



# City of Chicago



O2014-837

Office of the City Clerk

## Document Tracking Sheet

<b>Meeting Date:</b>	2/5/2014
<b>Sponsor(s):</b>	City Clerk (transmitted by)
<b>Type:</b>	Ordinance
<b>Title:</b>	Zoning Reclassification App No. 17945 at 321-337 E 21st St, 2100-2130 S Calumet Ave and 2013-2143 S Calumet Ave
<b>Committee(s) Assignment:</b>	Committee on Zoning, Landmarks and Building Standards

## **ORDINANCE**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1:** Title 17 of the Municipal Code of Chicago, Chicago Zoning Ordinance, is amended by changing all the Residential-Business Planned Development No. 675 symbols and indications as shown on Map No. 4-E in the area bounded by:

- a line approximately 100 feet south of and parallel to the south right-of-way line of East Cullerton Street (or the line thereof extended where no street exists);
- the west right-of-way line of the Illinois Central Railroad;
- East Cermak Road;
- South Calumet Avenue;
- a line 100.01 feet north of and parallel to the north right-of-way line of East Cermak Road;
- a line 187.73 feet west of and parallel to the west right-of-way line of South Calumet Avenue;
- East 21st Street;
- South Calumet Avenue

to those of Residential-Business Planned Development No. 675, as amended, which is hereby established in the area described, subject to such use and bulk regulations as are set forth in the attached Plan of Development.

**SECTION 2:** This ordinance shall take effect upon its passage and due publication.

#17945  
INTNO DATE  
FEB-05, 2014

CITY OF CHICAGO

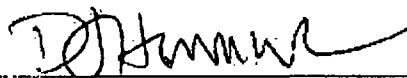
APPLICATION FOR AN AMENDMENT TO  
THE CHICAGO ZONING ORDINANCE

1. ADDRESS of the property Applicant is seeking to rezone:  
321-337 E. 21st St.; 2100-2130 S. Calumet Ave.;  
2013-2143 S. Calumet Ave.
2. Ward Number that property is located in: 3rd Ward (remap)
3. APPLICANT CenterPoint Properties Trust  
ADDRESS 1808 Swift Road CITY Oak Brook  
STATE IL ZIP CODE 60523-1501 PHONE (630) 586-8190  
EMAIL jclewlow@centerpoint.com CONTACT PERSON James Clewlow  
also Mara Georges (312) 726-8797
4. Is the applicant the owner of the property? YES X (Subarea 2) NO X (Subarea 1)  
If the applicant is not the owner of the property, please provide the following information  
regarding the owner and attach written authorization from the owner allowing the application to  
proceed:  
Same as above for Subarea 2; as follows for Subarea 1:  
OWNER ~~Digital Realty Trust, Inc.~~ Digital Lakeside LLC  
ADDRESS Four Embarcadero Ctr Ste 3200 CITY San Francisco  
STATE CA ZIP CODE 94111 PHONE \_\_\_\_\_  
EMAIL \_\_\_\_\_ CONTACT PERSON \_\_\_\_\_
5. If the Applicant/Owner of the property has obtained a lawyer as their representative for the  
rezoning, please provide the following information:  
ATTORNEY Mara Georges, Daley and Georges, Ltd.  
Richard Toth, Daley and Georges, Ltd.  
ADDRESS 20 S. Clark St., Suite 400  
CITY Chicago STATE IL ZIP CODE 60603  
PHONE (312) 726-8797 FAX (312) 726-8819 EMAIL mgeorges@daleygeorges.com  
rtoth@daleygeorges.com


6. If the applicant is a legal entity (Corporation, LLC, Partnership, etc.) please provide the names of all owners as disclosed on the Economic Disclosure Statements.  
Solstice Holdings, LLC 1808 Swift Drive, Oak Brook, IL 60523 (100% owner)  
which is 99% owned by:  
CalEast Solstice, LLC  
which is 99.97% owned by:  
CalEast Global Logistics, LLC  
which is 100% owned by (an agency of the State of California):  
California Public Employees' Retirement System (CalPERS)
7. On what date did the owner acquire legal title to the subject property? June 7, 2013.  
(CenterPoint, Subarea 2.)
8. Has the present owner previously rezoned this property? If yes, when?  
No.
9. Present Zoning District PD # 675 Proposed Zoning District PD # 675, as amended
10. Lot size in square feet (or dimensions) 358.89' x 187.73'
11. Current Use of the property 2/3 story brick buildings - warehouse / commercial.
12. Reason for rezoning the property To allow a data center use (including but not limited to High Technology Office and Electronic Data Storage Center) in Subarea 2. (An 11-story, 281' high, 681,522 sf building.)
13. Describe the proposed use of the property after the rezoning. Indicate the number of dwelling units; number of parking spaces; approximate square footage of any commercial space; and height of the proposed building. (BE SPECIFIC)  
To allow an 11-story, 281' high building (approximately 681,522 sf);  
for use as a data center (including but not limited to  
High Technology Office and Electronic Data Storage Center uses).
14. On May 14<sup>th</sup>, 2007, the Chicago City Council passed the Affordable Requirements Ordinance (ARO) that requires on-site affordable housing units or a financial contribution if residential housing projects receive a zoning change under certain circumstances. Based on the lot size of the project in question and the proposed zoning classification, is this project subject to the Affordable Requirements Ordinance? (See Fact Sheet for more information)  
  
YES \_\_\_\_\_ NO x  
(Commercial uses)

COUNTY OF ~~COOK~~ DuPage  
STATE OF ILLINOIS

Daniel J Hemmer, being first duly sworn on oath, states that all of the above statements and the statements contained in the documents submitted herewith are true and correct.

  
Signature of Applicant      **Daniel J. Hemmer**  
Secretary

Subscribed and Sworn to before me this 28<sup>th</sup> day of January, 20 14      **CenterPoint Properties Trust**

  
Notary Public



For Office Use Only

Date of Introduction: \_\_\_\_\_

File Number: \_\_\_\_\_

Ward: \_\_\_\_\_

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

CenterPoint Properties Trust

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☒ the Applicant

OR

2. ☐ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: \_\_\_\_\_

OR

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party:

1808 Swift Road

Oak Brook, IL 60523-1501

C. Telephone: (630) 586-8176 Fax: (630) 586-2376 Email: jclewlow@centerpoint.com

D. Name of contact person: James Clewlow

also Mara Georges (312) 726-8797

E. Federal Employer Identification No. (if you have one):                     

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Application for a zoning map amendment (PD amendment to PD No. 675) for:

321-337 E. 21st St.; 2100-2130 S. Calumet Ave.; 2013-2143 S. Calumet Ave.

G. Which City agency or department is requesting this EDS? Department of Planning & Dev't

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # N/A and Contract # N/A

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person                                   | <input type="checkbox"/> Limited liability company         |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership     |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture                     |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation        |
| <input type="checkbox"/> General partnership                      | (Is the not-for-profit corporation also a 501(c)(3))?      |
| <input type="checkbox"/> Limited partnership                      | <input type="checkbox"/> Yes <input type="checkbox"/> No   |
| <input type="checkbox"/> Trust                                    | <input checked="" type="checkbox"/> Other (please specify) |
|   | <u>Real estate investment trust</u>                        |

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Maryland

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☐ Yes ☐ No ☒ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
<u>Robert M. Chapman, CEO</u>	<u>James N. Clewlow, Chief Investment Officer</u>
<u>Michael P. Murphy, Chief Dev't Officer</u>	<u>Michael J. Kraft, CFO</u>
<u>Nate Rexroth, Executive VP</u>	<u>Scott C. Zimmerman, Chief Information Off.</u>
<u>Daniel J. Hemmer, General Counsel &amp; Sec.</u>	<u>Laura Artus, Senior VP</u>
<u>Matthew J. Mullarkey, Senior VP</u>	<u>See below (at bottom of page)</u>

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

Robert M. Chapman, Trustee  
John K. Saer, Trustee  
Paul S. Fisher, Trustee  
Roman Braslavsky, Trustee

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Richard Magnuson, Trustee  
George Psaras, Trustee  
Tony Lin, Trustee

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Solstice Holdings, LLC	1808 Swift Drive, Oak Brook, IL 60523	100%

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes                      ☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.



Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
Mara Georges /	20 S. Clark St., #400	Attorney	\$10,000 (Estimated)
Daley and Georges, Ltd.	Chicago, IL 60603		
Stephen M. Burke /	321 N. Clark St., #2450	Attorney	\$10,000 (Estimated)
Foran, O'Toole & Burke, LLC	Chicago, IL 60610		

(Add sheets if necessary)

☐ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

N/A

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None.

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None.

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes

☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes

☐ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

  X   1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

       2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

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## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

### A. CERTIFICATION REGARDING LOBBYING

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

This section is not applicable; the matter is not federally funded.

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:



F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.


NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

CenterPoint Properties Trust

(Print or type name of Disclosing Party)

By:   
(Sign here)  
**Daniel J. Hemmer**  
**Secretary**

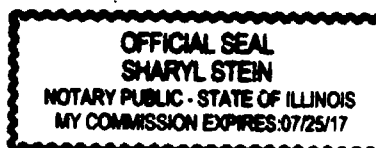
\_\_\_\_\_  
(Print or type name of person signing)

\_\_\_\_\_  
(Print or type title of person signing)

Signed and sworn to before me on (date) 11/28, 2014,  
at DuPage County, Illinois (state).

Sharyl Stein Notary Public.

Commission expires: 7-25-17



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☒ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

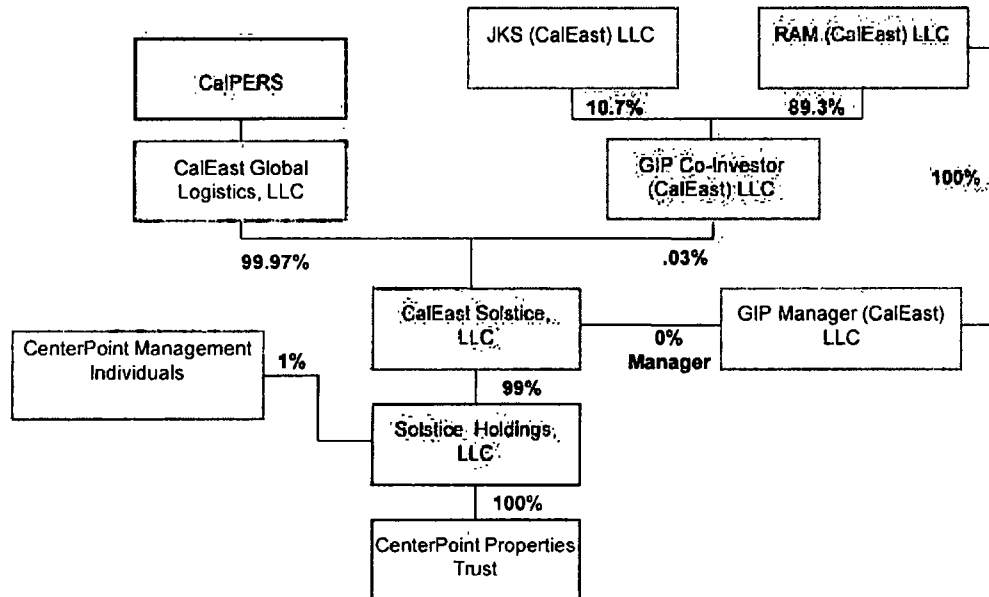
N/A

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# 2013 Structure Chart



CenterPoint Properties®

Where Industry Works

**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

A. Legal name of the Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

Solstice Holdings, LLC

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☐ the Applicant

OR

2. ☒ a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which the Disclosing Party holds an interest: CenterPoint Properties Trust

OR

3. ☐ a legal entity with a right of control (see Section II.B.1.) State the legal name of the entity in which the Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of the Disclosing Party: 1808 Swift Road

Oak Brook, IL 60523-1501

C. Telephone: (630) 586-8176 Fax: (630) 586-2376 Email: jclewlow@centerpoint.com

D. Name of contact person: James Clewlow

also Mara Georges (312) 726-8797

E. Federal Employer Identification No. (if you have one): [Redacted]

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Application for a zoning map amendment (PD amendment to PD No. 675) for:

321-337 E. 21st St.; 2100-2130 S. Calumet Ave.; 2013-2143 S. Calumet Ave.

