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**THIS INSTRUMENT
PREPARED BY:**

Joshua R. Diller
Katten & Temple LLP
542 S. Dearborn, 14th Floor
Chicago, IL 60605

**AFTER RECORDING
RETURN TO:**

JPMorgan Chase Lease
Administration
1111 Polaris Parkway, Suite 1J
Mail Code OH1-0241
Columbus, OH 43240
Attn: Lease Administration
Manager



Doc# 1726329067 Fee \$94.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 09/20/2017 01:08 PM PG: 1 OF 29

This space reserved for Recorder's use only.

RECIPROCAL EASEMENT AGREEMENT

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This **RECIPROCAL EASEMENT AGREEMENT** (the "Agreement") is made as of this 15th day of August, 2017, by and between **Wheeling Shopping Center, Inc.**, an Illinois corporation (together with its permittees, successors and assigns, the "**Center Owner**"), **Wheeling Center, LLC**, an Illinois limited liability company (together with its permittees, successors and assigns, the "**West Owner**") and **JPMorgan Chase Bank, National Association**, a national banking association (together with its permittees, successors and assigns, the "**Outparcel Owner**"), hereinafter each individually referred to as a "**Party**" and collectively referred to as the "**Parties**".

WITNESSETH:

WHEREAS, Center Owner is the owner of a certain parcel of land (the "**Center Parcel**") commonly known as 4-94 S. Milwaukee Avenue, Wheeling, Cook County, Illinois, and legally described on Exhibit A attached hereto and made a part hereof.

WHEREAS, West Owner is the owner of a certain parcel of land (the "**West Parcel**") commonly known as 253-291 E. Dundee Road, Wheeling, Cook County, Illinois, and legally described on Exhibit B attached hereto and made a part hereof.

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WHEREAS, Outparcel Owner is the owner of a parcel of land (the “**Outparcel**”) located at 253 Dundee, Wheeling, Cook County, Illinois, which is adjacent to the West Parcel and Center Parcel, and legally described in Exhibit C attached hereto and made a part hereof.

WHEREAS, the Outparcel, the Center Parcel and the West Parcel are each individually referred to herein as a “**Parcel**.” The Center Parcel, West Parcel and Outparcel collectively comprise the Fresh Farms Shopping Center (the “**Shopping Center**”), a Planned Unit Development, as further detailed on the plat for the Fresh Farms -- Wheeling Subdivision, recorded with the Cook County Recorder of Deeds as document no. 1134116010.

WHEREAS, given their common interests in the efficient and orderly operation and maintenance of the Shopping Center complex, the Center Owner, West Owner and Outparcel Owner desire to grant to one another certain reciprocal access easements, cross parking easements, and such other easements and covenants as are further set forth in this Agreement.

NOW, THEREFORE, in consideration of the sum of Ten and No/100 Dollars (\$10.00), the mutual agreements, covenants and easements contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1

RECITALS; CERTAIN DEFINITIONS

1.1 **Recitals**. All of the foregoing recitals are incorporated herein by this reference thereto with the same force and effect as though recited herein.

1.2 **Certain Definitions**. As used herein, the following words shall have the following meanings:

(A) **Curb Cuts**. The area within and around those two curb cuts depicted on Exhibit D attached hereto and made a part hereof.

(B) **Easement Areas**. The Outparcel Easement Premises as defined below in Section 5.1, the Center Parcel Easement Premises, as defined below in Section 5.2 and the West Parcel Easement Premises, as defined below in Section 5.3.

(C) **Laws**. All laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses, authorizations, directions and requirements, of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen and unforeseen, ordinary or extraordinary, which now or at any later time may be applicable to the Easement Areas or any parts thereof, the Center Parcel or any portion thereof, the West Parcel or any portion thereof and the Outparcel or any portion thereof, and all other provisions of this Agreement.

(D) **Permittees**. Except as otherwise provided herein, any Center Owner, West Owner, Outparcel Owner or their respective officers, directors, members, employees, agents, contractors, consultants, customers, vendors, suppliers, visitors, guests, invitees,

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licensees, tenants, subtenants and concessionaires from time to time entitled to the use and occupancy of any portion of the Center Parcel, West Parcel or the Outparcel as an owner or under any lease, sublease, easement, license, concession or other similar agreement.

(E) **Necessary Access** shall mean the right of the Parties to pedestrian and vehicular ingress and egress over the Center Parcel, the West Parcel and the Outparcel to the extent necessary to access Dundee Road, Milwaukee Avenue and Wille Avenue, as granted by the easements set forth below.

ARTICLE 2

GRANT OF EASEMENTS IN FAVOR OF OUTPARCEL

Subject to the terms of this Agreement, the following easements are hereby granted:

2.1 **Outparcel Access Easement.** By Center Owner and West Owner, to and for the benefit and use of Outparcel Owner and its Permittees, in common with others entitled to use the same, a nonexclusive and perpetual easement for: (i) the passage of vehicles over and across the parking and driveway areas of the Center Parcel and West Parcel, as the same may from time to time be constructed and maintained for such use; (ii) the passage of pedestrians over and across the parking, driveway and sidewalk areas of the Center Parcel and West Parcel, as the same may from time to time be constructed and maintained for such use; and (iii) pedestrian and vehicular ingress and egress over the Center Parcel and West Parcel to the extent necessary to access Dundee Road, Milwaukee Avenue and Wille Avenue and provide the Necessary Access (the "**Outparcel Access Easement**"). The Center Owner and West Owner shall not make any alterations to the Outparcel Access Easement Premises which would interfere with the Outparcel Owner's and its Permittees' use and enjoyment thereof, except on a temporary basis for construction, repair or other reasonable purposes in connection with the performance of any of Center Owner's or West Owner's obligations or the exercise of either of its rights under this Agreement; provided, however, in no event shall the Outparcel Owner and its Permittees be deprived of the Necessary Access except as part of necessary repairs or maintenance, upon the following conditions: (i) Center Owner or West Owner, as the case may be, provides reasonable prior written notice to Outparcel Owner of the dates and times access may be denied due to the repairs/maintenance (excepting an emergency); (ii) the repairs/maintenance are performed such that at any given time access is restricted as to only one of Dundee Road, Milwaukee Avenue or Wille Avenue at a time; and, (iii) the repairs/maintenance are performed so as to reasonably minimize the time period of any restriction on access.

