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**THIS INSTRUMENT
PREPARED BY:**

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**AFTER RECORDING
MAIL TO:**

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Doc#: 1533834062 Fee: \$70.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 12/04/2015 01:45 PM Pg: 1 of 17

PARTY WALL AND LIGHT AND AIR EASEMENT AGREEMENT

DECEMBER
This Party Wall and Light and Air Easement Agreement (this "Agreement") is made as of the 4TH day of ~~November~~ 2015 by and between JOHN HANCOCK LIFE INSURANCE COMPANY (U.S.A.), a Michigan corporation ("150 Owner") and CROWN SERIES LLC, 168 N. MICHIGAN SERIES, a Delaware series limited liability company (the "168 Owner").

RECITALS

WHEREAS, 150 Owner owns in fee simple the land and building (the "150 Building") located at 150 N. Michigan Avenue, Chicago, Illinois legally described on Exhibit A attached hereto and made a part hereof (collectively with the 150 Building, the "150 Property");

WHEREAS, 168 Owner owns in fee simple the land and building (the "168 Building") located at 168 N. Michigan Avenue Chicago, Illinois legally described on Exhibit B attached hereto and made a part hereof (collectively with the 168 Building, the "168 Property");

WHEREAS, 168 Owner is in the process of converting the 168 Building into a hotel and in connection therewith, has applied for building permits ("Permits") from the City of Chicago (the "City");

WHEREAS, the City has conditioned the granting of the Permits, among other things, to 168 Owner entering into a light and air easement with 150 Owner relating to a certain portion of the 150 Property located on the north side of the 150 Property;

WHEREAS, 150 Owner is willing to grant a light and air easement for the benefit of the 168 Property over and above the Easement Area (as hereinafter defined), under the terms and conditions of this Agreement; and

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WHEREAS, 150 Owner and 168 Owner also desire to have the 168 Owner maintain the party wall that divides the 150 Property and 168 Property (the "Party Wall").

Now therefore, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and some of which is being handled outside of this Agreement, the parties agree as follows:

AGREEMENT

1. **Defined Terms.** The following capitalized terms in this Agreement shall have the following meanings:

- (a) 150 Building: As defined in the Recitals.
- (b) 168 Building: As defined in the Recitals.
- (c) Agreement: This Party Wall and Light and Air Easement Agreement.
- (d) Breezeway Area: As defined in Section 4(a) below.
- (e) City: As defined in the Recitals.
- (f) Easement Area: As defined in Section 2(a)(1) below.
- (g) Easement Term: As defined in Section 3 below.
- (h) Installations: As defined in Section 2(a)(3) below.
- (i) Interest: As defined in Section 4(f) below.
- (j) Light and Air Easement: As defined in Section 2(a)(1) below.
- (k) Party: shall mean the 150 Owner or 168 Owner, as appropriate.
- (l) Parties: shall mean both the 150 Owner and 168 Owner.
- (m) Party Wall: As defined in the Recitals.
- (n) Permits: As defined in the Recitals.
- (o) Property: shall mean either the 150 Property or 168 Property, as the case may be.
- (p) Properties: shall mean both the 150 Property and 168 Property.
- (q) Temporary Equipment: As defined in Section 4(c) below.

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2. Grant of Light and Air Easement.

(a) 150 Owner, in its capacity as owner of the 150 Property, hereby:

(1) grants to 168 Owner and its successors and assigns, as the owners from time to time of the 168 Property, an easement for light and air (the "Light and Air Easement") for the benefit of the 168 Property during the Easement Term (as defined below) over and across a portion of the 150 Property legally described on the attached Exhibit C (the "Easement Area");

(2) subject to the provisions of Section 2(a)(3) of this Agreement below, covenants and agrees for itself and any of its successors and assigns that, during the Easement Term, no new buildings, improvements, alterations or additions shall be constructed or allowed to exist in the Easement Area, and no construction, addition, reconstruction, replacement, repair or rebuilding of any existing or future improvements on the 150 Property, whether following fire, casualty or otherwise, shall be made so as to encroach into or upon the Easement Area; and

(3) notwithstanding the covenants and agreements set forth in Section 2(a)(2) above, reserves for itself and any of its successors and assigns the right to install or affix to the 150 Building, from time to time, any fixtures or non-structural installations, including but not limited to HVAC fixtures and equipment, window washing equipment or apparatus, satellite dishes and antenna and other mechanical and telecommunications fixtures and non-structural installations (collectively, the "Installations") within the Easement Area so long as such Installations do not result in the 168 Building thereafter failing to comply with the Permits.

