

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

2013 056172

2013 JUL 31 AM 9:58

MICHAEL B. BROWN  
RECORDER

Permanent Tax Index Numbers:  
45-08-02-100-001.000-004  
45-08-02-200-001.000-004

Property Address:  
201 Mississippi Street  
Gary, Indiana

62.0067890 CT/cm

**FOURTH AMENDMENT TO MORTGAGE, SECURITY AGREEMENT,  
ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING**

THIS FOURTH AMENDMENT TO MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING (this "Fourth Mortgage Amendment") is made and entered into effective as of July 25, 2013, by and between WELSH 201 MISSISSIPPI, LLC, a Delaware limited liability company (the "Mortgagor"), and BANK OF AMERICA, N.A., a national banking association and successor-by-merger to LaSalle Bank National Association (the "Lender").

RECITALS:

A Lender made a term loan to Mortgagor in the principal amount of \$16,500,000.00 (the "Loan"). The Loan is evidenced by that certain Promissory Note dated as of April 25, 2007, executed by Mortgagor and made payable to Lender, in the original principal amount of \$16,500,000 (the "Original Note"), which Original Note was amended by that certain First Amendment to Promissory Note dated April 25, 2008 (the "First Amendment"), that certain Second Amendment to Promissory Note dated as of July 25, 2008 (the "Second Amendment"), that certain Third Modification to Loan Documents dated as of August 12, 2011 (the "Third Amendment"), that certain Fourth Modification to Loan Documents dated as of July 31, 2012 (the "Fourth Amendment") and is being further amended concurrently herewith by that certain Fifth Modification to Loan Documents, (the "Fifth Amendment," hereinafter, the Original Note as amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, and the Fifth Amendment and as the same may be hereafter amended from time to time, the "Note").

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CHIGAGO TITLE INSURANCE COMPANY

B. The Mortgagor's obligations under the Note are secured by a certain Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated April 25, 2007, executed and delivered by Mortgagor to the Lender, and recorded on May 9, 2007 in the Office of the Recorder of Lake County, Indiana ("Official Records") as Document Number 2007 038046, as modified by that certain First Amendment to Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing, dated July 25, 2008 and recorded in the Official Records on August 20, 2008 as Document No. 2008 059217, as further modified by that certain Second Amendment to Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing, dated August 12, 2011, and recorded on August 19, 2011 in the Official Records as Document No. 2011 044970, and as further modified by that certain Third Amendment to Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing, dated July 31, 2012 and recorded on August 20, 2012 in the Official Records as Document No. 2012 055864 (as the same may be hereafter amended, extended, restated or replaced from time to time, the "Mortgage"), encumbering certain real property in Lake County, Indiana legally described on Exhibit A attached hereto (the "Land");

C. Mortgagor has requested, and Lender has agreed to extend the Maturity Date of the Note until December 31, 2014 due to the satisfaction by Mortgagor of certain conditions precedent set forth in the Fifth Amendment and eliminate certain tenant improvement deposit requirements of Mortgagor; and

D. It is a condition precedent to Lender's agreement to grant such modifications pursuant to the Fifth Amendment that the Mortgage be amended to secure the Loan and the Note evidencing such Loan, upon the terms and conditions set forth herein.

AGREEMENTS:  
This Document is the property of  
the Lake County Recorder!

NOW, THEREFORE, in consideration of the mutual representations, warranties, covenants and agreements herein contained, the sufficiency of which is hereby acknowledged, the parties hereto agree to amend the Mortgage as follows:

1. Definitions. Unless otherwise expressly defined herein, all capitalized terms used herein shall have the meanings given such terms in the Mortgage.
2. Amendment to Maturity Date. The definition of "Maturity Date" in Recital A of the Mortgage is hereby amended to read "December 31, 2014, as the same may be extended from time to time." Any and all references to the Maturity Date in the Mortgage are hereby amended to refer to the Maturity Date as amended hereby.
3. Additional Definitions. The Mortgage shall be amended by adding the following new definitions and all references hereto, as applicable, and similar terms referring such terms shall hereafter be as follows:

"**Affiliate**" means with respect to any person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Persons specified.

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling”; or “Controlled” have meanings correlative thereto.

“**Swap Contract**” means any agreement, whether or not in writing, relating to any Swap Transaction, including the context otherwise clearly require, any agreement or contract that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act (7 U.S.C. Section 1 *et seq.*), as amended from time to time, and any successor statute, and CFTC Regulations 1.3(xxx), any form of master agreement (the “Master Agreement”) published by the International Swaps and Derivatives Association, Inc., and any other master agreement, entered into prior to the date hereof or any time after the date hereof, between Swap Counterparty and Mortgagor (or its Affiliate) together with any related schedule and confirmation, as amended, supplemented, superseded or replaced from time to time.

