



**CITY COUNCIL AGENDA**

Monday, September 19, 2016

Regular Session – 7:00 p.m.

Room 102

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**CALL TO ORDER**

**REGULAR SESSION**

ROLL CALL

PRAYER

PLEDGE OF ALLEGIANCE

**RECOGNITION**

RECOGNITION OF DES PLAINES FIREFIGHTERS BY THE MUSCULAR DYSTROPHY ASSOCIATION FOR “FILL-THE-BOOT” FUNDRAISING EFFORTS

**CITIZEN PARTICIPATION**

(matters not on the Agenda)

**CITY CLERK ANNOUNCEMENTS**

**ALDERMEN ANNOUNCEMENTS**

**CONSENT AGENDA**

1. Approve the Designation of a Certifying Officer and an Environmental Officer for Environmental Review, as Required by the United States Department of Housing and Urban Development (HUD) for all CDBG Funded Projects and Programs
  - 1a. RESOLUTION R-140-16/A Resolution Designating a Certifying Officer and an Environmental Officer for the City of Des Plaines
2. Award Bid for the 2017-2018 Elevator Inspection Services Contract to Thompson Elevator Inspection Services, Inc. in the Amount of \$11,160 with the Option to Renew for (2) Two-Year Terms.
  - 2a. RESOLUTION R-141-16/A Resolution Approving a Contract with Thompson Elevator Inspection Services Company for Elevator Inspection and Plan Review Services
3. Award Bid for the Fabrication and Installation of a Service Body, Crane, and Up-fitter Package to Sauber Manufacturing Company, 10 North Sauber Road, Virgil, IL in the Amount of \$83,760 and Approve the Purchase of One Ford F-450 Chassis through the Suburban Purchasing Cooperative Contract #145 from Currie Motors, 9423 W. Lincoln Highway, Frankfort, IL in the Amount of \$35,955. Budgeted Funds – Vehicle Replacement Fund.
  - 3a. RESOLUTION R-142-16/A Resolution Authorizing the Purchase of a 2017 Ford F-450 Pick-Up Truck from Currie Motors and Approving an Agreement with Sauber Manufacturing Company for the Fabrication and Installation of a Service Body, Crane, and Up-Fit Package
4. Approve Expenditure of Funds in Accordance with FEMA Hazard Mitigation Grant 4116 as Approved by Resolution R-134-15
  - 4a. RESOLUTION R-143-16/A Resolution Authorizing the Purchase of Ten Properties Located on Big Bend Drive, Des Plaines, Illinois
5. Approve Agreement with Crowe Horwath, LLP to Provide Annual Audit Services for Fiscal Years 2016 through 2018 in the Not-to-Exceed Amount of \$172,080. Budgeted Funds – General Fund.
  - 5a. RESOLUTION R-145-16/A Resolution Approving a Contract with Crowe Horwath, LLP, for Professional Audit Services
6. Amend Title 1, “Administrative”, Chapter 8, “Position Grade and Compensation Plan”, Section 4, “Compensation Plan” of the Des Plaines City Code to Add the Position of Assistant Director of Economic Development and Plan Coordinator
  - 6a. ORDINANCE M-26-16/An Ordinance Amending Chapter 8 of Title 1 of the City of Des Plaines City Code
7. Minutes/Regular Meeting – September 6, 2016
8. Minutes/Closed Session – September 6, 2016
9. Approve a Reciprocal Easements and Covenants Agreement with the Rosemont Park District and Outfront Media, LLC for The Orchards of O’Hare, TIF #7
  - 9a. RESOLUTION R-148-16/A Resolution Approving a Reciprocal Easements and Covenants Agreement with the Rosemont Park District and Outfront Media, LLC

10. Approve a Reciprocal Easements and Covenants Agreement with O'Hare Real Estate, LLC for The Orchards at O'Hare, TIF #7
- 10a. RESOLUTION R-149-16/A Resolution Approving a Reciprocal Easements and Covenants Agreement with O'Hare Real Estate, LLC

### **END OF CONSENT AGENDA**

### **COMMITTEE OF THE WHOLE**

1. **FINANCE & ADMINISTRATION** – Alderman Don Smith, Chair
  - a. Warrant Register in the Amount of \$4,356,524.61 – RESOLUTION R-146-16
  - b. Discussion and Presentation Regarding the Water/Sewer Fund (*back-up material included in Supplemental Packet*)
2. **COMMUNITY DEVELOPMENT** – Alderman Mike Charewicz, Chair
  - a. Opus Development - Consideration of Variations and Resubdivision, 1555 & 1565 Ellinwood Avenue, Case #16-050-V-SUB, 1<sup>st</sup> Ward – ORDINANCE Z-24-16 (*back-up material included in Supplemental Packet*)
  - b. Consideration of a Conditional Use Permit and a Standard Variation for Evans Restaurant, 1900 E. Touhy Avenue, Case #16-052-CU-V (6<sup>th</sup> Ward) – ORDINANCE Z-25-16
  - c. Consideration of a Proposed Theatre and Restaurant District Business Assistance Program – RESOLUTION R-147-16
3. **LEGAL & LICENSING** – Alderman Patricia Haugeberg, Chair
  - a. Discussion Regarding Modification of the Code of Ethics

**IF NO ACTION IS TAKEN UNDER NEW BUSINESS, THESE ITEMS WILL APPEAR ON THE FOLLOWING CONSENT AGENDA OR UNFINISHED BUSINESS. IF IT IS NECESSARY TO TAKE ACTION ON ANY OF THESE ITEMS THIS EVENING, THEY MUST BE REPORTED OUT BY THE COMMITTEE CHAIRMAN UNDER "NEW BUSINESS"**

### **UNFINISHED BUSINESS**

1. RESOLUTION R-131-16/A Resolution Approving a Construction Contract with Lorusso Cement Contractors, Inc. for TIF #1 Downtown Streetscape Phase III Project in the Amount of \$2,664,700.71. Budgeted Funds – TIF #1. (*Tabled from 9/6/2016 City Council Meeting*)
2. RESOLUTION R-132-16/A Resolution Approving Change Order No. 1 to Task Order No. 3 under a Master Contract with SpaceCo, Inc. for Engineering Services (*Tabled from 9/6/2016 City Council Meeting*)
3. SECOND READING – ORDINANCE Z-23-16/An Ordinance Approving a Final Plat of Planned Unit Development with a Permitted Exception and a Final Plat of Subdivision for the Property Located at 800 Northwest Highway, Des Plaines, Illinois (Case #16-048-FPUD-FSUB)

**NEW BUSINESS: IF REPORTED OUT BY COMMITTEE**

1. a. RESOLUTION R-146-16/Warrant Register in the amount of \$4,356,524.61  
b. N/A
2. a. ORDINANCE Z-24-16/An Ordinance Approving Tentative and Final Plats of Consolidation and a Major Variation from Section 12-7-3.5.e.2 of the City of Des Plaines Zoning Ordinance at 1555-1557 and 1565 Ellinwood Avenue, Des Plaines, Illinois (Case #16-050-V-SUB)  
b. ORDINANCE Z-25-16/An Ordinance Granting a Conditional Use Permit for the Operation of a Class B Restaurant with a Drive-Through Facility in the C-3 Zoning District at 1900 Touhy Avenue, Des Plaines, Illinois (Case #16-052-CU-V)  
c. RESOLUTION R-147-16/A Resolution Adopting the City of Des Plaines Theatre and Restaurant District Program

**MANAGER'S REPORT**

**ALDERMEN COMMENTS**

**MAYORAL COMMENTS**

**ADJOURNMENT**

**City of Des Plaines, in compliance with the Americans With Disabilities Act, requests that persons with disabilities, who require certain accommodations to allow them to observe and/or participate in the meeting(s) or have questions about the accessibility of the meeting(s) or facilities, contact the ADA Coordinator at 391-5486 to allow the City to make reasonable accommodations for these persons.**



COMMUNITY AND ECONOMIC  
DEVELOPMENT DEPARTMENT

1420 Miner Street  
Des Plaines, IL 60016  
P: 847.391.5380  
desplaines.org

MEMORANDUM

Date: September 15, 2016

To: Michael G. Bartholomew, MCP, LEED AP, City Manager  
Michael McMahon, Community and Economic Development Director

From: Stewart Weiss, City Attorney, Holland & Knight  
Lauren Pruss, AICP, Economic Development Coordinator 

Subject: Reciprocal Easement Agreement for The Orchards at O'Hare, TIF #7 (6<sup>th</sup> Ward)

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**Issue:** The City has entered in to agreements with O'Hare Real Estate, LLC ("**Developer**") for the purchase and redevelopment of the City-owned property located within TIF 7. As part of this transaction, a reciprocal easement agreement must be executed to allow the development of the site as approved.

**Analysis:** As part of the development of TIF 7, the City acquired property from the Rosemont Park District ("**District**"), but the District retained a small parcel of property located within, and entirely surrounded by the development parcel ("**District Parcel**"). However, in order to develop the site in an efficient, safe, and orderly manner, the District Parcel must be developed by the Developer while still maintaining access to the existing billboard on the parcel. To achieve this, a reciprocal easements and covenants agreement between the City, the District, and the Billboard company must be approved and executed by all three parties. The agreement will transfer to the Developer as part of the purchase and sale transaction between the City and the Developer.

**Recommendation.** Approve the resolution.

LP/lp

**Attachments:**

Resolution R – 148 – 16 A Resolution Approving a Reciprocal Easements and Covenants Agreement with the Rosemont Park District and Outfront Media, Llc.

Exhibit A: Reciprocal Easements and Covenants Agreement

**CITY OF DES PLAINES**

**RESOLUTION R - 148 - 16**

**A RESOLUTION APPROVING A RECIPROCAL EASEMENTS AND COVENANTS AGREEMENT WITH THE ROSEMONT PARK DISTRICT AND OUTFRONT MEDIA, LLC.**

**WHEREAS**, Article VII, Section 10 of the 1970 Illinois Constitution and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq.*, authorize and encourage intergovernmental cooperation; and

**WHEREAS**, the City is an Illinois home-rule municipal corporation authorized to exercise any power or perform any function pertaining to its government and affairs; and

**WHEREAS**, pursuant to that certain Real Estate Purchase and Sales Agreement dated as of December 8, 2015 between the City and the District, the City acquired from the District that parcel of real property located at the north east corner of Higgins Road and Orchard Place ("**City Parcel**"); and

**WHEREAS**, the District retained ownership of a parcel of real property consisting of 3,723 square feet bordered on the east, south, and west by the City Parcel and on the north by the I-90/Jane Adams Tollway right-of-way ("**District Parcel**"); and

**WHEREAS**, the District Parcel is improved with a double-faced commercial billboard visible from eastbound and westbound traffic on the I-90/Jane Adams Tollway ("**Billboard**") owned by Outfront Media, LLC; and

**WHEREAS**, the City and the District entered into that certain "Billboards Easements and Covenant Agreement" dated as of March 16, 2016 and recorded in the Office of the Cook County Recorder on March 17, 2016, as Document No. 1607719069 ("**Original Easement**") which granted the District access and utility easements over the City Parcel and imposed a visibility covenant on the City Parcel to allow the District to maintain the Billboard on the District Parcel; and

**WHEREAS**, the City intends to consolidate the City Parcel with other properties (collectively, the "**Development Parcel**"), and convey the Development Parcel to a third party for the purpose of redevelopment as a commercial planned development ("**Project**"); and

**WHEREAS**, the Project will require the installation of install certain site improvements on the District Parcel for the benefit of the Development Parcel; and

**WHEREAS**, the City and the District desire to enter into a Reciprocal Easements and Covenants Agreement ("**Agreement**") to provide for the installation of such site improvements and to allow the District to maintain the Billboard on the District Parcel; and

**WHEREAS**, it is the intention of the City and the District that the Agreement will replace the Original Easement; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City to enter into the Agreement with the Illinois Tollway;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Plaines, Cook County, Illinois, in the exercise of its home rule powers, as follows:

**SECTION 1: RECITALS.** The foregoing recitals are incorporated into, and made a part of, this Resolution as findings of the City Council.

**SECTION 2: APPROVAL OF AGREEMENT.** The City Council hereby approves the Agreement in substantially the form attached to this Resolution as **Exhibit A** and in a final form approved by the General Counsel.

**SECTION 3: AUTHORIZATION TO EXECUTE AGREEMENT.** The City Council hereby authorizes and directs the Mayor or City Manager to execute, and the City Clerk to seal, on behalf of the City, the final Agreement.

**SECTION 4: EFFECTIVE DATE.** This Resolution shall be in full force and effect from and after its passage and approval according to law.

**PASSED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

**VOTE:** AYES \_\_\_\_ NAYS \_\_\_\_ ABSENT \_\_\_\_

\_\_\_\_\_  
**MAYOR**

ATTEST:

Approved as to form:

\_\_\_\_\_  
**CITY CLERK**

\_\_\_\_\_  
**Peter M. Friedman, General Counsel**

**This instrument prepared by  
and after recording should be  
returned to:**

Stewart J. Weiss  
Holland & Knight LLP  
131 S. Dearborn  
30<sup>th</sup> Floor  
Chicago, Illinois 60603

## **RECIPROCAL EASEMENTS AND COVENANTS AGREEMENT**

**THIS RECIPROCAL EASEMENTS AND COVENANTS AGREEMENT** (“*Agreement*”), made and entered into as of September \_\_\_\_, 2016 (the “*Effective Date*”) by, between, and among the **CITY OF DES PLAINES**, an Illinois home-rule municipal corporation (“*City*”), the **ROSEMONT PARK DISTRICT**, an Illinois park district organized and existing under the Illinois Park District Code, 70 ILCS 1205/1-1 *et seq.* (“*District*”), and **OUTFRONT MEDIA, LLC**, an Illinois limited liability company (“*Billboard Tenant*”). In consideration of the recitals and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City, District, and Billboard Tenant (each a “*Party*” and collectively, the “*Parties*”) agree as follows:

### **Section 1. Recitals.**

A. Pursuant to that certain Real Estate Purchase and Sale Agreement dated as of December 8, 2015, between the City and the District, the City acquired from the District that parcel of real property located at the north east corner of Higgins Road and Orchard Place (“*City Parcel*”) which is legally described and depicted in ***Exhibit A*** attached hereto; and

B. The District retained ownership of a parcel of real property consisting of 3,723 square feet bordered on all sides by the City Parcel (“*District Parcel*”), which is legally described and depicted in ***Exhibit B*** attached hereto; and

C. The District and Billboard Tenant are parties to an unrecorded lease (“*Billboard Lease*”) whereby Billboard Tenant rents from District, and has certain leasehold rights to a portion of the District Parcel; and

D. The District Parcel is improved with a double-faced commercial billboard, owned by Billboard Tenant, visible from eastbound and westbound traffic on the 1-90/Jane Adams Tollway (“*Billboard*”); and

E. The City and the District entered into that certain “Billboards Easements and Covenant Agreement” dated as of March 16, 2016 and recorded in the Office of the Cook County Recorder on March 17, 2016, as Document No. 1607719069 (“*Original Easement*”) which

granted the District and Billboard Tenant access and utility easements over a portion of the City Parcel and imposed a visibility covenant on a portion of the City Parcel for the District to maintain the Billboard on the District Parcel; and

F. The City intends to consolidate the City Parcel with other properties (collectively, the “*Development Parcel*”), which are legally described in and depicted on *Exhibit C* attached hereto, and convey the Development Parcel to a third party for the purpose of redevelopment as a commercial planned development (“*Project*”); and

G. The Project will require the installation and operation of certain site improvements on and under the District Parcel for the benefit of the Development Parcel and the District Parcel; and

H. The City, the District, and Billboard Tenant desire to enter into this Agreement to provide for the installation and operation of the these improvements and to (i) allow the District to maintain the Billboard on the District Parcel, (ii) allow City, its successors and assigns, to use the District Parcel pursuant to the easements and rights granted herein, and (iii) allow the District and Billboard Tenant, their successors and assigns, to use the Development Parcel pursuant to the easements and rights granted herein; and

I. The Parties agree that the execution of this Agreement shall effectively repeal and replace the Original Easement, which shall be of no further force or effect.