G. Which City agency or department is requesting this EDS? Department of Planning & Dev't

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # N/A and Contract # N/A

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

- |   |   |
|---|---|
| <input type="checkbox"/> Person                                   | <input checked="" type="checkbox"/> Limited liability company |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership        |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture                        |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation           |
| <input type="checkbox"/> General partnership                      | (Is the not-for-profit corporation also a 501(c)(3))?         |
| <input type="checkbox"/> Limited partnership                      | <input type="checkbox"/> Yes <input type="checkbox"/> No      |
| <input type="checkbox"/> Trust                                    | <input type="checkbox"/> Other (please specify)               |
- 

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Delaware

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

☒ Yes ☐ No ☐ N/A

### B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Robert M. Chapman, CEO	James N. Clewlow, Chief Investment Officer
Michael P. Murphy, Chief Dev't Officer	Michael J. Kraft, CFO
Nate Rexroth, Executive VP	Scott C. Zimmerman, Chief Information Off.
Daniel J. Hemmer, General Counsel & Sec.	Laura Artus, Senior VP
Matthew J. Mullarkey, Senior VP	See below (at bottom of page)

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

Robert M. Chapman, Manager  
John K. Saer, Manager  
Paul S. Fisher, Manager  
Roman Braslavsky, Manager

Page 2 of 13

Richard Magnuson, Manager  
George Psaras, Manager  
Tony Lin, Manager

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
CalEast Solstice, LLC	1808 Swift Drive, Oak Brook, IL 60523	99%
which is 99.97% owned by:		
CalEast Global Logistics, LLC		
which is 100% owned by (an agency of the State of California):		
California Public Employees' Retirement System (CalPERS)		

### SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

☐ Yes ☒ No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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### SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
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None

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(Add sheets if necessary)

☒ Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the contract's term.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

2. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

- the Disclosing Party;
- any "Contractor" (meaning any contractor or subcontractor used by the Disclosing Party in connection with the Matter, including but not limited to all persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Contractors, the term Affiliated Entity means a person or entity that directly or indirectly controls the Contractor, is controlled by it, or, with the Contractor, is under common control of another person or entity;
- any responsible official of the Disclosing Party, any Contractor or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Contractor or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Contractor or any Affiliated Entity (collectively "Agents").



Neither the Disclosing Party, nor any Contractor, nor any Affiliated Entity of either the Disclosing Party or any Contractor nor any Agents have, during the five years before the date this EDS is signed, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the five years before the date of such Contractor's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

7. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

N/A

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None.

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None.

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

1. The Disclosing Party certifies that the Disclosing Party (check one)

☐ is ☒ is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter 2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

☐ Yes ☒ No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

☐ Yes ☐ No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

  X   1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

       2. The Disclosing Party verifies that, as a result of conducting the search in step 1 above, the Disclosing Party has found records of investments or profits from slavery or slaveholder insurance policies. The Disclosing Party verifies that the following constitutes full disclosure of all such records, including the names of any and all slaves or slaveholders described in those records:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## **SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS**

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

### **A. CERTIFICATION REGARDING LOBBYING**

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

This section is not applicable; the matter is not federally funded.

\_\_\_\_\_

\_\_\_\_\_

(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

☐ Yes

☐ No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

☐ Yes

☐ No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

☐ Yes

☐ No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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## **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

C. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded or void), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

D. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

F.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its Affiliated Entities delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

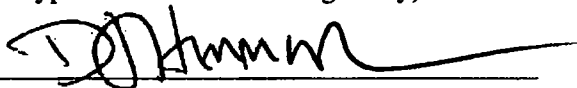
F.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in F.1. and F.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in F.1., F.2. or F.3. above, an explanatory statement must be attached to this EDS.

#### CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS and Appendix A (if applicable) on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS and Appendix A (if applicable) are true, accurate and complete as of the date furnished to the City.

Solstice Holdings, LLC  
(Print or type name of Disclosing Party)

By:   
(Sign here)  
**Daniel J. Hemmer**  
**Secretary**

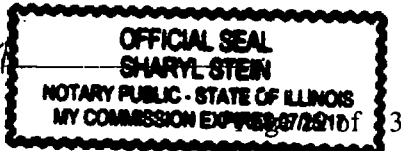
\_\_\_\_\_  
(Print or type name of person signing)

\_\_\_\_\_  
(Print or type title of person signing)

Signed and sworn to before me on (date) 1/28, 2014,  
at DuPage County, Illinois (state).

Sharyl Stein Notary Public.

Commission expires: 7/25/17



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☒ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

N/A

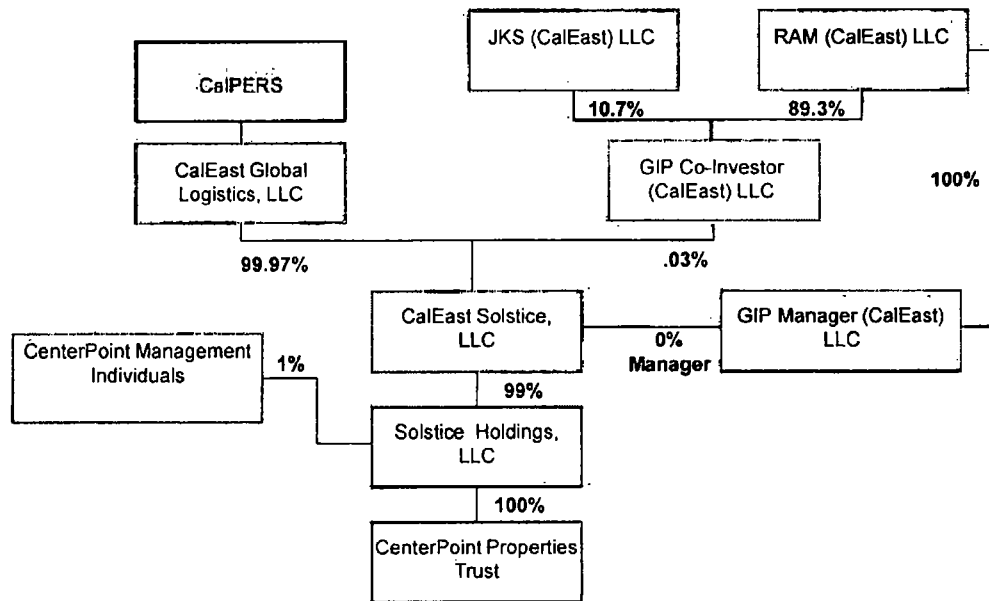
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# 2013 Structure Chart



**CenterPoint Properties**

Where Industry Works



# California LEGISLATIVE INFORMATION

Code:  Select Code  Section:  [ Search ] ⓘ

## GOVERNMENT CODE - GOV

**TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980]** ( Title 2 enacted by Stats. 1943, Ch. 134. )

**DIVISION 5. PERSONNEL [18000 - 22980]** ( Division 5 added by Stats. 1945, Ch. 123. )

**PART 3. PUBLIC EMPLOYEES' RETIREMENT SYSTEM [20000 - 21703]** ( Part 3 repealed and added by Stats. 1995, Ch. 379, Sec. 2. )

**CHAPTER 1. General Provisions and Definitions [20000 - 20085]** ( Chapter 1 added by Stats. 1995, Ch. 379, Sec. 2. )

**ARTICLE 1. General Provisions [20000 - 20004]** ( Article 1 added by Stats. 1995, Ch. 379, Sec. 2. )

**20000.** This part may be cited as the Public Employees' Retirement Law.

(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

**20001.** The purpose of this part is to effect economy and efficiency in the public service by providing a means whereby employees who become superannuated or otherwise incapacitated may, without hardship or prejudice, be replaced by more capable employees, and to that end provide a retirement system consisting of retirement compensation and death benefits.

(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

**20002.** The Public Employees' Retirement System created by Chapter 700 of the Statutes of 1931, as amended, is continued in existence under this part. This system is a unit of the Government Operations Agency.

(Amended by Stats. 2013, Ch. 352, Sec. 304. Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

**20003.** Unless the context otherwise requires, the definitions and general provisions set forth in this chapter govern the construction of this part.

(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)

**20004.** (a) It is the intent of the Legislature, in enacting this section and amending this part, to comply with, and implement the provisions of, the California Public Employees' Pension Reform Act of 2013 (Article 4 (commencing with Section 7522) of Chapter 21 of Division 7 of Title 1) to ensure the continued ability of the board to invest the retirement fund and administer the system in conformity with its duties and responsibilities and to ensure that members are provided with the retirement and related benefits to which they are entitled pursuant to law.

(b) To achieve the purposes set forth in subdivision (a), the board shall have all powers reasonably necessary to invest the assets associated with, and to administer and implement the provisions of, the California Public Employees' Pension Reform Act of 2013, to the extent and with the same effect as if the provisions of the act are contained in the Public Employees' Retirement Law. All laws governing the investment of the retirement fund, and the organization, procedures, and administrative duties and responsibilities of the board shall be applicable to the board in its administration of the California Public Employees' Pension Reform Act of 2013, to the extent these laws are not in conflict with, or are not inconsistent with, the act. If the board determines that there is a conflict between the provisions of the California Public Employees' Pension Reform Act of 2013 and the Public Employees' Retirement Law, the provisions of the California Public Employees' Pension Reform Act of 2013 shall control.

(c) Nothing in this section shall be construed to amend, supersede, limit, or extend the application of the provisions of the California Public Employees' Pension Reform Act of 2013.

(Added by Stats. 2013, Ch. 526, Sec. 2. Effective January 1, 2014.)

**ARTICLE 2. Definitions [20010 - 20071]** ( Article 2 added by Stats. 1995, Ch. 379, Sec. 2. )

**20010.** "Accumulated additional contributions" means the sum of all additional contributions standing to the credit of a member's individual account, and interest thereon.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20011.** "Accumulated contributions" means accumulated normal contributions plus any accumulated additional contributions standing to the credit of a member's account.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20012.** "Accumulated normal contributions" means the sum of all normal contributions standing to the credit of a member's individual account, and interest thereon.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20013.** "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the mortality tables adopted and the actuarial interest rate fixed by the board.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20014.** "Actuarial interest rate" means the interest rate fixed by the board for purposes of actuarial valuation of the assets and liabilities of this system.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20015.** "Actuary" means an actuary regularly employed on a full-time or part-time basis by the board.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20016.** "Additional contributions" means contributions made by members and their employers in addition to their normal contributions under Article 2 (commencing with Section 20710) of Chapter 8.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20017.** "Annual interest rate" means the net earnings rate reduced by 110 basis points for purposes of crediting interest.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20018.** "Annuity" means payments for life derived from contributions made by a member.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20019.** "Beneficiary" means any person or corporation designated by a member, a retired member, or by statute to receive a benefit payable under this part, on account of the death of a member or a retired member. A member or retired member may also designate the member's estate as a beneficiary.

*(Amended by Stats. 1996, Ch. 906, Sec. 2. Effective January 1, 1997.)*

**20020.** "Benefit" means the retirement allowance, basic death benefit, limited death benefit, special death benefit, any monthly allowance for survivors of a member or retired person, the insurance benefit, the partial disability retirement program payment, or refund of accumulated contributions.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20021.** "Board" means the Board of Administration of the Public Employees' Retirement System.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20022.** "Contracting agency" means any public agency that has elected to have all or any part of its employees become members of this system and that has contracted with the board for that purpose. "Contracting agency" also means any county office of education, school district, or community college district that has elected to have all or part of its employees participate in a risk pool and that has contracted with the board for that purpose.

*(Amended by Stats. 2002, Ch. 1133, Sec. 1. Effective January 1, 2003.)*

**20023.**

"County peace officer service" shall include service rendered in the sheriff's office of a city and county in positions that were subsequently reclassified as positions within the definition of "county peace officer."

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20023.5.** "County retirement system" means a retirement system established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3, the County Employees Retirement Law of 1937.