(b) Nothing contained herein shall be deemed to allow 168 Owner to construct or allow to exist in the Easement Area any buildings, improvements, alterations, additions, replacements, repairs or rebuilding (whether of any existing or future improvements), so as to encroach into or upon the Easement Area. In addition, the 168 Owner agrees that the 168 Owner shall not, at any time, install any exhaust dampers or louvers on the south wall of the 168 Building into or within twenty-five (25) feet of any fresh air intakes for the 150 Building without the 150 Owner's consent, which consent will be granted or denied in 150 Owner's sole and absolute discretion.

3. Term of Light and Air Easement.

The term of the Light and Air Easement (the "Easement Term") shall commence on the date required by the Permits and shall expire and automatically terminate on the complete demolition of the 168 Building.

4. Maintenance and Improvements.

(a) This Agreement shall supersede and replace any pre-existing party wall agreements between the parties, including, without limitation, the following agreements: Party Wall Agreement recorded August 10, 1868 as document 178433, which terms and provisions are identical to those agreements recorded on June 13, 1906 as documents 3878009 and 3878010. The 168 Owner agrees to repair and maintain the Party Wall at its sole cost and expense, and in connection therewith the 168 Owner, and its employees, agents, representatives, contractors, or

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licensees, shall have the right to use the so-called breezeway area between the Properties (the "Breezeway Area") for the purpose of (x) performing such maintenance and repairs activities, or (y) inspecting the same (as provided below), all in accordance with applicable Laws, provided 168 Owner's use of the Breezeway Area shall be limited as much as is reasonably possible in scope of use and duration. The 150 Owner hereby approves the location of the proposed windows, fresh air intakes and exhaust areas as depicted on Exhibit D attached hereto and made a part hereof. The 168 Owner shall not perform any penetrations of the Party Wall or install any new vents or windows on the 168 Property facing the 150 Property without obtaining the prior written consent of the 150 Owner, which consent shall not be unreasonably withheld, conditioned or delayed. 150 Owner, and its employees, agents, representatives, contractors, or licensees, shall have the right to conduct inspections of the Party Wall at any time. Any maintenance issues that may be brought to the attention of the 168 Owner shall be addressed by the 168 Owner in accordance with the terms of this Agreement immediately if the issue has caused an emergency condition to exist (i.e., imminent personal injury or material property damage) or five (5) business days after 168 Owner has notice in all other situations.

(b) At the time of 168 Owner's initial request to perform any improvements, repair or maintenance permitted by this Agreement (the "168 Owner's Work"), the 168 Owner shall provide the following to the 150 Owner:

(i) certificates of insurance from the 168 Owner and its applicable contractors evidencing the insurance described in Section 5 below;

(ii) all necessary permits from all governmental authorities required to perform such 168 Owner's Work;

(iii) a schedule of the performance of 168 Owner's Work;

(iv) a safety plan for the performance of such 168 Owner's Work;

(v) a deposit with 150 Owner of a minimum of \$10,000.00 per estimated week of construction (the actual amount of the deposit shall be determined by the 150 Owner in its sole discretion), which deposit the 150 Owner may use to offset any repairs or maintenance 150 Owner needs to perform to correct the 168 Owner's Work, to pay to third parties for claims resulting from such 168 Owner's Work and to discharge any liens filed against the 150 Property as a result of such 168 Owner's Work. The deposit may be in the form of an irrevocable letter of credit satisfactory to 150 Owner in its sole discretion;

(vi) any other documentation or submittals required by the 150 Owner, in its sole and absolute discretion; and

(vii) Should 168 Owner not be in a position to satisfy the delivery requirements identified in Section 4(b) (i-vi) above, 168 Owner's request shall be deemed incomplete, and 150 Owner shall not be obligated to approve any incomplete requests.

(c) The 168 Owner shall have the right to affix temporary scaffolding or other apparatus or equipment (collectively, the "Temporary Equipment") as may be reasonably necessary to maintain and repair the Party Wall, provided (1) the same shall be performed in accordance with applicable Laws, and (2) except in cases of emergency, the 168 Owner shall

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give the 150 Owner seven (7) business days' prior notice before installing such Temporary Equipment.