**Section 2. Original Easement.** The City and District hereby rescind, repeal, and vacate the Original Easement.

**Section 3. Development Parcel Easements and Covenant.**

A. **District Access Easements.** The City hereby grants and conveys to the District, Billboard Tenant and their respective successors, assigns, tenants, contractors, agents, employees, guests, invitees and customers, in perpetuity, non-exclusive easements of ingress and egress over those portions of the Development Parcel depicted in *Exhibit D* attached hereto for the sole purpose of allowing the District and the Billboard Tenant and vehicles operated by the District or the Billboard Tenant to gain ingress and egress from the District Parcel to the Mannheim Road and/or Orchard Place public rights-of-way for the use of the District Parcel, including without limitation, the construction, erecting, installation, repairs, replacement, operation, modification, upgrade, utilization, and maintenance of the Billboard on the District Parcel and all other structures, equipment, fixtures and property necessary or convenient to the construction, operation, and maintenance of the Billboard, including, without limitation, the utility facilities servicing the Billboard by the Billboard Tenant and its successors and assigns (“*Static District Access Easements*”). The grant herein shall include such temporary roadways, haul roads, and access ways as are needed, from time to time, to enable the City to repair, replace, restore and relocate the Static District Access Easements in such a manner as not to disturb the rights of the District and Billboard Tenant and its successors and assigns set forth above, each such temporary roadways, haul roads and access ways being a “*Temporary District Access Easements*”). Notwithstanding anything to the contrary in this Agreement, the City, its successors or assigns, reserves the right to relocate the Static District Access Easements, from time to time, in the event

that the City, its successors or assigns, determines in its reasonable discretion, that such relocation is necessary or desirable in connection with the development of the Development Parcel; provided, however, that the relocated Static District Access Easements must (i) provide the District and Billboard Tenant with uninterrupted access to the District Parcel and the Billboard in such a manner as not to disturb the rights of the District and Billboard Tenant and its successors and assigns set forth above; (ii) be no less than 22 feet wide; and (iii) be suitable for construction traffic and the transport of heavy equipment having a minimum pavement structural number of 3.0. The City, at its sole cost, will have the sole responsibility for (a) constructing, installing, maintaining and repairing the Static District Access Easements or Temporary District Access Easements, and (b) the cost and expense to relocate or reconstruct the Temporary District Access Easements and the Static District Access Easements. The parties hereto acknowledge and agree that during such time, and from time to time, there exists Temporary District Access Easements, Billboard Tenant and its employees, agents and contractors may be required to telephonically or electronically communicate with the City to ensure safe access to the District Parcel. The City agrees that it will provide such access to the District Parcel to the Billboard Tenant and its agent, contractors and employees subject only to then-current safety rules and procedures required by law then in effect.

B. District Utility Easement. The City hereby grants and conveys to the District, Billboard Tenant and their respective successors, assigns, tenants, contractors, agents, employees, guests, invitees and customers, in perpetuity, a non-exclusive easement over, under, and/or above a portion of the Development Parcel depicted in ***Exhibit E*** attached hereto for the installation, operation, and maintenance of an electrical utility facility, line, or connection, upon the Development Parcel that may be reasonably necessary or appropriate in order to afford adequate illumination of the Billboard (“***District Utility Easement***”). Notwithstanding anything to the contrary in this Agreement, the City, or its successors and assigns, reserves the right to relocate the District Utility Easement, from time to time, in the event that the City, or its successors and assigns, determines, in their reasonable discretion, that such relocation is necessary or desirable in connection with the development of the Development Parcel; provided, however, that the relocated District Utility Easement must provide the District Parcel with sufficient access to provide utility service to the Billboard and further provided the relocation of the District Utility Easement will be conducted in such a manner as to prevent the interruption of utility service to the Billboard. The City, at its sole cost, shall have the responsibility for (i) constructing, installing, maintaining and repairing the District Utility Easement, and (ii) the cost and expense to relocate or reconstruct the District Utility Easement.

C. Visibility Corridor Restrictive Covenant. The City covenants not to allow the construction, placement, or erection of any structures, the storage of any objects, or the planting or growth of any landscaping upon, above, and/or across that portion of the Development Parcel described in and depicted on ***Exhibit F*** attached hereto. The City hereby declares that the Development Parcel shall be held, transferred, sold, conveyed, used, and occupied subject to the Visibility Covenant which is for the purpose of protecting the value of the District Parcel for the continued use, maintenance, removal, repair, reconstruction, servicing, modification, upgrade and operation of the Billboard.

#### **Section 4. District Parcel Easements.**

A. **City Public Ingress, Egress, Circulation, and Parking Easement.** The District hereby grants and conveys to the City, its successors, assigns, tenants, contractors, agents, and employees, in perpetuity, a non-exclusive access, ingress, egress, circulation, and parking easement in, on, over and across the District Parcel, for the purpose of ingress, egress, pedestrian and vehicular circulation and parking (the “***City Public Ingress, Egress and Parking Easement***”), provided the City Public Ingress, Egress and Parking Easement does not interfere in any way with the continued use, maintenance, removal, repair, reconstruction, servicing, modification, upgrade and operation of the Billboard in perpetuity.

B. **City Utility Easement.** The District hereby grants and conveys to the City, its successors, assigns, tenants, contractors, agents, and employees, in perpetuity, a non-exclusive easement in, on, over and across the District Parcel, for the purpose of constructing, installing, inspecting, maintaining, operating, repairing, reconstructing, and removing utilities, including, but not limited to, underground water mains, storm sewers, sanitary sewers, electrical, gas, telephone, cable, telecommunications, other utility transmission and distribution systems (the “***City Utility Easement***”), provided the City Utility Easement does not interfere in any way with the continued use, maintenance, removal, repair, reconstruction, servicing, modification, upgrade and operation of the Billboard in perpetuity. The City Utility Easement shall include those improvements described in ***Exhibit G***, attached hereto (“***Improvements***”) together with items of construction associated with the construction and installation of the Improvements, subject to the terms and conditions herein set forth, in, upon, over, under, through, along, and across the District Parcel, together with all reasonable rights of ingress and egress over, along, upon, and across the District Parcel necessary for the exercise of the rights herein granted.

C. **City Temporary Construction Easement.** The District hereby grants and conveys to the City, its successors and assigns, a temporary, non-exclusive construction easement for the surveying, grading, construction, and installation of the City Public Ingress, Egress and Parking Easement and the City Utility Easement, including the Improvements, subject to the terms and conditions herein set forth, in, upon, over, under, through, along, and across the District Parcel, together with all reasonable rights of ingress and egress over, along, upon, and across the District Parcel necessary for the exercise of the rights herein granted (“***City Temporary Construction Easement***”) provided the City Temporary Construction Easement does not interfere in any way with the continued use, maintenance, removal, repair, reconstruction, servicing, modification, upgrade and operation of the Billboard in perpetuity.

D. **City Maintenance Easement.** The District hereby grants and conveys to the City, its successors, assigns, tenants, contractors, agents, and employees, in perpetuity, a non-exclusive easement in, on, over and across the District Parcel, for the purpose of maintaining, operating, repairing and reconstructing the City Public Ingress, Egress and Parking Easement and the City Utility Easement including the Improvements (“***City Maintenance Easement***”) provided the City Maintenance Easement does not interfere in any way with the continued use, maintenance, removal, repair, reconstruction, servicing, modification, upgrade and operation of the Billboard in perpetuity. The City, at its sole cost, will have the sole responsibility for maintaining the City Public Ingress, Egress and Parking Easement and the City Utility Easement including the

Improvements. The ongoing repair, maintenance, and reconstruction of the Billboard shall be the responsibility of the District and/or the Billboard Tenant and its successors and assigns, as provided for in the Billboard Lease or any future tenant of the District Parcel for the uses and purposes herein set forth.

E. Construction.

1. All Improvements listed on *Exhibit G* shall be constructed where indicated as illustrated and shown in *Exhibit H* or as the same may be revised by the City, its successors and assigns, either (i) to the extent required by any public utility providing service to the City or any governmental body or agency having jurisdiction over any work to be performed by the City on the District Parcel or the Development Parcel; or (ii) provided such revisions affect the District Parcel, as approved by the District and Billboard Tenant or its successors or assigns, if any, which approval shall not be unreasonably withheld, delayed or conditioned.
2. The City agrees that (i) when conducting all construction, repairs, replacements, and maintenance to the Improvements by the City, all commercially reasonable actions will be taken to minimize the duration of such work; and (ii) the maintenance of the portions of the District Parcel used by the City for the Improvements will be kept in a clean, well-kept, and non-hazardous condition.
3. The Parties acknowledge and agree that the installation and construction of the Improvements may require temporary power outages to the Billboard for the purpose of adjusting the meters/boxes and services connections serving the Billboard. The Parties agree to cooperate and coordinate work schedules to ensure that the disruption caused by this work is minimized in time and severity. The City agrees that it shall be responsible for the cost and expense to provide any temporary power to the Billboard in the event of a temporary or extended power outage to the Billboard. The City shall indemnify the District against any claim by Billboard Tenant for actual (i) damages, (ii) losses or (iii) rent reduction or abatement permitted under the Billboard Lease which arise out of, or in connection with, the City's installation, construction and maintenance of the Improvements or the use of the District Parcel by the City.
4. The District and Billboard Tenant agree to provide consents to, and cooperate and coordinate with the City on all applications to other governmental entities and other permitting agencies or bodies and utility companies necessary to obtain permits or permissions to construct and install the Improvements. The District and Billboard Tenant shall not be responsible for any costs associated with obtaining such permits or permissions and shall not be responsible for payment of any penalty, fee, or

fine associated with renewals, extensions, or violations of such permits or permissions.

**Section 5. Indemnification. Hold Harmless.** Except as provided in Section 10.B., each Party agrees to indemnify and to save and hold the other Party or Parties, and its employees, representatives, and agents harmless from all claims, causes of action, suits, damages, liabilities, demands, liens, judgments, awards, or liabilities of any nature or kind that relate to or arise directly or indirectly from the Party's use of the other Party's property pursuant to the easements granted herein.

**Section 6. Insurance.**

A. **In General.** Each Party agrees that prior to first entering onto the other Party's property to exercise its rights hereunder to install, maintain construct, repair, restore or renovate, the Party entering onto the property of the other Party (or Parties, as the case may be), ("***Entering Party***") shall procure and maintain, and shall cause each contractor and subcontractor performing any work on behalf of the Entering Party or their tenant to procure and maintain, the following insurance coverage from a company licensed to issue such policies in the State of Illinois:

- (i) **Workers' Compensation Insurance Policy:** Coverage A - providing payment promptly when due of all compensation and other benefits required of the insured by the workers' compensation law; Coverage B - Employers' Liability: providing payment on behalf of the insured with limits not less than \$1,000,000 each accident/occurrence for all sums which the insured shall become legally obligated to pay as damages because of bodily injury by accident or disease, including death at any time resulting therefrom. Coverage A and Coverage B will cover all contractors, subcontractors, and their subcontractors;
- (ii) Comprehensive General Liability Policy or Policies covering all contractors, subcontractors, and all their subcontractors with limits not less than the combined single limit of \$5,000,000 for bodily injuries to or death of one or more persons and/or property damage sustained by one or more organizations as a result of any one occurrence. The Party, (or Parties as the case may be) whose property is being entered ("***Host Party***") shall be added as an Additional Insured. Bodily injury means bodily injury, sickness, or disease sustained by any person which occurs during the policy period, including death, at any time resulting therefrom. Property damage means (1) physical injury to or destruction of tangible property which occurs during the policy period, including the loss of use thereof at any time resulting therefrom, or (2) loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by an occurrence during the policy period; and

- (iii) Automobile Liability in the amount of not less than \$2,000,000 per occurrence combined single limit covering all owned, leased, rented, and non-owned vehicles.

The Entering Party shall furnish to the Host Party, prior to first entering onto the Host Party's property, a certified copy of each policy of insurance or a Certificate of Insurance evidencing the coverage specified in subsections (i), (ii), and (iii) of this Section. Insurance coverage as required herein in subsections (i), (ii), and (iii) shall be kept in force until this Agreement is terminated. The Parties hereby reserve the right to amend, correct and change, from time to time, the limits, coverage, and form of policy as may be required from Entering Party by written amendment to this Agreement.

B. Certificate of Insurance. All insurance policies required by this Section 6 shall be issued by good and reputable companies having a Best's Rating of A and Class X or better and shall provide thirty (30) days prior written notice of any substantial change in the coverage, cancellation, or non-renewal. Any policies of insurance maintained by an Entering Party, its tenants, its contractors, or subcontractors, shall be primary without right of contribution or offset from any policy of insurance or program of self-insurance maintained by the Host Party. The Entering Party agrees and shall require each of its contractors and subcontractors to agree that they shall each arrange for the issuers of all policies of insurance required hereunder to waive their rights of subrogation against the Host Party, its directors, officers, employees, attorneys, and agents.

**Section 7.** **Default.** The occurrence of any of the following shall constitute an event of default ("*Event of Default*") under this Agreement:

A. A Party or its tenant's failure to perform or observe any other covenant, term, or condition to be performed or observed by the Party or its tenant ("*Non-Performing Party*") hereunder, and the continuation of such default for a period of thirty (30) days after notice thereof from the other Party ("*Party Not-in-Default*"); provided, however, that if such default cannot be cured within thirty (30) days and the Non-Performing Party has undertaken diligent efforts within such thirty (30) day period to effect a cure, then the cure period shall be extended for such additional time, not to exceed an additional sixty (60) days (excluding cases of Force Majeure, as hereinafter defined, in which the cure period shall be extended until such time as the Force Majeure condition abates), as may be required by the Non-Performing Party through the exercise of continuous, diligent efforts to complete all required corrective action; or

B. Any representation or warranty of a Party hereunder proves to be false or misleading in any material respect when made; or

C. The Party's failure to maintain or cause its tenants, contractors, or subcontractors to maintain the insurance coverages required under Section 6 hereof or a Party's failure to furnish to Host Party, prior to said first entry, evidence of such insurance as required by said Section 6.

**Section 8.** **Remedies.** Upon the occurrence of an Event of Default, the Party Not-in-Default may exercise any one or more of the following remedies:

A. take any and all corrective actions the Party Not-in-Default deems necessary or appropriate to cure such default and charge the cost thereof to the Non-Performing Party, such payment to be made by the Non-Performing Party upon the Party Not-in-Default's presentment of demand therefor;

B. recording a lien only against the property of the Non-Performing Party being encumbered by this Agreement for any costs that the Party Not-in-Default has actually incurred to cure Non-Performing Party's default after the Non-Performing Party to the extent same have not been paid within 30 days after demand therefor;

C. any other remedy available at law or in equity to the Party Not-in-Default, including without limitation specific performance of the Non-Performing Party's obligations hereunder.