*(Added by Stats. 1996, Ch. 906, Sec. 4. Effective January 1, 1997.)*

**20024.** "Current service" means all state service rendered by a member on and after the date upon which he or she first became a member, service in employment while not a member but after persons employed in the status of the member were eligible for membership, and public service designated as current service under Section 21034.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20025.** "Dependent," in reference to any benefit provided, upon the death of a member, for a surviving dependent parent, or parent dependent upon the member for support, shall mean receipt of at least one-half of the parent's support from the member at the time of the member's death determined according to rules of the board.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20026.** "Disability" and "incapacity for performance of duty" as a basis of retirement, mean disability of permanent or extended and uncertain duration, as determined by the board, or in the case of a local safety member by the governing body of the contracting agency employing the member, on the basis of competent medical opinion.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20027.** "Disability," "disabled," or "incapacitated" means, with respect to qualification for an allowance payable to a surviving child, inability to engage in any substantial gainful occupation by reason of any physical or mental impairment that is determined by the board, on the basis of competent medical or psychiatric opinion, to be of permanent or extended and uncertain duration.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20027.5.** (a) "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape, so as to order, instruct, or authorize a financial institution to debit or credit an account. Electronic funds transfers shall be executed by one of the following methods:

(1) An automated clearinghouse debit in which the state, through its designated depository bank, originates an automated clearinghouse transaction debiting the person's bank account and crediting the state's bank account for the amount of the debit. Banking costs incurred for the automated clearinghouse debit transaction shall be paid by the state.

(2) An automated clearinghouse credit in which the person, through his or her own bank, originates an entry crediting the state's bank account and debiting his or her own bank account. Banking costs incurred for the automated clearinghouse credit transaction charged to the state shall be paid by the person originating the credit.

(3) A Federal Reserve Wire Network transfer (Fedwire) originated by a person utilizing the national electronic payment system to transfer funds through the federal reserve banks, when that person debits his or her own bank account and credits the state's bank account. Electronic funds transfers may be made by Fedwire only if payment cannot, for good cause, be made according to paragraph (1) or (2), and the use of Fedwire is preapproved by the board. Banking costs incurred for the Fedwire transaction charged to the person and to the state shall be paid by the person originating the transaction.

(b) For purposes of this section, "automated clearinghouse" means any federal reserve bank, or an organization established in agreement with the National Automated Clearing House Association, that operates as a clearinghouse for transmitting or receiving entries between banks or bank accounts and which authorizes an electronic transfer of funds between these banks or bank accounts.

*(Added by Stats. 2009, Ch. 118, Sec. 1. Effective January 1, 2010.)*

**20028.** "Employee" means all of the following:

(a) Any person in the employ of the state, a county superintendent of schools, or the university whose compensation, or at least that portion of his or her compensation that is provided by the state, a county superintendent of schools, or the university, is paid out of funds directly controlled by the state, a county superintendent of schools, or the university, excluding all other political subdivisions, municipal, public and quasi-public corporations. "Funds directly controlled by the state" includes funds deposited in and disbursed from the State Treasury in payment of compensation, regardless of their source.

(b) Any person in the employ of any contracting agency.

(c) City employees who prior to the effective date of the contract with the hospital are assigned to a hospital that became a contracting agency because of subdivision (p) of Section 20057 shall be deemed hospital employees from and after the effective date of the contract with the hospital for retirement purposes. City employees who after the effective date of the contract with the hospital become employed by the hospital, shall be considered as new employees of the hospital for retirement purposes.

(d) Any person in the employ of a school employer.

(e) Public health department or district employees who were employees prior to the date of assumption of the contract by the governing body of a county of the 15th class shall be deemed public health department or district employees from and after the effective date of assumption of the contract for retirement purposes. Employees who after the effective date of assumption of the contract become employed by the public health department or district shall be considered as new employees for retirement purposes.

(f) Officers, warrant officers, and enlisted personnel of the California National Guard not otherwise described in subdivision (a) rendering service authorized by Title 32 of the United States Code.

*(Amended by Stats. 2007, Ch. 355, Sec. 2. Effective January 1, 2008.)*

**20029.** "Employee federal contributions" means those contributions required of employees under the federal system with respect to wages paid to individuals who perform services in employment in any coverage group included in the federal-state agreement, at the rate of taxes imposed on employees by Section 3101 of Title 26 of the United States Code for the respective calendar years set forth therein.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20030.** "Employer" means the state, the university, a school employer, and any contracting agency employing an employee.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20031.** "Employer federal contributions" means those contributions required of employers under the federal system with respect to wages paid to individuals who perform services in employment in any coverage group included in the federal-state agreement, at the rate of taxes imposed on employers by Section 3111 of Title 26 of the United States Code for the respective calendar years set forth therein and all penalties and interest that may be required to be paid with respect to those wages under the federal-state agreement.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20032.** "Federal-state agreement" means the agreement or any modification thereof executed by the board pursuant to Section 418 of Title 42 of the United States Code.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20033.** "Federal system" means the old age, survivors, disability, and health insurance provisions of the Social Security Act.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20034.** The average monthly salary during any period of service as a member of any retirement system maintained by the university shall be considered compensation earnable by a member of this system for purposes of computing final compensation for the member providing he or she retires concurrently under both systems.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20035.** (a) Notwithstanding Section 20037, "final compensation" for the purposes of determining any pension or benefit with respect to a state member who retires or dies on or after July 1, 1991, and with respect to benefits based on service with the state, means the highest annual compensation which was earnable by the state member

during the consecutive 12-month period of employment immediately preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier or during any other period of 12 consecutive months during his or her membership in this system that the member designates on the application for retirement.

(b) With respect to a state member who retires or dies on or after July 1, 1991, and who was a managerial employee, as defined by subdivision (e) of Section 3513, or a supervisory employee, as defined by subdivision (g) of Section 3513, whose monthly salary range was administratively reduced by 5 percent because of the salary range reductions administratively imposed upon managers and supervisors during the 1991-92 fiscal year, "final compensation" means the highest annual compensation the state member would have earned had his or her salary range not been reduced by the 5-percent reduction. This subdivision shall only apply if the period during which the state member's salary was reduced would have otherwise been included in determining his or her final compensation. The costs, if any, that may result from the use of the higher final compensation shall be paid for by the employer in the same manner as other retirement benefits are funded.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20035.2.** Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a patrol member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 5, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to an addendum to a memorandum of understanding entered during the 2003-04 fiscal year, means the highest annual compensation the patrol member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the patrol member's salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

*(Amended by Stats. 2004, Ch. 183, Sec. 157. Effective January 1, 2005.)*

**20035.21.** Notwithstanding Sections 20035 and 20037, "final compensation" for the purpose of determining any pension or benefit with respect to a patrol member who retires or dies on or after July 1, 2004, who was a member of State Bargaining Unit 5, and whose monthly salary range that was to be effective July 1, 2004, was reduced by 5 percent pursuant to an addendum to a memorandum of understanding entered during the 2004-05 fiscal year, "final compensation" means the highest annual compensation the patrol member would have earned as of July 1, 2004, if that 5 percent reduction had not occurred. This section shall only apply if the period during which the patrol member's salary was reduced would have otherwise been included in determining his or her final compensation.

The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

*(Added by Stats. 2004, Ch. 635, Sec. 5. Effective September 21, 2004.)*

**20035.3.** Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a state miscellaneous or peace officer/firefighter member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 8, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to an addendum to a memorandum of understanding entered during the 2003-04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the member's salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

*(Amended by Stats. 2004, Ch. 183, Sec. 158. Effective January 1, 2005.)*

**20035.4.** Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 16, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of understanding entered during the 2003-04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the member's salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result

from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

*(Amended by Stats. 2004, Ch. 183, Sec. 159. Effective January 1, 2005.)*

**20035.5.** Notwithstanding Section 20037, "final compensation" for the purposes of determining any pension or benefit with respect to a school member who retires or dies on or after January 1, 2000, and with respect to benefits based on service with a school employer, means the highest annual compensation that was earnable by the school member during the consecutive 12-month period of employment immediately preceding the effective date of his or her retirement or the date of his or her last separation from service if earlier or during any other period of 12 consecutive months during his or her membership in this system that the member designates on the application for retirement.

*(Added by Stats. 1999, Ch. 555, Sec. 1. Effective January 1, 2000.)*

**20035.6.** Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 19, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of understanding entered during the 2003-04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the member's salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

*(Amended by Stats. 2006, Ch. 538, Sec. 290. Effective January 1, 2007.)*

**20035.9.** (a) Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a state miscellaneous member (1) who retires or dies on or after July 1, 2003, (2) who was a member of a state bargaining unit listed in subdivision (b), and (3) whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of understanding entered into during the 2003-04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5 percent reduction had not occurred. This section shall apply only if the period during which the member's salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

(b) The section shall apply with respect to members in State Bargaining Units 1, 4, 10, 11, 14, 15, 17, 20, and 21.

*(Added by Stats. 2003, Ch. 615, Sec. 7. Effective January 1, 2004.)*

**20035.10.** (a) Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a state miscellaneous member (1) who retires or dies on or after July 1, 2003, (2) who was a member of the state bargaining unit listed in subdivision (b), and (3) whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of understanding entered into during the 2003-04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the member's salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

(b) This section shall apply with respect to members in State Bargaining Unit 9.

*(Amended by Stats. 2004, Ch. 183, Sec. 161. Effective January 1, 2005.)*

**20036.** In the computation of the disability retirement allowance payable upon the retirement of a member for industrial disability, final compensation shall be determined only with respect to compensation earnable in the membership category applicable to the member at the time of the injury or the onset of the disease causing the disability.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20037.**

For a state member, or for a local member who is an employee of a contracting agency that is subject to this section, "final compensation" means the highest average annual compensation earnable by a member during the three consecutive years of employment immediately preceding the effective date of his or her retirement or the date of his or her last separation from state service if earlier or during any other period of three consecutive years during his or her membership in this system which he or she designates in his or her application for retirement, including any or all of the period or periods of (a) service required for qualification for membership, or (b) prior service which qualifies for credit under this system, if any, immediately preceding membership, or (c) time prior to entering state service at the compensation earnable by him or her in the position first held by him or her in that service, as may be necessary to complete three consecutive years. For the purposes of this section, periods of service separated by a period of retirement or breaks in service may be aggregated to constitute a period of three consecutive years, if the periods of service are consecutive except for such a period of retirement or breaks. If a break in service did not exceed six months in duration, time included in the break and compensation earnable during that time shall be included in computation of final compensation. If a break in service exceeded six months in duration, the first six months thereof and the compensation earnable during those six months shall be included in computation of final compensation, but time included in the break which is in excess of six months and the compensation earnable during that excess time shall be excluded in computation of final compensation. On and after November 13, 1968, this section shall apply to all contracting agencies and to the employees of those agencies whether or not those agencies have previously elected to be subject to this section, except that this section shall not apply to an employee of a contracting agency which has not elected to be subject to this section whose death occurred or whose retirement was effective prior to November 13, 1968.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20037.5.** Notwithstanding Section 20035, "final compensation" for a state member who has elected to be subject to Section 21353.5, for the purposes of determining any pension or benefit based on service credited under that section, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

*(Added by Stats. 1998, Ch. 88, Sec. 56. Effective June 30, 1998. See identical section added by Stats. 1998, Ch. 91.)*

**20037.5.** Notwithstanding Section 20035, "final compensation" for a state member who has elected to be subject to Section 21353.5, for the purposes of determining any pension or benefit based on service credited under that section, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

*(Added by Stats. 1998, Ch. 91, Sec. 56. Effective July 3, 1998.)*

**20037.6.** (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after July 1, 2006, and is represented by State Bargaining Unit 2, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 2.

(c) This section does not apply to:

- (1) Former state employees who return to state employment on or after July 1, 2006.
- (2) State employees hired prior to July 1, 2006, who were subject to Section 20281.5 during the first 24 months of state employment.
- (3) State employees hired prior to July 1, 2006, who become subject to representation by State Bargaining Unit 2 on or after July 1, 2006.
- (4) State employees on an approved leave of absence who return to active employment on or after July 1, 2006.

*(Amended by Stats. 2009, Ch. 130, Sec. 2. Effective January 1, 2010.)*

**20037.7.** (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented



by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 1, 3, 4, 11, 14, 15, 17, 20, or 21 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

*(Amended by Stats. 2009, Ch. 130, Sec. 3. Effective January 1, 2010.)*

**20037.8.** (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 12 or 13, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 12 or 13.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 12 or 13 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

*(Amended by Stats. 2009, Ch. 130, Sec. 4. Effective January 1, 2010.)*

**20037.9.** (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 16 or 19, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 16 or 19.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 16 or 19 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

*(Amended by Stats. 2009, Ch. 130, Sec. 5. Effective January 1, 2010.)*

**20037.10.** (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 7, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 7.

(c) This section does not apply to:

(1) Service credit accrued while classified as a state peace officer/firefighter while a member of Bargaining Unit 7.

(2) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(3) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(4) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 7 on or after January 1, 2007.

