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Attention: Matthew C. Fragner



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Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 01/29/2015 12:57 PM Pg: 1 of 131

Address and Permanent Tax Index Numbers:

See Exhibit A and Exhibit B

145351230

**DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS AND RECIPROCAL
EASEMENTS**

2014

(Block 37 Air Rights)

THIS DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS AND RECIPROCAL EASEMENTS (this "Declaration") is made as of November 21, 2013, by **108 North State Street (Chicago) Owner, LLC**, a Delaware limited liability company ("Retail Owner" or "Declarant"), and **North State Street Air Rights (Chicago) Owner, LLC**, a Delaware limited liability company ("Air Rights Owner") with respect to real property located in Cook County, Illinois.

RECITALS

A. Retail Owner owns the land located in Chicago, Illinois legally described on Exhibit A attached hereto (the "Retail Land") on which an already constructed retail project is located (as may be modified from time to time, the "Retail Project").

B. Air Rights Owner owns the three dimensional legal parcel situated above the Retail Project and legally described on Exhibit B attached hereto (the "Air Rights Parcel"). The Combined Project to be constructed on the Air Rights Parcel is sometimes referred to hereinafter as the "Air Rights Project". The Retail Project and the Air Rights Project are sometimes collectively referred to as the "Combined Project", and the Retail Land and the Air Rights Parcel are sometimes collectively referred to as the "Parcels".

C. The Parcels are each subject to that certain 108 North State Street Redevelopment Agreement made as of October 15, 2005 and recorded in the Office of the Recorder of Deeds of Cook County, Illinois (the "Recorder") on November 14, 2005 as Document No. 0531834078, as amended (the "Redevelopment Agreement"), with (i) the Retail Project being part of the "Phase I Project" and containing the "Base Building" (as each of such underlined terms is defined in the Redevelopment Agreement); and (ii) the Air Rights Parcel consisting of the "Northeast Pad" for the "Residential Project" and the "Northwest Pad" for the "Hotel Project" (as each of such underlined terms is defined in the Redevelopment Agreement). This Agreement shall constitute the reciprocal easement agreement described in Section 8.21 of the Redevelopment Agreement.

D. The parties desire to record this Declaration to provide for: (1) procedures and mechanisms for review and approval of plans, specifications and construction methods for future development of the Air Rights Project and changes to the Combined Project; (2) the imposition of certain use restrictions on the use and occupancy of the Retail Project and Air Rights Project; (3) the performance of certain

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obligations for REA Common Areas and REA Common Facilities (defined in Article 1 below) by the Retail Owner for the benefit of both the Retail Owner and the Air Rights Owner; (4) the reimbursement by the Air Rights Owner of a portion of the REA Common Facility Expenses (defined in Article 1 below) incurred by the Retail Owner; (5) the creation of certain rights of entry and easements appurtenant to the Air Rights Project and Retail Project; and (6) other purposes as set forth below. The Retail Owner, the Air Right Owner and their successors and assigns are referred to in this Agreement collectively as the "**Parties**" and individually as a "**Party**." The parties intend that this Declaration be a covenant running with the land.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the parties hereto agree as follows:

SPECIAL ACKNOWLEDGMENT AND WAIVER

EACH PARTY TAKING TITLE TO ANY PORTION OF THE COMBINED PROJECT (SPECIFICALLY INCLUDING ANY PERSON ACQUIRING TITLE TO ANY PORTION OF THE AIR RIGHTS PROJECT) ACKNOWLEDGES AND AGREES THAT PORTIONS OF THE RETAIL PROJECT MAY BE LEASED AND/OR OTHERWISE UTILIZED BY RETAIL BUSINESSES SUCH AS RESTAURANTS, MARKETS AND OTHER STORES THAT MAY BE OPEN FOR BUSINESS AND/OR ACCEPT DELIVERIES LATE AT NIGHT OR EARLY IN THE MORNING AND THAT THE SOUNDS, SIGHTS AND SMELLS OF SUCH ACTIVITIES MAY BE PERCEIVED FROM OTHER PORTIONS OF THE COMBINED PROJECT. EACH SUCH PARTY TAKING TITLE TO ANY PORTION OF THE COMBINED PROJECT (INCLUDING RESIDENTIAL CONDOMINIUMS) FURTHER WAIVES, ON BEHALF OF ITSELF AND ITS GUESTS, INVITEES, TENANTS, SUCCESSORS AND ASSIGNS, ANY RIGHT IT MIGHT OTHERWISE HAVE TO SUE DECLARANT, ANY OTHER OWNERS OR ANY FOR INJUNCTIVE RELIEF, DAMAGES, OR ANY OTHER FORM OF RELIEF ARISING FROM SUCH ACTIVITIES UNDER ANY THEORY OF LEGAL LIABILITY, INCLUDING WITHOUT LIMITATION NUISANCE, BREACH OF THIS AGREEMENT OR ANY IMPLIED COVENANT, OR TRESPASS. THE FOREGOING SHALL NOT, HOWEVER, LIMIT THE OBLIGATION OF EACH OWNER, OCCUPANT AND PERMITTEE TO COMPLY WITH ALL APPLICABLE LAWS OR LIMIT THE RIGHT OF ANY OWNER, OCCUPANT OR PERMITTEE TO FILE A COMPLAINT WITH THE APPROPRIATE GOVERNMENT AGENCIES FOR VIOLATION OF SUCH APPLICABLE LAWS.

ARTICLE 1. DEFINITIONS. The following terms have the following definitions:

- 1.1 "**Additional Insured**" is defined in Section II.B of the Insurance Schedule.
- 1.2 "**Air Rights Owner**" is defined in Recital B.
- 1.3 "**Air Rights Parcel**" is defined in Recital B.
- 1.4 "**Air Rights Project**" is defined in Recital B.
- 1.5 "**Allocated Electricity Usage**" is defined in Section 7.1.
- 1.6 "**Annual Plan/Budget**" is defined in Section 4.1.

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- 1.7 **"Applicable Law"** or **"Applicable Laws"** means any federal, state or local statute, rule, regulation, requirement, initiative, ordinance, action or policy, and common law.
- 1.8 **"Award"** or **"Awards"** is defined in Section 11.1.
- 1.9 **"Basement Rooms"** is defined in Section 3.1.1.
- 1.10 **"Builder's Risk Insurance"** is defined in the Insurance Schedule.
- 1.11 **"Capital Reserves"** means reasonable reserves to be maintained by Retail Owner in trust for itself and the Air Rights Owner, for reasonably anticipated capital expenditures for repair and replacement of REA Common Facilities. No Capital Reserves shall be spent for any expense other than repair and/or replacement of REA Common Facilities without the prior written consent of both Owners, and no Capital Reserves shall be subject to any security interest (whether a Mortgage or other security interest), except as described in Section 4.5.
- 1.12 **"Casualty"** means damage to an Improvement in the Combined Project resulting from an event such as fire, earthquake or unusual weather causing sudden damage, thefts, riots, vandalism or terrorism.
- 1.13 **"Casualty Assessment Notice"** is defined in Section 9.3.
- 1.14 **"City"** means the City of Chicago.
- 1.15 **"Combined Project"** has the meaning specified in Recital B.
- 1.16 **"Common Utility Facilities"** means all of the Utility Facilities except the Owner Utility Facilities.
- 1.17 **"Comparable Projects"** means other comparable, mixed-use residential and commercial projects in the downtown Chicago metropolitan area.
- 1.18 **"Complete"** or **"Completion"** means when a temporary or permanent certificate of occupancy is issued for the Improvements on the applicable Component.
- 1.19 **"Component"** or **"Components"** means one or all, as applicable, of the Air Rights Project or the Retail Project.
- 1.20 **"Component's Insurance Share"** is defined in Section 8.4.
- 1.21 **"Constant Dollars"** means October, 2013 dollars. The inflation factor used to adjust back to Constant Dollars shall be the Consumer Price Index-All Items, Chicago-Gary-Kenosha, IL-IN-WI Area, All Urban Consumers, 1982-1984 = 100, as published by the Bureau of Labor Statistics, United States Department of Labor (the **"Index"**) or, if the Index is no longer available, or if the method of compiling such Index is changed, a reasonably comparable replacement or successor Index or other mechanism to adjust Constant Dollars shall be designated by the then chief officer of the Chicago Regional Office of the Bureau of Labor Statistics, upon the request of either party, as the index which is most comparable to the Index. Further, if the base of the Index is changed, the new base shall be converted to the 1982-1984 base in accordance with tables issued by said Bureau.
- 1.22 **"Construction Work"** means any construction, reconstruction, demolition, replacement, alteration, erection, installation, remodeling, rebuilding, repair, razing or restoration of any Improvement.
- 1.23 **"Contest"** is defined in Section 5.2.

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- 1.24 "**Contesting Owner**" is defined in Section 5.2.
- 1.25 "**Cost Per Kilowatt-Hour**" is defined in Section 7.1.
- 1.26 "**Damage Threshold**" is defined in Section 9.2.1.
- 1.27 "**Default**" is defined in Section 12.2.
- 1.28 "**Default Rate**" means the lesser of (i) eighteen per cent (18%) per annum, or (ii) the highest interest rate permitted under Applicable Law.
- 1.29 "**Defaulting Owner**" is an Owner who has been declared to be in Default pursuant to this Declaration.
- 1.30 "**Delinquency Date**" is defined in Section 4.4.
- 1.31 "**Effective Date**" means the date this Declaration is recorded.
- 1.32 "**Electricity Charge**" is defined in Section 7.1.
- 1.33 "**Elevators**" means all elevators, elevator shafts, lifts and associated improvements now existing or hereafter located in the Combined Project.
- 1.34 "**Environmental Damages**" means any claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of investigation and defense of any claim, whether or not such claim is ultimately defeated, and of any good faith settlement of judgment, of whatever kind or nature, including, without limitation, reasonable attorneys' fees and disbursements and consultants' fees, any of which are incurred at any time as a result of the existence of Hazardous Materials in quantities requiring remediation upon, about or beneath the Combined Project or migrating or threatening to migrate to or from the Combined Project or the existence of a violation of Environmental Requirements pertaining to the Combined Project, or operation of the Combined Project, and including without limitation:
- (a) Damages for personal injury, or injury to property or natural resources occurring upon or off of the Combined Project, including, without limitation, lost profits, the cost of demolition and rebuilding of the Combined Project, or any portion of the Combined Project, and interest and penalties;
 - (b) Fees incurred for the services of attorneys, consultants, contractors, experts, laboratories and all other costs incurred in connection with the investigation or remediation of such Hazardous Materials or violation of Environmental Requirements including, but not limited to, the preparation of any feasibility studies or reports or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration or monitoring work required by any Governmental Authority, or otherwise expended in connection with such conditions, and including without limitation, any attorneys' fees, costs and expenses incurred in enforcing this Declaration or collecting any sums due hereunder; and
 - (c) Liability to any third person or Governmental Authority to indemnify such person or Governmental Authority for costs expended in connection with the items referenced in the immediately preceding Subsection.
- 1.35 "**Environmental Requirements**" means all applicable present and future Applicable Laws, all applicable requirements of all Governmental Authorities, all applicable judicial, administrative and regulatory decrees, judgments and orders relating to the protection of the environment, including, but not limited to, those relating to Hazardous Materials.

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1.36 "**Expense Year**" means each calendar year in which any portion of the Term falls, through and including the calendar year in which the Term expires.

1.37 "**Expenses**" means REA Common Facility Expenses, Insurance Expenses, Parking Expenses, Loading Dock Expenses and amounts paid into Capital Reserves.

1.38 "**Force Majeure**" means those events described in Section 15.16.

1.39 "**Governmental Authority**" means any governmental authority, agency, department, district, commission, board or instrumentality of the United States, the State of Illinois or any political subdivision thereof having jurisdiction over the Combined Project, including the City and County of Cook.

1.40 "**Grantee**" means the Owner receiving the benefits of any of the easements described in Article 2.

1.41 "**Grantor**" means the Owner burdened by any of the easements described in Article 2.

1.42 "**Hazardous Materials**" shall include, without limitation, gasoline, diesel fuel, petroleum products, polychlorinated biphenyls, asbestos, urea formaldehyde, foam insulation, radon gas, or any substance:

(a) The presence of which requires investigation, notification or remediation under any Applicable Law; or

(b) Which is or becomes defined as a "hazardous waste," "hazardous substance," pollutant or contaminant under any Applicable Law, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sections 9601 et seq.) and/or the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901 et seq.); or

(c) Which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any Governmental Authority; or

(d) The presence of which on the Combined Project causes or threatens to cause a nuisance upon the Combined Project or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Combined Project, or any portion thereof.

(e) Hazardous Materials shall not include products typically used at similar mixed-use projects (e.g., cleaning products, office supplies) if the same exist merely in small amounts that do not require remediation and do not pose a hazard to the health or safety of persons on or about the Combined Project.

1.43 "**Improvements**" means all improvements now or hereafter located within the Air Rights Project and the Retail Project.

1.44 "**Indemnified Claims**" is defined in Section 2.14.

1.45 "**Insurance Date**" is defined in Section 8.2.

1.46 "**Insurance Expenses**" means the premiums for the Master Property Insurance required to be maintained by Retail Owner pursuant to Article 8.

1.47 "**Insurance Schedule**" means the schedule of insurance coverages and requirements attached to this Declaration as Exhibit F.

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1.48 "**Insurance Trustee**" means a bank or trust company qualified under the laws of the State of Illinois and reasonably approved by the Owners and all Mortgagees to take custody and handle disposition of the insurance Proceeds pursuant to the terms of Section 8.4 and any separate agreement between the Owners with respect to such Proceeds.

1.49 "**Insurance Trust Threshold Amount**" is defined in Section 8.4.1.

1.50 "**Joint Use Equipment**" means the equipment serving both the Retail Project and the Air Rights Project as more specifically described on Exhibit D attached hereto.

1.51 "**Liability Insurance**" is defined in the Insurance Schedule.

1.52 "**Loading Dock Expenses**" means the expenses incurred in maintaining and operating the loading dock located in the Retail Project as shown on the Site Plan.

1.53 "**Loss**" means all costs and expenses arising out of any and all claims, demands, losses, damages, liens, liabilities, injuries, deaths, penalties, relocations or disruptions of use, fines, lawsuits or other proceedings, judgments or awards rendered therein, including reasonable attorneys' fees and court costs, and all other costs and expenses.

1.54 "**Major Construction Work**" shall mean any Construction Work that would (a) involve the relocation or construction of any Project Utility Facilities by an Owner that would affect the continuous use of any Utility Facilities by another Owner or diminish the capacity of such Utility Facility for use by another Owner, (b) materially increase the load imposed on the REA Common Facilities beyond that contemplated by this Declaration and the existing plans and specifications for the Combined Project, (c) create new or additional Improvements (including interim or temporary improvements and construction of the Air Rights Project, but excluding tenant improvements on the Retail Project) on any Component, which would cost in excess of Five Hundred Thousand Dollars (\$500,000); (d) alter or demolish in any material way any ingress or egress ways, to, from or through the Combined Project; or (f) alter any portion of any REA Common Areas of the Combined Project.

1.55 "**Master Property Insurance**" is defined in Section 8.1.

1.56 "**Mortgage**" any mortgage, indenture of first mortgage, first deed of trust, whether fee or leasehold, or Sale and Leaseback or other similar security interest, with respect to the entire interest of an Owner in and to any Component.

1.57 "**Mortgagee**" refers to and shall include a mortgagee, trustee, beneficiary or other holder under a Mortgage, and to the extent applicable, a fee owner, lessor or sublessor, as applicable, of a Component following a Sale and Leaseback, provided such Persons are not in possession of the Component.

1.58 "**Non-Contesting Owner**" shall mean an Owner who does not participate in a Contest pursuant to Section 5.2.

1.59 "**Non-Defaulting Owner**" is defined in Section 12.1.

1.60 "**Occupant**" means any Person from time to time entitled to use or occupy all or a portion of the Combined Project pursuant to a lease (including any sublease, license or other occupancy agreement).

1.61 "**Official Records**" shall mean the Official Records of the County Recorder of the County of Cook, Illinois.

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1.62 "**Owner**" means each Person who owns fee simple title to a Component (specifically not including owners of individual condominium units, if any, within the Combined Project), or their respective successors in interest from time to time as hereinafter provided as shown by the Official Records as of the date of the exercise of powers or rights or the performance of obligations created by this Declaration.

1.63 "**Owner Assessment**" is defined in Section 4.2.1.

1.64 "**Owner Utility Facilities**" means all of the Utility Facilities which are located solely within a Component and/or the area of any exclusive easement granted to the Owner of such Component pursuant to the terms of Article 2 hereof. As used in the preceding sentence, a Utility Facility is not located solely within a Component or exclusive easement area if it is an integral part of a system that is also located on another Component.

1.65 "**Parking Expenses**" means the expenses incurred in operating and maintaining the Parking Structure.

1.66 "**Parking Structure**" means the 3-level parking structure located on the Retail Project.

1.67 "**Permittees**" means, as to each Owner and its respective Occupants, the officers, directors, employees, agents, partners, contractors, customers, visitors, invitees, licensees, tenants, subtenants and concessionaires of such Person.

1.68 "**Podium**" means the concrete slab to be constructed on the roof of the Retail Project by Air Rights Owner that will be the foundation for the balance of the Air Rights Project.

1.69 "**Proceeds**" means any proceeds of Property Insurance required to be carried under this Declaration, condemnation awards, or damages recoverable from a third party which are received or receivable by the Retail Owner with respect to the Master Property Insurance or by an Owner with respect to other Property Insurance as a result of a Casualty or on account of the damage, less costs of collection.

1.70 "**Combined Project Account**" is defined in Section 4.5.

1.71 "**Property Insurance**" is defined in the Insurance Schedule.

1.72 "**Proportionate Share**" means, with respect to the Expenses set forth below, the corresponding percentage of such Expenses to be paid by each Owner as set forth below:

(a) REA Common Facility Expenses:

Air Rights Project: 50%

Retail Project: 50%

(b) Insurance Expenses:

From recordation of this Agreement until the Completion of the Air Rights Project:

Air Rights Project: 0%

Retail Project: 100%

From and after Completion of the Air Rights Project as described above:

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Air Rights Project: The percentage equal to 100 times the fraction equal to the gross square footage of area enclosed by structures in the Air Rights Project divided by the gross square footage of area enclosed by structures in both the Air Rights Project and the Retail Project.

Retail Project: 100% minus the percentage determined for the Air Rights Project.

(c) Capital Reserves

Air Rights Project: 50%

Retail Project: 50%

(d) Parking Expenses

Air Rights Project: 25%

Retail Project: 75%

(e) Loading Dock Expenses

Air Rights Project: 25%

Retail Project: 75%

1.73 "**REA Common Area**" means the entrances, exits, driveways, sidewalks, delivery passages, landscaped areas, walkways, stairways, escalators and elevators and associated lobbies designated as "REA Common Area" on the Site Plan.

1.74 "**REA Common Area Rules**" is defined in Section 3.6.

1.75 "**REA Common Facilities**" means (a) the Joint Use Equipment, (b) the REA Common Area, (c) the Common Utility Facilities, including, without limitation, the Combined Project's fire and life safety systems, (e) the Combined Project structural elements, including all structural support elements existing in, on, under and throughout the Combined Project, all separate or common footings, girders, columns, braces, foundations, temporary and permanent tieback systems, common party walls, load bearing walls and other standard support elements, and (f) any and all other equipment or machinery which benefits the Combined Project.

1.76 "**REA Common Facility Expenses**" means the costs and expenses reasonably incurred by or on behalf of Retail Owner in performing the services described in Section 3.1.1 or reasonably incurred by or on behalf of the Retail Owner in performing the services described in Section 3.1.2.

1.77 "**Residential Condominium**" means any residential unit within the Combined Project that is legally transferable as a separate and discrete parcel of real estate.

1.78 "**Retail Owner**" means the owner of the Retail Project from time to time.

1.79 "**Retail Project**" is defined in Recital A.

1.80 "**Roof**" means the roof of the Retail Project, including all structural components, the skin and membranes.

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1.81 "**Sale and Leaseback**" means a transaction in which: (i) an Owner conveys the fee or a leasehold estate in its Component and immediately thereafter that Person or an affiliated entity leases or subleases the Component; or (ii) a Person, who holds a leasehold estate in its Component, assigns the estate or subleases the Component and immediately thereafter that Person or an affiliated entity subleases the Component.

1.82 "**Site**" means the Retail Project and the Air Rights Parcel.

1.83 "**Site Plan**" means the site plan for the Combined Project attached hereto as Exhibit D.

1.84 "**Taxes**" means real property taxes and general and special assessments.

1.85 "**Term**" means the period that this Declaration is in effect, which period shall commence as of the Effective Date and shall continue in perpetuity unless terminated by mutual written agreement of both Owners.

1.86 "**Termination Date**" refers to the date on which this Declaration shall terminate, pursuant to the terms and provisions of this Declaration.

1.87 "**Utility Facility**" or "**Utility Facilities**" means any utility or service line or system now existing or hereafter located in the Combined Project, including, without limitation, sewers, ejector pumps, water pipes and systems, intake and exhaust vents, ventilation shafts, gas pipes and systems, sprinkler pipes and systems, drainage lines, pipes and systems, electrical power conduits, lines and wires, meters, cable television lines, fiber optic cables, microwave and other communications systems, telephone conduits, lines and wires, security lines and systems, any utilities required for teleconferencing facilities, life safety systems, including, without limitation, sprinkler and water supply systems, flood alarm systems and fire alarm systems, grease shafts, and other service or utility lines necessary or convenient to operate the Combined Project.

ARTICLE 2. EASEMENTS AND PARKING RIGHTS

2.1 Grant of Easements for Ingress, Egress and Access.

2.1.1 REA Common Area Easements. Each Owner hereby establishes and grants, for the benefit of each Owner, for the use and benefit of each of them and their respective Permittees, irrevocable non-exclusive easements over the REA Common Area, for ingress to and egress, for the passage and accommodation of pedestrians, on such portions of the REA Common Area as are set aside, maintained and authorized for such use pursuant to the terms of this Declaration, and, with respect only to the Owners, for the doing of such other things as are authorized or required to be done on said REA Common Area pursuant to this Declaration. Notwithstanding the foregoing, each Owner reserves the right to close off the REA Common Area on the Owner's Component for such reasonable period or periods of time as may be legally necessary to prevent the acquisition of prescriptive rights by any Person or the implied dedication of any portion of the REA Common Area to the public, provided no such closure shall preclude reasonable access to and use of Improvements on the other Owners' Component or interfere with construction work undertaken by an Owner pursuant to the Agreement or the maintenance obligation of the Owners or the Retail Owner. In addition, nothing in this Section shall be deemed to limit Retail Owner's right to place carts, kiosks, signage and other similar items in the REA Common Area on or adjacent to the Retail Project or to allow queuing or outdoor market and restaurant seating.

2.1.2 Emergency Access. Each Owner hereby establishes and grants, for the benefit of the Owner of each Component, a non-exclusive, perpetual and appurtenant easement in, over and through the Combined Project, for pedestrian ingress, egress, access, passage and accommodation in, on, around, over, under, through and between the same to the extent to which such easements may be required to comply with any Applicable Law concerning ingress or egress in the event of fire or other

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emergency. Declarant specifically includes in such establishment a non-exclusive easement for pedestrian access to and from the Air Rights Project for the benefit of the Occupants of the Air Rights Project.

2.1.3 Access to Perform Declaration Duties. Each Owner hereby establishes and grants, for the benefit of the Retail Owner and its respective employees, agents and contractors non-exclusive and perpetual easements and rights upon, over, under and across the Combined Project, for the purpose of permitting such party to discharge their respective obligations and to exercise their respective duties as described in this Declaration, including, without limitation, the operation, repair, maintenance and replacement of the REA Common Facilities and the testing, replacement, repair, removal and monitoring of the Combined Project Utility Facilities.

2.1.4 Pedestrian Access To and From Air Rights Parcel. Each Owner hereby establishes and grants, for the benefit of the Air Rights Owner and each Occupant of the Air Rights Project, (i) a non-exclusive, perpetual and appurtenant easement for the use of Elevators No. 15 and 16 as designated on the Site Plan for pedestrian ingress and egress to and from the Air Rights Project, and (ii) a non-exclusive, perpetual and appurtenant easement for pedestrian ingress and egress to and from the Parking Structure.

2.2 Grant of Utility and REA Common Facilities Easements.

2.2.1 Grant. Each Owner hereby establishes and grants, for the use and benefit of each Owner and its respective Permittees, (a) non-exclusive easements in, to, over, under and across the Combined Project Utility Facilities for the use, operation and enjoyment of the Combined Project Utility Facilities, and (b) non-exclusive easements in, to, over, under and across the Combined Project for the installation, operation, flow, passage, use, maintenance, repair, replacement, relocation, restoration and removal, and for ingress and egress in connection therewith, of Owner Utility Facilities and REA Common Facilities serving such Owner's Component and/or area of any easement granted to such Owner (but excluding any such easement granted to all of the Owners) pursuant to the terms of this Article 2.

2.2.2 Location. The location of all Utility Facilities shall be subject to the reasonable written approval of the Owner of the Parcel on which such Utility Facilities are located.

2.2.3 Survival. Easements granted in this Section 2.2 shall survive the end of the Term. Each Owner maintaining or repairing a Utility Facility shall comply with the other provisions of this Declaration.

2.2.4 Maintenance. Unless otherwise provided in this Declaration or agreed otherwise in writing by the Grantor and the Grantee, the Grantee of any of the utility easements referred to in Section 2.2.1 shall be responsible as between the Grantor and the Grantee thereof for the installation, maintenance and repair of all Utility Facilities installed pursuant to such grant, provided, however, that if any such Utility Facility is located within a REA Common Facility, then the maintenance, repair and restoration provisions of Section 3.12 hereof shall apply to the maintenance, repair and restoration thereof. Any such maintenance and repair shall be performed only after two (2) weeks notice to the Grantor of the Grantee's intention to do such work, except in the case of emergency, and otherwise in accordance with the provisions of this Section 2.2.4.

2.2.5 Relocation. The Grantor of any of the utility easements granted pursuant to Section 2.2.1 shall have the right at any time to relocate on the Component of the Grantor any such Utility Facilities then located on the Component of the Grantor provided that such relocation shall be performed only after thirty (30) days' notice of the Grantor's intention to so relocate shall have been given to the Grantee, and such relocation: (i) shall not unreasonably interfere with or diminish the services provided by such Utility Facilities to the Grantee; (ii) shall not reduce or unreasonably impair the usefulness or function of such Utility Facilities; (iii) shall be performed without cost or expense to the Grantee; and (iv) shall not be relocated other than underground or within a structure approved by the

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Grantor and Grantee(s). Notwithstanding such relocation, and unless otherwise provided in this Declaration or agreed otherwise in writing by the Grantor and the Grantee, the maintenance of the relocated Utility Facilities located on the Component of the Grantor shall remain the obligation of the Grantee; provided that if there shall be any material increase in the cost of such maintenance by reason of such relocation, the Grantor shall bear the cost of such material increase.

2.3 Encroachment Easements. Each Owner hereby establishes and grants, for the benefit of the Owner of each Component, a perpetual, appurtenant and non-exclusive easement for (a) any portion of any Improvement located on or in each Component which may encroach into or over the Improvement of Component of the other Owners; provided that, unless resulting from any shifting, settlement or other movement of any of the Improvements, (i) the applicable encroachment does not exceed five (5) feet; (ii) such encroachment is unintentional or is intentional but is reasonably required for the connection of adjacent Components or Improvements to one another, and (iii) such encroachment does not materially impair the use of the Component of the Grantor, and (b) the maintenance, repair and replacement of any such encroachment.

2.4 Support Easements. Each Owner hereby establishes and grants, for the benefit of the Owner of each Component, a perpetual, appurtenant and non-exclusive easement for lateral and subjacent support and supporting systems, and enclosure of adjacent or subjacent buildings, for all of the Improvements located on such Owner's Component as of the Effective Date or as are approved pursuant to the terms of this Agreement (including, without limitation, separate or common footings, girders, columns, braces, foundations, temporary and permanent tieback systems, REA Common party walls, load bearing walls and other standard support elements for the purpose of supporting buildings and other improvements then located on the Grantee's Component and any replacement, substitution or modification thereof).

2.5 Maintenance and Repair Easements and Grant of Easement for Temporary Construction Activities.

2.5.1 Subject to the other provisions of this Declaration (including without limitation Section 3.1) and any other applicable agreement, each Owner hereby establishes and grants for the benefit of each Owner an easement to come upon the REA Common Area of each Owner's Component for the purpose of construction, maintenance, repair, replacement, rearrangement and remodeling of Improvements and of landscaping, pedestrian walkways and other Improvements within the REA Common Area, all of which shall be consistent with the Site Plan. All such work shall be conducted in the most expeditious manner reasonably possible to minimize interference with the REA Common Area and any Occupants or Permittees of the Component on which such work is to be performed, and the work shall be diligently prosecuted to completion. In connection with the work or construction performed within or to the Improvements on the Site, incidental encroachment upon the REA Common Area may occur as a result of the use of ladders, scaffolding, store-front barricades and similar facilities resulting in temporary obstruction of portions of the REA Common Area, all of which are permitted hereunder so long as their use is kept within reasonable requirements of construction work expeditiously pursued. REA Common Area may be utilized for ingress and egress of vehicles transporting construction material and equipment and persons employed in connection with any work provided for herein and temporary storage of materials being utilized in connection with such construction, subject to the other terms and provisions hereof. Nothing contained in this Section 2.5 shall limit any requirement to obtain proper building and other permits from the City contained in City codes and ordinances.

2.5.2 Each Owner reserves for itself and establishes and grants to the Retail Owner and the Air Rights Owner an easement to enter upon each other Owners' Parcel for the purpose of performing the duties described in Article 3 or 9 on reasonable prior written notice (except in case of emergency, when only such prior notice as is practicable shall be required), provided all such work shall be conducted in the most expeditious manner reasonably possible to minimize interference with the servient tenement and the work shall be diligently prosecuted to completion.

2.6 Drainage. Each Owner hereby establishes and grants, for the benefit of each Owner, a

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non-exclusive easement to come upon the REA Common Area of the other Owner's Component for the purpose of the installation, maintenance and operation of surface and underground drainage facilities for storm and runoff water and for the flow of water across the exterior surfaces of the Grantor's Component, which shall survive the end of the Term and continue until the Improvements benefited thereby are torn down; provided, however, that no such drainage facilities shall interfere with, restrict or impede other uses of the REA Common Area as provided for herein nor shall it create an unreasonable burden on the REA Common Area or other Owner's Component.

2.7 Grant of Easements For Loading Dock, Trash Room and Emergency Generator. Each Owner hereby establishes and grants, for the benefit of the Air Rights Owner and subject to reasonable rules and regulations as may be adopted from time to time by the Retail Owner with respect to such use to the extent permitted by law, (i) a non-exclusive easement for the use of the loading dock as shown on the Site Plan, and vehicular access thereto from Dearborn Street, subject to prior arrangement for appropriate times with the Retail Owner, and pedestrian access during such pre-arranged times from such loading dock to the elevators for the Air Rights Project adjacent to as shown on the Site Plan, (ii) an exclusive easement for the use of the trash room on level B-1 of the Retail Project where shown on the Site Plan, and a non-exclusive easement for pedestrian access thereto, and (iii) an exclusive easement for the use of the emergency generator on level B-1 of the Retail Project where shown on the Site Plan, and a non-exclusive easement for pedestrian access thereto.

2.8 Street Level Transportation Easements. Each Owner hereby establishes and grants for the benefit of the Air Rights Owner and Air Rights Project Occupants and their respective Permittees an exclusive easement for any stairways and/or elevators (and associated lobby or lobbies) that exclusively service the Air Rights Project as may exist from time to time.

2.9 Intentionally deleted.

2.10 Intentionally deleted.

2.11 Podium and Air Rights Construction Easement. Retail Owner establishes and grants to the Air Rights Owner (i) an exclusive easement to construct, maintain, repair and replace the Podium located on the roof of the Retail Project as shown on the Site Plan for the construction, maintenance and replacement of the Air Rights Project on the roof level of the Retail Project and (ii) a non-exclusive easement over the Retail Project for the purpose of construction, maintenance, repair, replacement, rearrangement and remodeling of the Podium and the balance of the Air Rights Project. In connection with the work or construction performed within or to the Improvements on the Site, incidental encroachment upon the Retail Project may occur as a result of the use of roof top cranes, ladders, scaffolding, store-front barricades and similar facilities resulting in temporary construction of portions of the Retail Project, all of which are permitted hereunder so long as their use is kept within reasonable requirements of construction work expeditiously pursued. In addition, subject to prior consultation with the Retail Owner, Air Rights Owner shall have the right to close off certain areas of the Retail Project as shown on Exhibit G during the construction of the Air Rights Project for up to three years. All such work described in this Section 2.11 shall be conducted in the most expeditious manner reasonably possible to minimize interference with any Occupants or Permittees of the Retail Project, and the work shall be diligently prosecuted to completion.

2.12 Recordation of Easements. Although the easements granted by this Article 2 are self-operating, all Owners hereby agree to execute additional documents in recordable form that are reasonably necessary to effectuate the provisions of this Article 2, including, but not by way of limitation, grants of easements, licenses, and similar rights to utility companies and governmental bodies or agencies to facilitate the operation of the Combined Project and instruments that establish the legal description of any of such easements.

2.13 Dominant and Servient Estates. Each easement granted pursuant to the provisions hereof is expressly and solely for the benefit of the Component, as applicable, of the Grantee; the Component so benefited shall be the dominant estate and the Component upon which such easement is

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located shall be the servient estate. All easements created by or pursuant to this Article 2 shall be appurtenant easements and not easements in gross. Any easement granted pursuant to the provisions of this Article 2, may be abandoned or terminated by execution of an agreement so abandoning or terminating the same, by the Owners of the dominant and servient estates and consented to by the Mortgagee, if any, of the dominant estate. Any relocation of any easement shall be made at the expense of the Person requesting such relocation.

2.14 Exercise of All Easements. Each Grantee, in performing any work pursuant to any of the easements granted under Article 2 hereof (including any construction, reconstruction, alterations, modifications, relocation, restoration or repair of Improvements, related utilities or Components) shall do so in the manner provided in this Section 2.14.

2.14.1 Interference During Construction. The Grantee shall: (i) avoid causing any increase in the cost of constructing, reconstructing or restoring the Grantor's Component or any part thereof or Improvements thereon; (ii) avoid interfering unreasonably with any construction work being performed on the Grantor's Component or any part thereof or Improvements thereon; or (iii) cause as little interference as reasonably practicable with the use, occupancy or enjoyment of the Grantor's Component or any part thereof or Improvements thereon (including the REA Common Area thereon) by such Grantor or its Permittees.

