

UNOFFICIAL COPY



This Instrument Was Prepared By
And After Recording Should Be
Returned to:

Doc#: 0819611134 Fee: \$116.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 07/14/2008 03:20 PM Pg: 1 of 41

David E. Woods, Esq.
Sidley Austin LLP
One South Dearborn St.
Chicago, Illinois 60603

100810

AMENDED AND RESTATED DECLARATION OF EASEMENTS, RESTRICTIONS AND COVENANTS

THIS AMENDED AND RESTATED DECLARATION OF EASEMENTS, RESTRICTIONS AND COVENANTS (this "**Declaration**") is made and entered into as of the **10th** day of July, 2008 by and between KENDALL HOLDINGS LLC, an Illinois limited liability company ("**Kendall**") and LAURKEN (IL) LLC, a Delaware limited liability company ("**CPA:17**").

WITNESSETH:

WHEREAS, as of April 30, 2001, River Works, L.L.C., an Illinois limited liability company ("**River Works**"), was the owner of certain parcels of land and all improvements thereon situated in Chicago, Illinois, including: (i) a parcel southwest of N. North Branch Street and northeast of the Chicago River, which is more particularly described on **Exhibit A** attached hereto and diagrammed on **Exhibit D** attached hereto ("**Parcel 1**"; CPA:17, together with any successors and assigns that may hereafter own Parcel 1 are referred to herein as the "**Parcel 1 Owner**"; (ii) a parcel west of Halsted Street and east of Parcel 1, which is more particularly described on **Exhibit B** attached hereto and diagrammed on **Exhibit D** attached hereto ("**Parcel 6**"; Kendall, together with any successors and assigns that may hereafter own Parcel 6 are referred to herein as the "**Parcel 6 Owner**"; and (iii) three parcels on the northeast side of N. North Branch Street across from Parcel 1, which are more particularly described on **Exhibit C** attached hereto and diagrammed on **Exhibit D** attached hereto (collectively, the "**North Branch Parcel**"; Kendall, together with any successors and assigns that may hereafter own the North Branch Parcel are referred to herein as "**North Branch Parcel Owner**"; Parcel 1, Parcel 6 and North Branch Parcel are each referred to individually herein as a "**Property**" and are collectively referred to herein as the "**Properties**"; Parcel 1 Owner, Parcel 6 Owner, and North Branch Parcel Owner are each referred to individually herein as an "**Owner**" and are collectively referred to herein as the "**Owners**"; and

WHEREAS, River Works entered into that certain Declaration of Easements Restrictions and Covenants, dated as of April 30, 2001, and recorded May 16, 2001 with the Recorder of Deeds of Cook County, Illinois, as Document Number 0010410272, which was subsequently amended by that certain First Amendment to Declaration of Easements Restrictions and Covenants dated as of June 3, 2005, and recorded June 14, 2005 with the Recorder of Deeds of Cook County, Illinois, as Document Number 0516532069 (collectively, the "**Original Declaration**"), encumbering all of the Properties; and

Stewart Title Guaranty Company
NTS - Chicago Division
2 N. LaSalle Street, Suite 1400
Chicago, IL 60602
File # 08020334/548/BA

UNOFFICIAL COPY

WHEREAS, the Commercial Planned Development No. 424, originally approved by the Chicago City Council on July 29, 1987 (“**PD No. 424**”), requires (i) that a minimum of 38 parking spaces are maintained on Parcel 1 and Parcel 6 (Parcel 1 and Parcel 6, collectively, the “**PD Subject Area**”) in compliance with requirements of PD No. 424 (the “**PD Requirements**”) and (ii) that River Works, as “Applicant” (as such term is used in PD No. 424) own or control a minimum of 150 parking spaces, in the aggregate, within 800 feet of the entrance to the PD Subject Area (the “**Minimum Offsite Parking**”) in compliance with the PD Requirements, for the benefit of the PD Subject Area; and

WHEREAS, the Owners desire to set forth herein the Owners’ agreement with respect to certain matters pertaining to the Properties, including, but not limited to, the allocation of the Minimum Offsite Parking between Parcel 1 Owner and Parcel 6 Owner, and the uses of the PD Subject Area; and

WHEREAS, the Owners desire to amend and restate the Original Declaration in its entirety in accordance with the terms hereof.

NOW, THEREFORE, for and in consideration of the mutual covenants and promises hereinafter set forth, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby mutually acknowledged, the Owners DECLARE AS FOLLOWS:

ARTICLE I PARKING RIGHTS

1.01 General Parking Easement and Parking Covenants.

(a) North Branch Parcel Owner hereby declares and grants, subject to the terms contained herein, for the benefit of Parcel 1 Owner and Parcel 6 Owner, an exclusive, perpetual and irrevocable (but subject to the express terms hereof) easement in, over and to one hundred fifty (150) code-compliant parking spaces on the North Branch Parcel for purposes of satisfying the offsite parking requirements under PD No. 424, which easement and spaces shall be allocated for use, location and expense purposes to Parcel 1 Owner and Parcel 6 Owner as set forth herein, and provided that such easement shall be subject to North Branch Parcel Owner’s right to relocate the Offsite Parcel 1 Spaces (as hereinafter defined) and the Offsite Parcel 6 Spaces (as hereinafter defined) in accordance with the terms hereof. Notwithstanding anything to the contrary contained herein, the obligations of North Branch Parcel Owner to continuously provide such one hundred fifty (150) code-compliant parking spaces under this Section 1.01(a) are intended to be an independent covenant running with the land, and shall continue unaffected by any amendment to PD No. 424 which eliminates or reduces the number of spaces of the Minimum Offsite Parking as a part of the PD Requirements.

(b) Parcel 6 Owner hereby covenants to keep and provide at all times the Minimum Offsite Parking in compliance with the PD Requirements for the exclusive benefit of the PD Subject Area. Notwithstanding anything to the contrary contained herein, the obligations of Parcel 6 Owner to continuously provide the Minimum Offsite Parking under this Section 1.01(b) are intended to be an independent covenant running

UNOFFICIAL COPY

with the land, and shall continue unaffected by any amendment to PD No. 424 which eliminates or reduces the number of spaces of the Minimum Offsite Parking as a part of the PD Requirements.

(c) Notwithstanding anything to the contrary herein, North Branch Parcel Owner and Parcel 6 Owner hereby acknowledge and covenant that for purposes of determining if the Minimum Offsite Parking is being provided, such Minimum Offsite Parking shall not be located on the "Subject Premises" (as such term is defined in that certain Restrictive Covenant dated January 19, 2001 and recorded January 29, 2001 with the Recorder of Deeds of Cook County, Illinois as Document No. 0010076345 (the "**Restrictive Covenant**")) until such time as the potential restrictions against the use of the "Subject Premises" for parking purposes contained in the Restrictive Covenant are removed and parking constitutes an as-of-right permitted use for the "Subject Premises".

(d) Parcel 1 Owner hereby covenants to keep and provide not less than 38 parking spaces on Parcel 1 in compliance with the PD Requirements (the "**Minimum Onsite Parking**"); provided that Parcel 1 Owner may, at any time and from time to time, relocate the Minimum Onsite Parking to any location within Parcel 1 in compliance with the PD Requirements at Parcel 1 Owner's sole discretion.

1.02 Offsite Parcel 1 Spaces Easement

(a) North Branch Parcel Owner hereby declares and grants, subject to the terms contained herein, for the benefit of Parcel 1 Owner, together with its successors, assigns, beneficiaries, heirs, transferees, lessee, grantees and subsequent owners or tenants of all or any portion of Parcel 1, and their respective agents, contractors and employees (collectively, the "**Parcel 1 Parties**"), an exclusive, perpetual and irrevocable (but subject to the express terms hereof) easement in, over and to one hundred one (101) code-compliant parking spaces at the location(s) more specifically identified on **Exhibit E** attached hereto (the "**Offsite Parcel 1 Spaces**") and a non-exclusive, perpetual and irrevocable easement for pedestrian and vehicular ingress and egress upon, over, through and across the balance of the North Branch Parcel to the extent reasonably necessary to access the Offsite Parcel 1 Spaces.

(b) In the event that North Branch Parcel Owner commences development of the North Branch Parcel pursuant to building plans approved by the applicable governmental authorities, and subject to the terms of Section 1.01 hereof, North Branch Parcel Owner may, upon thirty (30) days written notice to Parcel 1 Owner, relocate (in whole or in part), the Offsite Parcel 1 Spaces to any location (which may include the interior of any existing or future parking garage) within the North Branch Parcel or, if North Branch Parcel Owner owns Parcel 6 at such time, within Parcel 6 (to the extent that such relocation to Parcel 6 will not cause either parcel 1 Owner or Parcel 6 Owner to be in violation of the PD Requirements), provided that such relocation (i) complies with the PD Requirements and the terms of this Declaration (to the extent same are in conflict, the terms of this Declaration shall control so long as such compliance with the terms of the Declaration will not result in violation of the PD Requirements) and (ii) is, if the Offsite Parcel 1 Spaces are relocated within the North Branch Parcel, in as close proximity to the

UNOFFICIAL COPY

entrance of Parcel 1 as is reasonably practicable in light of the approved development plans for the North Branch Parcel. If North Branch Parcel Owner does not own Parcel 6, North Branch Parcel Owner may not relocate (in whole or in part) the Offsite Parcel 1 Spaces to any location within Parcel 6 without consent by both Parcel 1 Owner and Parcel 6 Owner.

(c) Parcel 1 Owner shall use (and shall cause Parcel 1 Parties to use) the Offsite Parcel 1 Spaces (i) in accordance with the reasonable rules and regulations which are promulgated from time to time by North Branch Parcel Owner or Parcel 6 Owner, as the case may be, provided that such rules and regulations shall be applied in a non-discriminatory manner; (ii) in compliance with all applicable laws and the terms of this Declaration, and (iii) for the parking of automobiles (including SUVs and vans) and motorcycles only.

(d) In the event the Offsite Parcel 1 Spaces are relocated pursuant to the terms of this Section 1.02, each of the Owners shall enter into an amendment to this Declaration which will amend Exhibit E attached hereto to depict the new location of the Offsite Parcel 1 Spaces and modify, if applicable, any other terms hereof (including, without limitation, the terms of Section 3.02 hereof) necessary to reflect the fact that all or a portion of the Offsite Parcel 1 Spaces have been relocated to Parcel 6.

(e) Parcel 1 Owner may not, without the prior written consent of Parcel 6 Owner, release, relinquish or otherwise terminate its easement over the Offsite Parcel 1 Spaces granted pursuant to the terms hereof, provided that Parcel 6 Owner shall not unreasonably withhold its consent to the extent that such release, relinquishment or termination will not cause either Parcel 1 Owner or Parcel 6 Owner to be in violation of the PD Requirements.

1.03 Offsite Parcel 6 Spaces Easement

(a) North Branch Parcel Owner hereby declares and grants, subject to the terms contained herein, for the benefit of Parcel 6 Owner, together with its successors, assigns, beneficiaries, heirs, transferees, lessees, grantees and subsequent owners or tenants of all or any portion of Parcel 6, and their respective agents, contractors and employees (collectively, the "**Parcel 6 Parties**"), an exclusive, perpetual and irrevocable easement in, over and to forty-nine (49) code-compliant parking spaces at the location(s) more specifically identified on **Exhibit F** attached hereto (the "**Offsite Parcel 6 Spaces**") and a non-exclusive, perpetual and irrevocable easement for pedestrian and vehicular ingress and egress upon, over, through and across the balance of the North Branch Parcel to the extent reasonably necessary to access the Offsite Parcel 6 Spaces.

(b) In the event that North Branch Parcel Owner commences development of the North Branch Parcel pursuant to building plans approved by the applicable governmental authorities, and subject to the terms of Section 1.01 hereof, North Branch Parcel Owner may, upon thirty (30) days written notice to Parcel 6 Owner, relocate (in whole or in part), the Offsite Parcel 6 Spaces to any location (which may include the interior of any existing or future parking garage) within the North Branch Parcel or, if

UNOFFICIAL COPY

North Branch Parcel Owner owns Parcel 6 at such time, within Parcel 6 (to the extent that such relocation to Parcel 6 will not cause either parcel 1 Owner or Parcel 6 Owner to be in violation of the PD Requirements), provided that such relocation (i) complies with the PD Requirements and the terms of this Declaration (to the extent same are in conflict, the terms of this Declaration shall control so long as such compliance with the terms of the Declaration will not result in violation of the PD Requirements) (ii) is, if the Offsite Parcel 6 Spaces are relocated within the North Branch Parcel, in as close proximity to the entrance of Parcel 6 as is reasonably practicable in light of the approved development plans for the North Branch Parcel. If North Branch Parcel Owner does not own Parcel 6, North Branch Parcel Owner may not relocate (in whole or in part) the Offsite Parcel 6 Spaces to any location within Parcel 6 without consent by Parcel 1 Owner and Parcel 6 Owner.