The Non-Performing Party shall be liable for and shall reimburse the Party Not-in-Default upon demand for all reasonable attorney's fees and costs incurred by the Party Not-in-Default in enforcing the Non-Performing Party's obligations under this Agreement, whether or not the Party Not-in-Default files legal proceedings in connection therewith. No delay or omission of the Party Not-in-Default to exercise any right or power arising from any default shall impair any such right or power or be construed to be a waiver of any such default or any acquiescence therein. No waiver of any breach of any of the covenants of this Agreement shall be construed, taken, or held to be a waiver of any other breach, or as a waiver, acquiescence in, or consent to any further or succeeding breach of the same covenant.

## **Section 9. Environmental Protection.**

A. **In General.** The Parties shall conduct the operations permitted by this Agreement, and cause all work to be performed in strict compliance with all applicable Environmental Laws (defined below). The Parties shall not cause or permit any underground storage tanks to exist or any Hazardous Materials (defined below) to be introduced or handled on the Development Parcel or the District Parcel in connection with the easements granted herein. Each Party shall defend, indemnify, and hold harmless the other Party, and its respective employees, officers, directors, agents, subsidiaries, affiliates, legal representatives, successors, and assigns, from and against from and against any claims, actions, proceedings, judgments, damages (including consequential damages), liens, fines, costs, liabilities, injuries, losses, costs, and expenses, including but not limited to attorneys' and consultants' fees and costs, whether asserted under Environmental Laws or at common law, arising out of or related to (i) any breach by any Party of the environmental covenants set forth above or (ii) any violation of any Environmental Laws or the presence, release or threatened release of any Hazardous Materials at, on, or beneath any portion of the District Parcel or the Development Parcel as a result of or in connection with any act or omission of a Party, its agents, employees, contractors, or any entity in privity with or providing a benefit to a Party. As used in this section, the term "Environmental Laws" shall mean all federal, state and local statutes, regulations, or ordinances relating to the protection of health, safety, or the environment including, without limitation, the Clean Air Act, the Water Pollution Control Act, the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, all statutes, rules, and

regulations applicable to wetlands of any federal, state, county, or local regulatory agency, and all similar state and local laws now or hereinafter enacted or amended. “*Hazardous Materials*” shall mean any waste, pollutant, toxic substance, or hazardous substance, contaminant, or material regulated by any Environmental Law including, without limitation, petroleum or petroleum-based substances or wastes, asbestos, and polychlorinated biphenyls. The foregoing covenants and indemnification obligations shall survive any termination of this Agreement.

B. Notice of Violation of Environmental Laws. If, during the term of this Agreement, any Party becomes aware of any violation of Environmental Laws or of the presence of any Hazardous Materials or threatened presence of Hazardous Materials in, on, over, or under the soil, groundwater, on either the Development Parcel or the District Parcel resulting from or connected with the Party’s use of the easements and covenants granted herein, the Party shall promptly notify the other Party in writing of such conditions and shall immediately secure the affected area in a manner required to protect public health and safety.

C. Management of Excavated Soils. Each Party shall manage any excavated soils in which Hazardous Materials are encountered in accordance with all applicable Environmental Laws, and, if permitted by such laws, shall restore the excavated work area to the condition existing before such Hazardous Materials were encountered. If, under applicable Environmental Laws, the excavated soils cannot be returned to the excavated work area, the Party shall remove and dispose of the excavated contaminated soil at no cost to the other Party in the manner required by applicable Environmental Law, but in no event shall such contaminated soil be redeposited on the Development Parcel or the District Parcel.

**Section 10. Condition of the Development Parcel and the District Parcel; Billboard Alteration or Change; Billboard Tenant Ancillary Use(s). Repair and Restoration.**

A. Condition. The Parties have made no representations or warranties of any kind or nature whatsoever, whether written or oral, concerning the suitability of their respective parcels for the easements contemplated herein. In entering into this Agreement, the Parties have relied solely upon such independent investigations of the condition of the Development Parcel or District Parcel, as the case may be, and as the Parties have deemed necessary or appropriate in its discretion, and neither Party has relied upon any statements, representations, or agreements of the other Party regarding the condition of the parcels. The easements granted over the parcels, have been granted in an AS-IS, WHERE-IS CONDITION, WITH ALL FAULTS, and neither Party has agreed to undertake any improvements or other work to make the parcels suitable for the other Party’s intended use. All costs, including any environmental costs, in implementing the City’s and the District’s easements granted herein, and the construction by the City in furtherance of the easements in favor of City and the District and Improvements shall not be the responsibility of the District or Billboard Tenant.

B. Future Billboard Alteration or Change. In the event the District, Billboard Tenant or any of Billboard Tenant’s successors and assigns, or any future tenant of the District Parcel (subject to Section 24 hereof) desire to alter or change the billboard pole, the utility connections or any part or portion of the billboard structure to make it more desirable, in their sole discretion, the District, Billboard Tenant and any of the Billboard Tenant’s successors and assigns, or any

future tenant of the District Parcel (subject to Section 24 hereof), as the case may be, shall have the right, subject to obtaining a building permit or any other necessary governmental approvals applicable thereto, to make any such alteration or change within, upon and below only the area set forth on the attached Exhibit I (“*Affected Area*”). The District, Billboard Tenant and any of the Billboard Tenant’s successors and assigns, or any future tenant of the District Parcel (subject to Section 24 hereof), as the case may be, shall have the right to add any ancillary use to the billboard structure, including but not limited to routing necessary underground lines and telecommunication devices at its sole cost and expense (“*Billboard Work*”) provided, however, that any such Billboard Work shall be limited to the Affected Area and (ii) to the extent, if at all, any such Billboard Work shall reduce the number of parking spaces on the District Parcel, then the District will cooperate with the City, or its successors or assigns, in executing any documents necessary to obtain a zoning variance or similar remedy therefor from such governmental body or agency having jurisdiction or authority over such matter provided, however, the District will not be obligated for any costs necessary to obtain such zoning variance or similar remedy with each Party to be responsible for its own attorney’s or third party fees and costs. Nothing set forth herein shall be interpreted to transfer, assign or otherwise grant to any third party any interest in or to the Billboard, which is and shall remain the property of the Billboard Tenant.

C. Repair and Restoration. Each Party shall promptly repair, at its sole cost, any damage to the other Party’s property arising from the use by that Party of an easement granted herein, normal wear and tear excepted.

**Section 11. Notice.** Notices under this Agreement must be delivered (i) personally, (ii) by overnight delivery by a nationally recognized courier service, or (iii) by email, with the notice also being sent personally, by overnight delivery as set forth above, or by regular U.S. mail. Notices under this agreement must be sent to the following addresses or to such other or further addresses as a party may hereafter designate by notice:

if to District:                   **ROSEMONT PARK DISTRICT**  
6140 N. Scott St.  
Rosemont, IL 60018  
Attn: Karen M. Stephens, Dir. of Parks & Recreation  
Email: [kstephens@rosemontparkdistrict.com](mailto:kstephens@rosemontparkdistrict.com)

with a copy to:               William J. Payne  
Attorney at Law  
1100 W. Northwest Highway  
Suite 103  
Mt. Prospect, Illinois 60056  
Email: [williamjpayne7@aol.com](mailto:williamjpayne7@aol.com)

if to Billboard Tenant: **OUTFRONT MEDIA LLC**  
1233 W. Monroe Street  
Chicago, IL 60607  
Attn: Mitch Matson  
Email: mitch.matson@outfrontmedia.com

with a copy to: **OUTFRONT MEDIA LLC**  
405 Lexington Avenue  
New York, NY 10174  
Attn: General Counsel  
Email: richard.sauer@outfrontmedia.com

if to City: **CITY OF DES PLAINES**  
1420 Miner St.  
Des Plaines, IL 60016  
Attn.: Michael Bartholomew, City Manager  
Email: mbartholomew@desplaines.org

with a copy to: Holland & Knight LLP  
131 South Dearborn, 30<sup>th</sup> Floor  
Chicago, Illinois 60603  
Attn: Stewart Weiss  
Email: stewart.weiss@hklaw.com

Any notice shall be deemed given upon actual receipt. Nothing in this Section will be deemed to invalidate a notice that is actually received, even if it is not given in strict accordance with this Section. If either Party assigns this Agreement or is succeeded by another entity with respect to its obligations under this Agreement, the Party will provide written notice of such assignment or succession via the methods described above, including addresses for the assigned or succeeding parties.

**Section 12. Further Assurances.** Each Party hereby represents that it shall not permit any liens or claims to be made against the other Party's property, with the exception of liens permitted as a remedy for default under Section 8.B of this Agreement, and each Party shall take all necessary action to discharge any and all liens, mechanics' lien claims, security agreements, and similar claims, and shall execute all such documents as may be reasonably necessary to protect and preserve the other Party's interest in such other Party's property.

**Section 13. Covenants Running with the Land.** The easements and rights granted in this Agreement, the restrictions imposed by this Agreement, and the agreements and covenants contained in this Agreement shall be easements, rights, restrictions, agreements, and covenants running with the land, shall be recorded against the District Parcel and the Development Parcel and shall be binding upon and inure to the benefit of the City, the District, Billboard Tenant, any future billboard tenants, and their respective successors and assigns. If any of the easements, rights, restrictions, agreements, or covenants created by this Agreement would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law

rules imposing time limits, then such easements, rights, restrictions, agreements, or covenants shall continue only until 21 years after the death of the last survivor of any now living lawful descendants of any now living current or former President of the United States.

**Section 14. Assignment of Rights.** Each Party may assign its rights or delegate its duties under this Agreement, in whole or in part, without the consent of any other Party, provided such assignment will include an assumption of the obligations herein by the assuming party and further provided that the assuming party has all rights necessary to perform such obligations, and provided notice, is provided to the other Parties of such assignment and assumption, which such notice shall include a copy of any assignment and assumption agreement.

**Section 15. Amendment.** This Agreement may be modified, amended, or annulled only by the written agreement of the District, the City, Billboard Tenant (provided Billboard Tenant has not ceased being a party to this Agreement per Section 23 herein) or their respective successors and assigns.

**Section 16. Survival.** All representations and warranties contained herein shall survive the execution of this Agreement and the recordation thereof and shall not be merged.

**Section 17. Entire Agreement; Integration; Counterparts.** All understandings and agreements, whether written or oral, heretofore had between the Parties with respect to the easements granted hereby hereto are merged in this Agreement, which alone fully and completely expresses their agreement. The recitals set forth above are hereby incorporated as if fully rewritten. Neither Party is relying upon any statement or representation not embodied in this Agreement, made by the other. This Agreement may be signed in two or more counterparts, all of which taken together shall constitute a single agreement.

**Section 18. Estoppel Certificate.** At the request of any Party, the other Party or Parties, as the case may be, shall execute and deliver, within thirty (30) days, an estoppel certificate stating that to the best of the signatory's belief (i) this Agreement is in full force and effect, (ii) there is no default under this Agreement, or if there are any defaults, the extent and nature thereof, (iii) this Agreement has not been modified or amended in any way, or if it has been modified or amended, the date and content of any such modifications or amendments, and (iv) such other information as such requesting Party may reasonably request. The estoppel certificate may be relied upon by the Party to whom it is addressed and any other addressee thereof.

**Section 19. Force Majeure.** If the performance of any act or obligation under this Agreement is prevented or delayed by an act of God, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, mob violence, sabotage, malicious mischief, inability to procure or general shortage of labor, equipment or facilities, materials or supplies in the open market, failure of transportation, strike, lockout, action of labor union, condemnation, threatened condemnation, requisitions, laws, orders of government or civil or military authorities or any other cause, whether similar to or dissimilar from the foregoing, not within the reasonable control of the person required to perform such act or obligation, then such person shall be excused from the performance of such act or obligation for so long as such person is so prevented or delayed by reason thereof. The provisions of this Section 19 shall not apply to any obligation hereunder (a)

to provide an estoppel certificate as required under Section 18; (b) which may be performed through the lawful payment of money; (c) to insure and provide evidence thereof; or (d) to indemnify or defend the other party to the extent required by the terms of this Agreement. An extension of time for any such cause shall be for the period of the delay, which period shall commence to run from the time of the commencement of the cause, provided that written notice by the Party claiming such extension is sent to the other Party or Parties not more than fourteen (14) days after the commencement of such cause or such other period of time as may be reasonable given the circumstances of the notifying Party.

**Section 20. Real Estate Taxes and Other Taxes.** The City shall be responsible for any real estate taxes or any other taxes, including use or parking taxes, assessed against the District Parcel solely by Cook County or the City of Des Plaines or any other governmental agency (other than the Rosemont Park District) having jurisdiction or taxing authority over the District Parcel related to the City Public Ingress, Egress and Parking Easement and the City Utility Easement or any use of the District Parcel by the public or any fee owner of any the Development Parcel or any portion thereof and their respective tenants, contractors, agents, employees, guests, invitees, and customers of the Project.

**Section 21. Termination of the City Public Ingress, Egress and Parking Easement and City Utility Easement.** The City Public Ingress, Egress and Parking Easement and the City Utility Easement on the District Parcel shall terminate if no hotel is constructed and open for business on the Development Parcel within five (5) years of the date of this Agreement.

**Section 22. No Temporary or Permanent Buildings, Structures, Obstructions or Improvements.** Except for the Improvements as provided in Exhibit G to this Agreement, no temporary or permanent buildings, structures, obstructions or improvements of any kind shall be constructed, placed or erected by the City or its successors and assigns on the District Parcel.

**Section 23. Billboard Tenant Cessation as Party.** Notwithstanding anything herein to the contrary, Billboard Tenant shall cease to be a Party to this Agreement upon the termination of its leasehold interest in the District Parcel, which termination shall also terminate all easement rights granted to Billboard Tenant hereunder.

**Section 24. District and Future Tenant of District Parcel Rights.** Only in the event the Billboard Tenant or any of Billboard Tenant's successors and assigns no longer have a leasehold interest in the District Parcel, the District shall have the right to grant to a future tenant of the District Parcel all of the easements, rights and obligations granted herein for the construction, erecting, installation, repairs, replacement, operation, modification, upgrade, utilization, and maintenance of the billboard on the District Parcel and all other structures, equipment, fixtures and property necessary or convenient to the construction, operation, and maintenance of the billboard, including, without limitation, the utility facilities servicing the billboard.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, the parties hereto have executed or have caused this Agreement to be executed by their proper officers duly authorized to execute same.

