

UNOFFICIAL COPY



Prepared by and
Upon Recording,
Mail to:

Doc#: 0920112063 Fee: \$60.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 07/20/2009 09:47 AM Pg: 1 of 13

David J. Kendle, Esq.
Kendle, Mikuta &
Fenstermaker
221 N. LaSalle Street
Suite 1430
Chicago, Illinois 60601

8/24/16/14 PI JZ/BA/H
1. P. 1

AMENDMENT NO. 1 TO EASEMENT AGREEMENT

This Amendment No. 1 to Easement Agreement (the "Amendment") is made and entered into this 5th day of June, 2009, by and between Jozef Koniecko, Mark Koniecko, Daniel Koniecko, Margaret Clifford and Diane Koniecko-Goldman all of whom are collectively the successor Owners of Parcel One (collectively the "Successor Owner One"), which Parcel One is described below, and Old Harlem LLC, an Illinois limited liability company as the Owner of Parcel Two ("Owner Two"), which Parcel Two is described below. Successor Owner One and Owner Two are sometimes collectively referred to herein below as the "Parties" or are sometimes referred to herein below in the singular as a "Party". Any term or terms not otherwise defined in this Amendment shall have the same meaning or meanings ascribed to that particular term or terms set forth in the Easement Agreement (described below).

RECITALS

Whereas, Old Harlem LLC was the previous Owner of Parcel One and in such capacity at the time and also in the capacity as the Owner of Parcel Two, Old Harlem LLC did execute that certain Easement Agreement dated June 27, 2008, which was thereupon recorded with the Recorder of Cook County, Illinois, on July 10, 2008, as Document No.: 0819233164 (the "Easement Agreement"); and

Whereas, subject to the Easement Agreement, Successor Owner One is the present owner of Parcel One. Parcel One's Legal Description and Tax Permanent Index Number ("PIN") is set forth on the attached **Exhibit A**, which is made a part hereof by this reference; and

Whereas, Owner Two remains the owner of Parcel Two. Parcel Two's Legal Description and PIN is set forth on the attached **Exhibit B**, which is made a part hereof by this reference; and

Whereas, the Parties mutually desire pursuant to and as permitted under Paragraph 8 of the Easement Agreement, to amend the Easement Agreement in order to: (a) expand the

13/8

UNOFFICIAL COPY

dimensional width of the Spur Track Easement to sixteen (16) feet; and (b) to clarify the obligations of the parties with respect to the existing crossing area over the Spur Track, constructed of packed gravel and railroad ties lying in a parallel fashion next to and between the railroad tracks comprising the Spur Track (the "Crossing"); and (c) to permit Successor Owner One to install a single storm water runoff tile drainage line to lie in a predominately east-west fashion (the "Drainage Line") underneath and below the surface of a portion of the Spur Track Easement.

Therefore, in consideration of Ten and No/100s dollars (\$10.00) and other good and valuable consideration, including, without limitation, the mutual promises and agreements hereinafter set forth, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties mutually agree as follows:

A-1. Expanded Width of Easement. The dimensional width of the Spur Track Easement is hereby amended and expanded and shall be sixteen (16) feet in width rather than the originally stated eight (8) feet in width set forth in the Easement Agreement. The amended description of the Spur Track Easement which includes the expanded dimensional width to sixteen (16) feet is described in the revised Survey most recently modified on May 7, 2009, a copy of which is attached hereto as **Revised Exhibit C**, and which is made a part hereof by this reference.

A-2. Successor Owner One's Obligation to Maintain Spur Track Crossing. The Parties hereto acknowledge and agree that **Revised Exhibit C** discloses the location of the Crossing over the Spur Track. For purposes of this Paragraph A-2, only, the term "Crossing" shall also include, without limitation, the Spur Track lying within the area of the Crossing.

(a) With respect to the Crossing, Successor Owner One and its successors and/or assigns shall at all times and from time to time keep and maintain the Crossing in good condition and repair and shall be responsible for the maintenance, repair and/or replacement of the Crossing, all of which shall at all times and from time to time be: (i) done and performed in a good and workman like manner; and (ii) at Successor Owner One or its successors and/or assigns (as the case may be) sole cost and expense (including, without limitation, all fees arising in connection with therewith); and (iii) in conformance with all rules, regulations and codes imposed by any governmental or quasi-governmental entities having jurisdiction over Parcel One, the Spur Track and/or the Spur Track Easement; and (iv) performed in a manner and at such time or times so as to not interfere with Owner Two's (and/or its successors and/or assigns) use of or other rights with respect to the Spur Track and/or the Spur Track Easement under the Easement Agreement, as amended from time to time.

