1901806040

Doc# 1901806040 Fee \$76.00

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

EDWARD M. HOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 01/18/2019 03:22 PM PG: 1 OF 20

Space above reserved for recorder's use

After recordation, please return this instrument to:

Todd Stennes

Dentons US LLP

233 South Wacker Liv, Suite 5900

Chicago, Illinois 60606

DECLARATION OF SIGN EASEMENTS AND APPROVAL RIGHTS

THIS DECLARATION OF SIGN EASEMENTS AND APPROVAL RIGHTS (this "Declaration") is made as of January 17, 2019 by and between Wash U Platform II, LLC – Skokie Series, a series of Wash U Platform II, LLC, an Illinois limited liability company ("Car Wash Owner") and Metro Storage Skokie LLC, a Delaware limited liability company ("Metro Owner").

Rechals:

WHEREAS, Car Wash Owner is the owner of that certain parcel of land located in Skokie, Illinois legally described on <u>Exhibit A</u> attached hereto and by this reference incorporated herein ("Car Wash Parcel").

WHEREAS, Metro Owner is the owner of that certain parcel of and located in Skokie, Illinois legally described on <u>Exhibit B</u> attached hereto and by this reference incorporated herein ("Metro Parcel"), which is adjacent to the Car Wash Parcel.

WHEREAS, on the date hereof Car Wash Owner acquired the Car Wash Farcel from an affiliate of Metro Owner, and Car Wash Owner intends to develop a car wash facility on the Car Wash Parcel. Metro Owner has developed a self-storage facility on the Metro Parcel and has an existing sign located on the Car Wash Parcel that is used in connection with such self-storage facility.

WHEREAS, accordingly the parties hereto desire to provide certain covenants and easements for the current and future owners and tenants of the Car Wash Parcel and the Metro Parcel, as more particularly described herein.

NCS 897946 3 of 3

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NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby declare as follows:

- 1. <u>Incorporation of Recitals</u>. The recitals set forth above are hereby incorporated into the substantive body of this Declaration. The Car Wash Parcel and Metro Parcel or any portion thereof are sometimes referred to herein individually as a "Parcel" and collectively, as the "Parcels."
- Pole/Monument Sign. There exists on the Car Wash Parcel an existing pole sign (the "Pole Sign") that was installed by and is owned, controlled and maintained by Metro Owner. A depiction of the Pole Sign is attached hereto as Exhibit C. As part of Car Wash Owner's development approvals, the Village of Skokie (the "Village") required that the Pole Sign be moved to (or replaced by a sign located in) the location labeled "Monument Sign" along the southern border of the Car Wash Parcel as shown on the Wash-U Skokie Signage Plan attached hereto as Exhibit D. The parties have agreed that rather than moving the existing Pole Sign, the Car Wash Owner shall, at Car Wash Owner's expense, have constructed and installed a new monument sign (the "Monument Sign") in that designated monument sign area, which Monument Sign shall have a single solid panel on top and an electronic digital readerboard below (with both the panel and readerboard being two-sided) and shall be designed as depicted on Exhibit E (or with such other diriensions, style and/or configuration as the parties may otherwise approve). Metro Owner shall be entitled to the sole use of both sides of the panel sign and shall provide artwork for the panels for Car Wash Owner to incorporate into the sign fabrication. The parties shall share the use of the readerboard portion of the Monument Sign as follows. Each party shall share in 50% of the reader oard display by having its content rotating between the east and west sides of the readerboard based on cycles allowed by the Village (i.e. one side shall display Metro Owner's content and the other side the Car Wash Owner's content, with the sides switching in set periodic intervals). It is understood that the Village is in the process of changing the ordinance governing such digital reader board displays to 20 second cycles. The control of the readerboard shall be operated by the Metro Owner. Car Wash Owner shall provide art work or messaging content to the Metro Owner in a minimum of 4 week increments and will allow Metro Owner 48 hours to implement the requested content changes, although the parties shall cooperate in good faith to implement reasonable content changes in interim periods on an exception basis. The parties agree that their respective readerboard ads shall not include any obscene, indecent or immoral content in violation of any Village Once installed and operational, Metro Owner shall be responsible for the maintenance, operation, repair and insurance of the Monument Sign, provided that Car Wash Owner shall be required to reimburse Metro Owner for 50% of the costs thereof (except that the cost of maintaining and replacing the static sign panels shall be solely at Metro Owner's expense), with such reimbursement payments to be made within thirty days after submission of invoices therefor from the Metro Owner from time to time. The parties shall also share equally the costs of electrical usage for the Monument Sign. Accordingly, in connection with the installation of the Monument Sign, the Car Wash Owner shall attempt to have the electrical service to the Monument Sign separately metered or submetered. If such separate metering or submetering is not practicable, the parties shall cooperate in good faith to establish a methodology for estimating the cost of electrical service to the Monument Sign. The Metro Owner shall reimburse the Car Wash Owner for the Metro Owner's share of the cost of electrical