**CITY OF DES PLAINES**, an Illinois home rule municipality

By: \_\_\_\_\_  
Name: Matthew A. Bogusz  
Title: Mayor

ATTEST:

By: \_\_\_\_\_  
Name: Gloria J. Ludwig  
Title: City Clerk

**ROSEMONT PARK DISTRICT**, an Illinois park district

By: \_\_\_\_\_  
Name: Richard V. Drehobl  
Title: President, Board of Commissioners

Attest:

By: \_\_\_\_\_  
Name:  
Title:

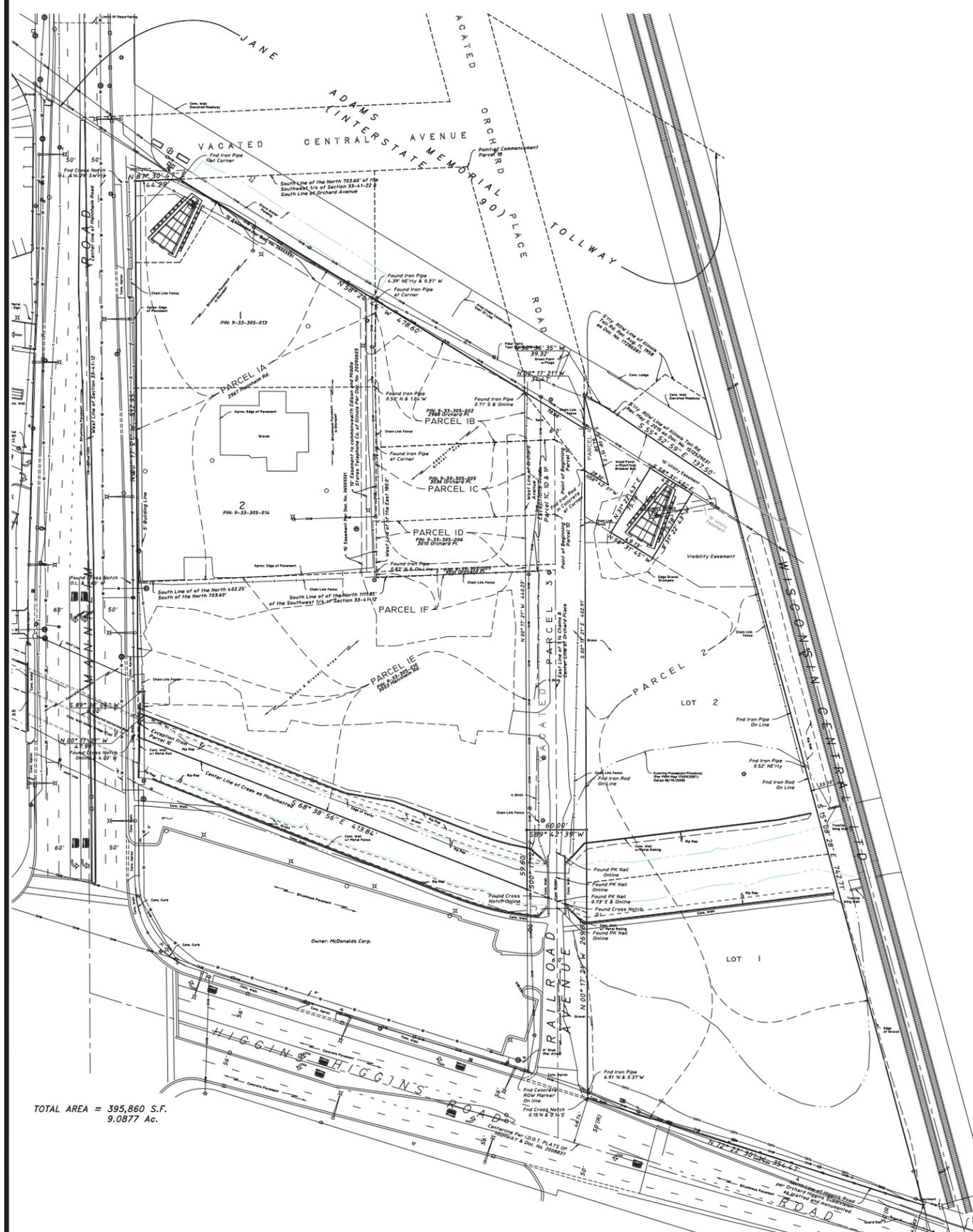
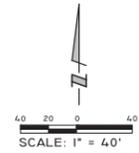
**OUTFRONT MEDIA, LLC**, an Illinois limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



# PLAT OF SURVEY

OF



**PARCEL 1A:**  
LOTS 1 AND 2 IN SPEEDWAY ACRES, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 33 TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

**PARCEL 1B:**  
THAT PART OF THE SOUTHWEST 1/4 OF SECTION 33 TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE WEST LINE OF ORCHARD PLACE ROAD AND THE SOUTH LINE OF CENTRAL AVENUE; THENCE WEST ALONG THE SOUTH LINE OF SAID CENTRAL AVENUE 153.18 FEET TO A POINT OF BEGINNING OF THIS TRACT; THENCE CONTINUING SOUTH ALONG THE APPROXIMATE CENTER LINE OF SAID CENTRAL AVENUE 120 FEET TO THE WEST LINE OF SAID ORCHARD PLACE ROAD; THENCE NORTH ALONG THE WEST LINE OF SAID ORCHARD PLACE ROAD 75 FEET TO THE PLACE OF BEGINNING; EXCEPT THEREFROM THE EAST 30.00 FEET THEREOF; IN COOK COUNTY, ILLINOIS.

**PARCEL 1C:**  
THAT PART OF THE SOUTHWEST 1/4 OF SECTION 33 TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT A POINT IN THE CENTER LINE OF ORCHARD PLACE ROAD 277 FEET 3 INCHES DUE SOUTH FROM THE SOUTH LINE OF CENTRAL AVENUE IN BRESCHER'S ADDITION TO ORCHARD PLACE; RUNNING THENCE SOUTH BY 12 DEGREES WEST PARALLEL TO SAID SOUTH LINE 90 FEET; THENCE SOUTH PARALLEL TO THE WEST LINE OF SAID QUARTER SECTION 75 FEET; THENCE NORTH BY 12 DEGREES EAST 100 FEET TO THE CENTER LINE OF SAID ORCHARD PLACE ROAD; THENCE NORTH ALONG THE CENTER LINE OF SAID ORCHARD PLACE ROAD 19 FEET TO THE PLACE OF BEGINNING; EXCEPT THEREFROM THE EAST 30.00 FEET THEREOF; IN COOK COUNTY, ILLINOIS.

**PARCEL 1D:**  
BEGINNING AT A POINT IN THE CENTER LINE OF A HIGHWAY KNOWN AS ORCHARD PLACE ROAD IN THE SOUTHWEST 1/4 OF SECTION 33 TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN; DISTANCE 193 FEET 8 INCHES DUE SOUTH FROM THE SOUTH LINE OF CENTRAL AVENUE IN COE'S ADDITION TO ORCHARD PLACE; RUNNING THENCE SOUTH BY 12 DEGREES WEST PARALLEL TO ORCHARD PLACE; RUNNING THENCE PARALLEL TO THE WEST LINE OF SAID QUARTER SECTION 50 FEET; THENCE NORTH BY 1/2 DEGREE EAST 100 FEET TO THE CENTER LINE OF SAID ORCHARD PLACE ROAD; AFFORESAID; THENCE NORTH ON THE CENTER LINE OF ORCHARD PLACE ROAD AFFORESAID; 80 FEET TO THE PLACE OF BEGINNING EXCEPT THEREFROM THE EAST 30.00 FEET THEREOF; IN COOK COUNTY, ILLINOIS.

**PARCEL 1E:**  
THAT PART OF THE WEST 1/4 CHAINS LYING SOUTH OF THE NORTH 703.8 FEET AND NORTH OF THE CENTER LINE OF WILLOW CREEK EXCEPT THE NORTH 48.25 FEET OF THE EAST 180.0 FEET THEREOF; AND EXCEPT THE NORTH 40.25 FEET OF THE WEST 204.24 FEET THEREOF; AND EXCEPT THAT PART THEREOF LYING WEST OF A LINE DRAWN PARALLEL WITH AND DISTANT 70 FEET EAST, MEASURED AT RIGHT ANGLES THEREOF, FROM THE CENTER LINE OF MANNHEIM ROAD; AND EXCEPT THEREFROM THE EAST 30.00 FEET THEREOF OF THE SOUTHWEST QUARTER OF SECTION 33 TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

ALSO EXCEPT THAT PART OF THE SOUTHWEST QUARTER OF SECTION 33 TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, FURTHER DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE EAST LINE OF MANNHEIM ROAD AS DEDICATED PER DOCUMENT NUMBER 209887, RECORDED MARCH 20, 1967 IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS AND THE CENTER LINE OF WILLOW CREEK; THENCE NORTH ALONG SAID EAST LINE OF MANNHEIM ROAD 45.00 FEET; THENCE EAST AT RIGHT ANGLE 6.00 FEET TO A LINE 8 FEET EAST OF AND PARALLEL WITH SAID EAST LINE OF MANNHEIM ROAD; THENCE SOUTH ALONG SAID DESCRIBED LINE 48.00 FEET TO SAID CENTERLINE OF WILLOW CREEK; THENCE NORTHWEST ALONG SAID CENTERLINE OF WILLOW CREEK 1.45 FEET TO THE POINT OF BEGINNING, CONTAINING 0.006 ACRE, EQUIVALENT TO 281 SQUARE FEET, MORE OR LESS.

**PARCEL 1F:**  
THE SOUTH 6 FEET OF THE NORTH 1111.85 FEET OF THE EAST 180 FEET OF THE WEST 1/4 CHAINS OF THE SOUTHWEST QUARTER OF SECTION 33 TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THEREFROM THE EAST 30.00 FEET THEREOF; IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**  
LOTS 1 AND 2 IN ORCHARD HIGGINS SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 33 TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 17, 2010 AS DOCUMENT NO. 18779068, IN COOK COUNTY, ILLINOIS.

**PARCEL 2:**  
THAT PART OF RAILROAD AVENUE (AKA ORCHARD PLACE ROAD) VACATED BY ORDINANCE NO. 2-10-18 RECORDED SEPTEMBER 9, 2018 AS DOCUMENT NO. 18282886 IN THE SOUTHWEST 1/4 OF SECTION 33 TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF LOT 2 IN ORCHARD HIGGINS SUBDIVISION RECORDED AS DOCUMENT NO. 18077988; THENCE NORTH 00 DEGREES 17 MINUTES 28 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 2 A DISTANCE OF 43.34 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 42 MINUTES 29 SECONDS WEST ALONG THE SOUTH LINE OF SAID VACATED RAILROAD AVENUE 42.00 FEET TO THE SOUTHWEST CORNER OF SAID VACATED RAILROAD AVENUE; THENCE NORTH 00 DEGREES 17 MINUTES 28 SECONDS WEST ALONG THE WEST LINE OF SAID VACATED RAILROAD AVENUE 440.00 FEET TO THE NORTH LINE OF LAND CONVEYED BY DOCUMENT NO. 18232061; THENCE SOUTH 28 DEGREES 34 MINUTES 44 SECONDS EAST ALONG SAID NORTH LINE 10.88 FEET TO THE EAST LINE OF RAILROAD AVENUE; BEING THE NORTHERLY EXTENSION OF THE WEST LINE OF AFFORESAID LOT 2; THENCE SOUTH 00 DEGREES 17 MINUTES 28 SECONDS EAST FEET ALONG SAID EAST LINE AND NORTHERLY EXTENSION THEREOF; 402.91 FEET TO THE POINT OF BEGINNING; IN COOK COUNTY, ILLINOIS.

**PARCEL 4:**  
THAT PART OF LOT 1 LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE, BEGINNING AT A POINT IN THE WEST LINE OF SAID LOT 1, SAID POINT BEING 18.31 FEET SOUTHERLY OF THE NORTH TIP OF SAID LOT 1, MEASURED ON THE WEST LINE THEREOF; THENCE TO A POINT IN THE EAST LINE OF SAID LOT 1, SAID POINT BEING 84.32 FEET SOUTHERLY OF THE NORTH TIP OF LOT 1 AFFORESAID, MEASURED ON THE WEST LINE THEREOF.

**LEGEND**

	Manhole
	Catch Basin
	Inlet
	Clean Out
	Storm Sewer
	Sanitary Sewer
	Combined Sewer
	Water Main
	Fire Hydrant
	Valve Vault
	Valve Box
	B-Box
	Well Head
	Sprinkler
	Light Pole
	Light Pole With Mast Arm
	Traffic Signal
	Traffic Signal With Mast Arm
	Hand Hole
	Fence
	Guardrail
	Flagpole
	Pipe Boltard
	Sign
	Gas Valve
	Gas Meter
	Gas Line
	Electric Line
	Overhead Utility Line
	Electric Manhole
	Electric Meter
	Guy Wire
	Utility Pole
	Telephone Manhole
	Telephone Line
	Curb & Gutter
	Depressed Curb
	Retaining Wall
	Curb Elevation and Gutter/Pavement Elevation
	Pavement Elevation
	Ground Elevation
	Contour Line
	Deciduous Tree
	Coniferous Tree
	Trestle
	Pavement Core

TOTAL AREA = 395,860 S.F.  
9.0877 Ac.

**Surveyor's notes:**  
1. Field work was completed on April 9, 2016.  
2. The basis of bearing shown herein is assumed.  
3. Underground utilities are not shown hereon.  
4. A site contamination policy was not provided for this survey. This property may be subject to easements and/or restrictions not provided to the surveyor prior to the completion of this survey.

State of Illinois  
County of Cook

This professional service conforms to the current Illinois minimum standards for a boundary survey.

Schaumburg, Illinois

By: Jeffrey A. Gunt  
Professional Engineer  
No. 035-3089  
Schaumburg, Illinois

**HAEGER ENGINEERING**  
consulting engineers • land surveyors

1324 N. Main Street Road, Schaumburg, IL 60173  
Tel: 815.394.6600 Fax: 815.394.6609  
Illinois Professional Design Firm License No. 184-003152  
www.haegerengineering.com

EXPIRES 11-30-16

**THE ORCHARDS AT O'HARE**

**LEGAL DESCRIPTIONS FOR PLAT OF SURVEY DATED 09/14/2016**

**HAEGER JOB NO. 05-180**

**PARCEL 1A:**

LOTS 1 AND 2 IN SPEEDWAY ACRES, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 33 TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS EXCEPTING THERE FROM THAT PART DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 1; THENCE NORTH 87 DEGREES 30 MINUTES 47 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 44.29 FEET TO THE MOST NORTHERLY EAST CORNER OF SAID LOT 1; THENCE SOUTH 58 DEGREES 24 MINUTES 44 SECONDS EAST ALONG SAID NORTH LINE, 44.28 FEET; THENCE SOUTH 31 DEGREES 35 MINUTES 16 SECONDS WEST, 70.87 FEET; THENCE SOUTH 89 DEGREES 42 MINUTES 39 SECONDS WEST, 44.43 FEET TO THE WEST LINE OF SAID LOT 1; THENCE NORTH 00 DEGREES 17 MINUTES 21 SECONDS WEST ALONG SAID WEST LINE, 81.87 FEET TO THE POINT OF BEGINNING.

**PARCEL 1B:**

THAT PART OF THE SOUTHWEST 1/4 OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE WEST LINE OF ORCHARD PLACE ROAD AND THE SOUTH LINE OF CENTRAL AVENUE, THENCE WEST ALONG THE SOUTH LINE OF SAID CENTRAL AVENUE 93.75 FEET, THENCE SOUTH PARALLEL WITH THE WEST LINE OF THE SOUTHWEST 1/4 AFORESAID 129.16 FEET TO A POINT OF BEGINNING OF THIS TRACT "B" THENCE CONTINUING SOUTH ALONG THE AFORESAID LINE 148.09 FEET, THENCE EAST 150 FEET TO A POINT ON THE WEST LINE OF SAID ORCHARD PLACE ROAD THENCE NORTH ALONG THE WEST LINE OF SAID ORCHARD PLACE ROAD 49.43 FEET, THENCE NORTHWESTERLY 176.35 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS

**PARCEL 1C:**

THAT PART OF THE SOUTHWEST 1/4 OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE CENTER LINE OF ORCHARD PLACE ROAD 277 FEET 3 INCHES DUE SOUTH FROM THE SOUTH LINE OF CENTRAL AVENUE IN BRESCHÉ'S ADDITION TO ORCHARD PLACE; RUNNING THENCE SOUTH 87 1/2 DEGREES WEST PARALLEL TO SAID SOUTH LINE 180 FEET; THENCE SOUTH PARALLEL TO THE WEST LINE OF SAID QUARTER SECTION, 75 FEET; THENCE NORTH 87 1/2 DEGREES EAST 180 FEET TO THE CENTER LINE OF SAID ORCHARD PLACE ROAD AFORESAID; THENCE NORTH ALONG THE CENTER LINE OF SAID ORCHARD PLACE ROAD 75 FEET TO THE PLACE OF BEGINNING (EXCEPT THEREFROM THE EAST 30.00 FEET THEREOF), IN COOK COUNTY, ILLINOIS.