(b) In addition to its (and/or their) other obligations under the Easement Agreement, Successor Owner One and its successors and/or assigns (as the case may be) shall: (i) indemnify, defend and hold Owner Two and its successors and/or assigns harmless from and against any and all rights, claims, causes of action or suits, debts, set-offs, sums of money, controversies, agreements, judgments, liens, executions, citations,

UNOFFICIAL COPY

rules, demands, damages, liabilities, costs, expenses and/or fees (all of which are collectively "Claims") (such Claims under this Paragraph A-2, shall include, without limitation, Owner Two's and/or its successors and/or assigns' (as the case may be) attorneys' fees and costs associated with and/or in connection with its (or their) defense of any such matters as described in this Paragraph A-2 and/or Owner Two's and/or its successors and/or assigns' (as the case may be) enforcement of this Paragraph A-2) of any kind or nature whatsoever, in law or in equity arising from and/or in connection with any damage to, failure and/or destruction of the Crossing, the Spur Track and/or the Spur Track Easement caused by and/or arising in any way with respect to the use, maintenance, repair and/or replacement of the Crossing. However, nothing set forth in the immediately preceding subparagraph A-2.(b)(i) shall relieve Owner Two (or its successors and/or assigns, as the case may be) of liability for its (or its successors and/or assigns, as the case may be) acts and/or omissions in connection with the Spur Track Easement under the Easement Agreement; and (ii) notify Owner Two or its successors and/or assigns (as the case may be) in writing and reasonably in advance of Successor Owner One's or its successors and/or assigns (as the case may be) maintenance, repair and/or replacement of the Crossing at any time and from time to time; and (iii) limit where it (or they, as the case may be) cross the Spur Track to the area comprising the Crossing; and (iv) obtain Owner Two's prior written consent (or the prior written consent of Owner Two's successors and/or assigns, as the case may be), should Successor Owner One (or its successors and/or assigns, as the case may be) desire to expand the size or move the general location of the Crossing. The foregoing provisions of subparagraphs A-2.(a)(i), A-2.(a)(ii), A-2.(a)(iii) and A-2.(b)(i) shall survive the termination of the Easement Agreement for any reason.

A-3. Successor Owner One's Right to Install a Single Drainage Line Underneath Spur Track Easement. Subject to the provisos at the end of this sentence, Owner Two hereby consents to the installation of the Drainage Line by Successor Owner One underneath the Spur Track Easement; *provided however*, that:

(a) Successor Owner One and/or its successors and/or assigns shall at all times and from time to time keep and maintain the Drainage Line in good condition and repair and shall be responsible for the installation, maintenance, repair and/or replacement of the Drainage Line, all of which shall at all times and from time to time be: (i) done and performed in a good and workman like manner; and (ii) at Successor Owner One or its successors and/or assigns (as the case may be) sole cost and expense (including, without limitation, all fees arising in connection with therewith); and (iii) in conformance with all rules, regulations and codes imposed by any governmental or quasi-governmental entities having jurisdiction over Parcel One, the Spur Track and/or the Spur Track Easement; and (iv) performed in a manner and at such time or times so as to not interfere with Owner Two's (and/or its successors and/or assigns) use of or other rights with respect to the Spur Track and/or the Spur Track Easement under the Easement Agreement, as amended from time to time; and

(b) In addition to its (and/or their) other obligations under the Easement Agreement, Successor Owner One and its successors and/or assigns (as the case may be)

UNOFFICIAL COPY

shall: (i) indemnify, defend and hold Owner Two and its successors and/or assigns harmless from and against any and all Claims (such Claims under this Paragraph A-3, shall include, without limitation, Owner Two's and/or its successors and/or assigns' (as the case may be) attorneys' fees and costs associated with and/or in connection with its (or their) defense of any such matters as described in this Paragraph A-3 and/or Owner Two's and/or its successors and/or assigns' (as the case may be) enforcement of this Paragraph A-3) of any kind or nature whatsoever, in law or in equity arising from and/or in connection with any damage to, failure and/or destruction of the Drainage Line, the Spur Track and/or the Spur Track Easement caused by and/or arising in any way with respect to the installation, use, maintenance, repair and/or replacement of the Drainage Line. However, nothing set forth in the immediately preceding subparagraph A-3(e) shall relieve Owner Two (or its successors and/or assigns, as the case may be) of liability for its (or its successors and/or assigns, as the case may be) acts and/or omissions in connection with the Spur Track Easement under the Easement Agreement; and (ii) notify Owner Two or its successors and/or assigns (as the case may be) in writing and reasonably in advance of Successor Owner One's or its successors and/or assigns (as the case may be) installation, maintenance, repair and/or replacement of the Drainage Line at any time and from time to time; and (iii) obtain Owner Two's prior written consent (or the prior written consent of Owner Two's successors and/or assigns, as the case may be), should Successor Owner One (or its successors and/or assigns, as the case may be) desire to expand the size or move the general location of the Drainage Line; and (iv) cause the design, construction, installation, maintenance, repair and/or replacement of the Drainage Line to be sufficient to withstand all stresses and loads arising as a result of Owner Two's and/or its successors and/or assigns use of the Spur Track and/or its (or their, as the case may be) other rights under the Easement Agreement with respect to the Spur Track Easement. The foregoing provisions of subparagraphs A-3.(a)(i), A-3.(a)(ii), A-3.(a)(iii) and A-3.(b)(i) shall survive the termination of the Easement Agreement for any reason.

