

UNOFFICIAL COPY



Doc# 1915817059 Fee \$98.00

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

EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 06/07/2019 12:48 PM PG: 1 OF 14

Prepared by and after
recording, return to:
Kelly M. Greco
Polsinelli PC
150 N. Riverside Plaza, Suite 3000
Chicago, Illinois 60606

FIRST AMENDMENT TO EASEMENT AGREEMENT WITH RESPECT TO ACCESS

THIS FIRST AMENDMENT TO EASEMENT AGREEMENT WITH RESPECT TO ACCESS (this "Amendment") entered into as of June 4, 2019 (the "Effective Date") amends the Easement Agreement with Respect to Access dated as of November 17, 1995, and recorded by the Cook County Recorder of Deeds on November 22, 1995, as Document No. 95812462 (the "Declaration").

RECITALS:

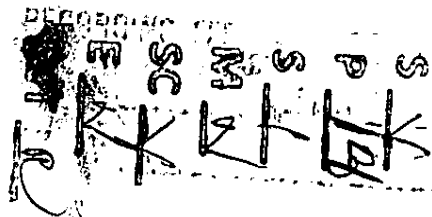
A. GW NILES 2E, LLC, an Illinois limited liability company ("GW"), is the sole owner of a parcel of land situated in the Village of Niles, County of Cook, State of Illinois, described on Exhibit A attached hereto and incorporated herein ("GW Parcel").

B. NILES 572, LLC, a New Jersey limited liability company ("Niles 572"), is the sole owner of a parcel of land situated in the Village of Niles, County of Cook, State of Illinois, described on Exhibit B attached hereto and incorporated herein ("Niles 572 Parcel," and together with the GW Parcel, "Lot 1").

C. AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER PROVISIONS OF A CERTAIN TRUST AGREEMENT DATED JULY 31, 1995 AND KNOWN AS TRUST NUMBER 120670-05 ("Parcel 3 Owner"), is the sole owner of a parcel of land situated in the Village of Niles, County of Cook, State of Illinois, described on Exhibit C attached hereto and incorporated herein ("Parcel 3").

D. AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER PROVISIONS OF A CERTAIN TRUST AGREEMENT DATED JULY 31, 1995 AND KNOWN AS TRUST NUMBER 120670-05 ("Parcel 7 Owner"), is the

64503180.9



964 194 2025

UNOFFICIAL COPY

sole owner of a parcel of land situated in the Village of Niles, County of Cook, State of Illinois, described on **Exhibit D** attached hereto and incorporated herein (“**Parcel 7**”).

E. Lot 1, Parcel 3 and Parcel 7 are collectively referred to herein as the “**Development**”.

F. The Development is encumbered by the terms and provisions of the Declaration, which, among other things, grants a non-exclusive easement over, upon and across that part of Lot 1 depicted as “Access Easement” on Exhibit D to the Declaration.

G. The term “**Benefited Party**” means each of GW, Niles 572, Parcel 3 Owner and Parcel 7 Owner (including any tenant(s) and/or occupant(s) of each such party), and “**Benefited Parties**” refers collectively to all of GW, Niles 572, Parcel 3 Owner and Parcel 7 Owner (including any tenant(s) and/or occupant(s) of such parties).

H. The Benefited Parties desire to amend the Declaration in certain respects.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Benefited Parties hereby agree as follows:

1. Incorporation and Defined Terms. The recital paragraphs set forth above are hereby incorporated herein as it fully set forth herein. Capitalized terms not otherwise defined herein shall have the same meanings as are ascribed to such terms in the Declaration.