service to the Monument Sign within thirty days after submission of invoices therefor from the Car Wash Owner from time to time. Car Wash Owner hereby grants, for the benefit of Metro Owner, and its successors and assigns, a perpetual easement to use and maintain the Pole Sign (while existing) or the Monument Sign (once installed) and a non-exclusive, perpetual easement across the Car Wash Parcel for the purposes of accessing the applicable sign. Once the Monument Sign is operational, the Car Wash Owner shall at its expense have the Pole Sign removed and shall preserve the sign box and panels and readerboard, and the Metro Owner shall then retrieve those items from the site.

- approvals, the Village of Skokie required that a directional sign directing customers to the car wash (the "Directional Sign") be installed on the Metro Parcel in the location labeled "Wash Way Finding Sign" along Kedzie Avenue as shown on the Wash-U Skokie Signage Plan attached hereto at Exhibit D. The Directional Sign shall be consistent with the depiction thereof attached hereto as Exhibit F and shall be installed and maintained by Car Wash Owner at its expense. Metro Owner hereby grants, for the benefit of Car Wash Owner, and its successors and assigns, a perpetual easement to use and maintain the Directional Sign and a non-exclusive, perpetual easement across the Motro Parcel for the purposes of accessing the Directional Sign.
- 4. Metro Approval Rights. Metro Owner shall have the right to approve the design and location of any improvements here fiver installed on the Car Wash Parcel. Accordingly, prior to installing any improvements on the Car Wash Parcel, Car Wash Owner shall provide the design plans for such improvements to Motro Owner for Metro Owner's written approval. Notwithstanding the foregoing, Metro Owner necesy approves the development of the Car Wash Parcel as a car wash pursuant to and in compliance with the plans therefor that were approved by the Village of Skokie pursuant to the Ordinance Granting a Special Use Permit (i.e. the Site Plan dated November 1, 2018; the landscape plan dated November 1, 2018; elevations dated May 10, 2018; and Wash-U Skokie Signage Plan dated November 1, 2018). Metro Owner shall also have the right to approve the use of the Car Wash Property in the fotore for any use other than as an exterior express car wash facility.
- 5. Stormwater System. The parties acknowledge that the parties anticipated that the Metropolitan Water Reclamation District might require a stormwater managen ent and retention system on the Car Wash Parcel having a retention capacity of more than 21.1% of the total coderequired collective retention capacity of the three lot development comprised of the Metro Parcel, the Car Wash Parcel and the adjacent bank parcel (such a required system being an "Oversized Stormwater System"), but the Metropolitan Water Reclamation District ultimately decided that such an Oversized Stormwater System would not be required by the Metropolitan Water Reclamation District. However, if in connection with its approval of Car Wash Owner's final development plans the Village of Skokie requires that an Oversized Stormwater System be installed, then the following clauses (a) and (b) shall apply:
- (a) The Metro Owner shall pay the Car Wash Owner up to Fifty Thousand and 00/100 (\$50,000.00) of the costs and expenses incurred by the Car Wash Owner to design and construct the Oversized Stormwater System. Accordingly, the Car Wash Owner shall separately track the cost of the installation of the Oversized Stormwater System (separately from its other development costs), and upon completion of the installation of the Oversized Stormwater System

shall provide the Metro Owner with evidence of the cost thereof. The Metro Owner, within thirty (30) days of receipt of evidence of the costs of the Oversized Stormwater System shall pay to the Car Wash Owner the lesser of one-half of the cost of the Oversized Stormwater System or Fifty Thousand and 00/100 (\$50,000.00).

(b) The Car Wash Owner shall maintain the Oversized Stormwater System and shall annually provide the Metro Owner with the annual costs paid by the Car Wash Owner for maintenance of the Oversized Stormwater System, and the Metro Owner shall reimburse the Car Wash Owner annually the lesser of five hundred dollars (\$500) or fifty percent of the such annual costs.