(5) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

*(Amended by Stats. 2009, Ch. 130, Sec. 6. Effective January 1, 2010.)*

**20037.11.** (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 10, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 10.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 10 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

*(Amended by Stats. 2009, Ch. 130, Sec. 7. Effective January 1, 2010.)*

**20037.12.** (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after January 1, 2007, and is represented by State Bargaining Unit 18, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 18.

(c) This section does not apply to:

(1) Former state employees previously employed before January 1, 2007, who return to state employment on or after January 1, 2007.

(2) State employees hired prior to January 1, 2007, who were subject to Section 20281.5 during the first 24 months of state employment.

(3) State employees hired prior to January 1, 2007, who become subject to representation by State Bargaining Unit 18 on or after January 1, 2007.

(4) State employees on an approved leave of absence employed before January 1, 2007, who return to active employment on or after January 1, 2007.

*(Amended by Stats. 2009, Ch. 130, Sec. 8. Effective January 1, 2010.)*

**20037.13.** (a) Notwithstanding Sections 20035 and 20037, for the purposes of determining any pension or benefit with respect to benefits based on service with the state, "final compensation" means the highest annual compensation that was earnable by the state member during the consecutive 36-month period of employment immediately preceding the effective date of his or her retirement or the date of his or her last separation from state service or during any other period of 36 consecutive months during his or her membership in this system that the member designates on the application for retirement.

(b) This section shall only apply to a member appointed to a career executive assignment, as defined in Section 18546, who at the time of appointment meets one or more of the following criteria:

- (1) He or she previously had, but does not currently have, permanent status in the civil service.
- (2) He or she is a person described in Section 18990 who was not, within the past 12 months, employed by the Legislature for two or more consecutive years.
- (3) He or she is a person described in Sections 18992 who was not, within the past 12 months, holding a nonelected exempt position in the executive branch.

(c) A state entity that employs a person described in subdivision (b) in a career executive assignment shall notify the Controller of this person's employment status and the Controller shall forward this information to the system.

*(Added by Stats. 2008, Ch. 353, Sec. 9. Effective January 1, 2009.)*

**20037.14.** (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5 or 8, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 5 or 8 or in a class related to State Bargaining Unit 5 or 8 as an employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.

(c) This section does not apply to:

- (1) Former state employees previously employed before October 31, 2010, who return to state employment on or after October 31, 2010.
- (2) State employees hired prior to October 31, 2010, who were subject to Section 20281.5 during the first 24 months of state employment.
- (3) State employees hired prior to October 31, 2010, who become subject to representation by State Bargaining Unit 5 or 8 on or after October 31, 2010.
- (4) State employees on an approved leave of absence employed before October 31, 2010, who return to active employment on or after October 31, 2010.

*(Amended (as added by Stats. 2010, Ch. 162) by Stats. 2011, Ch. 296, Sec. 127. Effective January 1, 2012. See similar section added by Stats. 2010, Ch. 163.)*

**20037.14.** (a) Notwithstanding Sections 20035 and 20037, final compensation for a person who is employed by the state for the first time and becomes a state member of the system on or after October 31, 2010, and is represented by State Bargaining Unit 5 or 8, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to service credit accrued while a member of State Bargaining Unit 5 or 8 or in a class related to State Bargaining Unit 5 or 8 as an employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.

(c) This section does not apply to:

- (1) Former state employees previously employed before October 31, 2010, who return to state employment on or after October 31, 2010.
- (2) State employees hired prior to October 31, 2010, who were subject to Section 20281.5 during the first 24 months of state employment.
- (3) State employees hired prior to October 31, 2010, who become subject to representation by State Bargaining Unit 5 or 8 on or after October 31, 2010.
- (4) State employees on an approved leave of absence employed before October 31, 2010, who return to active employment on or after October 31, 2010.

*(Added by Stats. 2010, Ch. 163, Sec. 11. Effective August 23, 2010. See similar section (added by Stats. 2010, Ch. 162), as amended by Stats. 2011, Ch. 296.)*

**20037.15.** (a) Notwithstanding Sections 3517.8, 20035, and 20037, final compensation for a person who is employed for the first time and becomes a member of the system on or after January 15, 2011, means the highest average annual compensation earnable by the member during the consecutive 36-month period immediately preceding the effective date of his or her retirement, or the date of his or her last separation from state service if earlier, or during any other period of 36 consecutive months during his or her state membership that the member designates on the application for retirement.

(b) This section applies to the following:

- (1) Service credit accrued while a member of State Bargaining Unit 6 or 9 or in a class related to State Bargaining Unit 6 or 9 as an employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.
- (2) Service credit accrued while a peace officer/firefighter member represented by State Bargaining Unit 7 or in a class related to peace officer/firefighter members in State Bargaining Unit 7 as an employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.
- (3) Service credit accrued as an employee who is excepted from the definition of "state employee" in subdivision (c) of Section 3513, or an officer or employee of the executive branch of state government who is not a member of the civil service.
- (4) Service credit accrued as an employee of the Legislature, the judicial branch, or the California State University.

(c) This section does not apply to:

- (1) Former employees previously employed before January 15, 2011, who return to employment on or after January 15, 2011, and who were previously subject to a 12-month average.
- (2) State employees hired prior to January 15, 2011, who were subject to Section 20281.5 during the first 24 months of state employment, and who were previously subject to a 12-month average.
- (3) State employees hired prior to January 15, 2011, who become subject to representation by State Bargaining Unit 6, 7, or 9 on or after January 15, 2011, and who were previously subject to a 12-month average.
- (4) Employees on an approved leave of absence employed before January 15, 2011, who return to active employment on or after January 15, 2011, and who were previously subject to a 12-month average.
- (d) If this section is in conflict with a memorandum of understanding that is current and in effect on January 15, 2011, the memorandum of understanding shall be controlling while it remains in effect. Upon expiration of the memorandum of understanding that is in effect and current on January 15, 2011, this section shall be controlling and may not be superseded by a subsequent memorandum of understanding.

*(Added by Stats. 2010, 6th Ex. Sess., Ch. 3, Sec. 1. Effective January 7, 2011.)*

**20039.** Notwithstanding any other provision of this part, "final compensation" of a local member for the purpose of determining any pension or benefit resulting from state service as an elective or appointed officer on a city council or a county board of supervisors accrued while in membership pursuant to Section 20322, shall be based on the highest average annual compensation earnable by the member during the period of state service in each elective or appointed office. Where that elective or appointed service is a consideration in the computation of any pension or benefit, the member may have more than one final compensation.

This section shall apply to a local member first elected or appointed to a city council or a county board of supervisors on or after July 1, 1994, or elected or appointed to a term of office not consecutive with the term of office held on June 30, 1994.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20039.5.** Notwithstanding Article 5 (commencing with Section 20350) of Chapter 3, or any other provision of this part, "final compensation" for the purposes of determining any pension or benefit for service with the California National Guard with respect to a National Guard member means the highest average annual compensation that was earned during a consecutive 12-month period while rendering service with the California National Guard. The final compensation of a National Guard member under another retirement or pension system shall not apply to the calculation of his or her retirement allowance with respect to service with the California National Guard.

*(Amended by Stats. 2009, Ch. 130, Sec. 9. Effective January 1, 2010.)*

**20040.** Notwithstanding any other provision of this part, "final compensation," for the purposes of determining any benefits payable under this part for coverage under the Second Tier, shall not be reduced by any fraction or amount for any member included in the federal system.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20042.** On the election of a contracting agency, other than a county superintendent of schools with respect to a contract under Chapter 6 (commencing with Section 20610), "final compensation" for a local member employed by that agency whose retirement is effective or whose death occurs after the date of the election and with respect to benefits based on service to the agency shall be computed under Section 20037 but with the substitution of the period of one year for three consecutive years. An election under this section shall be made by amendment to the contracting agency's contract made in the manner prescribed for approval of contracts, except that an election among the employees is not required, or by express provision of the contract if exercised at the time of approval of a contract.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20044.** "Fiscal year" is any year commencing on July 1st and ending with June 30th next following.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20045.** "Highway patrol service" means service rendered as a member of the California Highway Patrol, only while the member is receiving compensation from the state for that service, except as provided in Article 4 (commencing with Section 20990) of Chapter 11.

*(Amended by Stats. 1996, Ch. 906, Sec. 8. Effective January 1, 1997. Note: Prior to January 1, 1996 (when Stats. 1995, Ch. 379, took effect), this subject matter was in Section 20802. Section 20802 was indirectly modified, on July 12, 1995, by Sec. 31 of Governor's Reorganization Plan No. 1 of 1995.)*

**20046.** "Industrial," in reference to the death or disability of any member of this system who is in a membership category under which special benefits are provided by this part because the death or disability is industrial, means disability or death as a result of injury or disease arising out of and in the course of his or her employment as such a member.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20046.5.** "Industrial" with respect to state miscellaneous members also means death or disability on or after January 1, 1995, resulting from an injury that is a direct consequence of a violent act perpetrated on his or her person by a patient or client of the State Department of State Hospitals at Metropolitan State Hospital or Napa State Hospital if:

- (a) The member was performing his or her duties within a treatment ward at the time of the injury, or
- (b) The member was not within a treatment ward but was acting within the scope of his or her employment at the hospital and is regularly and substantially as part of his or her duties in contact with the patients or clients, and
- (c) The member at the time of injury was employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, or

(d) The member was either excluded from the definition of state employee in subdivision (c) of Section 3513 or was a nonelected officer or employee of the executive branch of government who was not a member of the civil service.

*(Amended by Stats. 2012, Ch. 440, Sec. 24. Effective September 22, 2012.)*

**20047.** "Industrial" with respect to state miscellaneous members also means death or disability after January 1, 1993, resulting from an injury that is a direct consequence of a violent act perpetrated on his or her person by a patient or client of the State Department of State Hospitals at Patton State Hospital or Atascadero State Hospital, an inmate at the State Department of State Hospitals Psychiatric Program at California Medical Facility at Vacaville, or a patient at any other state hospital which is deemed a forensic facility if:

- (a) The member was performing his or her duties within a treatment ward at the time of the injury, or
- (b) The member was not within a treatment ward but was acting within the scope of his or her employment at the hospital and is regularly and substantially as part of his or her duties in contact with the patients or clients, and
- (c) The member at the time of injury was employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, or
- (d) The member was either excluded from the definition of state employee in subdivision (c) of Section 3513 or was a nonelected officer or employee of the executive branch of government who was not a member of the civil service.

*(Amended by Stats. 2012, Ch. 440, Sec. 25. Effective September 22, 2012.)*

**20047.5.** "Industrial," with respect to state miscellaneous members, means death or disability on or after January 1, 2002, or the date agreed to in the memorandum of understanding between the state employer and the recognized employee organization, resulting from an injury that is a direct consequence of a violent act perpetrated on his or her person by a patient or client of the State Department of Developmental Services, at Porterville Developmental Center, Canyon Springs Community Facility, or Sierra Vista Community Facility, if both of the following apply:

- (a) The member either (1) was performing his or her duties within a treatment ward at the time of the injury, or (2) was not within a treatment ward but was acting within the scope of his or her employment at the hospital and is regularly and substantially as part of his or her duties in contact with the patients or clients.
- (b) The member, at the time of injury, was either (1) employed in a state bargaining unit for which a memorandum of understanding has been agreed to by the state employer and the recognized employee organization to become subject to this section, (2) excluded from the definition of "state employee" in subdivision (c) of Section 3513, or (3) a non-elected officer or employee of the executive branch of government who was not a member of the civil service.

*(Amended by Stats. 2006, Ch. 238, Sec. 7. Effective September 13, 2006.)*

**20048.** "Industrial," with respect to state industrial members, means death or disability resulting from an injury that is a direct consequence of a violent act perpetrated on his or her person by an inmate of a state prison, correctional school or facility of the Department of Corrections or the Department of the Youth Authority, or a parolee therefrom, if:

- (a) The member was performing his or her duties within the prison, correctional school or facility of the Department of Corrections or the Department of the Youth Authority.
- (b) The member was not within the prison, correctional school or facility of the Department of Corrections or the Department of the Youth Authority, but was acting within the scope of his or her employment and is regularly and substantially as part of his or her duties in contact with those inmates or parolees.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20049.** "Labor policy or agreement" means any written policy, agreement, memorandum of understanding, legislative action of the elected or appointed body governing the employer, or any other document used by the employer to specify the payrate, special compensation, and benefits of represented and unrepresented employees.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20050.** "Local safety service" means state service rendered as a local firefighter, local police officer, county peace officer, local safety officer, or positions defined as local safety member in Sections 20421 and 20422 except as

provided in Article 1 (commencing with Section 20890) and Article 4 (commencing with Section 20990) of Chapter 11.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20051.** "Month," except as otherwise expressly provided, means a period commencing on any day of a calendar month and extending through the day preceding the corresponding day of the succeeding calendar month, if there is any corresponding day, and if not, through the last day of the succeeding calendar month.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20052.** "Net earnings" means the earnings of the retirement fund less the amounts specified in Sections 20173 and 20174.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20053.** "Normal contributions" means contributions required to be paid by a member at the normal rates of contribution fixed by the law, by contract, or by contract amendment, but does not include additional contributions.