2.2 **Outparcel Cross Parking Easement.** By Center Owner and West Owner, to and for the benefit and use of Outparcel Owner and its Permittees, in common with others entitled to use the same, a nonexclusive and perpetual easement for the cross-parking of Outparcel Owner's customers' vehicles on the parking areas of the Center Parcel and West Parcel (but excepting the Outparcel Employee's Parking Spaces [as defined in Section 2.3 below], which shall be for Outparcel Owner's employee's exclusive use), as the same may from time to time be constructed and maintained for such use (the "**Outparcel Cross Parking Easement**"). Notwithstanding the foregoing, the easement granted under this Section 2.2 does not permit: (i) the employee(s) of

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any business(es) located on the Outparcel to park on the Outparcel Cross Parking Easement, which employees shall only be permitted to park on the Outparcel Employee Parking Spaces as defined in Section 2.3 below; (ii) Outparcel Owner or its successor(s) to unreasonably increase the number or cross-parked vehicles located on the Outparcel Cross Parking Easement above the current use as of the date of this Agreement; or (iii) Outparcel Owner or its successor(s) to otherwise unreasonably increase the burden on the Center Parcel or the West Parcel. Center Owner and West Owner covenant and agree to maintain, collectively, at least the minimum amount of parking spaces within the Center Parcel and West Parcel required by applicable Laws.

2.3 **Outparcel Employee Parking Spaces.** By Center Owner, to and for the benefit and use of Outparcel Owner and its employees, an easement to use five (5) assigned parking spaces at the rear of the building located at 253 Dundee, in the area depicted on the Site Plan attached hereto as Exhibit E (the “**Outparcel Employee Parking Spaces**”). Outparcel Owner and its successors shall pay to Center Owner and its successors the sum of \$100 per month per parking space as a maintenance fee for the use of such parking spaces, with such fee to be adjusted every five (5) years based on inflation. Center Owner shall have the right to relocate and/or reassign, from time to time, the Outparcel Employee Parking Spaces, so long as the parking spaces are located within the area depicted on Exhibit E (the “**Employee Parking Area**”) after any such relocation or reassignment and provided further that at no time shall the Outparcel Owner and its employees be deprived of the exclusive use of five (5) assigned parking spaces within the Employee Parking Area, except as part of necessary repairs or maintenance, upon the following conditions: (i) Center Owner provides reasonable prior notice to Outparcel Owner of the dates and times access to the Outparcel Employee Parking Spaces may be limited due to the repairs/maintenance (excepting an emergency); (ii) Center Owner provides Outparcel Owner with access to at least five (5) temporary replacement parking spaces on the Outparcel Cross Parking Easement premises adjacent to the Outparcel; and (iii) the repairs/maintenance are performed so as to reasonably minimize the time period of any restriction on access to the Outparcel Employee Parking Spaces.

2.4 **Outparcel Monument Sign.** Outparcel Owner currently has placed a sign panel on the common multi-tenant monument sign constructed by Center Owner on the portion of the Center Parcel facing Milwaukee Avenue. Outparcel Owner shall be entitled to keep its sign panel in place on such monument sign, subject to payment of: (i) the costs of installing and maintaining Outparcel Owner’s individual signage, and (ii) Outparcel Owner’s proportionate share of the maintenance and repair costs reasonably associated with the common sign as a whole, which maintenance fee shall be no less than \$100 per month and which shall be paid to Center Owner quarterly within 14 days of receiving an invoice from Center Owner with the applicable charges. Center Owner shall have the right, in its sole discretion, to move or relocate any common multi-tenant monument sign within the Center Parcel and Outparcel Owner shall have the right to place a similar-size panel upon the same payment terms set forth above; provided, however, so long as Outparcel Owner is current with respect to the maintenance fee due under this Section 2.4, at no point shall Outparcel Owner be deprived of the use of a common multi-tenant monument sign within the Center Parcel.

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ARTICLE 3

GRANT OF EASEMENTS IN FAVOR OF CENTER PARCEL

Subject to the terms of this Agreement, the following easements are hereby granted:

3.1 **Center Parcel Access Easement.** By West Owner and Outparcel Owner, to and for the benefit and use of Center Owner and its Permittees, in common with others entitled to use the same, a nonexclusive and perpetual easement for: (i) the passage of vehicles over and across the parking and driveway areas of the West Parcel and the Outparcel, as the same may from time to time be constructed and maintained for such use; (ii) the passage of pedestrians over and across the parking, driveway and sidewalk areas of the West Parcel and the Outparcel, as the same may from time to time be constructed and maintained for such use; and (iii) pedestrian and vehicular ingress and egress with respect to Dundee Road, Milwaukee Avenue and Wille Avenue (the "**Center Parcel Access Easement**"). West Owner and Outparcel Owner shall not make any alterations to the Center Parcel Access Easement which would interfere with the Center Owner's and its Permittees' use and enjoyment thereof, except on a temporary basis for construction, repair or other reasonable purposes in connection with the performance of any of West Owner's or Outparcel Owner's obligations or the exercise of either of its rights under this Agreement; provided, however, in no event shall the Center Owner and its Permittees be deprived of the Necessary Access except as part of necessary repairs or maintenance, upon the following conditions: (i) West Owner or Outparcel Owner, as the case may be, provides reasonable prior written notice to Center Owner of the dates and times access may be limited due to the repairs/maintenance (excepting an emergency); (ii) the repairs/maintenance are performed such that at any given time access is restricted as to only one of Dundee Road or Wille Avenue at a time; and, (iii) the repairs/maintenance are performed so as to reasonably minimize the time period of any restriction on access.

3.2 **Center Parcel Cross Parking Easement.** By West Owner and Outparcel Owner, to and for the benefit and use of Center Owner and its Permittees, in common with others entitled to use the same, a nonexclusive and perpetual easement for the cross-parking of Center Owner's customers' vehicles on the parking areas of the West Parcel and the Outparcel, as the same may from time to time be constructed and maintained for such use (the "**Center Parcel Cross Parking Easement**"). Further, the employees of any business located on the Outparcel may not park on the Center Parcel Cross Parking Easement, but instead must park on the Outparcel Employee Parking Spaces as defined in Section 2.3 above. Notwithstanding the foregoing, the easement granted under this Section 3.2 does not permit: (i) the employee(s) of any business(es) located on the Center Parcel to park on the Center Parcel Cross Parking Easement; (ii) Center Owner or its successor(s) to unreasonably increase the number of cross-parked vehicles located on the Center Parcel Cross Parking Easement above the current use as of the date of this Agreement; or (iii) Center Owner or its successor(s) to otherwise unreasonably increase the burden on the West Parcel or the Outparcel.

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ARTICLE 4

GRANT OF EASEMENTS IN FAVOR OF WEST PARCEL

Subject to the terms of this Agreement, the following easements are hereby granted:

4.1 **West Parcel Access Easement.** By Center Owner and Outparcel Owner, to and for the benefit and use of West Owner and its Permittees, in common with others entitled to use the same, a nonexclusive and perpetual easement for: (i) the passage of vehicles over and across the parking and driveway areas of the Center Parcel and the Outparcel, as the same may from time to time be constructed and maintained for such use; (ii) the passage of pedestrians over and across the parking, driveway and sidewalk areas of the Center Parcel and the Outparcel, as the same may from time to time be constructed and maintained for such use; and (iii) pedestrian and vehicular ingress and egress with respect to Dundee Road, Milwaukee Avenue and Wille Avenue (the "**West Parcel Access Easement**"). Center Owner and Outparcel Owner shall not make any alterations to the West Parcel Access Easement which would interfere with the West Owner's and its Permittees' use and enjoyment thereof, except on a temporary basis for construction, repair or other reasonable purposes in connection with the performance of any of Center Owner's or Outparcel Owner's obligations or the exercise of either of its rights under this Agreement; provided, however, in no event shall the West Owner and its Permittees be deprived of the Necessary Access except as part of necessary repairs or maintenance, upon the following conditions: (i) Center Owner or Outparcel Owner, as the case may be, provides reasonable prior written notice to West Owner of the dates and times access may be limited due to the repairs/maintenance (excepting an emergency); (ii) the repairs/maintenance are performed such that at any given time access is restricted as to only one of Dundee Road or Wille Avenue at a time; and, (iii) the repairs/maintenance are performed so as to reasonably minimize the time period of any restriction on access.