“**Swap Counterparty**” means Bank or an Affiliate of Bank, in its capacity as counterparty under any Swap Contract.

“**Swap Transaction**” means any transaction that is a rate swap, basis swap transaction, forward rate transaction, commodity swap, commodity option, equity or equity index swap or option, bond option, note or bill option, interest rate option, forward foreign exchange transaction, cap transaction, spot or floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, swap option, currency option, credit swap or default transaction, T-lock, or any other similar transaction (including any option to enter into the foregoing) or any combination of the foregoing, entered into prior to the date hereof or any time after the date hereof between Swap Counterparty and Mortgagor (or its Affiliate) so long as a writing, such as a Swap Contract, evidences the parties’ intent that such obligation shall be secured by the Mortgage in connection with the Loan.

4. Amendment to Defined Term. The term “Indebtedness” as defined in the Mortgage is hereby modified by adding the following immediately after the definition thereof:

Notwithstanding any provision to the contrary, the “Indebtedness” secured hereby shall not include obligations arising under any Swap Contract to the extent that the grant of a lien hereunder to secure such Swap Contract would violate the Commodity Exchange Act by virtue of the Mortgagor’s failure to constitute an “eligible contract participant” as defined in the Commodity Exchange Act at the time such grant of such lien becomes effective with respect to such Swap Contract. “Commodity Exchange Act” means 7 U.S.C. Section 1 *et seq.*, as amended from time to time, any successor statute, and any rules, regulations and orders applicable thereto.

5. Amendment to Financial Statements. Section 30 of Mortgage is hereby deleted in its entirety and restated as follows:

30. Financial Statements. The Mortgagor represents and warrants that the financial statements for the Mortgagor and the Premises previously submitted to the Lender are true, complete and correct in all material respects, disclose all actual and contingent liabilities of the Mortgagor or relating to the Premises and do not contain any untrue statement of a material fact or omit to state a fact material to such financial statements. No material adverse change has occurred in the financial condition of the Mortgagor or the Premises from the dates of said financial statements until the date hereof. The Mortgagor shall furnish to the Lender such financial information regarding the Mortgagor, its constituent partners or members, as the case may be, the Premises and the Guarantor as the Lender may from time to time reasonably request, which shall include, without any further request therefor, (i) quarterly financial statements for the Premises including a balance sheet, statement of income and rent roll for the Premises, no later than forty-five (45) days after the end of the fiscal quarters ending March 31, June 30 and September 30, all in form, scope and detail satisfactory to the Lender and certified by the chief financial officer or other appropriate officer, partner or member of the Mortgagor, (ii) annual certified financial statements for the Mortgagor and the Premises, (iii) annual financial statements for the Guarantor certified by the Guarantor to be true, correct and complete, in each case, no later than ninety (90) days after the end of each year and an operating budget for the Premises for the next year, and (iv) within thirty (30) days after their filing, copies of the federal income tax returns of the Guarantor. Such financial statements of the Mortgagor shall also include a calculation of Operating Cash Flow and Debt Service (as such terms are defined in Section 37) for the quarter to which they apply and shall be certified as true and correct by the Mortgagor.

6. References. Any and all references in any document to the Mortgage, including without limitation the Note and the other Loan Documents, are hereby amended to refer to the Mortgage as amended by this Fourth Mortgage Amendment.

7. Representations and Warranties. Any and all representations, warranties, obligations, agreements and covenants set forth in the Mortgage are hereby reaffirmed as of the date of this Fourth Mortgage Amendment.

8. Complete Agreement. This Fourth Mortgage Amendment, the Mortgage and the other Loan Documents embody the entire agreement between the parties and supersede all prior agreements and understandings between the parties hereto.

9. Full Force and Effect. Except as amended hereby, the provisions of the Mortgage remain unmodified and in full force and effect.

10. Counterparts. This Fourth Mortgage Amendment may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

[remainder of page intentionally left blank; signature page follows]





**LENDER:**

BANK OF AMERICA, N.A., a national banking association and successor-by-merger to LaSalle Bank National Association

By: Laura C. Gardell  
Print Name: Laura Gardell  
Title: AVP

STATE OF ILLINOIS     )  
  ) S:  
COUNTY OF COOK     )

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Laura Gardell of BANK OF AMERICA, N.A., a national banking association and successor-by-merger to LaSalle Bank National Association, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such AVP ~~Chief Manager~~, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 23rd day of July, 2013.