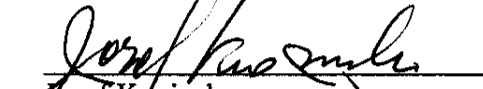
A-4. Miscellaneous Provisions. The Recitals set forth at the beginning of this Amendment shall be and are hereby incorporated herein, as though fully set forth. All other provisions of the Easement Agreement not specifically modified by this Amendment shall remain in full force and effect. Successor Owner One hereby represents and warrants to Owner Two (which representations and warranties shall survive the execution and delivery of this Amendment) that: (a) Successor Owner One holds legal title to Parcel One; (b) it is authorized without restriction to execute this Amendment; and (c) there are no known liens and/or encumbrances affecting Parcel One arising since on or after July 10, 2008, and shall be no such liens and/or encumbrances through and including the date of actual recording of this Amendment with the Recorder of Cook County, Illinois.

[Execution Page Immediately Follows]

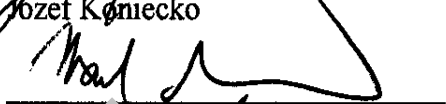
UNOFFICIAL COPY

The foregoing terms and provisions of this Amendment No. 1 to Easement Agreement are hereby acknowledged, consented and agreed to by the Parties as of the date first set forth above.

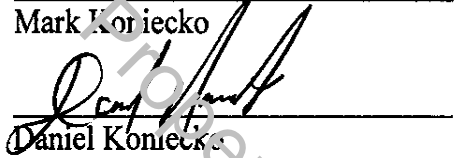
Successor Owners of Parcel One:




Jozef Konecko



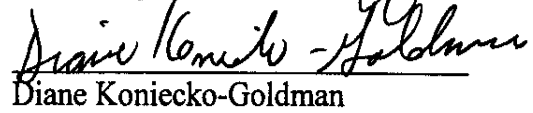
Mark Konecko



Daniel Konecko



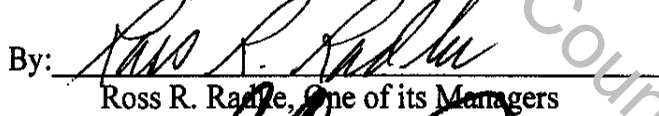
Margaret Clifford



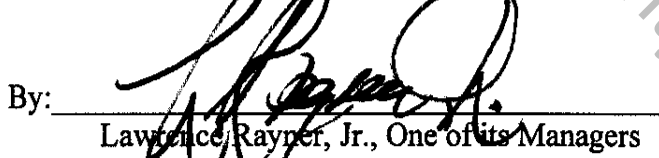
Diane Konecko-Goldman

Owner of Parcel Two:

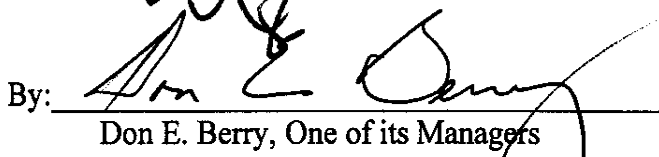
OLD HARLEM LLC, an Illinois limited liability company

By: 

Ross R. Randle, One of its Managers

By: 

Lawrence Rayner, Jr., One of its Managers

By: 

Don E. Berry, One of its Managers

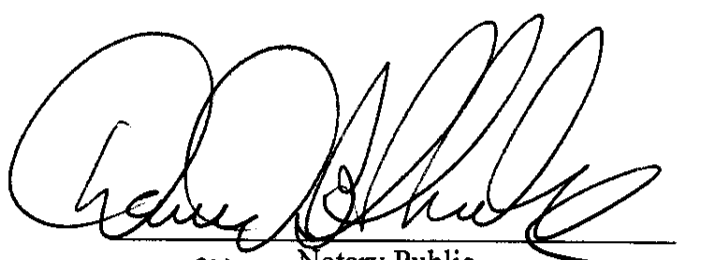
Being all of the Managers and all members of the Management Committee of the said LLC.

UNOFFICIAL COPY

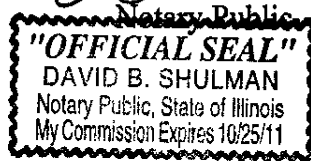
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The undersigned, a notary public in and for the above county and state, certifies that Jozef Koniecko, Mark Koniecko, Daniel Koniecko, Margaret Clifford and Diane Koniecko-Goldman, known to me to be the same persons whose names are subscribed to the foregoing Amendment No. 1 to Easement Agreement as the Successor Owners of Parcel One appeared before me in person and acknowledged signing and delivering the said Amendment No. 1 to Easement Agreement as their free and voluntary act, for the uses and purposes therein set forth.