(c) Parcel 6 Owner shall use (and shall cause the Parcel 6 Parties to use) the Offsite Parcel 6 Spaces (i) in accordance with the reasonable rules and regulations which are promulgated by North Branch Parcel Owner from time to time, provided that such rules and regulations shall be applied in a non-discriminatory manner; (ii) in compliance with all applicable laws and the terms of this Declaration, and (iii) for the parking of automobiles (including SUVs and vans) and motorcycles only.

(d) In the event the Offsite Parcel 6 Spaces are relocated pursuant to the terms of this Section 1.03, each of the Owners shall enter into an amendment to this Declaration which will amend Exhibit F attached hereto to depict the new location of the Offsite Parcel 6 Spaces and modify, if applicable, any other terms hereof (including, without limitation, the terms of Section 3.02 hereof) necessary to reflect the fact that all or a portion of the Offsite Parcel 6 Spaces have been relocated to Parcel 6.

(e) Parcel 6 Owner may not, without the prior written consent of Parcel 1 Owner, release, relinquish or otherwise terminate its easement over the Offsite Parcel 6 Spaces granted pursuant to the terms hereof, provided that Parcel 1 Owner shall not unreasonably withhold its consent to the extent such release, relinquishment or termination will not cause either Parcel 6 Owner or Parcel 1 Owner to be in violation of the PD Requirements.

1.04 Non-Exclusive Spaces

(a) Parcel 6 Owner shall have the non-exclusive right to use, on a first-come, first-serve basis with all other permitted users, a total of 16 parking spaces that are currently located partially on Parcel 1 and Parcel 6 along the boundary line between Parcel 1 and Parcel 6 (the "**Non-Exclusive Spaces**"), provided that Parcel 1 Owner may cease providing such spaces to Parcel 6 Owner at any time upon thirty (30) days prior written notice and for any reason so long as Parcel 1 Owner does not provide such spaces to any other third party that is not an owner or then current occupant of Parcel 1. Subject to Section 1.01(d) hereof, nothing in this Section 1.04(a) shall restrict Parcel 1 Owner's rights to reconfigure or move parking spaces on Parcel 1, including the Non-Exclusive Spaces.

UNOFFICIAL COPY

(b) Nothing in Section 1.04(a) above shall be deemed to reduce or limit Parcel 1 Owner's right to the Offsite Parcel 1 Spaces granted pursuant to the terms hereof or permit any reduction in the Minimum Offsite Parking.

1.05 Any Owner may, at its sole option, implement a controlled parking system on any property over which another Owner has parking rights pursuant to the terms hereof (each, a "**Burdened Parcel**"; the owner of a Burdened Parcel is referred to herein as a "**Burdened Parcel Owner**"), which may include, without limitation, the following:

(a) causing the Offsite Parcel 1 Spaces, or the Offsite Parcel 6 Spaces to be separately designated and/or segregated from other parking spaces, garages or areas located on the Burdened Parcel so long as such separate designation or separation does not materially interfere with ingress or egress upon, through and across those portions of the Burdened Parcel that each Owner is entitled to use to access such parking hereunder;

(b) implementing a reserved parking system using parking passes, parking stickers, validation tickets, license plate registration, numbered spaces, garage door openers and/or manned or automated gate systems;

(c) towing, causing to be towed, causing to be ticketed or otherwise imposing penalties against those vehicles parking on the Burdened Parcel that do not comply with that Burdened Parcel Owner's reasonable rules and regulations (which may include those items listed as 1.05(a) and 1.05(b) above) which have been previously disseminated to all of the Owners by notice in the manner required by this Declaration; and

(d) charging individual users a monthly fee for the use of said spaces, provided that (i) any monthly fees collected by each Burdened Parcel owner from users of the Offsite Parcel 1 Spaces or Offsite Parcel 6 Spaces shall be credited towards any amounts owed to that Burdened Parcel Owner by Parcel 1 Owner and Parcel 6 Owner, respectively, for Parking Area Expenses), (ii) such fees shall not be in excess of then-market rates for similar rental parking spaces in the general vicinity of the Burdened Parcel and (iii) fees charged to the employees, students, guests or invitees of the other Owners or any tenants in occupancy of Parcel 1 and/or Parcel 6 shall not be less favorable than the fees charged to any third-party users. Notwithstanding anything to the contrary in the foregoing sentence, a Burdened Parcel owner may not charge the individual users of the Offsite Parcel 1 Spaces or the Offsite Parcel 6 Spaces a monthly fee for the use of said spaces without the consent of Parcel 1 Owner and Parcel 6 Owner, respectively, which may be granted or withheld in each Owner's sole discretion.

1.06 North Branch Parcel Owner, hereby permits, subject to the terms contained herein (including relocation rights), Parcel 1 Owner and Parcel 6 Owner, together with Parcel 1 Parties and Parcel 6 Parties, to use, on a non-exclusive, first-come, first-serve basis with all other permitted users, all of the parking spaces in excess of the Minimum Offsite Parking located on the North Branch Parcel (the "**Excess Parking**"), provided that North Branch Parcel Owner may cease making such Excess Parking available upon giving the Owners not less than ninety (90) days prior written notice; provided that North Branch Parcel Owner may only cease making the Excess Parking available to Parcel 1 Owner and Parcel 6 Owner (i) if North Branch Parcel

UNOFFICIAL COPY

Owner commences development of the North Branch Parcel pursuant to building plans approved by the applicable governmental authorities, or (ii) upon the sale of the North Branch Parcel by North Branch Parcel Owner to an unrelated third party pursuant to a bona-fide, arms-length transaction. For the purpose of this Section, the term "sale" means (x) a conveyance by deed for value or (y) a long-term ground lease or a sale-leaseback structure for financing purposes which, upon its consummation, the-then North Branch Parcel Owner or an affiliate thereof subleases or leases back the North Branch Parcel for occupancy, as the case may be. Nothing in this Section 1.06 shall be deemed to reduce or limit Parcel 1 Owner's right to the Offsite Parcel 1 Spaces granted pursuant to the terms hereof or permit any reduction of the Minimum Offsite Parking.

1.07 If at any time any Owner (the "**Protestor**") reasonably believes that another Owner (the "**Protestee**") is not providing Protestor with the full benefit of the parking rights to which Protestor is entitled pursuant to the terms hereof, Protestor and Protestee shall cooperate in good faith to provide Protestor with the full benefit of the parking rights to which Protestor is entitled pursuant to the terms hereof (which may require the Protestee to implement a controlled parking system pursuant to the terms of Section 1.05 above).

ARTICLE II RESERVATION OF CONSTRUCTION EASEMENT AND ACCESS EASEMENT

2.01 Construction Easement. Parcel 1 Owner hereby declares and grants, subject to the terms contained herein, for the benefit of Parcel 6 Owner, together with Parcel 6 Parties, a non-exclusive and temporary easement (the "**Construction Easement**") on, over, under and across those portions of Parcel 1 more specifically identified on **Exhibit H** attached hereto to the extent necessary to facilitate the construction and maintenance of vertical improvements on Parcel 6, such as for truck turnaround, materials storage, staging areas and the like. Notwithstanding the foregoing, no such construction or maintenance shall unreasonably interfere with Parcel 1 Owner's use or enjoyment of, or ingress to, or egress from, Parcel 1. When and if Parcel 6 Owner exercises its right to use the Construction Easement, Parcel 6 Owner must place directional signs and take any and all other prudent safety measures reasonably designed to allow the use and enjoyment of Parcel 1, and to prevent any accidents, injuries or damages to the users of Parcel 1 and to minimize interference with the normal operation of Parcel 1. Parcel 6 Owner shall use commercially reasonable efforts to install any scaffolding, lifts or cranes in a manner which minimizes the effect on the Construction Easement area, and if scaffolding is erected, Parcel 6 Owner shall maintain scaffolding insurance in an amount customarily obtained by prudent building owners in the City of Chicago. Upon completion of construction or maintenance, Parcel 6 Owner shall promptly restore any portion of Parcel 1 damaged by such construction, storage, or other use of the Construction Easement to its preconstruction condition.

2.02 Access Easement. Parcel 1 Owner hereby declares and grants, subject to the terms contained herein, for the benefit of Parcel 6 Owner, together with Parcel 6 Parties, a non-exclusive and perpetual easement (the "**Access Easement**") for pedestrian and vehicular (including, without limitation, trucks, semi-trailers, double trailers and other large motorized vehicles providing goods or services to Parcel 6) ingress and egress upon, over, through and across those portions of Parcel 1 more specifically identified on **Exhibit I** to provide access to Parcel 6 from North Branch Street.

UNOFFICIAL COPY

2.03 River Walk and Plaza Easement. Parcel 1 Owner hereby declares and grants, subject to the terms contained herein, for the benefit of Parcel 6 Owner, together with Parcel 6 Parties, but only subsequent to any vertical development of Parcel 6, a non-exclusive and perpetual easement (the "River Walk and Plaza Easement") for pedestrian ingress and egress upon, over, through and across the areas identified on Exhibit J attached hereto as the "River Walk" and Exhibit K attached hereto as the "Plaza Parcel" (collectively, the "River Walk and Plaza Parcel").

ARTICLE III MAINTENANCE PROVISIONS

3.01 General Maintenance Obligations. The Owner of each Burdened Parcel hereby agrees to operate, maintain, repair and restore, in good condition and repair, consistent with the operation of a first-class commercial development, its Burdened Parcel. Such operation, maintenance and restoration of the Burdened Parcels shall include, without limitation, the following:

- (a) maintaining the walkways, parking lots and other paved or cemented surfaces of the Burdened Parcels in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute material which shall in all respects be equal in quality, use and durability;
- (b) removing all papers, ice and snow, mud and sand, debris, filth and refuse and thoroughly sweeping to the extent reasonably necessary to keep the Burdened Parcels in a clean and orderly condition;
- (c) placing, keeping in repair, and replacing, as necessary, any appropriate directional or identification signs, markers, lines and stripings;
- (d) operating, keeping in repair and replacing, as and where necessary, such artificial lighting facilities as shall be reasonably and prudently required;
- (e) maintaining all walks, benches and other seating areas, shrubs, trees, plants, flowers and other landscaping, exterior planters, gardens, patios and deck walls and surfaces;
- (f) maintaining all curbing, islands and similar improvements;
- (g) keeping the Burdened Parcels in good repair and with grades sufficient to prevent ponding and to maintain storm water flow; and
- (h) maintaining a controlled parking system, including those systems described in Section 1.05 above, if any.

3.02 Shared Parking Area Expenses.

- (a) Parcel 1 Owner shall pay its Proportionate Share of Parking Area Expenses for the entire parking area on the North Branch Parcel for so long as Parcel 1

UNOFFICIAL COPY

Owner has parking rights over the Offsite Parcel 1 Spaces and the Excess Parking pursuant to the terms hereof. In the event that Parcel 1 Owner's right to the Excess Parking is terminated pursuant to the terms hereof, Parcel 1 Owner shall pay only its Proportionate Share of Parking Area Expenses for the Minimum Offsite Parking. With respect to Parcel 1 Owner, "**Proportionate Share**" shall mean sixty-seven percent (67%).

(b) Parcel 6 Owner shall pay its Proportionate Share of Parking Area Expenses for the entire parking area on the North Branch Parcel for so long as Parcel 6 Owner has parking rights over the Offsite Parcel 6 Spaces and the Excess Parking pursuant to the terms hereof. In the event that Parcel 6 Owner's right to the Excess Parking is terminated pursuant to the terms hereof, Parcel 6 Owner shall pay only its Proportionate Share of Parking Area Expenses for the Minimum Offsite Parking. With respect to Parcel 6 Owner, "**Proportionate Share**" shall mean thirty-three percent (33%).

(c) As used herein, the term "**Parking Area Expenses**" shall mean all actual expenses, obligations and liabilities incurred in operating or maintaining the parking lots, garages and/or other parking facilities on the North Branch Parcel in accordance with this Declaration (including, without limitation, those items listed as 3.01(a) – 3.01(h) above) during any calendar year, including, but not limited to: (i) salaries, wages and payroll taxes of employees directly involved with operating and maintaining the North Branch Parcel (properly allocated if such employees services are also utilized at other locations), (ii) reasonable legal fees incurred in enforcing any provision of this Declaration or in otherwise preventing the interference with the use and enjoyment of the North Branch Parcel by any party with an easement over the North Branch Parcel pursuant to the terms hereof, (iii) accounting fees incurred in reconciling and administering the Parking Area Expenses, (iv) a reasonable working capital fund, (v) supplies, equipment, furnishings, materials and parts used in connection with the operation and maintenance of the North Branch Parcel, (vi) utilities used in connection with the operation and maintenance of the North Branch Parcel, (vii) the cost of removing waste and snow removal from the North Branch Parcel, (viii) maintaining, repairing and replacing (which shall include, without limitation, the resurfacing and restriping of parking areas and the addition or replacement of gating and fencing) the North Branch Parcel, (ix) casualty (for the full replacement cost) and public liability (with commercially reasonable limits and deductibles) insurance covering the North Branch Parcel, as required pursuant to Article V below, (x) fuel and power necessary to operate all equipment used in operating and maintaining the North Branch Parcel, and (xi) real property taxes for the North Branch Parcel (but only to the extent payable with respect to its undeveloped condition). Notwithstanding the foregoing, Parking Area Expenses shall not include (i) the initial cost of constructing a parking garage or deck on the North Branch Parcel, or Parcel 6, as the case may be, (ii) the initial costs associated with the relocation of any Offsite Parcel 1 Spaces or Offsite Parcel 6 Spaces as contemplated by Section 1.02(b) or Section 1.03(b) hereof, or (iii) any costs attributable to any portion of the North Branch Parcel that is not generally available for use by the Parcel 1 and Parcel 6 Owners in accordance with this Agreement due to development or reservation for third party users.