**THE ORCHARDS AT O'HARE**

**LEGAL DESCRIPTIONS FOR PLAT OF SURVEY DATED 09/14/2016**

**HAEGER JOB NO. 05-180**

**PARCEL 1D:**

BEGINNING AT A POINT IN THE CENTER LINE OF A HIGHWAY KNOWN AS ORCHARD PLACE ROAD IN THE SOUTHWEST 1/4 OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, A DISTANCE 352 FEET 3 INCHES DUE SOUTH FROM THE SOUTH LINE OF CENTRAL AVENUE IN COESCHS ADDITION TO ORCHARD PLACE, RUNNING THENCE SOUTH 87 1/2 DEGREES WEST PARALLEL TO SAID SOUTH LINE 180 FEET; THENCE SOUTH PARALLEL TO THE WEST LINE OF SAID QUARTER SECTION 50 FEET; THENCE NORTH 87 1/2 DEGREES EAST 180 FEET TO THE CENTER LINE OF SAID ORCHARD PLACE ROAD, AFORESAID, THENCE NORTH ON THE CENTER LINE OF ORCHARD PLACE ROAD, AFORESAID, 50 FEET TO THE PLACE OF BEGINNING (EXCEPT THEREFROM THE EAST 30.00 FEET THEREOF), IN COOK COUNTY, ILLINOIS.

**PARCEL 1E:**

THAT PART OF THE WEST 7.14 CHAINS LYING SOUTH OF THE NORTH 703.6 FEET AND NORTH OF THE CENTER LINE OF WILLOW CREEK (EXCEPT THE NORTH 408.25 FEET OF THE EAST 180.0 FEET THEREOF) AND (EXCEPT THE NORTH 402.25 FEET OF THE WEST 291.24 FEET THEREOF) AND (EXCEPT THAT PART THEREOF LYING WEST OF A LINE DRAWN PARALLEL WITH AND DISTANT 50 FEET EAST, MEASURED AT RIGHT ANGLES THERETO, FROM THE CENTER LINE OF MANNHEIM ROAD) AND (EXCEPT THEREFROM THE EAST 30.00 FEET THEREOF) OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

**ALSO** EXCEPT THAT PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS, FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF MANNHEIM ROAD AS DEDICATED PER DOCUMENT NUMBER 20088837, RECORDED MACH 20, 1967 IN THE RECORDER'S OFFICE OF COOK COUNTY, ILLINOIS AND THE CENTER LINE OF WILLOW CREEK, THENCE NORTH ALONG SAID EAST LINE OF MANNHEIM ROAD 45.62 FEET, THENCE EAST AT RIGHT ANGLE 6.00 FEET TO A LINE 6 FEET EAST OF AND PARALLEL WITH SAID EAST LINE OF MANNHEIM ROAD, THENCE SOUTH ALONG LAST DESCRIBED LINE 48.00 FEET TO SAID CENTERLINE OF WILLOW CREEK, THENCE NORTHWEST ALONG SAID CENTERLINE OF WILLOW CREEK 6.45 FEET TO THE POINT OF BEGINNING, CONTAINING 0.006 ACRE, EQUIVALENT TO 281 SQUARE FEET, MORE OR LESS.

**PARCEL 1F:**

THE SOUTH 6 FEET OF THE NORTH 1111.85 FEET OF THE EAST 180 FEET OF THE WEST 7.14 CHAINS OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THEREFROM THE EAST 30.00 FEET THEREOF), IN COOK COUNTY, ILLINOIS.

**THE ORCHARDS AT O'HARE**

**LEGAL DESCRIPTIONS FOR PLAT OF SURVEY DATED 09/14/2016**

**HAEGER JOB NO. 05-180**

**PARCEL 2:**

LOTS 1 AND 2 IN ORCHARD HIGGINS SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 33 TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THERE OF RECORDED FEBRUARY 17, 2016 AS DOCUMENT NO. 1607719068, IN COOK COUNTY, ILLINOIS.

**THE ORCHARDS AT O'HARE**

**LEGAL DESCRIPTIONS FOR PLAT OF SURVEY DATED 09/14/2016**

**HAEGER JOB NO. 05-180**

**PARCEL 3:**

THAT PART OF RAILROAD AVENUE (AKA ORCHARD PLACE ROAD) VACATED BY ORDINANCE NO. Z-10-16 RECORDED SEPTEMBER 8, 2016, 2016 AS DOCUMENT NO. 1625234088, IN THE SOUTHWEST 1/4 OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 2 IN ORCHARD HIGGINS SUBDIVISION RECORDED AS DOCUMENT NO. 1607719068; THENCE NORTH 00 DEGREES 17 MINUTES 21 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 2, A DISTANCE OF 53.34 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 42 MINUTES 39 SECONDS WEST ALONG THE SOUTH LINE OF SAID VACATED RAILROAD AVENUE, 60.00 FEET TO THE SOUTHWEST CORNER OF SAID VACATED RAILROAD AVENUE; THENCE NORTH 00 DEGREES 17 MINUTES 21 SECONDS WEST ALONG THE WEST LINE OF SAID VACATED RAILROAD AVENUE, 440.23 FEET TO THE NORTH LINE OF LAND CONVEYED BY DOCUMENT NO. 1623129041; THENCE SOUTH 58 DEGREES 24 MINUTES 44 SECONDS EAST, ALONG SAID NORTH LINE 70.66 FEET TO THE EAST LINE OF RAILROAD AVENUE BEING THE NORTHERLY EXTENSION OF THE WEST LINE OF AFORESAID LOT 2; THENCE SOUTH 00 DEGREES 17 MINUTES 21 SECONDS EAST FEET ALONG SAID EAST LINE AND NORTHERLY EXTENSION THEREOF, 402.91 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY ILLINOIS.

**THE ORCHARDS AT O'HARE**

**LEGAL DESCRIPTIONS FOR PLAT OF SURVEY DATED 09/14/2016**

**HAEGER JOB NO. 05-180**

**PARCEL 4:**

THAT PART OF LOT 1 IN BLOCK 7 IN ORCHARD PLACE, BEING A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT RECORDED MAY 9, 1888 IN BOOK 29, PAGE 30, AS DOCUMENT 955011, CONDEMNED FOR HIGHWAY IN CASE NO. 54C3865 AND DESCRIBED AS FOLLOWS:

THAT PART OF LOT 1 LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT IN THE WEST LINE OF SAID LOT 1, SAID POINT BEING 76.31 FEET SOUTHERLY OF THE NORTH TIP OF SAID LOT 1, MEASURED ON THE WEST LINE THEREOF; THENCE TO A POINT IN THE EAST LINE OF SAID LOT 1, SAID POINT BEING 94.32 FEET SOUTHERLY OF THE NORTH TIP OF LOT 1 AFORESAID, MEASURED ON THE WEST LINE THEREOF).



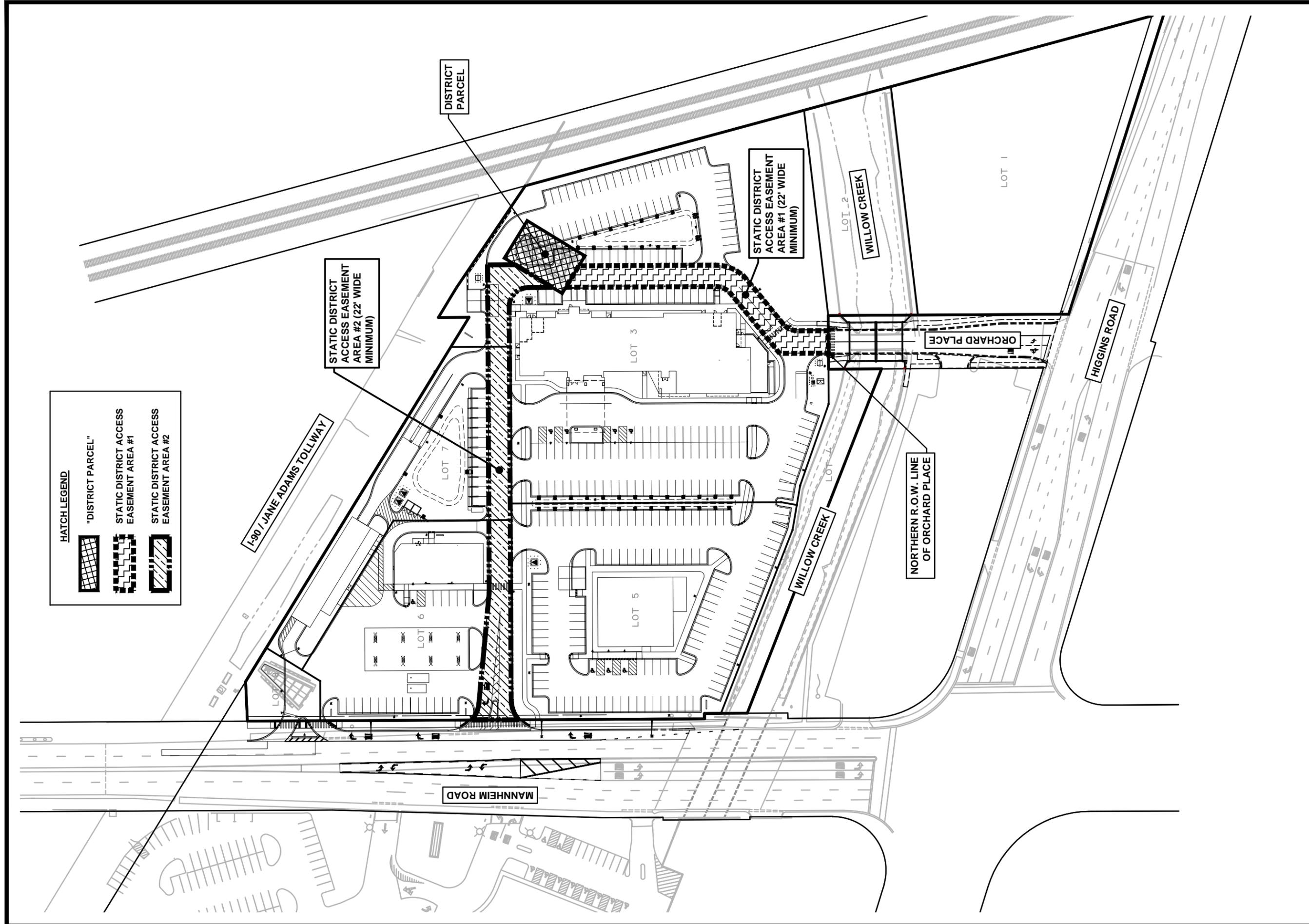
**LEGAL DESCRIPTION OF DISTRICT PARCEL**

LOT 3 IN THE ORCHARD HIGGINS SUBDIVISION, BEING A RESUBDIVISION OF VARIOUS RESUBDIVISIONS TOGETHER WITH A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER ALL IN SECTION 33, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, PURSUANT TO THAT CERTAIN PLAT OF SUBDIVISION RECORDED IN THE OFFICE OF THE COOK COUNTY RECORDER ON MARCH 17, 2016 AS DOCUMENT NO. 1607719068.

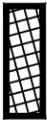


**LEGAL DESCRIPTION OF DEVELOPMENT PARCEL**

LOTS 2, 3, 4, 5, 6, 7, AND 8 IN THE ORCHARDS AT O'HARE SUBDIVISION, BEING A RESUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED \_\_\_\_\_ AS DOCUMENT NO. \_\_\_\_\_, IN COOK COUNTY, ILLINOIS.



**HATCH LEGEND**

-  "DISTRICT PARCEL"
-  STATIC DISTRICT ACCESS EASEMENT AREA #1
-  STATIC DISTRICT ACCESS EASEMENT AREA #2

**EXHIBIT D - ILLUSTRATION OF  
STATIC DISTRICT ACCESS EASEMENTS**

**THE ORCHARDS  
AT O'HARE**  
DES PLAINES, ILLINOIS

**HAEGER ENGINEERING**  
consulting engineers • land surveyors

100 East State Parkway, Schaumburg, IL 60173 Tel: 847.394.6600 Fax: 847.394.6608  
www.haegerengineering.com  
Illinois Professional Design Firm License No. 184-003152

Project Manager: T A S  
 Engineer: P A C  
 Date: 09/13/2016  
 Project No. 15-180  
 Sheet **1** / 1

 NORTH

0 100

Scale: 1" = 100'

**LEGAL DESCRIPTIONS OF STATIC DISTRICT ACCESS EASEMENTS**

**STATIC DISTRICT ACCESS EASEMENT AREA #1:**

THAT PART OF LOT 3 IN THE ORCHARDS AT O'HARE SUBDIVISION, BEING A RESUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED \_\_\_\_\_ AS DOCUMENT NO. \_\_\_\_\_, IN COOK COUNTY, ILLINOIS DESCRIBED AS FOLLOWS:

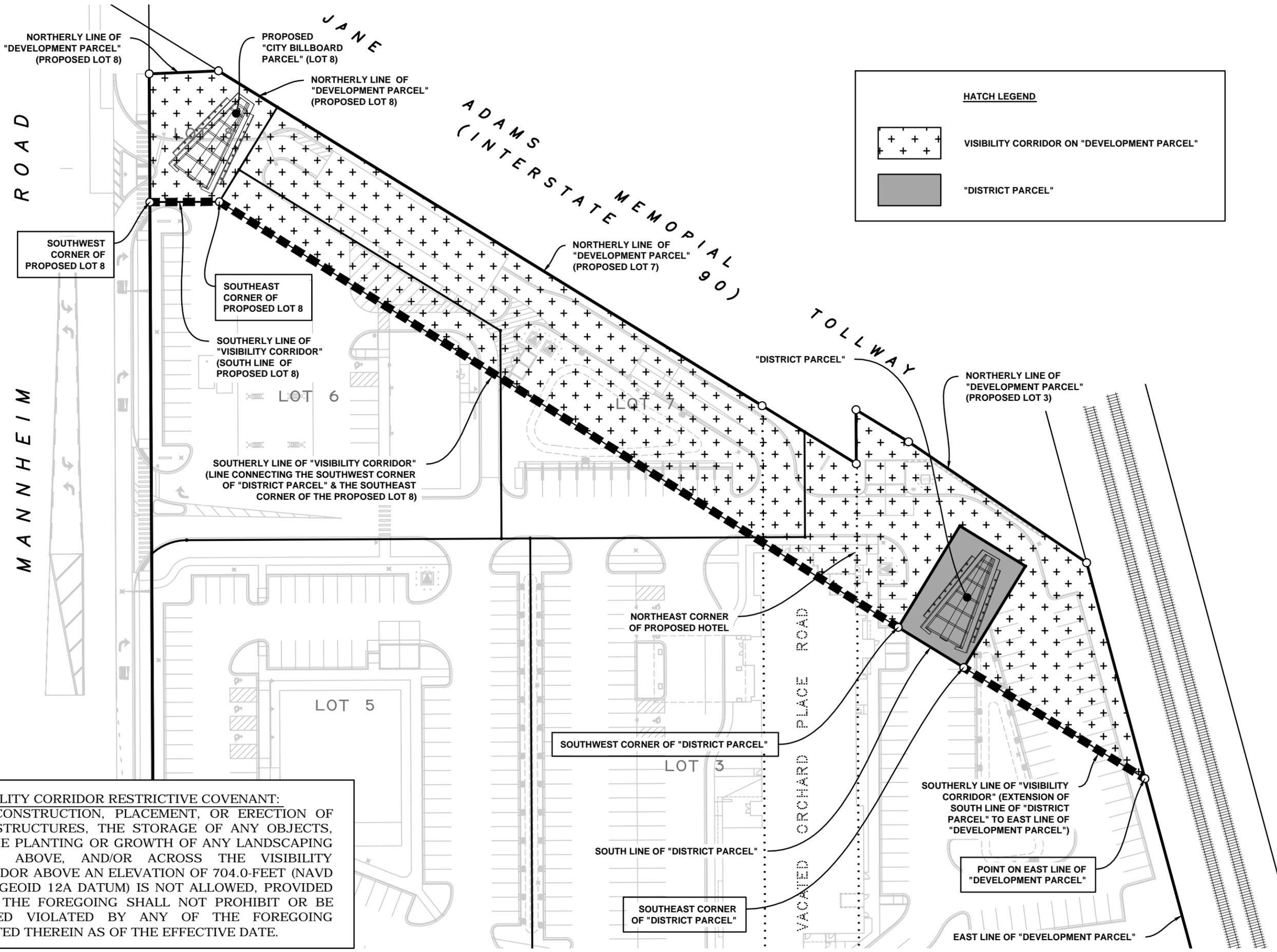
**\*\*\* LEGAL DESCRIPTION OF STATIC DISTRICT ACCESS EASEMENT AREA #1 TO BE INSERTED HERE AFTER THE RECORDING OF THE FINAL PLAT OF THE ORCHARDS AT O'HARE SUBDIVISION \*\*\***