(d) If the 150 Building is damaged as a result of the 168 Owner's Work or work performed by the 168 Owner's employees, agents, representatives, contractors, or licensees pursuant to this Agreement, the 150 Owner shall have the right, in its sole discretion, to repair the damage itself, at the 168 Owner's sole cost and expense, or compel 168 Owner, at the 168 Owner's sole cost and expense, to promptly repair the damage, except to the extent caused by the gross negligence or misconduct of 150 Owner or its agents, employees or representatives. If the 150 Owner repairs the damage, the 168 Owner shall reimburse the 150 Owner for the cost of the repairs plus an additional 15% administrative charge within ten (10) days after 150 Owner provides 168 Owner an invoice for the same. 168 Owner shall defend, indemnify and hold 150 Owner and its agents, members, tenants, shareholders, directors, officers, employees, successors and assigns harmless from any and all loss, cost, claim, liability or expense including, but not limited to, reasonable attorneys' fees, arising from or related to the use by 168 Owner's or its employees, agents, representatives, contractors, or licensees of the Easement Area, Breezeway Area or damage to the 150 Property caused by the acts or omissions of 168 Owner or its employees, agents, representatives, contractors, or licensees, except to the extent caused by the gross negligence or misconduct of 150 Owner or its agents, employees or representatives.

(e) In the event 168 Owner should fail to perform its repair and maintenance obligations pursuant to this Agreement for a period of five (5) days following notice from 150 Owner of such failure (except in the event of an emergency in which case notice shall not be required), 150 Owner shall have the right, but not the obligation, to perform such maintenance and repair, and if necessary, to enter upon the 168 Property in order to carry out such repair and maintenance. If the repair or maintenance will require the 150 Owner to have access to the 168 Property at or above the fourth (4th) floor of the 168 Property, 168 Owner shall permit 150 Owner to hang a swing stage off of the roof of the 168 Property. 168 Owner shall reimburse 150 Owner for any amounts expended by 150 Owner, plus a 15% administrative charge, in exercising its rights under this Section 3(e) within thirty (30) days of 168 Owner's receipt of an invoice from 150 Owner.

(f) Any amounts due from 168 Owner to 150 Owner pursuant to this Agreement that are not paid within thirty (30) days after demand shall bear interest from the date demanded at the lesser of (i) eighteen percent (18%) per annum, or (ii) the maximum rate allowed by law (such lower rate is referred to as "Interest"), and the 150 Owner may place a lien on the 168 Property in order to secure payment of such amount. Any such lien will be perfected only by recording a claim of lien in the Cook County, Illinois recorder's office. In addition, 168 Owner shall reimburse 150 Owner for any of 150 Owner's expenses required to recover past due amounts owed by 168 Owner including, but not limited to, attorney's fees, court fees, collection fees and administration fees.

5. Insurance.

(a) 168 Owner shall take out and keep in full force and effect, at its sole cost and expense, Commercial General Liability insurance, including but not limited to, liability for property damage, bodily injury (including death), personal or advertising injury, and contractual liability. Coverage must be occurrence based, and provide limits of at least ten million dollars

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(\$10,000,000) per occurrence, which can be satisfied through the use of primary and umbrella liability policies. Such policies shall have a cross liability and severability of interest clause, and shall add 150 Owner, including its affiliates, subsidiaries, officers, directors, employees, successors and assigns all as an additional insured.

(b) 168 Owner shall in addition to paying all insurance premiums, be responsible for claim expenses and loss payments within policy deductibles or self-insured retentions and excess of the required limits of insurance.

(c) 168 Owner shall at all time during the Term of this Agreement, and any extensions thereof, maintain at a minimum the required types and limits of insurance with carriers that maintain AM Best rating of A-/VII or better.

(d) 168 Owner shall provide at least thirty (30) days' written notice to 150 Owner of any cancellation.

(e) Each of the insurance policies referred to in this Agreement shall be primary and without any right of contribution by 150 Owner or any insurance effected by 150 Owner and each insurer waives any right of recovery it may have against 150 Owner.

(f) 168 Owner shall upon execution of this Agreement, annually upon renewal of each insurance coverage referred to in this Agreement, provide 150 Owner with certificates of insurance issued in the name of 150 Owner as certificate holder and evidencing all insurance requirements in this Agreement.

