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Doc#: 1901104024 Fee: \$62.00
Edward M. Moody
Cook County Recorder of Deeds
Date: 01/11/2019 09:54 AM Pg: 1 of 8

This instrument was prepared by
and after recording return to:

Howard I. Goldblatt, Esq.
O'Rourke, Hogan, Fowler & Dwyer, LLC
10 South LaSalle Street
Suite 3700
Chicago, Illinois 60603

-----Reserved for Recording Data-----

FIRST AMENDMENT TO AIR RIGHTS EASEMENT AGREEMENT

THIS FIRST AMENDMENT TO AIR RIGHTS EASEMENT AGREEMENT ("Amendment") is made as of Sept 12, 2013, by and between Illinois Bell Telephone Company formerly operating as SBC Ameritech ("Parcel 1 Owner"), and Elmwood JV, LLC, a Delaware limited liability company ("Parcel 2 Owner") (Parcel 1 Owner and Parcel 2 Owner are sometimes hereinafter collectively referred to as the "Parcel Owners" and individually referred to as a "Parcel Owner").

RECITALS

A. Parcel Owners are parties to a certain Air Rights Easement Agreement dated as of November 21, 2017 and recorded with the Cook County Recorder of Deeds as Document No. 1733129083 ("Original Agreement"). Under the Original Agreement, Parcel 1 Owner, as the owner of that certain parcel of land legally described on Exhibit A attached hereto and made a part hereof ("Parcel 1"), granted to Parcel 2 Owner, as the owner of that certain parcel of land legally described on Exhibit B attached hereto and made a part hereof ("Parcel 2") a temporary non-exclusive easement appurtenant to Parcel 2 over, across and upon the Air Rights Parcel for the sole and exclusive purpose of permitting the swing of a construction crane in connection with the development and construction of improvements on Parcel 2, upon and subject to the conditions and limitations therein contained.

B. Parcel Owners desire to amend the Original Agreement, subject to and in accordance with the terms and provisions of this Amendment.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Parcel 1 Owner and Parcel 2 Owner hereby agree as follows:

1. Defined Terms; Incorporation of Recitals. Each initially capitalized word or term used as a defined term in this Amendment but not otherwise defined herein shall have the same meaning as is ascribed to such initially capitalized word or term in the Original Agreement. From and after the date of this Amendment the term "Agreement" shall be deemed to mean and refer to, collectively, the Original Agreement as amended by this Amendment. The Recitals described above are hereby incorporated into this Amendment by this reference as if fully set forth herein.

2. Air Rights Parcel. Exhibit C attached to the Original Agreement is hereby deleted in its entirety and the Exhibit C attached hereto is inserted in lieu thereof. Notwithstanding anything in the Original Agreement to the contrary, the Air Rights Parcel will be that portion of the airspace only located above Parcel 1 so identified on Exhibit C hereto above a horizontal plane located, at any given time, approximately 10' higher than the building constructed in connection with the Phase 2 Project.

When Recorded Return To: SWZ
First American Title Insurance Company
National Commercial Services
121 S. 8th Street, Suite 1250
Minneapolis, MN 55402
File No: NCS 745571.2

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3. No Live Loads. Notwithstanding anything in the Original Agreement to the contrary, Parcel 2 Owner will not permit live loads to be transported by the Crane over the "Additional Area" identified on Exhibit C hereto.

4. Duration. Notwithstanding anything in the Original Agreement to the contrary, the easements, covenants, conditions and restrictions contained herein shall expire on the earlier of (a) March 31, 2019, and (b) at such time as the Crane has been dismantled and removed from Parcel 2 and the development and construction activities that are the basis for Parcel 2 Owner's use of the Air Rights Parcel have been completed.

5. Binding Effect. The Existing Agreement, as amended by this Amendment, shall continue in full force and effect, subject to the terms and provisions thereof and hereof. In the event of any conflict between the terms of the Existing Agreement and the terms of this Amendment, the terms of this Amendment shall control. This Amendment shall be binding upon and inure to the benefit of the Parcel Owners and their respective successors and assigns.

6. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signature Page Follows]

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EXHIBIT A

LEGAL DESCRIPTION OF PARCEL 1

Lots 97 and 98 in the original Town of Rand (now Des Plaines) being a subdivision of part of the Sections 16, 17, 20, 21 Township 41 North Range 12 East of the Third Principal Meridian (except the Northeasterly 150 feet of said Lots 97 and 98 and except the Southwesterly 50 feet of the Northeasterly 200 feet of the Westerly 66 feet of said Lots 97 and 98 and except that part thereof condemned by Case 52590

Address: 1536 Prairie Avenue, Des Plaines, IL 60016

PIN: 09-17-421-009

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EXHIBIT B

LEGAL DESCRIPTION OF PARCEL 2

PARCEL 1:

LOT 96 IN THE ORIGINAL TOWN OF RAND IN THE SOUTHEAST 1/4 OF SECTION 17, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF LOTS 97 AND 98 IN THE ORIGINAL TOWN OF RAND (NOW THE VILLAGE OF DES PLAINES), DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 97; THENCE RUNNING SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF SAID LOT 97, A DISTANCE OF 200.00 FEET; THENCE SOUTHEASTERLY ALONG A STRAIGHT LINE PARALLEL WITH THE NORTHWESTERLY LINE OF SAID LOTS, A DISTANCE OF 66.00 FEET; THENCE NORTHEASTERLY ALONG A STRAIGHT LINE PARALLEL WITH THE NORTHWESTERLY LINE OF SAID LOT 97 TO THE NORTHEASTERLY LINE OF SAID LOT 98; THENCE NORTHWESTERLY ALONG THE NORTHEASTERLY LINE OF SAID LOTS 97 AND 98, WHICH IS ALSO THE SOUTHWESTERLY LINE OF ELLINWOOD STREET, TO THE POINT OF BEGINNING, SAID TOWN OF RAND BEING A SUBDIVISION OF PARTS OF SECTIONS 16, 17, 20 AND 21, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THE NORTHEASTERLY 150.00 FEET OF LOTS 97 AND 98 IN THE ORIGINAL TOWN OF RAND (NOW THE VILLAGE OF DES PLAINES) (EXCEPTING THAT PART OF SAID LOTS DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 97; THENCE RUNNING SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF SAID LOT 97, A DISTANCE OF 200.00 FEET; THENCE SOUTHEASTERLY ALONG A STRAIGHT LINE PARALLEL WITH THE NORTHEASTERLY LINE OF SAID LOTS, A DISTANCE OF 66.00 FEET; THENCE NORTHEASTERLY ALONG A STRAIGHT LINE PARALLEL WITH THE NORTHWESTERLY LINE OF SAID LOT 97 TO THE NORTHEASTERLY LINE OF SAID LOT 98; THENCE NORTHWESTERLY ALONG THE NORTHEASTERLY LINE OF SAID LOTS 97 AND 98, WHICH IS ALSO THE SOUTHWESTERLY LINE OF ELLINWOOD STREET, TO THE POINT OF BEGINNING); SAID TOWN OF RAND, BEING A SUBDIVISION OF PARTS OF SECTIONS 16, 17, 20 AND 21, ALL IN TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOT 99 IN THE TOWN OF RAND, A SUBDIVISION IN THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 16 AND THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 17 AND THE NORTHEAST QUARTER OF SECTION 20 AND THE NORTHWEST QUARTER AND PART OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

LOT 100 (EXCEPT THE EAST 8 FEET THEREOF) IN THE ORIGINAL TOWN OF RAND (NOW DES PLAINES), BEING A SUBDIVISION OF SECTIONS 16, 17, 20 AND 21, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