2.14.2 Workmanship. Each Grantee agrees that all construction, reconstruction, alterations, modifications, restoration or relocation of its Improvements or utilities on the Grantor's Component performed by such Grantee shall be done in a good and workmanlike manner, with first-class materials and in strict compliance with all Applicable Laws. Except as otherwise expressly provided herein, each Grantee shall pay all costs, expenses, liabilities and liens arising out of or in any way connected therewith, including, without limitation, all costs to repair any Improvements or REA Common Area on the Grantor's Component damaged as a result of such activity. Upon completion of any such work, the Grantee for whom such work is being done shall promptly restore the portions of the Improvements or REA Common Area so used to the condition in which the same were in prior to the commencement of such work, including the clearing of such area of all loose dirt, debris, equipment and construction materials. Such Grantee shall, at Grantor's election, also restore any portions of the Grantor's Component and Improvements thereon which may have been damaged by such work promptly upon the occurrence of such damage, and shall at all times during the period of such work keep all portions of the Grantor's Component and Improvements thereon (except the portions of the REA Common Area identified as storage and storing areas in the approved materials submitted pursuant to Section 2.14.3) free from and unobstructed by any loose dirt, debris, equipment or construction materials.

2.14.3 Submission of Work Plans and Schedule. Except in the case of an emergency, prior to the commencement of any construction, reconstruction, alterations, modifications, restoration or relocation by the Grantee on the Grantor's Parcel, such Grantee shall cause its architect or other appropriate engineer or consultant to submit to the Grantor for approval, which approval shall not be unreasonably withheld or delayed, the following: (i) a plot plan of the Combined Project showing (a) the building(s) and structure(s) of the Combined Project, (b) the REA Common Area, (c) utility connections, (d) proposed contractors' staging areas (which shall be in the Grantee's Component or outside of the Combined Project), (e) proposed material and equipment storage areas (which shall be in the Grantee's Component or outside of the Combined Project), (f) proposed location of construction trailers, temporary offices or storage enclosures and other temporary Improvements (which shall be in the Grantee's Component or outside of the Combined Project), (g) proposed access routes which the Grantee agrees to require its construction personnel to use during the course of such construction or reconstruction and (h) workers' parking area (which shall be in the Grantee's Component or outside of the Combined Project); and (ii) a time schedule indicating the approximate date or dates upon which the Grantee shall cease using each portion of the Grantor's Component for the specific purpose described in this Article 2 above. Within fifteen (15) days after the submission of such plot plan and time schedule, the Grantor shall notify the Grantee whether the same are approved or disapproved, specifying the reason therefor if disapproved (and approval not to be unreasonably withheld). If a Grantor shall disapprove the plot plan

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and/or the time schedule, Grantee shall promptly revise the same in order to prevent conflicts in construction and otherwise to resolve the item disapproved by the Grantor. Grantor's response to any submittal shall be given in writing within fifteen (15) days after the submission. The foregoing approvals are in addition to any City approvals required under City codes and ordinances.

2.15 Indemnification. To the extent permitted by law, each Owner shall protect, defend, indemnify and hold harmless the other Owners, and its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands and defense costs (including, without limitation, costs and fees of litigation of every nature or liability of any kind or nature) ("**Indemnified Claims**") caused by the indemnifying Owner's exercise of its rights under the grant of any easements and/or such Owner's or such Owner's contractors, subcontractors, employees, agents or officers (if any), to the extent arising from the willful misconduct or grossly negligent performance or its failure to comply with any of its obligations contained in this Declaration by such Owner, its officers, agents or employees, provided that no Owner shall be required to indemnify any party for any Indemnified Claims to the extent caused by the negligence or willful misconduct of such party or the other Owners. Indemnification by an Owner will include the indemnifying Owner's conduct or all defenses at its sole cost and expense subject to each affected Owner's approval of selection of counsel, not to be unreasonably withheld. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided pursuant to this paragraph. Nothing contained herein shall limit the effect of any waiver of rights of subrogation provided for elsewhere in this Declaration.

2.16 Air Rights Owner's Right to Use Parking Structure. From and after the Completion of the Air Rights Project improvements, Air Rights Owner shall have the right to license and use 150 parking spaces (the "**AR Spaces**") within the Parking Structure, including without limitation the right to sublicense the right to use any or all of such AP Spaces, in its sole discretion, provided any user ("**User**") of such Parking Structure shall be obligated to comply with any and all reasonable and non-discriminatory rules and regulations imposed on the use of such Parking Structure by Retail Owner from time to time on reasonably prior written notice. The AR Spaces shall be available to Users at all times, subject only to temporary closures for required maintenance and repair, any such closures to be as limited in time as reasonably possible and not applied in a discriminatory manner against Users as opposed to other parties using the Parking Structure. In consideration of such license, Air Rights Owner shall pay its Proportionate Share of Parking Expenses. Air Rights Owner or the applicable User shall be obligated to pay for any access cards or devices at the cost of such cards or devices, together with an overhead charge no higher than 25% of the out-of-pocket cost of such cards or devices. Retail Owner shall maintain and operate the Parking Structure in a good, safe and clean condition, and shall make all necessary repairs. To the extent capital repairs are required that are not part of Parking Expenses in accordance with generally accepted accounting principles, Air Rights Owner shall pay the same Proportionate Share of such capital costs as it pays for Parking Expenses, payment to be made within thirty (30) days after receipt of a reasonably-detailed invoice from Retail Owner.

ARTICLE 3. MAINTENANCE, REPAIR AND ALTERATION

3.1 REA Common Facilities.

3.1.1 By Retail Owner. From and after Completion of the Air Rights Project ("**Project Completion**"), the Retail Owner shall be responsible for the operation, maintenance, testing, repair and replacement of the REA Common Facilities and certain specified services benefiting the Combined Project as a whole. Without limiting the generality of the foregoing, the Retail Owner shall perform the following (but only with respect to the REA Common Facilities that are not Basement Rooms), all consistent with the operation of the REA Common Facilities in Comparable Projects and in accordance with all Applicable Laws:

- (a) Install, reconstruct, repair, maintain, replace or refinish the REA Common Facilities;

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(b) Place and maintain upon the REA Common Facilities such signs as the Retail Owner may deem appropriate for the proper identification, use and regulation thereof, in accordance with and subject to Applicable Laws.

(c) Install, maintain and clean lighting fixtures in the REA Common Facilities relamp and reballast them as needed; and

(d) Reconstruct, repair, maintain, replace or refinish the exterior landscaping, including any trees located around the exterior of the Combined Project, and any landscaping located within the REA Common Areas, if any.

3.2 Intentionally deleted.

3.3 Air Rights Project. Except for REA Common Facilities (which include the Combined Project structural elements), the Air Rights Owner shall, at all times during the Term after Completion of the Air Rights Project, keep, maintain and repair all Improvements and Utility Facilities on the Air Rights Project, and all lighting, signage, landscaping, irrigation and architectural elements comprising such Improvements, or cause all portions of the same to be kept, maintained and repaired, in good order, condition and repair and in a manner consistent with comparable first-class, mixed-use projects located in the downtown Chicago area.

3.4 Retail Project. The Retail Owner shall, at all times during the Term, keep, maintain and repair all Improvements and Utility Facilities on the Retail Project and the REA Common Facilities (which include the Combined Project structural elements), including, but not limited to, all structures, lighting, signage, landscaping, irrigation and architectural elements comprising such Improvements, or cause all portions of the same to be kept, maintained and repaired, in good order, condition and repair and in a manner consistent with comparable first-class, mixed-use projects located in the downtown Chicago area.

3.5 Configuration of REA Common Area. Except as provided herein, no Owner shall make or permit any change in the use of, or change to, the configuration of the REA Common Area without the prior written approval of the other Owners, except for minor changes that do not affect the use or utility of the other Owners and/or its Permittees.

3.6 REA Common Area Rules. Subject to the prior reasonable approval of the Air Rights Owner, which will not be unreasonably withheld, Retail Owner shall have the right to formulate, distribute and enforce reasonable rules and regulations ("**REA Common Area Rules**") governing public use of and security for the REA Common Area, provided that such rules and regulations are of a type permitted to be applied to the REA Common Area (or portion thereof, as applicable) pursuant to Applicable Laws; provided, however, that in the event of a conflict between the REA Common Area Rules and the provisions of this Declaration, this Declaration shall prevail.

3.7 Alterations to Improvements. Except for Major Construction Work, each Owner may make repairs, alterations, improvements or additions to the Improvements on its Component without the consent or approval under this Declaration of the other Owners, so long as such Owner complies with Section 3.8, the provisions contained in this Declaration relating to the easements granted herein and any other agreements to which such Owner is a party or is obligated to comply with.

3.8 Construction Activities.

3.8.1 Subject to any express provisions set forth elsewhere in this Agreement, all Construction Work undertaken by an Owner (including any Occupant or Permittee of an Owner) upon any part of the Combined Project shall be performed: (a) at the sole expense of the Owner causing such Construction Work, except as otherwise provided in this Declaration; (b) subject to any express time period provided in this Agreement, in as short a time as reasonably practicable, at a time and in a manner that does not unreasonably impair or unreasonably interfere with the use, operation, occupancy

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or enjoyment or ingress to and egress from any portion of the Combined Project or any Improvements located thereon by the other Owners or their Occupants or Permittees; (c) in a good and workmanlike manner using new materials; (d) in conformity with this Declaration and all Applicable Laws; (e) in a manner so that all safety measures reasonably required to protect the Owners and their respective Occupants and Permittees from injury or damage that may be caused by or result from such construction are taken; (f) so as not to cause any material increase in the cost of any subsequent construction by the other Owners, impose any material additional obligations upon the other Owners, or unreasonably interfere with any construction performed by the other Owners or their Occupants or Permittees; (g) in such manner so as not to unreasonably impair or unreasonably interfere with the development, construction, use, occupancy, operation of, or ingress to and egress from, the other Owners' Component or any Improvements located thereon; and (h) so as to preserve access, ingress and egress to and from the Combined Project and so as not to cause any unreasonable obstruction on any portion of the Combined Project through the placement or operation of any equipment, construction materials, debris or loose dirt related to such Construction Work, provided that scaffolding to facilitate early phase construction shall not be considered an unreasonable obstruction.

3.8.2 Any Owner performing the Construction Work (or on whose behalf such Construction Work is performed) shall provide and keep in force commercial general liability insurance with respect to such work, naming the other Owners upon whose Component such Construction Work is being performed as additional insureds, with limits of liability not less than those limits otherwise required to be maintained by such Person under this Declaration, together with such additional types of insurance as are available at commercially reasonable rates and as a prudent business person would maintain under like circumstances exercising reasonable business judgment.

3.8.3 No Owner shall permit any mechanics' liens or materialmen's liens, stop notices or other liens to stand against any portion of the Combined Project for labor, material or services furnished to or on behalf of such Owner; *provided, however*, that each Owner shall have the right to contest the validity or amount of any such lien or stop notice, provided that such contest is made diligently and in good faith, and, with respect to liens, the contesting Owner either furnishes security reasonably acceptable to the Owner against whose Component any such lien has been recorded, to ensure that the lien, plus applicable costs and charges, will be paid if the contest is unsuccessful, or secures a bond sufficient to release such lien.

3.8.4 Any Person undertaking any Construction Work shall secure and keep in force, at its sole cost and expense, all licenses and permits necessary for such work and shall complete all Construction Work in accordance with all Applicable Laws and all requirements of any necessary permits, including, without limitation, requisite construction permits, temporary and permanent certificates of occupancy and board of fire underwriter certificates.

3.8.5 As to Construction Work or materials ordered or contracted for by or on behalf of an Owner or an Occupant, or their respective Permittees, such Owner shall Indemnify the other Owners from (a) claims of lien of laborers, materialmen and others arising from such Construction Work performed or supplies furnished pursuant to such order or contract, and (b) all Losses arising from or as a result of the death of, or any accident, bodily injury, loss or damage whatsoever caused to any natural Person, or to the property of any Person, as shall occur by reason of the performance of any Construction Work to be constructed or caused to be constructed by such Owner or its Occupants.

3.9 Intentionally deleted.

3.10 Utility Facilities. All Utility Facilities erected or placed anywhere in or upon the Combined Project following the Effective Date shall be installed and maintained concealed or contained within conduit in, under or on the Combined Project unless an alternative location for such Utility Facilities shall have been reasonably approved by the Owner whose Component is affected by such Utility Facility. No Person shall interrupt, or cause any interruption of, any utilities if such interruption would interfere with the orderly operation of the business conducted by any other Owners or their Occupants or Permittees on the Combined Project.

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3.11 Approval of Major Construction Work. Prior to the commencement of any Major Construction Work, the Person commencing such work shall obtain the approval of both Owners of such Major Construction Work, including reasonably-detailed plans showing the effect of such Major Construction Work on the Combined Project. Following the granting of the approval of both Owners, such Major Construction Work shall be completed in strict accordance with the plans and specifications approved by the Owners. Retail Owner hereby approves the construction of the improvements on the Air Rights Parcel as described on Exhibit H, but the Air Rights Owner shall submit reasonably-detailed plans showing the effect of such Major Construction Work on the Combined Project.

3.12 Repair, Maintenance and Replacement of REA Common Facilities. Except as may be otherwise expressly provided in this Declaration, the following provisions shall apply to the repair, alteration or replacement of REA Common Facilities:

3.12.1 Retail Owner shall maintain, repair and replace each REA Common Facility located within the Combined Project, provided any activities shall be conducted in such a manner as to reasonably minimize the effect of such activity on the other Owners and their respective Components. Except as otherwise agreed in writing by the Owners, the cost of such maintenance and repair shall be REA Common by the Owners in proportion to the benefit derived from the existence of such REA Common Facility.

3.12.2 Each Owner shall not place, or allow any Occupant or Permittee to place, upon a REA Common Facility any burden which is in excess of the design capacity of the subject REA Common Facility or which will prevent the use of the Improvement containing the subject REA Common Facility for its intended purposes.

3.12.3 No Owner whose Component contains Improvements (i) located directly above or below Improvements located on the other Owners' Components or (ii) which otherwise provide support for Improvements located on the other Owners' Components shall, or allow any Occupant or Permittee to, without the consent of each such other Owners, cut or core the slab which constitutes the roof of the underlying Improvements or the floor or support of the overlying Improvements, nor cause any increase in the design load, including standard acceptable margins of safety, imposed upon such slab, or upon the columns or foundations supporting same.

3.12.4 An Owner may do Construction Work, notwithstanding that during the course of performing such Construction Work a condition otherwise prohibited by the provisions of this Section 3.12 may result, if:

(a) During the course of performance of such Construction Work the Owner by whom or on whose behalf such Construction Work is being done shall, at its own cost and expense, provide such temporary facilities as may be necessary and applicable: (i) to perform the function performed by the REA Common Facility, if such Construction Work is performed with respect to the Improvement containing the same; or (ii) to increase the capacity of, or supplement, the REA Common Facility to the extent necessary so that the benefited Improvement shall not, during the performance of such Construction Work, either place on such REA Common Facility a burden in excess of its capacity or otherwise prevent the use of the Improvement containing the REA Common Facility for its intended purposes, if such Construction Work is performed with respect to the benefited Improvement in question;

(b) At the conclusion of such Construction Work there is compliance with the provisions of this Section 3.12; and

(c) The Owner performing such Construction Work shall comply with Section 3.8.

3.12.5 In the event of damage or destruction to a REA Common Facility, Article 9 shall govern the obligations with respect to restoration, repair or rebuilding the same, provided, however, that any uninsured portion of the costs of such restoration (including amounts applied to the deductible under

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the applicable property insurance) shall be allocated among the Owners as provided in Section 3.12.1 above, provided that the Owner on whose Component such REA Common Facility is located has satisfied its insurance obligations under this Declaration.

3.13 Failure to Maintain. If the Retail Owner shall fail to maintain the REA Common Facilities in accordance with the terms of this Declaration, and Air Rights Owner reasonably believes such failure will imminently and materially affect the use of the Air Rights Project by Air Rights Owner or any tenant or Occupant of the Air Rights Project, Air Rights Owner, may, at its option, perform repairs or maintenance on the REA Common Facilities that would otherwise be the obligation of the Retail Owner, if reasonably necessary and advisable under the circumstances. Air Rights Owner may take such action with only such notice (if any) to the Retail Owner as is reasonably practical under the circumstances, but no less than twenty (20) business days except in case of emergencies. The reasonable expenses in respect of any such repair or maintenance, with interest thereon, shall be reimbursed by the Retail Owner and shall be treated as REA Common Facility Expenses pursuant to the terms of this Declaration. If the Retail Owner fails to reimburse Air Rights Owner for expenses incurred by Air Rights Owner pursuant to this Section 3.13 within thirty (30) days after demand, Air Rights Owner shall have the right (as a non-exclusive remedy) to offset the amount of such expenses against future Owner Assessments to be paid by Air Rights Owner. The rights set forth in this Section are in addition to, and not in lieu of, the Air Rights Owner's rights at law and in equity and as set forth elsewhere in this Declaration (including without limitation those rights set forth in Article 12).

ARTICLE 4. ASSESSMENTS

4.1 Annual Budget. Not later than November 15th of each calendar year, the Retail Owner shall deliver a proposed operations plan and an annual budget for Expenses for the following calendar year to the other Owners for review. The approved operations plan and annual budget for Expenses is referred to as the "Annual Plan/Budget". Air Rights Owner shall have thirty (30) days to approve or reject the proposed Annual Plan/Budget, which approval shall not be unreasonably withheld, conditioned or delayed. If Air Rights Owner disapprove(s) the proposed Annual Plan/Budget, which disapproval shall specify the respects in which it is unacceptable, Retail Owner shall resubmit a revised proposed Annual Plan/Budget to Air Rights Owner for review until such time as the proposed Annual Plan/Budget receives the approval of Air Rights Owner. If there is no approval of the proposed Annual Plan/Budget within sixty (60) days after the initial submittal, any Owner can submit the dispute for resolution pursuant to Section 15.25. During the period of time from Air Rights Owner's disapproval of any proposed Annual Plan/Budget until such time as the Annual Plan/Budget is approved by Air Rights Owner, the immediately preceding Annual Plan/Budget that received Air Rights Owner's approval shall remain in effect, except that line items from such prior Annual Plan/Budget for recurring (but not non-recurring) expenses and charges, may be increased by up to five percent (5%). The parties recognize that the Annual Plan/Budget is not a guaranteed cap, provided that Retail Owner shall use its commercially reasonable efforts not to exceed the approved Annual Plan/Budget or revised Annual Plan/Budget without obtaining the approval of the other Owners, which shall not be unreasonably withheld; provided, however, that an Owner may exceed the Annual Plan/Budget in the event of an emergency to the extent necessary to prevent further harm, injury or damage to persons and/or property. Notwithstanding the foregoing, until the commencement of construction of the Air Rights Project, the Air Rights Owner shall have no right to disapprove the Annual Plan/Budget.

4.2 Payment of Expenses. The Retail Owner shall pay or cause to be paid all REA Common Facility Expenses, Insurance Expenses, Parking Expenses, Loading Dock Expenses and amounts to be paid into Capital Reserves from Owner Assessments as set forth below.

4.2.1 During the Term, commencing on the commencement of construction of the Air Rights Project, each Owner shall pay or cause to be paid to the Retail Owner's Proportionate Share of all Expenses ("Owner Assessment"), provided that (i) Air Rights Owner shall not commence paying any amounts for Parking Expenses until the earlier to occur of the use of the Parking Facility by Air Right's Owner and the Completion of the Air Rights Project, (ii) Air Rights Owner shall not commence paying any amounts for Loading Dock Expenses until the earlier to occur of the use of the Loading Dock by Air

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Right's Owner and the Completion of the Air Rights Project, and (iii) Air Rights Owner shall not commence paying any amounts for REA Common Facility Expenses or Insurance Expenses until the Completion of the Air Rights Project.

4.2.2 Retail Owner shall bill each Owner monthly in advance and each Owner shall make said payments in an amount equal to such Owner's Proportionate Share of the monthly Expenses, based upon the Expenses reflected in the Annual Plan/Budget as reasonably estimated by the Retail Owner based on then current information and projections. No later than March 1 of each Expense Year, Retail Owner shall send to each Owner a written statement itemizing in detail the actual Expenses for the previous Expense Year. In the event that an Owner's Proportionate Share of the actual Expenses is less than the aggregate amount of the payments theretofore made by such Owner for such Expense Year, the Retail Owner shall refund to such Owner, the amount or apply such amount to the payments due to for the following Expense Year, the amount paid in excess by such Owner. Should an Owner have paid less than its Proportionate Share during said period, such Owner shall promptly pay to the Retail Owner the amount of such deficiency. Any uncontested amounts duly owing hereunder not paid within thirty (30) days after the Retail Owner delivers such statement shall be paid with interest at the Default Rate.

4.2.3 If there are Owner Assessments that have not been received within ninety (90) days of the date due, then the Retail Owner may offset any such delinquent Owner Assessments against amounts due to the delinquent Owner. Retail Owner shall give the delinquent Owner written notice of any such offset. If Retail Owner is delinquent in payments owed to another Owner, then the Owner owed such payments may offset against amounts it owes for Owner Assessments any amount it is owed by the delinquent party, provided it shall give the delinquent party as applicable written notice of such offset. No such offset or failure to exercise such offset shall limit the right to pursue payment of delinquent amounts through litigation and/or arbitration (to the extent such arbitration is expressly authorized elsewhere in this Agreement) for any remaining delinquency.

4.3 Audit Rights. Retail Owner shall keep true and accurate books and records covering all REA Common Facility Expenses, Insurance Expenses, and Capital Reserves, in accordance with generally accepted accounting principles, consistently applied. Such books and records shall be kept at the Combined Project for at least three (3) years after the end of the year to which they apply. Each Owner may upon written notice given at least three (3) business days prior to the inspection, up to two (2) years after receiving any such statement, inspect or audit such books and records to verify the propriety of any Common Facility, Insurance Expense, or Capital Reserve. Each Owner shall make all necessary arrangements with all other contractors whose charges are included in Expenses so that Owners may also, if any Owner so desires, inspect or audit their charges. If such an inspection or audit shows that an Owner or the Retail Owner has incorrectly collected Owner Assessments from Owners in an amount in excess of three percent (3%) of the correct amount, then the collecting party shall pay the reasonable expenses incurred in such inspection or audit. If such inspection or audit determines that an Owner is either due a refund or owes an additional amount, that amount shall be promptly paid with interest by the party owing the amount.

4.4 Late Charges and Interest. If any Owner Assessment or other payment owed by an Owner is not received by the party entitled to receive the Owner Assessment or other payment within twenty (20) days after notice of delinquency (the expiration of such time period herein called the "**Delinquency Date**"), then the delinquent Owner shall pay a late charge of 5% of the amount of such delinquent amount. Any Owner Assessment or other delinquent amount not paid prior to its Delinquency Date shall bear interest from the Delinquency Date at the Default Rate. Each Owner agrees to the enforcement of payment of all Owner Assessments or other fees or amounts provided for in this Declaration in the manner herein specified.

4.5 Combined Project Account. Commencing when the Air Rights Owner commences making payments of Owner Assessments, all amounts collected by the Retail Owner from Owner Assessments or otherwise for use to pay Expenses shall be kept in a separate bank account (the "**Combined Project Account**") in a bank having offices in Cook County, and the party maintaining such account shall inform the other Owners of the bank name, bank location and account number of such

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account. Air Rights Owner shall have a security interest in such account, and Retail Owner shall take all actions reasonably requested by Air Rights Owner to cause the perfection and continuation of such security interest. Air Rights Owner shall each have the right to assign its security interest in such Combined Project Account to any Mortgagee holding a Mortgage in the Owner's Component, and Retail Owner shall have the right to grant a security interest in such Combined Project Account to any Mortgagee holding a Mortgage in the Retail Project (but not any mortgagee holding an mortgage in an individual Residential Condominium), provided any such security interest granted by Retail Owner shall be of equal priority with the security interest held by Retail Owner and/or its Mortgagee(s). Notwithstanding the granting and perfection of any such security interest, the holder of any such security interest shall not be entitled to use any amounts in such Combined Project Account for any purpose other than the payment of Expenses.

ARTICLE 5. TAXES AND ASSESSMENTS

5.1 Payment of Taxes and Assessments. Each Owner shall pay or cause to be paid, prior to delinquency, all Taxes levied or assessed upon or against the land and Improvements within such Owner's Component with respect to the Term after the Effective Date.

5.2 Contests. Any Owner ("**Contesting Owner**") may contest, object to or oppose (herein "**Contest**") any tax, assessment, imposition or charge of which such Owner is required by this Declaration to pay all or a portion, provided that prompt notice of such Contest shall be given to the Property Manager, and such Contesting Owner may pay under protest any tax, assessment, imposition or charge which is the subject of a Contest. The non-Contesting Owner agrees to cooperate with the Contesting Owner at no out-of-pocket expense to the Non-Contesting Owner in any such Contest. The expense of the Contest, shall as far as possible, be paid from any benefits, if any, received therefrom, and thereafter, by the Contesting Owner. The Contesting Owner shall not subject a Non-Contesting Owner to any penalty, fine, criminal proceeding or increase in Taxes, or to imminent danger of final sale or seizure of an Owner's interest in the Combined Project, as a result of any such Contest.

5.3 Owner's Failure to Pay Taxes. If an Owner fails to pay any Taxes imposed upon its Component prior to the delinquency thereof, then the other Owners may (but shall not be obligated to) pay such Taxes. If an Owner pays any such Taxes imposed upon the other Owners' Component as provided in this Section 5.3, then the delinquent Owner shall pay the amount paid by the other Owners within ten (10) days after written demand, and if such amount is not timely paid, the paying Owner shall be entitled to a late charge and interest as described in Section 4.4 above.

ARTICLE 6. USE CONTROLS AND RESTRICTIONS

6.1 Project Use and Operation Restrictions. In order to provide for the efficient operation of the Combined Project, but subject to Section 6.11 below:

(a) Each Owner agrees that everything done or installed or constructed on, or with its permission or consent to or on the Combined Project shall conform to, and each Owner shall use commercially reasonable efforts to cause every Occupant of its Component to conform to, every requirement of Applicable Law and Governmental Authority, including, but not limited to, requirements pertaining to health, welfare or safety of employees or the public.

(b) No Owner shall have or permit any merchandise or substance in or about the Combined Project or any act in or about the Combined Project which will (a) cause or threaten the cancellation of any insurance covering any other Owners' Improvements or the REA Common Area, or (b) increase the insurance rates applicable to any other Owners' Improvements or the REA Common Area over the rates which would otherwise apply, unless the Owner causing the increased cost agrees to pay the increased cost.

6.2 Permitted Uses.

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6.2.1 General. Subject to this Declaration, each portion of the Combined Project shall be occupied, used and/or leased only for uses as are commonly found in Comparable Projects and in accordance with all Applicable Laws.

6.2.2 Retail Project. The Retail Project shall be used solely for retail, office and/or educational purposes. The Retail Project shall be used for no other purpose without the approval of the Air Rights Owner, which approval the Air Rights Owner shall not unreasonably withhold.

6.2.2 Air Rights Project. The Air Rights Project shall be constructed and used solely for residential and hotel purposes (provided use as a hotel shall include incidental retail uses such as restaurants and gift and/or sundry shops. The Air Rights Project shall be used for no other purpose without the approval of the Retail Owner, which approval the Retail Owner shall not unreasonably withhold.

6.3 Prohibited Uses. The following uses of any part of the Combined Project are not permitted:

6.3.1 Establishments open to the public having topless, bottomless, or totally nude or partially nude performers, waitresses, waiters, or other personnel, or which provide on site sales (other than catalog, Internet or similar sales or movies shown on televisions within hotel rooms) of recorded entertainment having nude or partially nude persons performing or simulating sexual acts; businesses which show X-rated movies or pornographic movies or sell pornographic material to the public from the Combined Project (excluding catalog, Internet or similar sales or movies shown on televisions within hotel rooms).

6.3.2 Trailer courts, mini-warehouses, slaughterhouses, tanneries, canneries, barns, stables, cemeteries, junk yards, scrap metal yards or waste material businesses, or any fire or bankruptcy sale operations.

6.3.3 Dangerous, hazardous or unsafe uses such as the use of explosives. No oil, gasoline or other such flammables shall be stored in violation of any local, state, federal or other governmental code or regulation.

6.4 Compliance With Laws. Except for (i) any Improvements which encroach upon any Owner's Component pursuant to Section 2.3, which shall be the sole responsibility and liability of the Owner of such Improvements, (ii) any Improvements located within the area of an exclusive use easement, which shall be the sole responsibility and liability of the Owner which have the benefit of such exclusive use easement, and (iii) any Improvements comprising the REA Common Facilities, which shall be the responsibility of the Retail Owner, each Owner shall be responsible for the compliance of all Improvements on its Component and all activities thereon with all Applicable Laws. Notwithstanding the foregoing, any Owner may, at its expense, defer compliance with and contest, by appropriate proceedings prosecuted diligently and in good faith, the validity or applicability of any Applicable Law that affects only its ownership interest; in such event, the non-contesting Owner shall reasonably cooperate and participate, at the sole cost and expense of the contesting Owner, in such proceedings, provided that the Owner complies with each of the following requirements:

6.4.1 such deferral of compliance shall not create a dangerous condition, or constitute a crime or an offense punishable by fine or imprisonment, or subject any Owner or Occupant to any civil or criminal penalty or liability, or any hindrance or interruption of the conduct of business by any Owner or Occupant in any portion of the Combined Project other than the contesting Owner's business, or subject any part of the Combined Project to being condemned, vacated or damaged by reason of such contest or deferral of compliance, or create a lien on any portion of the Combined Project unless adequate security reasonably acceptable to the other Owners shall have been provided by the contesting Owner to secure removal of such lien;

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6.4.2 the contesting Owner shall indemnify the other Owners and its Occupants against any and all Loss which any of them may suffer by reason of such contest and any noncompliance with such Applicable Law; and

6.4.3 the contesting Owner shall keep the other Owners regularly advised in writing of the status of such proceedings.

6.5 Nuisances; Construction Activities. Except in connection with normal construction activities conducted in a good and workmanlike manner in accordance with the terms of this Declaration (including the construction of the improvements described on Exhibit H), no odors or loud noises shall be permitted to arise or emit from any Component or the REA Common Facilities, so as to render such Component or REA Common Facilities, or any portion thereof, or activity thereon, dangerous, unsanitary, unsightly, offensive or detrimental to any portion of the Combined Project. No other nuisance shall be permitted to exist or operate upon any portion of the Combined Project so as to be offensive or detrimental to any other portion of the Combined Project, or property in the vicinity thereof. Nothing in this Section 6.5 is intended to create or give rights (as a third party beneficiary or otherwise) to any Person who is not an Owner.

6.6 Antennas. All antennas or other devices for the transmission or reception of television or radio signals or any other form of electromagnetic radiation erected, used or maintained outdoors on any Component, shall comply in all respects with Applicable Laws. All such devices shall be screened from view to the maximum extent permitted by law.

6.7 Trash Containers and Collection. The Retail Owner shall adopt from time to time a waste management plan for the Combined Project, a copy of which shall be distributed to the other Owners for review and approval. No garbage or trash shall be placed, kept or permitted to accumulate on any Component except in designated covered containers of a type, size and style which described in the waste management plan. All rubbish, trash, or garbage shall be removed by each Owner from all Improvements owned by such Owner and shall not be allowed to accumulate on any Component. No outdoor incinerators shall be kept or maintained on any Component.

6.8 Intentionally Deleted.

6.9 No Interference. No Person shall keep or maintain anything or shall permit any condition to exist upon any Component or cause any other condition on any Component that materially impairs or materially interferes with any easement or right of any Owner, Occupant or Permittee or that otherwise materially impairs or materially interferes with the use and enjoyment by any Owner or its Occupants and Permittees of its respective Improvements, the REA Common Facilities or the Utility Facilities.

6.10 Storage and Loading Areas. Except during Major Construction, no materials, supplies or equipment shall be stored in any area on any Component or other portion of the Combined Project except inside a closed structure or behind a visual barrier screening such areas from the view of adjoining portions of such Component and adjoining public streets at ground level. All deliveries to the Combined Project shall be made in service and loading areas designated for such use in the plans for the Combined Project or by the Retail Owner.

ARTICLE 7. UTILITY FACILITIES

7.1 Electricity. The parties intend to the extent possible to have electrical usage for the Combined Project separately metered to each Component, and each Owner shall pay for the electrical usage for its Component. To the extent there is electrical usage for REA Common Facilities, the REA Common Area, Retail Owner shall contract with the applicable utility for the provision of electricity to such items (the "**Common Electrical Expenses**") and shall pay to such utility, prior to delinquency, all amounts due and owing to such utility therefor. Upon receipt of each utility bill, the Retail Owner shall allocate the amount of such bill among the Components and the REA Common Facilities based on the in

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the following manner: (A) the aggregate amount of such bill shall be divided by the aggregate number of kilowatt-hours of electricity consumed at the Combined Project during the period of such bill to determine the average cost per kilowatt-hour of electricity during such period (the "**Cost Per Kilowatt-Hour**") (the Owners acknowledge and agree that the cost of electricity consumed at the Combined Project shall be allocated among the Components and REA Common Area consuming such electricity based upon the average cost of such electricity during such period and without regard to any varying rates charged by the applicable utility for usage during peak hours, off-peak hours, etc.), (B) the Retail Owner (or a party with expertise appointed by the Retail Owner and approved by the Air Rights Owner) shall reasonably interpret the electricity usage meter readings to fairly allocate the Common Electrical Expenses to each Component (the "**Allocated Electricity Usage**"), (C) Air Rights Owner shall pay to the Retail Owner, within twenty (20) days of being invoiced therefor, an amount equal to the Allocated Electricity Usage of the Air Rights Project during each period multiplied by the Cost Per Kilowatt-Hour for such period (as to each Owner, its "**Electricity Charge**"), and (D) an amount equal to the Allocated Electricity Usage of the REA Common Area during each period multiplied by the Cost Per Kilowatt-Hour for such period shall be included within, and paid as part of, the REA Common Facilities Expenses.

7.2 Water, Sewer and Gas. Water, sewer and gas usage for each Component shall be separately metered and billed to each Owner. Each Owner shall separately contract with the applicable utility for the provision of water, sewer and gas to its Component and shall pay such utility, prior to delinquency, all amounts due and owing to such utility therefor.

ARTICLE 8. INSURANCE

8.1 General Obligation. During the Term, each Owner shall maintain the applicable insurance required under this Article 8 and/or the Insurance Schedule attached hereto as Exhibit F, provided that the Master Property Insurance shall not be obtained until the Completion of the Air Rights Project improvements. From and after the Completion of the Air Rights Project improvements, the Retail Owner shall procure and maintain the Master Property Insurance described in Section 8.2.1 below, and the obligation to pay Insurance Expenses shall commence at such time as such Master Property Insurance is in place.

8.1.1 Prior to commencement of the construction on a Parcel, and until such construction is Completed, the Owner of such Parcel shall obtain and maintain in full force and effect, or cause its general contractor to obtain and maintain in full force and effect (and to satisfy the other applicable provisions of the Insurance Schedule attached hereto as Exhibit F), each of the following insurance policies with respect thereto: Liability Insurance, Worker's Compensation Insurance, Builder's Risk Insurance, Professional Liability Insurance, Owner's Protective Insurance and Automobile Liability Insurance (as those terms are defined in the Insurance Schedule). In addition, each such Owner or, if the Owner's general contractor is maintaining some or all of the insurance as provided in the first sentence of this Section 8.1.1, the Owner's general contractor shall cause each of the contractors, subcontractors and consultants involved in the construction of its Improvements to maintain the insurance policies required by the Insurance Schedule. At such time as each Owner has Completed the construction on such Owner's Parcel, the provisions of Section 8.2 below shall apply to such Parcel. Each such Owner shall satisfy and comply with the terms and provisions of the Insurance Schedule, with respect to, and the provisions of Article 6 shall apply to, the insurance maintained pursuant to this Section 8.1.1.