4.2 **West Parcel Cross Parking Easement.** By Center Owner and Outparcel Owner, to and for the benefit and use of West Owner and its Permittees, in common with others entitled to use the same, a nonexclusive and perpetual easement for the cross-parking of West Owner's customers' vehicles on the parking areas of the Center Parcel and the Outparcel, as the same may from time to time be constructed and maintained for such use (the "**West Parcel Cross Parking Easement**"). Further, the employees of any business located on the Outparcel may not park on the West Parcel Cross Parking Easement, but instead must park on the Outparcel Employee Parking Spaces as defined in Section 2.3 above. Notwithstanding the foregoing, the easement granted under this Section 4.2 does not permit: (i) the employee(s) of any business(es) located on the West Parcel to park on the West Parcel Cross Parking Easement; (ii) West Owner or its successor(s) to unreasonably increase the number or cross-parked vehicles located on the West Parcel Cross Parking Easement above the current use as of the date of this Agreement; or (iii) West Owner or its successor(s) to otherwise unreasonably increase the burden on the Center Parcel or the Outparcel.

4.3 **Curb Cut Maintenance Easement.** By Center Owner and Outparcel Owner, to and for the benefit and use of West Owner and its Permittees, a non-exclusive perpetual easement under and across the portion of the Center Parcel and Outparcel necessary to perform

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the maintenance obligations of the West Owner set forth in Section 5.6 below with respect to the Curb Cuts (such area, the “Curb Cut Easement Premises”).

ARTICLE 5

MAINTENANCE AND USE CONDITIONS

5.1 Maintenance of the Outparcel Access Easement, Outparcel Cross Parking Easement and Outparcel Employee Parking Spaces. Except as set forth in Section 5.6 below, with respect to the Outparcel Access Easement, Outparcel Cross Parking Easement and Outparcel Employee Parking Spaces (collectively, the “Outparcel Easement Premises”), Center Owner shall be responsible for all cleaning, maintenance, repairs and replacements of the Outparcel Easement Premises located on the Center Parcel, and West Owner shall be responsible for all cleaning, maintenance, repairs and replacements of the Outparcel Easement Premises located on the West Parcel. This includes, without limitation, performing snow and ice removal from all paved portions thereof and repair or replacement of the pavement, curbs, stormwater and drainage systems, lighting (for such hours as determined by the Center Owner or West Owner, as the case may be, in its discretion) and other improvements located in the subject Outparcel Easement Premises. Notwithstanding the foregoing, Outparcel Owner shall be responsible for and shall reimburse the Center Owner and/or the West Owner for all reasonable cost and expense incurred by Center Owner and/or West Owner, respectively, to repair any damage beyond ordinary wear and tear that Outparcel Owner or any of its Permittees causes to the Outparcel Easement Premises or any other portion of the Center Parcel and/or West Parcel within thirty (30) days of Center Owner’s and/or West Owner’s written notice and demand for payment, unless such charges are the subject of a good faith bona fide dispute. Subject to Section 5.4 below, Center Owner and West Owner shall not interfere with the Outparcel Owner’s and its Permittees’ use and enjoyment of the Outparcel Easement Premises, except as necessary on a temporary basis for construction, repair or other reasonable purposes in connection with the performance of any of Center Owner’s or West Owner’s obligations or the exercise of its rights under this Agreement; provided, however, in no event shall the Outparcel Owner and its Permittees be deprived of the Necessary Access, except as provided in Section 2.1.

5.2 Maintenance of the Center Parcel Access Easement and Center Parcel Cross Parking Easement. Except as set forth in Section 5.6 below, with respect to the Center Parcel Access Easement and the Center Parcel Cross Parking Easement (the “Center Parcel Easement Premises”), Outparcel Owner shall be responsible for all cleaning, maintenance, repairs and replacements of the Center Parcel Easement Premises located on the Outparcel and West Parcel. Center Owner shall be responsible for all cleaning, maintenance, repairs and replacements of the Center Parcel Easement Premises located on the West Parcel. This includes, without limitation, performing snow and ice removal from all paved portions thereof and repair or replacement of the pavement, curbs, stormwater and drainage systems, lighting and other improvements located in the subject Center Parcel Easement Premises. Notwithstanding the foregoing, Center Owner shall be responsible for and shall reimburse Outparcel Owner and/or West Owner for all reasonable cost and expense incurred by Outparcel Owner and/or West Owner, respectively, to repair any damage beyond ordinary wear and tear that Center Owner or any of its Permittees causes to the Center Parcel Easement Premises or other portions of the Outparcel and/or West Parcel within thirty (30) days of Outparcel Owner’s and/or West Owner’s written notice and

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demand for payment, unless such charges are the subject of a good faith bona fide dispute. Subject to Section 5.4 below, Outparcel Owner and West Owner shall not interfere with the Center Owner's and its Permittees' use and enjoyment of the Center Parcel Easement Premises and Curb Cut Easement Premises, except as necessary on a temporary basis for construction, repair or other reasonable purposes in connection with the performance of any of Outparcel Owner's or West Owner's obligations or the exercise of its rights under this Agreement; provided, however, in no event shall the Center Owner and its Permittees be deprived of the Necessary Access, except as provided in Section 3.1.