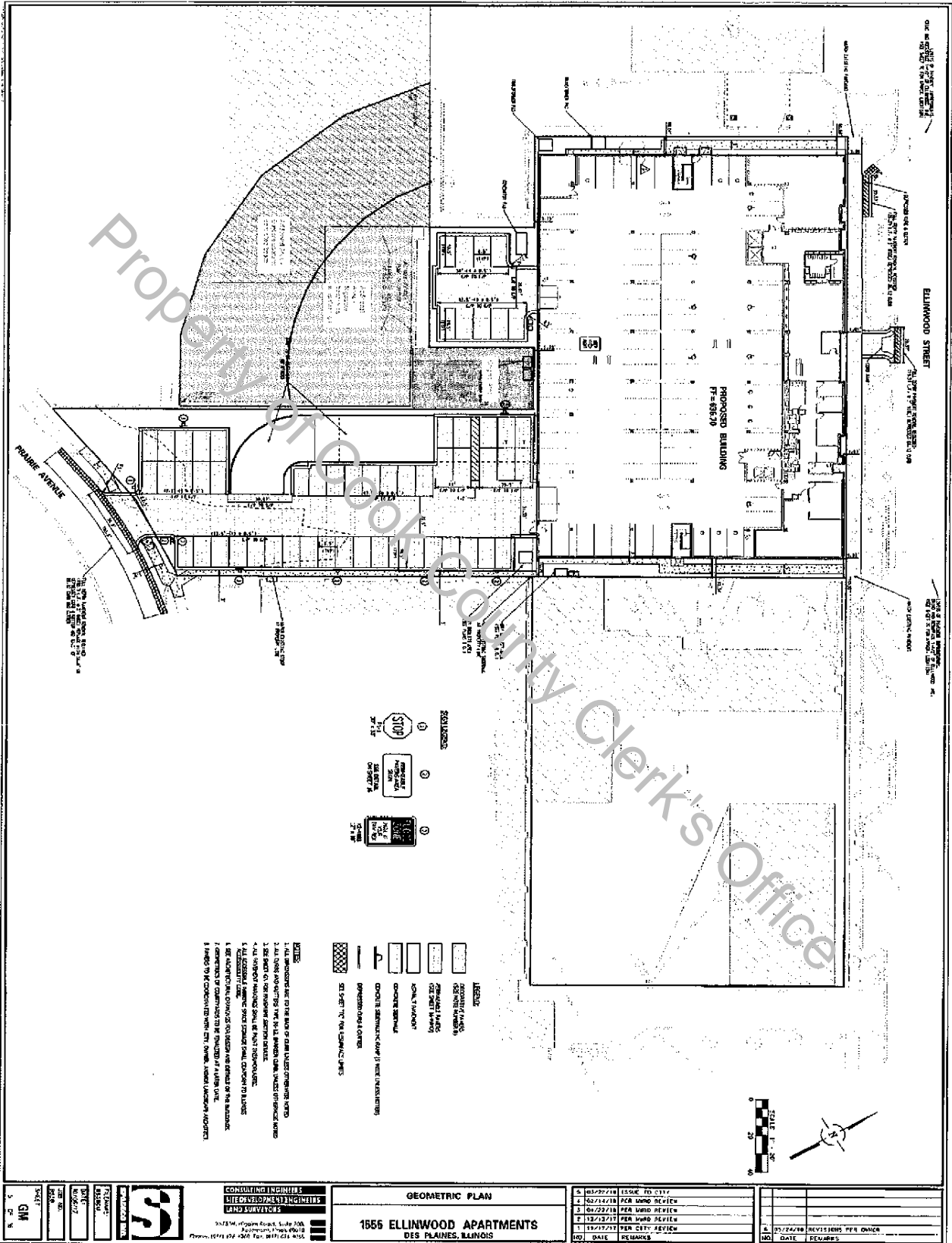
PINs: 09-17-421-034-0000, 09-17-241-024-0000, 09-17-421-012-0000, and 09-17-421-039-0000.

1555-57 Ellinwood, Des Plaines, Illinois

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EXHIBIT C

CRANE SWING WAYS



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	CONSULTING ENGINEERS LAND DEVELOPMENT ENGINEERS LAND SURVEYORS	GEOMETRIC PLAN 1555 ELLINWOOD APARTMENTS DES PLAINES, ILLINOIS	5 03/27/16 ISSUE TO CITY 4 02/14/16 PER LAND REVIEW 3 04/23/16 PER LAND REVIEW 2 12/27/17 PER LAND REVIEW 1 12/22/15 PER CITY REVIEW	NO. DATE REVISIONS PER OWNER NO. DATE REVISIONS PER ENGINEER
	3023 W. Higgins Road, Suite 200 Rosemont, Illinois 60018 Phone: (847) 674-4400 Fax: (847) 674-4401		100 DATE REVISIONS PER OWNER 100 DATE REVISIONS PER ENGINEER	

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Lender's Consent to First Amendment to Air Rights Easement Agreement

CIBC BANK USA, an Illinois state chartered bank ("Lender"), the holder of a certain [Mortgage dated April 17, 2018 and recorded May 2, 2018 as document number 1812218087 in the Office of the Cook County Recorder of Deeds] (as modified, the "Mortgage"), for and in consideration of One Dollar (\$1.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, does hereby consent to the foregoing First Amendment to Air Rights Easement Agreement ("Agreement").

IN WITNESS WHEREOF, Eloise Whitlock on this 18th day of September, 2018 has caused its corporate name to be hereunto subscribed:

CIBC BANK USA, an Illinois state chartered bank

By: *Eloise Whitlock*
Name: Eloise Whitlock
Its: Managing Director

State of Illinois
County of Cook

ss.

The foregoing instrument was acknowledged before me this 18 day of September, 2018, by Eloise Whitlock, the Managing Director of CIBC BANK USA, an Illinois state chartered bank, on behalf of said Lender.



Lori Prescott
Notary Public

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