**NOT OFFICIAL!**  
This Document is the property of  
the Lake County Recorder!

Lisa A. Colbert  
Notary Public

My Commission Expires December 7, 2015

"OFFICIAL SEAL"  
LISA A COLBERT  
Notary Public State of Illinois  
My Commission Expires December 07, 2015

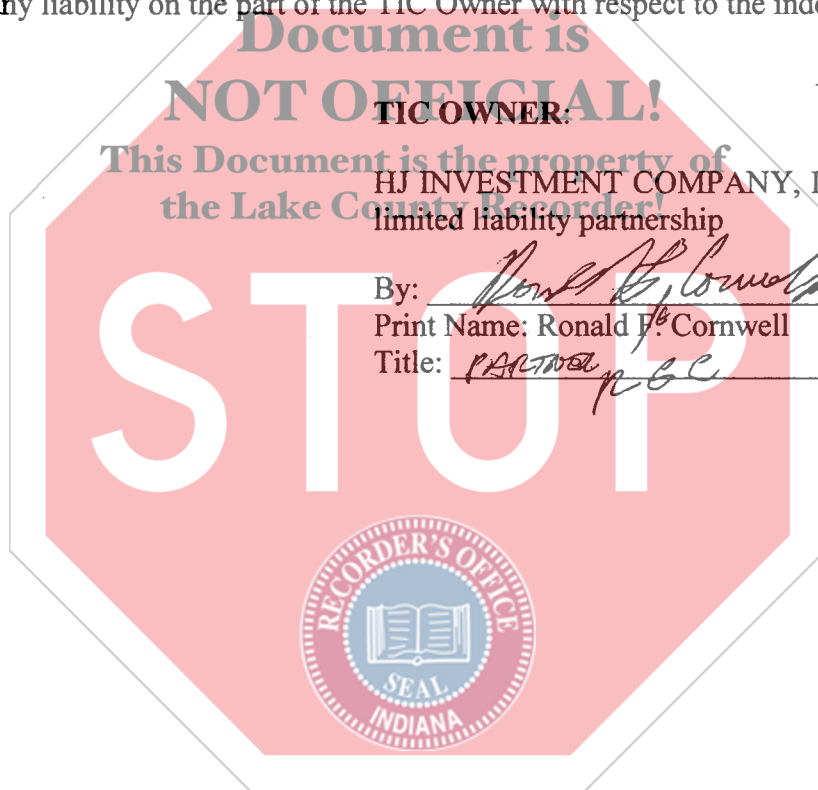


**LENDER SIGNATURE PAGE**

Welsh 201 Mississippi, LLC  
Fourth Amendment to Mortgage

**ACKNOWLEDGEMENT AND JOINDER**

HJ Investment Company, LLP, a Minnesota limited liability partnership (the "TIC Owner") owns an undivided 85.14% fee interest in the real property described on Exhibit A hereto (the "Property"). The TIC Owner hereby acknowledges and joins this Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated as of April 25, 2007 and recorded on May 9, 2007, as Document No. 2007 038046 in the Office of the Recorder of Lake County, Indiana ("Official Records"), as modified by that certain First Amendment to Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing, dated July 25, 2008 and recorded on August 20, 2008, in the Official Records as Document No. 2008 059217, as modified by that certain Second Amendment to Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing, dated August 12, 2011 and recorded on August 19, 2011 as Document No. 2011 044970, as modified by that certain Third Amendment to Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing, dated July 31, 2012 and recorded on August 20, 2012 as Document No. 2012 055864, as further modified by this Fourth Amendment to Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated as of July 25, 2013 (the "Mortgage") for the sole purpose of subjecting the TIC Owner's interest in the Property to the lien of the Mortgage. Nothing in this acknowledgement and joinder shall give rise to, or be construed as giving rise to, (i) any liability on the part of the TIC Owner with respect to the indebtedness secured thereby or (ii) the assumption of any liability on the part of the TIC Owner with respect to the indebtedness secured thereby.