Dated: July 8, 2009
(SEAL)

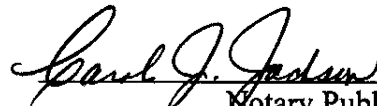
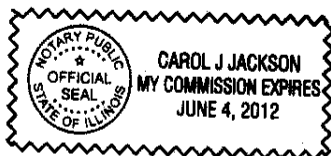


STATE OF ILLINOIS)
) SS
COUNTY OF COOK)



The undersigned, a notary public in and for the above county and state, certifies that Ross R. Radke, Lawrence Rayner, Jr. and Don E. Berry, known to me to be the same persons whose names are subscribed to the foregoing Amendment No. 1 to Easement Agreement as the Managers and Members of the Management Committee of Old Harlem LLC, an Illinois limited liability company which presently owns Parcel Two, identified above, and being duly authorized by the Articles of Organization and by the Operating Agreement of Old Harlem LLC to so execute the foregoing Amendment No. 1 to Easement Agreement on behalf of Old Harlem LLC, appeared before me in person and acknowledged signing and delivering the said Amendment No. 1 to Easement Agreement as the free and voluntary act of Old Harlem LLC, an Illinois limited liability company, for the uses and purposes therein set forth.

Dated: July 8, 2009
(SEAL)


Notary Public

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

PARCEL ONE

THE SOUTH 158 FEET OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING WEST OF THE EAST 50 FEET OF SAID SOUTH 158 FEET AND LYING EAST OF A STRAIGHT LINE WHICH INTERSECTS THE NORTH LINE OF THE SOUTH 158 FEET, 730.60 FEET WEST OF THE EAST LINE OF SAID SECTION 24 AND ALSO INTERSECTS THE SOUTH LINE OF SOUTH 158 FEET AT A POINT WHICH IS 719.46 FEET WEST OF THE EAST LINE OF SAID SECTION 24 ALL IN COOK COUNTY, ILLINOIS.

Permanent Index No. : 18-24-213-012-0000

Vacant Lot at approximately 6700 South Harlem Avenue,
Bedford Park, Illinois

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT B

LEGAL DESCRIPTION

PARCEL TWO

LOTS 5 AND 6 IN THE BEDFORD INDUSTRIAL PARK, BEING A SUBDIVISION OF PARTS OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN AND SECTION 19, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

EXCEPT FOR THAT PART OF LOT 6 IN BEDFORD INDUSTRIAL PARK, BEING A SUBDIVISION OF PART OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 12 AND OF SECTION 19, TOWNSHIP 38 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT, THENCE NORTH 0 DEGREES 00 MINUTES WEST, 286.0 FEET ALONG THE EAST LINE OF SAID LOT, THENCE NORTH 89 DEGREES 44 MINUTES WEST ALONG A LINE PARALLEL WITH THE NORTH LINE OF SAID LOT 6, 149.0 FEET, THENCE SOUTH 40 DEGREES, 16 MINUTES 45 SECONDS WEST 52.58 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES WEST 129.00 FEET TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT 6, THAT IS 223.14 FEET NORTHWESTERLY FROM THE SOUTHEAST CORNER OF SAID LOT; THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT, BEING A CURVE CONVEX SOUTHWEST AND HAVING A RADIUS OF 1477.6 FEET AND AN ARC DISTANCE OF OF 223.14 FEET TO THE POINT OF BEGINNING AL IN COOK COUNTY ILLINOIS.