8.1.2 During construction of the Air Rights Project, to the extent that the Retail Owner's insurance carriers increase the cost of any insurance policy required to be carried pursuant to Exhibit F because of such construction, the Air Rights Owner shall reimburse the Retail Owner for the extra cost thereby occasioned within thirty (30) days after Retail Owner's presentation of a reasonably-detailed invoice with reasonable back-up information.

8.2 Post- Construction Period Insurance.

8.2.1 Master Property Insurance Policy Requirements and Premium Allocation. The

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Retail Owner shall obtain and maintain in full force and effect the Master Property Insurance at all times during the Term from and after the first to occur of Completion of the Improvements on the Air Rights Parcel (the "**Master Property Insurance Commencement**"), and shall satisfy in all respects the provisions of the Insurance Schedule with respect thereto. Each Owner shall require any contractors or subcontractors performing work on such Owner's Parcel after the Completion of the Improvements thereon to maintain the insurance required pursuant to the Insurance Schedule to the extent that such work meets the minimum threshold set forth in this Article 8 for maintaining such insurance. The premium for and any deductibles under the Master Property Insurance shall be allocated among the Owners of each of the Parcels in the ratio of the replacement value of the Improvements on each Owner's Parcel to all of the Improvements on all the Parcels covered by such Master Property Insurance, and the percentage so obtained (the "**Insurance Percentage**") shall equal the percentage of premiums and deductibles payable by the Owner of such Parcel pursuant to Section 8.2.2. The Insurance Percentage shall remain in effect for five years. For the first five (5) years commencing on the Master Property Insurance Commencement, the replacement value shall be equal to the so-called "hard" construction costs attributable to such Improvements as reasonably calculated by Retail Owner. Commencing on the fifth anniversary of the Master Property Insurance Commencement and on each fifth anniversary thereafter, the replacement value for the Improvements on each Parcel shall be impartially re-determined by an experienced and reputable insurance broker retained by the Retail Owner, and the percentages so obtained shall be the Insurance percentage used to determine responsibility for Master Property Insurance premiums and deductibles for the ensuing five (5) year period.

8.2.2 Payment for Master Property Insurance. The Retail Owner shall bill each of the Owners monthly in advance, and each of the Owners shall make said payments in an amount equal to 1/12 of such Owner's Insurance Percentage of the annual premium for the Master Property Insurance. Such monthly increment shall be due upon receipt of the monthly bill from the Retail Owner and shall be delinquent if not paid within twenty (20) days after delivery of such monthly bill. In addition, any amounts needed to pay repair costs resulting from a Casualty up to the amount of the Master Property Insurance deductible shall be paid by each Owner as specified in the last paragraph of Section 8.4.3 within twenty (20) days after receipt of a bill from the Retail Owner (who shall promptly bill such amounts) and shall be delinquent if not paid within such twenty (20) day period. Delinquent amounts shall accrue interest at the Default Rate. If any such amounts or premiums, deductible or insurance shortfalls have not been received within ninety (90) days of the date due, then the Retail Owner may offset any such delinquent amounts against amounts due by the delinquent party. The Retail Owner shall give the delinquent party written notice of any such offset. No such offset or failure to exercise such offset shall limit the Retail Owner's right to pursue payment of delinquent amounts through litigation and/or arbitration (to the extent such arbitration is expressly authorized elsewhere in this Agreement) for any remaining delinquency.

8.2.4 Right to Increase Insurance. Either Owner may elect to cause the Master Property Insurance policy to be carried with a higher liability limit, additional endorsements or with additional coverage, provided that the electing Owner shall pay any increased premium cost caused by such election. In such event, to the extent that there are additional Proceeds resulting from such higher limit, additional endorsements or additional coverage, the electing Owner shall be entitled to all such additional Proceeds in the event of a covered event, notwithstanding any other provision of this Agreement.

8.3 Separate Policies.

8.3.1 Mutual Agreement Required. Notwithstanding any other provision of this Article 8 requiring Owners to insure their respective Parcels under the Master Property Insurance, and without limiting the obligation of Owners to pay their respective percentage of the Master Property Insurance costs as part of the Common Expenses pursuant to Section 8.2.1, upon the mutual written agreement of all such Owners, each such Owner shall purchase or cause to be purchased with respect to its respective Parcel separate and individual property insurance, liability insurance, and worker's compensation insurance, provided that such policies purchased by or on behalf of each such Owner shall comply with requirements contained in the Insurance Schedule with respect to each such Owner's Parcel.

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Notwithstanding the foregoing or any other provisions of this Article 8, no Owner shall be required to obtain the consent or approval of any other Owners in order to obtain insurance coverage for its own benefit which is in excess of or in addition to the insurance such Owner is required to maintain under this Article 8 and the Insurance Schedule, provided that no such extra coverage shall entitle an Owner to any reduction in the obligation to make payments for the Master Property Insurance as required hereunder.

8.3.2 Other Insurance Agreement Required. If the Owners purchase separate and individual policies pursuant to this Section 8.3, each such policy of Liability Insurance or self-insurance and each other policy, if available, shall include an "other insurance provision" by the insurance company providing coverage under such policy to the effect that if there are two or more separate and individual policies potentially covering any claim or loss and there is any dispute between the insurance companies providing coverage under such policies over which policy or policies should pay any claim or loss, such insurance companies shall pay such claim or loss according to common insurance industry practice as provided in the "other insurance clauses" of such policies, and such coverage shall be in excess of any other insurance maintained with respect to such claim or loss.

8.4 Use of Insurance Proceeds.

8.4.1 Insurance Trustee. Notwithstanding anything to the contrary contained herein, all Proceeds of Builder's Risk Insurance and Property Insurance (including earthquake insurance proceeds but excluding the Proceeds of any rental value or use and occupancy insurance) with respect to the Improvements shall be used and distributed in accordance with and to satisfy each Owner's respective obligations under this Section 8.4. To the extent any insured Casualty exceeds One Million and no/100 Dollars (\$1,000,000) (the "**Insurance Trust Threshold Amount**"), all such Builder's Risk Insurance and Property Insurance Proceeds, and any payments to make up an Insurance Shortfall as provided in Section 12.2) shall be paid in trust to an Insurance Trustee.

8.4.2 Reconstruction Disbursements. If an Owner is obligated to restore its Improvements pursuant to Article 9 hereof or otherwise elects to do so and Builder's Risk Insurance or Property Insurance Proceeds with respect thereto are held by the Insurance Trustee, then the Insurance Trustee shall pay the insurance Proceeds attributable to such Improvements, as provided below, to the Retail Owner, such Owner, or to its contractor or contractors, in the discretion of the Insurance Trustee, as follows (all subject, however, to Section 8.2.4):

8.4.2.1 If the damaged Improvements are insured by the Master Property Insurance, then the Proceeds payable thereunder (and any Insurance Shortfall payments deposited with the Insurance Trustee) shall be used to pay the costs incurred by the Owner responsible for repairing the damage or destruction under Section 9.2 below.

8.4.2.2 In addition to the provisions governing an Insurance Shortfall with respect to the Master Property Insurance pursuant to Section 9.2, with respect to other insurance, in the event that an Owner elects or is obligated to restore any Improvements suffering a Casualty in excess of the Insurance Trust Threshold Amount and the Proceeds therefor are insufficient to pay the entire cost of such Work, as reasonably determined by the Insurance Trustee, then such Owner shall deposit with the Insurance Trustee an amount reasonably determined by the Insurance Trustee to cover any such shortfall. Such amount shall be the first funds disbursed by the Insurance Trustee in accordance with the foregoing provisions, toward payment for such Work.

8.4.2.3 All disbursements by the Insurance Trustee for restoration purposes will be governed by the draw procedures typical of large construction loans made by institutional lenders at the time of the damage or destruction in question, as reasonably determined and uniformly enforced upon all Owners (including the Retail Owner) by the Insurance Trustee, including, without limitation, the following: At the end of each month or from time to time as may be determined by the Insurance Trustee, against a certificate from an architect retained by the Insurance Trustee (which shall be obtained at such Owner's expense), the Insurance Trustee shall disburse an amount equal to the payments to be made to the contractors or materialmen for work done, material supplied and services rendered during each

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month or other relevant period less any retainage required under the construction contract with the general contractor performing such work, provided, however, that as a condition precedent to such disbursement, the Owner shall first have expended for restoration an amount equal to the portion of the deductible in the same proportion as the insurance company has allocated Proceeds relating to the damage to such Improvements under the property insurance policy (unless the Insurance Shortfall has been deposited). For avoidance of doubt, as an example, and subject to Section 8.2.4) if the applicable insurance company has allocated 60% of the Proceeds to the Retail Project, then the Retail Owner shall be responsible for 60% of the deductible amount.

8.4.2.4 At the completion of the Work, the balance of such Proceeds required to complete the payment of such Work shall be paid to the Owner or to its contractor or contractors, as the Insurance Trustee deems appropriate; provided, however, that at the time of such payment (1) there are no mechanic's liens against all or any part of the Site by reason of such Work and the time period within which a mechanic's lien may be filed has expired, or proof has been submitted that all costs of work theretofore incurred have been paid to, and accepted by, all potential lien claimants, and (2) the Combined Project Architect, working at such Owner's expense, shall certify that all required Work has been Completed in accordance with the approved plans and specifications and is of the same or equivalent quality and class as the original Improvements. The Insurance Trustee shall pay any funds not required for restoration, razing and/or clearing to the Owner, or its Mortgagee, as their interests may appear, provided that any such excess Proceeds resulting from the Master Property Insurance shall be paid to the Owners in proportion to their Component's Insurance Share (other than as provided in Section 8.2.4).

8.4.3 Non-Reconstruction Disbursements. If an Owner is not obligated to restore its Improvements pursuant to Article 12 and does not otherwise elect to do so, then the Insurance Trustee shall pay the insurance Proceeds attributable to such Improvements, as provided below but subject to Section 8.2.4, as follows:

8.4.3.1 First, to the Mortgagee of each Parcel to the extent each is entitled to insurance Proceeds as provided in the Insurance Schedule. For avoidance of doubt, no Proceeds that are attributable to a Component suffering damage shall be made to the Mortgagee of a different Component.

8.4.3.2 Next, to the satisfaction of the affected Owner's obligations under Section 12.5, with the Proceeds to be distributed in accordance with the provisions of Sections 8.4.2.1 and 8.4.2.2.

8.4.3.3 Next, to payment of the obligations secured by any Mortgages on the affected Parcel if such obligations are not paid and such Mortgages released pursuant to Section 8.4.3.1 hereof.

8.4.3.4 Next, to the Owner of such Improvements.

If the damaged Improvements are insured by the Master Property Insurance, then (subject to Section 8.2.4) the insurance Proceeds payable thereunder and the responsibility for the deductible amount shall be allocated among the Parcels insured thereby (A) in the manner provided under the policy or policies of Master Property Insurance (including, as applicable, any constructive total loss endorsements, valued form endorsements, or other applicable endorsements or provisions), and (B) to the extent not otherwise provided under such policies, based upon the relative proportion of loss suffered by each Owner thereof as compared to the loss suffered by all such Owners, as reasonably determined by the insurance company issuing such Master Property Insurance (with respect to each Component, the "Component's Insurance Share").

8.4.4 Rent Loss Insurance Proceeds. Notwithstanding the preceding provisions, rent loss or business interruption insurance Proceeds shall be paid to the Owner suffering the loss giving rise to such Proceeds.

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8.5 Compliance with Insurance Requirements: Payment of Premiums. Each Owner shall comply with all rules, regulations and requirements of any insurance rating bureau having jurisdiction over its Parcel or any portion thereof or the requirements of any insurance policy affecting insurance coverage on another Owners' Parcel if noncompliance by it with respect to its Parcel or any portion thereof would: (i) increase the premiums of any policy of insurance maintained by another Owners; (ii) render another Owner's Parcel uninsurable; or (iii) create a valid defense to another Owner's right to collect insurance Proceeds under policies insuring such other Owner's Parcel; provided, further, however, that if such compliance is hereafter required solely because of the nature of the use, possession or management of or activities in another Owner's Parcel, such other Owner shall be liable for the cost and expense of such compliance. If any Owner fails to obtain, maintain or cause to be maintained any insurance or self-insurance policy required to be obtained or maintained by such Owner as provided hereunder or, with respect to the Master Property Insurance, fails to pay such Owner's share of the premium therefor on or before the date which is fifteen (15) days prior to the date the same is due, then such Owner shall be in Default under this Agreement and any of the other Owners may, at their respective election, after giving the Defaulting Owner written notice and ten (10) days to obtain, or five (5) days to pay such portion of the premiums for, as applicable, such insurance, procure or pay such portion of the premiums for the same and the Defaulting Owner shall, upon demand, reimburse the Owner acquiring or paying such portion of the premiums for such insurance for all costs in connection therewith, together with interest thereon at the Default Rate from the date of payment, and the Owner acquiring or paying such portion of the premium for such insurance shall have the rights and remedies provided under this Agreement. The Retail Owner, acting through the insurance broker, shall provide reasonably sufficient detail supporting all invoices or premium allocations delivered to each applicable Owner, with a reasonably detailed description of all deviations from any such information approved by such Owners pursuant to Section 8.2.2 above. Such supporting detail shall be provided on or before the delivery of the applicable invoice, but the failure to deliver such supporting detail shall not affect the other such Owner's obligations under this Section 8.5.

8.6 Mutual Release: Waiver of Subrogation. Each Owner hereby releases and waives for itself, and to the extent legally possible for it to do so on behalf of its insurer, the other Owners and their officers, directors, agents, partners, servants, contractors, subcontractors and employees from liability for any loss or damage to any or all property (including any liability for such releasing Owner's or any of its Occupants' loss of rents or profits) located on the Combined Project, which loss or damage the releasing Owner is required to insure against by this Article 8, irrespective of any negligence on the part of the released Person which may have contributed to or caused such loss or damage. Each Owner covenants that it will, if generally available in the insurance industry, obtain for the benefit of the other Owners a waiver of any right of subrogation which the insurer of such releasing Owner may acquire against the other Owners by virtue of the payment of any such loss covered by such insurance.

If despite using commercially reasonable efforts an Owner is unable to obtain a waiver of the right of subrogation from its insurer(s) for the benefit of the other Owners, then, such Owner shall promptly give written notice to the other Owners of such fact, and during any period of time when such waiver is unobtainable, said Owner shall not have been deemed to have released any subrogated claim of its insurance carrier against the other Owners, and during the same period of time the other such Owner shall be deemed not to have released the Owner who has been unable to obtain such waiver from any claims it or its insurance carrier may assert which otherwise would have been released pursuant to this Section 8.6.

8.7 Miscellaneous. Unless otherwise agreed by the Owners, an insurance appraisal of the Components shall be undertaken every fifth (5th) year during the Term for purposes of valuing such Components for the Master Property Insurance. In addition, once every five (5) years, or other longer period of time as may be agreed by such Owners, the coverage amounts required to be maintained under the Liability Insurance and the Insurance Trust Threshold Amount shall be adjusted to reflect the dollar amounts that then would be at least equivalent, in Year 2013 Constant Dollars, to the dollar coverage amount of the Liability Insurance referenced in the Insurance Schedule and the amount of the Insurance Trust Threshold Amount. In addition, from time to time during the Term, but no less often than every fifth (5th) year, the Owners shall review the policy limits (as the same may have been adjusted as

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provided above) and coverages set forth in this Article 8 and the Insurance Schedule to determine whether, in light of changing practices or circumstances in the real estate business, the insurance business, or the general climate of legal liability and exposure, it is in such Owners' interest to change the limit of coverage or change the insurance requirements of the Master Property Insurance or any other insurance required under this Declaration, provided that: (i) any such change shall require the approval of every Owner; and (ii) nothing contained in this Article 8 shall restrict any such Owner from obtaining, for its own benefit, insurance coverage which is in addition to or in excess of the insurance such Owner is required to maintain under this Article 8 and the Insurance Schedule.

ARTICLE 9. DAMAGE TO OR DESTRUCTION OF IMPROVEMENTS

9.1 Obligation to Restore. No loss or damage by fire or any other cause resulting in either partial or total destruction of any improvements now or hereafter located in, upon or on the Site, or any fixtures, equipment or machinery used or intended to be used in connection with the Site, shall operate to relieve or discharge any party from the performance and observance of any of the agreements, covenants and conditions herein contained to be performed and observed by such party. Subject to receipt of insurance proceeds and the Insurance Percentage of any shortfall from the other Owners as provided below, the Retail Owner hereby covenants to repair and/or reconstruct all of the improvements within the Combined Project so damaged or destroyed, excluding any tenant improvements within the Retail Project improvements or the interior of any residential condominiums, apartments or hotel rooms or other interior space within the Air Rights Project, to the extent, condition and utility of such improvements prior to such damage or destruction, subject to the following.

9.2 Obligation to Repair When Not Fully Insured

9.2.1 If the improvements in the Combined Project are damaged or destroyed by any Casualty where the Casualty causing such damage or destruction is required to be insured against under the Master Property Insurance under the terms of this Agreement, and the insurance proceeds available from the Master Property Insurance insurer are in an amount less than the amount necessary to repair and restore such improvements, after taking into account Proceeds covered by Section 8.2.4, the Retail Owner shall diligently determine the amount of the excess of the estimated cost of repair over the available Master Property Insurance proceeds (the "Insurance Shortfall"). The Retail Owner shall give written notice to each other Owners stating the gross amount of such Insurance Shortfall and each Owner shall pay its applicable Component's Insurance Share of the Insurance Shortfall. Each Owner shall deposit such Component's Insurance Share of the Insurance Shortfall within sixty (60) days after such notice is given. If the Insurance Shortfall increases as a result of repair cost increases or reduction in the amount of insurance proceeds, then the Retail Owner shall give the other Owners written notice of the increased Insurance Shortfall, and each Owner shall deposit such party's Component's Insurance Share of the increased Insurance Shortfall within sixty (60) days after such notice is given.

9.2.2 If the improvements in the Combined Project are damaged or destroyed by any Casualty where the Casualty causing such damage or destruction is not required to be insured against under the Master Property Insurance under the terms of this Agreement, and such Casualty is in fact not insured against under the Master Property Insurance, after taking into account Section 8.2.4, the Retail Owner shall diligently determine the Insurance Shortfall and give written notice to each other Owners stating the gross amount of such Insurance Shortfall and each Owner's Insurance Percentage of the Insurance Shortfall. Unless Retail Owner and Air Rights Owner unanimously elect to repair the damage only to the extent necessary to render the improvements safe, each Owner shall deposit such party's Insurance Percentage of the Insurance Shortfall within sixty (60) days after such notice is given. If Retail Owner, and Air Rights Owner make the foregoing election, each Owner shall deposit such party's Insurance Percentage of the amount necessary to repair only to the extent necessary to render the improvements safe. In either case, if the Insurance Shortfall increases as a result of repair cost increases or reduction in the amount of insurance proceeds, then the Retail Owner shall give the other Owners written notice of the increased Insurance Shortfall, and each Owner shall deposit such party's Insurance Percentage of the increased Insurance Shortfall within sixty (60) days after such notice is given.

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9.3 Procedures for Repair and Restoration. Whenever any improvements on the Property shall have been damaged or destroyed, the Retail Owner shall promptly make proof of loss and shall proceed promptly to collect, or cause to be collected, all valid claims which the Retail Owner may have against insurers or others based upon any such damage or destruction. Except as otherwise provided below, sums of money received as payments for any losses pursuant to said insurance policies shall be used and expended for the purpose of fully repairing or reconstructing the improvements in the Combined Project which have been destroyed or damaged.

9.3.1 Each Owner shall commence and complete, subject to receipt of or availability of Proceeds from insurance and other required sources in a good and workmanlike manner, the reconstruction or repair of any improvements on such Owner's Component damaged or destroyed, provided that any damage that affects both Components and should be repaired under a single construction contract with a qualified and unaffiliated third party under good and safe construction practices ("Bi-Component Damage") shall be repaired pursuant to a single construction contract entered into by the Owner on whose Component more than 50% of the cost to repair such Bi-Component Damage has occurred (and if each Component's damage would require 50% of such cost to repair, then such contract shall be entered into by the Retail Owner).

9.3.2 The Owner entering into the Bi-Component Damage construction contract shall be entitled to disbursement of Proceeds and/or amounts paid to make up any Insurance Shortfall for the cost of such Bi-Component Damage.

9.3.3 Any dispute regarding Bi-Component Damage and its repair shall be subject to resolution per Section 15.25.3.

9.4 Procedures In Event Owner Does Not Fully Repair Damage. Whenever damage or destruction of the improvements shall have occurred which would entitle the Owner otherwise responsible for such repair to not fully repair the improvements on the Site, to the extent the damage or destruction is covered by the Master Property Insurance, the Retail Owner shall promptly make proof of loss and shall proceed promptly to collect, or cause to be collected, all valid claims which the Retail Owner may have against the Master Property Insurance insurer or others based upon any such damage or destruction.

Proceeds from the Master Property Insurance not used in repair or restoration shall be distributed as follows, provided Proceeds covered under Section 8.2.4 shall be disbursed as provided in such section:

(1) First, the Proceeds shall be divided into two parts, based on each Component's Insurance Share, and each Owner shall receive out of the applicable Component's Insurance Share any amount necessary to raze remaining improvements on such Component, clear the Component site or otherwise make it safe, as required by law (including but not limited to the safety requirements of the local building inspector);

(2) Second, out of each Component's Insurance Share to the Mortgagees holding a Mortgage on such Component (in the order of their respective lien priority), an amount equal to the unpaid balance secured by such Mortgages;

(3) Third, the balance, if any, of each Component's Insurance Share shall be distributed to the Owner of the applicable Component.

Any dispute among the Owners regarding each Component's Insurance Share shall be subject to the dispute resolution procedure set forth in Section 15.25.3.

ARTICLE 10. INDEMNIFICATION

To the extent permitted by law, each Owner shall indemnify, defend and hold harmless the other

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Owners and their respective directors, officials, officers, employees, contractors and agents from any and all Indemnified Claims resulting from the indemnifying Owner's (including its contractors', tenants', agents' and employees') operations, maintenance and use in and of the Combined Project during the Term, and/or breach of any obligation imposed on such Owner by this Declaration, including Environmental Damages and including any liens arising out of work contracted for by the indemnifying Owner, provided that no Owner shall be required to indemnify any party for any Indemnified Claims to the extent caused by the negligence or willful misconduct of such party or the other Owners. This indemnification shall include all costs and expenses, and reasonable attorneys' fees which fees that any other Owners may expend in connection with any of the foregoing.

ARTICLE 11. EMINENT DOMAIN

11.1 Determination of Award. Whenever a public, quasi-governmental or military authority shall have taken, on a permanent, temporary or emergency basis, the Combined Project or any portion thereof by exercise of the powers of eminent domain, condemnation or requisition, the resultant damages to be awarded to each Owner with respect to such Owner's interest in the Combined Project (collectively, the "Awards" and individually an "Award") shall be determined either by agreement between the condemning authority and the Owner or Owners suffering such taking or by judicial judgment, verdict or order in a condemnation action or proceeding. Notwithstanding the provisions of such agreement, judgment, verdict or order to the contrary, the Awards shall be applied in accordance with the balance of this Article 11.

11.2 Distribution. Each Owner shall be entitled to the entire Award attributable to a condemnation of that Owner's interest in the Combined Project, including without limitation any easements or other real property rights appurtenant thereto.

11.3 Rights of Mortgagees. Nothing herein contained shall be deemed to prohibit any Mortgagee from participating in any eminent domain proceedings on behalf of or in conjunction with any Owner on whose Parcel it has a Mortgage, provided such participation does not reduce the Award to any other Owners or alter the application thereof as provided in Section 11.4.

11.4 Reconstruction on Condemnation.

11.4.1 Subject to the provisions of this Article 11, and to the extent practicable based upon the extent of the condemnation, the Retail Owner and each Owner shall be obligated to reconstruct the Improvements in the event of a condemnation in the same manner and to the same extent and same standard it would be required to reconstruct pursuant to Article 9 if the condemnation were a Casualty and the Award were insurance Proceeds.

11.4.2 Notwithstanding the foregoing, in the event that an Owner is not required under this Article 11 to restore or rebuild the Improvements or any portion thereof on its respective Component not taken by eminent domain, then the provisions of Section 9.4 shall apply as if the condemnation were a Casualty and the Award were insurance Proceeds. Subject to the foregoing (including the provisions of Section 9.4 incorporated herein by reference), if an Owner is not required to, and does not elect to, reconstruct in accordance with the standards set forth in Section 11.4.1 all or any portion of the Improvements on its respective Parcel, such Owner shall clear such Improvements or the affected portion thereof as provided in Section 9.5. Any Award shall be applied to the restoration or razing required pursuant to this Section 11.4. The provisions of this Section 11.4.2 shall survive the Termination Date.

11.5 Inverse Condemnation. Should any inverse condemnation result by reason of actions of a public authority, and a judgment of a competent court of jurisdiction shall so determine, then the rights of the Owners set forth in Sections 9.1 through 9.4, above, shall be the same as though condemnation had taken place.

ARTICLE 12. ENFORCEMENT OF AGREEMENT; RIGHT TO CURE DEFAULT

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12.1 Enforcement of Agreement. Subject to Section 12.3 below, every Owner harmed by a Default or violation of this Declaration shall have the right to enforce this Declaration against any other Owner that is in violation of, or Default under, this Declaration, and the harmed Owner (the "**Non-Defaulting Owner**") may prosecute any appropriate proceedings at law or in equity against the Defaulting Owner. The Non-Defaulting Owner may, in any such proceeding, obtain injunctive or other equitable relief requiring the Defaulting Owner to observe or perform this Declaration or restraining violations and Defaults under this Declaration; recover damages on account of such violation or Default; secure, by way of specific performance or otherwise, the performance of any covenant, condition, easement or restriction in this Declaration; and/or obtain any other remedy provided for under this Declaration, at law or in equity.

12.2 Right to Cure Default. If an Owner shall at any time fail or refuse to pay any obligation, or perform any work or furnish any services required on its part to be paid, performed, or furnished under this Declaration ("**Default**"), then and in such event the Non-Defaulting Owner shall have the right to enter upon the Defaulting Owner's Component, pay such obligation, perform such work, or furnish such services on behalf of the cost, and for the account of the Defaulting Owner, as herein provided.

12.3 Enforcement Procedures.

12.3.1 Prior to the exercise of any rights by an Owner pursuant to the foregoing Section, a notice must be sent to the Defaulting Owner (and any Mortgagee of such Defaulting Owner if such holder shall have delivered to the Non-Defaulting Owner) specifying the nature of the Default and notifying the Defaulting Owner of the other Owners' intention to exercise such rights. If the Default is not cured within thirty (30) days after such notice (or such shorter notice period as may be expressly set forth elsewhere in this Declaration), the Non-Defaulting Owner may exercise its rights under Section 12.2 and shall send a statement or statements of the cost thereof to the Defaulting Owner. The amount of such costs shall immediately be due and payable, and shall bear interest at the Default Rate until paid. Such thirty (30) day period shall be extended if the Defaulting Owner has commenced within such thirty (30) day period reasonable efforts to cure such Default, and in that event, such thirty (30) day period shall be extended so long as such efforts are diligently pursued.

12.3.2 If the obligation, work, or service described in the foregoing Section 12.3.1 must be performed at regular intervals, the Non-Defaulting Owner performing the same may send statements at such appropriate intervals as such Owner may desire, which shall be immediately due and payable, and shall bear interest at the Default Rate until paid.

ARTICLE 13. MORTGAGEE PROTECTION

13.1 Mortgagee Rights and Protections.

13.1.1 Notice by Owner. An Owner that grants a security interest in a Component to a Mortgagee shall notify the other Owners in writing of the name and address of the granting Owner's Mortgagee, provided that such Owner's failure to so notify shall not affect the rights of a Mortgagee hereunder.

13.1.2 Subordination. No breach of any covenant and/or restriction, nor the enforcement of any lien provision contained in this Declaration, shall render invalid the lien of any Mortgage made in good faith and for value. Except only as set forth herein, all of the covenants, conditions and restrictions herein contained shall be binding upon and effective against any Owner whose title is derived through foreclosure, trustee sale, deed in lieu thereof, or otherwise.

(a) A Mortgagee that takes title to a Component pursuant to a foreclosure of its Mortgage or deed in lieu of foreclosure, or any purchaser at a foreclosure or trustee sale under a Mortgage, shall take the Component free of any claims or liens for unpaid Expenses and assessments against the encumbered Component arising under this Declaration for Expenses and assessments or installments thereof and any other obligations which became due and payable prior to the time the

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Mortgagee or such purchaser takes title thereto. After such Mortgagee or purchaser therefrom takes title to a Component, a lien may be created thereon to secure or enforce all Expenses and assessments or installments thereof levied hereunder against such Component that first become due and payable after such Mortgagee or purchaser therefrom takes title. A Mortgagee that takes title to a Component pursuant to a foreclosure of its Mortgage or deed in lieu of foreclosure, or any purchaser at a foreclosure or trustee sale under a Mortgage, shall have no obligation under the Declaration or the Combined Project Documents with respect to any indemnities, representations or warranties related to or resulting from acts, omissions, circumstances or events occurring before or existing at the time Mortgagee takes title to a Component, provided that such Mortgagee or purchaser shall be required to repair any damage to the Component that the Owner of such Component is required to repair hereunder.

(b) A Mortgagee may jointly or singly pay any Expenses and assessments or installments thereof which are in default and take any action reasonably necessary to cure any other default of its mortgagor hereunder with the same effect as such cure by such mortgagor itself.

(c) Notwithstanding any provisions to the contrary in this Declaration, each Owner's enforcement lien and/or right to judgment created pursuant to this Declaration shall be junior and subordinate to the lien and security interest of the first Mortgagee of the defaulting Owner's Component (including without limitation any lien and/or security interest in insurance proceeds or condemnation awards).

13.2 Restriction on Amendments to Declaration or Change in Relationship.

Notwithstanding any provision to the contrary contained elsewhere herein, without the prior written consent of the Mortgagees (which consent shall be exercised in good faith and without unreasonable delay), this Declaration shall not be amended so as to:

(1) change the fundamental purpose for which the Combined Project was created, or terminate or abandon the status of the Combined Project or permit or allow any Owner by act or omission to abandon, subdivide, encumber, sell or transfer the REA Common Areas, REA Common Facilities or REA Common Facilities or allow partition thereof;

(2) change the Proportionate Share of Expenses charged to, or the voting rights attributable to, any Component;

(3) change the provisions applicable to insurance so as to reduce the required coverage, or change the interest of any Owner in the allocation or distribution of insurance or condemnation proceeds;

(4) change the provisions applicable to reconstruction in the event of damage, or permit the use of insurance proceeds payable to or for the account of any Owner by reason of loss or damage to any portion of the Combined Project to be used for other than the repair, replacement or reconstruction thereof;

(5) change any provision which, by its terms, is specifically for the benefit of Mortgagees or specifically confers rights on Mortgagees; or

(6) change the provisions of any part of this Section 13.

13.3 Miscellaneous Rights of Mortgagees. In addition to the foregoing, each Mortgagee whose name and address have been furnished to the Owners, whether by an Owner or by such Mortgagee shall have the right to:

(1) receive advance written notice of all meetings of the Owners respecting the Combined Project or any aspect thereof where material management and operation issues are to be discussed;

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(2) be present at all and any such meetings of the Owners respecting the Combined Project or any aspect thereof;

(3) furnish information to the Owners concerning the status of any such Mortgage;

(4) receive copies of all and any of the financial statements, reports and information concerning the Combined Project at the same time and in the same manner as the Owners as provided in this Declaration; and

(5) participate in negotiations regarding the value and extent of any loss or damage to any portion of the Combined Project which is subject to such Mortgagee's Mortgage (i) under a policy of insurance carried pursuant to this Declaration, or (ii) in any proceedings incident to any condemnation affecting any portion of the Combined Project.

13.3.1 Consent of Mortgagee. Whenever the consent of a Mortgagee is required by this Declaration, any action taken without such consent shall not bind such Mortgagee or its successor.

13.3.2 Title by Foreclosure. Except to the extent otherwise expressly provided herein, all of the provisions contained in this Declaration shall be binding on and effective against any Owner whose title to any Component or any portion thereof is acquired by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

13.3.3 Copies of Project Documents. The Owners shall make available to Mortgagees, and to holders, insurers or guarantors of any Mortgage, current copies of this Declaration, and all other Project Documents. "Available" means available for inspection and copying, upon request, during normal business hours or under other reasonable circumstances.

13.3.4 Notice of Action. Each Owner shall promptly provide to the Mortgagee holding a Mortgage in such Owner's Component written notice of:

(1) any condemnation, loss or any casualty loss which affects the Owner's Component, any REA Common Area, any REA Common Facility, or any Common Facility, on which there is a Mortgage held, insured, or guaranteed by such Mortgagee;

(2) any default in performance of obligations under this Declaration or any other Project Document or delinquency in the payment of Expenses or charges owed by an Owner of a Component subject to a Mortgage; and

(3) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained pursuant to this Declaration; and

13.3.5 Right to Cure and Payment of Taxes or Insurance by Mortgagees. Mortgagees may, jointly or singly, pay taxes, Expenses or other charges which are in default and which may or have become a lien or charge against any REA Common Area, any REA Common Facility, or any Common Facility and may pay overdue premiums on property insurance policies, or secure new property insurance coverage if coverage has not been renewed at least ten (10) days prior to the lapse of a policy, for any REA Common Area, any REA Common Facility, or any Common Facility and Mortgagees making such payment(s) shall be owed immediate reimbursement therefor from the Owners, provided (i) no such paying Mortgagee shall have any lien or other right against a Component other than the one against which such Mortgagee's Mortgage is recorded, (ii) upon such Mortgagee becoming an Owner, it shall have the same enforcement and lien rights as otherwise provided Owners hereunder, and (iii) the Owner whose Mortgagee paid such amount shall have the right to enforcement under Article 12 hereunder as if it had paid such amounts (subject to its Mortgagee's lien and other rights). In addition, each Owner agrees to send to each Mortgagee whose name and address has been furnished, whether by

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an Owner or by such Mortgagee, written notice of every Default by the Owner of the Component encumbered by such Mortgagee's Mortgage ("**Default Notice**"). If any Default Notice shall be given to a Mortgagee regarding a Default, then such Mortgagee shall have not less than an additional fifteen (15) days beyond the period of time granted to the Defaulting Owner pursuant to the Default Notice to cure monetary Default(s) specified in the Default Notice to Mortgagee and such Mortgagee shall have an additional forty-five (45) days beyond the period of time granted to the Defaulting Owner pursuant to the Default Notice to cure non-monetary Default(s) specified in the Default Notice to Mortgagee; provided however, if such non-monetary Default cannot be cured without possession of the Defaulting Owner's Component, and (i) Mortgagee commences and diligently pursues to completion proceedings for foreclosure; and (ii) Mortgagee pays current Defaulting Owner's Proportionate Share of Expense, then Mortgagee shall be granted such additional time to cure the non-monetary default as is reasonably required by Mortgagee to obtain possession of the property and cure the non-monetary Default. Notwithstanding the foregoing, if the Default is failure to obtain insurance, nothing contained herein shall limit the nondefaulting Owner from being able to obtain insurance immediately.