UNOFFICIAL COPY

(d) Within forty-five (45) days before the end of each calendar year, North Branch Parcel Owner shall cause to be prepared and delivered to the other Owners, a detailed annual budget (each, an "**Annual Parking Area Expense Budget**") for estimating all anticipated Parking Area Expenses (the "**Estimated Parking Area Expense Amount**"); provided, however, if an Annual Parking Area Expense Budget is not delivered with respect to any calendar year, the Estimated Parking Area Expense Amount shall be equal to the Estimated Parking Area Expense Amount payable for the preceding calendar year. Each Annual Parking Area Expense Budget shall (i) set forth each Owner's share of estimated Parking Area Expenses, (ii) identify or indicate the amounts intended for allowed capital improvements and repairs, (iii) provide a reserve for contingencies, repairs and replacements in a commercial reasonable amount as determined by the applicable Owner.

(e) Each Owner shall pay to North Branch Parcel Owner a monthly installment equal to one-twelfth (1/12) of its respective Proportionate Share of the Estimated Parking Area Expense Amount payable in advance on or before the first day of each calendar month covered by the applicable Annual Parking Area Expense Budget. If any Owner disagrees in good faith with any of the items or amounts set forth in an Annual Parking Area Expense Budget, North Branch Parcel Owner, who produced such Annual Parking Area Expense Budget, shall make itself reasonably available to the aggrieved Owner to discuss the Annual Parking Area Expense Budget and shall cooperate in good faith with the aggrieved Owner to demonstrate how the amounts set forth therein were calculated and to discuss ways the Owners could cooperate in order to reduce Parking Area Expenses for all Owners. If an Annual Parking Area Expense Budget is delivered after the beginning of the calendar year, each Owner at the next monthly installment due date immediately following the delivery of the Annual Parking Area Expense Budget shall ratably adjust (up or down, as the case may be) the amount to be paid for the balance of the calendar year so that the amount payable over the balance of such calendar year will equal that Owner's Proportionate Share (as set forth in Section 3.02(a)-(c) above) of the Estimated Parking Area Expense Amount determined by the Annual Parking Area Expense Budget.

(f) If North Branch Parcel Owner incurs a Parking Area Expense that was not contemplated by its Annual Parking Area Expense Budget (an "**Unanticipated Parking Area Expense**"), North Branch Parcel Owner shall supply the other Owners with written notice of such Unanticipated Parking Area Expense along with a reasonable explanation of the Unanticipated Parking Area Expense and a calculation of each Owner's Proportionate Share (as set forth in Section 3.02(a)-(c) above) of the Unanticipated Parking Area Expense. If such notice is provided on or before the tenth (10th) day of any calendar month, each Owner shall pay that Owner's Proportionate Share (as set forth in Section 3.02(a)-(c) above) of the Unanticipated Parking Area Expense on the first (1st) day of the following calendar month; otherwise such payment shall be due on the first (1st) day of the calendar month subsequent to the next full calendar month.

(g) By March 1 of each calendar year, or as soon thereafter as practicable (but, in any event, prior to April 1), North Branch Parcel Owner shall furnish to the other Owners a detailed annual written statement (each, an "**Annual Parking Area Expense**

UNOFFICIAL COPY

Statement) of all Parking Area Expenses actually incurred (the "**Annual Parking Area Expense Amount**") for the previous year. If the Estimated Parking Area Expense Amount for the year covered by such Annual Parking Area Expense Statement exceeded the Annual Parking Area Expense Amount, then North Branch Parcel Owner shall promptly credit or reimburse the other Owners for their respective Proportionate Share of such excess; likewise, if the Owners' respective Proportionate Shares of the Estimated Parking Area Expense Amount for such year are less than their respective Proportionate Share of the Annual Parking Area Expense Amount, then the other Owners shall promptly pay North Branch Parcel Owner such deficiency.

(i) In the event the Offsite Parcel 1 Spaces or the Offsite Parcel 6 Spaces are relocated to Parcel 6 in accordance with the terms hereof, the parties hereto shall enter into an amendment to modify the terms of Section 3.02 to reflect the fact that all or a portion of the Offsite Parcel 1 Spaces or the Offsite Parcel 6 Spaces have been relocated to Parcel 6.

3.03 Shared River Walk and Plaza Expenses.

(a) Upon any future development of Parcel 6, Parcel 6 Owner shall pay its Proportionate Share of River Walk and Plaza Expenses for the River Walk and Plaza Parcel to Parcel 1 Owner for so long as Parcel 6 Owner has the River Walk and Plaza Easement pursuant to the terms hereof. With respect to the River Walk and Plaza Parcel only, Parcel 6 Owner's "**Proportionate Share**" shall be thirty-three percent (33%).

(b) As used herein, the term "**River Walk and Plaza Expenses**" shall mean all actual expenses, obligations and liabilities incurred in maintaining the River Walk and Plaza Parcel in good condition and repair during any calendar year, including, but not limited to (i) salaries, wages and payroll taxes of employees directly involved with operating and maintaining the River Walk and Plaza Parcel, (ii) legal fees in enforcing any provision of this Declaration or in otherwise preventing the interference with the use and enjoyment of the River Walk and Plaza Parcel by any party with an easement over the River Walk and Plaza Parcel pursuant to the terms hereof, (iii) accounting fees incurred in reconciling and administering the River Walk and Plaza Expenses, (iv) a reasonable working capital fund, (v) supplies, equipment, furnishings, materials and parts used in connection with the operation and maintenance of the River Walk and Plaza Parcel, (vi) utilities used in connection with the operation and maintenance of the River Walk and Plaza Parcel, (vii) the cost of removing waste and snow removal from the River Walk and Plaza Parcel, (viii) maintaining, repairing and replacing the River Walk and Plaza Parcel, (ix) casualty (for the full replacement cost) and public liability (with commercially reasonable limits and deductibles) insurance covering the River Walk and Plaza Parcel, as required pursuant to Article V below, (x) fuel and power necessary to operate all equipment used in operating and maintaining the River Walk and Plaza Parcel, and (xi) real property taxes for the River Walk and Plaza Parcel.

(c) Within forty-five (45) days before the end of each calendar year, Parcel 1 Owner, shall cause to be prepared and delivered to Parcel 6 Owner, a detailed annual budget (each, an "**Annual River Walk and Plaza Expense Budget**") for estimating all

UNOFFICIAL COPY

anticipated River Walk and Plaza Expenses (the “**Estimated River Walk and Plaza Expense Amount**”); provided, however, if an Annual River Walk and Plaza Expense Budget is not delivered with respect to any calendar year, the Estimated River Walk and Plaza Expense Amount shall be equal to the Estimated River Walk and Plaza Expense Amount payable for the preceding calendar year. Each Annual River Walk and Plaza Expense Budget shall (i) set forth Parcel 6 Owner’s share of estimated River Walk and Plaza Expenses, (ii) identify or indicate the amounts intended for allowed capital improvements and repairs, (iii) provide a reserve for contingencies, repairs and replacements in a commercial reasonable amount as determined by Parcel 1 Owner.

(d) Parcel 6 Owner shall pay to Parcel 1 Owner a monthly installment equal to one-twelfth (1/12) of Parcel 6 Owner’s Proportionate Share of the Estimated River Walk and Plaza Expense Amount payable in advance on or before the first day of each calendar month covered by the applicable Annual River Walk and Plaza Expense Budget. If Parcel 6 Owner disagrees in good faith with any of the items or amounts set forth in an Annual River Walk and Plaza Expense Budget, Parcel 1 Owner shall make itself reasonably available to Parcel 6 Owner to discuss the Annual River Walk and Plaza Expense Budget and shall cooperate in good faith with Parcel 6 Owner to demonstrate how the amounts set forth therein were calculated and to discuss ways the Owners could cooperate in order to reduce River Walk and Plaza Expenses for both Owners. If an Annual River Walk and Plaza Expense Budget is delivered after the beginning of the calendar year, Parcel 1 Owner at the next monthly installment due date immediately following the delivery of the Annual River Walk and Plaza Expense Budget shall ratably adjust (up or down, as the case may be) the amount to be paid for the balance of the calendar year so that the amount payable over the balance of such calendar year will equal Parcel 6 Owner’s Proportionate Share of the Estimated River Walk and Plaza Expense Amount determined by the Annual River Walk and Plaza Expense Budget.

(e) If Parcel 1 Owner incurs a River Walk and Plaza Expense that was not contemplated by its Annual River Walk and Plaza Expense Budget (an “**Unanticipated River Walk and Plaza Expense**”), Parcel 1 Owner shall supply Parcel 6 Owner with written notice of such Unanticipated River Walk and Plaza Expense along with a reasonable explanation of the Unanticipated River Walk and Plaza Expense and a calculation of Parcel 6 Owner’s Proportionate Share (as set forth in Section 3.03(a) above) of the Unanticipated River Walk and Plaza Expense. If such notice is provided on or before the tenth (10th) day of any calendar month, Parcel 6 Owner shall pay Parcel 6 Owner’s Proportionate Share (as set forth in Section 3.03(a) above) of the Unanticipated River Walk and Plaza Expense on the first (1st) day of the following calendar month; otherwise such payment shall be due on the first (1st) day of the calendar month subsequent to the next full calendar month.

(f) By March 1 of each calendar year, or as soon thereafter as practicable (but, in any event, prior to April 1), Parcel 1 Owner shall furnish to Parcel 6 Owner a detailed annual written statement (each, an “**Annual River Walk and Plaza Expense Statement**”) of all River Walk and Plaza Expenses actually incurred (the “**Annual River Walk and Plaza Expense Amount**”) for the previous year. If the Estimated River Walk and Plaza Expense Amount for the year covered by such Annual River Walk and Plaza

UNOFFICIAL COPY

Expense Statement exceeded the Annual River Walk and Plaza Expense Amount, then Parcel 1 Owner shall promptly credit or reimburse the Parcel 6 Owner for its Proportionate Share of such excess; likewise, if the Parcel 6 Owner's Proportionate Share of the Estimated River Walk and Plaza Expense Amount for such year is less than Parcel 6 Owner's Proportionate Share of the Annual River Walk and Plaza Expense Amount, then the Parcel 6 Owner shall promptly pay Parcel 1 Owner such deficiency.

ARTICLE IV INSURANCE; INDEMNITY

4.01 Insurance. Each Owner agrees to maintain for their respective Properties public liability and casualty insurance coverage against claims for bodily injury or death and property damage occurring on or about their respective Properties in such amounts as are customary for similar properties in the area and are reasonably acceptable to the other Owners. Such insurance shall be written and maintained by nationally recognized insurance carriers which are licensed to do business in the State of Illinois and are reasonably acceptable to the other Owners. Each Owner shall furnish to any requesting Owner a copy of a certificate of insurance evidencing the insurance which it is required to carry pursuant to this Article IV.

4.02 Indemnity. Each Owner shall and defend, indemnify and hold the owner of each Burdened Parcel harmless from and against any and all losses arising out of, connected with, or resulting from the use of the parking rights or easements provided for herein, except to the extent, in all cases, that any such losses result from normal wear and tear or the negligence or intentional misconduct of the Owner of the applicable Burdened Parcel or any of their respective lessees, employees, agents, contractors, guests, or invitees.

ARTICLE V ENFORCEMENT PROVISIONS

5.01 Violations. Upon the occurrence of any one or more of the following events, and subject to the provisions of Section 1.06 above, each Owner shall have the rights and remedies set forth in Section 5.02:

(a) Failure by an Owner to pay when due any sums required to be paid by such Owner pursuant to this Declaration for ten (10) days after written notice of such non-payment has been given to such Owner from another Owner. However, such defaulting Owner shall not be entitled to written notice and opportunity to cure such failure if such Owner has been given three or more notices pursuant to this paragraph during the 12-month period immediately preceding such failure.

(b) Violation or breach by an Owner of any provision, covenant or restriction of this Declaration and continuation of such violation or breach for thirty (30) days after written notice thereof shall have been given to such Owner (or, if the nature of such violation or breach is such that more than thirty (30) days are required for performance, the failure of such defaulting Owner to commence performance within such thirty (30) day period and thereafter to diligently and continuously prosecute the same to completion). However, such defaulting Owner shall not be entitled to written notice and

UNOFFICIAL COPY

opportunity to correct such violation or breach if such Owner has been given three or more notices pursuant to this paragraph for the same or similar violations or breaches during the 12-month period immediately preceding such violation or breach.