5.3 Maintenance of the West Parcel Access Easement and West Parcel Cross Parking Easement. Except as set forth in Section 5.6 below, with respect to the West Parcel Access Easement and the West Parcel Cross Parking Easement (collectively, the "West Parcel Easement Premises"), Center Owner shall be responsible for all cleaning, maintenance, repairs and replacements of the West Parcel Easement Premises located on the Center Parcel, and Outparcel Owner shall be responsible for all cleaning, maintenance, repairs and replacements of the West Parcel Easement Premises located on the Outparcel. This includes, without limitation, performing snow and ice removal from all paved portions thereof and repair or replacement of the pavement, curbs, stormwater and drainage systems, lighting and other improvements located in the subject West Parcel Easement Premises. Notwithstanding the foregoing, West Owner shall be responsible for and shall reimburse Center Owner and/or Outparcel Owner for all reasonable cost and expense incurred by Center Owner and/or Outparcel Owner, respectively, to repair any damage beyond ordinary wear and tear that West Owner or any of its Permittees causes to the West Parcel Easement Premises or other portions of the Center Parcel and/or Outparcel within thirty (30) days of Center Owner's and/or Outparcel Owner's written notice and demand for payment, unless such charges are the subject of a good faith bona fide dispute. Subject to Section 5.4 below, Center Owner and Outparcel Owner shall not interfere with the West Owner's and its Permittees' use and enjoyment of the West Parcel Easement Premises and Curb Cut Easement Premises, except as necessary on a temporary basis for construction, repair or other reasonable purposes in connection with the performance of any of Center Owner's or Outparcel Owner's obligations or the exercise of its rights under this Agreement; provided, however, in no event shall the West Owner and its Permittees be deprived of the Necessary Access, except as provided in Section 4.1

5.4 Rights Reserved by the Parties. The Parties recognize that the Center Parcel, West Parcel and Outparcel comprise a Shopping Center complex, and that to accommodate users and tenants of the Shopping Center, it may be necessary or desirable to: (i) alter and/or modify those portions of the Center Parcel and West Parcel on which the Outparcel Easement Premises are located, or to otherwise modify the parking, driveway and sidewalk areas on which the Outparcel Easement Premises are located, (ii) alter and/or modify those portions of the Outparcel and West Parcel on which the Center Parcel Easement Premises are located, or to otherwise modify the parking, driveway and sidewalk areas on which the Center Parcel Easement Premises are located, or (iii) alter and/or modify those portions of the Center Parcel and Outparcel on which the West Parcel Easement Premises are located, or to otherwise modify the parking, driveway and sidewalk areas on which the West Parcel Easement Premises are located. Accordingly, nothing herein shall prohibit (x) the Center Owner or its successors from modifying the Center Parcel, including those portions on which the Outparcel Easement Premises and/or the West Parcel Easement Premises are located, provided that at all times the Outparcel Owner

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and/or West Owner (as the case may be) continues to enjoy the same or materially similar: (i) pedestrian and vehicular ingress and egress with respect to the Necessary Access, as granted under Sections 2.1 and 4.1; (ii) the cross-parking rights as granted under Sections 2.2 and 4.2; (iii) the Employee Parking Spaces as granted under Section 2.3; and (iv) the signage rights granted under Section 2.4; (y) the Outparcel Owner or its successors from modifying the Outparcel, including those portions on which the Center Parcel Easement Premises and West Parcel Easement Premises are located, provided that at all times the Center Owner and/or West Owner (as the case may be) continues to enjoy the same or materially similar: (i) pedestrian and vehicular ingress and egress with respect the Necessary Access, as granted under Sections 3.1 and 4.1 and (ii) the cross-parking rights as granted under Sections 3.2 and 4.2; or (z) the West Owner or its successors from modifying the West Parcel, including those portions on which the Center Parcel Easement Premises and/or the Outparcel Easement Premises are located, provided that at all times the Center Owner and/or the Outparcel Owner (as the case may be) continues to enjoy the same or materially similar: (i) pedestrian and vehicular ingress and egress with respect to the Necessary Access, as granted under Sections 2.1 and 3.1, and (ii) the cross-parking rights as granted under Sections 2.2 and 3.2.

5.5 Conditions for Use and Operation of Parking Easement Premises. Center Owner, West Owner and Outparcel Owner, and their respective Permittees, shall comply with all Laws related to or in connection with the exercise of any of its rights to access or use the Outparcel Easement Premises, West Parcel Easement Premises, Center Parcel Easement Premises and the Curb Cut Easement Premises.

5.6 Curb Cuts Maintenance. Notwithstanding the foregoing or anything otherwise set forth herein to the contrary, the West Owner (the "Responsible Owner"), at all times during the term hereof shall, at its expense (subject to reimbursement as set forth below), maintain and keep in good order and repair the Curb Cuts, which shall include, without limitation, removing all debris, snow, ice and other refuse located thereon, to the extent necessary to maintain the same in a clean, safe and orderly condition, and in compliance with all applicable laws and ordinances. No permanent or temporary structure shall be constructed or placed on the Curb Cuts without the express consent of all of the Parties. For purposes hereof, "Operating Costs" shall mean all costs of the maintenance and repair as shall be required in the Responsible Owner's or its designee's judgment to preserve the utility and condition of the Curb Cuts in substantially the same condition and status as they were in as of the time of the completion of the original construction and installation thereof, including, but not limited to (i) cleaning and removal of rubbish, dirt, debris, snow and ice; (ii) striping, maintenance, repair and replacement of any paving or (iii) such other costs as the Responsible Owner may determine in its reasonable discretion are necessary or desirable for the proper maintenance of the Curb Cuts. The Parties shall pay their respective Proportionate Share (defined below) of the Operating Costs within thirty (30) days after receipt of an invoice therefore from Responsible Owner, which invoice shall be accompanied by supporting documentation. For purposes of sharing Operating Costs, the applicable "Proportionate Share" of each Parcel shall be one-third (1/3) to Outparcel Owner, one-third (1/3) to Center Owner and one-third (1/3) to West Owner.

5.7 Rules and Regulations. Each of the Center Owner, West Owner and Outparcel Owner shall have the right to promulgate reasonable rules and regulations regarding the use of that portion of the Outparcel Easement Premises, Center Parcel Easement Premises and West

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Parcel Easement Premises that is located on its respective Parcel, provided that such rules and regulations shall not unreasonably limit or diminish the easement rights granted to the other Parties for the purposes described herein.

ARTICLE 6

INSURANCE

6.1 Outparcel Owner shall at its sole cost and expense: (1) insure against public liability claims and losses on a commercial general liability form of insurance with broad form coverage endorsements covering claims for personal and bodily injury or property damage occurring in, on, under, within, upon or about Center Parcel Easement Premises and the West Parcel Easement Premises, or as a result of operations thereon (including contractual liability covering obligations created by this Agreement including, but not limited to, those indemnity obligations contained in this Agreement) with limits of no less than \$1,000,000 per occurrence/\$2,000,000 aggregate, and (2) maintain automobile liability insurance for owned, non-owned and hired vehicles for limits, as to each owner of not less than \$1,000,000 combined single limit for personal and bodily injury or property damage. Such policy shall be endorsed to provide cross-liability or severability of interests for the named insureds. The policies obtained by the Outparcel Owner shall name the Center Owner and West Owner as additional insureds. Outparcel Owner may provide Center Owner and/or West Owner with access to a web-based memorandum of insurance (hereinafter "MOI") and Evidence of Coverage (hereinafter "EOC") evidencing coverages in force. Center Owner and West Owner shall accept the MOI and EOC as Outparcel Owner's evidence of insurance. Notwithstanding anything in this Agreement to the contrary, Outparcel Owner shall have the right to self-insure for any insurance requirements contained herein, and shall provide Center Owner and West Owner with written notice of self-insurance in lieu of proof of insurance.