The foregoing covenants and subordinations shall be deemed self-executing and no further documents shall be required for such covenants and subordinations to be effective. Owners shall, however, execute and record any documents and instruments reasonably requested by Mortgagees to evidence the foregoing including, without limitation, estoppels and subordinations.

ARTICLE 14. TERM AND TERMINATION OF DECLARATION

14.1 Term. This Declaration shall be effective upon the Effective Date and shall continue in perpetuity.

14.2 Termination. This Declaration may be terminated by written instrument executed and acknowledged by both Owners, such termination to be effective upon recordation in the Official Records.

14.3 Survival of Certain Provisions. Notwithstanding anything to the contrary contained in this Declaration, any termination of this Declaration shall not affect the survivability of those easements or obligations which are perpetual and appurtenant by the express terms of this Declaration or the accrued obligations of any Owner under an indemnity obligation. Subject to such survivability, upon termination of this Declaration, all rights, privileges, duties and obligations created and imposed by this Declaration shall terminate and be of no further force or effect; *provided, however,* that the termination of this Declaration shall not limit or affect any remedy at law or in equity of any Owner against any other Owners with respect to any liability or obligation arising or to be performed under this Declaration prior to the date of such termination. The termination of this Declaration shall not terminate or limit any other agreement pertaining to the Combined Project.

ARTICLE 15 GENERAL

15.1 Notices to Parties. All approvals, notices or other communications required or permitted hereunder to be given to an Owner shall be in writing, and shall be personally delivered or delivered by overnight commercial carrier or sent by registered or certified mail, postage prepaid, return receipt requested, or sent by Fax machine capable of confirming transmission and receipt, provided that a hard copy of the notice is delivered or mailed in the manner set forth above no later than one business day after transmission by Fax. Notice shall be deemed effective upon the earlier of (i) if personally delivered, the date of delivery to the address of the Person set forth below; or (ii) if delivered by overnight commercial carrier, on the date of delivery, as shown on the carrier's delivery receipt; (iii) if mailed, on the date of delivery as shown by the sender's registry or certification receipt; or (iv) when confirmation of complete transmission and receipt is received by the transmitting Person, provided such confirmation is received on or before 5:00 p.m. (Pacific Time) on a business day; if such confirmation is received after 5:00 p.m. (Pacific Time) on a business day or at any time on a nonbusiness day, notice will be deemed given on the next business day. For purposes of this Section 15.1, a business day is Monday through Friday, excluding holidays observed by the United States Postal Service.

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If to Retail Owner: c/o CIM Group, LP
6922 Hollywood Blvd., 9th Floor
Los Angeles, CA 90028
Attention: General Counsel
Telephone: (323) 860 4900
Facsimile: (323) 297-2586
Email: generalcounsel@cimgroup.com

With a copy to: Matthew C. Fragner
Fragner Seifert Pace & Winograd, LLP
601 South Figueroa St., Suite 2320
Los Angeles, CA 90017
Telephone: (213) 687-2320
Facsimile: (310) 496-2887
Email: mfragner@fspwlaw.com

If to Air Rights Owner: c/o CIM Group, LP
6922 Hollywood Blvd., 9th Floor
Los Angeles, CA 90028
Attention: General Counsel
Telephone: (323) 860 4900
Facsimile: (323) 297-2586
Email: generalcounsel@cimgroup.com

With a copy to: Matthew C. Fragner
Fragner Seifert Pace & Winograd, LLP
601 South Figueroa St., Suite 2320
Los Angeles, CA 90017
Telephone: (213) 687-2320
Facsimile: (310) 496-2887
Email: mfragner@fspwlaw.com

The foregoing addresses may be changed or new addressees may be added by written notice given as herein provided.

15.2 Delay Not Waiver. Any delay by any party hereto in enforcing any right or remedy shall not waive, affect, diminish, suspend or exhaust any such right or remedy. No act or omission, or series of acts or omissions, by any party as to any failure of any other party to fully perform this Declaration shall be deemed to be a waiver by an Owner of the right at all times thereafter to insist upon full and complete performance in accordance with this Declaration.

15.3 Modifications Only by Writing. None of the provisions of this Declaration shall be waived except by a written instrument executed by the Owner involved. Any amendment or modification to this Declaration shall require a writing executed by both Owners.

15.4 Construction of Language of Agreement. This Declaration shall be construed according to its fair meaning, and not strictly for or against an Owner.

15.5 Estoppel Certificate. Within ten (10) days after request from an Owner or a lender or proposed lender or potential purchaser, the receiving Owner shall execute and deliver to the requesting Owner a written statement certifying, to its actual knowledge, (a) whether or not this Declaration is modified and whether or not this Declaration is in full force and effect (or, if there have been modifications, stating those modifications), (b) whether or not an Owner has failed to perform an obligation under this Declaration, and if so, the nature of the failure, and (c) any other matter reasonably requested. No Owner shall be obligated to respond to a request to execute a statement that attempts to

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modify any of the terms or conditions of this Declaration. A statement executed by an Owner may be relied upon by an Owner or any transferee, Mortgagee, or encumbrancer to which such statement is addressed so as to estop the party executing the statement from asserting the contrary, but the Owner executing the statement shall not be liable for any erroneous information contained therein. Such certificate may provide that in the event of a conflict between the provisions of this Declaration and the provision of the certificate, the provisions of this Declaration shall control.

15.6 Owners' Obligations. Whenever in this Declaration a provision requires that a certain performance be made by an Owner, (a) such party may satisfy its obligation either by performing its obligation directly or by causing such actions to be performed; and (b) such performance shall be deemed to be at the cost of the obligated Owner (subject to any agreements it may have with other persons), and at no cost or expense to the other Owners, unless a provision for reimbursement is provided for specifically.

15.7 Approvals Not to Be Unreasonably Withheld. Unless otherwise provided, whenever in this Declaration an Owner has the right to approve or consent to a matter presented by the other Owners, such approval or consent shall not be unreasonably withheld, conditioned or delayed. Each party shall use commercially reasonable efforts to respond to any request for approval within the number of days provided for such response in this Declaration or, if no response time is set forth within thirty (30) days after receipt of the request.

15.8 Entire Agreement. This Declaration reflects, supersedes and merges all of the prior agreements and negotiations of the parties hereto with respect to its subject matter and contains their entire agreement.

15.9 Time of Essence; Extensions. Time is of the essence in this Declaration, although any period of time herein may be extended in the event the benefited Owner so agrees in writing.

15.10 Other Documents. Each Owner shall furnish to the other Owners, upon request, such other documents as may be reasonably required in order to carry out the provisions of this Declaration.

15.10 Exhibits. The Exhibits herein referred to are attached and made a part hereof as if fully set forth herein.

15.12 No Termination Upon Default. No Default under this Declaration shall entitle an Owner to terminate this Declaration, but such limitation shall not affect, in any manner, any other right or remedy which any Owner may have hereunder by reason of such Default.

15.13 Captions. The captions of Articles and Sections of this Declaration, and the Table of Contents and Table of Exhibits, are for convenience only, and do not limit or amplify the covenants and conditions of this Declaration.

15.14 No Partnership. Nothing in this Declaration shall be construed to make an Owner, partners or joint venturers or render an Owner liable for the debts or obligations of the other Owners.

15.15 Interest. Any amount owing from one party to the other pursuant to this Declaration which is stated to be paid with interest shall bear interest at the Default Rate.

15.16 Force Majeure. For the purposes of any of the provisions of this Declaration, no party nor any successors in interest, shall be considered in breach of, or default in, its obligations under this Agreement (excepting therefrom obligations to pay money) as a result of the enforced delay in the performance of such obligations due to causes beyond its reasonable control and without its fault or negligence including failure of Governmental Agencies to act or to issue necessary permits or licenses, including failure of Governmental Agencies to act or to issue necessary permits or licenses, acts of God, acts of the public enemy, acts of the Federal Government, acts of the other party (including but not limited to delays in performing such other party's obligation pursuant to this Declaration), fires, floods,

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epidemics, quarantine restrictions, strikes, labor disputes, freight embargoes, inability to obtain materials or supplies or unusually severe weather or delays of contractors or subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the parties, shall be extended for the period of the enforced delay. Provided that the party seeking the benefit of the provisions of this Section shall promptly notify the other party in writing of such enforced delay and of the causes thereof, the extension of time for performance shall run from ten (10) days prior to the date on which such notice is given, but in not event earlier than the date of commencement of the cause. Financial inability shall not extend the time or performance, or excuse non-performance or untimely performance, of any obligation under this Declaration.

15.18 Intentionally Deleted.

15.19 Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Illinois. No conflicts of law rules of any state or country (including, without limitation, Illinois conflicts of law rules) shall be applied to result in the application of any substantive or procedural laws of any state or country other than Illinois. All controversies, claims, actions or causes of action arising between the parties hereto and/or their respective successors and assigns shall be brought, heard and adjudicated by the courts of the State of Illinois, with venue in Cook County. Each of the parties hereto hereby consents to personal jurisdiction by the courts of the State of Illinois in connection with any such controversy, claim, action or cause of action, and each of the parties hereto consents to service of process by any means authorized by Illinois law and consent to the enforcement of any judgment so obtained in the courts of the State of Illinois on the same terms and conditions as if such controversy, claim, action or cause of action had been originally heard and adjudicated to a final judgment in such courts. Each of the parties hereto further acknowledges that the laws and courts of Illinois were freely and voluntarily chosen to govern this Declaration and to adjudicate any claims or disputes hereunder.

15.20 Severability. Every provision of this Declaration is intended to be severable. If any term or provision hereof is illegal, invalid or in conflict with any existing or future Applicable Law or the purpose of this Declaration, for any reason whatsoever, such term or provision shall be ineffectual and void, and the validity of the remainder of this Declaration shall not be affected thereby.

15.21 Rights Cumulative. Each and all of the rights, powers, options and remedies of an Owner contained herein shall be cumulative and not exclusive.

15.22 Attorneys' Fees. Without limiting Section 15.25 below, in the event that any party hereto shall bring any legal action or other proceeding with respect to the breach, interpretation, or enforcement of this Agreement, or with respect to any dispute relating to any transaction covered by this Agreement, or in connection with any bankruptcy proceeding relating to a party, the losing party or parties (or the debtor party involved in the bankruptcy) in such action or proceeding shall reimburse the prevailing party or parties therein for all reasonable costs of litigation, including the reasonable noncontingent fees of attorneys, paralegals and other professionals, in such amount as may be determined by the court or other tribunal having jurisdiction, including matters on appeal.

15.23 Successors and Assigns. Subject to the prohibitions herein on assignment or transfer, each of the covenants and conditions hereof shall inure to the benefit of and shall bind (as the case may be) each of the successors and assigns of the respective parties hereto, and any reference herein to an Owner shall include their respective successors and assigns.

15.24 Covenants Run With Land; Release of Obligations. All of the agreements of this Declaration shall be covenants running with the land, burdening and benefiting each Owner's respective interests. Upon the sale or transfer by an Owner of real property encumbered by this Agreement, such Owner shall be relieved and released from all obligations, liabilities and claims hereunder accruing from and after such transfer relating to such transferred real property, provided that such Owner shall remain subject to all obligations, liabilities and claims hereunder accruing prior to such transfer, including any

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indemnity, payment or reimbursement obligation arising from events occurring prior to such transfer.

15.25 Disputes With Declarant Parties.

15.25.1 **Dispute Defined.** A "Dispute" is defined as any and all claims, controversies, breaches or disputes by or between (a) Air Rights Owner, Retail Owner or any owner of a Residential Condominium (each, a "**Claimant**" and collectively, the "**Claimant Parties**"), on the one hand, and (b) Declarant, Retail Owner, any tenant or subtenant of the Air Rights Project, or any of their directors, officers, partners, shareholders, members, employees, representatives, contractors, subcontractors, design professionals or agents (each a "**Declarant Party**," and collectively, the "**Declarant Parties**"), on the other hand, arising under this Declaration or otherwise arising out of or relating to the Combined Project, including, any Disputes relating to:

(a) the development and sale of any portion of the Combined Project by Declarant;

(b) any conveyance, contractual agreement or other transaction between any of the Declarant Parties and any of the Claimant Parties relating to the sale of Residential Condominiums in the Combined Project (collectively, "**Sale or Conveyance Agreements**"), whether such Dispute is based on contract, tort, statute, or equity and whether arising before or after the applicable close of escrow and including any Dispute over (1) the breach of any Sale or Conveyance Agreement, (2) any other matter arising out of or related to the interpretation of any term or provision of any Sale or Conveyance Agreements, or any defense going to the formation or validity of any Sale or Conveyance Agreement, or any provision thereof or of any agreement to arbitration set forth in any such Sale or Conveyance Agreement, including, allegations of unconscionability, fraud in the inducement, or fraud in the execution, (3) negligent or intentional misrepresentation or fraud, (4) nondisclosure, (5) breach of any alleged duty of good faith and fair dealing, (6) the planning, surveying, design, engineering, grading, specifications, construction or other development of the Combined Project, and (7) any claims regarding the use of any portion of the Combined Project and the validity of any waiver or release contained in this Declaration;

(c) the formation, validity or enforceability of the arbitration provisions set forth in this Section 15.25, including, allegations of unconscionability, fraud in the inducement, or fraud in the execution, or any defense against the enforceability thereof; or

(d) the approval of the Annual Plan/Budget pursuant to Section 4.1.

"Dispute" expressly excludes actions taken by the Retail Owner against the Retail Owner to collect delinquent Assessments.

All Disputes shall be subject to the nonadversarial dispute resolution procedures established in this Section 15.25.

15.25.2 **Nonadversarial Dispute Resolution Procedures for All Other Disputes.** For all Disputes, the following nonadversarial procedures shall be used:

(a) **Notification.** All Claimant Parties shall provide Declarant and any other Declarant Party which is a party to any Dispute subject to this Section 15.25 (each, an "**Affected Declarant Party**") with written notice of any matters relating to such Dispute as soon as is reasonably possible after the Claimant becomes aware, or should have become aware, of the matters forming the basis for the Dispute.

(b) **Cooperation; Access; Repair.** Each Claimant shall provide prompt and reasonable cooperation to Declarant and any Affected Declarant Party and any representatives, contractors, and others which Declarant or the Affected Declarant Party may designate. If the Dispute arises out of or relates to the planning, surveying, design, engineering, grading, specifications,

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construction or other development of the Combined Project or any portion thereof, the Affected Declarant Parties shall have the irrevocable right, without obligation, to inspect, repair and/or replace any and all portions of the Combined Project that are affected by the circumstances to which the Dispute relates. In connection therewith, each Claimant shall provide Declarant and any Affected Declarant Party and any representatives, contractors, and others which Declarant or the Affected Declarant Party may designate access to any portion of the Combined Project to which the Dispute may relate for purposes of inspecting, testing, repairing, replacing or correcting the affected area or otherwise investigating any alleged facts and circumstances relating thereto.

(c) **Mediation.** Upon their mutual agreement, the Claimant and Affected Declarant Party (each, a **"Party"** and collectively, the **"Parties"**) may voluntarily mediate a Dispute before a mutually-agreeable neutral mediator, in which case, the Affected Declarant Party shall pay the mediator's fees for a one-half day mediation session. A decision to mediate or not to mediate by either Party is without prejudice to either Party's rights relating to the resolution of the Dispute. If the Parties elect to submit the Dispute to mediation pursuant to this Section 15.25, the mediation shall, unless the Parties mutually agree otherwise, be conducted in accordance with the following procedures:

(1) Selection of Mediator. The mediator shall be selected within sixty (60) days after the election of the Parties to submit the Dispute to mediation. If the parties cannot agree on a mediator, the mediator shall be selected by the entity providing the mediation service. No Person shall serve as a mediator in any Dispute in which the Person has any financial or personal interest in the result of the mediation, except by the written consent of all Parties. Before accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or to prevent a prompt commencement of the mediation process.

(2) Position Letter: Pre-Mediation Conference. Within sixty (60) days after selection of the mediator, each Party shall submit a letter (a **"Position Statement"**) containing a description of the Party's position concerning the issues that need to be resolved. The mediator may schedule a pre-mediation conference. All Parties shall attend unless otherwise mutually agreed. The mediation shall begin within twenty (20) days after submittal of all Position Statements and shall be concluded within fifteen (15) days after the mediation began unless either (a) the mediator extends the mediation period, or (b) the Parties mutually agree to extend the mediation period. The mediation shall be held in the County or another place mutually acceptable to the Parties.

(3) Conduct of Mediation. The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate to achieve the goal of settling the Dispute. The mediator is authorized to conduct joint and separate meetings with the Parties and to make oral and written recommendations for settlement. The mediator may also obtain expert advice concerning technical aspects of the Dispute, provided the Parties shall assume the expenses of obtaining such advice. The mediator shall not have the authority to impose a settlement on the Parties.

(4) Application of Evidence Code. The provisions of Illinois Compiled Statute 710 ILCS 35 (Uniform Mediation Code) are applicable to the mediation process. Use and disclosure of statements, evidence and communications offered or made in the course of the mediation shall be governed by these sections, including the sections which preclude use of material in future proceedings and the sections which provide for confidentiality of material.

(5) Parties Permitted at Mediation. Persons other than the mediator, the Parties, their liability insurers, Declarant and attorneys for the Parties, the liability insurers and Declarant may attend mediation sessions only with the permission of the Parties and the consent of the mediator. Declarant has the right to attend the mediation session even if Declarant is not one of the Parties.

(6) Record. There shall be no stenographic, video or audio record of the mediation process.

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(7) **Expenses.** Each Party shall bear its own attorneys' fees and costs incurred in connection with the mediation. All other expenses of the mediation including the fees charged by the mediator and the cost of any proof or expert advice requested by the mediator shall, except as otherwise set forth herein, be REA Common equally by the Parties unless they agree otherwise. This provision does not modify any provision of a contract between Declarant and any Declarant Party requiring indemnification or establishing a different allocation of costs between the Declarant and the Declarant Party.

15.25.3 Arbitration. EXCEPT AS SET FORTH ABOVE, ALL DISPUTES SHALL BE ARBITRATED – WHICH ARBITRATION SHALL BE MANDATORY AND BINDING - PURSUANT TO THE FEDERAL ARBITRATION ACT AND SUBJECT TO THE FOLLOWING PROCEDURES:

(a) **Selection of Arbitrator.** Any Dispute subject to this Section 15.25 shall be submitted to binding arbitration by and pursuant to the arbitration rules and procedures of the Judicial Arbitration Mediation Services (“**JAMS**”) in effect at the time the request for arbitration is submitted. If JAMS is for any reason unwilling or unable to serve as the arbitration service, the applicable Claimant Parties and applicable Declarant Parties (each, a “**Participant**” and collectively, the “**Participants**”) shall select another reputable arbitration service mutually acceptable to all Participants to the Dispute. If the Participants are unable to agree on an alternative service, then either Participant may petition any court of competent jurisdiction in the County to appoint such an alternative service, which appointment shall be binding on the Participants. Such arbitration shall be conducted pursuant to the rules and procedures of such alternative service in effect at the time the request for arbitration is submitted. Nothing herein shall prevent the Participants from agreeing to use an alternative arbitration service.

(b) **Federal Arbitration Act.** Disputes subject to arbitration under this Section 15.25 involve and concern interstate commerce and are governed by the provisions of the Federal Arbitration Act (9 U.S.C. §1 *et seq.*), to the exclusion of any different or inconsistent state or local law, ordinance, regulation, or judicial rule.

(c) **Benefited Parties.** The arbitration provisions in this Section 15.25 shall inure to the benefit of, and be enforceable by the Declarant Parties and each of their contractors, subcontractors, agents, vendors, suppliers, design professionals, insurers and any other person whom the applicable Claimant may contend is responsible for any alleged loss, liability or damages incurred by the Claimant as a result of the circumstances relating to such Dispute.

(d) **Attorneys' Fees.** If any Dispute is submitted to arbitration, each Participant shall bear its own attorneys' fees and costs (including expert costs) for the arbitration.

(e) **Remedies.** The arbitrator is authorized to provide all recognized remedies available in law or in equity for any cause of action that is the basis of the arbitration.

(f) **Decision.** The decision of the arbitrator is final and binding. Any application to confirm, vacate, modify, or correct an award rendered by the arbitrator shall be filed in any court of competent jurisdiction in the County.

(g) **Choice of Law.** To the extent that any state or local law, ordinance, regulation, or judicial rule is inconsistent with any provision of the rules of the arbitration service under which the arbitration proceeding shall be conducted, the latter rules shall govern the conduct of the proceeding.

(h) **Other Proceedings.** The participation by any Participant in any judicial proceeding concerning this arbitration provision or any arbitral issue hereunder shall not be asserted or accepted as a reason to delay, to refuse to participate in, or to refuse to enforce this arbitration agreement.

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(i) **Expenses.** The fees to initiate the arbitration shall be advanced by the Declarant and any Declarant Party. Subsequent fees and costs of the arbitration and/or the arbitrator shall be borne equally by the Participants to the arbitration; provided, however, that the fees and costs of the arbitration and/or the arbitrator ultimately shall be borne as determined by the arbitrator. This provision does not modify any provision of a contract requiring indemnification or establishing a different allocation of costs between the Participants.

(j) **Arbitrator.** The arbitrator appointed to serve shall be a neutral and impartial individual.

(k) **Venue.** The venue of the arbitration shall be in the County unless the Participants agree in writing to another location.

(l) **Severability.** If any provision of this Section 15.25 is determined to be unenforceable or to have been waived, the remaining provisions shall be deemed to be severable therefrom and enforceable according to their terms.

(m) **Self-Executing.** This arbitration provision is self-executing. Any Dispute concerning the interpretation or the enforceability of the arbitration provisions in this Section 15.25, including its revocability or voidability for any cause, any challenges to the enforcement or the validity hereof, or the scope of arbitral issues hereunder, and any defense relating to the enforcement of the arbitration agreement set forth in this Section 15.25, including, waiver, estoppel, or laches, shall be decided by an arbitrator in accordance with this arbitration provision and not by a court of law.

15.25.4 Statutes of Limitation. Nothing in this Section 15.25 shall be considered to toll, stay, reduce or extend any applicable statute of limitations, provided, however, that Declarant, the Association and any Owner may commence a legal action which in the good faith determination of that Party is necessary to preserve that Party's rights under any applicable statute of limitations so long as no further steps in processing the action are taken except those authorized in this Section 15.25.

15.25.5 Agreement to Dispute Resolution; Waiver of Jury Trial. If the arbitration provision in Section 15.25.3 is held not to apply, or is held invalid, void or unenforceable for any reason, all Disputes shall be tried before a judge in a court of competent jurisdiction without a jury. The judge in such court of competent jurisdiction shall have the power to grant all legal and equitable remedies and award damages. Each Owner shall use the procedures established in this Section 15.25 to resolve all Disputes and waives its rights to resolve Dispute in any other manner. **EACH OWNER ACKNOWLEDGES THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS SECTION 15.25, THEY ARE WAIVING AND COVENANTING NOT TO ASSERT THEIR CONSTITUTIONAL RIGHT TO TRIAL BY JURY OF ANY DISPUTES, INCLUDING, BUT NOT LIMITED TO, DISPUTES RELATING TO DESIGN AND CONSTRUCTION DEFECTS, MISREPRESENTATION, OR THE FAILURE OF ANY DECLARANT PARTY TO DISCLOSE MATERIAL FACTS.** The foregoing waiver of jury trial shall be binding upon the successors and assigns of each Owner of all or any portion of the Combined Project and upon all persons and entities asserting rights or claims or otherwise acting on behalf of any such Participant or their successors and assigns.

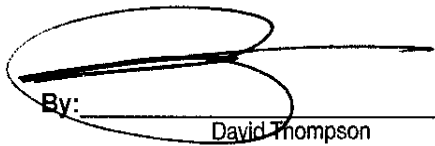
15.26 Relationship to Redevelopment Agreement. Air Rights Owner and Retail Owner agree that this Agreement constitutes the reciprocal easement agreement described in the last paragraph of Section 8.21 of the Redevelopment Agreement, and neither party shall be obligated to enter into any additional reciprocal easement agreements under such Section 8.21. In addition, in no event shall Air Rights Owner be obligated to reimburse Retail Owner or any other party for the Allocable Infrastructure Costs Amount pursuant to the Redevelopment Agreement.

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

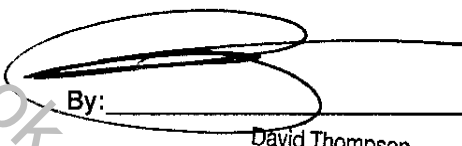
RETAIL OWNER:

108 North State Street (Chicago) Owner, LLC


By: _____
David Thompson
Vice President
and
Chief Financial Officer

AIR RIGHTS OWNER:

North State Street Air Rights (Chicago) Owner, LLC


By: _____
David Thompson
Vice President
and
Chief Financial Officer

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ACKNOWLEDGEMENT

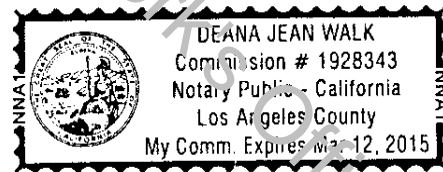
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
COUNTY OF Los Angeles) ss.)

On 1/22/2015 before me, Deana Jean Walk, Notary Public, personally appeared Davis Thompson (insert name(s) of signer(s)) who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is ~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~~~they~~ executed the same in his/~~her~~~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~~~their~~ signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature *Deana Jean Walk* (Seal)

Deana Jean Walk, Notary Public

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ACKNOWLEDGEMENT

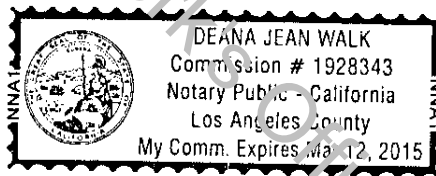
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
 COUNTY OF Los Angeles)

On 1/22/2015 before me, Deana Jean Walk, Notary Public, personally appeared DAVID THOMPSON (insert name(s) of signer(s)) who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~~~they~~ executed the same in his/~~her~~~~their~~ authorized capacity~~(ies)~~, and that by his/~~her~~~~their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature *Deana Jean Walk* (Seal)

Deana Jean Walk, Notary Public

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EXHIBIT A

LEGAL DESCRIPTION OF THE RETAIL PROJECT

PROPERTY ADDRESS: 108 NORTH STATE STREET, CHICAGO, IL 60602

PERMANENT INDEX NUMBERS: 17-09-451-024-0000
 17-09-451-025-0000
 17-09-451-026-0000
 17-09-451-027-0000

Real property in the City of Chicago, County of Cook, State of Illinois, described as follows:

(Retail Parcel)

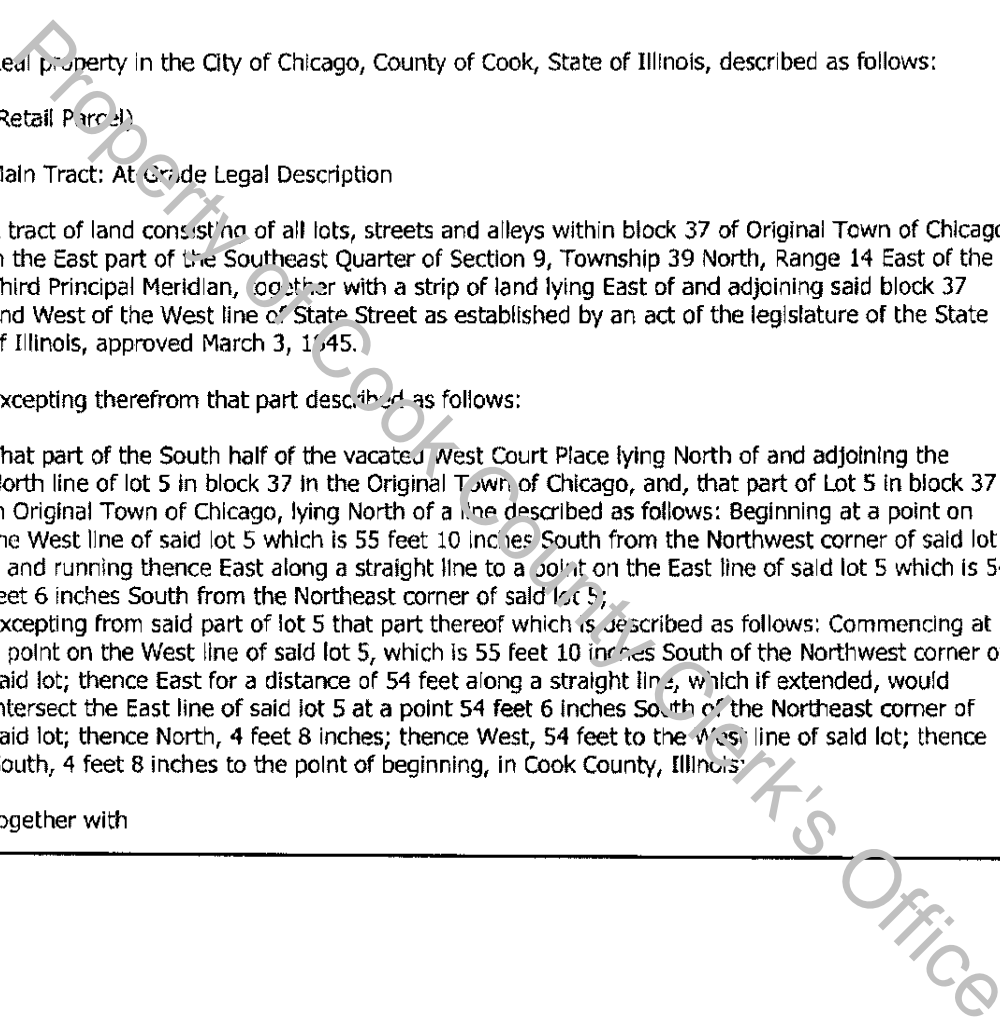
Main Tract: At Grade Legal Description

A tract of land consisting of all lots, streets and alleys within block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1945.