(c) Upon the occurrence of any of the events described in Section 5.01(a) and Section 5.01(b), a copy of any written notice of such default provided by any non-defaulting Owner to such defaulting Owner shall be also sent to the then mortgagees of each such defaulting Owner, provided that such mortgagees have given the Owners written notice setting forth their notice addresses in accordance with Section 6.04 hereof prior to the occurrence of such default.

5.02 Remedies. Upon the occurrence of any of the events described in Section 5.01, then the defaulting Owner shall be deemed to be in default of its obligations under this Declaration and the non-defaulting Owners shall have the all rights and remedies as shall be available to each of them in law or in equity including but not limited to the following rights and remedies:

(a) For a violation or breach described in Section 5.01(b) above, the right:

(i) to summarily abate and remove or do whatever else may be reasonably necessary to correct, at the expense of the defaulting Owner, such violation or breach or the cause of such violation or breach, and the non-defaulting Owner, shall not thereby be deemed guilty in any manner of trespass; or

(ii) to enjoin, abate, or remedy by a proceeding at law or in equity the continuance of any such violation or breach.

(b) Upon the occurrence of a default described in Section 5.01(a), including without limitation, failure by an Owner to pay its Proportionate Share of Parking Area Expenses or River Walk and Plaza Expenses, the amount of any delinquent and unpaid charges and assessments, and interest, costs and fees occurred as a result of such delinquency, shall become a lien on the interest of the defaulting Owner in its ownership interest in its Property, in the amount of any sums due from such Owner, but such lien shall be subordinate to the lien of a prior recorded first mortgage on the interest of such defaulting Owner. Except as hereinafter provided or as otherwise required by law, the lien provided for in this Section 5.02(b) shall not be affected by a transfer of title to the Property encumbered by the lien. Where title to the Property encumbered by the lien is transferred pursuant to a judgment of foreclosure or by deed or assignment in lieu of foreclosure of any recorded first mortgage on the Property encumbered by the lien, such transfer of title shall, extinguish the lien described in this Section 5.02(b) for any sums which become due prior to (i) the date of the transfer of title or (ii) the date on which the transferee comes into possession of the Property encumbered by the lien, whichever comes first. However, the transferee of the Property encumbered by the lien shall be liable for its share of any sums with respect to which a lien again such Property has been extinguished pursuant to the preceding sentence which are reallocated among the non-defaulting Owners pursuant to a subsequently adopted or revised Annual Budget or

UNOFFICIAL COPY

special assessment, and non-payment thereof by such transferee shall result in a lien against the transferee's interest in its Property, as the case may be, as provided in this Section 5.02(b). Notwithstanding anything to the contrary contained herein, the remedies provided for in this Section 5.02(b) of this Declaration shall not be available to the non-defaulting Owners against the defaulting Owner if Kendall or Laureate Education, Inc., a Maryland corporation, or any of their respective subsidiaries, affiliates or "related parties" (as that term is defined under GAAP), is the defaulting Owner.

(c) In addition to or in conjunction with the remedies set forth above, to bring an action at law or in equity against the defaulting Owner as permitted by law including, without limitation, an action (i) to foreclose a lien against the applicable Property (to the extent applicable), (ii) for damages, injunctive relief, or specific performance, (iii) for judgment or for the payment of money and the collection thereof, (iv) for reasonable attorney fees and other costs of enforcement and collection hereunder, (v) for any combination of the remedies set forth in this Article V or (v) for any other relief which any non-defaulting Owner may deem necessary or appropriate.

(d) To exercise any and all rights and remedies provided for in this Declaration; provided, however, the failure of any non-defaulting Owner to exercise any such rights or remedies to enforce any provisions of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

(e) Upon the occurrence of one of the events described in Section 5.01(a) above, to accelerate the payment of the remainder of installments of Expenses due from a defaulting Owner for the balance of the fiscal year.

(f) To assess and charge against the defaulting Owner all reasonable expenses incurred by the non-defaulting Owner in connection with any actions, proceedings or self-help in connection with the exercise of its rights and remedies under this Article V (including without limitation, court costs, reasonable attorneys' fees and all other fees and expenses, and all damages) together with interest thereon at the highest legal contract rate of interest then permitted in Illinois until paid, which amounts shall be added to and deemed part of the defaulting Owner's Proportionate Share of the Estimated Parking Area Expense Amount or Estimated River Walk and Plaza Expense Amount, and the non-defaulting Owner that incurs such expenses shall have a lien for all of the same upon the Property of such defaulting Owner and upon all of its additions and improvements thereto.

(g) In no event shall any Owner have the right to terminate this Declaration, except as expressly provided in Section 6.07 below.

5.03 Limitation of Damages. Anything contained herein to the contrary notwithstanding, any claim based on or in respect of any liability of any Owner hereunder shall be limited to actual damages and shall be enforced only against such Owner's interest in its Property and the proceeds therefrom and not against any other assets, properties or funds of (i) such Owner, (ii) any director, officer, member, general partner, shareholder, limited partner, beneficiary, employee or agent of such Owner or any members or general partners of such

UNOFFICIAL COPY

Owner (or any legal representative, heir, estate, successor or assign of any thereof), (iii) any predecessor or successor partnership or corporation (or other entity) of such Owner or any of its general partners, shareholders, officers, directors, members, employees or agents, either directly or through such Owner or its general partners, shareholders, officers, directors, employees or agents or any predecessor or successor partnership or corporation (or other entity), or (iv) any person affiliated with any of the foregoing, or any director, officer, employee or agent of any thereof.

ARTICLE VI MISCELLANEOUS PROVISIONS

6.01 Covenants to Run With the Land; Release from Liability.

(a) Each Owner covenants and agrees that the terms and provisions of this Declaration shall be binding and inure to the benefit of its respective successors and assigns and to all lessees, sublessees, and grantees thereof from time to time. Each Owner hereby further covenants and agrees that the covenants, easements, restrictions and other terms and provisions of this Declaration shall constitute covenants that are appurtenant to and shall run with the Properties forever.

(b) In the event that any Owner (the "Conveying Owner") of any Property shall convey its Property, then the Conveying Owner shall automatically be freed and relieved, from and after the date of the particular conveyance, of all liability for future performance of any agreements or obligations on the part of the Conveying Owner to be performed pursuant to the terms of this Declaration provided that the subsequent Owner of that particular Property expressly assumes, by a written instrument, all obligations on the part of the Conveying Owner to be performed pursuant to the terms of this Declaration. It is intended by the Owners that the agreements and obligations contained in this Declaration shall be binding on all Owners from time to time of any portion of the Properties only during that Owner's period of ownership of its particular Property; provided, however, a Conveying Owner shall remain liable after it ceases to be an Owner for any obligations which arose or were incurred prior to the date of the conveyance of such Owner's Property and during that owner's period of ownership of the particular Property.

6.02 No Impairment by Foreclosure or Power of Sale. All of the covenants, easements, restrictions, and other terms and provisions of this Declaration shall be binding upon and effective against any Owner whose title thereto is derived through the foreclosure of, or sale under, any mortgage or deed of trust which now or hereafter encumbers the Properties.

6.03 Estoppel Certificates. Each Owner, for itself and its successors, assigns or grantees, hereby covenants and agrees that, in recognition of the fact that it or its respective successors, assigns or grantees may find it necessary to declare or attorn from time to time to banks, mortgagees, accountants, prospective purchasers and others the then current status of performance under this Declaration, any Owner shall upon written request furnish any requesting Owner, or Owner's lender, within fifteen (15) days of a request therefor a written statement in recordable form concerning the status of any matter relating to this Declaration.

UNOFFICIAL COPY

6.04 Notices. Any notice, demand, request or communication required or permitted to be given under this Declaration shall be in writing, given by any Owner to another Owner, by nationally recognized overnight express courier (with signed receipt) or sent by United States certified mail, return request requested, postage prepaid and addressed to such Owner at the address below and to such other address or to the attention of such other person as hereinafter shall be designated in writing and sent in accordance with the foregoing provisions. Any such notice, demand, request or communication shall be deemed to have been given, as of the date of receipt or refusal to accept receipt.

CPA:17's Notice Address:

LAURKEN (IL) LLC,
c/o W. P. Carey & Co. LLC
50 Rockefeller Plaza, 2nd Floor
New York, New York 10020
Attention: Director, Asset Management

with a copy to:
Reed Smith LLP
599 Lexington Avenue, 29th Floor
New York, New York 10022
Attention: Chairman, Real Estate Department.

Kendall's Notice Address:

Kendall Holdings LLC
c/o Laureate Education, Inc.
650 S. Exeter Street
Baltimore, Maryland 21202
Attention: Patrick Richards

with a copy to:

Kendall College
900 N. North Branch Street
Chicago, Illinois 60622
Attention: Chief Operating Officer

6.05 Severability. Every provision of this Declaration is intended to be severable. In the event that any provision of this Declaration shall be held to be invalid, the same shall not affect in any respect whatsoever the validity of the remaining provisions of this Declaration.

6.06 No Waiver. The failure of any subsequent party hereto to insist upon strict performance of any of the terms and provisions of this Declaration, irrespective of the length of time for which such failure continues, shall not be a waiver of any of such party's rights. No consent or waiver, express or implied, to or of any breach or default in the performance of any

UNOFFICIAL COPY

obligation hereunder shall constitute a consent or a waiver to or of any other breach or default in the performance of the same or any other obligation hereunder.

6.07 Amendments. Except as expressly set forth herein to the contrary, this Declaration may be changed, modified, amended, or rescinded only by an instrument in writing duly executed and acknowledged by the Owners and consented to by all mortgagees which then hold a first lien against all or any portion of the Properties.

6.08 Governing Law. This Declaration and the rights and obligations hereunder shall be governed and construed in accordance with the laws of the State of Illinois.

6.09 Terms. The necessary grammatical changes required to make the provisions hereof apply to corporations, partnerships or individuals, men or women, singular or plural, as the case may require, shall in all cases be assumed as though in each case fully expressed.

6.10 Captions. The captions of sections, paragraphs and subsections are for convenience only and shall not be deemed to limit, construe, affect or alter the meaning of such sections, paragraphs or subsections.

6.11 Joint and Several Obligations of Owners. In the event any Owner is comprised of more than one entity or person, all obligations of such Owner hereunder shall be joint and several amongst all such entities/persons comprising such Owner.

6.12 Amendment and Restatement. Upon the execution and recordation of this Declaration by the Owners, the terms and provisions of the Original Declaration shall be and hereby are amended, superseded and restated in their entirety by the terms and provisions of this Declaration.

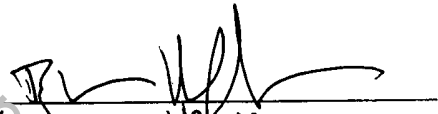
SIGNATURE PAGE FOLLOWS

UNOFFICIAL COPY

LAURKEN (IL) LLC,
a Delaware limited liability company

By CPA: 17 Limited Partnership,
a Delaware limited partnership, its sole member

By: Corporate Property Associates 17 - Global Incorporated,
a Maryland Corporation, its general partner

By: 
Name: Benjamin D. Harris
Title: Managing Director

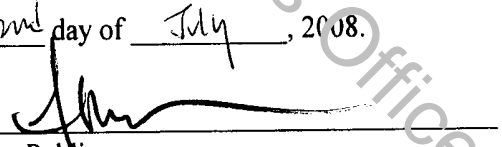
STATE OF NEW YORK

COUNTY OF NEW YORK

)
) SS.
)

I, Allison B. Siegel, a Notary Public, in and for the county and state aforesaid, DO
HEREBY CERTIFY that Benjamin P. Harris, the Managing Director of
Corporate Property Associates 17 - Global Incorporated, a Maryland Corporation, the general partner of
CPA: 17 Limited Partnership, a Delaware limited partnership, the sole member of Laurken (IL) LLC, a
Delaware limited liability company, 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 to me
that he, being thereunto duly authorized, signed and delivered said instrument as his free and voluntary
act, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this 2nd day of July, 2008.