**ACKNOWLEDGEMENT AND JOINDER**

Welsh 201 Mississippi, LLC  
Fourth Amendment to Mortgage



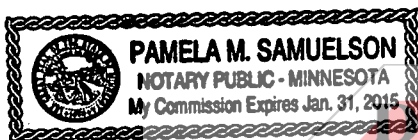
STATE OF MINNESOTA )  
 ) S:  
COUNTY OF HENNEPIN )

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Ronald ~~P.G.~~<sup>R.G.</sup> Cornwell, the PARTNER of HJ INVESTMENT COMPANY, LLP, a Minnesota limited liability partnership, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such RONALD G. CORNWELL, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 24<sup>th</sup> day ay of July, 2013.

Pamela M. Samuelson  
Notary Public'

My Commission Expires



Title: Notary Public



ACKNOWLEDGEMENT AND JOINDER (CONT.)

HJ INVESTMENT COMPANY, LLP, a Minnesota limited liability partnership

By: Richard F. Craven  
Printed Name: Richard F. Craven  
Title: Partner

STATE OF MINNESOTA )  
 ) S:  
COUNTY OF HENNEPIN )

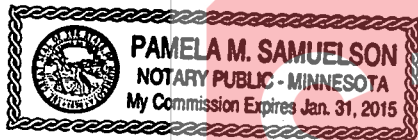
The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Richard F. Craven, the PARTNER of HJ INVESTMENT COMPANY, LLP, a Minnesota limited liability partnership, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such RICHARD F. CRAVEN, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 24<sup>th</sup> day of July, 2013.

**NOT OFFICIAL**  
Pamela M. Samuelson  
Notary Public

My Commission Expires

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ACKNOWLEDGEMENT AND JOINDER (CONT.)

Welsh 201 Mississippi, LLC  
Fourth Amendment to Mortgage

HJ INVESTMENT COMPANY, LLP, a Minnesota limited liability partnership

By: Byron G. Shaffer  
Print Name: Byron G. Shaffer  
Title: Partner

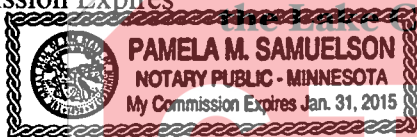
STATE OF MINNESOTA )  
 ) S:  
COUNTY OF HENNEPIN )

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Byron G. Shaffer, the PARTNER of HJ INVESTMENT COMPANY, LLP, a Minnesota limited liability partnership, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such BYRON G. SHAFER, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 24<sup>th</sup> day ay of July, 2013.

Pamela M. Samuelson  
Notary Public

My Commission Expires



This document Prepared By  
And after Recording Return to:

Karl L. Marschel  
Bryan Cave LLP  
161 North Clark St., Ste 4300  
Chicago, Illinois 60630

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Name of Declarant: Karl L. Marschel

ACKNOWLEDGEMENT AND JOINDER (CONT.)

Welsh 201 Mississippi, LLC  
Fourth Amendment to Mortgage

## EXHIBIT A

**Parcel 1:** A parcel of land lying in the North half of Section 2 and the Northeast Quarter of Section 3, Township 36 North Range 8 West of the 2nd P.M., bounded and described as follows:

Commencing at the point of intersection of the West line of said Section 2 with the North line of the property now owned by the New York Central Railroad Company, said point being 842.4 feet more or less South of the Northwest corner of said Section 2, and said North line of property of New York Central Railroad Company being 130 feet by rectangular measurement North of the base line of location of the New York Central Railroad as described in Deed from Gary Land Company to New York Central Railroad Company, dated February 20, 1917 and recorded in the Recorder's office of Lake County, Indiana in Book 270, Page 82; thence Easterly along said North property line of New York Central Railroad Company 1,750 feet more or less to a point of curve (which point is the Westerly corner of a parcel of land conveyed by Gary Land Company to New York Central Railroad Company by deed dated June 24, 1927 and recorded in the Recorder's Office of Lake County, Indiana, on August 12, 1927 in Book 404, Page 45); thence Northeasterly along a curve convex to the Southeast having a radius of 1,499 feet, a distance of 969.4 feet to a point of reverse curve; thence continuing Northeasterly on a curve convex to the Northwest having a radius of 3,408.29 feet, a distance of 1,079.05 feet, more or less (said 969.4 foot course and said 1,079.05 foot course being the Northwesterly line of said land conveyed by Gary Land Company to New York Central Railroad Company by deed aforesaid, dated June 24, 1927) to a point in the North line of said Section 2, which point is the Northwesterly corner of said land so conveyed; thence West along the North line of said Section 2, a distance of 951 feet more or less to a point of curve, thence Westerly and Southwesterly along a curve convex to the Northwest and having a radius of 11,409.2 feet, a distance of 1,679.4 feet more or less to a point of tangent to said curve, (said curve being the Southerly line or Southerly line extended of lands conveyed by Gary Land Company, to Chicago, Lake Shore and Eastern Railway Company by deed dated June 20, 1928 and recorded in the Recorder's Office of Lake County, Indiana, on September 19, 1928 in Book 432, Page 553); thence continuing Southwesterly along the tangent to said curve (said tangent being also a part of the Southerly line of aforesaid lands conveyed to Chicago, Lake Shore and Eastern Railway Company) a distance of 1,619 feet more or less to the Northeast corner of a parcel of land containing 4.566 acres, conveyed by Gary Land Company to Gary Tube Company by deed dated August 4, 1922 and recorded in the Recorder's Office of Lake County, Indiana, on August 31, 1922 in Book 302 Page 544, thence South along the East line of said 4.566 acre tract and said East line extended, a distance of 345.5 feet more or less, to the Northerly line of the property of the New York Central Railroad Company described as Parcel No. 6 in the deed from Gary Land Company to New York Central Railroad Company dated February 20, 1917, thence Southeasterly along said Northerly property line of New York Central Railroad Company 636.15 feet more or less to the place of beginning in the City of Gary, Lake County, Indiana.