Excepting therefrom that part described as follows:

That part of the South half of the vacated West Court Place lying North of and adjoining the North line of lot 5 in block 37 in the Original Town of Chicago, and, that part of Lot 5 in block 37 in Original Town of Chicago, lying North of a line described as follows: Beginning at a point on the West line of said lot 5 which is 55 feet 10 inches South from the Northwest corner of said lot 5 and running thence East along a straight line to a point on the East line of said lot 5 which is 54 feet 6 inches South from the Northeast corner of said lot 5; excepting from said part of lot 5 that part thereof which is described as follows: Commencing at a point on the West line of said lot 5, which is 55 feet 10 inches South of the Northwest corner of said lot; thence East for a distance of 54 feet along a straight line, which if extended, would intersect the East line of said lot 5 at a point 54 feet 6 inches South of the Northeast corner of said lot; thence North, 4 feet 8 inches; thence West, 54 feet to the West line of said lot; thence South, 4 feet 8 inches to the point of beginning, in Cook County, Illinois;

together with



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(Main Tract Continued) P1 (Below Grade on West Randolph Street):

That part of West Randolph Street and that part of North State Street and that part of North Dearborn Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +14.50 Chicago City Datum and lying above a horizontal plane having an elevation of -85.50 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Beginning at the Northwest corner of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of said Section 9; thence South 89°08'58" East, along the North line of block 37, aforesaid, and the Easterly extension thereof, 324.63 feet to the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845; thence South 89°08'58" East, along said Easterly extension, 16.00 feet to a point on a line drawn 16.00 feet East of and parallel with the West line of State Street, aforesaid; thence North 00°00'00" East, along said parallel line, 16.31 feet to a point on a line drawn 16.31 feet North of and parallel with the North line of said block 37; thence North 89°08'58" West, along the last mentioned parallel line, 356.92 feet to a point on a line drawn 16.29 feet West of and parallel with the West line of said block 37; thence South 00°01'10" West, along the last mentioned parallel line, 16.31 feet to a point on the Westerly extension of the North line of said block 37; thence South 89°08'58" East, along said Westerly extension, 16.29 feet to the point of beginning, in Cook County, Illinois;

together with

(Main Tract Continued) P2 (Below Grade on North State Street):

That part of North State Street in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +14.50 Chicago City Datum and lying above a horizontal plane having an elevation of -85.50 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Beginning at the point of intersection of the Easterly extension of the North line of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of said Section 9 with the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845; thence South 89°08'58" East, along said Easterly extension, 16.00 feet to a point on a line drawn 16.00 feet East of and parallel with the West line of State Street, aforesaid; thence South 00°00'00" West, along said parallel line, 384.07 feet to the Easterly extension of the South line of said block 37; thence North 88°54'02" West, along the last mentioned Easterly extension, 16.00 feet to the West line of State Street, aforesaid; thence North 00°00'00" East, along the West line of State Street, aforesaid, 384.00 feet to the point of beginning, in Cook County, Illinois;

together with

(Main Tract Continued) P3 (Below Grade on West Washington Street):

That part of West Washington Street and that part of North State Street and that part of North Dearborn Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +14.50 Chicago City Datum and lying above a horizontal plane having an elevation of -85.50 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Beginning at the Southwest corner of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of said Section 9; thence South 88°54'02" East, along the South line of block 37, aforesaid, and the Easterly extension thereof, 324.79 feet to the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845; thence South 88°54'02" East, 16.00 feet to a point on a line drawn 16.00 feet East of and parallel with the West line of State Street, aforesaid; thence South 00°00'00" West, along said parallel line, 16.00 feet to a point on a line drawn 16.00 feet South of and parallel with the South line of said block 37; thence North 88°54'02" West, along the last mentioned parallel line, 357.09 feet to a point on a line drawn 16.29 feet West of and

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parallel with the West line of said block 37; thence North 00°01'10" East, along the last mentioned parallel line, 16.00 feet to a point on the Westerly extension of the South line of said block 37; thence South 88°54'02" East, along said Westerly extension, 16.29 feet to the point of beginning, in Cook County, Illinois;

together with

(Main Tract Continued) P4 (Below Grade on North Dearborn Street South of Commonwealth Edison Substation Property):

That part of North Dearborn Street in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +14.50 Chicago City Datum and lying above a horizontal plane having an elevation of -85.50 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Beginning at the Southwest corner of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of said Section 9; thence North 00°01'10" East, along the West line of block 37, aforesaid, 131.13 feet to a point which is 51.16 feet South of the Northwest corner of lot 5 in block 37, aforesaid, as measured along the West line of said lot 5; thence North 89°58'46" West, 16.29 feet to a line drawn 16.29 feet West of and parallel with the West line of said block 37; thence South 00°01'10" West, along said parallel line, 130.82 feet to the Westerly extension of the South line of said block 37; thence South 88°54'02" East along said Westerly extension, 16.29 feet to the point of beginning, in Cook County, Illinois;

together with

(Main Tract Continued) P5 (Below Grade on North Dearborn Street North of Commonwealth Edison Substation Property):

That part of North Dearborn Street in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +14.50 Chicago City Datum and lying above a horizontal plane having an elevation of -85.50 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Beginning at the Northwest corner of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of said Section 9; thence South 00°01'10" West, along the West line of block 37, aforesaid, 200.29 feet to the Northwest corner of lot 5 in block 37, aforesaid; thence North 89°01'30" West, 16.29 feet to a line drawn 16.29 feet West of and parallel with the West line of said block 37; thence North 00°01'10" East, along said parallel line, 200.26 feet to the Westerly extension of the North line of said block 37; thence South 89°08'58" East along said Westerly extension, 16.29 feet to the point of beginning, in Cook County, Illinois;

together with

(Main Tract Continued) P6 (Lower Level Above Grade {Approximately 0 to 15 Feet} on West Randolph Street):

That part of West Randolph Street and that part of North State Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +29.50 Chicago City Datum and lying above a horizontal plane having an elevation of +14.50 Chicago City Datum and lying within its horizontal boundaries project vertically and described as follows: Beginning at the Northwest corner of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of said Section 9; thence South 89°08'58" East, along the North line of block 37, aforesaid, and the Easterly extension thereof, 324.63 feet to the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845; thence South 89°08'58" East, along said Easterly extension, 1.50 feet to a point on a line drawn 1.50 feet East of and parallel with the West line of State Street, aforesaid; thence North 00°00'00" East, along said parallel line, 1.50 feet to a point on a line drawn 1.50 feet North of and parallel with the North line of said block 37; thence North 89°08'58" West, along the last mentioned

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parallel line, 326.13 feet to the Northerly extension of the West line of said block 37; thence South 00°01'10" West, along said Northerly extension, 1.50 feet to the point of beginning, in Cook County, Illinois;

together with

(Main Tract Continued) P7 (Lower Level Above Grade {Approximately 0 to 15 Feet} on North State Street):

That part of North State Street in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +29.50 Chicago City Datum and lying above a horizontal plane having an elevation of +14.50 Chicago City Datum and lying within its horizontal boundaries project vertically and described as follows: Beginning at the point of Intersection of the Easterly extension of the North line of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of said Section 9 with the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845; thence South 89°08'58" East, along said Easterly extension, 1.50 feet to a point on a line drawn 1.50 feet East of and parallel with the West line of State Street, aforesaid; thence South 00°00'00" West, along said parallel line, 384.00 feet to the Easterly extension of the South line of said block 37; thence North 88°54'02" West, along the last mentioned Easterly extension, 1.50 feet to the West line of State Street, aforesaid; thence North 00°00'00" East, along the West line of State Street, aforesaid, 384.00 feet to the point of beginning, in Cook County, Illinois;

together with

(Main Tract Continued) P8 (Upper Level Above Grade {Above Approximately 15 Feet} on West Randolph Street):

That part of West Randolph Street and that part of North State Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +689.50 Chicago City Datum and lying above a horizontal plane having an elevation of +29.50 Chicago City Datum and lying within its horizontal boundaries project vertically and described as follows: Beginning at the Northwest corner of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of said Section 9; thence South 89°08'58" East, along the North line of block 37, aforesaid, and the Easterly extension thereof, 324.63 feet to the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845; thence South 89°08'58" East, along said Easterly extension, 5.00 feet to a point on a line drawn 5.00 feet East of and parallel with the West line of State Street, aforesaid; thence North 00°00'00" East, along said parallel line, 5.00 feet to a point on a line drawn 5.00 feet North of and parallel with the North line of said block 37; thence North 89°08'58" West, along the last mentioned parallel line, 329.63 feet to the Northerly extension of the West line of said block 37; thence South 00°01'10" West, along said Northerly extension, 5.00 feet to the point of beginning, in Cook County, Illinois;

together with

(Main Tract Continued) P9 (Upper Level {Above Approximately 15 Feet} on North State Street):

That part of North State Street in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +689.50 Chicago City Datum and lying above a horizontal plane having an elevation of +29.50 Chicago City Datum and lying within its horizontal boundaries project vertically and described as follows: Beginning at the point of Intersection of the Easterly extension of the North line of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of said Section 9 with the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845; thence South 89°08'58" East, along said Easterly extension, 5.00 feet to a point on a line drawn 5.00 feet East of and parallel with the West line of

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State Street, aforesaid; thence South 00°00'00" West, along said parallel line, 384.02 feet to the Easterly extension of the South line of said block 37; thence North 88°54'02" West, along the last mentioned Easterly extension, 5.00 feet to the West line of State Street, aforesaid; thence North 00°00'00" East, along the West line of State Street, aforesaid, 384.00 feet to the point of beginning, in Cook County, Illinois;

together with

(Main Tract Continued) P10 (Upper Level Above Grade {Above Approximately 15 Feet} on West Washington Street):

That part of West Washington Street and that part of North State Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +689.50 Chicago City Datum and lying above a horizontal plane having an elevation of +29.50 Chicago City Datum and lying within its horizontal boundaries project vertically and described as follows: Beginning at the Southwest corner of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of said Section 9; thence South 88°54'02" East, along the South line of block 37, aforesaid, and the Easterly extension thereof, 324.79 feet to the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845; thence South 88°54'02" East, 5.00 feet to a point on a line drawn 5.00 feet East of and parallel with the West line of State Street, aforesaid; thence South 00°00'00" West, along said parallel line, 4.00 feet to a point on a line drawn 4.00 feet South of and parallel with the South line of said block 37; thence North 88°54'02" West, along the last mentioned parallel line, 329.79 feet to the Southerly extension of the West line of said block 37; thence North 00°01'10" East, along said Southerly extension, 4.00 feet to the point of beginning, in Cook County, Illinois;

together with

(Main Tract Continued) P11 (Below Grade on North State Street):

That part of North State Street in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +14.50 Chicago City Datum and lying above a horizontal plane having an elevation of -85.50 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the point of intersection of the Easterly extension of the North line of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of said Section 9 with the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845; thence South 89°08'58" East, along said Easterly extension, 16.00 feet to a point on a line drawn 16.00 feet East of and parallel with the West line of State Street, aforesaid; thence South 00°00'00" West, along said parallel line, 299.07 feet to the point of beginning; thence South 90°00'00" East, 4.00 feet; thence South 00°00'00" West, 101.08 feet to a point on a line drawn 16.00 feet South of and parallel with the South line of said block 37; thence North 88°54'02" West, along the last mentioned parallel line, 4.00 feet to a point on the line drawn 16.00 feet East of and parallel with the West line of State Street, aforesaid; thence North 00°00'00" East, along the line drawn 16.00 feet East of and parallel with the West line of State Street, aforesaid, 101.00 feet to the point of beginning, in Cook County, Illinois;

together with

(Main Tract Continued) P12 (Upper Level Above Grade {Above Approximately 15 Feet} on West Washington Street):

That part of West Washington Street in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +689.50 Chicago City Datum and lying above a horizontal plane having an elevation of +29.50 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the Southwest corner of block 37 of Original

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Town of Chicago in the East part of the Southeast Quarter of said Section 9; thence South 00°01'10" West, along the Southerly extension of the West line of block 37, aforesaid, 4.00 feet to a point on a line drawn 4.00 feet South of and parallel with the South line of said block 37, said point being the point of beginning; thence South 88°54'02" East, along the last mentioned parallel line, 26.03 feet; thence North 89°59'59" West, 26.02 feet to the point of intersection with the Southerly extension of the West line of said block 37, aforesaid; thence North 00°01'10" East, along the Southerly extension of the West line of block 37, aforesaid, 0.50 feet to the point of beginning, in Cook County, Illinois;

Except the Media Tower Parcels from the Main Tract:

Media Tower Parcels

Parcel MT-1 (Upper Limit -85.50 C.C.D. and No Lower Limit)

That part of a tract of land consisting of all lots, streets and alleys within block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, all taken as a tract lying below a horizontal plane having an elevation of -85.50 feet Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: Beginning at the Southwest corner of block 37, aforesaid; thence North 00°01'10" East, along the West line thereof, 131.13 feet to the property line of the Commonwealth Edison Company; the next 3 courses being along said Commonwealth Edison Company Property line and the Easterly extension thereof; thence South 89°58'46" East, 54.00 feet; thence South 00°01'22" East, 4.67 feet; thence South 89°58'46" East, 21.82 feet; thence South 50°07'57" East, 28.58 feet; thence South 90°00'00" East, 71.66 feet; thence South 41°59'02" East, 34.44 feet; thence South 34°03'23" East, 10.33 feet; thence South 43°07'59" East, 37.49 feet; thence South 00°00'00" West, 50.89 feet to a point on the South line of block 37, aforesaid; thence North 88°54'02" West, along the South line of block 37, aforesaid, a distance of 223.96 feet to the point of beginning, in Cook County, Illinois;

together with

Parcel MT-2 (Upper Limit -0.50 C.C.D. Lower Limit -85.50 C.C.D.)

That part of a tract of land consisting of all lots, streets and alleys within block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with the adjoining vacated portions of West Washington Street and North Dearborn Street all taken as a tract lying below a horizontal plane having an elevation of -0.50 feet Chicago City Datum and lying above a horizontal plane having an elevation of -85.50 feet Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: Commencing at the Southwest corner of block 37, aforesaid; thence South 00°01'10" West, Along the Southward extension of the West line of block 37, aforesaid, 16.00 feet to a point on the South line of that part of West Washington Street heretofore vacated between elevation -85.50 Chicago City Datum; thence North 88°54'02" West, along the aforementioned South line, 16.29 feet to a point on the West line of that part of North Dearborn Street heretofore vacated between elevation -85.05 Chicago City Datum and Elevation +14.50 Chicago City Datum, said point being the point of beginning; thence North 00°00'10" East, along the West line of that part of North Dearborn Street heretofore vacated, aforesaid, 146.82 feet to the Westerly extension of the property line of the Commonwealth Edison Company; the next 3 courses being along the Commonwealth Edison Company property line and the Westerly and Easterly extensions thereof; thence South 89°58'46" East, 70.29 feet; thence South 00°01'22" East, 4.67 feet; thence South 89°58'46" East, 21.82

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feet; thence South 50°07'57" East, 28.58 feet; thence South 90°00'00" East, 71.66 feet; thence South 41°59'02" East, 34.44 feet; thence South 34°03'23" East, 10.33 feet; thence South 43°07'59" East, 37.49 feet; thence South 00°00'00" West, 66.89 feet to a point on the South line of that part of West Washington Street heretofore vacated, aforesaid; thence North 88°54'02" West, along the aforementioned South line, 240.25 feet to the point of beginning, in Cook County, Illinois;

together with

Parcel MT-3 (Upper Limit +14.50 C.C.D. Lower Limit -0.50 C.C.D.)

That part of a tract of land consisting of all lots, streets and alleys within block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with the adjoining vacated portions of West Washington Street and North Dearborn Street all taken as a tract lying below a horizontal plane having an elevation of +14.50 feet Chicago City Datum and lying above a horizontal plane having an elevation of -0.50 feet Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: Commencing at the Southwest corner of block 37, aforesaid, thence South 00°01'10" West, along the Southward extension of the West line of block 37, aforesaid, 16.00 feet to a point on the South line of that part of West Washington Street heretofore vacated between elevation -85.50 Chicago City Datum and elevation +14.50 Chicago City Datum, thence North 88°54'02" West, along the aforementioned South line, 16.29 feet to a point on the West line of that part of North Dearborn Street heretofore vacated between elevation -85.50 Chicago City Datum and elevation +14.50 Chicago City Datum, said point being the point of beginning; thence North 00°01'10" East, along the West line of that part of North Dearborn Street heretofore vacated, aforesaid, 146.82 feet to the Westerly extension of the property line of the Commonwealth Edison Company; the next 3 courses being along the Commonwealth Edison Company property line and the Westerly and Easterly extensions thereof; thence South 89°58'46" East, 70.29 feet; thence South 00°01'22" East, 4.67 feet; thence South 89°58'46" East, 26.91 feet; thence South 00°00'00" West, 6.35 feet; thence South 90°00'00" East, 100.29 feet; thence South 00°00'00" West, 18.20 feet; thence South 90°00'00" East, 28.35 feet; thence South 45°00'00" East, 34.60 feet; thence South 00°00'00" West, 97.85 feet to a point on the South line of that part of West Washington Street heretofore vacated, aforesaid; thence North 88°54'02" West, along the aforementioned South line, 250.47 feet to the point of beginning, in Cook County, Illinois;

together with

Parcel MT-4 (Upper Limit +29.50 C.C.D. Lower Limit +14.50 C.C.D.)

That part of a tract of land consisting of all lots, streets and alleys within block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, all taken as a tract lying below a horizontal plane having an elevation of +29.50 feet Chicago City Datum and lying above a horizontal plane having an elevation of +14.50 feet Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: Beginning at the Southwest corner of block 37, aforesaid; thence North 00°01'10" East, along the West line thereof, 89.92 feet; thence South 90°00'00" East, 70.52 feet; thence North 58°10'30" East, 55.15 feet; thence South 90°00'00" East, 26.31 feet; thence South 00°00'00" West, 6.46 feet; thence South 90°00'00" East, 50.50 feet; thence South 00°00'00" West, 10.32 feet; thence South 90°00'00" East, 15.05 feet; thence South 45°00'00" East, 35.16 feet; thence South 00°00'00" West, 77.94 feet; thence South 90°00'00" East, 0.42 feet; thence South 00°00'00" West, 3.92 feet to a point on the South line of block 37, aforesaid; thence North 88°54'02" West, along the South line of block 37, aforesaid, a distance of 234.59 feet to the point of beginning, in Cook County, Illinois;

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together with

Parcel MT-5 (Upper Limit +34.50 C.C.D. Lower Limit +29.50 C.C.D.)

That part of a tract of land consisting of all lots, streets and alleys within block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, all taken as a tract lying below a horizontal plane having an elevation of +34.50 feet Chicago City Datum and lying above a horizontal plane having an elevation of +29.50 feet Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: Commencing at the Southwest corner of block 37, aforesaid; thence South 00°01'10" West, along the Southerly extension of the West line of block 37, aforesaid, 4.50 feet to a point on the South line of that part of West Washington Street heretofore vacated between elevation +29.50 Chicago City Datum and elevation +689.50 Chicago City Datum, said point being the point of beginning; thence North 00°01'10" East, along the West line of said block 37, and its Southerly extension, 94.42 feet; thence South 90°00'00" East, 70.52 feet; thence North 58°10'30" East, 55.15 feet; thence South 90°00'00" East, 26.31 feet; thence South 00°00'00" West, 6.46 feet; thence South 90°00'00" East, 50.50 feet; thence South 00°00'00" West, 10.32 feet; thence South 90°00'00" East, 15.05 feet; thence South 45°00'00" East, 35.16 feet; thence South 00°00'00" West, 77.94 feet; thence South 90°00'00" East, 0.42 feet; thence South 00°00'00" West, 7.92 feet to a point on the South line of that part of West Washington Street heretofore vacated, aforesaid; thence North 88°54'02" West, along the aforementioned South line, 208.56 feet; thence North 89°59'59" West, along the aforementioned South line, 26.02 feet to the point of beginning, in Cook County, Illinois;

together with

Parcel MT-6 (Upper Limit +52.50 C.C.D. Lower Limit +34.50 C.C.D.)

That part of a tract of land consisting of all lots, streets and alleys within block 37 of original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with the adjoining vacated portion of West Washington Street all taken as a tract lying below a horizontal plane having an elevation of +52.50 feet Chicago City Datum and lying above a horizontal plane having an elevation of +34.50 feet Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: Commencing at the Southwest corner of block 37, aforesaid; thence South 00°01'10" West, along the Southerly extension of the West line of block 37, aforesaid, 4.50 feet to a point on the South line of that part of West Washington Street heretofore vacated between elevation +29.50 Chicago City Datum and elevation +689.50 Chicago City Datum, said point being the point of beginning; thence North 00°01'10" East, along the West line of said block 37, and its Southerly extension, 94.42 feet; thence South 90°00'00" East, 70.52 feet; thence North 58°10'30" East, 55.15 feet; thence South 90°00'00" East, 26.31 feet; thence South 00°00'00" West, 6.46 feet; thence South 90°00'00" East, 50.50 feet; thence South 00°00'00" West, 2.88 feet; thence South 90°00'00" East, 39.92 feet; thence South 00°00'01" West, 110.25 feet; thence South 90°00'00" East, 0.42 feet; thence South 00°00'00" West, 7.92 feet to a point on the South line of that part of West Washington Street heretofore vacated, aforesaid; thence North 88°54'02" West, along the aforementioned South line, 208.56 feet; thence North 89°59'59" West, along the aforementioned South line, 26.02 feet to the point of beginning, in Cook County, Illinois;

together with

Parcel MT-7 (Upper Limit +103.83 C.C.D. Lower Limit +52.50 C.C.D.)

That part of a tract of land consisting of all lots, streets and alleys within block 37 of Original

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Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with the adjoining vacated portion of West Washington Street all taken as a tract lying below a horizontal plane having an elevation of +103.83 feet Chicago City Datum and lying above a horizontal plane having an elevation of +52.50 feet Chicago City Datum and lying above a horizontal boundary projected vertically and described as follows: Commencing at the Southwest corner of block 37, aforesaid; thence South 00°01'10" West, along the Southerly extension of the West line of block 37, aforesaid, 4.50 feet to a point on the South line of that part of West Washington Street heretofore vacated between elevation +29.50 Chicago City Datum and elevation +689.50 Chicago City Datum, said point being the point of beginning; thence North 00°01'10" East, along the West line of said block 37, and its Southerly extension, 123.50 feet; thence South 90°00'00" East, 234.03 feet; thence South 00°00'00" West, 119.58 feet; thence South 90°00'00" East, 0.42 feet; thence South 00°00'00" West, 7.92 feet to a point on the South line of that part of West Washington Street heretofore vacated, aforesaid; thence North 88°54'02" West, along the aforementioned South line, 208.56 feet; thence North 89°59'59" West, along the aforementioned South line, 26.02 feet to the point of beginning, in Cook County, Illinois;

together with

Parcel MT-8 (Upper Limit +117.83 C.C.D. Lower Limit +103.83 C.C.D.)

That part of a tract of land consisting of all lots, streets and alleys within block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with the adjoining vacated portion of West Washington Street all taken as a tract lying below a horizontal plane having an elevation of +117.83 feet Chicago City Datum and lying above a horizontal plane having an elevation of +103.83 feet Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: Commencing at the Southwest corner of block 37, aforesaid; thence South 00°01'10" West, along the Southerly extension of the West line of block 37, aforesaid, 4.50 feet to a point on the South line of that part of West Washington Street heretofore vacated between elevation +29.50 Chicago City Datum and elevation +689.50 Chicago City Datum, said point being the point of beginning; thence North 00°01'10" East, along the West line of said block 37, and its Southerly extension, 123.50 feet; thence South 90°00'00" East, 234.50 feet; thence South 00°00'00" West, 32.64 feet; thence North 90°00'00" West, 3.58 feet; thence South 00°00'00" West, 90.20 feet; thence South 90°00'00" East, 1.75 feet; thence South 00°00'00" West, 4.63 feet to a point on the South line of that part of West Washington Street heretofore vacated, aforesaid; thence North 88°54'02" West, along the aforementioned South line, 206.73 feet; thence North 89°59'59" West, along the aforementioned South line, 26.02 feet to the point of beginning, in Cook County, Illinois;

together with

Parcel MT-9 (Upper Limit +689.50 C.C.D. Lower Limit +117.83 C.C.D.)

That part of a tract of land consisting of all lots, streets and alleys within block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with the adjoining vacated portion of West Washington Street all taken as a tract lying below a horizontal plane having an elevation of +689.50 feet Chicago City Datum and lying above a horizontal plane having an elevation of +117.83 feet Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: Commencing at the Southwest corner of block 37, aforesaid; thence South 00°01'10" West, along the Southerly extension of the West line of block 37, aforesaid, 4.50 feet to a point on the South line of that part of West Washington Street

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heretofore vacated between elevation +29.50 Chicago City Datum and elevation +689.50 Chicago City Datum, said point being the point of beginning; thence North 00°01'10" East, along the West line of said block 37, and its Southerly extension, 123.50 feet; thence South 90°00'00" East, 234.50 feet; thence South 00°00'00" West, 127.50 feet to a point on the South line of that part of West Washington Street heretofore vacated, aforesaid; thence North 88°54'02" West, along the aforementioned South line, 208.56 feet; thence North 89°59'59" West, along the aforementioned South line, 26.02 feet to the point of beginning, in Cook County, Illinois;

together with

Parcel MT-10 (No Upper Limit Lower Limit +689.50 C.C.D.)

That part of a tract of land consisting of all lots, streets and alleys within block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, all taken as a tract lying above a horizontal plane having an elevation of +689.50 feet Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: Beginning at the Southwest corner of block 37, aforesaid; thence North 00°01'10" East, along the West line of said block 37, 119.00 feet; thence South 90°00'00" East, 234.50 feet; thence South 00°00'00" West, 123.50 feet to a point on the South line of block 37, aforesaid; thence North 88°54'02" West, along the aforementioned South line, 234.55 feet to the point of beginning, in Cook County, Illinois;

Also, except the CTA Parcels from the main tract:

CTA Parcels

CTA Parcel B1-1

That part of block 37 of Original Town of Chicago, together with a strip of land lying East of and adjoining said block 37 and West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with that part of vacated North State Street, together with that part of vacated West Washington Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +13.97 Chicago City Datum and lying above a horizontal plane having an elevation of -4.86 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the point of intersection of the Easterly extension of the South line of block 37, aforesaid, with the West line of North State Street as established by act of legislature on March 3, 1845, aforesaid; thence South 00°00'00" West, along said West line, 1.00 feet to the point of beginning; thence North 88°53'55" West, 90.62 feet; thence North 00°00'00" East, 25.87 feet; thence South 90°00'00" East, 12.21 feet; thence North 00°00'00" East, 9.31 feet; thence North 90°00'00" West, 2.21 feet; thence North 00°00'00" East, 8.53 feet; thence North 89°59'59" West, 10.00 feet; thence North 00°00'00" East, 39.14 feet; thence North 45°00'00" West, 34.69 feet; thence North 90°00'00" West, 28.35 feet; thence North 00°00'00" East, 18.20 feet; thence North 90°00'00" West, 54.43 feet; thence North 00°00'00" East, 8.00 feet; thence South 90°00'00" East, 10.25 feet; thence North 00°00'00" East, 4.42 feet; thence North 44°58'05" West, 22.89 feet; thence North 00°00'00" East, 11.30 feet; thence North 44°58'35" East, 20.51 feet; thence South 84°52'58" East, 104.19 feet; thence North 05°07'02" East, 2.14 feet; thence South 90°00'00" East, 34.20 feet; thence South 00°02'31" West, 7.04 feet; thence South 90°00'00" East, 45.09 feet; thence North 00°00'00" East, 15.88 feet; thence South 90°00'00" East, 4.93 feet; thence North 00°00'00" East, 0.50 feet; thence South 90°00'00" East, 2.98 feet; thence South 00°00'00" West, 5.45 feet; thence North 89°59'57" East, 7.33 feet; thence North 00°00'00" East, 6.28 feet; thence South 90°00'00" East, 5.02 feet; thence North 00°00'00" East, 15.94 feet; thence South 90°00'00" East, 1.83 feet; thence South 00°00'00" West, 21.88 feet; thence North 90°00'00" West, 5.00 feet; thence South 00°00'00" West, 52.64 feet; thence South

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90°00'00" East, 5.00 feet to a point on an East line of that part of vacated North State Street, aforesaid; thence South 00°00'00" West, along the last mentioned East line, 38.00 feet; thence North 90°00'00" West, 5.00 feet; thence South 00°00'00" West, 2.64 feet; thence South 28°49'46" East, 9.40 feet; thence South 00°00'00" West, 77.59 feet; thence North 88°53'55" West, 15.53 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B1-2A

That part of vacated North Dearborn Street lying West and adjoining block 37 of Original Town of Chicago, in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +14.50 Chicago City Datum and lying above a horizontal plane having an elevation of -13.75 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the Northwest corner of block 37, aforesaid; thence South 00°01'10" West, along the West line thereof, 161.29 feet; thence North 89°01'30" West, 9.25 feet; thence South 00°00'00" West, 1.31 to the point of beginning; thence South 00°00'00" West, 9.42 feet; thence North 90°00'00" West, 5.54 feet; thence North 00°00'00" East, 9.42 feet; thence South 90°00'00" East, 5.54 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B1-2B

That part of vacated North Dearborn Street lying West and adjoining block 37 of Original Town of Chicago, in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +13.75 Chicago City Datum and lying above a horizontal plane having an elevation of -4.86 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the Northwest corner of block 37, aforesaid; thence South 00°01'10" West, along the West line thereof, 161.29 feet to the point of beginning; thence South 00°01'10" West, along the West line of block 37, aforesaid, 30.00 feet to a point on the North line of the Commonwealth Edison Property; thence North 89°01'30" West, along the last mentioned North line, 16.29 feet to a point on the West line of that part of vacated North Dearborn Street, aforesaid; thence North 00°01'10" East, along the last mentioned West line, 30.00 feet; thence South 89°01'30" East, 16.29 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B1-3A

That part of Block 37 of Original Town of Chicago together with that part of vacated North Dearborn Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +14.50 Chicago City Datum and lying above a horizontal plane having an elevation of -4.86 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the Northwest corner of block 37, aforesaid; thence South 00°01'10" West, along the West line thereof, 14.70 feet to the point of beginning; thence South 90°00'00" East, 1.98 feet; thence South 00°03'05" West, 1.64 feet to the point of beginning; thence South 00°03'05" West, 33.19 feet; thence South 89°58'50" East, 9.80 feet; thence North 00°00'00" East, 33.19 feet; thence North 89°58'50" West, 9.77 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B1-3B

That part of Block 37 of Original Town of Chicago together with that part of vacated North

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Dearborn Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +14.50 Chicago City Datum and lying above a horizontal plane having an elevation of -3.79 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the Northwest corner of block 37, aforesaid; thence South 00°01'10" West, along the west line thereof, 14.70 feet to the point of beginning; thence South 90°00'00" East, 1.98 feet; thence South 00°03'05" West, 36.50 feet; thence South 89°59'53" West, 18.25 feet; thence North 00°01'10" East, 36.50 feet; thence South 90°00'00" East, 16.29 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B1-4

That part of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of +14.50 Chicago City Datum and lying above a horizontal plane having an elevation of -4.86 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the Northwest corner of block 37, aforesaid; thence South 00°01'10" West, along the West line thereof, 157.01 feet to the point of beginning; thence South 00°01'10" West, along the last mentioned West line, 15.28 feet; thence South 89°57'47" East, 34.07 feet; thence North 00°02'13" East, 15.28 feet; thence North 89°57'47" West, 34.08 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B1-5

That part of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying being a horizontal plane having an elevation of +12.75 Chicago City Datum and lying above a horizontal plane having an elevation of -4.86 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the Northwest corner of block 37, aforesaid; thence South 00°01'10" west, along the west line thereof, 172.29 feet to the point of beginning; thence South 00°01'10" West, along the last mentioned West line, 19.00 feet to a point on the North line of the Commonwealth Edison Property; thence South 89°01'30" East, along the last mentioned North line, 4.06 feet; thence North 00°00'05" west, 19.06 feet; thence North 89°57'47" West, 4.05 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B2-1

That part of Block 37 of Original Town of Chicago, together with a strip of land lying East of and adjoining said Block 37 and West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with that part of vacated West Washington Street, together with that part of vacated North Dearborn Street, together with that part of vacated West Randolph Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of -4.86 Chicago City Datum and lying above a horizontal plane having an elevation of -14.66 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the point of intersection of the Easterly extension of the South line of block 37, aforesaid, with the West line of North State Street as established by act of legislature on March 3, 1845, aforesaid; thence North 88°54'02" West, along the South line of Block 37 and its Easterly extension, aforesaid, 10.58 feet; thence North 01°05'58" East, 19.83 feet to the point of beginning; thence North 90°00'00" West, 18.95 feet; thence North 44°58'05" West, 80.54 feet; thence South 00°00'04" East, 28.53 feet; thence North 90°00'00" West, 5.20 feet; thence North 00°00'04" West, 23.33 feet; thence South 45°01'55" West, 8.90 feet; thence North 44°58'05" West, 6.83 feet; thence South

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45°01'55" West, 10.84 feet; thence North 43°07'59" West, 23.97 feet; thence North 34°03'23" West, 10.33 feet; thence North 41°59'02" West, 34.44 feet; thence North 90°00'00" West, 71.66 feet; thence North 50°07'57" West, 18.15 feet; thence South 90°00'00" East, 25.60 feet; thence South 44°58'05" East, 1.12 feet; thence South 89°58'05" East, 4.24 feet; thence North 45°01'55" East, 1.13 feet; thence South 90°00'00" East, 8.72 feet; thence North 00°00'00" East, 25.82 feet; thence North 44°58'05" West, 46.99 feet; thence North 90°00'00" West, 10.73 feet to a point on the East line of the Commonwealth Edison Property; thence North 00°01'45" East, along the last mentioned East line, 11.11 feet to the Northeast corner of the Commonwealth Edison Property; thence North 89°01'30" West, along the North line of the Commonwealth Edison Property, 77.21 feet; thence North 00°28'45" East, 91.43 feet; thence North 89°58'50" West, 1.80 feet; thence North 00°01'10" East, 100.33 feet; thence South 45°00'00" East, 61.75 feet; thence South 80°27'73" East, 0.51 feet; thence South 45°00'00" East, 2.44 feet; thence South 09°32'27" East, 0.51 feet; thence South 45°00'00" East, 8.76 feet; thence South 52°32'05" East, 6.28 feet; thence South 44°58'05" East, 7.95 feet; thence North 45°01'55" East, 8.91 feet; thence South 46°09'20" East, 7.33 feet; thence South 45°01'55" West, 9.06 feet; thence South 44°58'05" East, 36.37 feet; thence South 45°01'55" West, 1.50 feet; thence South 44°58'05" East, 4.00 feet; thence North 45°01'55" East, 1.50 feet; thence South 44°58'05" East, 38.43 feet; thence South 45°01'55" West, 1.50 feet; thence South 44°58'05" East, 38.43 feet; thence South 45°01'55" West, 1.50 feet; thence South 44°58'05" East, 4.00 feet; thence North 45°01'55" East, 1.50 feet; thence South 44°58'05" East, 17.52 feet; thence South 45°01'55" West, 1.50 feet; thence South 44°58'05" East, 4.00 feet; thence North 45°01'55" East, 1.50 feet; thence South 44°58'05" East, 16.95 feet; thence South 45°01'55" West, 1.50 feet; thence South 44°58'05" East, 4.00 feet; thence North 45°01'55" East, 2.14 feet; thence South 90°00'00" East, 16.18 feet; thence South 44°58'05" East, 61.69 feet; thence South 85°28'06" East, 1.31 feet; thence South 45°10'10" East, 15.06 feet; thence South 89°19'29" East, 2.80 feet; thence North 00°00'00" East, 10.63 feet; thence South 90°00'00" East, 8.33 feet; thence South 00°00'00" West, 32.96 feet; thence South 22°34'50" East, 13.01 feet; thence North 69°00'22" East, 17.42 feet; thence North 89°59'56" East, 31.42 feet; thence South 00°00'00" West, 91.84 feet; thence South 45°01'55" West, 13.95 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B2-2

That part of Block 37 of Original Town of Chicago, in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of -4.86 Chicago City Datum and lying above a horizontal plane having an elevation of -14.66 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the point of intersection of the Easterly extension of the South line of Block 37, aforesaid, with the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845; thence North 88°54'02" West, along the South line of block 37 and its Easterly extension, aforesaid, 37.84 feet; thence North 01°05'58" East, 5.35 feet to the point of beginning; thence North 90°00'00" West, 6.65 feet; thence North 44°58'05" West, 24.37 feet; thence North 45°01'55" East, 11.05 feet; thence South 44°58'05" East, 22.18 feet; thence South 00°00'00" West, 8.97 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B2-3

That part of block 37 of Original Town of Chicago, together with that part of vacated West Washington Street in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of -4.86 Chicago City Datum and lying above a horizontal plane having an elevation of -14.66 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the point of intersection of the Easterly extension of the South line of block 37, aforesaid, with the West line of State Street as established by an act of the legislature

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of the State of Illinois, approved March 3, 1845; thence North 88°54'02" West, along the South line of block 37 and its Easterly extension, aforesaid, 80.70 feet to the point of beginning; thence South 00°00'00" West, 1.00 feet; thence North 88°54'02" West, 9.67 feet; thence North 00°00'02" West, 8.53 feet; thence South 90°00'00" East, 9.67 feet; thence South 00°00'00" West, 7.71 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B3-1

That part of block 37 of Original Town of Chicago, together with a strip of land lying East of and adjoining said block 37 and West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with that part of vacated North State Street, together with that part of vacated West Washington Street, together with that part of vacated North Dearborn Street, together with that part of vacated West Randolph Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of -14.66 Chicago City Datum and lying above a horizontal plane having an elevation of -25.66 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the point of intersection of the Easterly extension of the South line of Block 37, aforesaid, with the West line of North State Street as established by act of legislature on March 3, 1845, aforesaid; thence North 88°54'02" West, along the South line of block 37 and its Easterly extension, aforesaid, 100.83 feet to the point of beginning; thence North 00°00'00" East, 50.89 feet; thence North 43°07'30" West, 37.49 feet; thence North 34°03'23" West, 10.33 feet; thence North 41°59'02" West, 34.47 feet; thence North 90°00'00" West, 71.66 feet; thence North 50°07'57" West, 18.15 feet; thence South 90°00'00" East, 40.06 feet; thence North 00°00'00" East, 25.98 feet; thence North 45°01'21" West, 50.21 feet; thence North 90°00'00" West, 8.33 feet to a point on the East line of the Commonwealth Edison Property; thence North 00°01'45" East, along the last mentioned East line, 8.71 feet to the Northeast corner of the Commonwealth Edison Property; thence North 89°01'30" West, along the North line of the Commonwealth Edison Property, 77.21; thence North 00°23'45" East, 89.80 feet; thence South 89°58'50" East, 1.39 feet; thence North 00°03'05" East, 110.24 feet; thence South 89°17'41" East, 17.27 feet; thence South 00°00'00" West, 31.59 feet; thence South 44°58'05" East, 4.62 feet; thence North 45°01'55" East, 7.44 feet; thence South 44°58'05" East, 29.28 feet; thence North 45°01'55" East, 20.48 feet; thence South 44°58'05" East, 6.67 feet; thence South 45°01'55" West, 20.48 feet; thence South 44°58'05" East, 26.36 feet; thence South 45°01'55" West, 1.49 feet; thence South 44°58'05" East, 3.25 feet; thence South 45°01'55" West, 2.78 feet; thence South 44°58'05" East, 30.17 feet; thence South 45°01'55" West, 1.50 feet; thence South 44°58'05" East, 4.00 feet; thence North 45°01'55" East, 1.50 feet; thence South 44°58'05" East, feet; thence South 45°01'55" West, 1.50 feet; thence South 44°58'05" East, 4.00 feet; thence North 45°01'55" East, 1.50 feet; thence South 44°58'05" East, 13.39 feet; thence North 45°01'55" East, 1.17 feet; thence South 44°58'05" East, 2.75 feet; thence South 45°01'55" West, 1.17 feet; thence South 44°58'05" East, 1.38 feet; thence South 45°01'55" West, 1.50 feet; thence South 44°58'05" East, 4.00 feet; thence North 45°01'55" East, 1.50 feet; thence South 44°58'05" East, 16.95 feet; thence South 45°01'55" West, 1.50 feet; thence South 44°58'05" East, 4.00 feet; thence North 45°02'34" East, 2.14 feet; thence South 90°00'00" East, 16.18 feet; thence South 44°58'05" East, 61.87 feet; thence South 90°00'00" East, 23.00 feet; thence South 00°00'00" West, 19.20 feet; thence South 45°01'55" West, 14.79 feet; thence South 44°58'05" East, 52.35 feet; thence South 90°00'00" East, 11.17 feet; thence North 00°00'00" East, 5.67 feet; thence South 90°00'00" East, 26.31 feet; thence South 00°00'00" West, 21.95 feet; thence South 90°00'00" East, 5.26 feet; thence South 00°45'20" West, 79.04 feet; thence North 88°25'23" West, 116.07 feet; thence North 00°00'00" East, 0.29 feet to the point of beginning (Except that part of block 37 of Original Town of Chicago, in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, described as follows: Commencing at the point of intersection of the Easterly extension of the South line of block 37, aforesaid, with the West line of North State Street as established by act of legislature on March 3, 1845, aforesaid; thence North 88°54'02" West, along the South line of block 37 and its Easterly extension, aforesaid, 78.89 feet; thence North 01°05'58" East, 25.10 feet to the point of beginning; thence North 90°00'00" West, 12.54 feet; thence North 00°00'00"