"Normal contributions" also includes contributions required to be paid by a member that are in fact paid on behalf of a member by an employer as defined in Section 20030.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20054.** "Pension" means payments for life derived from contributions made from employer controlled funds.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20055.** (a) "Prior service" as applied to a state member who while employed on a part-time basis became a member because of amendments of the laws governing this system or because of a change in his or her employment status to at least a half-time basis, means all state service rendered by him or her prior to the time he or she became a member.

(b) As applied to other members, "prior service" means all state service rendered by:

(1) A university member prior to August 27, 1937.

(2) A state member other than a university member, prior to January 1, 1932.

(3) A local member or school member prior to the effective date of the contract under which he or she became a member.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20056.** "Public agency" means any city, county, district, other local authority or public body of or within this state.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20057.** "Public agency" also includes the following:

(a) The Commandant, Veterans' Home of California, with respect to employees of the Veterans' Home Exchange and other post fund activities whose compensation is paid from the post fund of the Veterans' Home of California.

(b) Any auxiliary organization operating pursuant to Chapter 7 (commencing with Section 89900) of Part 55 of Division 8 of Title 3 of the Education Code and in conformity with regulations adopted by the Trustees of the California State University and any auxiliary organization operating pursuant to Article 6 (commencing with Section 72670) of Chapter 6 of Part 45 of Division 7 of Title 3 of the Education Code and in conformity with regulations adopted by the Board of Governors of the California Community Colleges.

(c) Any student body or nonprofit organization composed exclusively of students of the California State University or community college or of members of the faculty of the California State University or community college, or both, and established for the purpose of providing essential activities related to, but not normally included as a part of, the regular instructional program of the California State University or community college.

(d) A state organization of governing boards of school districts, the primary purpose of which is the advancing of public education through research and investigation.

(e) Any nonprofit corporation whose membership is confined to public agencies as defined in Section 20056.

(f) A section of the California Interscholastic Federation.

(g) Any credit union incorporated under Division 5 (commencing with Section 14000) of the Financial Code, or incorporated pursuant to federal law, with 95 percent of its membership limited to employees who are members of or retired members of this system or the State Teachers' Retirement Plan, and their immediate families, and employees of any credit union. For the purposes of this subdivision, "immediate family" means those persons related by blood or marriage who reside in the household of a member of the credit union who is a member of or retired member of this system or the State Teachers' Retirement Plan. The credit union shall pay any costs that are in addition to the normal charges required to enter into a contract with the board. All the payments made by the credit union that are in addition to the normal charges required shall be added to the total amount appropriated by the Budget Act for the administrative expense of this system. For purposes of this subdivision, a credit union is not deemed to be a public agency unless it has entered into a contract with the board pursuant to Chapter 5 (commencing with Section 20460) prior to January 1, 1988. After January 1, 1988, the board may not enter into a contract with any credit union as a public agency.

(h) Any county superintendent of schools that was a contracting agency on July 1, 1983, and any school district or community college district that was a contracting agency with respect to local policemen, as defined in Section 20430, on July 1, 1983.

(i) Any school district or community college district that has established a police department, pursuant to Section 39670 or 72330 of the Education Code, and has entered into a contract with the board on or after January 1, 1990, for school safety members, as defined in Section 20444.

(j) A nonprofit corporation formed for the primary purpose of assisting the development and expansion of the educational, research, and scientific activities of a district agricultural association formed pursuant to Part 3 (commencing with Section 3801) of Division 3 of the Food and Agricultural Code, and the nonprofit corporation described in the California State Exposition and Fair Law (former Article 3 (commencing with Section 3551) of Chapter 3 of Part 2 of Division 3 of the Food and Agricultural Code, as added by Chapter 15 of the Statutes of 1967).

(k) (1) A public or private nonprofit corporation that operates a regional center for the developmentally disabled in accordance with Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(2) A public or private nonprofit corporation, exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, that operates a rehabilitation facility for the developmentally disabled and provides services under a contract with either (A) a regional center for the developmentally disabled, pursuant to paragraph (3) of subdivision (a) of Section 4648 of the Welfare and Institutions Code, or (B) the Department of Rehabilitation, pursuant to Chapter 4.5 (commencing with Section 19350) of Part 2 of Division 10 of the Welfare and Institutions Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.

(3) A public or private nonprofit corporation described in this subdivision shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the regional center or the rehabilitation facility described in this subdivision. Notwithstanding any other provision of this part, the agency may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.

(l) Independent data-processing centers formed pursuant to former Article 2 (commencing with Section 10550) of Chapter 6 of Part 7 of the Education Code, as it read on December 31, 1990. An agency included pursuant to this subdivision shall only provide benefits that are identical to those provided to a school member.

(m) Any local agency formation commission.

(n) A nonprofit corporation organized for the purpose of and engaged in conducting a citrus fruit fair as defined in Section 4603 of the Food and Agricultural Code.

(o) (1) A public or private nonprofit corporation that operates an independent living center providing services to severely handicapped people and established pursuant to federal Public Law 93-112, that receives the approval of the board, and that provides at least three of the following services:

(A) Assisting severely handicapped people to obtain personal attendants who provide in-home supportive services.

(B) Locating and distributing information about housing in the community usable by severely handicapped people.

(C) Providing information about financial resources available through federal, state and local government, and private and public agencies to pay all or part of the cost of the in-home supportive services and other services needed by severely handicapped people.

(D) Counseling by people with similar disabilities to aid the adjustment of severely handicapped people to handicaps.



- (E) Operation of vans or buses equipped with wheelchair lifts to provide accessible transportation to otherwise unreachable locations in the community where services are available to severely handicapped people.
- (2) A public or private nonprofit corporation described in this subdivision shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the independent living center.
- (3) Notwithstanding any other provisions of this part, the public or private nonprofit corporation may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.
- (p) A hospital that is managed by a city legislative body in accordance with Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4.
- (q) The Tahoe Transportation District that is established by Article IX of Section 66801.
- (r) The California Firefighter Joint Apprenticeship Program formed pursuant to Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.
- (s) A public health department or district that is managed by the governing body of a county of the 15th class, as defined by Sections 28020 and 28036, as amended by Chapter 1204 of the Statutes of 1971.
- (t) A nonprofit corporation or association conducting an agricultural fair pursuant to Section 25905 may enter into a contract with the board for the participation of its employees as members of this system, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The nonprofit corporation or association shall be deemed a "public agency" only for this purpose.
- (u) An auxiliary organization established pursuant to Article 2.5 (commencing with Section 69522) of Chapter 2 of Part 42 of Division 5 of Title 3 of the Education Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The auxiliary organization is a "public agency" only for this purpose.
- (v) The Western Association of Schools and Colleges upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1. The association shall be deemed a "public agency" only for this purpose.
- (w) The State Assistance Fund for Enterprise, Business, and Industrial Development Corporation upon obtaining a written opinion from the United States Department of Labor as described in Section 20057.1.
- (x) (1) A private nonprofit area agency on aging as described in Section 9006 of the Welfare and Institutions Code upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1.
- (2) The area agency on aging shall be deemed a "public agency" only for purposes of this part and only with respect to the employees of the agency.
- (3) Notwithstanding any other provision of this part, the area agency on aging may elect by appropriate provision or amendment of its contract not to provide credit for service prior to the effective date of its contract.
- (y) (1) A nonprofit mutual water company operating pursuant to Chapter 1 (commencing with Section 14300) of Part 7 of Division 3 of Title 1 of the Corporations Code, upon obtaining a written advisory opinion from the United States Department of Labor as described in Section 20057.1, if both of the following requirements are satisfied:
- (A) More than 50 percent of the company's shares are owned by a municipality.
- (B) The governing body of the company is a local public agency, as defined in Section 6252, and a legislative body, as defined in Section 54952.
- (2) A nonprofit mutual water company that meets the requirements specified in paragraph (1) shall be deemed a "public agency" only for the purposes of this part and only with respect to the employees of the agency.
- (3) A nonprofit mutual water company that meets the requirements specified in paragraph (1) shall be deemed a "public agency" for purposes of this part only if it complies with the provisions of Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 and Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5.

*(Amended by Stats. 2008, Ch. 191, Sec. 1. Effective January 1, 2009.)*

**20057.1.** To qualify as a "public agency" within the meaning of this part, any organization that qualifies under amendments to the definitions of "public agency" effective on or after January 1, 2002, shall also obtain a written advisory opinion from the United States Department of Labor stating that the organization is an agency or instrumentality of the state or a political subdivision thereof within the meaning of Sections 1001 et seq. of Title 29 of the United States Code.

*(Amended by Stats. 2001, Ch. 793, Sec. 2. Effective January 1, 2002.)*

**20058.** (a) "Retirement system" or "this system" means the Public Employees' Retirement System.

(b) As used in this code and in every other statute heretofore or hereafter enacted, or in every contract heretofore or hereafter entered into under any provisions of law, the term "State Employees' Retirement Law" shall be construed to refer to and mean the "Public Employees' Retirement Law"; the term "State Employees' Retirement System" shall be construed to refer to and mean the "Public Employees' Retirement System"; and the term "State Employees' Retirement Fund" shall be construed to refer to and mean the "Public Employees' Retirement Fund."

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20059.** "Regular interest" means interest at the annual interest rate for purposes of crediting of interest, compounded annually.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20060.** "Retirement" means the granting of a retirement allowance under this part.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20061.** "Retirement allowance" means the service retirement allowance or the disability retirement allowance.

*(Repealed and added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20062.** "Retirement fund" means the Public Employees' Retirement Fund continued in existence by this part.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20062.5.** "Risk pool" means the combination of assets and liabilities with respect to one or more contracting agencies for the purpose of pooling actuarial experience and setting the employer contribution rates pursuant to Section 20840.

*(Added by Stats. 2002, Ch. 1133, Sec. 2. Effective January 1, 2003.)*

**20063.** (a) "School employer" means a county superintendent of schools, other than the Los Angeles County Superintendent of Schools and the San Diego County Superintendent of Schools, that has entered into a contract with the board pursuant to Chapter 6 (commencing with Section 20610) and any school district or community college district that was a contracting agency on July 1, 1983, excluding that portion of a contract with the Los Angeles City Unified School District and the Los Angeles Community College District that pertains to local police officers, as defined in Section 20430, on July 1, 1983, and excluding a school district or a community college district, as defined in subdivision (i) of Section 20057, that entered into a contract with the board on or after January 1, 1990, and whose employees are school safety members, as defined in Section 20444.

(b) Notwithstanding subdivision (a), "school employer" may not include any county office of education, school district, or community college district that participates in a risk pool.

*(Amended by Stats. 2002, Ch. 1133, Sec. 3. Effective January 1, 2003.)*

**20064.** "School safety service" includes service rendered as a school safety member in employment with a school district or community college district, as defined in subdivision (i) of Section 20057.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20065.** An employee is "serving on a part-time basis" when he or she engages in his or her duties for less time than is required of employees serving on a full-time basis, even though he or she is subject to call at any time.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20065.5.** All references to "spouse," "surviving spouse," or "marriage" in this part apply equally to a domestic partner or domestic partnership, as defined in Section 297 of the Family Code, and all rights and responsibilities granted to a spouse or surviving spouse shall be granted equally to a domestic partner to the extent provided by Section 297.5 of the Family Code.