6. **Indemnification re Mechanic's Liens** 168 Owner shall not permit any lien to stand against the 150 Property or any improvements thereon for any labor or materials in connection with work of any character performed or claimed to have been performed on the 150 Property at the direction or sufferance of the 168 Owner. In the event of any lien attaching to the 150 Property or any improvements thereon, to the extent 168 Owner performed or caused to be performed the work resulting in any such lien, 168 Owner shall immediately have such lien released and/or bonded over or insured in favor of the 150 Owner to the sole satisfaction of the 150 Owner, and failure by 168 Owner to do so shall constitute a breach of this Agreement and 150 Owner may discharge the lien and be reimbursed by 168 Owner within ten (10) days of demand (with Interest accruing from the date such lien was discharged). 168 Owner hereby agrees to indemnify and hold 150 Owner and its members, principals, directors, officers, employees, managers, agents, attorneys and other representatives and their respective successors and assigns and the property of such 150 Owner harmless from any and all claims, demands, liabilities, losses, costs (including without limitation reasonable attorneys' fees and costs) and/or damages including without limitation mechanics' lien claims arising out of or resulting from 168 Owner's use of or activities on 150 Owner's property.

7. **Binding Effect.**

This Agreement and all of the covenants contained herein shall run with the land and shall be binding upon both the Properties and Parties and all successors and assigns of the Parties until the expiration of the Easement Term, or later, as specified in this Agreement. Each Party shall be liable for compliance with the terms of this Agreement during the period of its ownership of its Property, but shall not be liable for any violations of this Agreement that occur

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If to 168 Owner:

Crown Series LLC, 168 N. Michigan Series
c/o Crown Commercial Real Estate
and Development, Inc.
903 S. Butternut Circle
Frankfort, IL 60423
Attn: Musa P. Tadros, President

with a copy to:

Roetzel & Andress
20 N. Clark St. Ste. 300
Chicago, IL 60603
Attn: James V. Inandino

or to such other address or addresses as 168 Owner or 150 Owner may from time to time designate by notice given as above provided. Every notice or other communication shall be deemed to have been given if sent by any of the methods above provided for. Notices not sent in accordance with the above-stipulated methods shall be of no force or effect until actually received by the foregoing parties at the addresses specified in this Section.

10. **Governing Law.**

This Agreement shall be construed in accordance with the laws of the State of Illinois. 150 Owner and 168 Owner hereby submit to the jurisdiction of the courts in and for the County of Cook, State of Illinois and each agrees that any action arising out of this Agreement shall be instituted in the County of Cook, State of Illinois. All parties hereby waive any objection to the assertion of personal jurisdiction over them by the courts of the County of Cook, State of Illinois, for disputes arising out of this Agreement.

11. **Recording.**

168 Owner shall, at its sole cost and expense, record a copy of this Agreement with the Recorder of Deeds in Cook County, Illinois, and promptly thereafter deliver a stamped recorded copy of this Agreement to 150 Owner. Upon request of the 150 Owner, if the Easement Term has terminated as provided in Section 3 above, 168 Owner shall promptly execute a release of easement prepared by 150 Owner.

12. **Entire Agreement; Amendment.**

This Agreement and the attached Exhibits contain all of the terms and agreements between 150 Owner and 168 Owner relating to the matters set forth herein and no prior or contemporaneous agreement or understanding pertaining to the same shall be of any force or effect. This Agreement may not be changed or terminated except by a written document executed and acknowledged by 150 Owner and 168 Owner or their respective successors and assigns, and duly recorded with the Recorder of Deeds in Cook County, Illinois.

13. **Authority.** Each Party represents and warrants to the other that this Agreement has been duly authorized, executed and delivered by and on behalf of such Party and constitutes the valid and binding agreement of such Party in accordance with its terms.

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14. **Exhibits**. The Exhibits attached hereto are incorporated into this Agreement by reference and made a part thereof.

15. **Survival of Obligations**. Except for the obligations set forth in Section 2 above that will expire at the end of the Easement Term, the obligations set forth in this Agreement shall survive in perpetuity and not be limited to the Easement Term. If any of the options, privileges, covenants or rights created by this Agreement would otherwise be unlawful or void for violation of (i) the rule against perpetuities or some statutory provisions, (ii) the rule restricting restraints on alienation, or (iii) any other similar statutory or common law rules, then such provision shall continue only until twenty-one (21) years after the death of the last survivor of the now living lawful descendants of Her Majesty Queen Elizabeth II, Queen of the United Kingdom of Great Britain and Northern Ireland.