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East, 17.83 feet; thence South 90°00'00" East, 10.33 feet; thence South 00°00'00" West, 8.53 feet; thence South 90°00'00" East, 2.21 feet; thence South 00°00'00" West, 9.31 feet to the point of beginning), in Cook County, Illinois;

together with

CTA Parcel B4-1A

That part of block 37 of Original Town of Chicago, together with a strip of land lying East of and adjoining said block 37 and West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with that part of vacated North State Street, together with that part of vacated West Washington Street, together with that part of vacated North Dearborn Street, together with that part of vacated West Randolph Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of -25.66 Chicago City Datum and lying above a horizontal plane having an elevation of -45.00 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the point of intersection of the Easterly extension of the South line of block 37, aforesaid, with the West line of North State Street as established by act of legislature on March 3, 1845, aforesaid; thence South 00°00'00" west, along the west line of North State Street, aforesaid, 1.13 feet to the point of beginning; thence North 88°25'23" West, 32.24 feet; thence North 44°58'05" West, 245.03 feet; thence South 45°01'55" West, 6.58 feet; thence North 44°58'05" West, 18.14 feet; thence North 45°01'55" East, 6.58 feet; thence North 44°58'05" West, 14.33 feet; thence South 45°01'55" West, 4.41 feet; thence North 90°00'00" West, 12.58 feet; thence North 00°00'00" East, 18.83 feet; thence North 44°58'05" West, 107.08 feet; thence North 00°03'05" East, 94.60 feet; thence South 44°58'05" East, 58.35 feet; thence North 45°01'55" East, 3.58 feet; thence South 44°58'05" East, 196.72 feet; thence South 90°00'00" East, 17.08 feet; thence South 44°58'05" East, 61.87 feet; thence South 90°00'00" East, 23.00 feet; thence South 00°00'00" West, 19.33 feet; thence South 45°06'56" West, 14.44 feet; thence South 44°46'36" East, 74.81 feet; thence South 90°00'00" East, 26.82 feet; thence South 00°45'20" West, 79.38 feet; thence North 88°25'23" West, 15.22 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B4-1B

That part of block 37 of Original Town of Chicago, together with a strip of land lying East of and adjoining said block 37 and West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with that part of vacated North State Street, together with that part of vacated West Washington Street, together with that part of vacated North Dearborn Street, together with that part of vacated West Randolph Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of -4.97 Chicago City Datum and lying above a horizontal plane having an elevation of -45.00 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Beginning at the point of intersection of the South line of that part of vacated West Washington Street, aforesaid, with the East line of that part of vacated North State Street, aforesaid; thence North 88°54'02" West, along the last mentioned South line, 52.36 feet; thence North 00°00'00" East, 12.14 feet; thence South 88°25'23" East, 50.54 feet; thence North 00°45'20" East, 53.12 feet; thence South 90°00'00" East, 1.13 feet; thence South 00°00'00" West, 64.87 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B4-1C

That part of block 37 of Original Town of Chicago, together with a strip of land lying East of and adjoining said block 37 and West line of State Street as established by an act of the legislature of

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the State of Illinois, approved March 3, 1845, together with that part of vacated North State Street, together with that part of vacated West Washington Street, together with that part of vacated North Dearborn Street, together with that part of vacated West Randolph Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of -14.17 Chicago City Datum and lying above a horizontal plane having an elevation of -32.22 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the point of intersection of the Easterly extension of the South line of block 37, aforesaid, with the West line of North State Street as established by act of legislature on March 3, 1845, aforesaid; thence South 00°00'00" West, along the West line of North State Street, aforesaid, 1.13 feet; thence South 88°25'23" East, 7.35 feet to the point of beginning; thence South 01°34'37" West, 3.00 feet; thence North 88°25'23" West, 25.72 feet; thence North 01°34'37" East, 3.00 feet; thence South 88°25'23" East, 25.72 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B4-1D

That part of block 37 of Original Town of Chicago, together with a strip of land lying East of and adjoining said block 37 and West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with that part of vacated North State Street, together with that part of vacated West Washington Street, together with that part of vacated North Dearborn Street, together with that part of vacated West Randolph Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of -14.17 Chicago City Datum and lying above a horizontal plane having an elevation of -32.22 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the point of intersection of the Easterly extension of the South line of block 37, aforesaid, with the West line of North State Street as established by act of legislature on March 3, 1845, aforesaid; thence South 00°00'00" West, along the West line of North State Street, aforesaid, 1.13 feet; thence South 88°25'23" East, 15.22 feet; thence North 00°45'20" East, 14.11 feet to the point of beginning; thence North 00°45'20" East, 24.54 feet; thence South 89°14'40" East, 3.00 feet; thence South 00°45'20" West, 24.54 feet; thence North 89°14'40" West, 3.00 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B4-1E

That part of block 37 of Original Town of Chicago, together with a strip of land lying East of and adjoining said block 37 and West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with that part of vacated North State Street, together with that part of vacated West Washington Street, together with that part of vacated North Dearborn Street, together with that part of vacated West Randolph Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, all taken as a tract, lying below a horizontal plane having an elevation of -3.79 Chicago City Datum and lying above a horizontal plane having an elevation of -45.00 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Beginning at the intersection of the North line of that part of vacated West Randolph Street, aforesaid, with the West line of that part of vacated North Dearborn Street, aforesaid; thence South 89°08' 58" East, along the last mentioned North line, 18.29 feet; thence South 00°03'05" West, 110.73 feet; thence North 90°00'00" West, 18.23 feet to a point on the last mentioned West line; thence North 00°01'10" East, 111.01 feet to the point of beginning, in Cook County, Illinois;

together with

CTA Parcel B4-1F

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That part of block 37 of Original Town of Chicago, together with a strip of land lying East of and adjoining said block 37 and West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, together with that part of vacated North State Street, together with that part of vacated West Washington Street, together with that part of vacated North Dearborn Street, together with that part of vacated West Randolph Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, all taken as a tract, lying below a horizontal plane having an elevation of -14.17 Chicago City Datum and lying above a horizontal plane having an elevation of -32.22 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the intersection of the North line of that part of vacated West Randolph Street, aforesaid, with the West line of that part of vacated North Dearborn Street, aforesaid; thence South 89°08'58" East, along the last mentioned North line, 18.29 feet; thence South 00°03'05" West, 24.34 feet to the point of beginning; thence South 00°03'05" West, 28.75 feet; thence South 89°56'55" East, 3.00 feet; thence North 00°03'05" East, 28.75 feet; thence North 89°56'55" West, 3.00 feet to the point of beginning, In Cook County, Illinois;

together with

CTA Parcel B4-1G

That part of block 37 of Original Town of Chicago, together with a strip of land lying East of and adjoining said block 37 and West line of State Street as established by an act of the legislature of the state of Illinois, approved March 3, 1845, together with that part of vacated North State Street, together with that part of vacated West Washington Street, together with that part of vacated North Dearborn Street, together with that part of vacated West Randolph Street, all taken as a tract in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, all taken as a tract, lying below a horizontal plane having an elevation of -14.17 Chicago City Datum and lying above a horizontal plane having an elevation of -32.22 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the intersection of the North line of that part of vacated West Randolph Street, aforesaid, with the West line of that part of vacated North Dearborn Street, aforesaid; thence South 89°08'58" East, along the last mentioned North line, 18.29 feet; thence South 00°03'05" West, 77.71 feet to the point of beginning; thence South 00°03'05" West, 24.53 feet; thence South 89°56'55" East, 3.00 feet; thence North 00°03'05" East, 24.53 feet; thence North 89°56'55" West, 3.00 feet to the point of beginning. In Cook County, Illinois;

together with

CTA Parcel B4-2

That part of vacated North Dearborn Street lying West and adjoining block 37 of Original Town of Chicago, in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of -4.86 Chicago City Datum and lying above a horizontal plane having an elevation of -45.00 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the Northwest corner of block 37, aforesaid; thence South 00°01'10" West, along the West line thereof, 161.29 feet; thence North 89°01'30" West, 0.44 feet to the point of beginning; thence South 00°28'45" West, 30.00 feet to a point on the North line of the Commonwealth Edison Property extended West; thence North 89°01'30" West, along the last mentioned North line extended West, 15.61 feet to a point on the West line of that part of vacated North Dearborn Street, aforesaid; thence North 00°01'10" East, along the last mentioned West line, 30.00 feet; thence South 89°01'30" East, 15.85 feet to the point of beginning, In Cook County, Illinois;

together with

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CTA Parcel B4-3

That part of block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, lying below a horizontal plane having an elevation of -25.66 Chicago City Datum and lying above a horizontal plane having an elevation of -45.00 Chicago City Datum and lying within its horizontal boundaries projected vertically and described as follows: Commencing at the point of Intersection of the Easterly extension of the South line of block 37, aforesaid, with the West line of North State Street as established by act of legislature on March 3, 1845; thence North 88°54'02" West, along the South line of block 37 and its Easterly extension, aforesaid, 190.04 feet; thence North 01°05'58" East, 122.36 feet to the point of beginning; thence North 90°00'00" West, 10.25 feet; thence North 00°00'00" East, 8.33 feet; thence South 90°00'00" East, 10.25 feet; thence South 00°00'00" West, 8.33 feet to the point of beginning, in Cook County, Illinois;

Also Except the Air Rights Parcels from the Main Tract:

Air Rights Parcels

Parcel 1 (Part Between +92.50 C.C.D. to +689.50 C.C.D.)

That part of vacated West Randolph Street together with that part of vacated North State Street together with that part of a tract of land consisting of all lots, streets and alleys within block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, all taken as a tract, lying below a horizontal plane having an elevation of +689.50 feet Chicago City Datum and above a horizontal plane having an elevation of +92.50 feet Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: Beginning at the Northwest corner of block 37, aforesaid; thence North 00°01'10" East, along the Westerly line of that part of vacated West Randolph Street, aforesaid, 5.00 feet to the Northwest corner thereof; thence South 89°08'58" East, along the Northerly line of that part of vacated West Randolph Street, aforesaid, 329.63 feet to the Easterly line of that part of vacated North State Street, aforesaid; thence South 00°00'00" West, along the Easterly line of that part of vacated North State Street, aforesaid, 89.12 feet; thence North 90°00'00" West, 229.85 feet; thence South 12°36'25" West, 46.74 feet; thence South 15°39'45" West, 41.34 feet.; thence North 90°00'00" West, 78.44 feet to the West line of block 37, aforesaid; thence North 00°01'10" East, along the west line of block 37, aforesaid 174.43 feet to the point of beginning, in Cook County, Illinois;

together with

Parcel 2 (Part Above +689.50 C.C.D.)

That part of a tract of land consisting of all lots, streets and alleys within block 37 of Original Town of Chicago in the East part of the Southeast Quarter of Section 9, Township 39 North, Range 14 East of the Third Principal Meridian, together with a strip of land lying East of and adjoining said Block 37 and West of the West line of State Street as established by an act of the legislature of the State of Illinois, approved March 3, 1845, all taken as a tract, lying above a horizontal plane having an elevation of +689.50 feet Chicago City Datum and lying within its horizontal boundary projected vertically and described as follows: Beginning at the Northwest corner of Block 37, aforesaid; thence South 89°08'58" East, along the North of said Block 37 and the Easterly extension thereof, 324.63 feet to the West line of State Street as established by an act of the legislature of the State of Illinois, aforesaid; thence South 00°00'00" West, along said West line, 84.19 feet; thence North 90°00'00" West, 224.85 feet; thence South 12°36'25" West, 46.74 feet; thence South 15°39'45" West, 41.34 feet; thence North 90°00'00" West, 78.44 feet to the West line of block 37, aforesaid; thence North 00°01'10" East, along the West line of block 37, aforesaid 174.43 feet to the point of beginning, in Cook County, Illinois.

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EXHIBIT B

LEGAL DESCRIPTION OF THE AIR RIGHTS PARCEL

PROPERTY ADDRESS: 108 NORTH STATE STREET, CHICAGO, IL 60602

PERMANENT INDEX NUMBERS: 17-09-451-036-0000
 17-09-451-037-0000
 17-09-451-038-0000

THAT PART OF VACATED WEST RANDOLPH STREET TOGETHER WITH THAT PART OF VACATED NORTH STATE STREET TOGETHER WITH THAT PART OF A TRACT OF LAND CONSISTING OF ALL LOTS, STREETS AND ALLEYS WITHIN BLOCK 37 OF ORIGINAL TOWN OF CHICAGO IN THE EAST PART OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH A STRIP OF LAND LYING EAST OF AND ADJOINING SAID BLOCK 37 AND WEST OF THE WEST LINE OF STATE STREET AS ESTABLISHED BY AN ACT OF THE LEGISLATURE OF THE STATE OF ILLINOIS, APPROVED MARCH 3, 1845, ALL TAKEN AS A TRACT, LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF +689.50 FEET CHICAGO CITY DATUM AND ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF +32.50 FEET CHICAGO CITY DATUM AND LYING WITHIN ITS HORIZONTAL BOUNDARY PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF BLOCK 37, AFORESAID; THENCE NORTH 00°01'10" EAST, ALONG THE WESTERLY LINE OF THAT PART OF VACATED WEST RANDOLPH STREET, AFORESAID, 5.00 FEET TO THE NORTHWEST CORNER THEREOF; THENCE SOUTH 89°08'58" EAST, ALONG THE NORTHERLY LINE OF THAT PART OF VACATED WEST RANDOLPH STREET, AFORESAID, 329.63 FEET TO THE EASTERLY LINE OF THAT PART OF VACATED NORTH STATE STREET, AFORESAID; THENCE SOUTH 00°00'00" WEST, ALONG THE EASTERLY LINE OF THAT PART OF VACATED NORTH STATE STREET, AFORESAID, 89.12 FEET; THENCE NORTH 90°00'00" WEST, 229.85 FEET; THENCE SOUTH 12°36'25" WEST, 46.74 FEET; THENCE SOUTH 15°39'45" WEST, 41.34 FEET; THENCE NORTH 90°00'00" WEST, 78.44 FEET TO THE WEST LINE OF BLOCK 37, AFORESAID; THENCE NORTH 00°01'10" EAST, ALONG THE WEST LINE OF BLOCK 37, AFORESAID 174.43 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 2: (PART ABOVE +689.50 C.C.D.) THAT PART OF A TRACT OF LAND CONSISTING OF ALL LOTS, STREETS AND ALLEYS WITHIN BLOCK 37 OF ORIGINAL TOWN OF CHICAGO IN THE EAST PART OF THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH A STRIP OF LAND LYING EAST OF AND ADJOINING SAID BLOCK 37 AND WEST OF THE WEST LINE OF STATE STREET AS ESTABLISHED BY AN ACT OF THE LEGISLATURE OF THE STATE OF ILLINOIS, APPROVED MARCH 3, 1845, ALL TAKEN AS A TRACT, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF +689.50 FEET CHICAGO CITY DATUM AND LYING WITHIN ITS HORIZONTAL BOUNDARY PROJECTED VERTICALLY AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF BLOCK 37, AFORESAID; THENCE SOUTH 89°08'58" EAST, ALONG THE NORTH LINE OF SAID BLOCK 37 AND THE EASTERLY EXTENSION THEREOF, 324.63 FEET TO THE WEST LINE OF STATE STREET AS ESTABLISHED BY AN ACT OF THE LEGISLATURE OF THE STATE OF ILLINOIS, AFORESAID; THENCE SOUTH 00°00'00" WEST, ALONG SAID WEST LINE, 84.19 FEET; THENCE NORTH 90°00'00" WEST, 224.85 FEET; THENCE SOUTH 12°36'25" WEST, 46.74 FEET; THENCE SOUTH 15°39'45" WEST, 41.34 FEET; THENCE NORTH 90°00'00" WEST, 78.44 FEET TO THE WEST LINE OF BLOCK 37, AFORESAID; THENCE NORTH 00°01'10" EAST, ALONG

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THE WEST LINE OF BLOCK 37, AFORESAID 174.43 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

NON-EXCLUSIVE EASEMENT IN FAVOR OF PARCELS 1 AND 2 AS CREATED BY DECLARATION OF EASEMENTS, RESERVATIONS, COVENANTS AND RESTRICTIONS, DATED NOVEMBER 10, 2005 AND RECORDED NOVEMBER 14, 2005 AS DOCUMENT NUMBER 0531834084, MADE BY CHICAGO TRANSIT AUTHORITY, A MUNICIPAL CORPORATION OF THE STATE OF ILLINOIS, 108 NORTH STATE STREET II, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY, BLOCK 37, L.L.C, A DELAWARE LIMITED LIABILITY COMPANY AND BLOCK 37 OFFICE, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY; FOR THE FOLLOWING PURPOSES:

(A) INGRESS, EGRESS AND ACCESS TO AND FROM THE BLOCK 37 PARCEL OVER, UNDER, ACROSS AND THROUGH THE PORTION OF THE DEVELOPMENT SITE FOR THE PURPOSE OF DEVELOPMENT AND CONSTRUCTION OF THE DEVELOPMENT PROJECT AND THE CTA PROJECT, INCLUDING, WITHOUT LIMITATION, CONSTRUCTION AND COMPLETION BY 108 NORTH STATE STREET II, L.L.C. OF THE MILLS PORTION OF THE CTA PROJECT PURSUANT TO THE DEVELOPMENT AGREEMENT (SUCH EASEMENT TO INCLUDE, WITHOUT LIMITATION, NECESSARY EXCAVATION, TUNNELING, CONSTRUCTION, MATERIAL STORAGE AND ALL OTHER RELATED CONSTRUCTION ACTIVITY BY CONTRACTORS, SUBCONTRACTORS, REPRESENTATIVES, SURVEYORS, CONSULTANTS, EMPLOYEES AND AGENTS FROM TIME TO TIME OF BLOCK 37, L.L.C., 108 NORTH STATE STREET II, L.L.C., BLOCK 37 OFFICE, L.L.C., A DELAWARE LIMITED LIABILITY COMPANY AND CHICAGO TRANSIT AUTHORITY, AS THE CASE MAY BE) (DEFINED THEREIN AS THE "CONSTRUCTION ACCESS EASEMENTS"); (B) SUPPORT IN AND TO ALL STRUCTURAL MEMBERS, SLABS, CAISSONS, BEAMS, FOUNDATIONS, COLUMNS AND OTHER FACILITIES LOCATED WITHIN THE DEVELOPMENT PROJECT (DEFINED THEREIN AS THE "SUPPORT EASEMENTS"); (C) INSTALLATION, USE AND MAINTENANCE OF UTILITY LINES AND FACILITIES, INCLUDING THE RIGHT TO INSTALL, LAY, MAINTAIN, REPAIR, REPLACE LINES, WIRES, CONDUITS AND EQUIPMENT FOR UTILITY SERVICE REQUIRED FOR THE DEVELOPMENT PROJECT (DEFINED THEREIN AS THE "UTILITY EASEMENTS"); (D) CONSTRUCTION, USE AND MAINTENANCE OF COMMON WALLS, FLOORS, CEILINGS AND ENCLOSURES ALONG ANY COMMON PROPERTY LINES AND BOUNDARIES, INCLUDING THE RIGHT TO MAINTAIN UNINTENTIONAL ENCROACHMENTS RESULTING FROM CONSTRUCTION OF THE DEVELOPMENT PROJECT (DEFINED THEREIN AS THE "COMMON EASEMENTS"); (E) SUCH EASEMENTS AS SHALL BE REASONABLY NECESSARY FOR THE CONSTRUCTION, REPAIR, REPLACEMENT, MAINTENANCE AND OPERATION OF THE DEVELOPMENT PROJECT (DEFINED THEREIN AS "MISCELLANEOUS EASEMENT"); AND (F) INGRESS, EGRESS AND ACCESS OVER, ACROSS AND THROUGH THE CTA PARCEL AND THE EXISTING CTA FACILITIES AS SHALL BE REQUIRED TO ENABLE 108 NORTH STATE STREET II, L.L.C. TO EXERCISE THE "MILLS SELF-HELP RIGHT" AS PROVIDED IN THE DEVELOPMENT AGREEMENT (DEFINED THEREIN AS THE "MILLS SELF-HELP RIGHT EASEMENT").

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EXHIBIT C

Intentionally deleted.



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EXHIBIT D

SITE PLAN

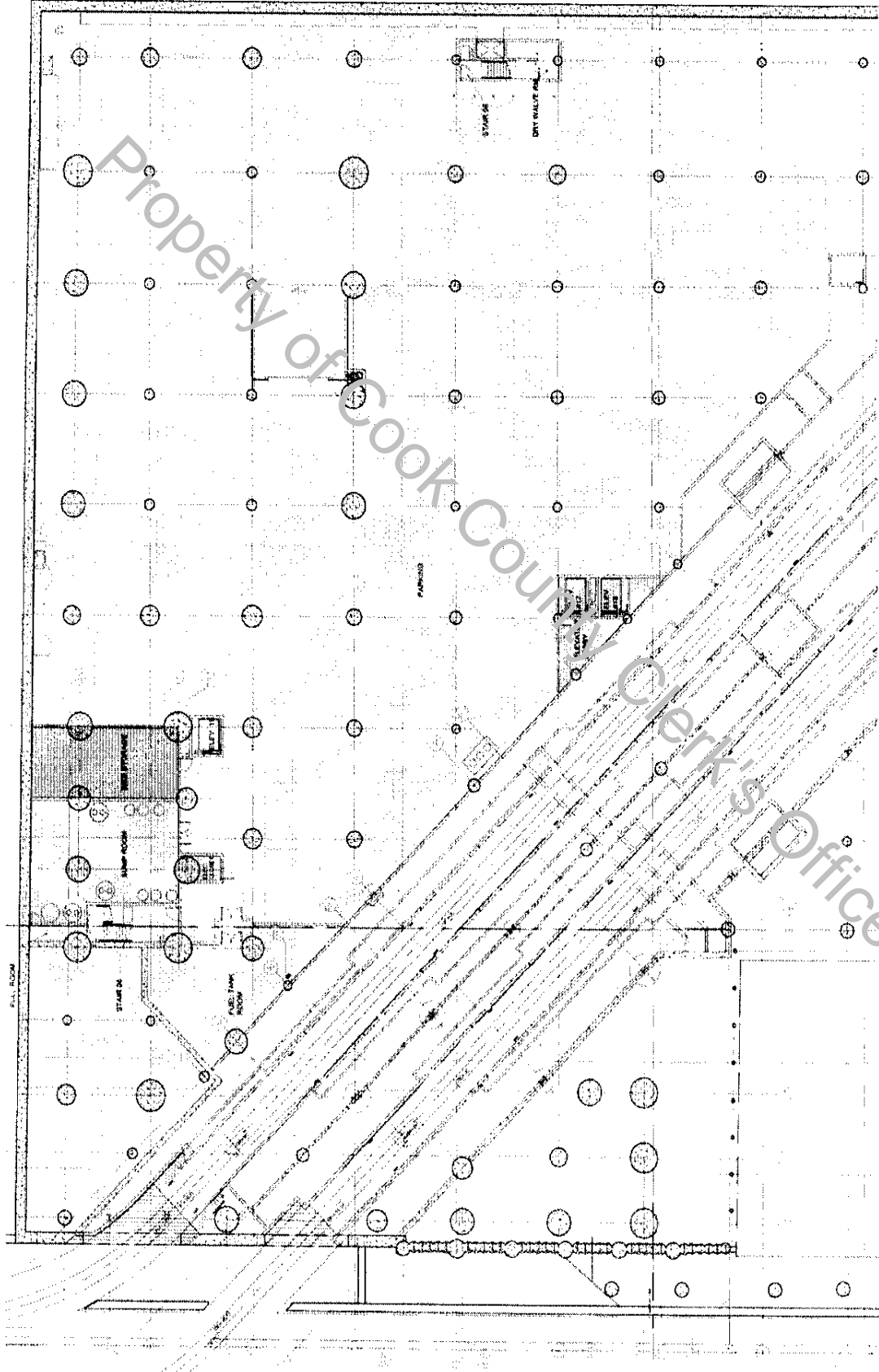


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LEVEL B4

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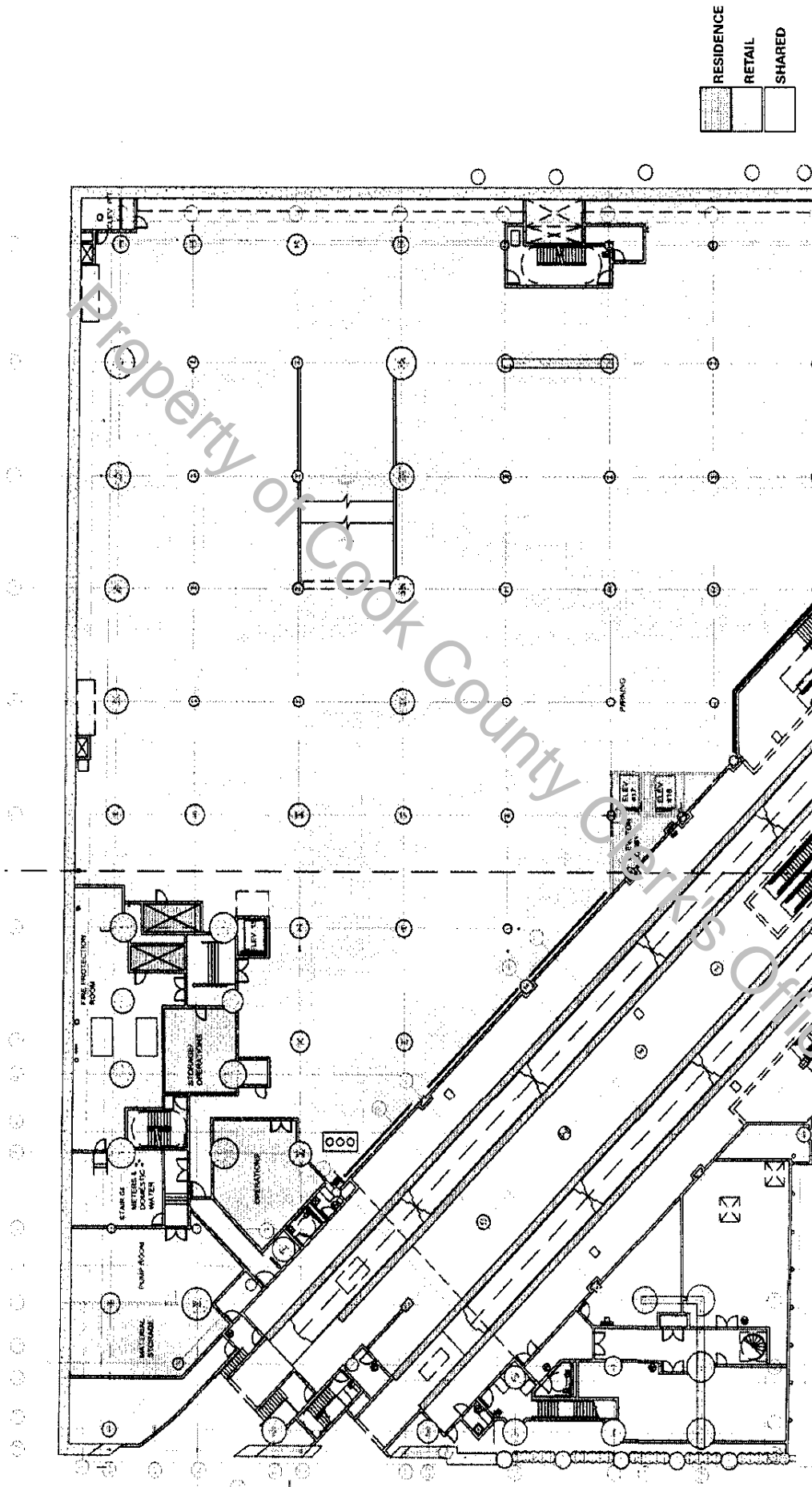
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 RETAIL
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DRAFT

LEVEL B3

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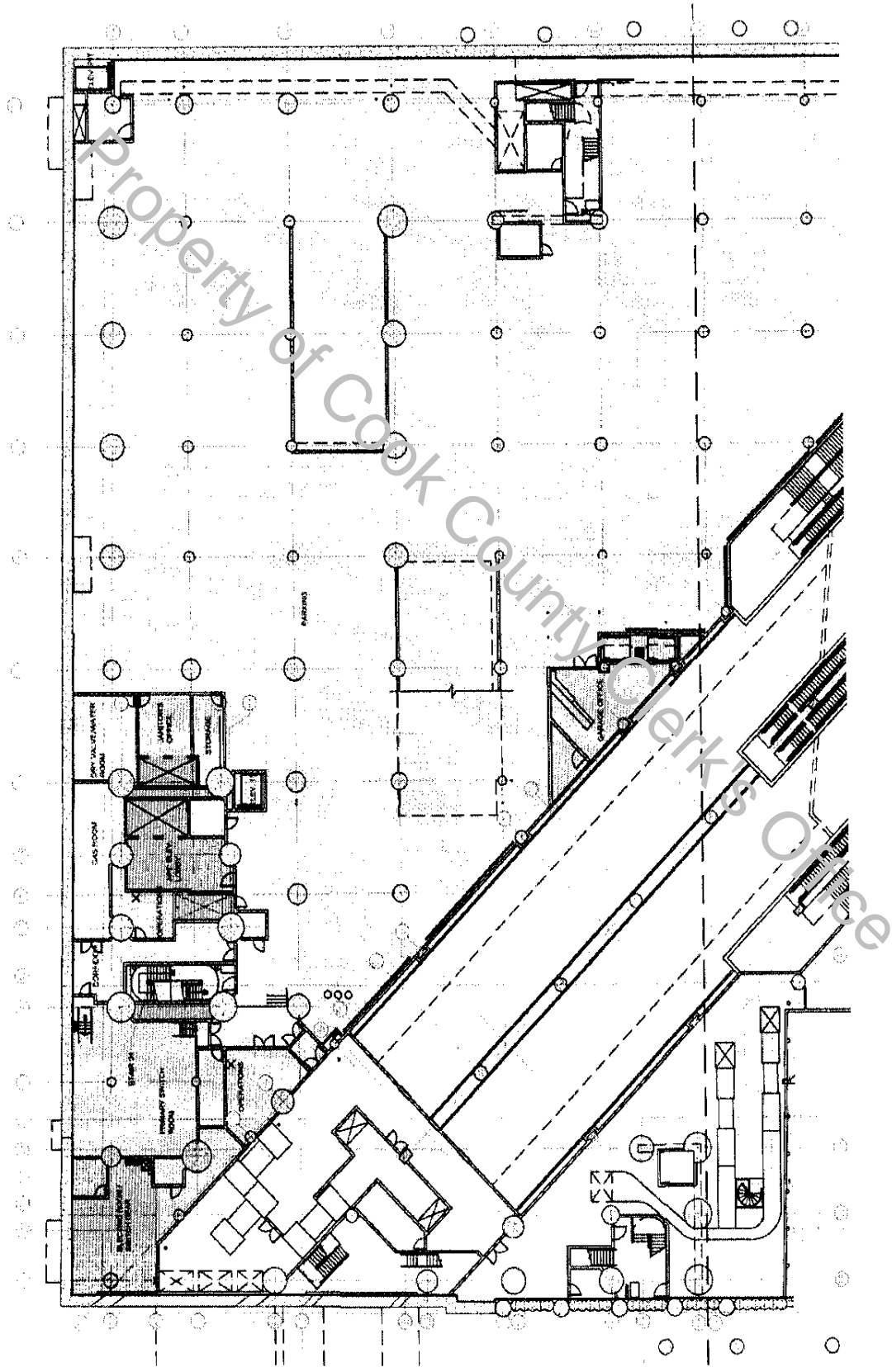
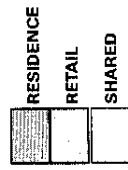


PROPERTY OF COOK COUNTY CRIMINAL JUSTICE EXHIBIT

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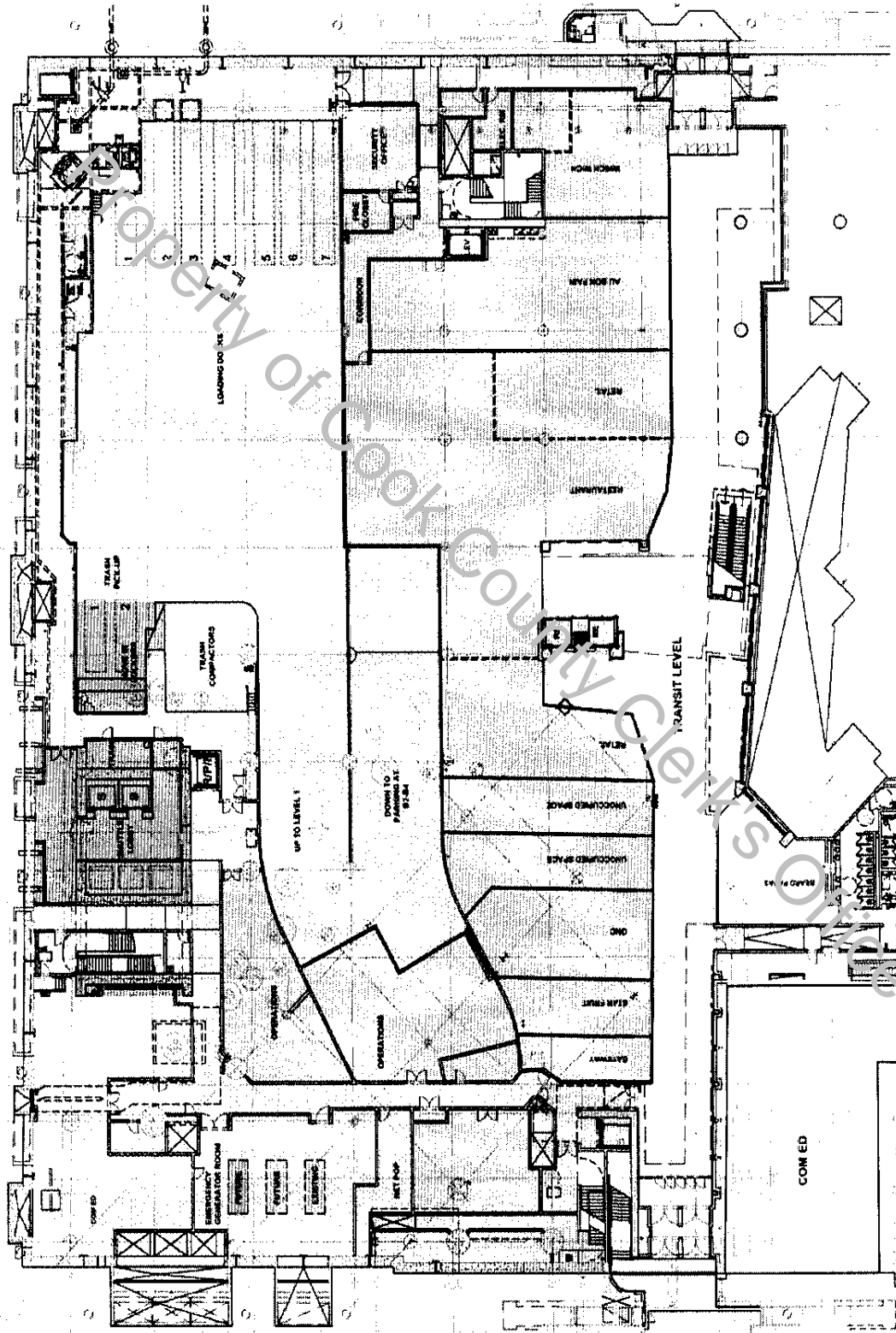
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	SHARED