Furthermore, if the Village of Skokie requirements for the Car Wash Parcel's stormwater system (whether or not it qualifies as an Oversized Stormwater System) necessitate, in the reasonable opinica of the civil engineers retained by the Car Wash Parcel Owner, that for cost or engineering reasons a portion of the Car Wash Parcel's stormwater system be installed on the Metro Parcel, then (i) the location of the portion on the Metro Parcel shall be subject to the reasonable approval of the Metro Owner; (ii) the Metro Owner hereby grants to the Car Wash Owner a non-exclusive easement for the installation, use and maintenance of the portion of the Car Wash Parcel's stormwater system so located on the Metro Parcel (and upon the request of either party the parties shall enter into an amendment to this agreement setting forth the precise burdened area of the Metro Parcel); (iii) the Car Wash Owner shall provide the Metro Owner with reasonable notice prior to any entry into the Metro Parcel, and any construction or other entry onto the Metro Parcel shall be done in such a manner that adequate means of ingress and egress are at all times provided on and to the Metro Parcel such that the business operations on Metro Parcel are not materially disrupted; (iv) upor completion of construction on the Metro Parcel, the Car Wash Owner shall repair all damage to the Metro Parcel caused by the construction; (v) the Car Wash Owner shall be obligated to pay all contractors and materialman involved in the construction and to obtain releases from ther, of any and all liens relative to said design or construction, which could encumber the Metro Parcel; (vi) all construction shall be done in a good and workmanlike manner, in accordance with all applicable laws, rules and regulations, diligently prosecuted and expeditiously completed.

- 6. <u>Duration</u>. The easements and rights of use hereby granted and conveyed shall be perpetual in duration and may not be changed, amended, modified, cancelled or terminated except by a written instrument executed by the then-current owners of the Car Wash Parcel and Metro Parcel and all mortgagees or beneficiaries holding first priority liens against all or any portion thereof. The easements contained herein shall run with the land, and shall pass with the conveyance of all or any portion of such property, whether specifically referred to or not.
- 7. <u>Miscellaneous</u>. With or without specific reference thereto, the conveyance of an interest in all or any portion of the Car Wash Parcel and/or Metro Parcel shall be subject to the respective burdens and benefits of the easements and rights of use hereby created to the same extent as if all of the terms of this Declaration were set forth in such conveyance in full. All rights, obligations, privileges, benefits and burdens created herein shall not be personal, but shall run with the land and shall be binding on and inure to the benefit of the owners of each Parcel and their respective successors and assigns. This Declaration may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall

constitute one and the same instrument. Nothing herein is intended to nor shall be construed to create any rights whatsoever for the benefit of the general public in the Car Wash Parcel, the Metro Parcel or the improvements constructed thereon.

- 8. <u>Indemnification</u>. The owner of each of the Parcels hereby covenants and agrees that it shall hold harmless and indemnify the owner(s) and any tenants of the other Parcels from and against any and all loss, liability, damage, costs, claims, demands, and actions (including without limitation reasonable attorneys' fees and expenses at all trial and appellate levels) arising out of, or in any manner relating to, the use and enjoyment of the easements and rights of use herein granted by the other party and its licensees, invitees, employees and tenants.
- 9. Governing Law. This Declaration and the provisions contained herein shall be construed and interpreted in accordance with and governed by the laws of the State of Illinois.
- owner of any Parcel to all remedies available at law or in equity which shall include, but not be limited to, the right of datages, injunctive relief and specific performance. The prevailing party in any litigation or settlement regarding this Declaration shall be entitled to recover all costs and fees incurred with respect thereto. Any amounts owed by one party hereto to the other party that are not paid within thirty days after demand shall bear interest at fifteen percent per annum, and the owed party shall be entitled to place a lien on the parcel owned by the defaulting party to secure such unpaid amounts.
- 11. Severability. This Declaration is intended to be performed in accordance with, and only to the extent permitted by, all applicable raws, ordinances, rules and regulations. If any provision of this Declaration, or the application thereof to any person or circumstance, shall, for any reason and to any extent be invalid or unenforceable, the remainder of this Declaration and the application of such provision to other persons or circumstances shall not be affected thereby but rather shall be enforced to the greatest extent permitted by law.
- 12. Estoppel Certificate. Within ten (10) business days after written demand delivered by any Owner to any other Owner, such Owner shall provide an estoppel certificate in form and substance satisfactory to the requesting Owner certifying that, as of the date thereof, either (a) all improvements made or other work done on the Parcel for which the estoppel is requested is in compliance with this Declaration, or (b) such improvements or work do not so comply, in which event the certificate shall identify the non-complying improvements or work and set forth with particularity the cause or causes of such non-compliance. Any lessee, purchaser or mortgagee acquiring an interest in good faith for value shall be entitled to rely on said certificate with respect to the matters set forth therein, such matters being conclusive as between the certifying Owner and any such subsequent parties in interest relying on said certificate.