Permanent Index Nos.: 18-24-400-008-0000 and
18-24-400-013-0001

UNOFFICIAL COPY

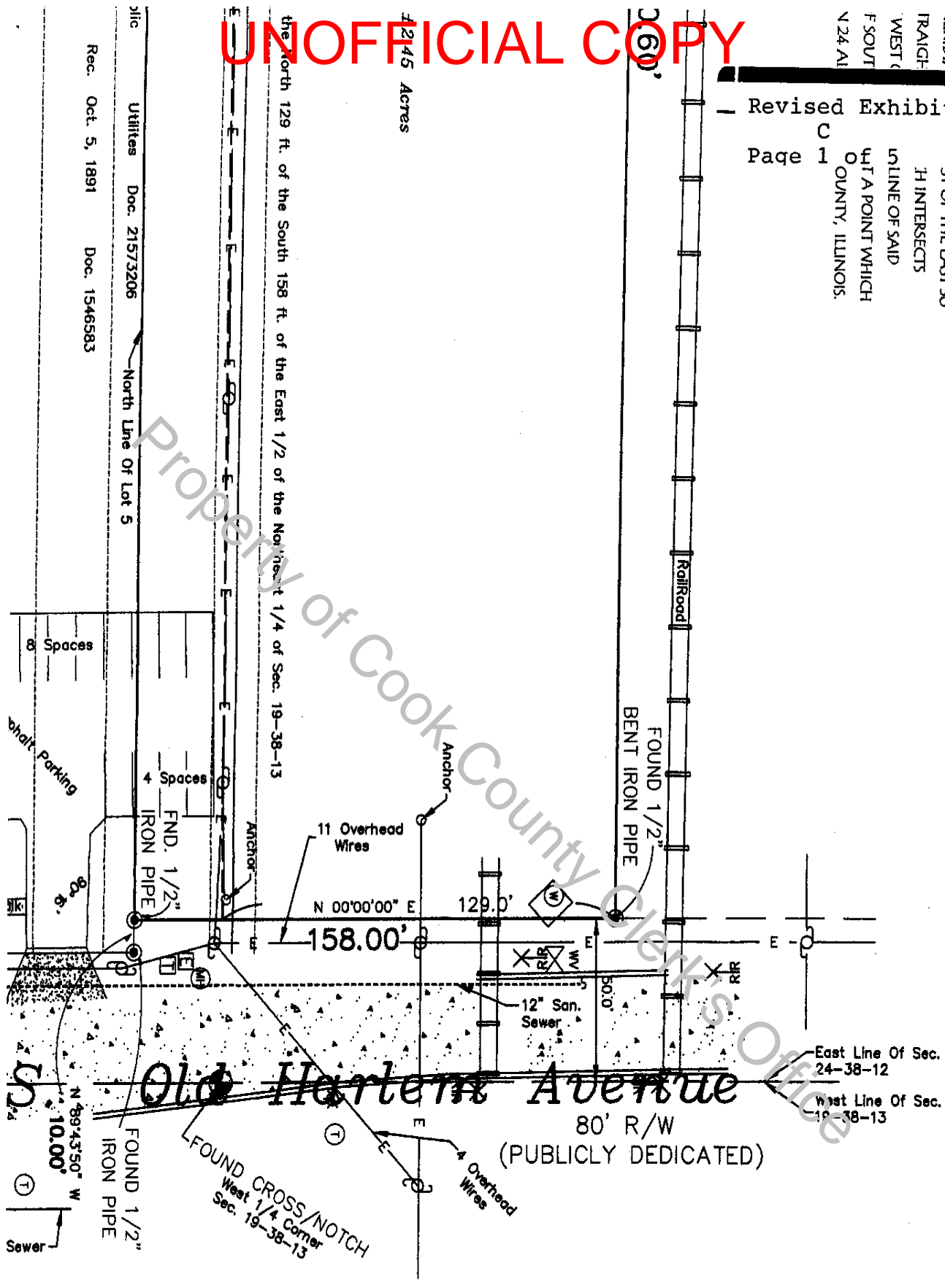
AST 1/4 OF SECTION 24, TOWNSHIP
ST OF THE EAST 50
H INTERSECTS
LINE OF SAID
A POINT WHICH
OUNTY, ILLINOIS.

Revised Exhibit
Page 1

Utilities Doc: 21573206
Rec. Oct. 5, 1891 Doc. 1546583

12.45 Acres

the North 129 ft. of the South 158 ft. of the East 1/2 of the North 1/4 of Sec. 19-38-13



TITLE SURVEY
LEM ROAD
ILINOIS

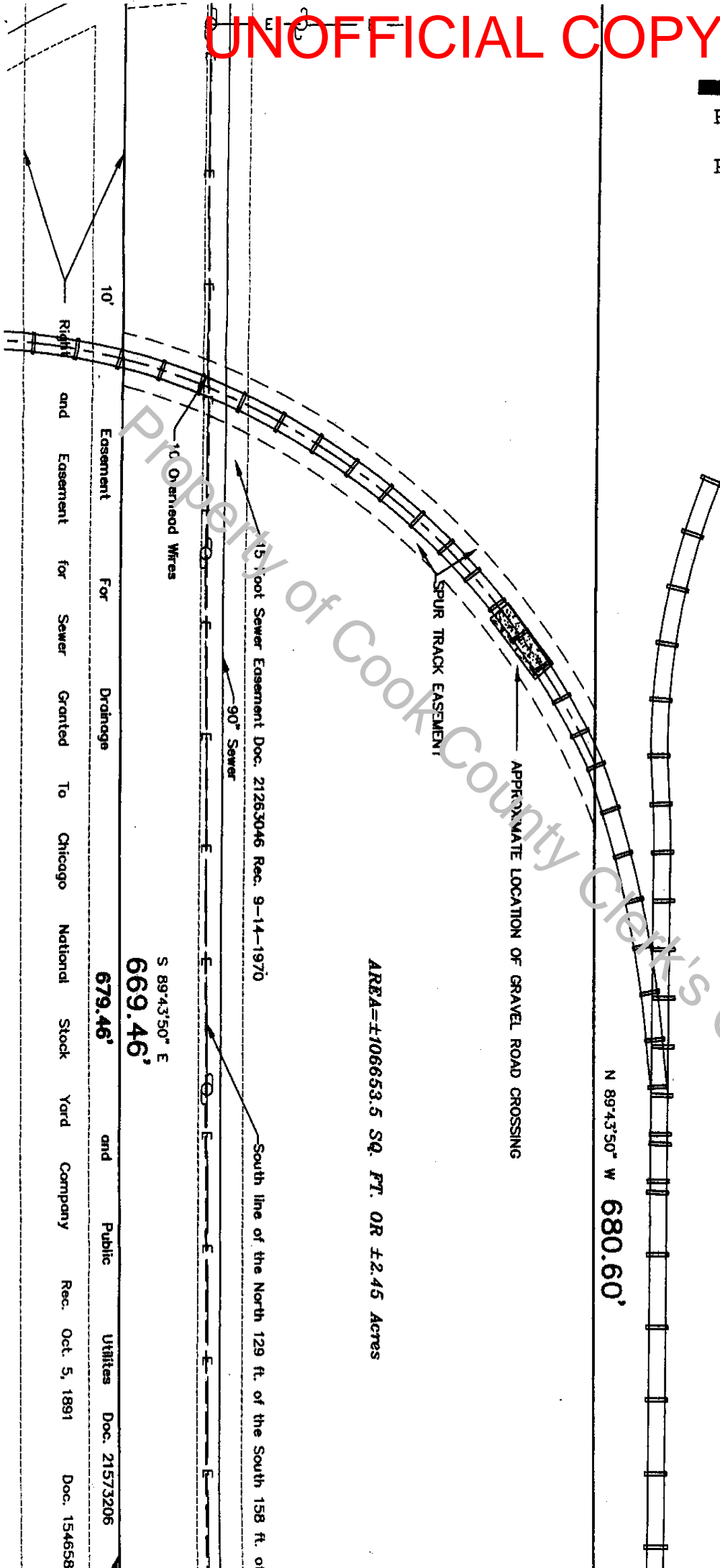
ZARKO SEKEREZ & ASSOCIATES, INC.
ENGINEERS & SURVEYORS
116 WEST CLARK STREET
CROWN POINT, INDIANA 46307
ILL. PHONE: (312) 726-1515 IND. PHONE: (219) 668-3344
ILL. FAX: (312) 236-9506 IND. FAX: (219) 663-7282
WWW.SEKEREZ.COM