DRAFT

AIRRIGHT EXHIBIT



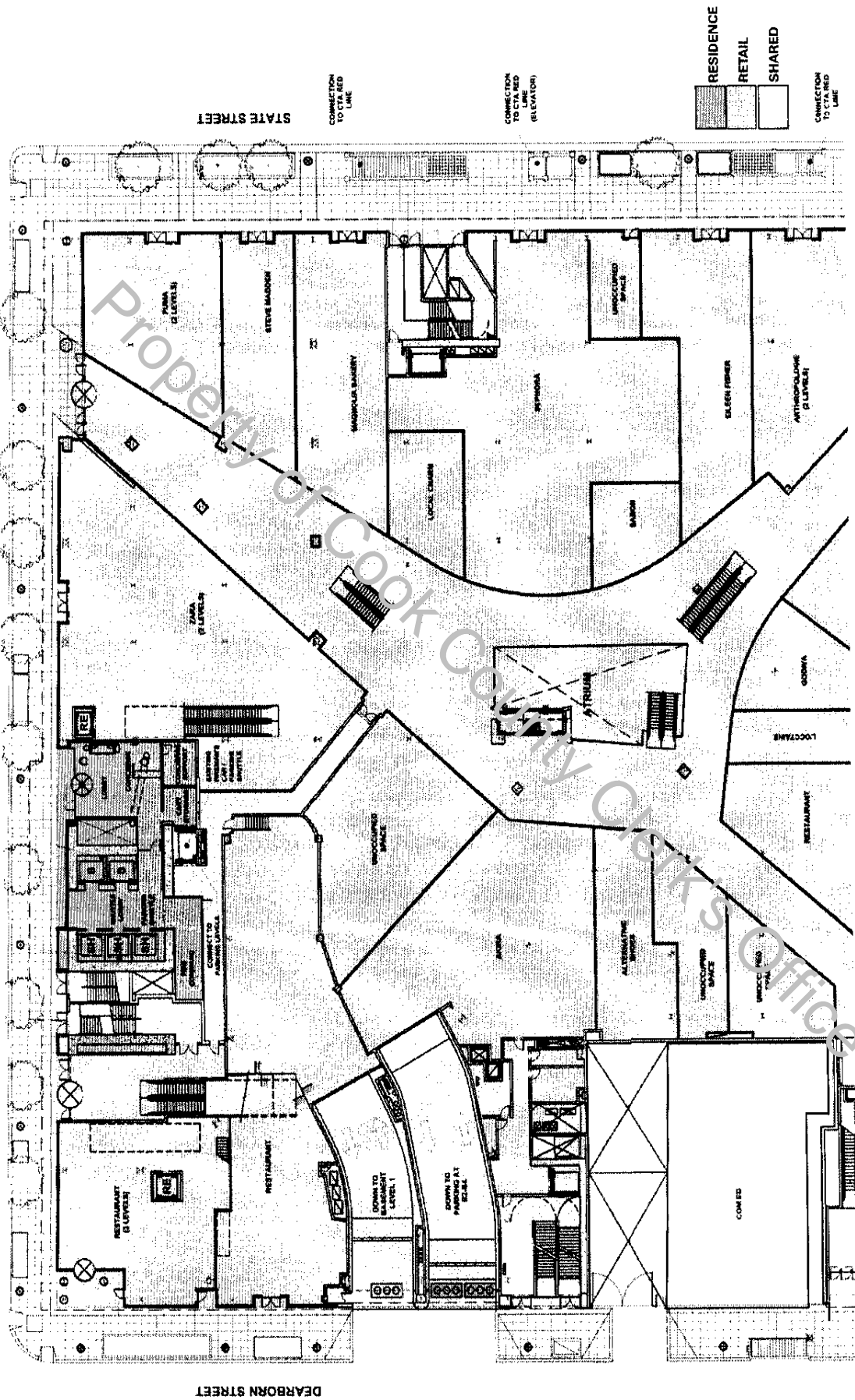
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LEVEL 1

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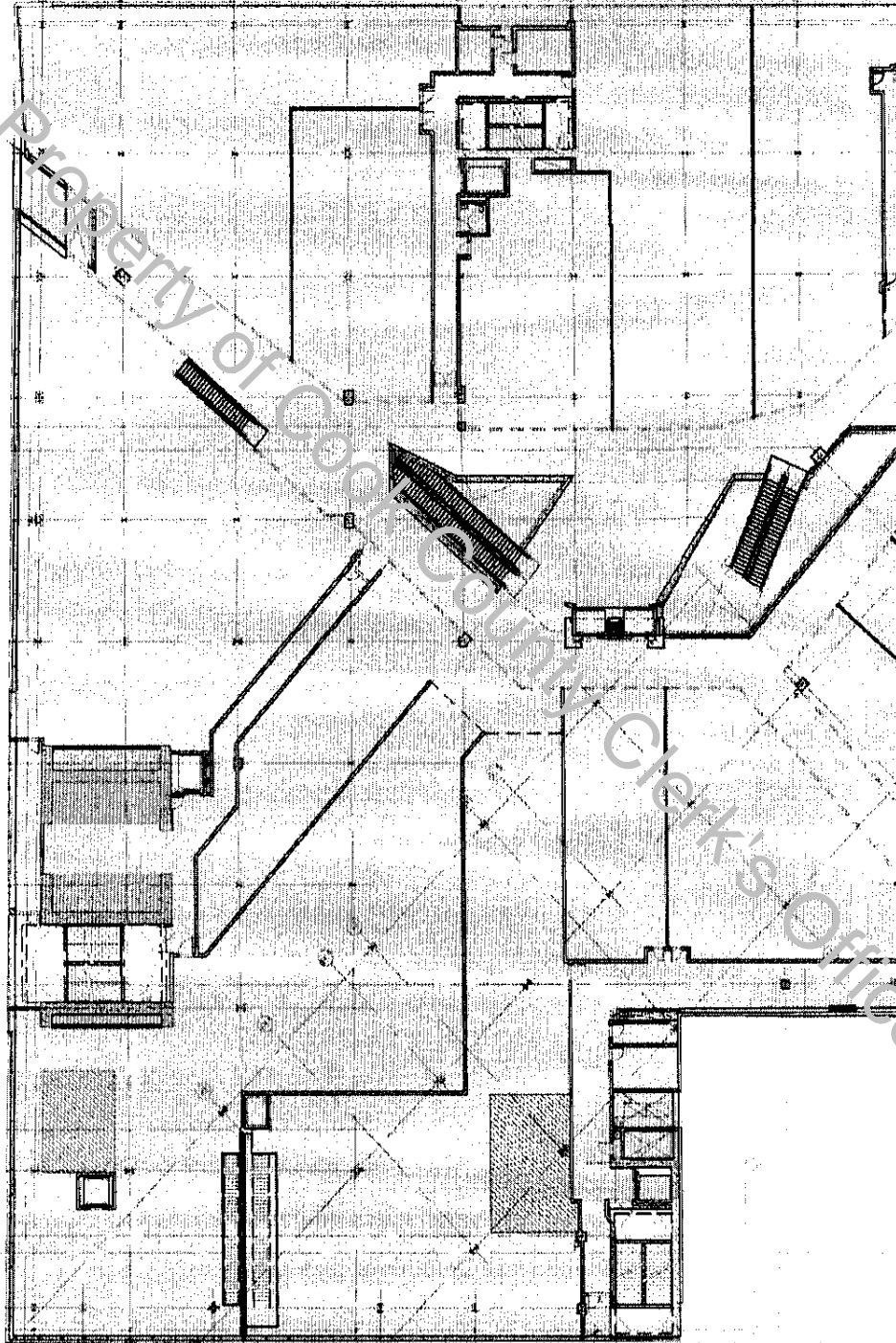
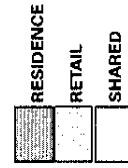
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LEVEL 2

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ATTACHED EXHIBIT

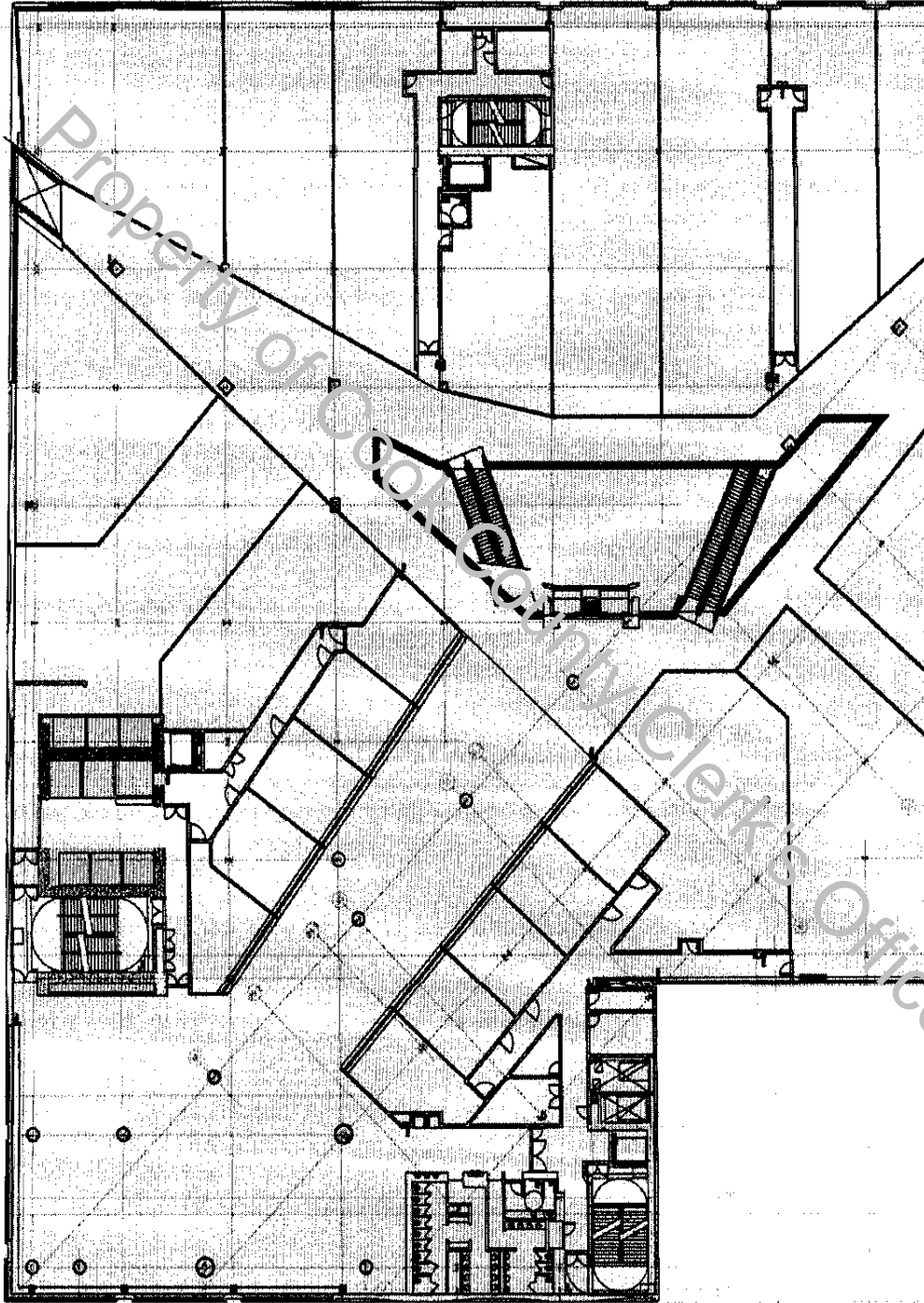
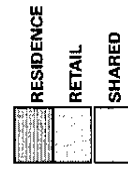


© 2013, 2011, 2009, 2007, 2005, 2003
© 24, 2013 20, 2015, 2001

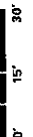
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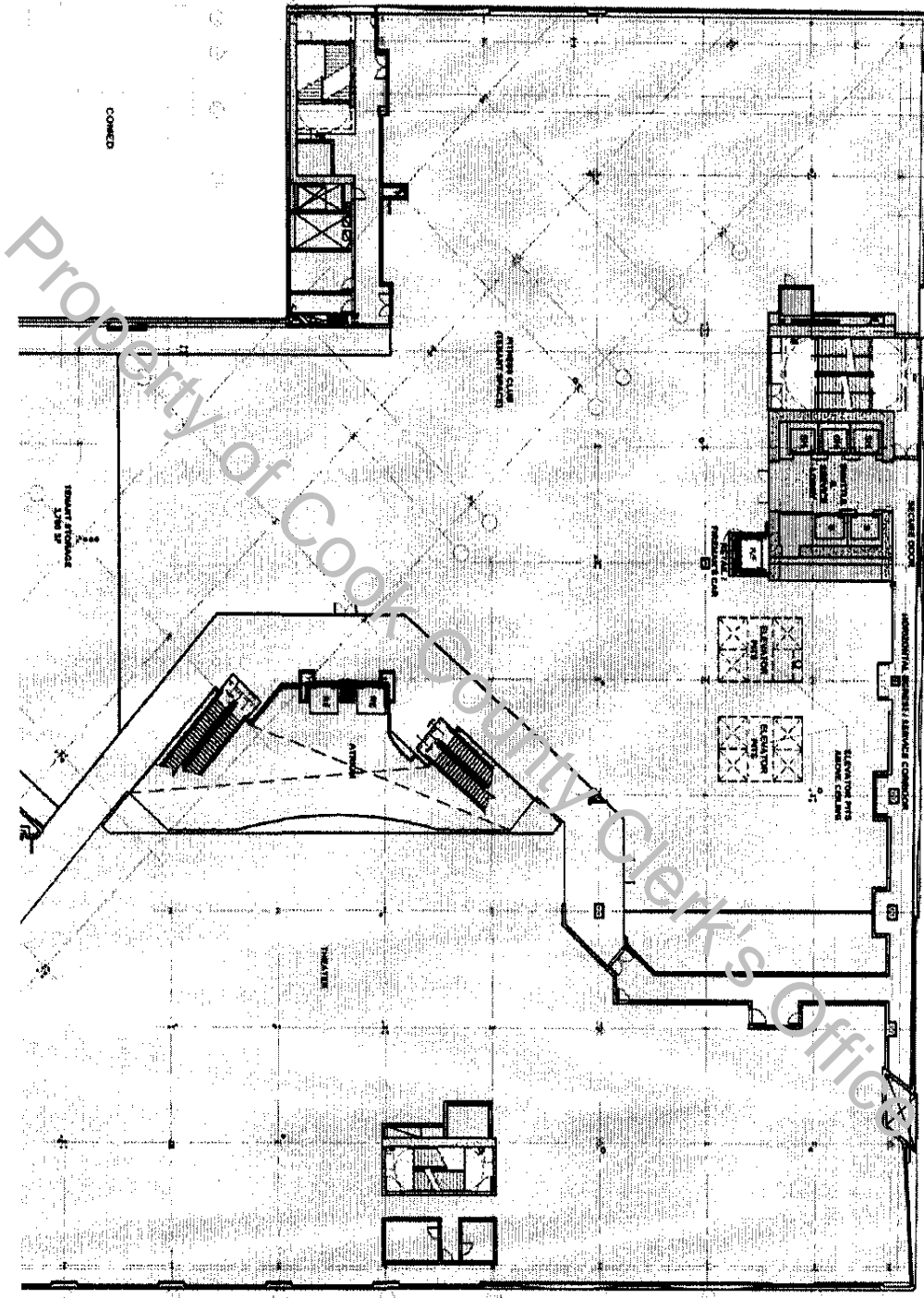
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PROPERTY AIR RIGHT EXHIBIT

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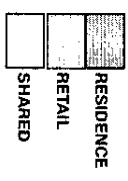


© 2013 Siskinon, Cornwall, Buntz
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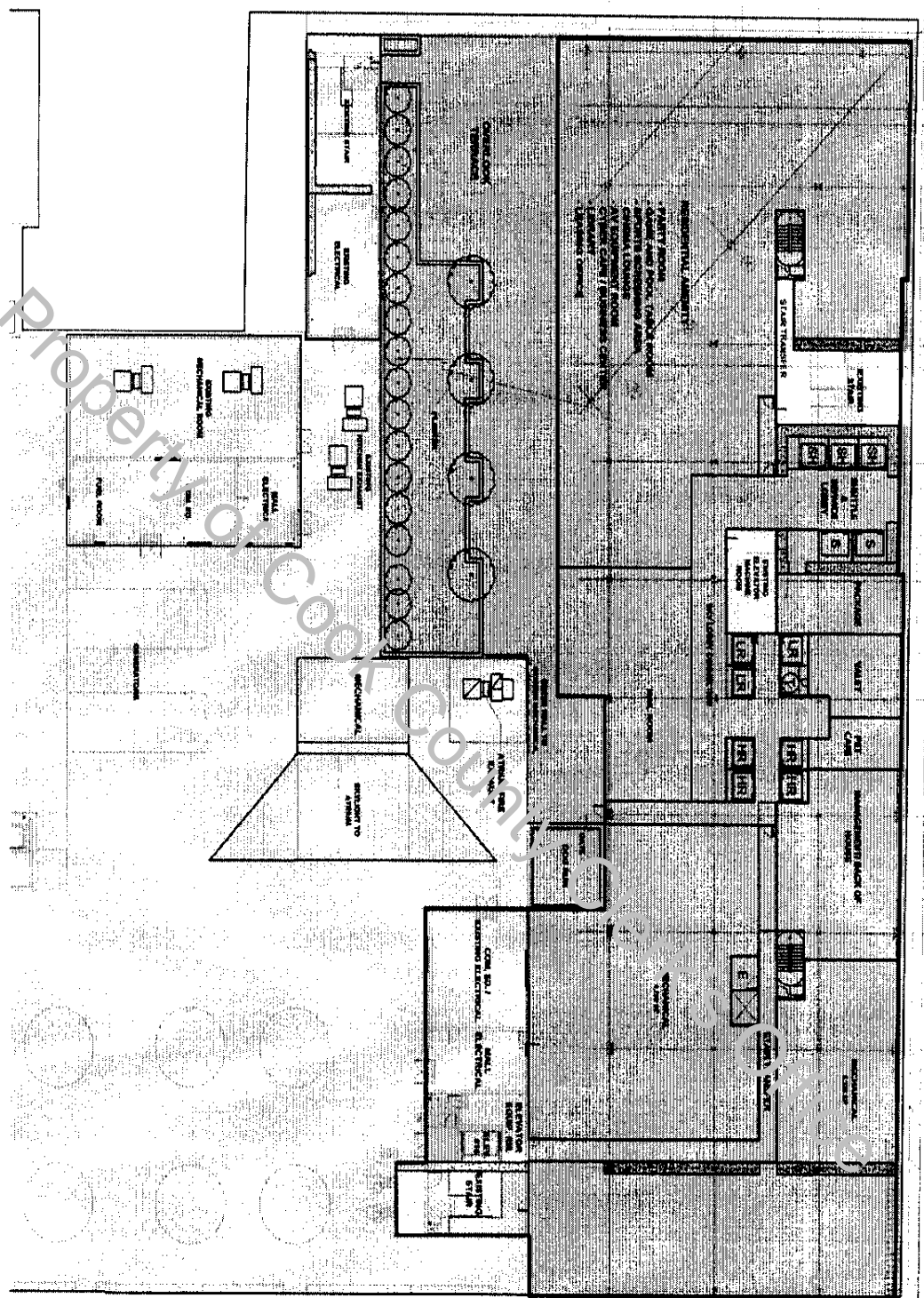


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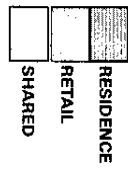
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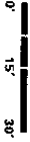


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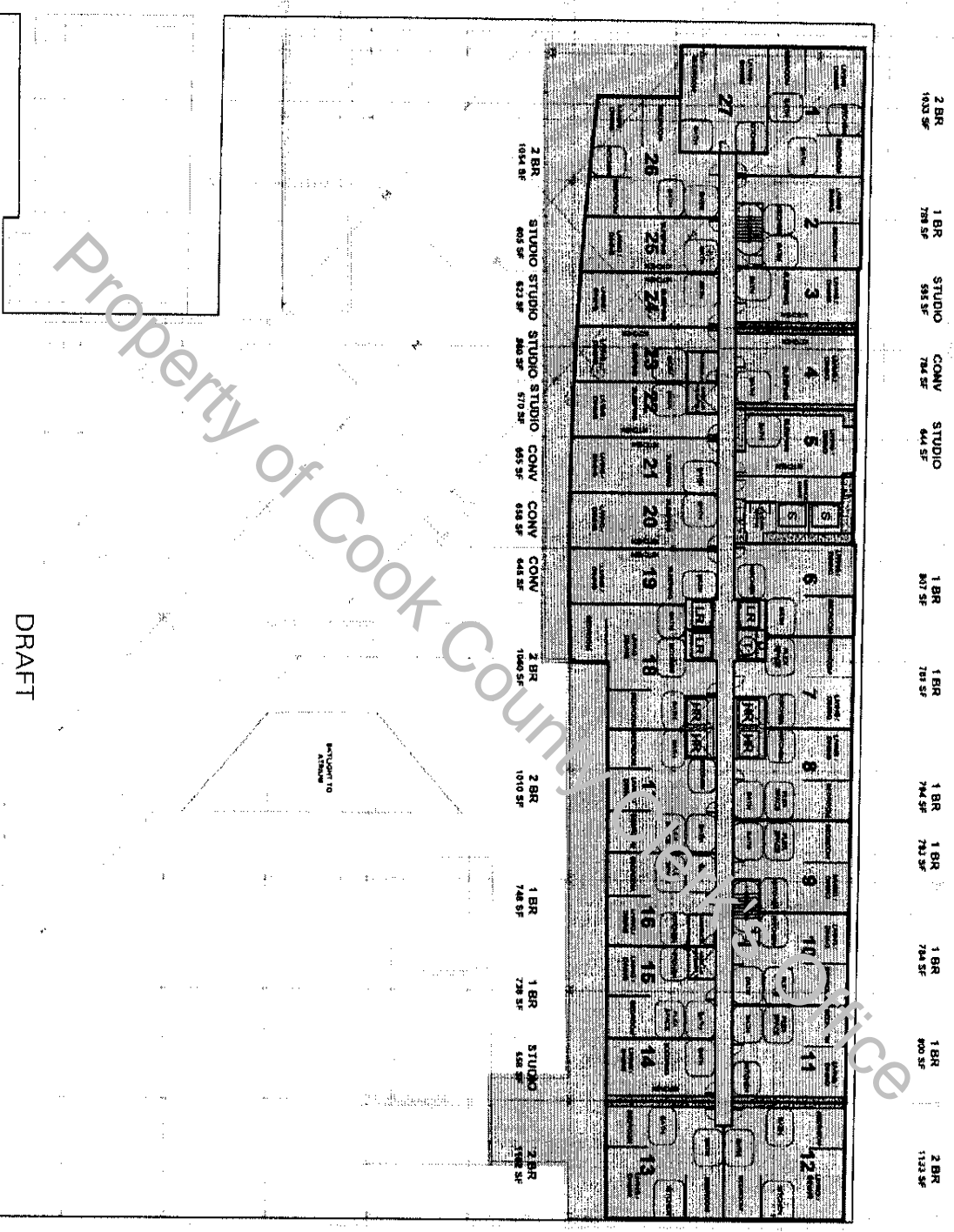
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AIRRIGHT EXHIBIT

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LEVEL 6 AND ABOVE

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- The following equipment and apparatus comprise the Joint Use Equipment:
1. Heating, Ventilating and Air Conditioning (HVAC):
All HVAC equipment serving the Parking Facilities.
 2. Automatic Fire Sprinkler System:
The automatic fire sprinkler system consisting of fire pumps, piping and sprinkler heads throughout the Combined Project and Parking Facilities.
 3. Fire Alarm System:
The fire alarm system consisting of main fire control room, distribution and devices.
 4. Smoke Control Systems:
Front end system for the Smoke Control System
 5. Plumbing Systems:
The storm drainage system is part of the Joint Use Equipment.
 6. Electrical:
The electrical service serving both the Residential Component and the Retail Component is part of the Joint Use Equipment.
 7. Loading Dock:
All equipment associated exclusively with the use of the loading dock, including without limitation any entry and exit gates, any hoists or other loading apparatus, any intercom system and any attendant desks or work areas.

Joint Use Equipment

EXHIBIT E

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INSURANCE SCHEDULE

EXHIBIT F

I. MASTER PROPERTY INSURANCE

The "Master Property Insurance" shall mean a policy of property insurance commonly known as an "all risks" or "special form" policy (including boiler & machinery comprehensive form, if applicable), in an amount equal to the full replacement cost thereof, including costs attributable to a change in laws and depreciation, with such reasonable deductible amounts as may be customary from time to time in other first-class mixed-use projects in the downtown Chicago area and otherwise satisfying any other reasonable requirements of any Mortgagee of the Air Rights Project. Such policy of property insurance shall insure against all risks, including but not limited to, fire, windstorm, impact by aircraft or vehicle, smoke damage, water damage, flood, sprinkler leakage, riot, civil commotion, or terrorists acts and loss other than loss or damage by earthquake (unless the Owners elect to obtain such earthquake insurance). Such policy shall also comply with any requirements of the Redevelopment Agreement.

The Master Property Insurance shall not cover tenant improvements within the Air Rights Project or the interior of any residential condominiums, apartments or hotel rooms within the Air Rights Project. Until Air Rights Owner commences paying Owner Assessments for Insurance Expenses, the Master Property Insurance shall not cover the Air Rights Project.

II. INSURANCE POLICY REQUIREMENTS OTHER THAN MASTER POLICY

During the Term, each Owner shall maintain, or cause to be maintained, the following policies of insurance, and each such policy shall comply with the requirements of Redevelopment Agreement for so long as such agreement is applicable to the Combined Project:

A. **Liability Insurance.** Commercial general liability insurance having a combined single limit of not less than Three Million Dollars (\$3,000,000) per occurrence, with no deductible providing coverage for bodily injury, property damage, personal injury, product liability, and completed operations. Such limit may be reached by a combination of a primary liability policy of at least One Million Dollars (\$1,000,000) and following form excess and/or umbrella liability insurance shall drop down as layers below are exhausted, provided, however, that such drop down or following form coverage shall otherwise comply with all other provisions contained in this Section I. Such liability policy shall include a deletion of the exclusion for explosion, collapse or underground hazard, if applicable, and contain a blanket written contractual liability clause and shall cover contractual liability of the insured Person under written agreements.

B. **Property Insurance.** A policy of property insurance ("Property Insurance") commonly known as an "all risks" or "special form" policy (including boiler & machinery comprehensive form, if applicable), covering tenant improvements or the interior of residential condominiums, apartments or hotel rooms, as applicable, in an amount equal to the full replacement cost thereof, including costs attributable to a change in laws and including the cost of excavations, footings, and foundations below the lowest floor without deduction for depreciation, with such reasonable deductible amounts as may be customary from time to time in Comparable Projects and otherwise satisfying any other reasonable requirements of any Mortgagee of any Parcel. Such policy of property insurance shall insure against all risks, including but not limited to, fire, windstorm, impact by aircraft or vehicle, smoke damage, water damage, flood, sprinkler leakage, riot, civil commotion, terrorists acts and loss or damage by earthquake (with coverage levels based on maximum probable loss analysis as set forth in a seismic analysis prepared by a licensed engineer, unless such coverage is not available at commercially reasonable rates, as reasonably determined by the Owner and Mortgagee of such Component).

C. **Worker's Compensation Insurance.** Worker's compensation insurance having limits

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C. **Policies of Insurance.** Each party required to maintain the insurance described above shall deliver to each Owner original, signed insurance policies, including the declarations pages, all coverage parts and endorsements, and all financial agreements within ten (10) business days from receipt of such policies from the respective insurance underwriter. Original, signed insurance certificates shall be provided to any other Additional Insureds for all coverage required as provided above on or before the date upon which such insurance obligation commences. The insurance policies, certificates and endorsements of each insurance policy shall be signed by a person authorized by the insurer to sign

B. **Additional Insureds.** All insurance policies required by this Insurance Schedule (except for worker's compensation, professional liability, owners protective and property insurance coverage) shall name by endorsement (providing for completed operations, as applicable) as additional insureds ("Additional Insureds") each Owner, all Mortgagees, their respective directors, officers, employees, contractors and agents, and such other persons as an Owner reasonably requests be named as an Additional Insured solely with respect to the operations of the first-named insured at the Combined Project (such as a manager or operator or an "anchor" lessee or lessee of a substantial portion of a Component). All property insurance policies required by this Insurance Schedule to be maintained with respect to a Component shall name the Owner of the other Component as mortgagee under a standard mortgage clause or lender's loss payable endorsement; provided, however, that the Owner obtaining such insurance shall be the sole agent with respect to receiving notice and the Owner of the Component on which the Casualty occurs shall be the sole party to whom the payment shall be made in settlement of claims, subject to the insurance Trustee provisions of the Declaration or unless otherwise agreed in writing by such Owner.

A. **Insurance Companies.** The insurance described above shall be written by companies having a "General Policyholders Rating" of at least A VIII or such higher rating as may be required by a Mortgagee) as set forth in the most current issue of "Best's Insurance Guide" or an equivalent rating from another industry-accepted rating agency, unless otherwise agreed by each Owner.

III. GENERAL PROVISIONS

E. **Builder's Risk Insurance.** During any period when construction within a Component is taking place, the Owner of such Component shall carry or shall cause its contractor to carry, a policy of Builders Risk Insurance written on a completed value form. Such insurance shall be "All Risk" (including the perils of flood and earthquake, provided earthquake coverage is available at a commercial reasonable rate on the open market), provide in-transit coverage, including loading and unloading, off-site storage and loss of rents; and all exclusions therein for Boiler and Machinery, if any, shall be deleted. With regard to earthquake, coverage levels shall be based on maximum probable loss analysis as set forth in a seismic analysis prepared by a licensed engineer.

D. **Automobile Liability Insurance.** A policy of insurance covering automobile liability in the amount of One Million Dollars (\$1,000,000) per accident for bodily injury and property damage. Such insurance may be provided by a combination of a primary policy and following form excess and/or umbrella liability insurance, provided, however, that such following form or umbrella coverage shall otherwise comply with all other provisions contained in this Schedule. If hazardous materials (other than in de minimis amounts) are to be transported off of any Parcel, a MCS90 endorsement and a CA99 48 (or most recent edition of ISO form or equivalent) endorsement shall be attached to such automobile liability policy at full policy limits. With respect to the Subterranean Garage only, Parking Manager shall obtain such Automobile Liability Insurance and such Automobile Liability Insurance shall also include "garagekeepers legal liability coverage" in such reasonable coverage amounts as are determined by the Parking Manager covering legal liability for loss to a Occupant's automobile or Occupant's automobile equipment left in the care of the Parking Manager.