**LEGAL DESCRIPTIONS OF STATIC DISTRICT ACCESS EASEMENTS**

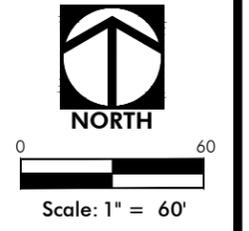
**STATIC DISTRICT ACCESS EASEMENT AREA #2:**

THAT PART OF LOTS 3, 6 AND 7 IN THE ORCHARDS AT O'HARE SUBDIVISION, BEING A RESUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED \_\_\_\_\_ AS DOCUMENT NO. \_\_\_\_\_, IN COOK COUNTY, ILLINOIS DESCRIBED AS FOLLOWS:

**\*\*\* LEGAL DESCRIPTION OF STATIC DISTRICT ACCESS EASEMENT AREA #2 TO BE INSERTED HERE AFTER THE RECORDING OF THE FINAL PLAT OF THE ORCHARDS AT O'HARE SUBDIVISION \*\*\***



**VISIBILITY CORRIDOR RESTRICTIVE COVENANT:**  
 THE CONSTRUCTION, PLACEMENT, OR ERECTION OF ANY STRUCTURES, THE STORAGE OF ANY OBJECTS, OR THE PLANTING OR GROWTH OF ANY LANDSCAPING UPON, ABOVE, AND/OR ACROSS THE VISIBILITY CORRIDOR ABOVE AN ELEVATION OF 704.0- FEET (NAVD 1988, GEOID 12A DATUM) IS NOT ALLOWED, PROVIDED THAT THE FOREGOING SHALL NOT PROHIBIT OR BE DEEMED VIOLATED BY ANY OF THE FOREGOING LOCATED THEREIN AS OF THE EFFECTIVE DATE.



**HAEGER ENGINEERING**  
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 Illinois Professional Design Firm License No. 184-003152  
 www.haegerengineering.com

**EXHIBIT F - VISIBILITY CORRIDOR  
 EXHIBIT & RESTRICTIVE COVENANT**  
**THE ORCHARDS  
 AT O'HARE**  
 DES PLAINES, ILLINOIS

Project Manager: T A S  
 Engineer: P A C  
 Date: 09/13/2016  
 Project No. 15-180  
 Sheet **1** / 1

## **EXHIBIT G**

### **DISTRICT PARCEL IMPROVEMENTS**

1. Install drive aisles, pavement, curb & gutter, concrete surface at base of billboard post, landscaping, etc. as shown on Exhibit H.
2. Adjust the Utility Boxes/Meters that are mounted on the pole to account for the change in grade as shown on Exhibit H.
3. Adjust overhead wire and/or bury the overhead wire to provide adequate clearance both during and after construction as shown on Exhibit H.
4. Provide access to Higgins via interior drive aisles and Orchard Place (easements to be granted).
5. Provide access to Mannheim via interior drive aisles (easements to be granted).
6. Install an underground 10" public water main as shown on Exhibit H.
7. Install underground 'dry utilities' (electric, telephone, CATV, etc.) as shown on Exhibit H.
8. Modify the grading of the parcel to account for the proposed adjacent development activities and to get the ground to drain to the adjacent areas as shown on Exhibit H.

**LEGAL DESCRIPTION OF VISIBILITY CORRIDOR**

THAT PART OF LOTS 3, 6, 7 AND 8 IN THE ORCHARDS AT O'HARE SUBDIVISION, BEING A RESUBDIVISION OF PART OF THE SOUTHWEST 1/4 OF SECTION 33, TOWNSHIP 41 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED \_\_\_\_\_ AS DOCUMENT NO. \_\_\_\_\_, IN COOK COUNTY, ILLINOIS DESCRIBED AS FOLLOWS:

**\*\*\* LEGAL DESCRIPTION OF VISIBILITY CORRIDOR TO BE INSERTED HERE AFTER THE RECORDING OF THE FINAL PLAT OF THE ORCHARDS AT O'HARE SUBDIVISION \*\*\***

**PAVING LEGEND**

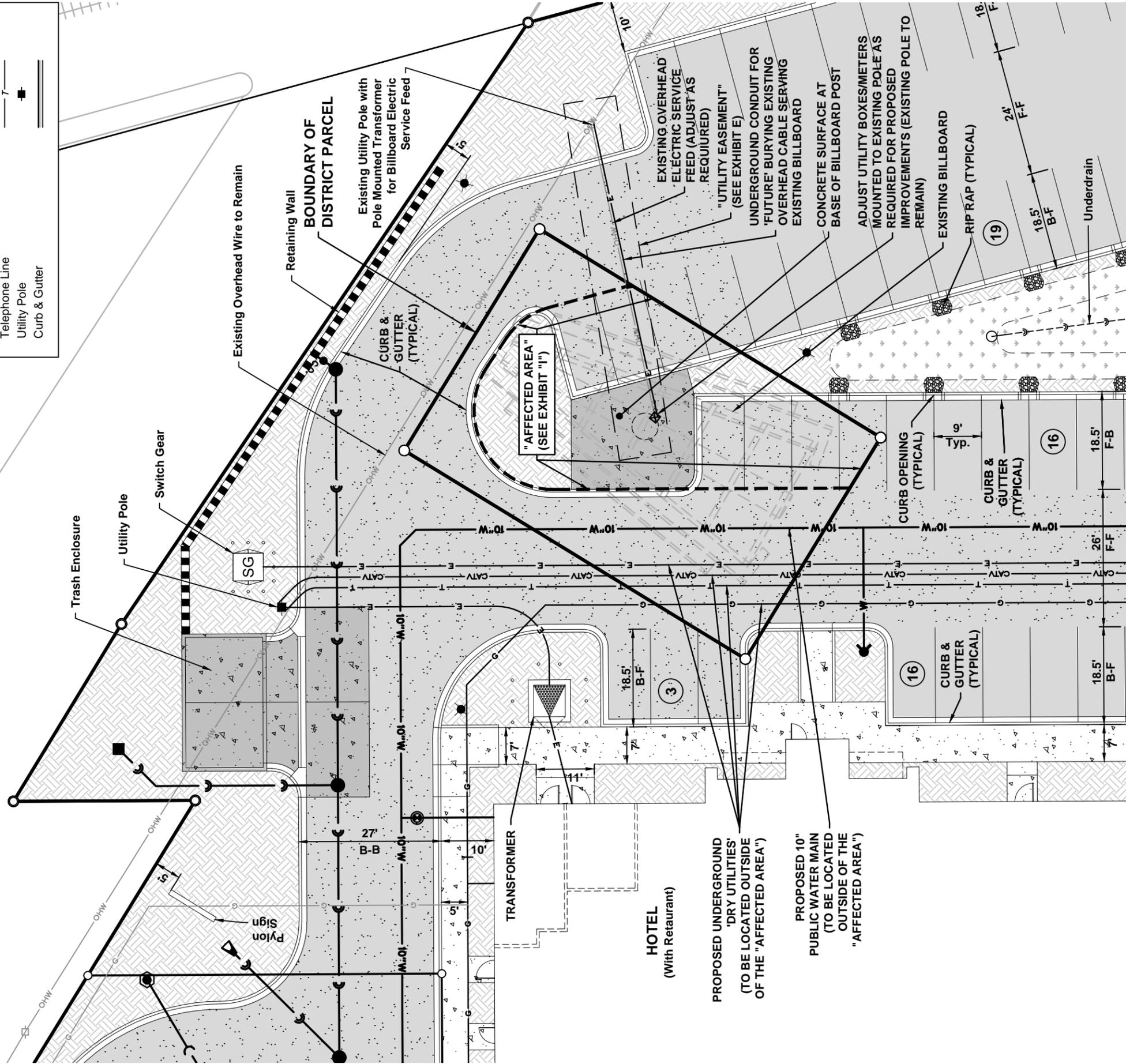
	HEAVY DUTY PAVEMENT
	STANDARD PAVEMENT
	CONCRETE PAVEMENT
	CONCRETE WALK
	MWRD VOLUME CONTROL AREA
	LANDSCAPING AREA

**DIMENSION LEGEND**

B-B	Back of Curb to Back of Curb
F-F	Face of Curb to Face of Curb
E-E	Edge of Pavement to Edge of Pavement

**SYMBOL LEGEND**

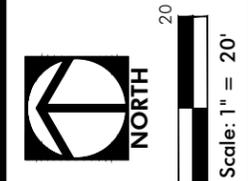
Description	Proposed Symbol
Storm Sewer Manhole	
Catch Basin	
Inlet	
Sanitary Manhole	
Clean Out	
Storm Sewer	
Sanitary Sewer	
Combined Sewer	
Water Main	
Underdrain	
Roof Drain	
Fire Hydrant	
Valve Vault	
Light Pole	
Sign	
Gas Line	
Electric Line	
Overhead Utility Line	
Cable Television Line	
Telephone Line	
Utility Pole	
Curb & Gutter	

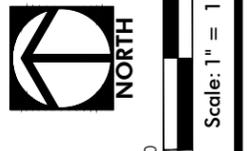
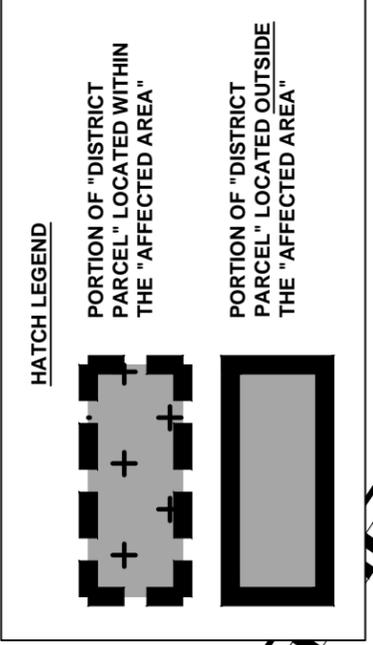
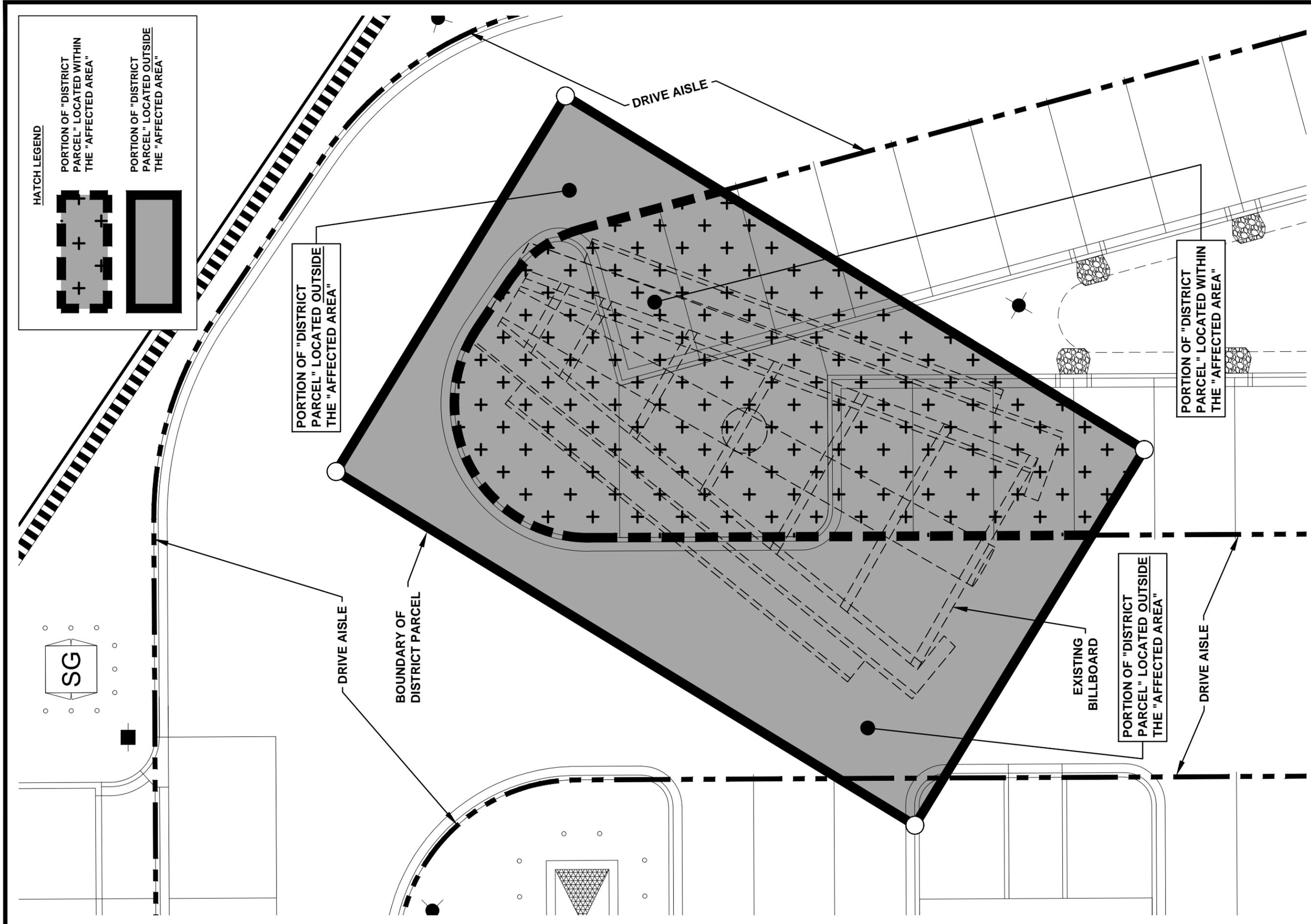


**EXHIBIT H**  
**ILLUSTRATION OF IMPROVEMENTS**  
**THE ORCHARDS**  
**AT O'HARE**  
 DES PLAINES, ILLINOIS

Project Manager: T A S  
 Engineer: P A C  
 Date: 09/14/2016  
 Project No. 15-180  
 Sheet 1

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 Illinois Professional Design Firm License No. 184-003152  
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**EXHIBIT I**  
**AFFECTED AREA**  
**THE ORCHARDS**  
**AT O'HARE**  
 DES PLAINES, ILLINOIS

Project Manager: T A S  
 Engineer: P A C  
 Date: 09/13/2016  
 Project No. 15-180  
 Sheet 1 / 1



**COMMUNITY AND ECONOMIC  
DEVELOPMENT DEPARTMENT**

1420 Miner Street  
Des Plaines, IL 60016  
P: 847.391.5380  
desplaines.org

**MEMORANDUM**

Date: September 15, 2016

To: Michael G. Bartholomew, MCP, LEED AP, City Manager  
Michael McMahon, Community and Economic Development Director

From: Stewart Weiss, City Attorney, Holland & Knight  
Lauren Pruss, AICP, Economic Development Coordinator 

Subject: Reciprocal Easement Agreement for The Orchards at O'Hare – City Billboard, TIF #7 (6<sup>th</sup> Ward)

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**Issue:** The City has entered in to agreements with O'Hare Real Estate, LLC ("**Developer**") for the purchase and redevelopment of the City-owned property located within TIF 7. As part of this transaction, a reciprocal easements and covenants agreement must be executed to allow the development of the site as approved.