[signature pages follow]

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first set forth above.

150 OWNER:

JOHN HANCOCK LIFE INSURANCE COMPANY
(U.S.A.), a Michigan corporation

By: *M Basic*
Name: Michael Basic
Title: AVP & Managing Director, Midwest
Region

Dated: 12/4, 2015

168 OWNER:

CROWN SERIES LLC, 168 N. MICHIGAN
SERIES, a Delaware series limited liability company

By: Crown Commercial Real Estate and
Development, Inc., an Illinois corporation
Its: Manager

By: *Musa P. Tadros*
Name: Musa P. Tadros
Title: President

Dated: 11/18, 2015

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STATE OF ILLINOIS

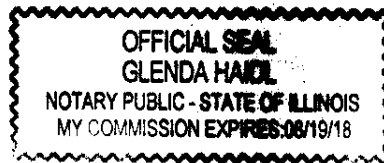
COUNTY OF COOK

I, the undersigned, a Notary Public in and for the County and State aforesaid, **DO HEREBY CERTIFY**, that Michael Basic, as AVP & Managing Director, Midwest Region of JOHN HANCOCK LIFE INSURANCE COMPANY (U.S.A.), a Michigan corporation, personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free voluntary act of said Michigan corporation for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 4TH day of DECEMBER 2015.

Glenda Haidl
NOTARY PUBLIC

My Commission Expires: AUGUST 19, 2018



STATE OF ILLINOIS

COUNTY OF COOK

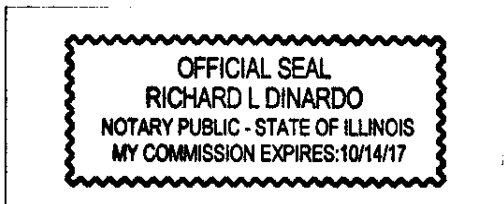
I, the undersigned, a Notary Public in and for the County and State aforesaid, **DO HEREBY CERTIFY**, that Musa P. Tedros, as President of Crown Commercial Real Estate of Crown Series LLC, a, personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free voluntary act of said Manager for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 18th day of November 2015.

Richard L. Dinardo
NOTARY PUBLIC

168 N. Michigan Series, a Delaware Series limited liability company

My Commission Expires: 10-14-17



Estate and Development, Inc., an Illinois corporation, as the Manager

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EXHIBIT A

Legal Description of the 150 Property

LOTS 19 THROUGH 25, ALL INCLUSIVE, IN BLOCK 10 IN FORT DEARBORN ADDITION TO CHICAGO, A SUBDIVISION OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PINs: 17-10-306-017-0000 (affects Lot 19 and the North 3 feet of Lot 20)
17-10-306-018-0000 (affects the South 21 feet of Lot 20 and all of Lots 21, 22, 23, 24 and 25)

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EXHIBIT B

Legal Description of the 168 Property

LOT 17 AND 18 IN BLOCK 10 IN FORT DEARBORN ADDITION TO CHICAGO IN
SOUTHWEST FRACTIONAL 1/4 OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14,
EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 17-10-306-016-0000