Notary Public

My Commission Expires:

ALLISON B. SIEGEL
Notary Public, State of New York
No. 01SI6130554
Qualified in New York County
Commission Expires 7-18-2009

UNOFFICIAL COPY

EXHIBIT A

PARCEL 1

PARCEL 1:

THAT PART OF LOTS 11, 12 AND 13 LYING NORTH OF THE FOLLOWING DESCRIBED LINE, TO WIT:

BEGINNING AT A POINT IN THE EAST LINE OF SAID LOT 13, WHICH IS 269.55 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT, THENCE NORTHWESTERLY ALONG A LINE FORMING AN ANGLE OF 83 DEGREES 30 MINUTES WITH THE EAST LINE OF SAID LOT AS MEASURED FROM NORTH TO NORTHWEST A DISTANCE OF 196.46 FEET; THENCE CONTINUING NORTHWESTERLY ON A DEFLECTION OF 33 DEGREES FROM WEST TOWARD THE NORTH FROM THE LAST DESCRIBED LINE TO AN INTERSECTION WITH THE WEST LINE OF LOT 11 AFORESAID WHICH IS 297.5 FEET SOUTHWESTERLY FROM THE NORTH WEST CORNER OF SAID LOT 11, TOGETHER WITH THAT PART OF SAID LOT 10 DESCRIBED BY BEGINNING AT THE NORTHEAST CORNER OF SAID LOT, THENCE NORTHWESTERLY ALONG THE NORTHEASTERLY LINE OF SAID LOT, A DISTANCE OF 20 FEET, THENCE SOUTH WESTERLY PARALLEL WITH THE EASTERLY LINE OF SAID LOT, A DISTANCE OF 100 FEET, THENCE SOUTH EASTERLY PARALLEL WITH THE NORTHEASTERLY LINE OF LOT 10, A DISTANCE OF 20 FEET, THENCE NORTHEASTERLY 100 FEET TO THE PLACE OF BEGINNING (EXCEPT FROM THE ABOVE MENTIONED LOT 13, ALL THAT PART OF THE EAST 28.5 FEET THEREOF LYING SOUTH OF A LINE DRAWN AT RIGHT ANGLES TO THE EAST LINE OF SAID LOT THROUGH A POINT 226.3 FEET SOUTH OF THE NORTH EAST CORNER THEREOF) ALL IN BLOCK 80 IN ELSTON'S ADDITION TO CHICAGO IN THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

(EXCEPT THAT PART OF LOT 13 IN BLOCK 80 IN ELSTON'S ADDITION TO CHICAGO IN THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 13, THENCE NORTH 52 DEGREES 56 MINUTES 45 SECONDS WEST ALONG THE NORTHEASTERLY(NORTHWESTERLY RECORD CALL) LINE OF SAID LOT 13, 61.92 FEET, THENCE SOUTH 37 DEGREES 03 MINUTES 15 SECONDS WEST (EAST RECORD CALL), 45.77 FEET, THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST (WEST RECORD CALL), 234.84 FEET, THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 48.50 FEET, THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 7.76 FEET THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 28.50 FEET TO A POINT ON THE EAST LINE OF LOT 13, THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS WEST (EAST RECORD CALL) ALONG SAID EAST LINE, 226.30 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS).

PIN: 17-05-409-014-0000

UNOFFICIAL COPY

EXHIBIT B

PARCEL 6

PARCEL 6:

THAT PART OF LOT 13 IN BLOCK 80 IN ELSTON'S ADDITION TO CHICAGO IN THE EAST HALF OF THE SOUTHWEST QUARTER IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 13, THENCE NORTH 52 DEGREES 56 MINUTES 45 SECONDS WEST ALONG THE NORTHEASTERLY (NORTHWESTERLY RECORD CALL) LINE OF SAID LOT 13, 61.92 FEET, THENCE SOUTH 37 DEGREES 03 MINUTES 15 SECONDS WEST (EAST RECORD CALL) 45.77 FEET, THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST (WEST RECORD CALL), 234.84 FEET, THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 48.50 FEET, THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST 7.76 FEET, THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 28.50 FEET TO A POINT ON THE EAST LINE OF SAID LOT 13, THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS WEST (EAST RECORD CALL) ALONG SAID EAST LINE, 226.30 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PIN: 17-05-409-015-0000.

UNOFFICIAL COPY

EXHIBIT C

NORTH BRANCH PARCEL

PARCEL 2:

LOTS 6 TO 10 IN BLOCK 81 IN ELSTON'S ADDITION TO CITY OF CHICAGO, A SUBDIVISION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOTS 1 TO 5 IN BLOCK 81 IN ELSTON'S ADDITION TO CITY OF CHICAGO, A SUBDIVISION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

ALL THAT PART OF THE STREET INTERSECTION FORMED BY THE SOUTHWESTERLY EXTENSION OF THE SOUTHEASTERLY LINE OF WEST HAINES STREET, THE SOUTHEASTERLY EXTENSION OF THE NORTHEASTERLY LINE OF NORTH HICKORY AVENUE AND THE NORTHWESTERLY EXTENSION OF THE NORTHEASTERLY LINE OF NORTH BRANCH STREET, LYING SOUTHWESTERLY OF THE SOUTHWESTERLY LINE OF LOTS 1 TO 7, BOTH INCLUSIVE, LYING SOUTHEASTERLY OF THE SOUTHWESTERLY EXTENSION OF THE NORTHWESTERLY LINE OF LOT 1, LYING NORTHEASTERLY OF THE NORTHWESTERLY EXTENSION OF THE MOST SOUTHWESTERLY LINE OF LOT 7 (SAID NORTHWESTERLY EXTENSION OF THE MOST SOUTHWESTERLY LINE OF LOTS 7 ALSO BEING THE NORTHWESTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF LOTS 8 TO 13, BOTH INCLUSIVE) ALL IN BLOCK 81 IN ELSTON'S ADDITION TO CHICAGO, IN SECTION 4 AND SECTION 5, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, AND LYING SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF THE NORTH OGDEN AVENUE VIADUCT EASEMENT AS OPENED BY JUDGMENT ENTERED BY THE COUNTY COURT OF COOK COUNTY, ILLINOIS, ON JUNE 13, 1921, IN DOCKET NUMBER 42162, BEING DESCRIBED AS A LINE DRAWN FROM A POINT IN THE NORTHWESTERLY LINE OF HAINES STREET, 97.76 FEET NORTHEASTERLY OF THE NORTHEASTERLY LINE OF HICKORY STREET, CURRENTLY NAMED NORTH HICKORY AVENUE (MEASURED ALONG THE NORTHWESTERLY LINE OF HAINES STREET) TO A POINT IN THE SOUTHWESTERLY LINE OF NORTH BRANCH STREET 28.78 FEET SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF HAINES STREET (MEASURED ALONG THE SOUTHWESTERLY LINE OF NORTH BRANCH STREET)

UNOFFICIAL COPY

ALSO, ALL THAT PART OF THE NORTH OGDEN AVENUE VIADUCT EASEMENT AS OPENED BY JUDGMENT ENTERED BY THE COUNTY COURT OF COOK COUNTY, ILLINOIS, ON JUNE 15, 1921, IN DOCKET NUMBER 42162, LYING NORTHWESTERLY OF THE SOUTHEASTERLY LINE OF THE AFORESAID NORTH OGDEN AVENUE VIADUCT AS OPENED, SAID SOUTHEASTERLY LINE BEING DESCRIBED AS A LINE DRAWN FROM A POINT IN THE NORTHWESTERLY LINE OF HAINES STREET 97.76 FEET NORTHEASTERLY OF THE NORTHEASTERLY LINE OF HICKORY STREET, CURRENTLY NAMED NORTH HICKORY AVENUE (MEASURED ALONG THE NORTHWESTERLY LINE OF HAINES STREET) TO A POINT IN THE SOUTHWESTERLY LINE OF NORTH BRANCH STREET 28.78 FEET SOUTHEASTERLY OF THE SOUTHEASTERLY LINE OF HAINES STREET (MEASURED ALONG THE SOUTHWESTERLY LINE OF NORTH BRANCH STREET) LYING SOUTHEASTERLY OF THE SOUTHWESTERLY EXTENSION OF THE NORTHWESTERLY LINE OF LOT 1 AND LYING NORTHEASTERLY OF THE NORTHWESTERLY EXTENSION OF THE MOST SOUTHWESTERLY LINE OF LOT 7 (SAID NORTHWESTERLY EXTENSION OF THE MOST SOUTHWESTERLY LINE OF LOT 7 ALSO BEING THE NORTHWESTERLY EXTENSION OF THE SOUTHWESTERLY LINE OF LOTS 8 TO 13, BOTH INCLUSIVE) ALL IN BLOCK 81 IN ELSTON'S ADDITION TO CHICAGO AFORESAID.

PINS: 17-05-410-010-0000, 17-05-410-011-0000, 17-05-410-013-0000, 17-05-410-014-0000, 17-05-410-016-0000 AND 17-06-410-017-0000.

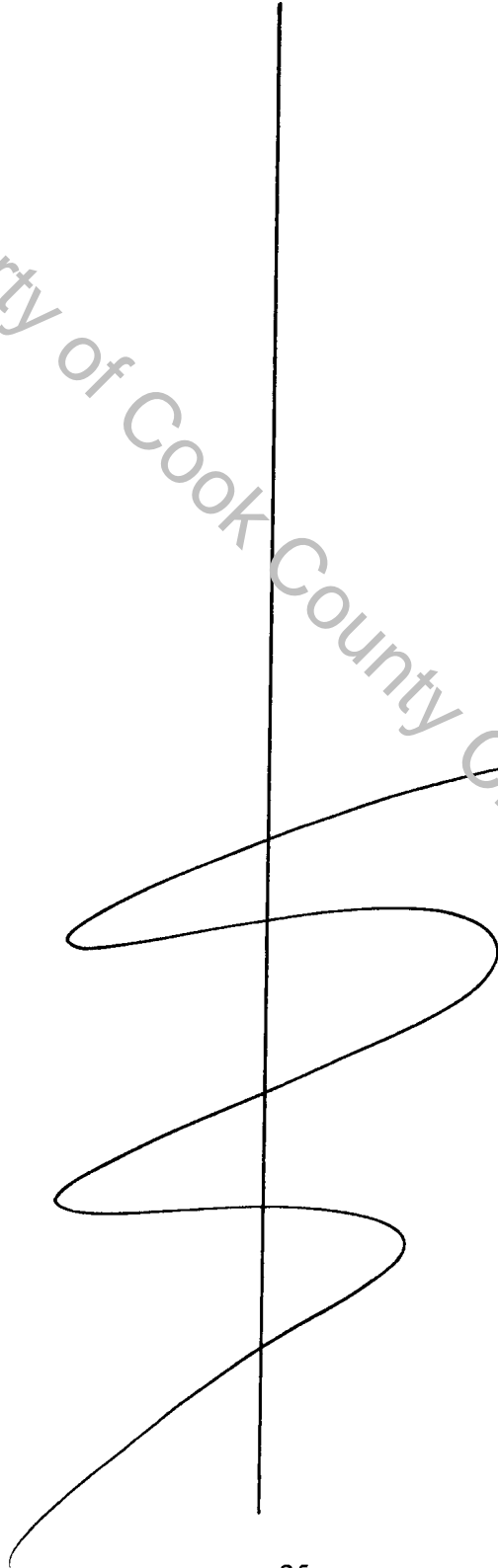
UNOFFICIAL COPY

EXHIBIT D

SITE PLAN

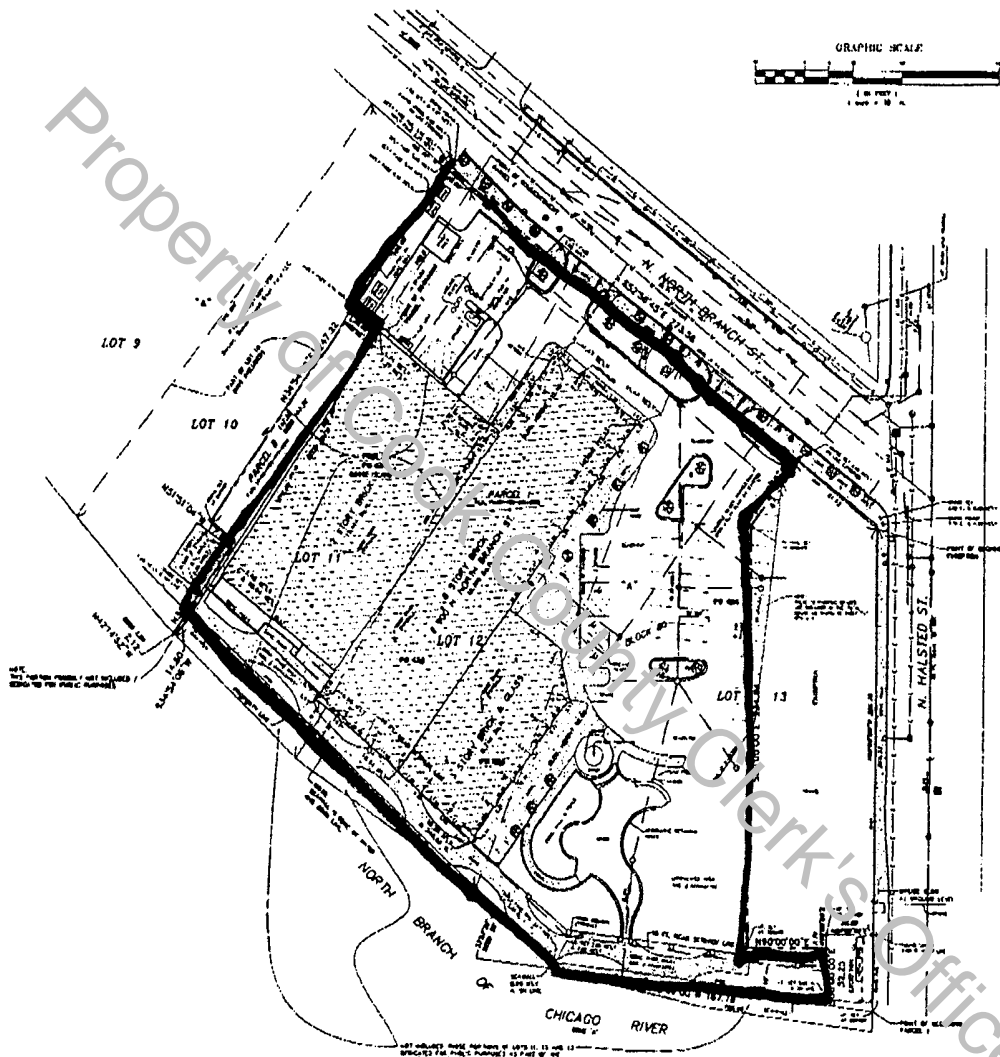
(SEE ATTACHED)