1901806040 Page: 6 of 20

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IN WITNESS WHEREOF, the parties hereto, on the day and year first above written, caused these presents to be executed and sealed in its name.

Wash U Platform II, LLC – Skokie Series, a series of Wash U Platform II, LLC, an Illinois Limited Liability Company

By: CW Partners II, LLC an Illinois Limited Liability company Its Manager:

By: CW Partners, LLC

an Illinois Limited Liability company

Its Manager

By:

Craig Nelson, Manager

METRO STORAGE SKOKIE LLC

a Delaware limited liability company

By:_

Martin J. Gallagher, President

COOK COUNTY RECORDER OF DEEDS

1901806040 Page: 7 of 20

County Clarks

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IN WITNESS WHEREOF, the parties hereto, on the day and year first above written, caused these presents to be executed and sealed in its name.

Wash U Platform II, LLC – Skokie Series, a series of Wash U Platform II, LLC, an Illinois Limited Liability Company

By: CW Partners II, LLC an Illinois Limited Liability company Its Manager:

By: CW Partners, LLC an Illinois Limited Liability company Its Manager:

By: Craig Nelson, Manager

METRO STORAGE SKOKIE LLC,

a Delaware limited liability company

By: Martin J Gallagher, President

Page 6

1901806040 Page: 8 of 20

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STATE OF ILLINOIS)

SS.

COUNTY OF COOK)

I, the undersigned, being a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Craig Nelson the Manager of CW Partners, LLC, the Manager of CW Partners II, the Manager of Wash U Platform II, LLC – Skokie Series, a series of Wash U Platform II, LLC personally known to me to be the same person whose name is subscribed to the foregoing instrument appeared before me on this day in person and acknowledged that he signed and delivered he said instrument as his own free and voluntary acts and as the free and voluntary acts of the aforementioned, for the uses and purposes therein set forth.

GIVEN, under my hand and official seal this _____ day of January, 2019

Notary Public

Official Seal
Diana Hart
Notary Public State of Illinois
My Commission Expires 05/28/2021

Office

1901806040 Page: 9 of 20

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STATE OF ILLINOIS)

SS.

COUNTY OF LAKE)

I, the undersigned, being a Notary Public in and for the said County, in the State aforesaid, DO HERERY CERTIFY that Martin J. Gallagher, the President of Metro Storage Skokie LLC, personally known to me to be the same persons whose name is subscribed to the foregoing instrument and as such officer appeared before me on this day in person and acknowledged that signed and delivered one said instrument as his own free and voluntary act and as the free and voluntary act of said company, for the uses and purposes therein set forth.

GIVEN, under my hand and official seal this 16th day of January, 2019

Notary Public

"OFFICIAL SEAL"

LISA M. REITENBACH

Notary Public, State of Illinois

My Commission Expires 10/13/19

1901806040 Page: 10 of 20

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CONSENT AND SUBORDINATION OF MORTGAGEE

The undersigned is the current mortgagee under that certain Mortgage, Assignment of Leases and Rents, Security Agreement, and Fixture Filing made by METRO STORAGE SKOKIE LLC, a Delaware limited liability company, dated as of June 7, 2018, and recorded on June 11, 2018 in the County of Cook, State of Illinois as Document Number 1816249156, as assigned under that certain Assignment of Interest Under Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing and Assignment of Leases and Rents, dated as of November 28, 2018, and recorded on December 7, 2018 in the County of Cook, State of Illinois as Document Number 1834116023 (the "Mortgage") encumbering the Metro Parcel. undersigned herby (a) consents to the foregoing Third Amended and Restated Declaration of Mutual Easements and Restrictions; and (b) agrees that the lien of the Mortgage shall be subordinate and subject to the foregoing Third Amended and Restated Declaration of Mutual Easements and Restrictions.