*(Added by Stats. 2012, Ch. 833, Sec. 2. Effective January 1, 2013.)*

**20066.** "State peace officer/firefighter service" means service rendered as a state peace officer/firefighter member only while receiving compensation for that service, except as provided in Article 4 (commencing with Section

20990) of Chapter 11. It also includes service rendered in an employment in which persons have since become state peace officer/firefighter members.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20067.** "State peace officer/firefighter service," with respect to a member who becomes a state peace officer/firefighter member pursuant to Section 20394, also includes service prior to July 1, 1986, as an employee of the California State University.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**20068.** (a) "State safety service" means service rendered as a state safety member only while receiving compensation for that service, except as provided in Article 4 (commencing with Section 20990) of Chapter 11. It also includes service rendered in an employment in which persons have since become state safety members and service rendered prior to April 1, 1973, and falling within the definition of warden, forestry, and law enforcement service under this chapter prior to April 1, 1973. "State safety service" pursuant to this subdivision does not include service as an investigator prior to April 1, 1973, within the Department of Justice of persons who prior to April 1, 1973, were classed as miscellaneous members.

(b) "State safety service" with respect to a member who becomes a state safety member pursuant to Section 20405 shall also include service prior to the date on which he or she becomes a state safety member as an officer or employee of the Department of Corrections and Rehabilitation.

(c) "State safety service" with respect to a member who becomes a state safety member pursuant to Sections 20409 and 20410 shall also include service in a class specified in these sections or service pursuant to subdivision (a), prior to September 27, 1982.

(d) "State safety service," with respect to a member who becomes a state safety member pursuant to Sections 20414 and 20415, shall also include service prior to September 22, 1982, as an officer or employee of the Department of Parks and Recreation or the Military Department.

(e) "State safety service" does not include service in classes specified in Section 20407 prior to January 1, 1989.

(f) "State safety service" does not include service in classes specified in Section 20408 prior to January 1, 1990.

(g) "State safety service," with respect to a member who becomes a state safety member pursuant to subdivision (b) of Section 20405.1, shall also include service rendered in an employment in which persons have since become state safety members, as determined by the Department of Human Resources pursuant to that section.

*(Amended by Stats. 2012, Ch. 665, Sec. 110. Effective January 1, 2013.)*

**20069.** (a) "State service" means service rendered as an employee or officer (employed, appointed, or elected) of the state, the California Institute for Regenerative Medicine and the officers and employees of its governing body, the university, a school employer, or a contracting agency, for compensation, and only while he or she is receiving compensation from that employer therefor, except as provided in Article 4 (commencing with Section 20990) of Chapter 11.

(b) "State service," solely for purposes of qualification for benefits and retirement allowances under this system, shall also include service rendered as an officer or employee of a county if the salary for the service constitutes compensation earnable by a member of this system under Section 20638.

(c) "State service," except for purposes of qualification for health or dental benefits, shall also include compensated service rendered by an officer, warrant officer, or a person of the enlisted ranks of the California National Guard who has elected to become a member pursuant to Section 20326 and who has not canceled his or her membership pursuant to Section 20327.

*(Amended by Stats. 2009, Ch. 130, Sec. 12. Effective January 1, 2010. Note: This section was amended on Nov. 2, 2004, by initiative Prop. 71.)*

**20069.1.** "Trial court" shall have the same meaning as the term is defined in the Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600) of Title 8).

*(Added by Stats. 2000, Ch. 1010, Sec. 4. Effective January 1, 2001.)*

**20070.** "1959 survivor allowance" means the allowance provided for in Sections 21571, 21572, 21573, 21574, 21574.5, and 21574.7.

*(Amended by Stats. 2001, Ch. 793, Sec. 3. Effective January 1, 2002.)*

**20071.** "University" means the University of California and includes The Regents of the University of California as defined and authorized by Section 9 of Article IX of the California Constitution.

*(Added by Stats. 1995, Ch. 379, Sec. 2. Effective January 1, 1996.)*

**ARTICLE 3. Penalties [20085- 20085.]** ( Article 3 added by Stats. 2008, Ch. 369, Sec. 4. )

**20085.** (a) It is unlawful for a person to do any of the following:

(1) Make, or cause to be made, any knowingly false material statement or material representation, to knowingly fail to disclose a material fact, or to otherwise provide false information with the intent to use it, or allow it to be used, to obtain, receive, continue, increase, deny, or reduce any benefit administered by this system.

(2) Present, or cause to be presented, any knowingly false material statement or material representation for the purpose of supporting or opposing an application for any benefit administered by this system.

(3) Knowingly accept or obtain payment from this system with knowledge that the recipient is not entitled to the payment under the provisions of this part and with the intent to retain the payment for personal use or benefit.

(4) Knowingly aid, abet, solicit, or conspire with any person to do an act prohibited by this section.

(b) For purposes of this section, "statement" includes, but is not limited to, any oral or written application for benefits, report of family relationship, report of injury or physical or mental limitation, hospital records, test results, physician reports, or other medical records, employment records, duty statements, reports of compensation, or any other evidence material to the determination of a person's initial or continued eligibility for a benefit or the amount of a benefit administered by this system.

(c) A person who violates any provision of this section is punishable by imprisonment in a county jail not to exceed one year, or by a fine of not more than five thousand dollars (\$5,000), or by both that imprisonment and fine.

(d) A person violating any provision of this section may be required by the court in a criminal action to make restitution to this system, or to any other person determined by the court, for the amount of the benefit unlawfully obtained, unless the court finds that restitution, or a portion of it, is not in the interests of justice. Any restitution order imposed pursuant to this section shall be satisfied before any criminal fine imposed under this section may be collected.

(e) The provisions provided by this section are cumulative and shall not be construed as restricting the application of any other law.

*(Added by Stats. 2008, Ch. 369, Sec. 4. Effective January 1, 2009.)*



# California

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## **AUTHORIZATION**

The undersigned, **Digital Lakeside LLC**, is the owner of the property commonly known as 2013-2143 S Calumet Ave., located in Planned Development No. 675 – Subarea 1 (collectively, the “Property”).

**Digital Lakeside LLC** hereby authorizes the City of Chicago and/or the Metropolitan Pier and Exposition Authority and/or CenterPoint Properties Trust to file an Application for an Amendment to the Chicago Zoning Ordinance to remove Subarea 2 and/or Subarea 3, or any part of them, from Planned Development No. 675, and/or to amend Planned Development No. 675 with respect to Subarea 2 and/or Subarea 3, provided such removal or amendment does not diminish any rights or increase any obligation associated with or otherwise affect Subarea 1 unless the undersigned consents.

**Digital Lakeside LLC** hereby authorizes the City of Chicago and/or the Metropolitan Pier and Exposition Authority and/or CenterPoint Properties Trust to file an Application for approval under the Chicago Lakefront Protection Ordinance for the Property subject to the proviso in the prior paragraph.

**Digital Lakeside LLC's** authorization herein is subject to the limitation that a further authorization from **Digital Lakeside LLC** shall be required before any of the subject applications are presented to the Plan Commission for hearing or consideration.

**Digital Lakeside LLC** states that it holds the Property for itself and for no other party.

Dated January 29, 2014..

**DIGITAL LAKESIDE LLC,**  
a Delaware limited liability company

By: Digital Lakeside Holdings, LLC,  
its member

By: Digital Realty Trust, L.P.,  
its member

By: Digital Realty Trust, Inc.,  
its general partner

By: 

Name: Christopher J. Kenney  
Title: Senior Vice President



**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549**

**FORM 10-K**

- ☒ **Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**  
For the fiscal year ended December 31, 2012
- ☐ **Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**  
For the Transition Period From \_\_\_\_\_ to \_\_\_\_\_

Commission file number 001-32336 (Digital Realty Trust, Inc.)  
000-54023 (Digital Realty Trust, L.P.)

**DIGITAL REALTY TRUST, INC.  
DIGITAL REALTY TRUST, L.P.**

(Exact name of registrant as specified in its charter)

Maryland (Digital Realty Trust, Inc.)  
Maryland (Digital Realty Trust, L.P.)  
(State or other jurisdiction of incorporation or organization)  
Four Embarcadero Center, Suite 3200  
San Francisco, CA  
(Address of principal executive offices)

26-0081711  
20-2402955  
(IRS employer identification number)

94111  
(Zip Code)

(415) 738-6500

(Registrant's telephone number, including area code)

**Securities registered pursuant to Section 12(b) of the Act:**

	Title of each class	Name of each exchange on which registered
Digital Realty Trust, Inc.	Common stock, \$0.01 par value per share	New York Stock Exchange
	Series E cumulative redeemable preferred stock, \$0.01 par value per share	New York Stock Exchange
	Series F cumulative redeemable preferred stock, \$0.01 par value per share	New York Stock Exchange
Digital Realty Trust, L.P.	None	None

**Securities registered pursuant to Section 12(g) of the Act:**

Digital Realty Trust, Inc. None  
Digital Realty Trust, L.P. Common Units of Partnership Interest

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act

Digital Realty Trust, Inc. Yes ☒ No ☐  
Digital Realty Trust, L.P. Yes ☐ No ☒

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act

Digital Realty Trust, Inc. Yes ☐ No ☒  
Digital Realty Trust, L.P. Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days

Digital Realty Trust, Inc. Yes ☒ No ☐  
Digital Realty Trust, L.P. Yes ☐ No ☒

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files)

Digital Realty Trust, Inc. Yes ☒ No ☐  
Digital Realty Trust, L.P. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§ 229.405 of this chapter) is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act

Digital Realty Trust, Inc.  
Large accelerated filer ☒  
Non-accelerated filer ☐ (Do not check if a smaller reporting company)  
Accelerated filer ☐  
Smaller reporting company ☐  
Digital Realty Trust, L.P.  
Large accelerated filer ☐  
Non-accelerated filer ☒ (Do not check if a smaller reporting company)  
Accelerated filer ☐  
Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act)

Digital Realty Trust, Inc. Yes ☐ No ☒  
Digital Realty Trust, L.P. Yes ☐ No ☒

The aggregate market value of the common equity held by non-affiliates of Digital Realty Trust, Inc. as of June 30, 2012 totaled approximately \$8.3 billion based on the closing price for Digital Realty Trust, Inc.'s common stock on that day as reported by the New York Stock Exchange. Such value excludes common stock held by executive officers, directors and 10% or greater stockholders as of June 30, 2012. The identification of 10% or greater stockholders as of June 30, 2012 is based on Schedule 13G and amended Schedule 13G reports publicly filed before June 30, 2012. This calculation does not reflect a determination that such parties are affiliates for any other purposes.

There is no public trading market for the common units of Digital Realty Trust, L.P. As a result, the aggregate market value of the common units held by non-affiliates of Digital Realty Trust, L.P. cannot be determined.

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of the latest practicable date

Digital Realty Trust, Inc.

**Class**

Common Stock, \$0.01 par value per share

**Outstanding at February 19, 2013**  
125,226,031

**DOCUMENTS INCORPORATED BY REFERENCE**

Part III incorporates by reference portions of Digital Realty Trust, Inc.'s Proxy Statement for its 2013 Annual Meeting of Stockholders which the registrants anticipate will be filed no later than 120 days after the end of its fiscal year pursuant to Regulation 14A.

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### EXPLANATORY NOTE

This report combines the annual reports on Form 10-K for the year ended December 31, 2012 of Digital Realty Trust, Inc., a Maryland corporation, and Digital Realty Trust, L.P., a Maryland limited partnership, of which Digital Realty Trust, Inc. is the sole general partner. Unless otherwise indicated or unless the context requires otherwise, all references in this report to "we," "us," "our," "our company" or "the company" refer to Digital Realty Trust, Inc. together with its consolidated subsidiaries, including Digital Realty Trust, L.P. Unless otherwise indicated or unless the context requires otherwise, all references to "our operating partnership" or "the operating partnership" refer to Digital Realty Trust, L.P. together with its consolidated subsidiaries.

Digital Realty Trust, Inc. is a real estate investment trust, or REIT, and the sole general partner of Digital Realty Trust, L.P. As of December 31, 2012, Digital Realty Trust, Inc. owned an approximate 97.8% common general partnership interest in Digital Realty Trust, L.P. The remaining approximate 2.2% common limited partnership interests are owned by non-affiliated investors and certain directors and officers of Digital Realty Trust, Inc. As of December 31, 2012, Digital Realty Trust, Inc. owned all of the preferred limited partnership interests of Digital Realty Trust, L.P. As the sole general partner of Digital Realty Trust, L.P., Digital Realty Trust, Inc. has the full, exclusive and complete responsibility for the operating partnership's day-to-day management and control.