Property of Cook County Clerk's Office



UNOFFICIAL COPY

Parcel 1



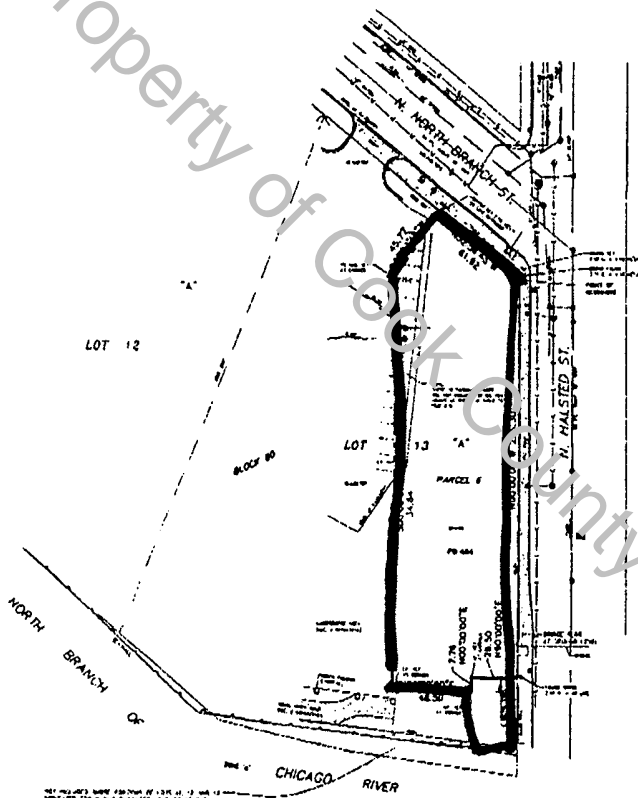
NOT TO SCALE
NOT TO BE USED FOR RECORDS
NOT TO BE USED FOR CONVEYANCE

NOT TO SCALE
NOT TO BE USED FOR RECORDS
NOT TO BE USED FOR CONVEYANCE

UNOFFICIAL COPY

Parcel 6

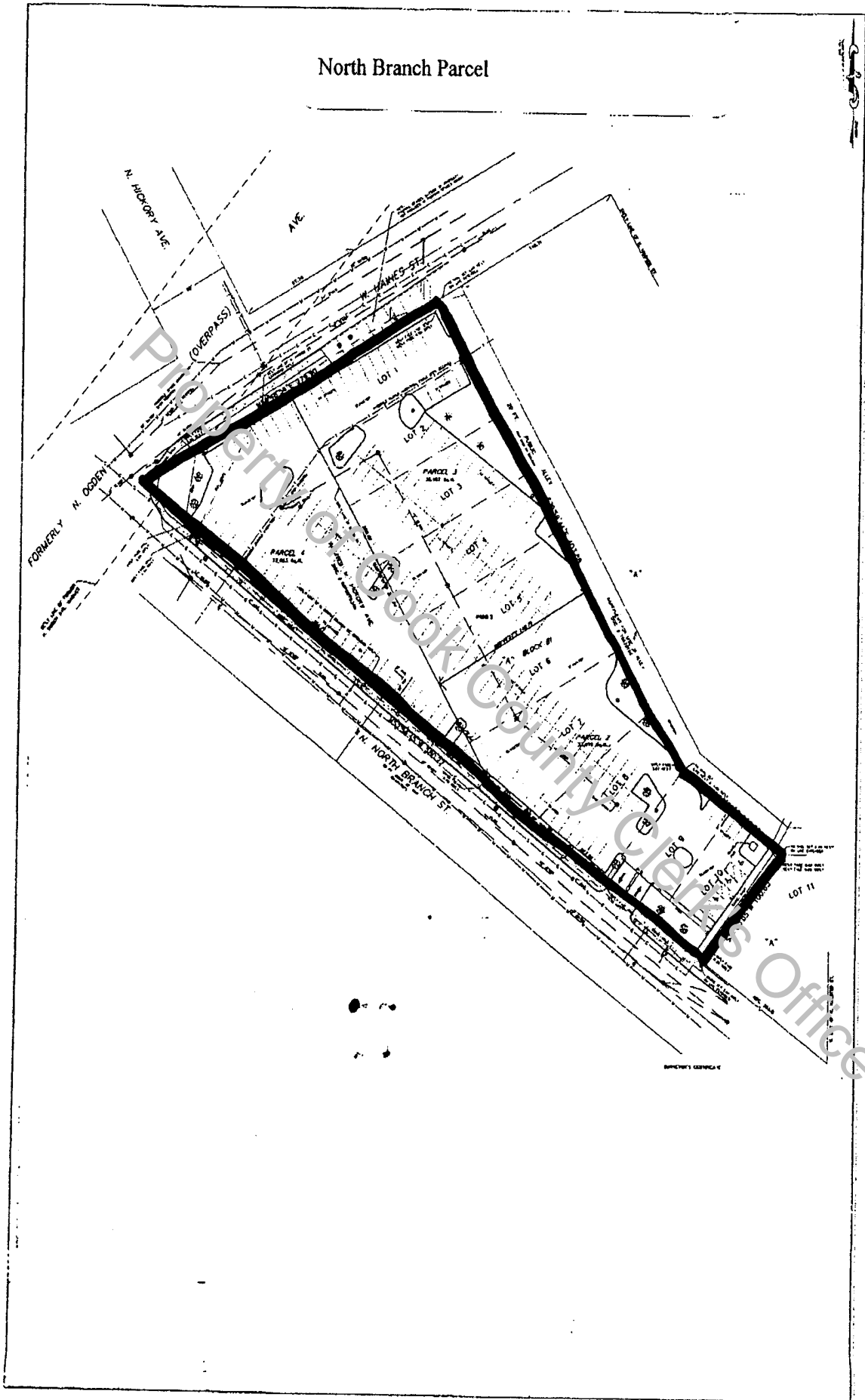
Property of Cook County Clerk's Office



NOT TO SCALE
ALL DIMENSIONS ARE IN FEET AND INCHES
ALL ANGLES ARE IN DEGREES AND MINUTES
ALL DISTANCES ARE TO THE CENTER OF THE LINE
ALL DISTANCES ARE TO THE CENTER OF THE LINE
ALL DISTANCES ARE TO THE CENTER OF THE LINE

UNOFFICIAL COPY

North Branch Parcel



UNOFFICIAL COPY

EXHIBIT E

LOCATION OF THE OFFSITE PARCEL 1 SPACES

(SEE ATTACHED)

* Attached is an approximate depiction of the parking spaces and is not intended to alter the obligations of the parties to the Declaration under the terms of Article I.

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT F

LOCATION OF THE OFFSITE PARCEL 6 SPACES

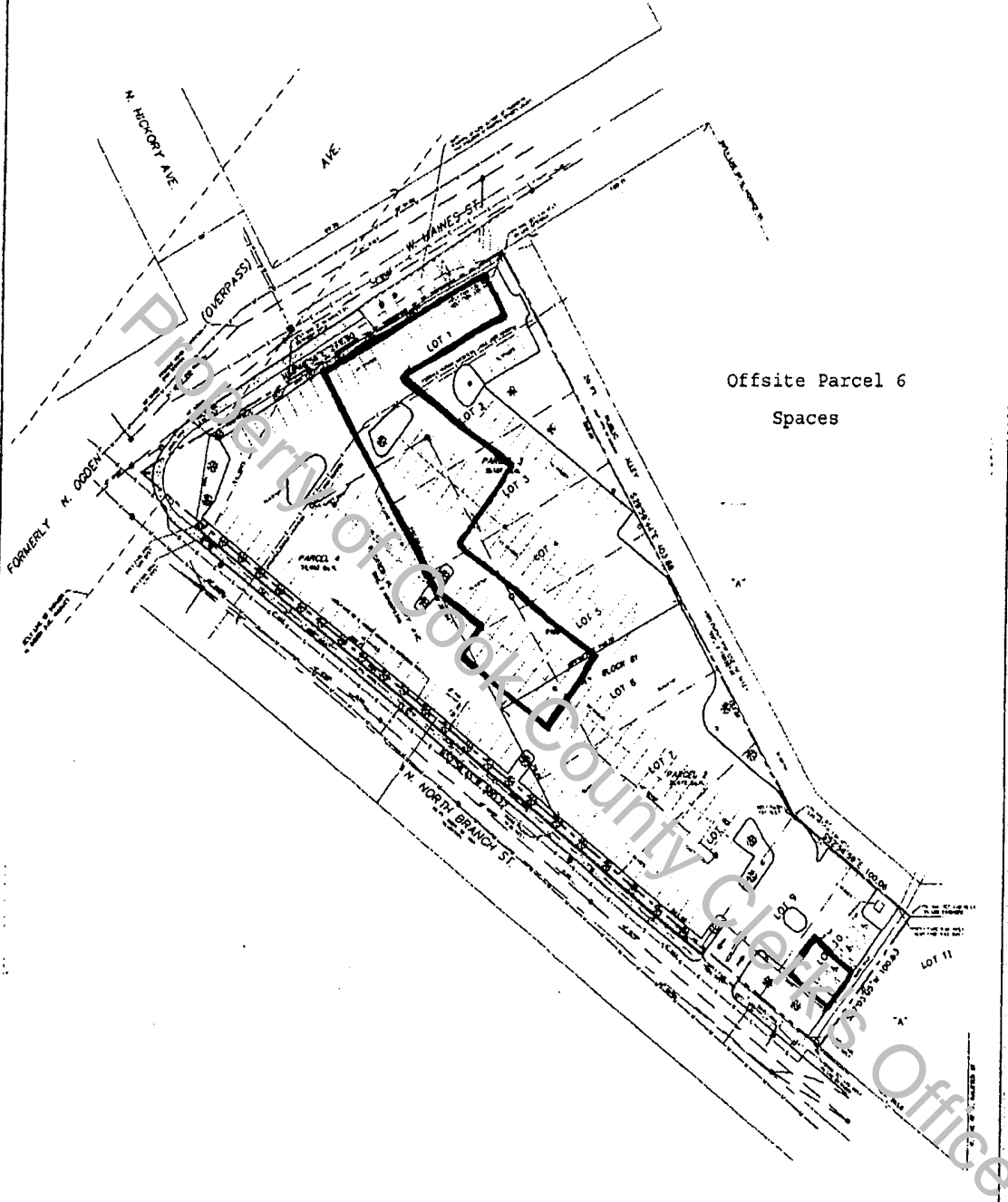
(SEE ATTACHED)

* Attached is an approximate depiction of the parking spaces and is not intended to alter the obligations of the parties to the Declaration under the terms of Article I.