PGIM REAL ESTATE U.S. DEBT FUND METRO STORAGE LENDER, LLC,

a Delaware limited liability company

By: PGIM Real Estate U.S. Debt Fund REIT, LLC,

a Delaware limited liability company, its sole member

Name: R.J. Richter

Title: Authorized Signatory

STATE OF New York) SS.

County Clark I, the undersigned, being a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that R.J. Richter, personally known to me to be the same persons whose name is subscribed to the foregoing instrument, appeared before me on this day in person and acknowledged that s(he) signed and delivered the said instrument as hit/her own free and voluntary act and as the free and voluntary act of such entity for the uses and purposes therein set forth.

GIVEN, under my hand and official seal this ______ day of January, 2019

Notary Public

LORRAINE C COBBS Notary Public - State of New York NO. 01CO6377357 Qualified in New York County My Commission Expires Jul 2, 2022

1901806040 Page: 11 of 20

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EXHIBIT "A"

Legal Description - Car Wash Parcel

LOT 2 IN METRO STORAGE RESUBDIVISION, BEING A RESUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 7, 2015 AS DOCUMENT NO. 1521929005, IN COOK COUNTY, ILLINOIS.

Tax Parcel No.:19-25-401-090-0000

Common Address: 3250 W. Touhy Avenue, Skokie, Illinois 60645

COOK COUNTY RECORDER OF DEEDS

1901806040 Page: 12 of 20

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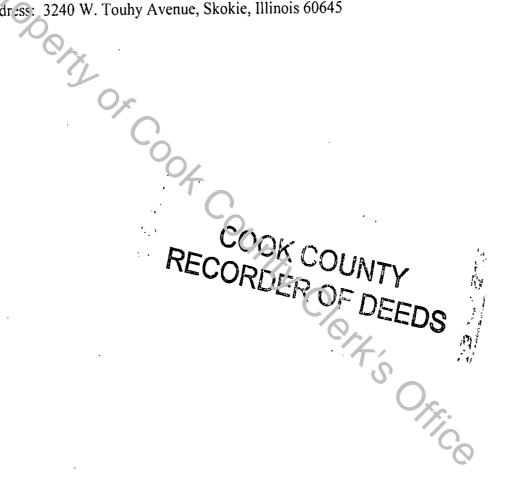
EXHIBIT B

Legal Description - Metro Parcel

LOT 1 IN METRO STORAGE RESUBDIVISION, BEING A RESUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 26, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 7, 2015 AS DOCUMENT NO. 1521929005, IN COOK COUNTY, ILLINOIS.

Tax Parcel No.:10-26-401-089-0000

Common Addr:ss: 3240 W. Touhy Avenue, Skokie, Illinois 60645



1901806040 Page: 13 of 20

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EXHIBIT C

Depiction of Existing Metro Sign

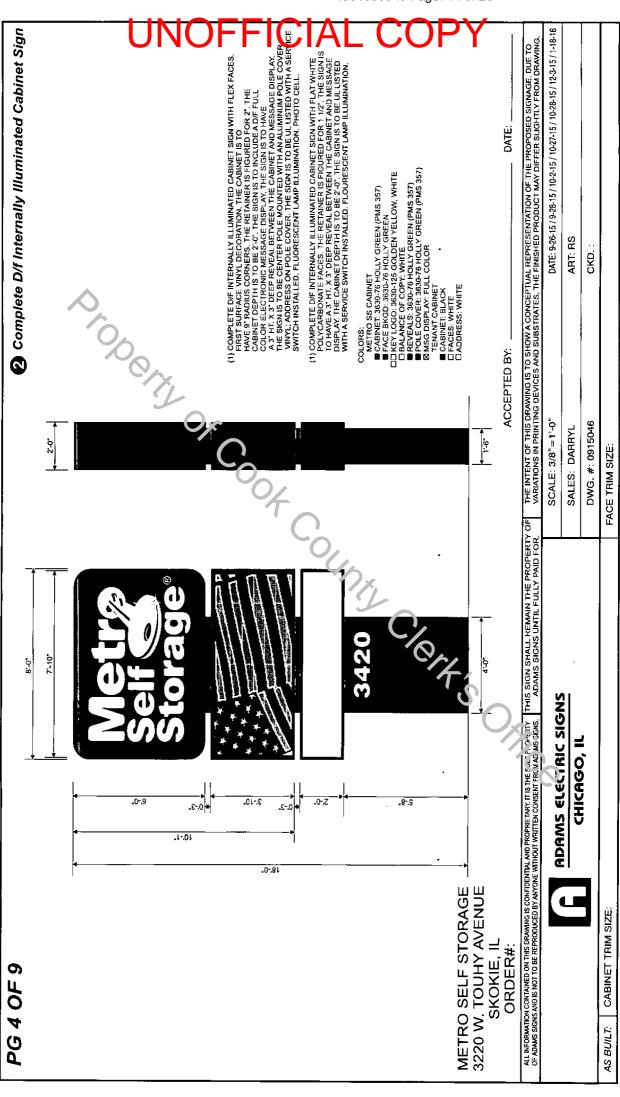
(See Attached)