2. Access and Parking Easement. Notwithstanding anything to the contrary contained in the Declaration, the Benefited Parties acknowledge and agree that the Access Easement is revised so that it shall be limited to the Access Driveway depicted on the site plan attached hereto as **Exhibit E** (the “**Site Plan**”). Notwithstanding the foregoing, the Benefited Parties hereby acknowledge and agree that the retail customers of the Benefited Parties shall have the non-exclusive right to park in the parking spaces depicted on the Site Plan and labeled as the “**Shared Parking Spaces**”. Notwithstanding anything herein to the contrary, in no event will any of the Shared Parking Spaces be used by the Benefited Parties for any other purpose. Further to and without limiting the immediately preceding sentence, in no event will any of the Shared Parking Spaces be used (i) by any employee of the Benefited Parties, nor (ii) for storage of automobiles, inventory or other personal property of the Benefited Parties.

3. Integration of Declaration and Controlling Language. This Amendment and the Declaration shall be deemed to be, for all purposes, one instrument. In the event of any conflict between the terms and provisions of this Amendment and the terms and provisions of the Declaration, the terms and provisions of this Amendment, in all instances, shall control and prevail.

4. Severability. If any provision of this Amendment or the application thereof to any person or circumstance is or shall be deemed illegal, invalid or unenforceable, the remaining

UNOFFICIAL COPY

provisions hereof shall remain in full force and effect and this Amendment shall be interpreted as if such legal, invalid or unenforceable provision did not exist herein.

5. Entire Agreement. This Amendment and the Declaration contain the entire integrated agreement between the parties respecting the subject matter of this Amendment and the Declaration and supersede all prior and contemporaneous understandings and agreements, other than the Declaration, between the parties respecting the subject matter of this Amendment and the Declaration. There are no representations, agreements, arrangements or understandings, oral or in writing, between or among the parties to this Amendment relating to the subject matter of this Amendment or the Declaration which are not fully expressed in this Amendment and the Declaration, and no party hereto has relied upon any other such representations, agreements, arrangements or understandings. The terms of this Amendment and the Declaration are intended by the parties as the final expression of their agreement with respect to those terms and may not be contradicted by evidence of any prior agreement or of any contemporaneous agreement. The parties further intend that no extrinsic evidence whatsoever may be introduced in any judicial proceeding involving this Amendment.

6. Successors and Assigns. Each provision of the Declaration and this Amendment shall extend to and shall bind and inure to the benefit of the Benefited Parties, and their respective successors and assigns.

7. Time of the Essence. Time is of the essence of this Amendment and the Declaration and each provision hereof.

8. Multiple Counterparts. This Amendment may be executed in counterparts, all of which, when taken together, shall constitute a fully executed instrument. Counterparts transmitted by email or other electronic means shall have the same force and effect as an original counterpart.

9. Authority. Each Benefited Party represents and warrants that it has full authority to execute and deliver this Amendment.

10. Ratification. Except as amended and modified hereby, the Declaration shall be and shall remain unchanged and in full force and effect in accordance with its terms, and, as the Declaration is amended and modified hereby, the Declaration is hereby ratified, adopted and confirmed.

[Execution page follows]

UNOFFICIAL COPY

EXHIBIT A

GW PARCEL

LOT 2 AND 2A IN THE FINAL PLAT OF RAYMOND HARA FIRST ADDITION RESUBDIVISION RECORDED AUGUST 23, 2011 AS DOCUMENT NUMBER 1123534015, A RESUBDIVISION OF LOT 1 IN RAYMOND HARA SUBDIVISION RECORDED SEPTEMBER 30, 1994 AND RECORDED AS DOCUMENT NUMBER 94847852, BEING A SUBDIVISION OF THE NORTHEAST FRACTIONAL 1/4 OF FRACTIONAL SECTION 32, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

UNOFFICIAL COPY

EXHIBIT B

NILES 572 PARCEL

LOT 1 IN THE FINAL PLAT OF RAYMOND HARA FIRST ADDITION RESUBDIVISION RECORDED AUGUST 23, 2011 AS DOCUMENT NUMBER 1123534015, A RESUBDIVISION OF LOT 1 IN RAYMOND HARA SUBDIVISION RECORDED SEPTEMBER 30, 1994 AND RECORDED AS DOCUMENT NUMBER 94847852, BEING A SUBDIVISION OF THE NORTHEAST FRACTIONAL 1/4 OF FRACTIONAL SECTION 32, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