DRAWN BY: C. A. E.	CHECKED BY: R. I.
DATE: MARCH 6, 2008	
ORDER NO: 8631 A	

UNOFFICIAL COPY

100

Revised Exhibit
C
Page 2 of 5



AREA = ±106653.5 SQ. FT. OR ±2.45 Acres

S 89°43'50" E
669.46'

679.46'

Legal Description of Parcel One:

THE SOUTH 158 FEET OF THE EAST 1/2 OF THE NORTHEAST 1/4 OF SECTION 24, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING WEST OF THE EAST 50 FEET OF SAID SOUTH 158 FEET AND LYING EAST OF A STRAIGHT LINE WHICH INTERSECTS THE NORTH LINE OF THE SOUTH 158 FEET, 730.60 FEET WEST OF THE EAST LINE OF SAID SECTION 24 AND ALSO INTERSECTS THE SOUTH LINE OF SOUTH 158 FEET AT A POINT WHICH IS 719.46 FEET WEST OF THE EAST LINE OF SAID SECTION 24 ALL IN COOK COUNTY, ILLINOIS.

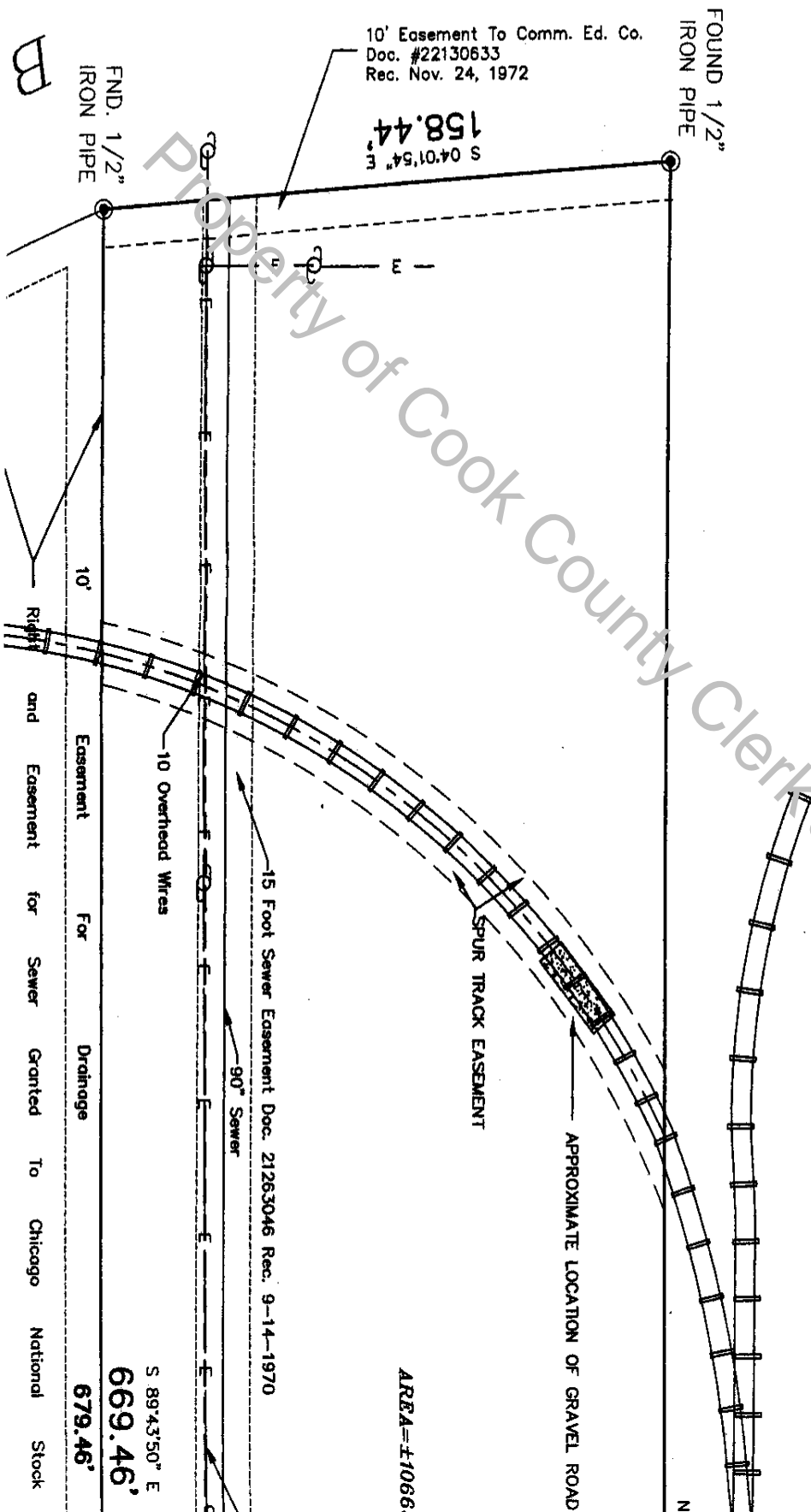
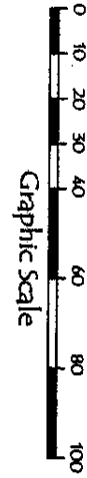
UNOFFICIAL COPY