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Location of Offsite Parcel 6 Spaces



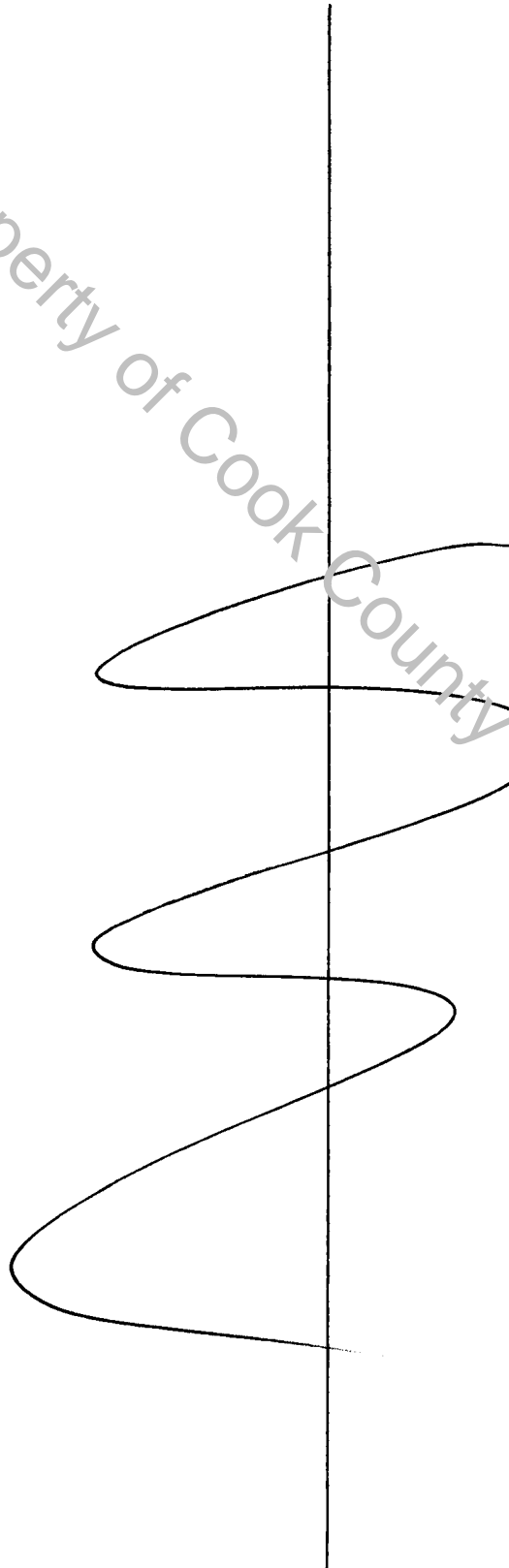
Offsite Parcel 6
Spaces

UNOFFICIAL COPY

EXHIBIT G

INTENTIONALLY OMITTED.

Property of Cook County Clerk's Office



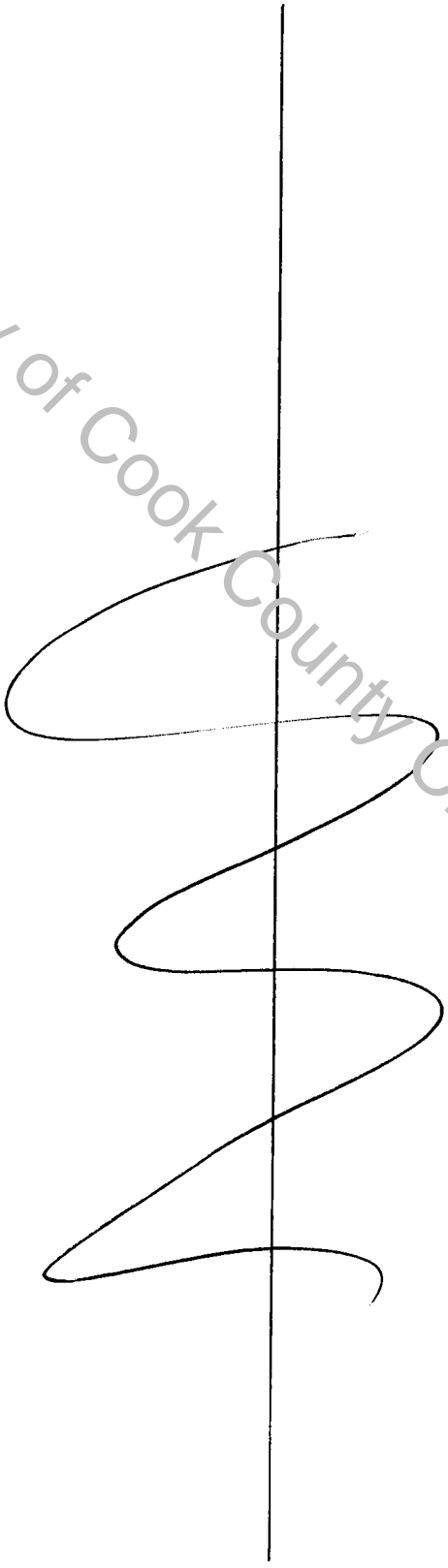
UNOFFICIAL COPY

EXHIBIT H

LOCATION OF THE CONSTRUCTION EASEMENT

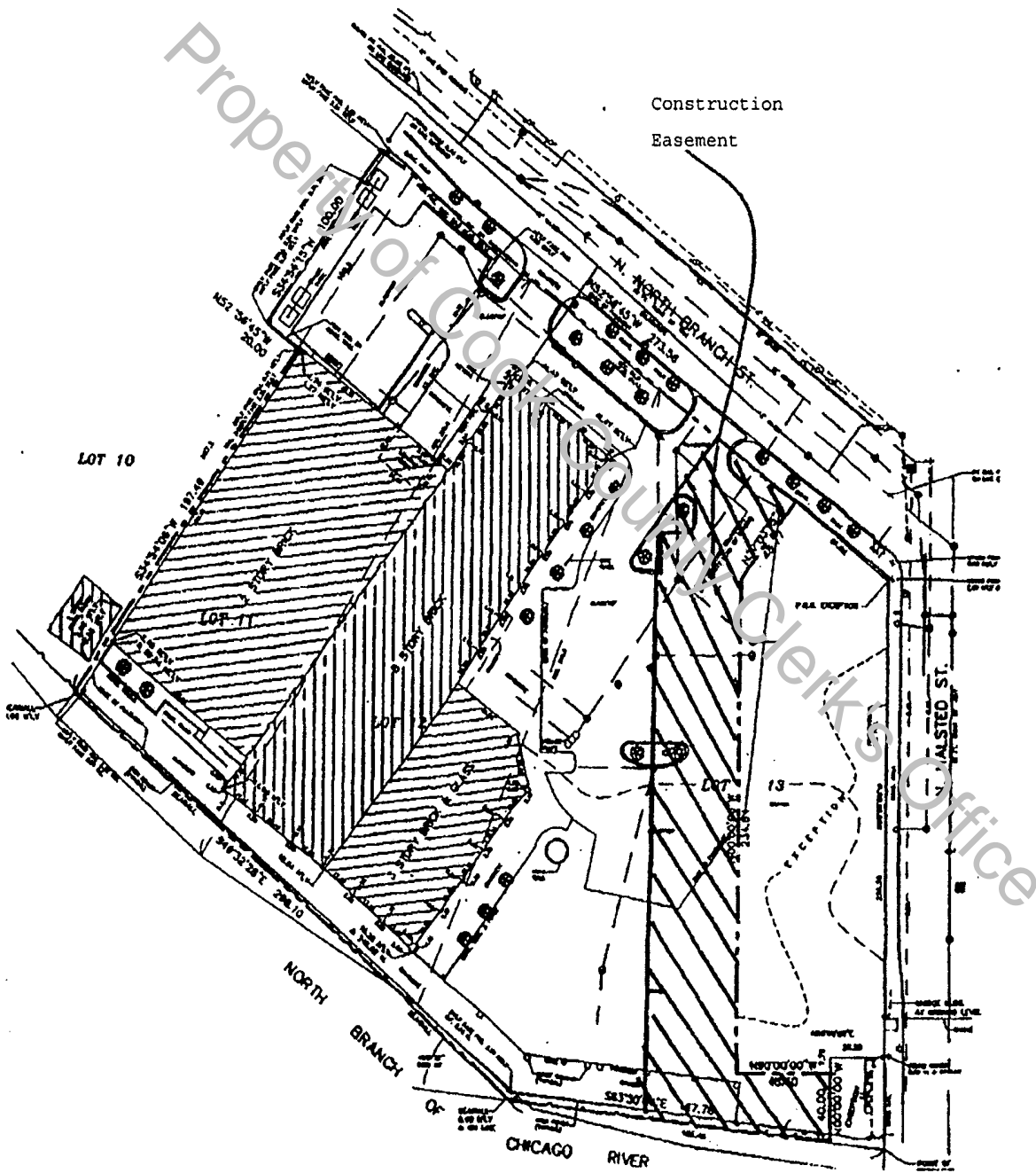
(SEE ATTACHED)

Property of Cook County Clerk's Office



UNOFFICIAL COPY

Location of Construction Easement



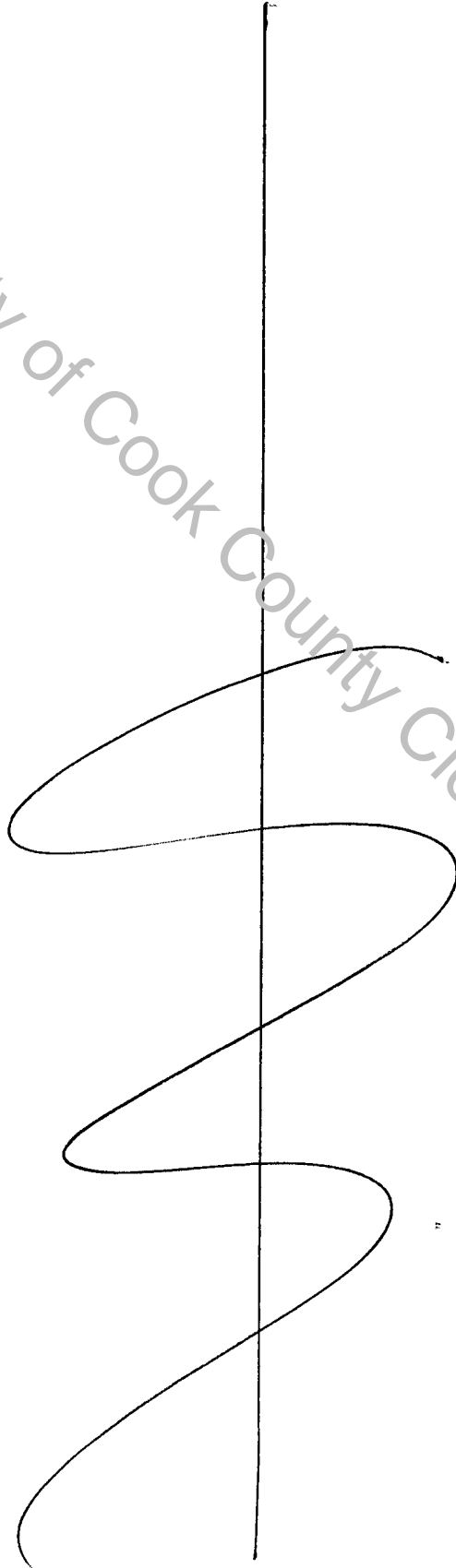
UNOFFICIAL COPY

EXHIBIT I

LOCATION OF ACCESS EASEMENT

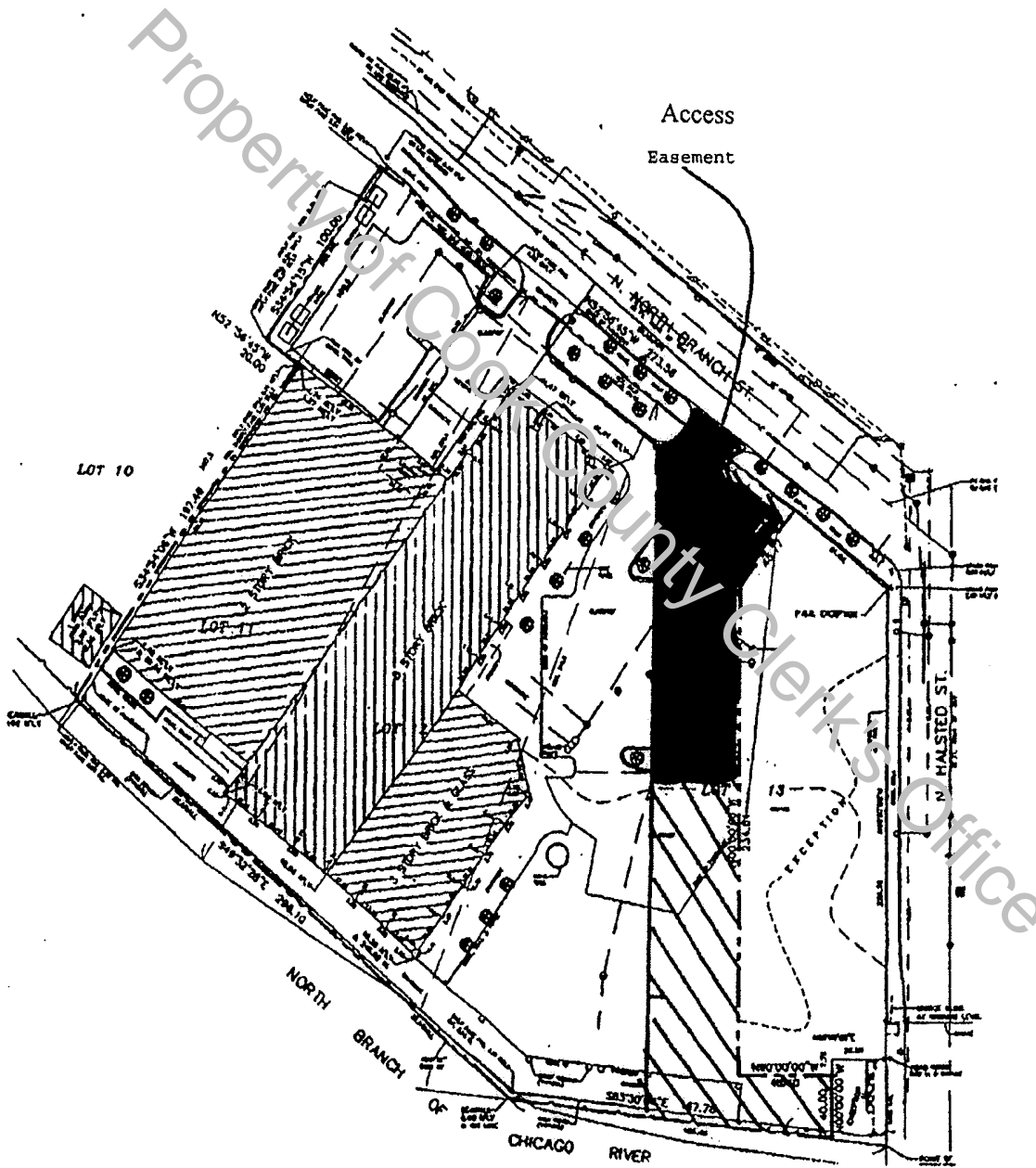
(SEE ATTACHED)