5701-5729 West Touhy Avenue
Niles, IL 60714

10-32-203-039-0000

10-32-203-040-0000

UNOFFICIAL COPY

EXHIBIT C

PARCEL 3

LOT 2 IN RAYMOND HARA SUBDIVISION, BEING A SUBDIVISION OF THE NORTHEAST FRACTIONAL QUARTER OF FRACTIONAL SECTION 32, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

UNOFFICIAL COPY

EXHIBIT D

PARCEL 7

THAT PART OF THE EAST 17 ACRES OF THE WEST 19.5 ACRES OF THE EAST FRACTIONAL 1/2 OF THE NORTHEAST FRACTIONAL 1/4 OF FRACTIONAL SECTION 32, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EASTERLY OF THE EASTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO, MILWAUKEE AND ST. PAUL RAILWAY COMMENCING AT THE NORTHEAST CORNER OF SAID 17 ACRES; THENCE WEST ALONG THE NORTH LINE OF SAID 17 ACRES 193.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING WEST ALONG THE NORTH LINE OF SAID 17 ACRES 274.99 FEET TO A LINE WHICH IS 50 FEET EAST OF AND PARALLEL WITH WEST LINE OF SAID 17 ACRES (SAID 50 FEET AS MEASURED AT RIGHT ANGLES TO SAID WEST LINE) THENCE SOUTH ALONG SAID PARALLEL LINE 561.26 FEET; THENCE EAST AT RIGHT ANGLES TO THE LAST DESCRIBED LINE 268.22 FEET; THENCE NORTHERLY 565.33 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

UNOFFICIAL COPY

EXHIBIT E

SITE PLAN

See attached.