**Analysis:** As part of the development of TIF 7, the City plans to retain a small parcel adjacent to Mannheim Road that is currently improved with a billboard. However, in order to develop the site in an efficient, safe, and orderly manner, the Developer has proposed, and been approved, to develop portions of the billboard parcel. To achieve this, a reciprocal easements and covenants agreement between the City and the Developer must be approved and executed by both parties.

**Recommendation.** Approve the resolution.

LP/lp

**Attachments:**

Resolution R – 149 – 16 A Resolution Approving a Reciprocal Easements and Covenants Agreement with O'Hare Real Estate, Llc.

Exhibit A: Reciprocal Easements and Covenants Agreement

**CITY OF DES PLAINES**

**RESOLUTION R - 149 - 16**

**A RESOLUTION APPROVING A RECIPROCAL EASEMENTS  
AND COVENANTS AGREEMENT WITH O'HARE REAL ESTATE,  
LLC.**

**WHEREAS**, Article VII, Section 10 of the 1970 Illinois Constitution and the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1, *et seq.*, authorize and encourage intergovernmental cooperation; and

**WHEREAS**, the City is an Illinois home-rule municipal corporation authorized to exercise any power or perform any function pertaining to its government and affairs; and

**WHEREAS**, pursuant to that certain Sale, Purchase and Escrow Agreement between the City of Des Plaines ("**City**") and O'Hare Real Estate, LLC, ("**Developer**") dated as of February 2, 2016, as amended pursuant to that First Amendment to Sale, Purchase and Escrow Agreement dated as of July 6, 2016, the Developer acquired from the City an approximate 6.7 acre parcel of real estate bound by Illinois I-90/Jane Adams Tollway to the North, Mannheim Road to the West, Willow Creek to the South and Wisconsin Central LTD rail line to the East, in Des Plaines, Illinois ("**Development Parcel**"); and

**WHEREAS**, the City retained ownership of a parcel of real property consisting of (i) 5,237 square feet bordered on the east, south, and west by the Development Parcel and on the north by the I-90/Jane Adams Tollway right-of-way (the "**Billboard Retained Parcel**"), and (ii) the real property bordered by the Development Parcel to the North and Willow Creek to the South (collectively, the "**Creek Parcels**").

**WHEREAS**, the Billboard Retained Parcel and the Creek Parcels are herein collectively referred to as the "**City Parcels**"; and

**WHEREAS**, the Billboard Retained Parcel is improved with a double-faced commercial billboard visible from eastbound and westbound traffic on the 1-90/Jane Adams Tollway ("**Billboard**") owned by Outfront Media Group LLC; and

**WHEREAS**, the Development Parcel shall be redeveloped as a commercial planned development project as described in the Amended and Restated Redevelopment and Economic Incentive Agreement between the Parties dated as of July 6, 2016 (the "**Restated Redevelopment Agreement**"); and

**WHEREAS**, the Project includes or will include certain improvements upon, over, under and across the City Parcels, that are a part of and appurtenant to the project, including, without limitation, access drives, sidewalks, medians, parking areas and islands, storm water facilities and storm water drainage; and

**WHEREAS**, the Developer has agreed to grant the City certain easements over the Development Parcel and to impose a restrictive covenant over the Development Parcel to allow the City to maintain (i) the Billboard on the Billboard Retained Parcel, and (ii) the Creek Parcels, including stormwater drainage improvements and retaining walls on, as set forth herein; and

**WHEREAS**, the City has agreed to (i) grant the Developer certain easements over the City Parcels, and (ii) limit the permitted uses on the City Parcels to uses that do not conflict with the Developer’s proposed project on the Development Parcel; and

**WHEREAS**, the City and Developer desire to enter into a Reciprocal Easements and Covenants Agreement (“**Agreement**”) to grant, declare and establish certain non-exclusive easements, rights, and privileges for their respective benefits and for the benefit of their respective successors, assigns, permittees, tenants, contractors, licensees and invitees, for the specific purposes described herein; and

**WHEREAS**, it is the intention of the City and the District that the Agreement will replace the Original Easement; and

**WHEREAS**, the City Council has determined that it is in the best interest of the City to enter into the Agreement with the Illinois Tollway;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Des Plaines, Cook County, Illinois, in the exercise of its home rule powers, as follows:

**SECTION 1: RECITALS.** The foregoing recitals are incorporated into, and made a part of, this Resolution as findings of the City Council.

**SECTION 2: APPROVAL OF AGREEMENT.** The City Council hereby approves the Agreement in substantially the form attached to this Resolution as **Exhibit A** and in a final form approved by the General Counsel.

**SECTION 3: AUTHORIZATION TO EXECUTE AGREEMENT.** The City Council hereby authorizes and directs the Mayor or City Manager to execute, and the City Clerk to seal, on behalf of the City, the final Agreement.

**SECTION 4: EFFECTIVE DATE.** This Resolution shall be in full force and effect from and after its passage and approval according to law.

**PASSED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2016.

**VOTE:** AYES \_\_\_\_ NAYS \_\_\_\_ ABSENT \_\_\_\_

---

**MAYOR**

ATTEST:

Approved as to form:

---

**CITY CLERK**

---

**Peter M. Friedman, General Counsel**

This instrument prepared by  
and after recording should be  
returned to:

Stewart J. Weiss  
Holland & Knight LLP  
131 S. Dearborn  
30<sup>th</sup> Floor  
Chicago, Illinois 60603

Reserved for Recorder's Use

### **RECIPROCAL EASEMENTS AND COVENANTS AGREEMENT**

**THIS RECIPROCAL EASEMENTS AND COVENANTS AGREEMENT (“Agreement”)**, made and entered into as of \_\_\_\_\_, 2016 (the “**Effective Date**”) by and between the **CITY OF DES PLAINES**, an Illinois home-rule municipal corporation (“**City**”), and **O’HARE REAL ESTATE, LLC**, an Illinois limited liability company (“**O’Hare**” or “**Developer**”). In consideration of the recitals and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer (collectively, the “**Parties**”) agree as follows:

#### **Section 1. Recitals.**

A. Pursuant to that certain Sale, Purchase and Escrow Agreement between the City and the Developer, dated as of February 2, 2016, as amended pursuant to that First Amendment to Sale, Purchase and Escrow Agreement dated as of July 6, 2016, the Developer acquired from the City an approximate 6.7 acre parcel of real estate bound by Illinois I-90/Jane Adams Tollway to the North, Mannheim Road to the West, Willow Creek to the South and Wisconsin Central LTD rail line to the East, in Des Plaines, Illinois (“**Development Parcel**”) which is legally described and depicted in **Exhibit A** attached hereto; and

B. The City retained ownership of a parcel of real property consisting of (i) 5,237 square feet bordered on the east, south, and west by the Development Parcel and on the north by the I-90/Jane Adams Tollway right-of-way (the “**Billboard Retained Parcel**”), which is legally described and depicted in **Exhibit B-1**, attached hereto, and (ii) the real property bordered by the Development Parcel to the North and Willow Creek to the South (collectively, the “**Creek Parcels**”), as legally described in **Exhibit B-2**, attached hereto. The Billboard Retained Parcel and the Creek Parcels are herein collectively referred to as the “**City Parcels**”; and

C. The Billboard Retained Parcel is improved with a double-faced commercial billboard visible from eastbound and westbound traffic on the 1-90/Jane Adams Tollway (“**Billboard**”) owned by Outfront Media Group LLC; and

D. The Development Parcel shall be redeveloped as a commercial planned development Project as defined in the Amended and Restated Redevelopment and Economic Incentive Agreement between the Parties dated as of July 6, 2016 (the “**Restated Redevelopment Agreement**”); and

E. The Project includes or will include certain improvements upon, over, under and across the City Parcels, that are a part of and appurtenant to the Project, including, without limitation, access drives, sidewalks, medians, parking areas and islands, storm water facilities and storm water drainage; and

F. The Developer has agreed to grant the City certain easements over the Development Parcel and to impose a restrictive covenant over the Development Parcel to allow the City to maintain (i) the Billboard on the Billboard Retained Parcel, and (ii) the Creek Parcels, including stormwater drainage improvements and retaining walls on, as set forth herein; and

G. The City has agreed to (i) grant the Developer certain easements over the City Parcels, and (ii) limit the permitted uses on the City Parcels to uses that do not conflict with the Developer's proposed project on the Development Parcel; and

H. The Parties acknowledge that the Developer may transfer title to portions of the Development Parcel (each a "**Sub-Parcel**") that are subject to this Agreement pursuant to the terms and conditions set forth in the Restated Redevelopment Agreement. For the purposes of this Agreement, the term "**Developer**" shall mean O'Hare and, after each of the Sub-Parcels are conveyed by O'Hare, the successors in title to those Sub-Parcels that are subject to the City Easements, as defined herein.

I. The City and Developer desire to enter into this Agreement to grant, declare and establish certain non-exclusive easements, rights, and privileges for their respective benefits and for the benefit of their respective successors, assigns, permittees, tenants, contractors, licensees and invitees, for the specific purposes described herein.

## **Section 2. Easements**

A. **City Easements.** The Developer hereby grants and conveys to the City, and the City hereby expressly reserves to itself and to its successors, assigns, and any current or future tenant of the City maintaining and operating a commercial Billboard or other permitted use on the Billboard Retained Parcel ("**Tenant**") in perpetuity, subject to the terms herein, the following easements (hereinafter the "**City Easements**"):

1. **Access Easement.** A non-exclusive easement of ingress and egress over a portion of the Development Parcel described and depicted in **Exhibit C** attached hereto for (i) the sole purpose of allowing vehicles operated by the City or a Tenant to gain ingress and egress from the Billboard Retained Parcel to the Mannheim Road public right-of-way for constructing, erecting, installing, repairing, replacing, operating, utilizing, and maintaining the Billboard on the Billboard Retained Parcel and all other structures, equipment, fixtures and property necessary or convenient to the construction, operation, and maintenance of the Billboard, including, without limitation, the utility facilities servicing the Billboard, and (ii) gain ingress and egress from the Creek Parcels to the Mannheim Road or Higgins Road public rights-of-way for the purpose of maintaining the erosion control and stormwater drainage improvements installed on the Creek Parcels (collectively, the "**City Access Easements**"). Notwithstanding anything to the contrary in this Agreement, the Developer reserves the right to relocate the City Access Easements, from time to time, in the event that the Developer determines, in its reasonable discretion, that such relocation is necessary or desirable in connection with the development or operation of the Development Parcel; provided, however, that the relocated City Access Easements must (i) provide the City and its Tenant with access to the Billboard Retained Parcel and the Billboard and the City and its contractors, agents, and

assigns access to the Creek Parcels; and (ii) be (a) no less than 20 feet wide; and (b) suitable for construction traffic and the transport of heavy equipment having a minimum pavement structural number of 3.0; provided that construction traffic and transport of heavy equipment shall be at such times and on such days as are reasonably approved by Developer. Neither the City nor its Tenant will be responsible for the cost and expense to relocate or reconstruct the City Access Easements if such relocation or reconstruction is requested by the Developer.

2. Utility Easement. A non-exclusive easement over, under, and/or above a portion of the Development Parcel described and depicted in **Exhibit D** attached hereto for the installation, operation, and maintenance of an electrical utility facility, line, or connection, upon the Development Parcel that may be reasonably necessary or appropriate in order to afford adequate illumination of the Billboard ("**City Utility Easement**"). Notwithstanding anything to the contrary in this Agreement, the Developer reserves the right to relocate the City Utility Easement, from time to time, in the event that the Developer determines, in its reasonable discretion, that such relocation is necessary or desirable in connection with the development or operation of the Development Parcel; provided, however, that the relocated City Utility Easement must provide the Billboard Retained Parcel with sufficient access to provide utility service to the Billboard. Neither the City nor its Tenant will be responsible for the cost and expense to relocate or reconstruct the Utility Easement if such relocation or reconstruction is requested by the Developer.

3. Temporary Restriction During Construction or Maintenance. Notwithstanding anything herein to the contrary, Developer shall have the right to temporarily relocate the City Access Easement and the City Utility Easement or restrict City's use of the City Access Easements.

B. Developer Easements. The City hereby grants and conveys to the Developer, and the Developer hereby expressly reserves to itself and to its successors, assigns, in perpetuity, subject to the terms herein, the following easements (hereinafter the "**Developer Easements**"):

1. Temporary Construction Easement. A temporary non-exclusive easement, for access to and temporary encroachments by contractors and subcontractors (and the equipment and employees thereof) and temporary storage of construction materials and equipment during construction of the Project, or maintenance or repairs to the Development Parcel, to the extent reasonably necessary to construct, maintain or repair improvements and facilities whether located on the Development Parcel, the Billboard Retained Parcel, or the Creek Parcels.

2. Grading Easement. A temporary non-exclusive easement over all or any reasonably required portions of the City Parcels for grading purposes during construction of the Project, to the extent reasonably necessary to construct any improvements on Developer Parcel.

3. Utility Easements. Non-exclusive perpetual easements over those portions of the City Parcels reasonably required for the furnishing of water, electricity, storm and sanitary sewerage, storm water drainage and detention, gas, telephone, cable television, telecommunications, and other utilities services either currently existing or to be installed in connection with the Project. Without limiting the generality of the foregoing, the easements granted hereunder shall include the construction and installation of storm water detention vaults, private storm sewers, related equipment, appurtenances, structures, and swales on or over both

the Development Parcels and the City Parcels to provide storm water drainage, retention, and detention, in order to collect and direct storm water from the Development Parcel into the City's storm sewer system on, over and under the Creek Parcels as delineated on **Exhibit E** ("**Developer Utility Easements**").

4. Vehicular and Pedestrian Access. A non-exclusive perpetual easement over those portions of the City Parcels for vehicular and pedestrian ingress and egress over and across the City Parcels to and from the Development Parcel to and from public or private roadways by passenger vehicles, and service vehicles, motor homes, campers, trailers, boats or motorized go-carts, and pedestrians, as described and depicted on **Exhibit F** ("**Vehicular and Pedestrian Access Easements**").

C. Construction.

1. All improvements to be constructed by the Developer on the City Parcels ("**Improvements**") shall be constructed where indicated as illustrated and shown in the plans attached as exhibits to the Restated Redevelopment Agreement as the same may be revised by the Developer, its successors and assigns, either (i) to the extent required by any public utility providing service to the Developer or any governmental body or agency having jurisdiction over any work to be performed by the Developer on the City Parcels or the Development Parcel; or (ii) provided such revisions affect the City Parcels, as approved by the City and its Tenant or its successors or assigns, if any, which approval shall not be unreasonably withheld, delayed or conditioned.