COOK COUNTY RECORDER OF DEEDS

COOK COUNTY RECORDER OF DEEDS

COOK COUNTY OF DEEDS

1901806040 Page: 14 of 20



1901806040 Page: 15 of 20

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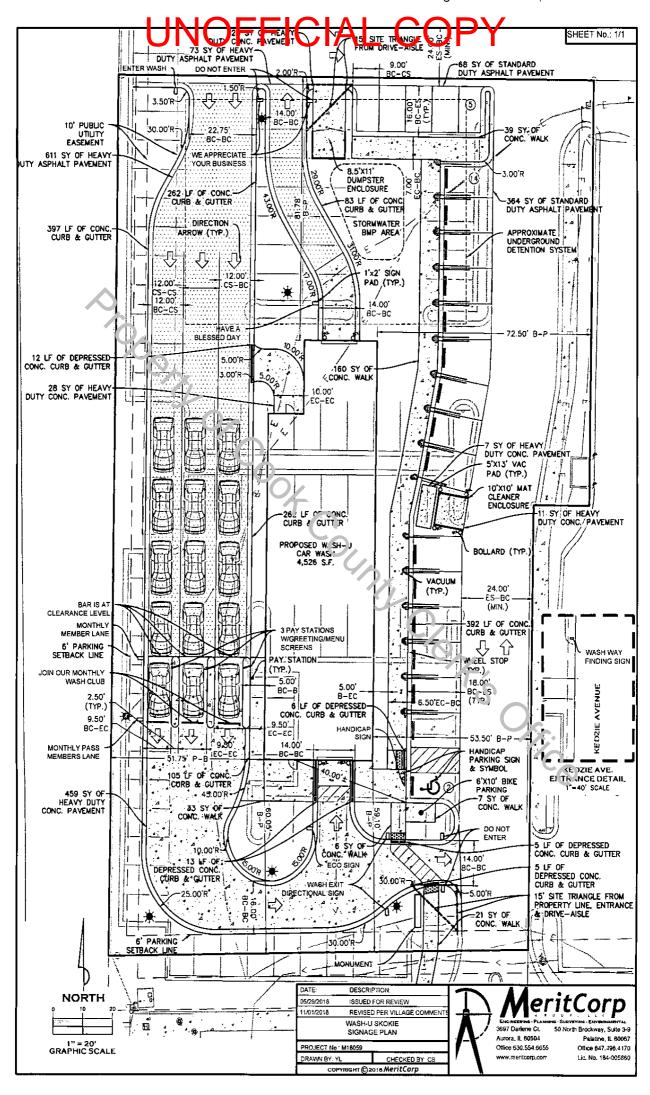
EXHIBIT D

Wash-U Skokie Signage Plan
(See Attached)

COOK COUNTY RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

1901806040 Page: 16 of 20



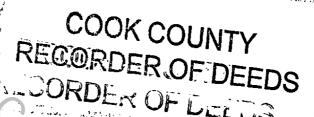
1901806040 Page: 17 of 20

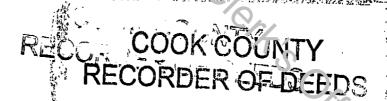
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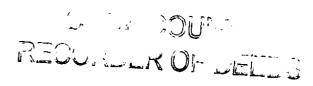
EXHIBIT E

Depiction of New Monument Sign

(See Attached)