**COOK COUNTY
RECORDER OF DEEDS**

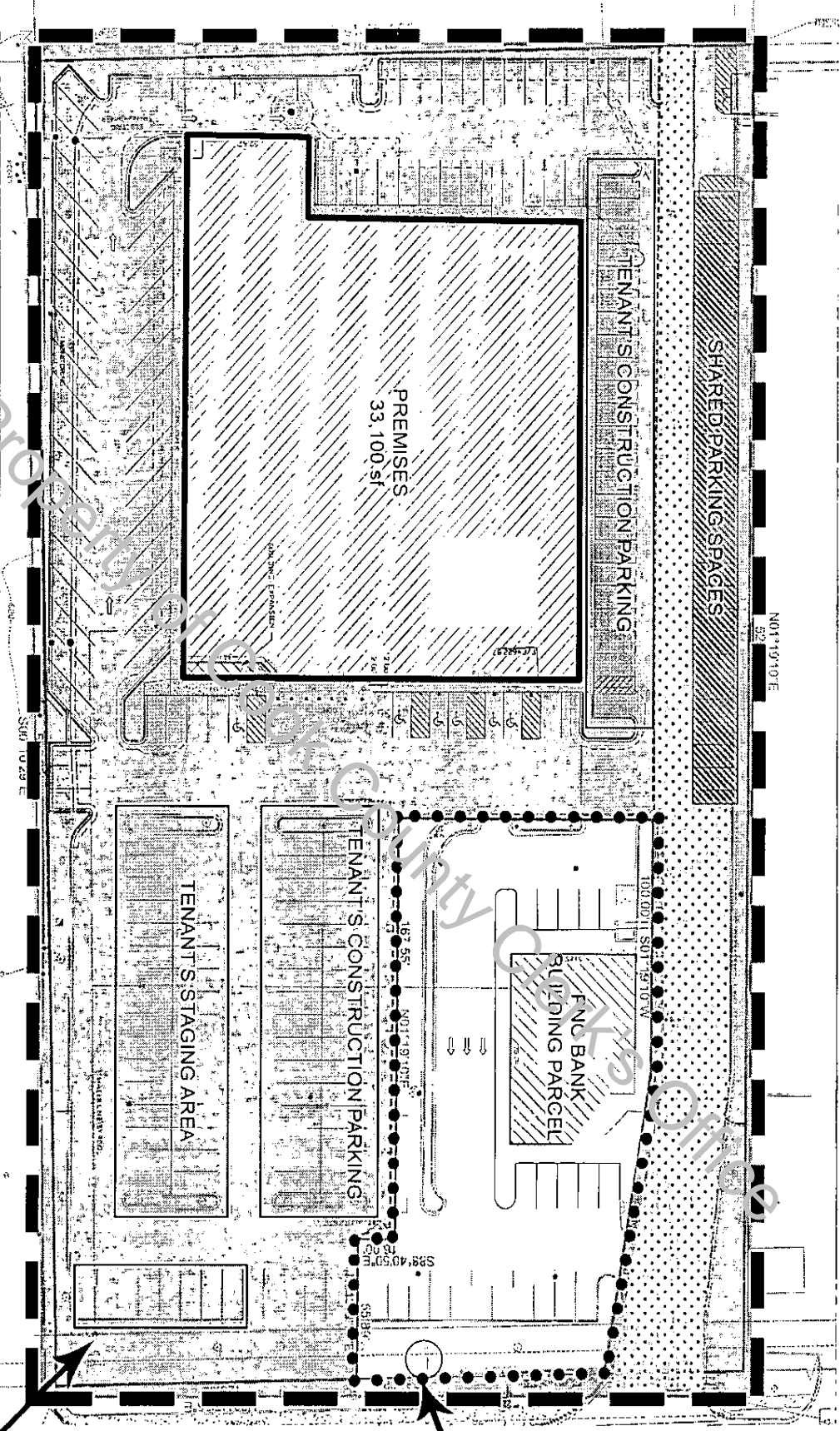
Property of Cook County Clerk's Office

**COOK COUNTY
RECORDER OF DEEDS**

**COOK COUNTY
RECORDER OF DEEDS**

UNOFFICIAL COPY

PARKING SPACES: 193 + 7 H.A. = 200 (NOT INCLUDING BANKING PARKING)
 PNC PARKING : 21 SPACES
 TOTAL PARKING ON SITE : 221 SPACES



PROJECT
 TENANT AREA OF CONTROL
 SHARED PARKING SPACES
 ACCESS DRIVEWAY

TRAILER (PRESALES)
 PNC BANK BUILDING PARCEL
 The PNC Bank Building Parcel is not part of the Project

EXISTING MONUMENT SIGN

UNOFFICIAL COPY

LENDER CONSENT

The undersigned, the beneficiary under that certain Mortgage, Security Agreement and Assignment of Leases and Rents dated as of December 11, 2018, and recorded by the Cook County Recorder of Deeds on December 28, 2018, as Document No. 1836219281, as the same may be amended or supplemented from time to time (the "Mortgage"), which Mortgage encumbers the GW Parcel, which is subject to the Plat, hereby consents to and approves (but does not subordinate its lien or any rights to) the Agreement. The Plat, as modified hereby, shall not be extinguished, limited or affected to any extent by any foreclosure of the Mortgage.

OLD PLANK TRAIL COMMUNITY BANK, N.A.

By: Umar Riaz
Name: Umar Riaz
Title: AVP

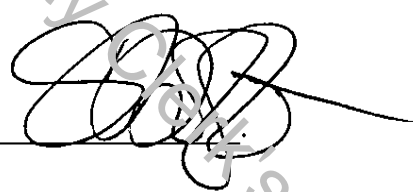
STATE OF ILLINOIS

COUNTY OF COOK

The foregoing Lender Consent was acknowledged before me this 23 day of MAY 2019, by UMAR RIAZ as AVP of OLD PLANK TRAIL COMMUNITY BANK, N.A.

Witness my hand and official seal.

My commission expires: 11/20/22



Notary Public