**Parcel 2:** Part of the Northeast Quarter of the Northeast Quarter of Section 3, Township 36 North, Range 8 West of the Second Principal Meridian, in the City of Gary, Lake County, Indiana, described as follows:

## EXHIBIT A

1

Beginning at a point on the East line of said Section 3 which is 842.4 feet South of the Northeast corner of said Section 3 and is marked by an iron pipe in concrete; thence West on a line that is 130 feet North of and parallel to the base line described in Deed Record 270, Page 82, from Gary Land Company to New York Central Railroad recorded January 23, 1920, a distance of 1113.25 feet to an iron pipe in the East varying width right of way dedicated Tennessee Street as opened March 29, 1960 by Resolution 9586 City of Gary; thence Northwesterly on said East line of dedicated Tennessee Street 170.80 feet to the South line of dedicated 60 foot wide Mason Avenue as opened April 23, 1948; thence East on the South line of said 60 foot wide Mason Avenue 257.6 feet to a point of straight deflection in the South line of Mason Avenue; thence continuing on the South line of Mason Avenue deflected which is also the Northerly line of Parcel 6 in the aforesaid Deed Record 270, Page 82, for a distance of 884.53 feet more or less to the point of beginning.

**Parcel 3:** Part of the Northwest Quarter of the Northeast Quarter and the Northeast Quarter of the Northwest Quarter of Section 2, Township 36 North, Range 8 West of the Second Principal Meridian, in Lake County, Indiana, and being particularly described as follows:

Beginning at a point in the Northwesterly line of the land of the Gary & Western Railway Company, where the same is intersected by the North line of the land of the New York Central Railroad Company; thence Northeasterly along said Northwesterly line, the same being parallel to and distant 65 feet by rectangular measurement Northwesterly from the location center line of the Gary & Western Railway, a distance of 93.74 feet to a point of curve; thence Northeasterly along said Northwesterly line, the same being parallel to and distant 65 feet by radial measurement Northwesterly from said location center line, and being along a line which is a curve convex to the Northwest, having a radius 3308.29 feet in length, a distance of 1630.94 feet to a point in the South line of land of the predecessor of said the New York Central Railroad Company, The Chicago, Indiana & Southern Railroad Company, distant 11.5 feet West, measured along said South line from its intersection with the East line of said Northwest Quarter of the Northeast Quarter of Section 2; thence West along said South line, the same being also the North line of said Section 2, a distance of 348.98 feet, more or less, to a point distant 165 feet by radial measurement Northwesterly from said location center line of the Gary & Western Railway; thence Southwesterly along a line drawn parallel to and distant 100 feet by radial measurement Northwesterly from above described Northwesterly line of land of the Gary & Western Railway Company, a distance of 1079.05 feet to a point of reverse curve; thence Southwesterly and Westerly along a line which is a curve, convex to the Southeast, having a radius 1499 feet in length, a distance of 969.4 feet to a point in the North line of land of the New York Central Railroad Company; thence East along said North line, the same being parallel to and distant 130 feet by rectangular measurement North of the base line of location of the New York Central Railroad, as described in deed from the Gary Land Company to said the New York Central Railroad Company, bearing date of February 20, 1917, and recorded in Book 270, Page 82, records of deeds of said Lake County, a distance of 696.46 feet to the place of beginning.

#### EXHIBIT A