6.2 Center Owner shall at its sole cost and expense: (1) insure against public liability claims and losses on a commercial general liability form of insurance with broad form coverage endorsements covering claims for personal and bodily injury or property damage occurring in, on, under, within, upon or about the Outparcel Easement Premises and the West Parcel Easement Premises, or as a result of operations thereon (including contractual liability covering obligations created by this Agreement including, but not limited to, those indemnity obligations contained in this Agreement) with limits of no less than \$1,000,000 per occurrence/\$2,000,000 aggregate, and (2) maintain automobile liability insurance for owned, non-owned and hired vehicles for limits, as to each owner of not less than \$1,000,000 combined single limit for personal and bodily injury or property damage. Such policy shall be endorsed to provide cross-liability or severability of interests for the named insureds. The policies obtained by the Center Owner shall name the Outparcel Owner and West Owner as additional insureds.

6.3 West Owner shall at its sole cost and expense: (1) insure against public liability claims and losses on a commercial general liability form of insurance with broad form coverage endorsements covering claims for personal and bodily injury or property damage occurring in, on, under, within, upon or about the Center Parcel Easement Premises and Outparcel Easement Premises, or as a result of operations thereon (including contractual liability covering obligations created by this Agreement including, but not limited to, those indemnity obligations contained in

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this Agreement) with limits of no less than \$1,000,000 per occurrence/\$2,000,000 aggregate, and (2) maintain automobile liability insurance for owned, non-owned and hired vehicles, for limits, as to each owner of not less than \$1,000,000 combined single limit for personal and bodily injury or property damage. Such policy shall be endorsed to provide cross-liability or severability of interests for the named insureds. The policies obtained by West Owner shall name the Outparcel Owner and Center Owner as additional insureds.

6.4 Nothing herein shall prohibit the Parties, or any combination of the Parties, to jointly or singularly obtain the insurance required by Sections 6.1-6.3. By way of example only, Center Owner and West Owner may obtain a single insurance policy to comply with the insurances required by Sections 6.2 and 6.3.

ARTICLE 7

INDEMNIFICATION

7.1 **Indemnification by Outparcel Owner.** Outparcel Owner shall indemnify and hold Center Owner and West Owner harmless from and against all liabilities, damages, obligations, losses, claims, civil actions, costs or expenses, including attorney's fees, arising from any act, omission or negligence of Outparcel Owner or its Permittees in or about the Center Parcel and West Parcel (including, without limitation, the Outparcel Easement Premises), except to the extent such liability is caused by the negligence or willful misconduct of Center Owner or West Owner, as the case may be, or their respective Permittees – provided however, such limitation shall apply only to the Party that is negligent or willful (or whose Permittee is negligent or willful) and shall not limit indemnification of the non-negligent Party.

7.2 **Indemnification by Center Owner.** Center Owner shall indemnify and hold Outparcel Owner and West Owner harmless from and against all liabilities, damages, obligations, losses, claims, civil actions, costs or expenses, including attorney's fees, arising from any act, omission or negligence of Center Owner or its Permittees in or about the Outparcel and West Parcel (including, without limitation, the Center Parcel Easement Premises), except to the extent such liability is caused by the negligence or willful misconduct of Outparcel Owner or West Owner, as the case may be, or their respective Permittees – provided however, such limitation shall apply only to the Party that is negligent or willful (or whose Permittee is negligent or willful) and shall not limit indemnification of the non-negligent Party.

7.3 **Indemnification by West Owner.** West Owner shall indemnify and hold Center Owner and Outparcel Owner harmless from and against all liabilities, damages, obligations, losses, claims, civil actions, costs or expenses, including attorney's fees, arising from any act, omission or negligence of West Owner or its Permittees in or about the Center Parcel and Outparcel (including, without limitation, the West Parcel Easement Premises and the Curb Cut Easement Premises), except to the extent such liability is caused by the negligence or willful misconduct of Center Owner or Outparcel Owner, as the case may be, or their respective Permittees- provided however, such limitation shall apply only to the Party that is negligent or willful (or whose Permittee is negligent or willful) and shall not limit indemnification of the non-negligent Party.

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7.4 **Liens.** In the event any mechanic's lien is filed against the Parcel of one Party as a result of services performed or materials furnished by or for the benefit of another Party (the "Contracting Owner"), the Contracting Owner shall cause such lien to be discharged within forty five (45) days after receiving notice thereof either by paying the indebtedness which gave rise to such lien, or by posting bond or other security as shall be required by law to obtain such release and discharge. A Contracting Owner may contest such lien so long as it provides to the Party whose Parcel is bonded over for the full amount of such lien.

ARTICLE 8

GRANT OF RESTRICTIVE COVENANT IN FAVOR OF OUTPARCEL

8.1 **Exclusive Use.** Center Owner and West Owner hereby grant and convey a restrictive covenant against the Center Parcel and West Parcel, respectively, that no Exclusive Use, as that term is defined below, shall operate on any portion of the Center Parcel or West Parcel (other than by tenants of the Center Owner or West Owner existing prior to the effective date of this Agreement, including Dundee/Milwaukee Currency Exchange, Inc. (the "Currency Exchange Tenant"); provided however, that the exception to the Exclusive Use shall be personal to the Currency Exchange Tenant and shall not be assignable or transferrable and shall expire upon the expiration or earlier termination of the Center Owner's lease with the Currency Exchange Tenant (the "Exclusive Use Restrictive Covenant"). As used herein, the term "Exclusive Use" shall mean a full service financial institution, including ATMs and/or drive-through facilities, both directly and through subsidiaries and affiliates including without limitation an operation of a bank (or the operation of any drive through lanes for a bank), savings and loan, mortgage lending, or mortgage brokerages companies (*i.e.*, Country Wide Mortgage), credit union, finance company, exterior ATMs or any entity providing security services. The Exclusive Use Restrictive Covenant shall commence on the date of this Agreement and shall automatically expire the earlier of: (i) a period of fifteen (15) years from the execution of this Agreement, (ii) the date JPMorgan Chase Bank sells the Outparcel, or (iii) the date JPMorgan Chase Bank (or any of its affiliates or successor(s) by merger or consolidation) no longer operates from the Outparcel in excess of one hundred eight (180) consecutive days (excluding any closures resulting from casualty, condemnation, Outparcel Owner's performance of alterations, or other matters outside the reasonable control of Outparcel Owner). In the event of the expiration of the Exclusive Use Restrictive Covenant, upon request of Center Owner and/or West Owner, or either of their successors, Outparcel Owner agrees to execute, acknowledge and deliver an instrument in recordable form evidencing the termination of the Exclusive Use Restrictive Covenant.

ARTICLE 9

GENERAL PROVISIONS

9.1 **Transfer of Ownership.** Whenever a transfer of ownership of either Center Parcel, West Parcel or Outparcel occurs, the liability of the transferor for any duty or covenant hereunder occurring thereafter shall automatically terminate with respect to such transferor provided, the transferee, shall automatically assume and be bound by the burdens and obligations hereunder, including any prior and unfulfilled obligations of the transferor. Acceptance of a deed

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for Center Parcel, West Parcel or Outparcel or any portion thereof shall be conclusive evidence of such assumption. Transfer of ownership shall not affect nor diminish any easement or obligation that is a covenant running with the land under this Agreement.