Revised Exhibit

C
Page 3 of 5



SCALE: 1 inch = 30 feet



THE SOUTH 158 FEET OF THE EAST
 38 NORTH, RANGE 12 EAST OF THE
 FEET OF SAID SOUTH 158 FEET AN
 THE NORTH LINE OF THE SOUTH
 SECTION 24 AND ALSO INTERSEC
 15 719.46 FEET WEST OF THE EAST

AREA = 410664

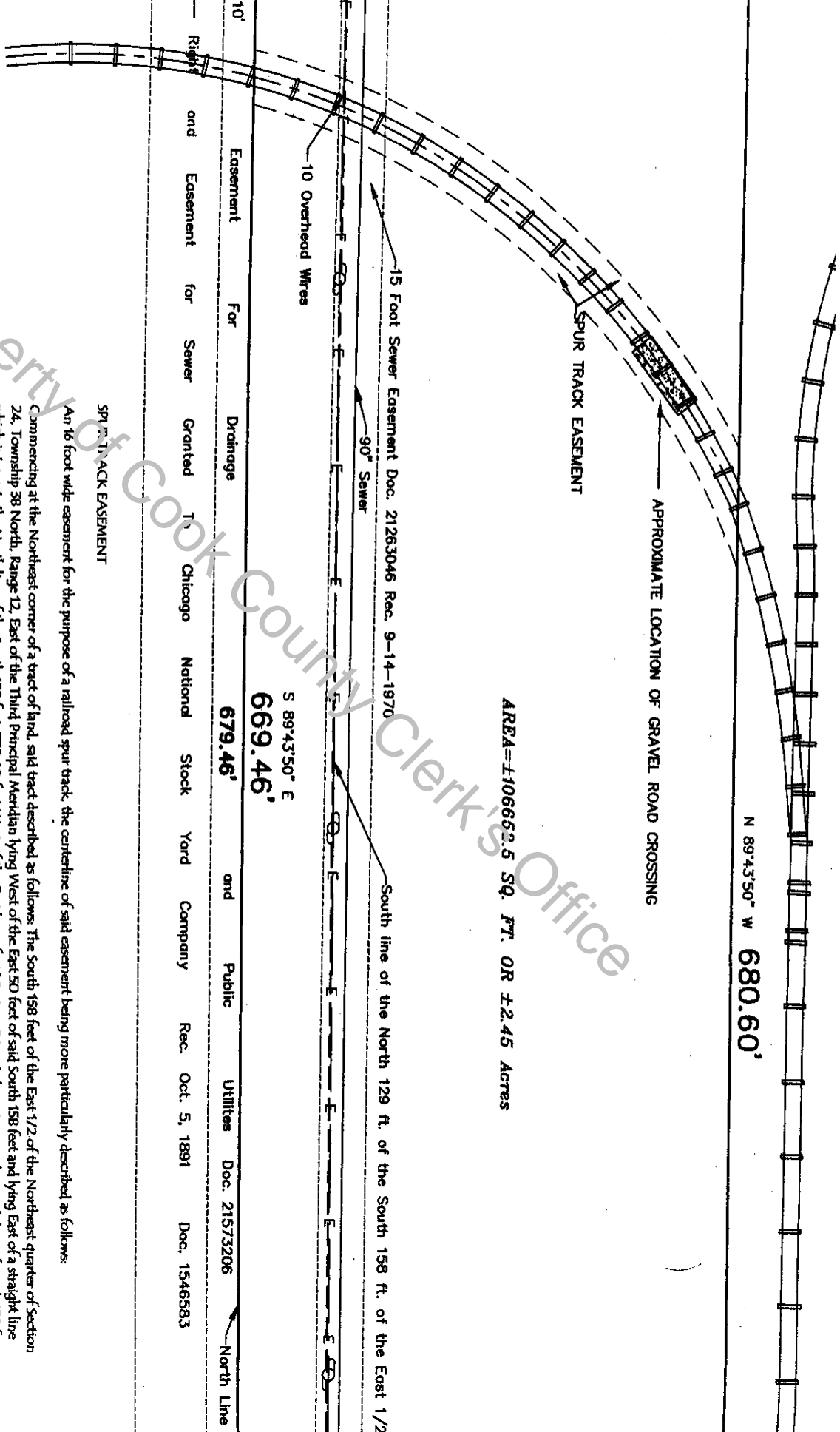
S 89°43'50" E
669.46'
 679.46'