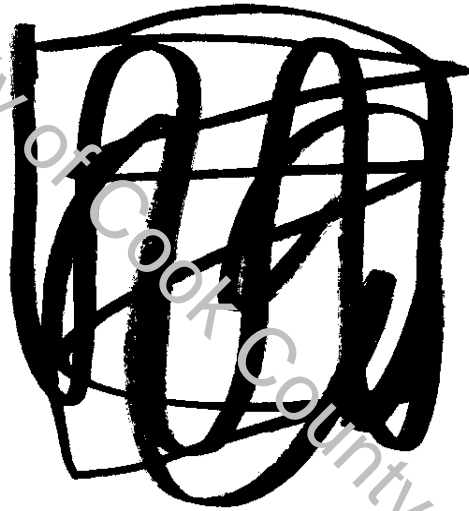
Property of Cook County Clerk's Office

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EXHIBIT C

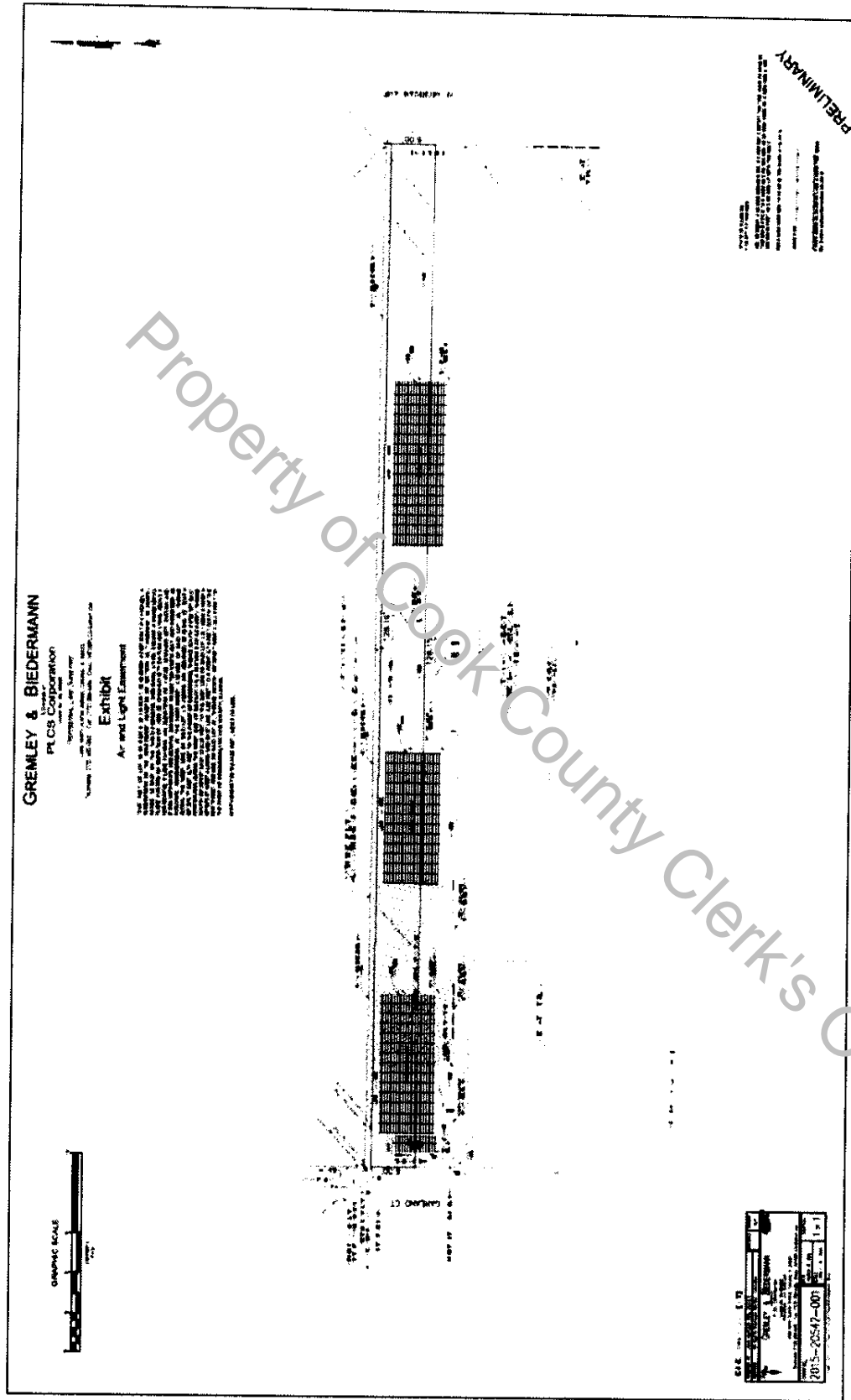
Legal Description of Easement Area

[see attached]



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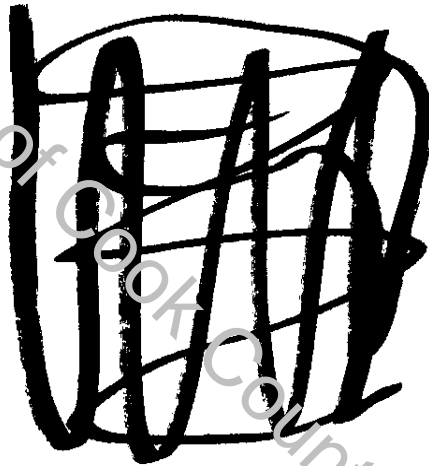


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EXHIBIT D

[168 window plan]

[see attached]



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