9.2 **Covenants Running with Land.** The easements, rights, restrictions, obligations, covenants and agreements set forth in this Agreement are intended to be and shall be construed as covenants running with the land and shall inure to the benefit of and be binding upon the Parties and their respective heirs, successors and assigns.

9.3 **Relationship.** Nothing herein shall be construed to create or infer a partnership, joint venture or agency relationship between the Parties or their successors or assigns or to render either Party liable for the debts and obligations of the other.

9.4 **Default.** A Party will be in default under this Agreement if they breach or fail to fulfill a material condition, covenant or requirement of this Agreement no later than thirty (30) days after of receipt of written notice from the other Party. In the event of a default, the non-defaulting Parties shall have all rights and remedies available to it in both, law and equity, including specific performance, injunctive relief and damages (except as expressly provided herein).

9.5 **Self-Help.** In addition to all other remedies available at law or in equity, upon the failure of a defaulting Party (a "**Defaulting Owner**") to cure a breach of this Agreement within thirty (30) days following written notice thereof by a Non-Defaulting Owner, unless in the case of any emergency, in which case reasonable notice under the circumstances shall be required (such as failure to timely complete snow plowing), or in the event of blockage or material impairment of the easement rights, and/or the unauthorized parking of vehicles on a Parcel, in which case, no notice shall be required, a Party (a "**Non-Defaulting Owner**") shall have the right to perform such obligation contained in this Agreement on behalf of the Defaulting Owner and be reimbursed by such Defaulting Owner upon written demand for the reasonable costs thereof, which costs shall be paid by the Defaulting Owner within sixty (60) days of such demand unless subject to a bona fide dispute. After expiration of such sixty (60) day period, the unpaid balance shall be due together with interest at the prime rate of JPMorgan Chase Bank (its successors or assigns), , and the Non-Defaulting Owner shall automatically be deemed to have a lien in such amount on the Defaulting Owner's property which is subject to the terms of this Agreement, which lien shall remain until such amount is paid in full, the Non-Defaulting Owner shall record a release thereof or obtain a bond over the amount claimed, or a court of competent jurisdiction adjudicates the dispute in favor of one party. A Non-Defaulting Owner having a lien on the property of a Defaulting Owner pursuant to the terms hereof shall have the right to take such action as necessary to perfect or foreclose upon such lien. Defaulting Owner hereby grants to each Non-Defaulting Owner an easement and license to enter upon Defaulting Owner's property which is subject to this Agreement for the purpose of exercising the rights provided under this Section 9.5.

9.6 **Waiver.** No delay or omission by any of the Parties, or their successors or assigns, to exercise any right or power occurring upon any non-compliance or failed performance by the other Party under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either Party hereto, or its successors or assigns,

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of any of the covenants, obligations, conditions or agreements hereof to be performed by another shall not be construed to be a waiver of any succeeding breach thereof or of any covenant, obligation, condition or agreement herein contained.

9.7 **Notices.** All notices, demands, consents, approvals and other communications which are required or desired to be given by either party to the other hereunder shall be in writing and shall be hand delivered, sent by use of a nationally-recognized overnight courier service or sent by United States registered or certified mail, postage prepaid, return receipt requested, addressed to the appropriate party at its address set forth below, or at such other address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, and other communications shall be deemed given when delivered (or refused) or three days after mailing.

If to Center Owner: c/o Svigos Asset Management, Inc.
1 W. Dundee, Suite 200
Buffalo Grove, IL 60089

With a copy to: Katten & Temple LLP
542 S. Dearborn, #1400
Chicago, IL 60605
Attn: Joshua R. Diller

If to Outparcel Owner: JPMorgan Chase Lease Administration
1111 Polaris Parkway, Suite 1J
Mail Code OH1-0241
Columbus, OH 43240
Attn: Lease Administration Manager

With copies to: JPMorgan Chase Bank, N.A.
237 Park Avenue, 12th Floor
Mail Code NY1-R066
New York, New York 10017-3140
Attn: Regional Manager of Real Estate

JPMorgan Chase Law Department
1111 Polaris Parkway, Suite 4P
Mail Code OH1-0152
Columbus, OH 43240
Attn: Real Estate Counsel

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With a copy to: Freeborn & Peters LLP
311 South Wacker Drive, Suite 3000
Chicago, IL 60606
Attn: Anne R. Garr

If to West Owner: c/o Svigos Asset Management, Inc.
1 W. Dundee, Suite 200
Buffalo Grove, IL 60089

With a copy to: Katten & Temple LLP
542 S. Dearborn, #1400
Chicago, IL 60605
Attn: Joshua R. Diller

Any Party may change the name of the company, person or address to which notices and other communications are to be given by so notifying the other Party.

9.8 **Estoppel.** To the best of their ability, each Party agrees that, within ten (10) days after the written request of the other Party, will issue to the requesting Party or its prospective mortgagee or successor, an estoppel certificate stating, to the best of the issuer's knowledge, as of such date:

- (A) Whether it knows of any default under this Agreement by the requesting Party, and if there are known defaults, specifying the nature thereof;
- (B) Whether this Agreement has been assigned, modified or amended in any way by it and if so, then stating the nature thereof;
- (C) Whether this Agreement is in full force and effect; and
- (D) Such other facts or conclusions as may be reasonably requested.

9.9 **Headings.** The headings used in this Agreement are inserted only as a matter of convenience and for reference only and in no way define, limit or describe the scope of this Agreement, nor the intent of any provision hereof or in any way affect its provisions.

9.10 **Entire Agreement.** This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof; no representations, inducements, promises or agreements, oral or otherwise, between the Parties not embodied herein, shall be of any force or affect.

9.11 **Severability.** If any provision, condition, covenant or other clause, sentence or phrase of this Agreement shall become null and void or illegal for any reason, or be so held by any court of competent jurisdiction, the remaining provisions hereof shall remain in full force and effect.

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9.12 Amendment. This Agreement may be amended and modified only by a written instrument executed by the Parties or the subsequent owners of Center Parcel, West Parcel and Outparcel.

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COOK COUNTY
RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

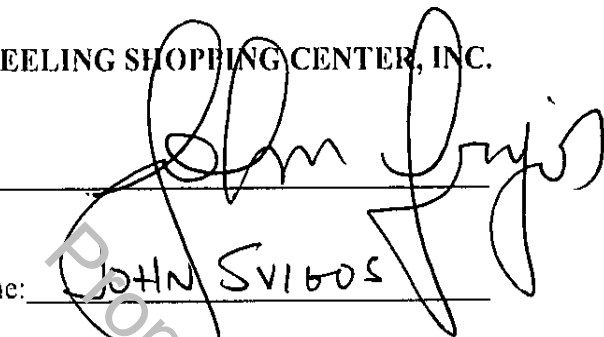
Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

Center Owner:

WHEELING SHOPPING CENTER, INC.