B

Property of Cook County Clerk's Office

UNOFFICIAL COPY

Revised Exhibit
C
Page 4 of 5



AREA=±106652.5 SQ. FT. OR ±2.45 Acres

Easement For Drainage and Easement for Sewer Granted To Chicago National Stock Yard Company Rec. Oct. 5, 1891 Doc. 1546583

S 89°43'50" E
669.46'

679.46'

SPUR TRACK EASEMENT

An 16 foot wide easement for the purpose of a railroad spur track, the centerline of said easement being more particularly described as follows:

Commencing at the Northeast corner of a tract of land, said tract described as follows: The South 158 feet of the East 1/2 of the Northeast quarter of Section 24, Township 38 North, Range 12, East of the Third Principal Meridian lying West of the East 50 feet of said South 158 feet and lying East of a straight line which intersects the North line of the South 158 feet, 730.60 feet West of the East line of said Section 24 and also intersects the South line of South 158 feet at a point which is 719.46 feet West of the East line of said Section 24, all in Cook County, Illinois, thence North 89 degrees 43 minutes 50 seconds West along the North line of said tract of land, a distance of 448.09 feet to the intersection of said North line and the centerline of a railroad spur track said intersection being the point of beginning of the easement; thence Southwesterly along said centerline, the same describing a curve concave to the Southeast and of varying radii a distance of 207.19 feet, more or less, to a point on the South line of the aforementioned tract, said point being 97.65 feet, East of the Southwest corner of said tract and the point of termination of said easement, the right and left lines of which are shortened or lengthened as needed so as to cause the same to lie within the boundary of the aforesaid tract of land.

LEGEND

AND CATCHBASINS ALONG
5353881, RECORDED AUG.
YARD COMPANY PER DOC
3091.

7322422Z DEFRDNEN

UNOFFICIAL COPY

Easement Doc. 21263046 Rec. 9-14-1970

South line of the North 129 ft. of the South 158 ft. of the E

90" Sewer

S 89°43'50" E
669.46'

Drainage 679.46' and Public Utilities Doc. 21573206 Nor






Sewer Granted To Chicago National Stock Yard Company Rec. Oct. 5, 1891 Doc. 1546583

SPUR TRACK EASEMENT

An 16 foot wide easement for the purpose of a railroad spur track, the centerline of said easement being more particularly described as follows:

Commencing at the Northeast corner of a tract of land, said tract described as follows: The South 158 feet of the East 1/2 of the Northeast quarter of Section 24, Township 38 North, Range 12, East of the Third Principal Meridian lying West of the East 50 feet of said South 158 feet and lying East of a straight line which intersects the North line of the South 158 feet 730.60 feet West of the East line of said Section 24 and also intersects the South line of South 158 feet at a point which is 719.46 feet West of the East line of said Section 24 all in Cook County, Illinois, thence North 89 degrees 43 minutes 50 seconds West along the North line of said tract of land, a distance of 448.09 feet to the intersection of said North line and the centerline of a railroad spur track said intersection being the point of beginning of the easement; thence Southwesterly along said centerline, the same describing a curve concave to the Southeast and of varying radii a distance of 207.19 feet, more or less, to a point on the South line of the aforementioned tract, said point being 97.65 feet, East of the Southwest corner of said tract and the point of termination of said easement, the right and left lines of which are shortened or lengthened as needed so as to cause the same to lie within the boundary of the aforesaid tract of land.

LEGEND

-  = Wood Pole
-  = Water Valve
-  = Gas Valve
-  = Overhead Elec
-  = 6" M.

Iron Pipe & Cap (as noted)