We believe combining the annual reports on Form 10-K of Digital Realty Trust, Inc. and Digital Realty Trust, L.P. into this single report results in the following benefits:

- enhancing investors' understanding of our company and our operating partnership by enabling investors to view the business as a whole in the same manner as management views and operates the business;
- eliminating duplicative disclosure and providing a more streamlined and readable presentation since a substantial portion of the disclosure applies to both our company and our operating partnership; and
- creating time and cost efficiencies through the preparation of one combined report instead of two separate reports.

There are a few differences between our company and our operating partnership, which are reflected in the disclosure in this report. We believe it is important to understand the differences between our company and our operating partnership in the context of how we operate as an interrelated consolidated company. Digital Realty Trust, Inc. is a REIT, whose only material asset is its ownership of partnership interests of Digital Realty Trust, L.P. As a result, Digital Realty Trust, Inc. does not conduct business itself, other than acting as the sole general partner of Digital Realty Trust, L.P., issuing public equity from time to time and guaranteeing certain unsecured debt of Digital Realty Trust, L.P. and certain of its subsidiaries. Digital Realty Trust, Inc. itself does not issue any indebtedness but guarantees the unsecured debt of Digital Realty Trust, L.P. and certain of its subsidiaries, as disclosed in this report. Digital Realty Trust, L.P. holds substantially all the assets of the company and holds the ownership interests in the company's joint ventures. Digital Realty Trust, L.P. conducts the operations of the business and is structured as a partnership with no publicly traded equity. Except for net proceeds from public equity issuances by Digital Realty Trust, Inc., which are generally contributed to Digital Realty Trust, L.P. in exchange for partnership units, Digital Realty Trust, L.P. generates the capital required by the company's business through Digital Realty Trust, L.P.'s operations, by Digital Realty Trust, L.P.'s direct or indirect incurrence of indebtedness or through the issuance of partnership units.

The presentation of noncontrolling interests in operating partnership, stockholders' equity and partners' capital are the main areas of difference between the consolidated financial statements of Digital Realty Trust, Inc. and those of Digital Realty Trust, L.P. The common limited partnership interests held by the limited partners in Digital Realty Trust, L.P. are presented as limited partners' capital within partners' capital in Digital Realty Trust, L.P.'s consolidated financial statements and as noncontrolling interests in operating partnership within equity in Digital Realty Trust, Inc.'s consolidated financial statements. The common and preferred partnership interests held by Digital Realty Trust, Inc. in Digital Realty Trust, L.P. are presented as general partner's capital within partners' capital in Digital Realty Trust, L.P.'s consolidated financial statements and as preferred stock,

***Residential-Business Planned Development No. 675***

**PLANNED DEVELOPMENT STATEMENTS**

1. The area delineated herein as Residential-Business Planned Development Number 675 ("Planned Development") consists of approximately 310,682.3 net square feet (7.1 acres) of property which is depicted on the attached Planned Development Boundary and Property Line Map ("Property") and is owned or controlled by the Applicant, CenterPoint Properties Trust (Subarea 2), and Digital Realty Trust, Inc. (Subarea 1).
2. The requirements, obligations and conditions contained within this Planned Development shall be binding upon the Applicant, its successors and assigns and, if different than the Applicant, the legal title holders and any ground lessors. All rights granted hereunder to the Applicant shall inure to the benefit of the applicant's successors and assigns and, if different than the applicant, the legal title holder and any ground lessors. Furthermore, pursuant to the requirements of Section 17-8-0400 of the Chicago Zoning Ordinance, the Property, at the time of application for amendments, modifications or changes (administrative, legislative or otherwise) to this Planned Development are made, shall be under single ownership or designated control. Single designated control is defined section 17-8-0400 of the Zoning Ordinance.
3. All applicable official reviews, approvals or permits are required to be obtained by the applicant or its successors, assignees or grantees. Any dedication or vacation of streets or alleys or grants of easements or any adjustment of the right-of-way shall require a separate submittal to the Department of Transportation on behalf of the Applicant or its successors, assign or grantees.

Any requests for grants of privilege, or any items encroaching on the public way, shall be in compliance with the Plans, and subject to review and approval by the Department of Business Affairs and Consumer Protection.

Ingress or egress shall be pursuant to the Plans and may be subject to the review and approval of the Departments of Housing and Economic Development and Transportation. Closure of all or any public street or alley during demolition or construction shall be subject to the review and approval of the Department of Transportation.

All work proposed in the public way must be designed and constructed in accordance with the Department of Transportation Construction Standards for Work in the Public Way and in compliance with the Municipal Code of the City of Chicago. Prior to the issuance of any Part II approval, the submitted plans must be approved by the Department of Transportation.

4. This Plan of Development consists of these 15 Statements and:

APPLICANT: CenterPoint Properties Trust  
ADDRESS: 321-337 E. 21st St.; 2100-2130 S. Calumet Ave.; 2013-2143 S. Calumet Ave.  
INTRODUCTION DATE: February 5, 2014  
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- Bulk Regulations Table
- Existing Zoning Map
- Surrounding Land-Use Map
- Planned Development Boundary and Property Line Map
- Subarea Map
- Site Plan for Subarea 1
- Landscape Plan for Subarea 1
- Building Elevations for Subarea 1
- Site Plan for Subarea 2
- Landscape Plan for Subarea 2
- Green Roof Plan for Subarea 2
- Building Elevations for Subarea 2
- Chicago Builds Green form for Subarea 2

prepared by Archideas and dated January \_\_, 2014.

In any instance where a provision of this Planned Development conflicts with the Chicago Building Code, the Building Code shall control. This Planned Development conforms to the intent and purpose of the Zoning Ordinance, and all requirements thereto, and satisfies the established criteria for approval as a Planned Development. In case of a conflict between the terms of this Planned Development Ordinance and the Zoning Ordinance, this Planned Development Ordinance shall control.

5. The following uses are permitted in the area delineated herein as a Residential-Business Planned Development:

All Commercial Uses permitted or allowed in a DX-16 Downtown Mixed-Use District, including but not limited to office (but excluding adult uses, service stations, motor vehicle sales, and warehousing).

High Technology Office

Electronic Data Storage Center

Data centers / “carrier hotels” for internet service providers

Co-Located Wireless Communication Facilities

Parking, Accessory

Accessory uses, as defined in Chicago Zoning Ordinance § 17-17-0206

All off-street parking spaces within the Planned Development shall be designated as accessory parking.

APPLICANT:	CenterPoint Properties Trust
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6. On-Premise signs and temporary signs, such as construction and marketing signs, shall be permitted within the Planned Development, subject to the review and approval of the Department of Housing and Economic Development. Off-Premise signs are prohibited within the boundary of the Planned Development.
7. For purposes of height measurement, the definitions in the Zoning Ordinance shall apply. The height of any building shall also be subject to height limitations established by the Federal Aviation Administration.
8. The maximum permitted Floor Area Ratio ("FAR") for the site shall be in accordance with the attached Bulk Regulations Table. For the purposes of FAR calculations and measurements, the definitions in the Zoning Ordinance shall apply; however, in addition to the other exclusions from Floor Area for purposes of determining FAR permitted by the Zoning Ordinance, all floor area devoted to mechanical equipment in excess of five thousand (5,000) square feet in a contiguous location, regardless of placement in the building, shall be excluded. The permitted FAR identified in the Bulk Regulations Table has been determined using a net site area of 310,682.3 square feet.
9. Upon review and determination, "Part II Review", pursuant to Section 17-13-0610 of the Zoning Ordinance, a Part II Review Fee shall be assessed by the Department of Housing and Economic Development. The fee, as determined by staff at the time, is final and binding on the Applicant and must be paid to the Department of Revenue prior to the issuance of any Part II approval.
10. The Site and Landscape plans shall be in substantial conformance with the Landscape Ordinance and any other corresponding regulations and guidelines. Final landscape plan review and approval will be by the Department of Housing and Economic Development. Any interim reviews associated with site plan review or Part II reviews, are conditional until final Part II approval.
11. The Applicant shall comply with Rules and Regulations for the Maintenance of Stockpiles promulgated by the Commissioners of the Department of Streets and Sanitation, and the Department of Fleet and Facility Management, under Section 13-32-125 of the Municipal Code, or any other provision of that Code.
12. The terms and conditions of development under this the Planned Development ordinance may be modified administratively, pursuant to section 17-13-0611-A of the Zoning Ordinance by the Zoning Administrator upon the application for such a modification by the Applicant, its successors and assigns and, if different than the Applicant, the legal title holders and any ground lessors.

An administrative modification / minor change approval may shift available 'excess' buildable floor area / FAR between and among subareas.

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13. The Applicant acknowledges that it is in the public interest to design, construct and maintain the project in a manner which promotes, enables and maximizes universal access throughout the Property. Plans for all buildings and improvements on the Property shall be reviewed and approved by the Mayor's Office for People with Disabilities to ensure compliance with all applicable laws and regulations related to access for persons with disabilities and to promote the highest standard of accessibility.
14. The applicant acknowledges that it is in the public interest to design, construct, renovate and maintain all buildings in a manner that provides healthier indoor environments, reduces operating costs and conserves energy and natural resources. At the time of a hearing before the Chicago Plan Commission, all developments must be in substantial compliance with the current City of Chicago Sustainable Development Policy set forth by the Housing and Economic Development. Aspects of the proposed Planned Development that bring it into compliance with the Sustainable Development Policy include the following: The project shall obtain LEED Certification and will include a minimum of 50% green roof (18,911 s.f. total green area).
15. This Planned Development shall be governed by Section 17-13-0612 of the Zoning Ordinance. Should this Planned Development ordinance lapse, the Commissioner of the Department of Housing and Economic Development shall initiate a Zoning Map Amendment to rezone the property to the pre-existing Residential-Business Planned Development Number 675.

APPLICANT: CenterPoint Properties Trust  
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# Residential-Business Planned Development No 675

## Bulk Regulations and Data Table

**Gross Site Area:** 351,305.7 sq. ft. ( 8.1 acres )

**Area in Adjoining Right-of-Way:** 40,623.3 sq. ft. ( 0.9 acres )

**Net Site Area (By Subarea):**

Subarea 1: 249,503.0 sq. ft. ( 5.7 acres )

Subarea 2: 61,179.3 sq. ft. ( 1.4 acres )

**Total Net Site Area:** 310,682.3 sq. ft. ( 7.1 acres )

**Maximum Floor Area Ratio (FAR) (Entire PD):** 6.3

**Maximum Floor Area Ratio (FAR) (By Subarea):**

Subarea 1: 5.0

Subarea 2: 11.2

**Minimum Number of Off-Street Parking Spaces:**

Residential dwelling units: 1 space / unit

Retail: 2.35 spaces / 1,000 sf of floor area

Office/Commerical: 1.50 spaces / 1,000 sf of floor area

Data Center: 0.10 spaces / 1,000 sf of floor area

Restaurant: 1.00 spaces / 1,000 sf of floor area

Hotel: 0.35 spaces / guest room

**Minimum Number of Loading Berths (By Subarea):**

Subarea 1: 4

Subarea 2: 2

**Maximum Percentage of Land Covered:**

Subarea 1: 95 %

Subarea 2: 98 %

**Minimum Setbacks from Property Lines (By Subarea):**

Subarea 1: 0 feet

Subarea 2: 0 feet

**Maximum Building Height:**

Subarea 1: In accordance with Building Elevations

Subarea 2: 281 feet

**Minimum Bicycle Spaces:**

Subarea 2: 7 bicycle spaces

APPLICANT: CenterPoint Properties Trust

ADDRESS: 321-337 E. 21st St.; 2100-2130 S. Calumet Ave.; 2013-2143 S. Calumet Ave.

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**Green Roof:**

Subarea 2:

50 % of net roof area

APPLICANT: CenterPoint Properties Trust

ADDRESS: 321-337 E. 21st St.; 2100-2130 S. Calumet Ave.; 2013-2143 S. Calumet Ave.

INTRODUCTION DATE: February 5, 2014

REVISED / CPC DATE: ---



LAW OFFICES  
**DALEY AND GEORGES, LTD.**

MICHAEL DALEY  
MARA S. GEORGES  
RICHARD A. TOTH  
ADAM J. PENKHUS

20 SOUTH CLARK STREET  
SUITE 400  
CHICAGO, ILLINOIS 60603-1835

TELEPHONE  
(312) 726-8797  
  
FACSIMILE  
(312) 726-8819

February 5, 2014

Chairman, Committee on Zoning  
City Hall – Room 304  
121 N. LaSalle St.  
Chicago, IL 60602

Chairman, Chicago Plan Commission  
City Hall – Room 905  
121 N. LaSalle St.  
Chicago, IL 60602

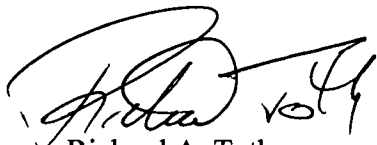
**Re: Application for Zoning Map Amendment for Residential-Business Planned Dev't No. 675**  
321-337 E. 21st St.; 2100-2130 S. Calumet Ave.; 2013-2143 S. Calumet Ave.