By: 

Name: JOHN SVIGOS

Its: PRESIDENT

Outparcel Owner:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

By: _____

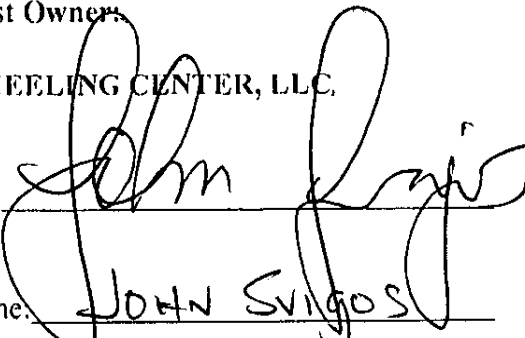
Name: _____

Its: _____

**COOK COUNTY
RECORDER OF DEEDS**

West Owner:

WHEELING CENTER, LLC.

By: 

Name: JOHN SVIGOS

Its: MANAGER

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

Center Owner:

WHEELING SHOPPING CENTER, INC.

By: _____

Name: _____

Its: _____

Outparcel Owner:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION

By: Ryan Repp

Name: Ryan Repp
 Executive Director

Its: _____

West Owner:

WHEELING CENTER, LLC

By: _____

Name: _____

Its: _____

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COOK COUNTY
RECORDER OF DEEDS

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STATE OF IL)
) SS.
COUNTY OF COOK

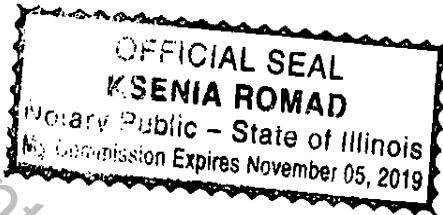
I, Ksenia Romad, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that John Svigos, as President of WHEELING SHOPPING CENTER, INC., an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he/she, being thereunto duly authorized, signed and delivered said instrument as the free and voluntary act of said limited liability company and as his/her own free and voluntary act, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this day of 14th day of September, 2014.

[Signature]

Notary Public

My Commission Expires:
11/05/2019



STATE OF _____)
) SS.
COUNTY OF _____)

I, _____, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that _____, as _____ of JPMorgan Chase Bank, National Association, a national banking association, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he/she, being thereunto duly authorized, signed and delivered said instrument as the free and voluntary act of said national banking association, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this day of _____ day of _____, _____.

Notary Public

My Commission Expires:

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STATE OF _____)
) SS.
COUNTY OF _____)

I, _____, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that _____, as _____ of WHEELING SHOPPING CENTER, INC., an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he/she, being thereunto duly authorized, signed and delivered said instrument as the free and voluntary act of said limited liability company and as his/her own free and voluntary act, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this day of _____ day of _____, _____.

Notary Public

My Commission Expires:

STATE OF Ohio)
) SS.
COUNTY OF Franklin)

I, Brandi Messerly, a Notary Public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Ryan Rupp, as Executive Director of JPMorgan Chase Bank, National Association, a national banking association, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged to me that he/she, being thereunto duly authorized, signed and delivered said instrument as the free and voluntary act of said national banking association, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this day of 11 day of September, 2017.

Brandi Messerly
Notary Public

My Commission Expires:
04-19-2020



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EXHIBIT A

Legal Description of Center Parcel

PARCEL 1:

LOT 1 IN FRESH FARMS – WHEELING SUBDIVISION, BEING A RESUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 2 AND THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 7, 2011 AS DOCUMENT 1134116010, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

A NON-EXCLUSIVE ACCESS EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY PLAT OF SUBDIVISION RECORDED DECEMBER 7, 2011 AS DOCUMENT 1134116010.

62 Milwaukee, Wheeling, IL
PIN: 03-02-415-047-0000

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EXHIBIT B

Legal Description of West Parcel

PARCEL 1:

LOT 7 IN FRESH FARMS – WHEELING SUBDIVISION, BEING A RESUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 2 AND THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 7, 2011 AS DOCUMENT 1134116010, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

A NON-EXCLUSIVE ACCESS EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY PLAT OF SUBDIVISION RECORDED DECEMBER 7, 2011 AS DOCUMENT 1134116010.

62 Milwaukee, Wheeling, IL
PIN: 03-02-415-053-0000

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EXHIBIT C

Legal Description of Outparcel

PARCEL 1:

LOT 2 IN FRESH FARMS – WHEELING SUBDIVISION, BEING A RESUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 2 AND THE NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED DECEMBER 7, 2011 AS DOCUMENT 1134116010, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

A NON-EXCLUSIVE ACCESS EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY PLAT OF SUBDIVISION RECORDED DECEMBER 7, 2011 AS DOCUMENT 1134116010.

253 East Dundee Road, Wheeling, IL
PIN: 03-02-415-048-0000

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EXHIBIT D

Site Plan Identifying Curb Cuts

(See attached)

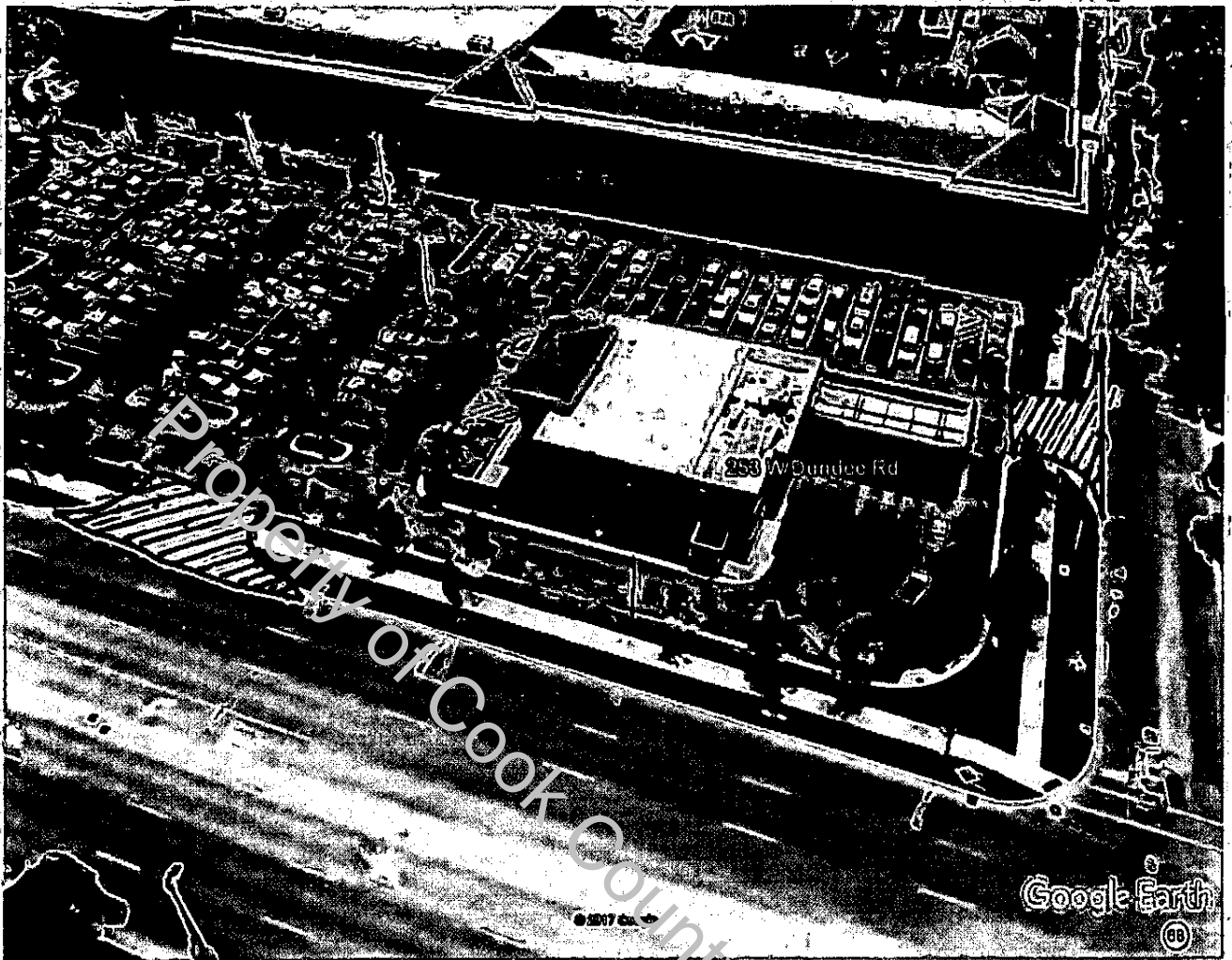
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Google Earth



