


STATE OF ILLINOIS)
)
COUNTY OF Kane) .ss

I, Kristine A. Prosek, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Brad J. Schreiner who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 20th day of March, 2008.

Kristine A. Prosek



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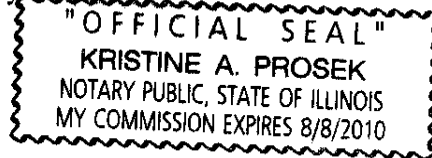
STATE OF ILLINOIS)
) SS.
COUNTY OF Kane)

I, Kristine A. Prosek, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY that Donald W. McCue, Trustee of the Donald W. McCue Revocable Trust, as General Partner of the McCue Family Limited Partnership who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his own free and voluntary act for the uses and purposes therein set forth.

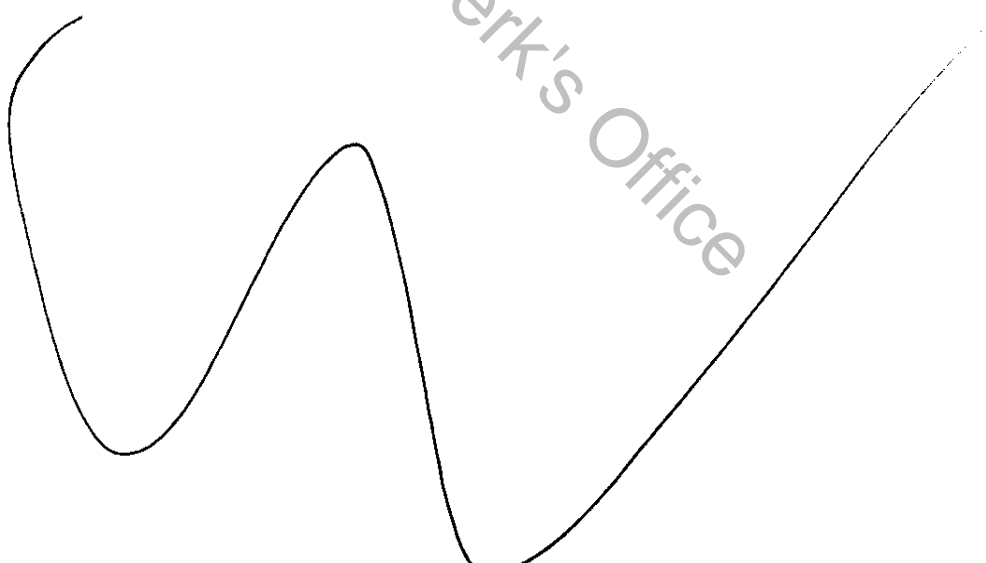
GIVEN under my hand and notarial seal this 20th day of March, 2006

Kristine A. Prosek

Notary Public



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EXHIBIT A

THE PROPERTY

PARCEL 1:

THAT PART OF LOT 1 OF STREAMWOOD COMMERCIAL SUBDIVISION, BEING A SUBDIVISION IN THE WEST 1/2 OF SECTION 23, TOWNSHIP 41 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEASTERLY CORNER OF VACATED LOT 19 IN BLOCK 13 IN STREAMWOOD, UNIT NUMBER 3, BEING A SUBDIVISION OF THE WEST 1/2 OF SECTION 23, TOWNSHIP 41 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE IN A NORTHWESTERLY DIRECTION AT RIGHT ANGLES TO THE SOUTHEASTERLY LINE OF VACATED LOTS 2 TO 19 INCLUSIVE IN BLOCK 13 IN SAID STREAMWOOD, UNIT NUMBER 3, A DISTANCE OF 30.0 FEET; THENCE NORTHEASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, A DISTANCE OF 18.15 FEET; THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, A DISTANCE OF 70.00 FEET; THENCE SOUTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, A DISTANCE OF 30.0 FEET; THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED LINE, ALSO BEING AT RIGHT ANGLES TO THE SOUTHEASTERLY LINE OF SAID VACATED LOTS 2 TO 19 INCLUSIVE, IN BLOCK 13 IN SAID STREAMWOOD, UNIT NUMBER 3, A DISTANCE OF 289.55 FEET, MORE OR LESS TO A POINT ON THE SOUTHEASTERLY LINE OF BARTLETT ROAD, ALSO BEING THE NORTHWESTERLY LINE OF LOT 1 IN SAID STREAMWOOD COMMERCIAL SUBDIVISION; THENCE SOUTHWESTERLY ALONG THE SOUTHEASTERLY LINE OF BARTLETT ROAD TO ITS INTERSECTION WITH A LINE DRAWN FROM A POINT IN THE SOUTHEASTERLY LINE OF VACATED LOTS 2 TO 19, INCLUSIVE, IN BLOCK 13 IN SAID STREAMWOOD, UNIT NUMBER 3, 472.0 FEET SOUTHWESTERLY OF THE NORTHEASTERLY CORNER OF VACATED LOT 19 IN BLOCK 13, AND AT RIGHT ANGLES TO THE SAID SOUTHEASTERLY LINE OF VACATED LOTS 2 TO 19, INCLUSIVE IN BLOCK 13; THENCE SOUTHEASTERLY 407.25, MORE OR LESS, TO A POINT ON THE SOUTHEASTERLY LINE OF VACATED LOTS 2 TO 19 IN BLOCK 13, 472.0 FEET SOUTHWESTERLY OF THE NORTHEASTERLY CORNER OF SAID VACATED LOT 19 IN BLOCK 13; THENCE NORTHEASTERLY ALONG THE SOUTHEASTERLY LINE OF SAID VACATED LOTS 2 TO 19 INCLUSIVE, IN BLOCK 13, 472.00 FEET TO THE PLACE OF BEGINNING, (EXCEPTING THEREFROM THAT PART THEREOF HERETOFORE DEDICATED TO STREET PURPOSES BY DOCUMENT NUMBER 23053248), IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY AGREEMENT FROM PAUL L. ROESCH TO WEST SUBURBAN BANK AS TRUSTEE UNDER TRUST NUMBER 468 DATED AUGUST 10, 1973 AND DATED MARCH 23, 1976 AND RECORDED MAY

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27, 1976 AS DOCUMENT 23501092 FOR INGRESS AND EGRESS, OVER THE FOLLOWING DESCRIBED LAND:

THAT PART OF LOT 1 OF STREAMWOOD COMMERCIAL SUBDIVISION, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF SECTION 23, TOWNSHIP 41 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEASTERLY CORNER OF VACATED LOT 19 IN BLOCK 13 OF STREAMWOOD UNIT NO. 3, BEING A SUBDIVISION OF PART OF THE WEST 1/2 OF SAID SECTION 23; THENCE SOUTHWESTERLY ALONG THE EASTERLY LINE OF VACATED LOTS 2 THROUGH 19, INCLUSIVE, IN SAID BLOCK 13, A DISTANCE OF 472.0 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHWESTERLY ALONG THE LAST DESCRIBED COURSE, A DISTANCE OF 20 FEET; THENCE NORTHWESTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 407.25 FEET MORE OR LESS TO THE EASTERLY LINE OF BARTLETT ROAD; THENCE NORTHEASTERLY ALONG SAID EASTERLY LINE A DISTANCE OF 20 FEET MORE OR LESS TO A POINT ON A LINE THAT IS PERPENDICULAR TO THE EASTERLY LINE OF VACATED LOTS 2 THROUGH 19, AS AFORESAID OF THE PLACE OF BEGINNING; THENCE SOUTHEASTERLY ALONG SAID PERPENDICULAR LINE, A DISTANCE OF 407.25 FEET TO THE PLACE OF BEGINNING, SITUATED IN COOK COUNTY, ILLINOIS.

06-23-106-126

06-23-106-127

Cook County Clerk's Office