Property of Cook County Clerk's Office



UNOFFICIAL COPY

Location of " Access Easement



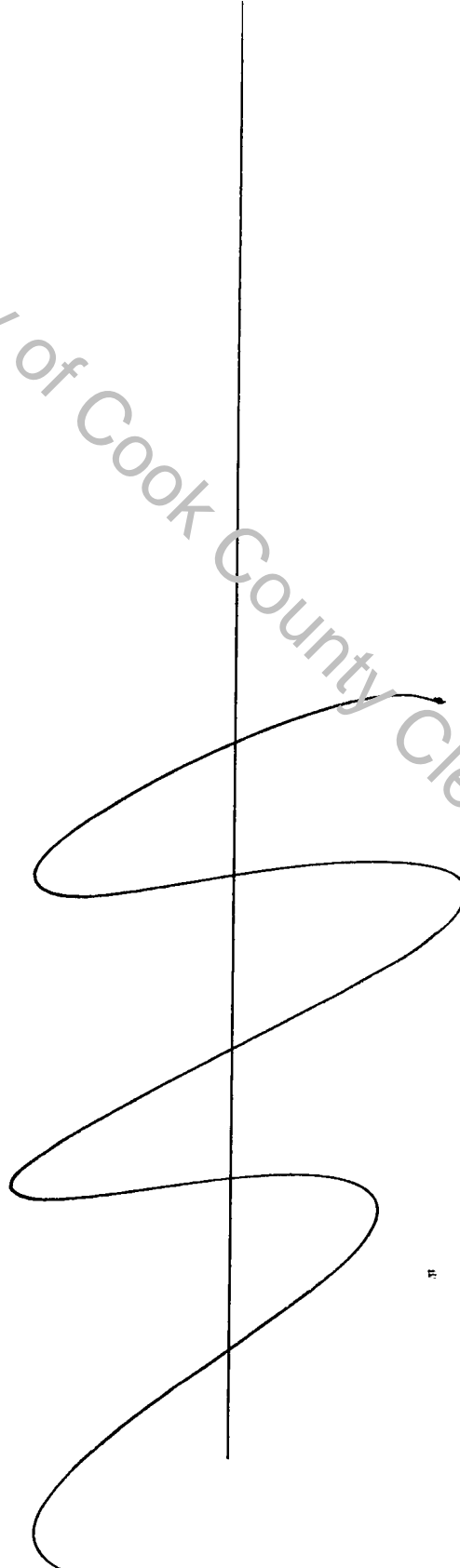
UNOFFICIAL COPY

EXHIBIT J

LOCATION OF THE RIVER WALK

(SEE ATTACHED)

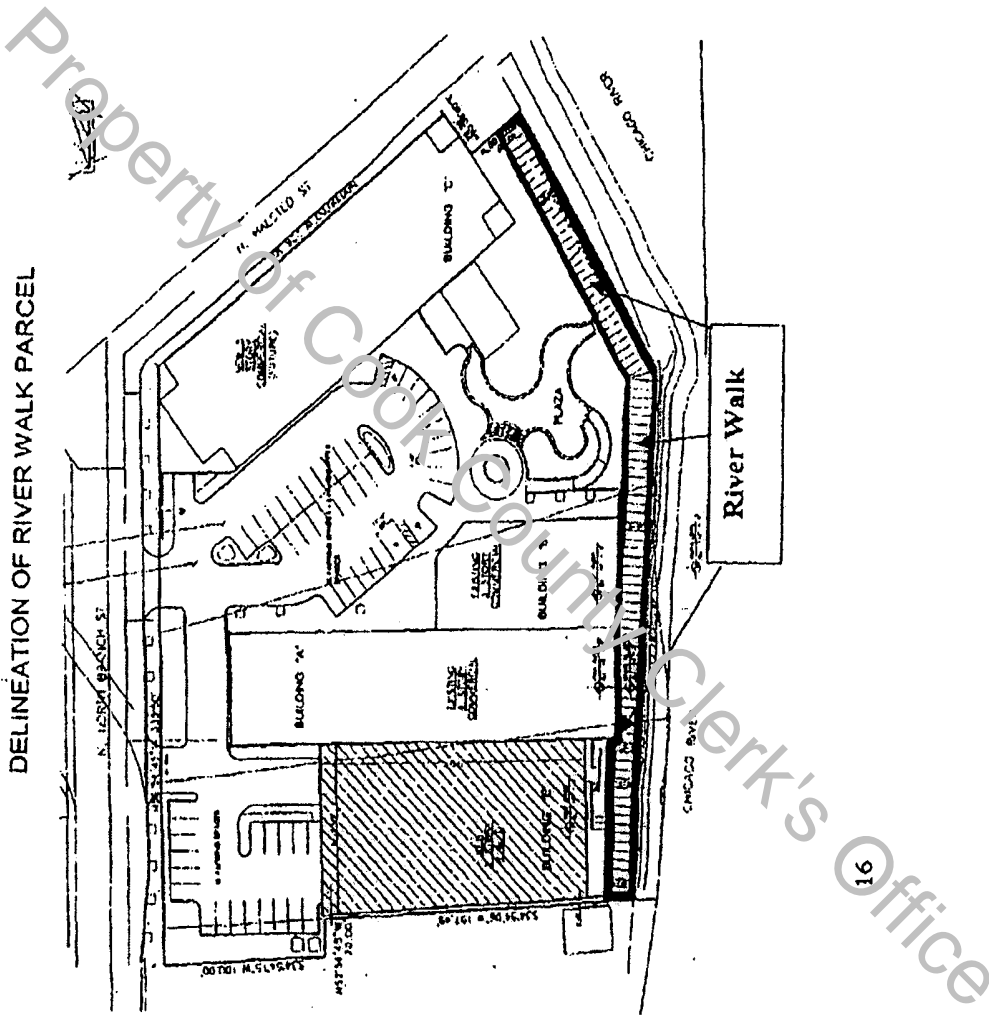
Property of Cook County Clerk's Office



11

UNOFFICIAL COPY

Location of River Walk Parcel



DELINEATION OF RIVER WALK PARCEL

River Walk

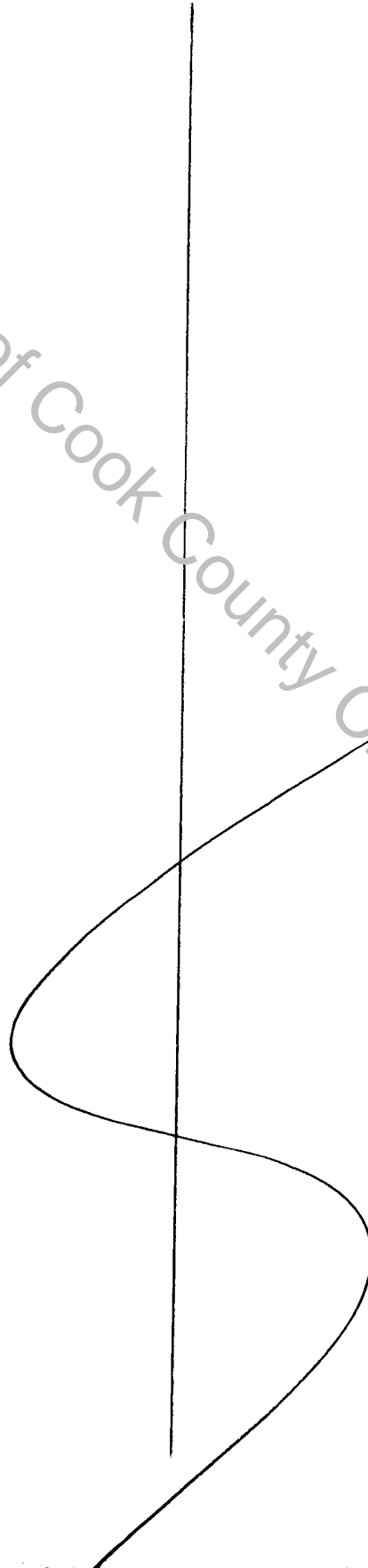
UNOFFICIAL COPY

EXHIBIT K

LOCATION OF THE PLAZA PARCEL

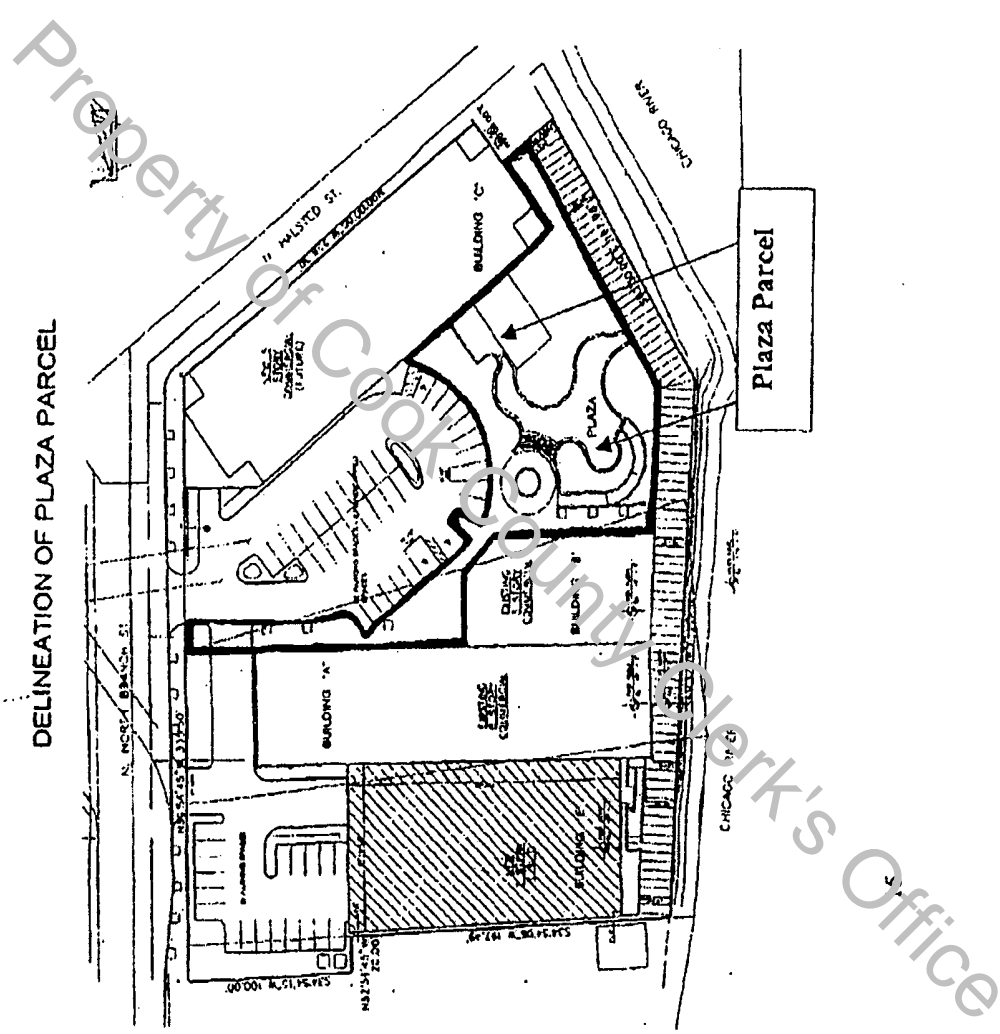
(SEE ATTACHED)

Property of Cook County Clerk's Office



UNOFFICIAL COPY

Location of Plaza Parcel



DELINEATION OF PLAZA PARCEL

Plaza Parcel