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EXHIBIT E

Site Plan Identifying Outparcel Employee Parking Spaces Area

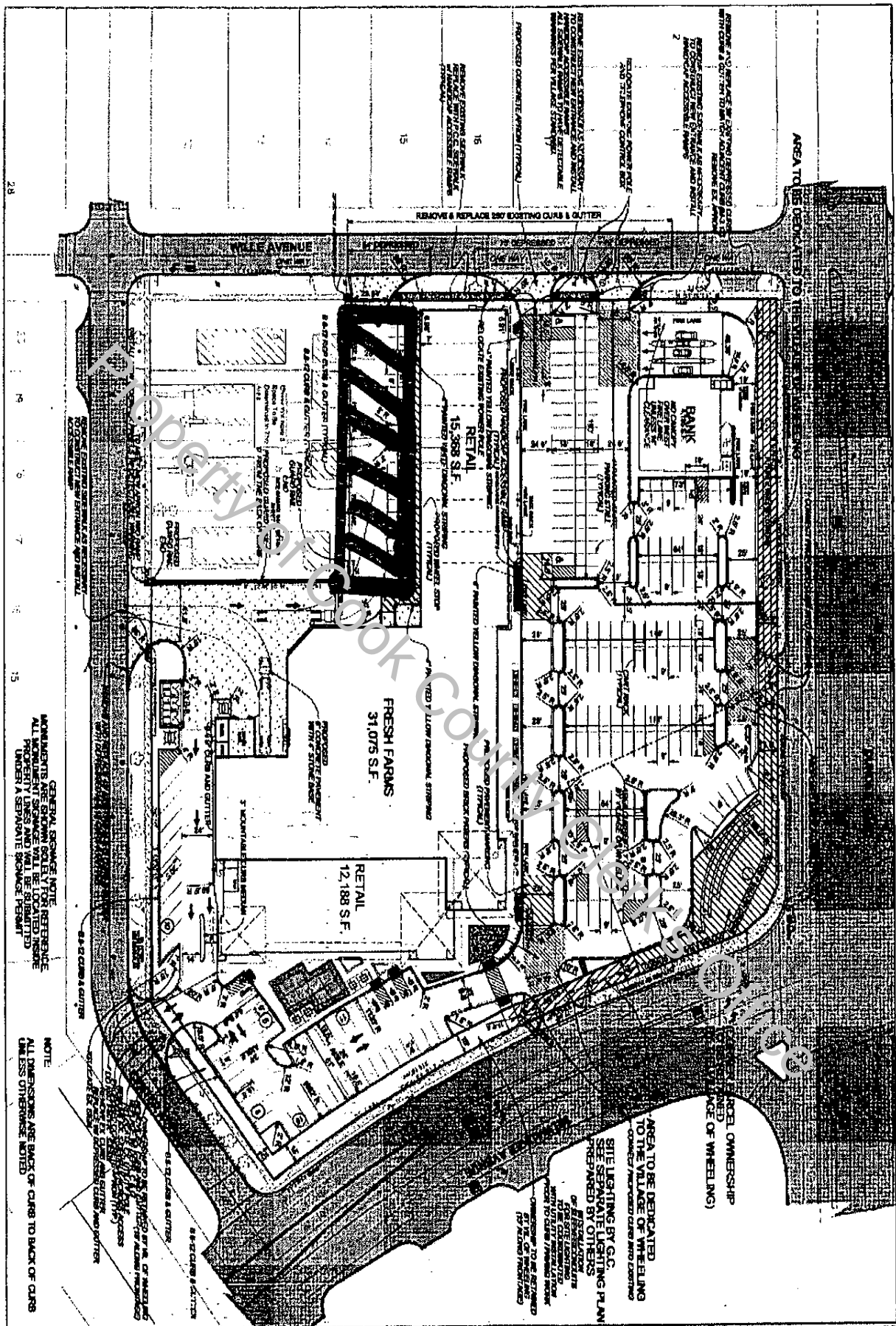
(See attached)

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RECORDER OF DEEDS**

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GENERAL SERVICE NOTE
 MONUMENTS ARE SHOWN FOR REFERENCE
 ALL MONUMENT SPACING WILL BE LOCATED INSIDE
 PROPERTY LINES AND WILL BE SUBMITTED
 UNDER A SEPARATE SERVICE PERMIT

NOTE
 ALL DIMENSIONS ARE BACK OF CURB TO BACK OF CURB
 UNLESS OTHERWISE NOTED

DATE	BY	DESCRIPTION
08/12/11	ALJA	REVISED FOR VILLAGE DEPARTMENT COMMENTS
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08/12/11	ALJA	REVISED FOR VILLAGE DEPARTMENT COMMENTS

FRESH FARMS - WHEELING

DESIGNED BY: ALJA
 CHECKED BY: ALJA
 DRAWN BY: ALJA
 FIELD BOOK No. _____

PEARSON, BROWN & ASSOCIATES, INC.
 CONSULTING ENGINEERS
 100 W. WASHINGTON ROAD - SUITE 100
 LIBERTYVILLE, IL 62550
 (618) 787-1000
 FAX (618) 787-0857
 E-MAIL: ANDREW@pearsonbrown.com

NORTH

SCALE: 1" = 30'