2. The Developer agrees that (i) when conducting all construction, repairs, replacements, and maintenance to the Improvements by the Developer, all commercially reasonable actions will be taken to minimize the duration of such work; and (ii) the maintenance of the portions of the City Parcels used by the Developer for the Improvements will be kept in a clean, well-kept, and non-hazardous condition.

3. The Parties acknowledge and agree that the installation and construction of the Improvements may require temporary power outages to the Billboard for the purpose of adjusting the meters/boxes and services connections serving the Billboard. The Parties agree to cooperate and coordinate work schedules to ensure that the disruption caused by this work is minimized in time and severity. The Developer agrees that it shall be responsible for the cost and expense to provide any temporary power to the Billboard in the event of a temporary or extended power outage to the Billboard. The Developer shall indemnify the City against any claim by the City's tenant for actual (i) damages, (ii) losses or (iii) rent reduction or abatement permitted under the City's lease with its tenant which arise out of, or in connection with, the Developer's installation, construction and maintenance of the Improvements or the use of the City Parcels by the Developer.

**Section 3. Restrictive Covenants**.

A. Visibility Corridor Restrictive Covenant. The Developer covenants not to allow the construction, placement, or erection of any structures, the storage of any objects, or the planting or growth of any landscaping upon, above, and/or across that portion of the Development Parcel described in and depicted on **Exhibit G** attached hereto. The Developer hereby declares that the Development Parcel shall be held, transferred, sold, conveyed, used, and occupied subject to the Visibility Corridor Restrictive Covenant which is for the purpose of

protecting the value of the Billboard Retained Parcel for the continued use, maintenance, removal, repair, reconstruction, servicing, modification, upgrade and operation of the Billboard.

B. City Parcels Use Covenant. The City shall not allow the City Parcels to be used for, developed with, or operated with any of the commercial uses that are set forth, at any time and from time to time, as approved uses for the Development Parcel in the Restated Redevelopment Agreement. The Parties agree that the use of the Billboard Retained Parcel for the maintenance and operation of the Billboard and for a wireless telephone/data service antenna shall be permitted. The Parties agree that the use of the Creek Parcels shall be for the conveyance, detention, and storage of stormwater. The City hereby declares that the City Parcels shall be held, transferred, sold, conveyed, used, and occupied subject to the covenant set forth in this Section 3.B which is for the purpose of protecting the value of the Development Parcel for the continued use, maintenance, and operation of the Project on the Development Parcel.

**Section 4. Hold Harmless; Waiver of Claims.** Each Party agrees to save and hold the other Party, and its employees, representatives, lenders, and agents, harmless from all claims, causes of action, suits, damages, liabilities, demands, liens, judgments, awards, or liabilities of any nature or kind (collectively, "**Claims**") that relate to or arise directly or indirectly from a Party's use of the other Party's property pursuant to the easements granted herein. Additionally, each Party agrees to waive, on behalf of itself and its representatives, and agents, all Claims against the other Party that relate to or arise directly or indirectly from that Party's use of the other Party's property pursuant to the easements granted herein; provided, however, that this waiver shall not apply to Claims that arise from the gross negligence or reckless or willful conduct of the Parties, or their respective, tenant, employees, representatives, or agents.

**Section 5. Insurance.** Each Party agrees that, prior to first entering onto the other Party's property to its rights hereunder, the Party (the "**Entering Party**") shall procure and maintain, and shall cause each contractor and subcontractor performing any work on behalf of the Entering Party, to procure and maintain, the following insurance coverage from a company licensed to issue such policies in the State of Illinois:

A. Workers' Compensation Insurance Policy: Coverage A - providing payment promptly when due of all compensation and other benefits required of the insured by the workers' compensation law; Coverage B - Employers' Liability: providing payment on behalf of the insured with limits not less than \$1,000,000 each accident/occurrence for all sums which the insured shall become legally obligated to pay as damages because of bodily injury by accident or disease, including death at any time resulting therefrom. Coverage A and Coverage B will cover all contractors, subcontractors, and their subcontractors;

B. Comprehensive General Liability Policy or Policies covering all contractors, subcontractors, and all their subcontractors with limits not less than the combined single limit of \$2,000,000 for bodily injuries to or death of one or more persons and/or property damage sustained by one or more organizations as a result of any one occurrence. The Party whose property is being entered (the "**Host Party**") shall be added as an "Additional Insured". Bodily injury means bodily injury, sickness, or disease sustained by any person which occurs during the policy period, including death, at any time resulting therefrom. Property damage means (1) physical injury to or destruction of tangible property which occurs during the policy period, including the loss of use thereof at any time resulting therefrom, or (2) loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by an occurrence during the policy period; and

C. Automobile Liability in the amount of not less than \$1,000,000 per occurrence combined single limit covering all owned, leased, rented, and non-owned vehicles.

D. The Entering Party shall furnish to the Host Party, prior to first entering onto the Host Party's property, a certified copy of each policy of insurance or a Certificate of Insurance evidencing the coverage specified in subsections (A), (B), and (C) of this Section. Insurance coverage as required herein in subsections (A), (B), and (C) shall be kept in force until this Agreement is terminated. The Parties hereby reserve the right to amend, correct and change, from time to time, the limits, coverage, and form of policy as may be required from the Entering Party before entering the Host Party's property, by written amendment to this Agreement.

E. Certificate of Insurance: All insurance policies required by this Section 5 shall be issued by good and reputable companies having a Best's Rating of A and Class X or better and shall provide thirty (30) days prior written notice of any substantial change in the coverage, cancellation, or non-renewal. Any policies of insurance maintained by an Entering Party, its tenants, its contractors, or subcontractors, shall be primary without right of contribution or offset from any policy of insurance or program of self-insurance maintained by the Host Party. The Entering Party agrees and shall require each of its contractors and subcontractors to agree that they shall each arrange for the issuers of all policies of insurance required hereunder to waive their rights of subrogation against the Host Party, its directors, officers, employees, attorneys, and agents.

**Section 6. Default.** The occurrence of any of the following shall constitute an event of default ("**Event of Default**") under this Agreement:

A. The failure of a Party (or in the case of City, the Tenant) to perform or observe any covenant, term, or condition to be performed or observed by the such Party ("**Non-Performing Party**") hereunder, and the continuation of such default for a period of thirty (30) days after notice thereof from the other Party; provided, however, that if such default cannot be cured within thirty (30) days and the Non-Performing Party has undertaken diligent efforts within such thirty (30) day period to effect a cure, then the cure period shall be extended for such additional time, not to exceed an additional sixty (60) days (excluding cases of Force Majeure, as hereinafter defined, in which the cure period shall be extended until such time as the Force Majeure condition abates), as may be required by the Non-Performing Party through the exercise of continuous, diligent efforts to complete all required corrective action; or

B. Any representation or warranty of a Party hereunder proves to be false or misleading in any material respect when made; or

C. A Party's failure to maintain or cause its contractors, or subcontractors to maintain the insurance coverages required under Section 5 hereof or a Party's failure to furnish to a Host Party, prior to first entry, with evidence of such insurance as required by said Section 5.

**Section 7. Remedies.** Upon the occurrence of an Event of Default, the Parties may exercise any one or more of the following remedies:

A. take reasonable corrective actions the non-defaulting Party deems necessary or appropriate to cure such default and charge the cost thereof to the defaulting party, such payment to be made by the defaulting party upon the non-defaulting party's presentment of

demand therefor along with proof of the work conducted or costs incurred in the form of purchase orders, invoices, waivers of lien, or contractor's sworn statements; or

C. any other remedy available at law or in equity to the non-defaulting party, including without limitation specific performance of the defaulting party's obligations hereunder.

No delay or omission of the non-defaulting party to exercise any right or power arising from any default shall impair any such right or power or be construed to be a waiver of any such default or any acquiescence therein. No waiver of any breach of any of the covenants of this Agreement shall be construed, taken, or held to be a waiver of any other breach, or as a waiver, acquiescence in, or consent to any further or succeeding breach of the same covenant. The acceptance of payment by the either party of any of the fees or charges set forth in this Agreement shall not constitute a waiver of any breach or violation of the terms or conditions of this Agreement.

**Section 8. Condition of the Development Parcel; Repair and Restoration.**

A. Condition of the Development Parcel. The Developer has made no representations or warranties of any kind or nature whatsoever, whether written or oral, concerning the suitability of the City Easements for any of the uses contemplated herein. In entering into this Agreement, the City has relied solely upon such independent investigations of the condition of the City Easements as the City has deemed necessary or appropriate in its discretion. The City Easements are granted over the Development Parcel in their AS-IS, WHERE-IS CONDITION, WITH ALL FAULTS, and the Developer has not agreed to undertake any improvements or other work to make the Development Parcel or the City Easements suitable for the intended uses.

B. Repair and Restoration. The City shall promptly repair at its sole cost any damage to the City Easements from its or its Tenant's use of this grant of easement. In addition, the City shall promptly repair at its sole cost any damage to other portions of the Development Parcel resulting or arising from, or otherwise related to, the City's or its Tenant's use of the City Easements.

**Section 9. Notice.** All notices, demands or other communications given hereunder shall be in writing and shall be deemed to have been duly delivered (i) upon the delivery (or refusal to accept delivery) by messenger or overnight express delivery service (or, if such date is not on a business day, on the business day next following such date), or (ii) on the third (3rd) business day next following the date of its mailing by certified mail, postage prepaid, at a post office maintained by the United States Postal Service, or (iii) upon the receipt by facsimile transmission as evidenced by a receipt transmission report (followed by delivery by one of the other means identified in (i)-(ii)), addressed as follows:

if to Developer:

O'Hare Real Estate, LLC  
18 Watergate Drive  
South Barrington, Illinois 60010  
Facsimile: (847) \_\_\_\_\_

With a copy to:

Lyon & Caron LLP  
790 Estate Drive, Suite 180  
Deerfield, Illinois 60015  
Attention: Jeff Lyon  
Facsimile: (847) 940-4559

if to City:

City of Des Plaines  
1420 Miner St.  
Des Plaines, IL 60016  
Attn.: Michael Bartholomew, City Manager  
Facsimile: (847) \_\_\_\_\_

With a copy to:

Holland & Knight LLP  
131 South Dearborn, 30<sup>th</sup> Floor  
Chicago, Illinois 60603  
Attn: Peter M. Friedman  
Facsimile: (312) 578-6666

Nothing in this Section will be deemed to invalidate a notice that is actually received and the receipt confirmed by the receiving party, even if it is not provided in strict accordance with this Section.

**Section 10. Reservation of Rights.** The Developer hereby reserves the right to use the City Easements and the Development Parcel in any manner that will not prevent or interfere in any way with the exercise by the City of the rights granted hereunder; provided, however, that the Developer shall not permanently or temporarily improve, disturb, damage, destroy, injure, or obstruct the City Easements, or permit the City Easements to be permanently or temporarily improved, disturbed, damaged, destroyed, injured, or obstructed, at any time whatsoever, except as specifically provided for in this Agreement or the Restated Redevelopment Agreement, without providing advanced written notice to the City. The Developer shall have the right to grant other non-exclusive easements over, along, upon, or across the City Easements; provided, however, that any such other easements shall be subject to this Agreement and the rights granted hereby.

**Section 11. Covenants Running with the Land.** The easements and rights granted in this Agreement, the restrictions imposed by this Agreement, and the agreements and covenants contained in this Agreement shall be easements, rights, restrictions, agreements, and covenants running with the land, shall be recorded against the Development Parcel and the City Parcels and shall be binding upon and inure to the benefit of the City and the Developer and their respective successors and assigns. If any of the easements, rights, restrictions, agreements, or covenants created by this Agreement would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such easements, rights, restrictions, agreements, or covenants shall continue only

until 21 years after the death of the last survivor of any now living lawful descendants of any now living current or former President of the United States.

**Section 12. Amendment.** This Agreement may be modified, amended, or terminated only by the written agreement of the City and the Developer, or their respective successors and assigns.

**Section 13. Entire Agreement; Integration; Counterparts.** All understandings and agreements, whether written or oral, heretofore had between the Parties with respect to the easements granted hereby hereto are merged in this Agreement, which alone fully and completely expresses their agreement. Neither party is relying upon any statement or representation not embodied in this Agreement, made by the other. This Agreement may be signed in two or more counterparts, all of which taken together shall constitute a single agreement.

**Section 14. Estoppel.** Either the Developer or the City shall at any time upon not less than fifteen (15) days prior written notice from any other party execute, acknowledge and deliver to such requesting party a statement in writing (i) certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect), (ii) acknowledging that there are not, to the certifying party's knowledge, any uncured defaults on the part of any other party hereunder, or specifying such defaults if any are claimed, and (iii) any other information reasonably required by the party requesting same.

**Section 15. Force Majeure.** If the performance of any act or obligation under this Agreement is prevented or delayed by an act of God, fire, earthquake, flood, explosion, action of the elements, war, invasion, insurrection, mob violence, sabotage, malicious mischief, inability to procure or general shortage of labor, equipment or facilities, materials or supplies in the open market, failure of transportation, strike, lockout, action of labor union, condemnation, threatened condemnation, requisitions, laws, orders of government or civil or military authorities or any other cause, whether similar to or dissimilar from the foregoing, not within the reasonable control of the person required to perform such act or obligation, then such person shall be excused from the performance of such act or obligation for so long as such person is so prevented or delayed by reason thereof. The provisions of this Section 15 shall not apply to any obligation hereunder (a) to provide an estoppel certificate as required under Section 14; (b) which may be performed through the lawful payment of money; (c) to insure and provide evidence thereof; or (d) to indemnify or defend the other party to the extent required by the terms of this Agreement.

**Section 16. Assignment of Rights.** Each Party may assign its rights or delegate its duties under this Agreement, in whole or in part, without the consent of any other Party, provided such assignment will include an assumption of the obligations herein by the assuming party, and provided notice, is provided to the other Parties of such assignment and assumption, which such notice shall include a copy of any assignment and assumption agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed or have caused this Agreement to be executed by their proper officers duly authorized to execute same.

O'HARE REAL ESTATE, LLC, an Illinois limited liability company

By: \_\_\_\_\_  
Its: Manager

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, the Manager of O'HARE REAL ESTATE, LLC, an Illinois limited liability company.

\_\_\_\_\_  
Signature of Notary

SEAL  
My Commission expires: \_\_\_\_\_

CITY OF DES PLAINES, an Illinois home rule municipality

By: \_\_\_\_\_  
Name: Matthew A. Bogusz  
Title: Mayor

ATTEST:

By: \_\_\_\_\_  
Name: Gloria J. Ludwig  
Title: City Clerk

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me this \_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Matthew A. Bogusz, the Mayor of the CITY OF DES PLAINES, an Illinois home rule municipal corporation, and by Gloria J. Ludwig, the Village Clerk of said municipal corporation.

\_\_\_\_\_  
Signature of Notary

SEAL  
My Commission expires: \_\_\_\_\_

**EXHIBITS**

Exhibit A	Legal Description and Depiction of Development Parcel
Exhibit B-1	Legal Description and Depiction of Billboard Retained Parcel
Exhibit B-2	Legal Description and Depiction of Creek Parcels
Exhibit C	Legal Description and Depiction of City Access Easements
Exhibit D	Legal Description and Depiction of City Utility Easements
Exhibit E	Legal Description and Depiction of Developer Utility Easements
Exhibit F	Legal Description and Depiction of Vehicular and Pedestrian Access Easements
Exhibit G	Depiction of Visibility Corridor Restrictive Covenant