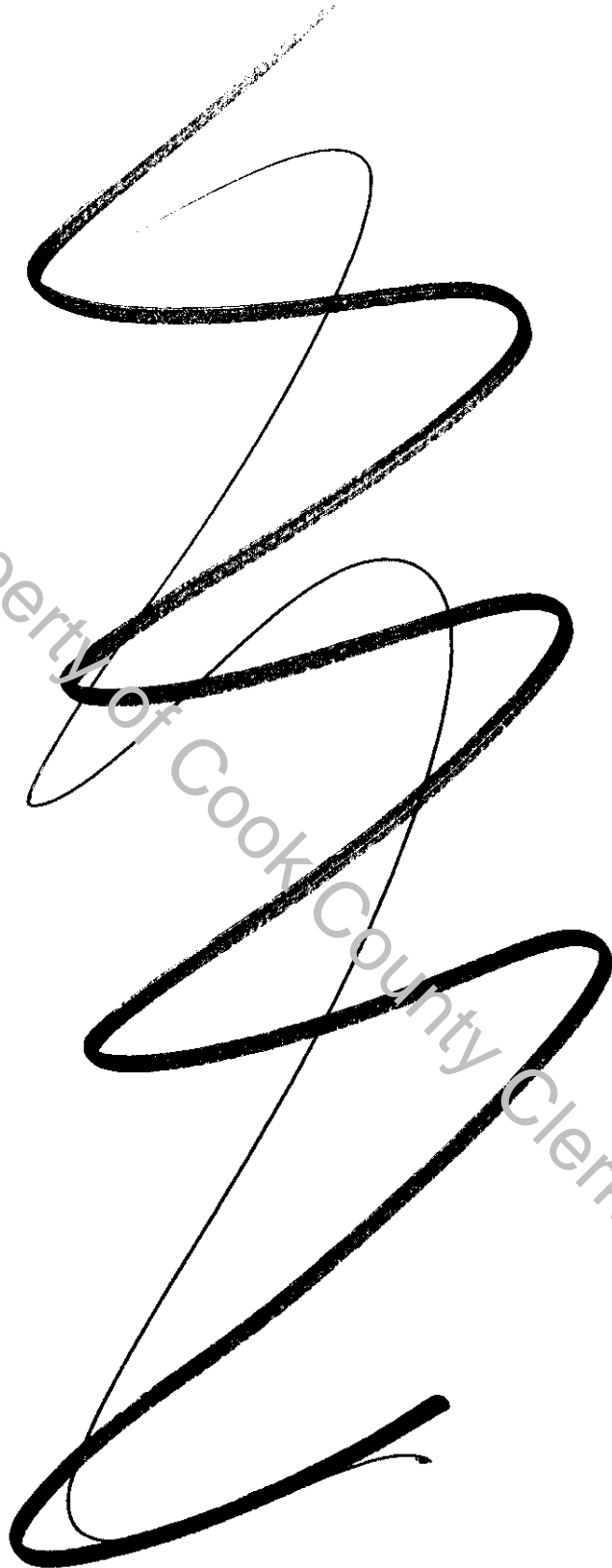
not less than those required by state statute and federal statute, if applicable, and covering all persons employed by the insuring Owner in connection with its Component (including the "all states" and volunteers endorsements, if applicable), together with employer's liability insurance coverage in the amount of at least One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

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- Owners and any other Additional Insureds shall be on forms reasonably acceptable to the Owners and any other Additional Insureds. Each Person required to maintain the insurance shall furnish each Owner and any other Additional Insureds with certificates of renewal or "binders" thereof, at least ten (10) days prior to expiration of each policy required to be maintained by such person, but in all events prior to expiration. Each certificate shall expressly provide that such policy shall not be cancelled except after thirty (30) days' prior written notice to each Owner and any other Additional Insureds (except in the case of cancellation for nonpayment of premium, in which the case cancellation shall not take effect until at least ten (10) days' written notice has been given to each Owner and any other Additional Insureds).
- D. Waiver of Subrogation.** Each policy shall contain a waiver of subrogation, and each Owner and each owner of a Residential Condominium in the Combined Project shall and hereby do waive any right of subrogation with respect to each other Owners or owner of a Residential Condominium in the Combined Project.
- E. Excess Coverage.** Any umbrella liability policy or excess liability shall be in "following form" and shall contain a provision to the effect that, if the underlying aggregating aggregate is exhausted, the excess coverage will drop down as primary insurance.
- F. Primary Coverage.** Each insurance policy shall expressly provide that for any claims which are an insuring person's responsibility as provided above, such person's insurance coverage shall constitute primary insurance with respect to the Owners and any other Additional Insureds and their respective directors, officers and employees.
- G. Separate Application.** The insurance coverage described above shall apply separately to each person named as an Additional Insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- H. Insurance Requirements of Contractors.** All contractors and subcontractors involved in construction projects in any portion of the Combined Project shall either maintain the insurance coverage and limits required above through participation as named insured parties under any "owner controlled" or "wrap-up" insurance program maintained by an Owner with respect to a Component, or alternatively shall be required to maintain the following insurance coverage:
- (1) **Commercial General Liability Insurance.** A policy of commercial general liability coverage having a combined single limit of not less than Three Million Dollars (\$3,000,000) per occurrence for bodily injury, property damage, personal injury, product liability, and completed operations. Such limit may be reached by a combination of a primary liability policy of at least One Million Dollars (\$1,000,000) and following form excess and/or umbrella liability insurance. Such umbrella shall drop down as layers below are exhausted, provided however, that such drop down or following form coverage shall otherwise comply with all other provisions contained in this Schedule.
- (2) **Automobile Liability.** A policy of the most recent edition of Insurance Services Office form or equivalent covering Automobile Liability, code 1 (i.e., owned, not owned and hired) (any auto) with coverage in the amount of One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
- (3) **Workers' Compensation and Employer's Liability Insurance.** A policy of workers' compensation insurance having limits not less than those required by state statute and federal statute, if applicable, and covering all persons employed by such Person in the construction of the improvements on such Parcel (including the "all states" and volunteers endorsements, if applicable), together with employer's liability insurance coverage in the amount of at least One Million Dollars (\$1,000,000) per accident for bodily injury or disease.
- (4) **Professional Liability.** If a contractor or subcontractor is performing design work in connection with such construction project, such contractor or subcontractor shall maintain professional liability insurance.

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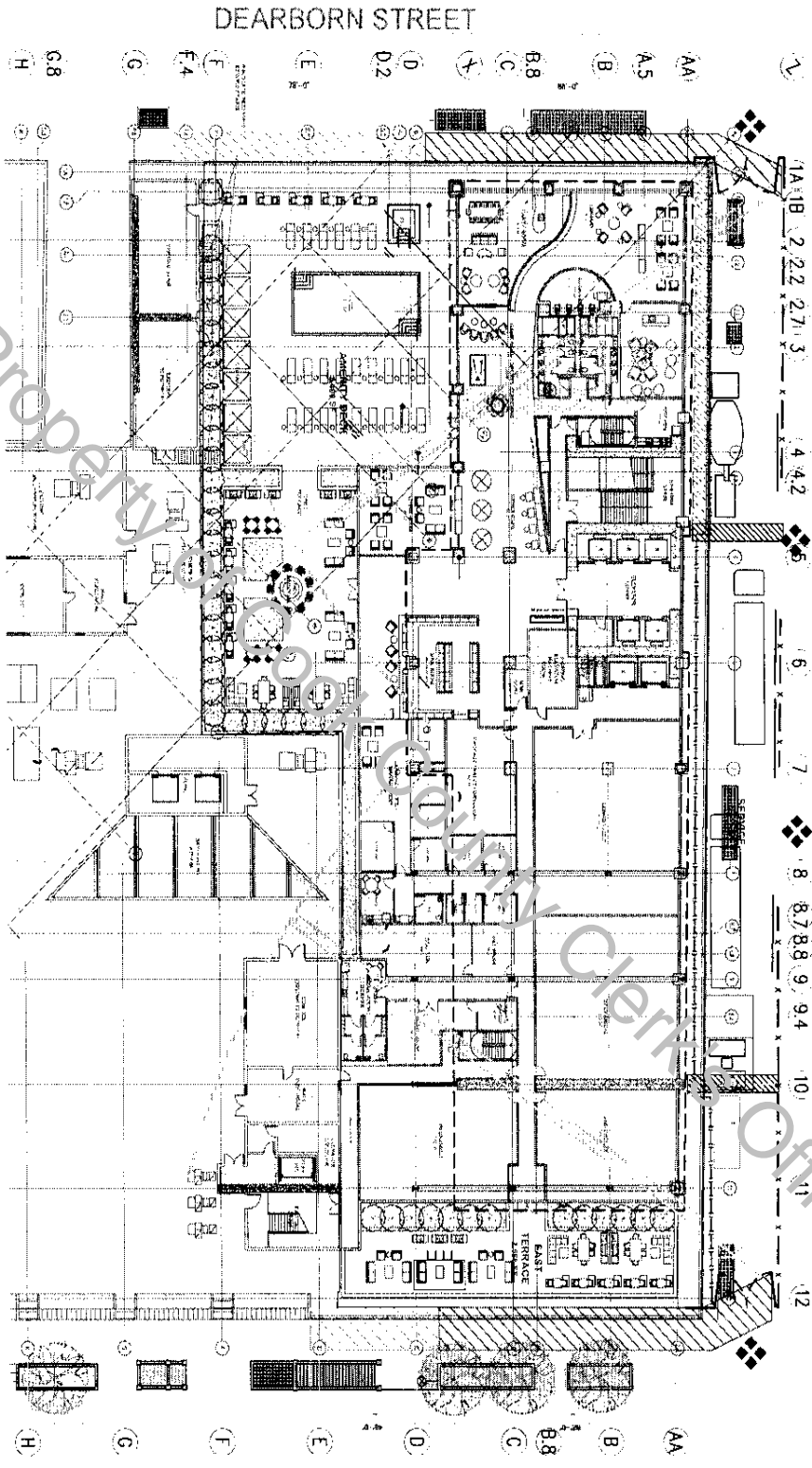


Areas on Retail Project to be Closed Off during Construction of Air Rights Project

Exhibit G

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1 LOGISTIC PLAN
SCALE: 1/8" = 1'-0"



DEARBORN STREET

RANDOLPH STREET

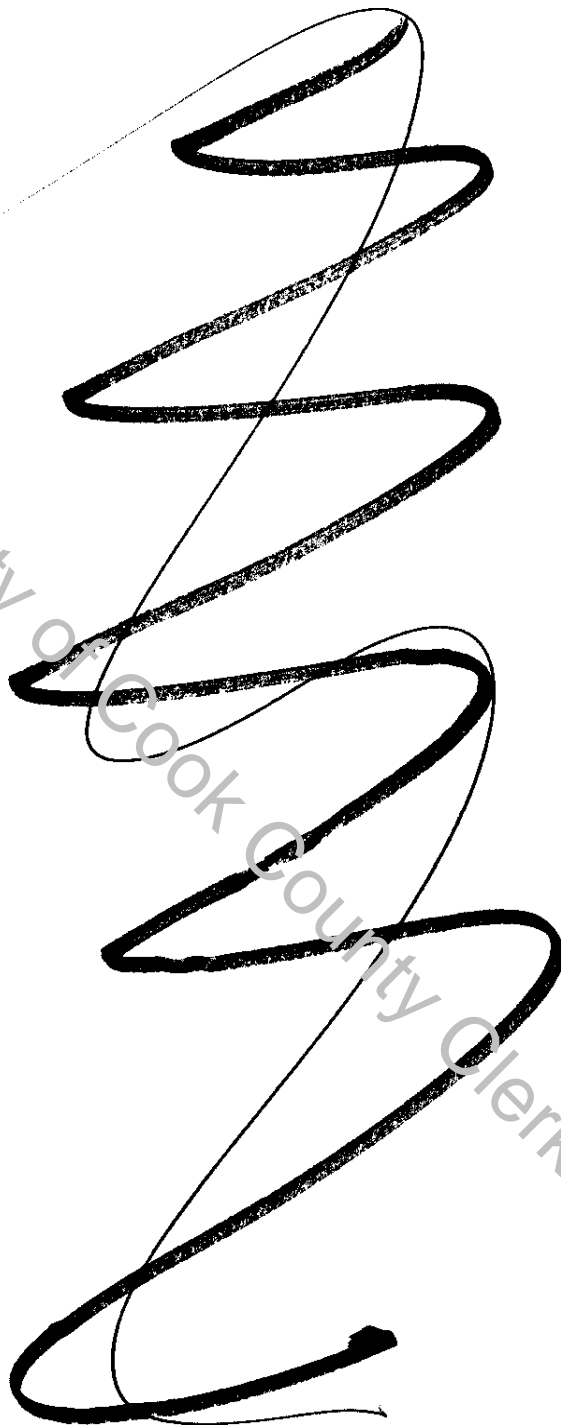
STATE STREET

LEGEND

- = TEMPORARY JERSEY BARRIER AND PLYWOOD PROTECTION
- ◆ = TEMPORARY CONSTRUCTION ENTRANCE/EXIT
- X— = TEMPORARY JERSEY BARRIER AND FENCING
- = RESIDENTIAL TOWER
- = 30 CU. YD. DUMPSTER
- = TEMPORARY LOADING DOCK
- = TOWER CRANE
- ▨ = LONG-TERM TEMPORARY PROTECTIVE WALKWAY
- ▧ = SHORT-TERM TEMPORARY PROTECTIVE WALKWAY
- ▩ = BUILDING EMERGENCY EXIT ROUTE
- = FIRE DEPT. SIAMASE CONNECTION TEMP. EXTENSION
- ▬ = COMED EXHAUST
- ▬ = PARKING AREA EXHAUST
- ▬ = CTA EXHAUST
- ▬ = EMERGENCY GENERATOR INTAKE

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A residential and/or hotel tower containing no more than 900 combined dwelling units (rental or for sale) or hotel keys, all meeting the requirements of the attached Residential-Business Planned Development No. 489, as amended.

Proposed Air Rights Improvements

Exhibit H

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AS REVISED:

November 18, 2004

DATE:

August 27, 2004

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1. The area delineated herein as Residential-Business Planned Development No. 489, as amended, consists of approximately 119,558 square feet (2.74 acres) of real property (the "Primary PD Parcel") and includes for development purposes certain above grade and below grade portions of surrounding rights-of-way as described in Statement No. 2 (the "ROW Encroachment Areas") as depicted on the attached Right-of-way Adjustment Map (the Primary PD Parcel and the ROW Encroachment Areas are collectively referred to as the "Property"). The Property is currently owned and controlled by the City of Chicago (the "City"). These Plan of Development Statements, together with the attached exhibits and plans, are referred to as the "Planned Development." Block 37, L.L.C., a Delaware limited liability company (the "Applicant"), is the applicant for this Planned Development with the authorization of the City. In addition, it is acknowledged that there are certain below grade improvements which are not located within the Property, which are intended to be used primarily for a pedway, "back of house" functions and a foundation wall and which are intended to be located in the subsurface areas of certain property owned by Commonwealth Edison Company ("ComEd") having approximate dimensions of 9' x 80' and zoned B7-7 General Central Business District and located immediately north of ComEd's existing substation building, as depicted on an attached Below Grade Easement Area Plan (such property owned by ComEd is referred to herein as the "Below Grade Easement Area" and the improvements intended to be located therein are referred

PLAN OF DEVELOPMENT STATEMENTS

RESIDENTIAL-BUSINESS PLANNED DEVELOPMENT NO. 489, AS AMENDED

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to as the "Below Grade Easement Area Improvements"). The Applicant's right to use the Below Grade Easement Area is contingent upon the execution of an easement agreement between the Applicant and ComEd. In addition, subject to the provisions of Statement 8 below regarding the Applicant's control thereof, Applicant will grant an easement to the City over a portion of the Below Grade Easement Area for the purposes of a public pedway. Notwithstanding that the Below Grade Easement Area is a part of a different zoning lot than the Property, the Below Grade Easement Area and the Below Grade Easement Area Improvements shall be permitted and regulated as a part of this Planned Development only and shall not be regulated under the provisions applicable in the B7-7 district (or such other district or designation as such areas may lawfully be classified). Nothing herein shall be construed to apply to the above-grade areas of such property owned by ComEd; provided, however, that, subject to the approval thereof by ComEd and ComEd's commitment to maintain the same on an ongoing basis, Applicant shall construct a decorative fencing treatment on property owned by ComEd abutting the Dearborn right-of-way along the ComEd Access Area (as defined in Statement No. 10b), as shown on the Streetscape & Landscape Plan.

2. The Applicant shall obtain all applicable official reviews, approvals or permits which are necessary to implement this Planned Development. Any dedication or vacation of streets or alleys, easements or any adjustment of rights-of-way shall require a separate submittal on behalf of the Applicant or its successors, assignees or grantees and approval by the City Council. The Planned Development includes certain projections above, into and below the ROW

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Development shall be binding upon the Applicant, its successors and assigns and, if different than the Applicant, the legal titleholders and any ground/air-rights lessors except as provided herein. All rights granted hereunder to the Applicant shall inure to the benefit of the Applicant's successors and assigns and, if different than the Applicant, the legal titleholders and any ground/air-rights lessors. Furthermore, pursuant to the requirements of Section 11.11-1 of the

3. The requirements, obligations and conditions contained within this Planned Agreement).

separate redevelopment agreement between the City and the Applicant (the "Redevelopment Agreement"). terms and conditions of such conveyance (among other relevant matters) shall be set forth in a separate redevelopment agreement between the City and the Applicant (the "Redevelopment Agreement"). Applicant and the City) to that property constituting the ROW Encroachment Areas, and the conveyance of fee title (or such other real property interests as may be acceptable to the Applicant and the City) to that property constituting the ROW Encroachment Areas, the and subject to the specific limitations stated on the Right of Way Adjustments Plans, the intends to seek, subject to the appropriate authority, established procedures and applicable laws, within the boundaries of the Property. Accordingly, it is acknowledged that the Applicant the Floor Plans for levels LL1 - LL3 attached hereto and other uses that serve the general public need to accommodate those underground public transportation facilities generally depicted on level/grade of the right-of-way adjacent to the Property which are necessitated primarily by the Planned Development. The Planned Development also includes certain projections below street are necessary, integral and appropriate components of the improvements contemplated by this Encroachment Areas, as depicted on the Right of Way Adjustment Plans attached hereto, which

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Chicago Zoning Ordinance, the Property, at the time applications for amendments, modifications or changes (administrative, legislative or otherwise) to this Planned Development are made, shall be under single ownership or under single designated control. Single designated control for purposes of this Statement shall mean that any application to the City for any amendment to this Planned Development or any other modification or change thereto (administrative, legislative or otherwise) shall be made or authorized by all the owners of the Property and any ground/air-rights lessors of the Property subject, however, to the following exceptions and conditions: (a) any changes or modifications to this Planned Development applicable to or in a given subarea designated pursuant to Statement No. 10 below need only be made or authorized by the owners and/or any ground/air-rights lessors of such subarea; provided, however, that for so long as the Applicant or any affiliate thereof owns or controls any part of the Property, any application to the City for any such changes or modifications (administrative, legislative or otherwise) must in all cases be authorized by the Applicant; (b) where portions of the improvements located on the Property have been submitted to the Illinois Condominium Property Act, the term "owner" shall be deemed to refer solely to the condominium association of the owners of such portions of the improvements and not to the individual unit owners therein; and (c) ComEd's consent for any such changes or modifications (administrative, legislative or otherwise) with respect to the Below Grade Easement Area shall not be required and control thereof shall be deemed to be vested in the Applicant. Nothing herein shall prohibit or in any way restrict the alienation, sale or any other transfer of all or any portion of the Property or any rights, interests or obligations

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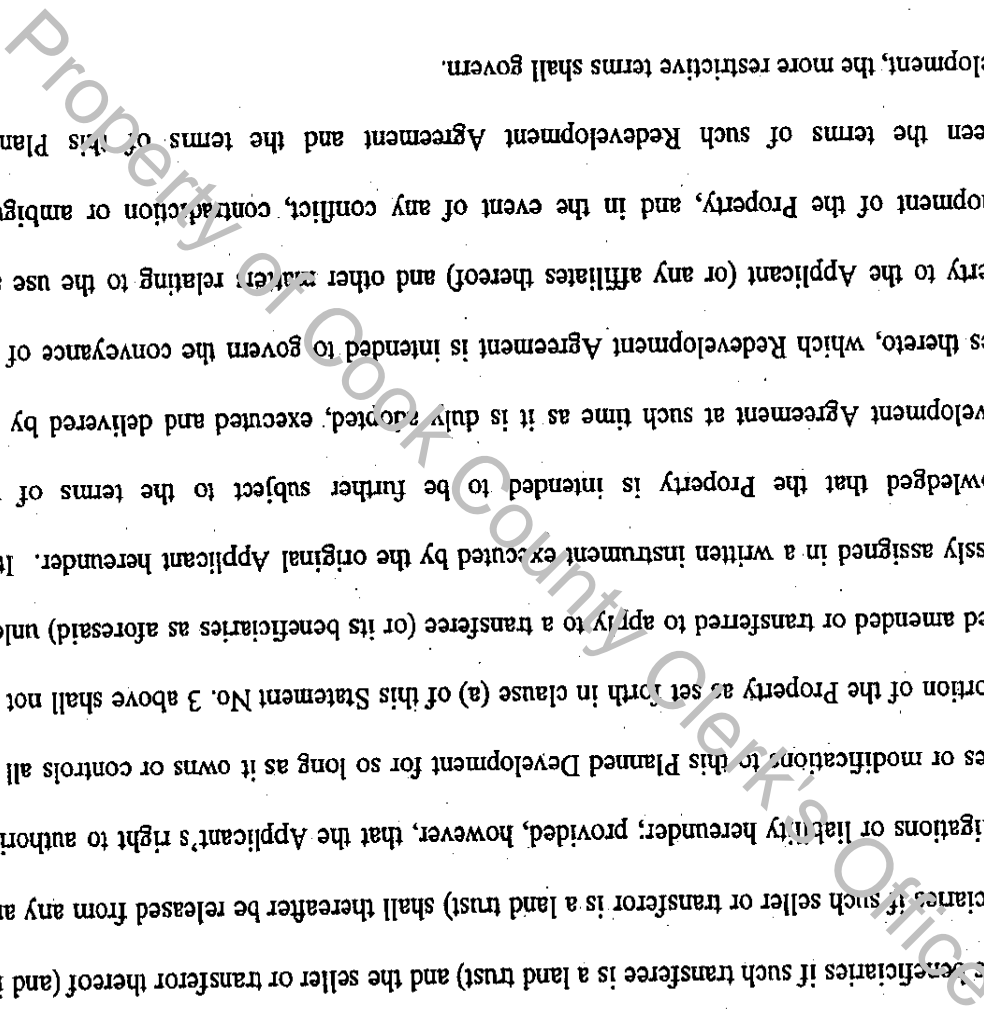
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therein including any ground or air rights leases. Upon any alienation, sale or any other transfer of all or any portion of the Property or the rights therein including any ground or air rights leases (but not including an assignment or transfer of rights pursuant to a mortgage or otherwise as collateral for any indebtedness) and solely with respect to the portion of the Property so transferred, the term the Applicant shall be deemed amended to apply to the transferee thereof (and its beneficiaries if such transferee is a land trust) and the seller or transferor thereof (and its beneficiaries if such seller or transferor is a land trust) shall thereafter be released from any and all obligations or liability hereunder; provided, however, that the Applicant's right to authorize changes or modifications to this Planned Development for so long as it owns or controls all or any portion of the Property as set forth in clause (a) of this Statement No. 3 above shall not be deemed amended or transferred to apply to a transferee (or its beneficiaries as aforesaid) unless expressly assigned in a written instrument executed by the original Applicant hereunder. It is acknowledged that the Property is intended to be further subject to the terms of the Redevelopment Agreement at such time as it is duly adopted, executed and delivered by the parties thereto, which Redevelopment Agreement is intended to govern the conveyance of the Property to the Applicant (or any affiliates thereof) and other matters relating to the use and development of the Property, and in the event of any conflict, contradiction or ambiguity between the terms of such Redevelopment Agreement and the terms of this Planned Development, the more restrictive terms shall govern.



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4. The following uses shall be permitted in this Planned Development: all uses permitted in the B6-7 Restricted Central Business and B7-7 General Central Business zoning districts including, but not limited to: retail and commercial uses including but not limited to free-standing carts and kiosks; offices, business, not-for-profit and professional; hotels; dwelling units and other residential uses; radio and television broadcast studios; transportation ticket offices; air freight transfer facilities (subject to the approval of the Department and CDOT in their sole discretion); night clubs, taverns, and other entertainment uses; food markets; physical culture and health services; public and/or quasi-public utility and service uses (including but not limited to electric substations, railroad passenger stations, street railway terminals and railroad rights-of-way); convention centers and meeting halls; public uses (including, but not limited to, activities such as entertainment, exhibits, dining, gatherings, retail sales and passive uses); publicly available pedway uses (including, but not limited to, public pedestrian travel and retail sales); electronic data storage centers; radio and television towers; broadcast and telecommunications structures (including related equipment and transmitting and receiving antennae); microwave relay towers; telephone transmission equipment buildings; wireless communication facilities (including towers, earth station antennas and parabolic dishes which shall not be subject to diameter or size limitations); day care centers; accessory parking; access for the benefit of Com Ed for its existing substation building located on property adjacent to the Property as more specifically set forth in Statement 10(b); and other accessory uses.

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5. This Planned Development consists of seventeen (17) Statements; a Bulk Regulations and Data Table; the WLS TV Block 37 Plan View of WLS and Block 37; and the following exhibits, maps and plans, prepared by Perkins & Will and dated November 18, 2004: an Existing Zoning Map; an Existing Land Use Plan; a Planned Development Property and Boundary Map; Level 1 Right of Way Adjustment Plan; Level 2 & 3 Right of Way Adjustment Plan; Level 4 Right of Way Adjustment Plan; a Level 5 Right of Way Adjustment Plan; a level 6 & Above Right of Way Adjustment Plan; a Lower Levels 1-3 Right of Way Adjustment Plan; a Site Plan; a Streetscape & Landscape Plan; East, West, North and South Elevations; Lower Level Floor Plans (including a Lower Level 1 and Pedway Plan; East, West, North and South Signage Elevations and a Signage Elevations General Notes Plan; a Below Grade Easement Area Plan; and a Tower Envelope Plan. Full size sets are on file with the Department. These and no other zoning or signage controls shall apply to the Property. This Planned Development conforms to the intent and purpose of the Chicago Zoning Ordinance, Title 17 of the Municipal Code of Chicago and all requirements thereof, and satisfies the established criteria for approval as a planned development.

6. The location and square footage for business identification signs shown on the Signage Plan attached hereto are hereby approved, subject to the specific limitations stated therein. All other business identification signage located on or designed to be viewed from the exterior of any buildings shall be subject to the review and approval of the Department. Temporary signs, such as construction and marketing signs, shall be permitted within the

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Planned Development subject to the review and approval of the Department. No approvals shall be required for any signage located in and designed to be viewed solely from the interior of any improvements on the Property. In addition to the foregoing, individual store front displays shall be permitted as long as they comply with the State Street Development Plan and Design Guidelines as adopted by the Chicago Plan Commission on May 13, 1993, in effect as of the date hereof, except to the extent said plan and guidelines may be hereafter amended to provide for requirements which are less restrictive than those currently in place. Electronic business identification signage for on site entertainment uses only shall be permitted along Randolph Street as long as such signage is located no closer than 20 feet from the intersection of State Street and Randolph Street. Electronic media signage shall be permitted to be located on the exterior of the office building at the corner of Washington Street and Dearborn Street for the benefit of the media tenant intended to be located therein and limited to the following types of content: a) media tenant station graphic or logo elements, b) live and taped civic events; c) public service announcements; d) live and taped network or syndicated news broadcasts, including, during such broadcasts only, taped promotional announcements and commercials; and e) educational, cultural and athletic events, such as live sporting events already broadcast on CBS. Gaps of broadcasting time may be filled by broadcasts of any non-commercial still or video imagery that promotes the City of Chicago, media tenant station graphics, and weather and traffic imagery. The media tenant may broadcast civic events and ceremonies that occur at Daley Plaza, i.e., events including the Mayor or events of major civic interest that would

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supersede regular programming. To facilitate the broadcast of these events, the City will allow CBS to install a fixed camera (pedestal) in an agreed-upon spot in the Plaza. Prior to January 1st of each year, the media tenant shall work with the Mayor's Office of Special Events to create a broadcast schedule (the "Broadcast Schedule") for the following year. The purpose of the Broadcast Schedule is to prioritize the civic events and ceremonies at Daley Plaza to avoid scheduling conflicts with the media tenant's other broadcasts. The Commissioner of the Department of Planning and Development shall have the authority to administratively adjust these requirements and limitations upon the written request of the Applicant.

7. The improvements authorized by this Planned Development shall be designed, constructed and maintained in substantial conformance with the plans and exhibits set forth in Statement No. 5 and the following:

a. The improvements shown in the plans and exhibits identified in Statement No. 5 include, among other components, areas for three towers, including the office tower shown at the corner of Washington and Dearborn Streets. In addition to the office tower to be located at the corner of Washington Street and Dearborn Street, the Applicant shall have the right to construct not more than two (2) towers within the area designated on the Tower Envelope Plan as the "North Tower Envelope", which towers may be constructed to the maximum height provided for in this Planned Development; provided, however, that the construction of said additional towers shall not cause the maximum overall floor area permitted by this Planned Development to be exceeded. In the event the Applicant wishes to construct more than two (2) additional towers

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within the North Tower Envelope or wishes to locate said additional towers outside of the area of the North Tower Envelope, the Applicant shall seek a minor change in accordance with the provisions of Statement No. 14 below.

b. Applicant has set aside and designated certain areas on the exterior of the improvements for a possible "artistic frieze" display as designated on the elevations referenced in Statement No. 5 (the "Artistic Frieze Display Areas"). Applicant shall consult with the commissioner of the Department of Cultural Affairs regarding the Artistic Frieze Display Areas. The content and design of the Artistic Frieze Display Areas shall be consistent with the design of the portion of the improvements in the Planned Development on which they intended to be installed and shall be subject to the review and approval of the commissioner of the Department.

c. It is acknowledged that each retailer with at grade frontage along a public right of way shall be permitted to have at least one dedicated retail entrance.

d. In the event construction of the tower improvements to be located within the North Tower Envelope has not commenced within eighteen (18) months of completion of the retail base and related infrastructure, the Applicant shall install a green grid system in such unimproved portions above the base until such time as construction begins on the applicable tower(s).

8. The improvements intended to be constructed pursuant to the Planned Development are intended to contain publicly available areas comprising an east/west pedestrian pedway as depicted on the Lower Level 1 and Pedway Plan (the "Pedway") and the street level

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atrium as depicted on the Site Plan (the "Atrium"). The Pedway and the Atrium are collectively referred to herein as the "Publicly Available Areas." The following standards shall apply to the Publicly Available Areas:

a. Uses. The uses of the Publicly Available Areas shall be subject to the conditions stated herein. The Publicly Available Areas shall be open to the public, in addition to being open to the occupants of the improvements, for the following purposes:

(1) Pedway. For public pedestrian travel underground between points lying to the east and west of the Property, for access to permitted uses which may be located in or adjacent to the Pedway and for such other uses permitted pursuant to this Planned Development as may be approved by the Commissioner of the Department and the Commissioner of the Department of Transportation.

(2) The Atrium. For programmed civic events, for informal gathering (subject in all cases to Statement No. 8. below) and for public pedestrian access to and from the Pedway and to and from such other private uses within the improvements as may be made available by the Applicant. In addition, uses permitted by the Planned Development (including the use of retail kiosks and carts) may occupy portions of the Atrium. The design of any such kiosks and carts shall be subject to the reasonable approval of the Department.

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b. Design. The Publicly Available Areas shall be designed and constructed in general accordance with the Site Plan and the Lower Level 1 and Pedway Plan, subject to the following:

(1) Pedway. The configuration and location of the Pedway as depicted on the Lower Level 1 and Pedway Plan may be modified by the Applicant from time to time to accommodate the needs of Applicant's Pedway tenants without the necessity of a minor change as described by Statement No. 14, provided that the Pedway design (a) has a minimum floor to ceiling height of 14 feet and a minimum width of 15 feet; (b) is constructed of quality materials comparable to other portions of the City pedway network constructed or renovated within five years of the date hereof; (c) is of similar character and quality materials otherwise as the other improvements on the Property; and (d) connects to the pedway network located to the east and west of the Property. Other proposed modifications to the configuration of the Pedway may be permitted, but only as a minor change as described by Statement No. 14.

(2) Atrium. The configuration, location and design of the Atrium may be modified by the Applicant from time to time to accommodate the needs of tenants or Applicant's design plan without the necessity of a minor change as described in Statement No. 14, provided that (a) the Atrium design contains at least 16,000 square feet of floor area located entirely on the ground floor in a

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contiguous horizontal plane; (b) view corridors to Atrium areas are visible to pedestrians from adjacent sidewalks; (c) the Atrium shall accommodate, subject to Statement No. 8e. below, programmatic public gatherings and events; (d) the Atrium design is of comparable character and quality to the other improvements on the Property; and (e) amenities for use by the general public as informal gathering space are provided such as benches, landscaping and similar items to define through design elements the civic use of central portions of the Atrium. For the purposes of calculating said 16,000 square feet of floor area of the Atrium, the area of all entry walkways, cart/kiosk areas and floor openings to the Pedway level and vertical and horizontal circulation areas shall be included. Nothing herein shall prohibit Applicant from utilizing the Atrium areas for retail, commercial, entertainment and other permitted uses hereunder during times when, or in locations where, public gatherings and events are not taking place.

c. **Maintenance.** The Applicant shall be responsible to assure that the Publicly Available Areas are maintained and managed for the purposes herein intended, including without limitation, assuring that all Publicly Available Areas and facilities are clean, litter free and in good working order and that any landscaping or plant material is in a healthy condition.

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d. Hours.

(1) Pedway.

(a) The Pedway shall be accessible 24 hours per day, seven days per week, subject to such reasonable terms and conditions regarding control, security and other operational matters as are agreed to by the Applicant and the City.

(b) The City acknowledges that the existing pedway will be closed while the below-grade and retail base improvements are under construction. The Applicant shall use reasonable efforts to minimize the length of time of such closure and will open the Pedway access to publicly available use as soon as life safety and building requirements and other relevant considerations will allow.

(2) The Atrium shall open during hours which are consistent with the hours of operations of the retail/entertainment components of the Planned Development.

e. Control. The Applicant shall retain ownership of the Publicly Available Areas. In addition, the Applicant shall control and have sole discretion over Pedway signage (including business identification, temporary and advertising). The requirements of this Planned Development applicable to the Publicly Available Areas shall not be construed to permit interference with the reasonable private operation of the improvements by the Applicant and

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tenants consistent with the private operation and maintenance of an economically viable quality retail/hotel/residential office mixed-use project. The Applicant shall retain control over all activities and shall retain the right to approve and limit all uses of the Publicly Available Areas including but not limited to, programmatic public gathering and events; provided that such control, approval and limitation shall not conflict with the other provisions of this Planned Development. Access to all uses developed on the Property may be by means of the Publicly Available Areas

f. **Duration.** The requirements of this Statement No. 8 regarding the Publicly Available Areas shall remain operative at all times during which this Planned Development is in effect and the improvements constructed pursuant hereto are used for the purposes set forth in this Planned Development.

9. Prior to issuance by the Department of a determination pursuant to Section 11.11-3(b) of the Chicago Zoning Ordinance ("Part II approval") for any development of a hotel, residential or other tower above the retail base on the Property (but specifically excluding the south and west elevations of the office tower at the corner of Dearborn and Washington Streets), elevations for the proposed development shall be submitted to the Department for approval. This approval is intended to assure that the hotel and residential towers conform to the bulk regulations of this Planned Development and that the elevations of the hotel, residential and/or other tower as well as the north and east elevations of the office tower at the corner of Dearborn and Washington Streets are architecturally consistent with the design characteristics and quality

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of materials of the other improvements on the Property. Such elevations shall only be required to include the area or subarea of the Property (if so designated pursuant to Statement No. 10) for which approval is being sought by the Applicant. No Part II approval for development of the hotel, residential or other component within the Property, as applicable, shall be granted until the applicable elevations have been approved. In the event of any inconsistency between approved elevations and the terms of the Planned Development in effect at the time of approval of such site plan or of the modifications thereto, the terms of the Planned Development shall govern. The elevations submitted for approval shall, at a minimum, provide the following information with respect to the proposed improvements:

- The location of such component within the Property boundaries;
- Roof plan (if applicable);
- Cross-sections of the improvements and material details;
- Statistical information for the applicable improvements, including floor area and floor area ratio, uses to be established and building heights and setbacks; and
- Such other information as may be necessary to demonstrate conformity with the applicable provisions of the Planned Development.

10. (a) Subject in all cases to the other statements, terms, regulations and provisions of this Planned Development, the Applicant shall have the right to designate subareas (which

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may include below grade subareas for C.T.A. and other below-grade uses) within the Planned Development from time to time in order to promote orderly development, to facilitate financing, acquisition, leasing or disposition of the Property or relevant portions thereof, to designate zoning control or to otherwise administer this Planned Development. The designation and redesignation of subareas shall not in and of itself require an amendment or minor change to this Planned Development; provided, however, Applicant shall provide notice of all material terms of any such designation to the Department, including the designated area and the bulk regulations that will apply therein, for the Department's administrative purposes to facilitate Part II review for any such designated subarea. In furtherance of the foregoing, and in all cases subject to the other statements, terms, regulations and provisions of this Planned Development, the Applicant may allocate or assign the development rights under this Planned Development to and among the designated subareas, including, but not limited to, floor area and floor area ratio, signage, building height, and parking; provided, however, that the regulations and limitations set forth in the Bulk Regulations and Data Table and the plans and exhibits identified in Statement No. 5 applicable to the entirety of the Planned Development shall not be exceeded or increased as a result of any such designation(s).

(b) A subarea is hereby designated for ComEd's benefit for surface access over the area bounded by a line seven feet north of the north line of vacated West Court Place; a line 80.03 feet east of the east line of North Dearborn Street; the centerline of vacated West Court Place; and North Dearborn Street, as depicted on the Site Plan (the "ComEd Access Area"). No

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