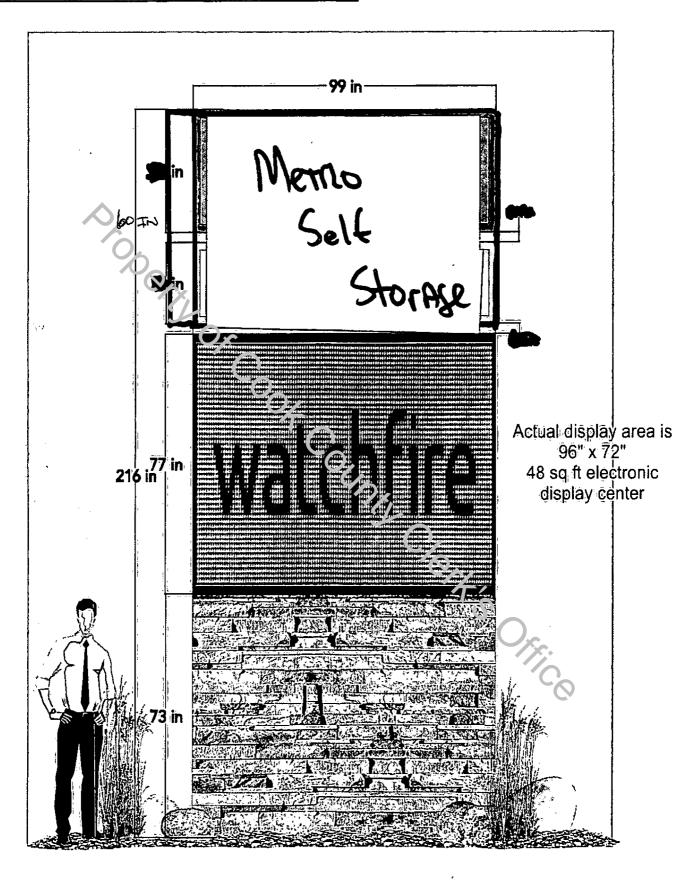


1901806040 Page: 18 of 20

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Wash U Skokie - Monument

EdibHA



Signature:	Date:	



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Project	Wash U Skokie		
Date	6/19/2018	10	rjsjr

1901806040 Page: 19 of 20

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EXHIBIT F

Depiction of Directional Sign

(See Attached)



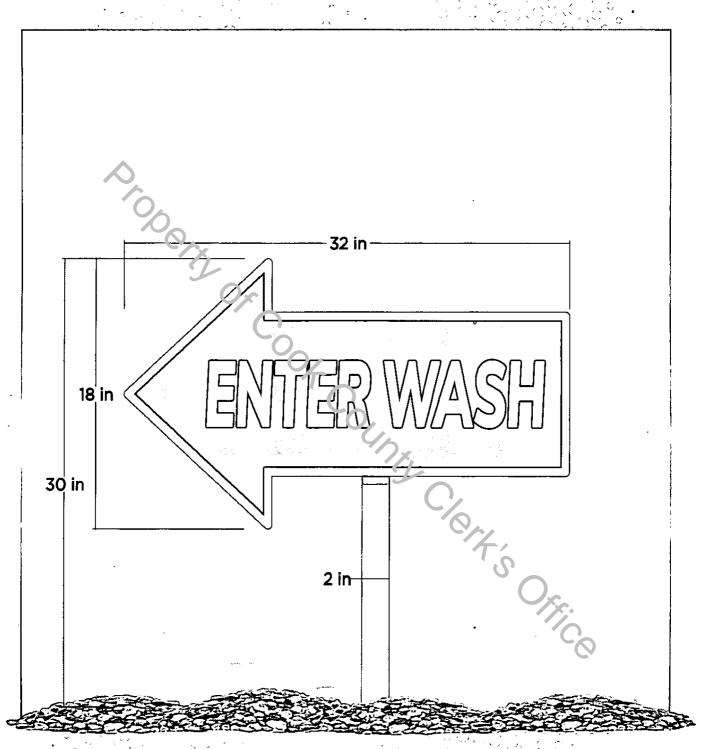
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COUNTIES OF DEELS

1901806040 Page: 20 of 20

WASH U

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2-sided internally illuminated sign, 4 sf

Signature:	Date:	



ear despire, datals and class represented nevels are the property of Hidwas Sies Co. specifically developed for your personal use in connection in the project being planned for you by Hidwas Sign Co. It is not to be shown to anyone budside your congenization, nor is it to be used, perpoduced, with blief or copied is any leaftion whatsoever. All designs (excepting registered trademans) remain the property of Hidwas Sign Co.

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Drawing arrow sign				
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