The undersigned, Richard A. Toth, being first duly sworn on oath, deposes and states the following:

The undersigned certifies that he has complied with the requirements of § 17-13-0107 of the Chicago Zoning Ordinance and § 16-4-100 of the Lake Michigan and Chicago Lakefront Protection Ordinance by sending the attached letter to such property owners who appear to be the owners of the property within the subject area not solely owned by the applicant, and to the owners of all property within 250 feet in each direction of the lot lines of the subject property, exclusive of public roads, streets, alleys and other public ways. The attached letter will be sent by USPS first class mail on January 31, 2014.

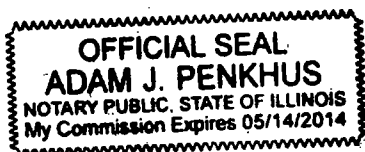
The undersigned certifies that the notice contained: the addresses and boundaries of the property that is the subject of the application; a statement of the intended use of the property; the name and address of the applicant; the name and address of the owner; and a statement that the applicant intends to file an application for a change in zoning and for approval under the Lake Michigan and Chicago Lakefront Protection Ordinance on approximately February 5, 2014.

The undersigned certifies that he has made a *bona fide* effort to determine the names and last known addresses of the persons to be notified under § 17-13-0107 of the Chicago Zoning Ordinance by obtaining ownership information from the most recent authentic tax records of Cook County, and that the accompanying list of names and addresses of surrounding property owners within 250 feet of the subject site is a complete list containing the names and addresses of the people required to be served.



Richard A. Toth

Subscribed and sworn to  
before me this January 29, 2014.



Notary Public

LAW OFFICES

**DALEY AND GEORGES, LTD.**

MICHAEL DALEY  
MARA S. GEORGES  
RICHARD A. TOTH  
ADAM J. PENKHUS

20 SOUTH CLARK STREET  
SUITE 400  
CHICAGO, ILLINOIS 60603-1835

TELEPHONE  
(312) 726-8797  
  
FACSIMILE  
(312) 726-8819

February 5, 2014

Re: 321-337 E. 21st St.; 2100-2130 S. Calumet Ave.; 2013-2143 S. Calumet Ave.

Dear Property Owner ~~or Resident~~:

In accordance with the requirements of the Chicago Zoning Ordinance for a Zoning Map Amendment, specifically Section 17-13-0107, and the requirements of the Lake Michigan and Chicago Lakefront Protection Ordinance, specifically Section 16-4-100, please be informed that on or about February 5, 2014, I, the undersigned attorney, will file an application on behalf of the Applicant, CenterPoint Properties Trust, for a change in zoning from Residential-Business Planned Development No. 675 to Residential-Business Planned Development No. 675, as amended, and for approval under the Lakefront Protection Ordinance, for the property generally located at 321-337 E. 21st St.; 2100-2130 S. Calumet Ave.; 2013-2143 S. Calumet Ave., and generally bounded by:

a line approximately 100 feet south of and parallel to the south right-of-way line of East Cullerton Street (or the line thereof extended where no street exists); the west right-of-way line of the Illinois Central Railroad; East Cermak Road; South Calumet Avenue; a line 100.01 feet north of and parallel to the north right-of-way line of East Cermak Road; a line 187.73 feet west of and parallel to the west right-of-way line of South Calumet Avenue; East 21st Street; South Calumet Avenue

The Applicant seeks the Planned Development to allow the construction of an 11-story, 281' high building that will house a data center.

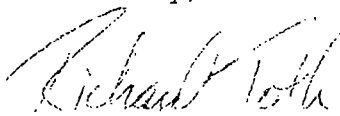
The Applicant is CenterPoint Properties Trust, whose address is 1808 Swift Road, Oak Brook, IL 60523.

The owner of the property is CenterPoint Properties Trust, whose address is 1808 Swift Road, Oak Brook, IL 60523. An owner of another portion of the property in the Planned Development is Digital Lakeside LLC, whose address is Four Embarcadero Center, Suite 3200, San Francisco, CA 94111.

I am the attorney for the Applicant and can provide additional information on the application. My address is 20 S. Clark St., Suite 400, Chicago, Illinois 60603.

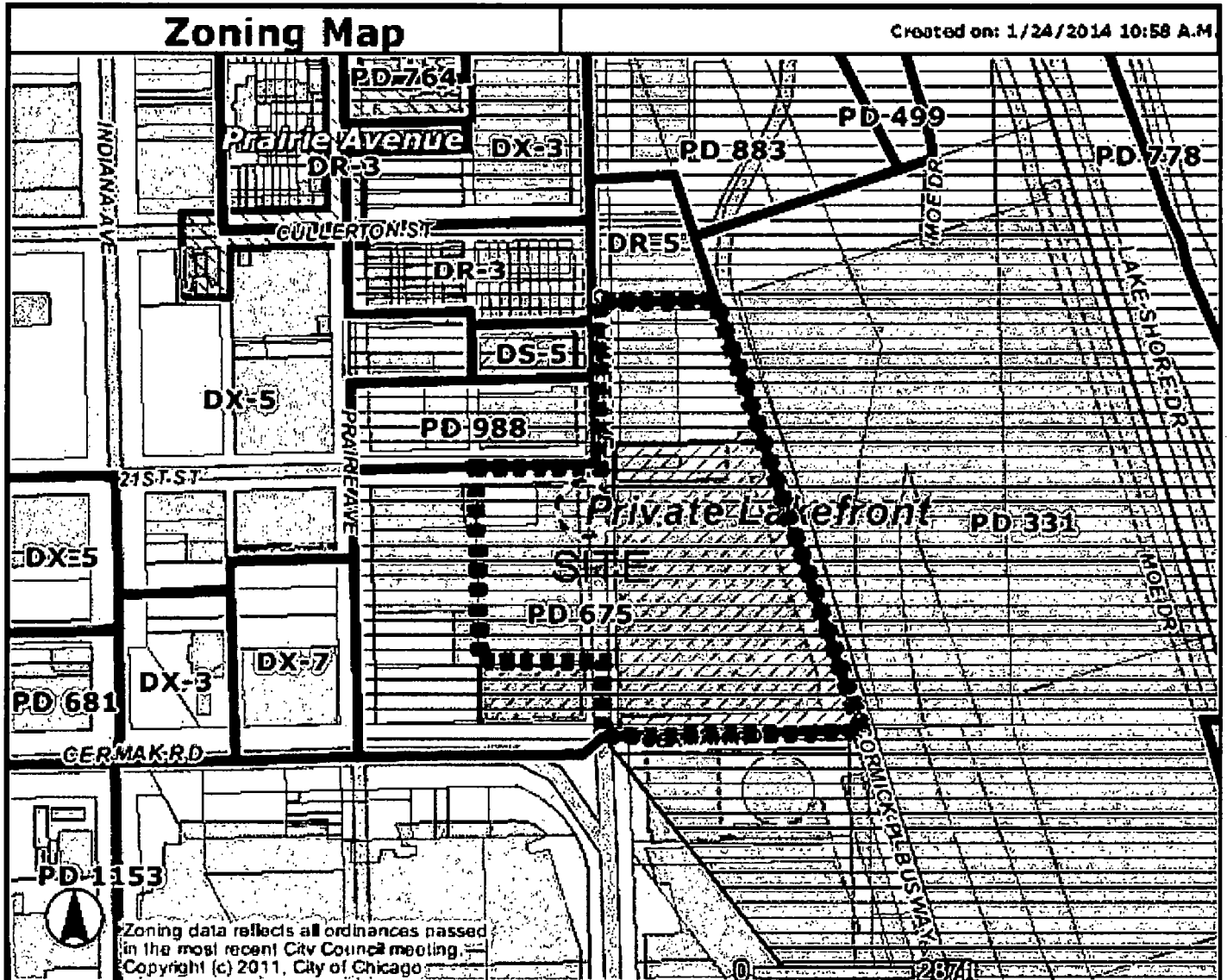
Please note that the Applicant is not seeking to purchase or rezone your property. The Applicant is required by law to send you this notice because you appear to own property located within 250 feet of the subject property.

Sincerely,



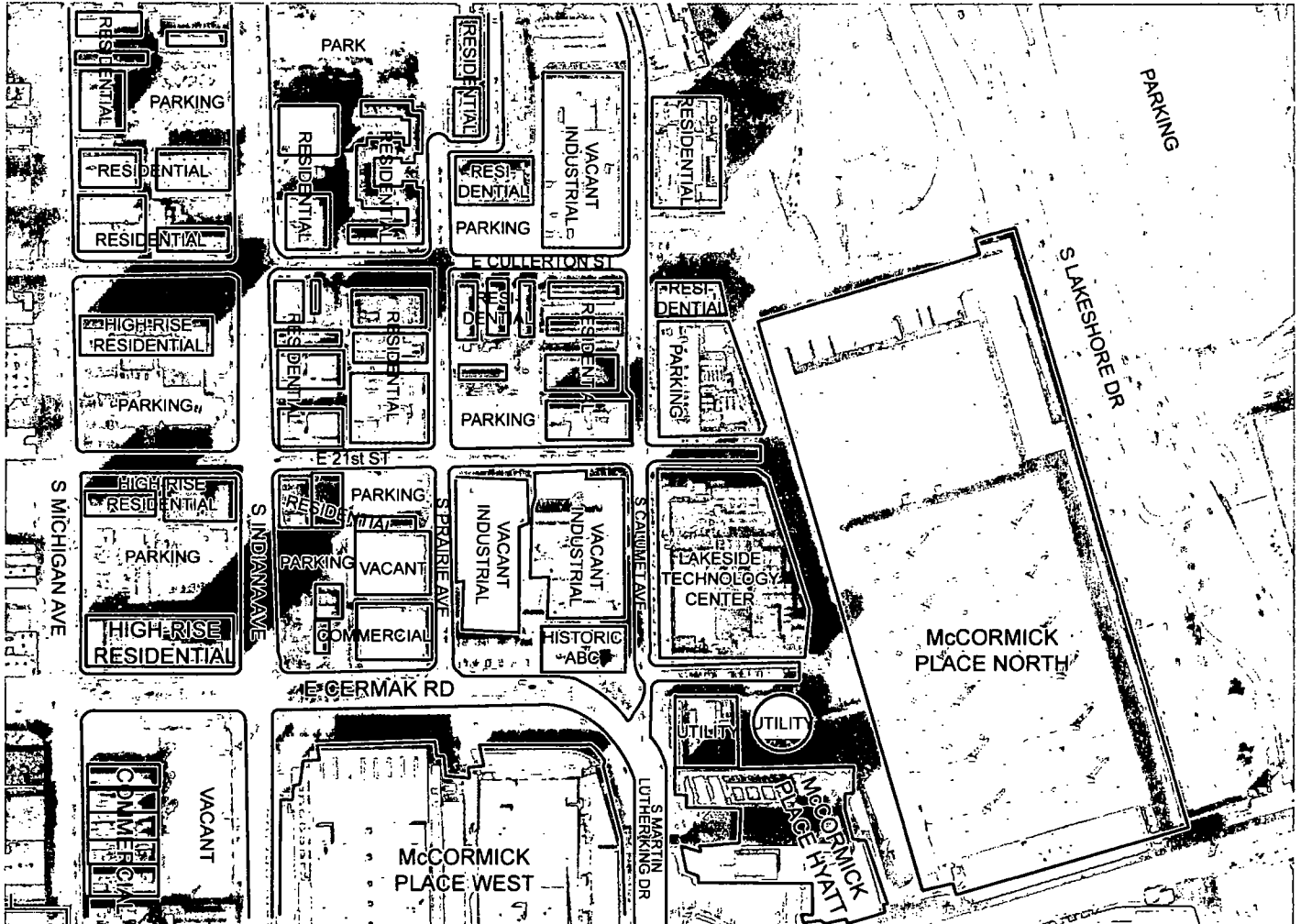
Richard A. Toth

## Existing Zoning Map



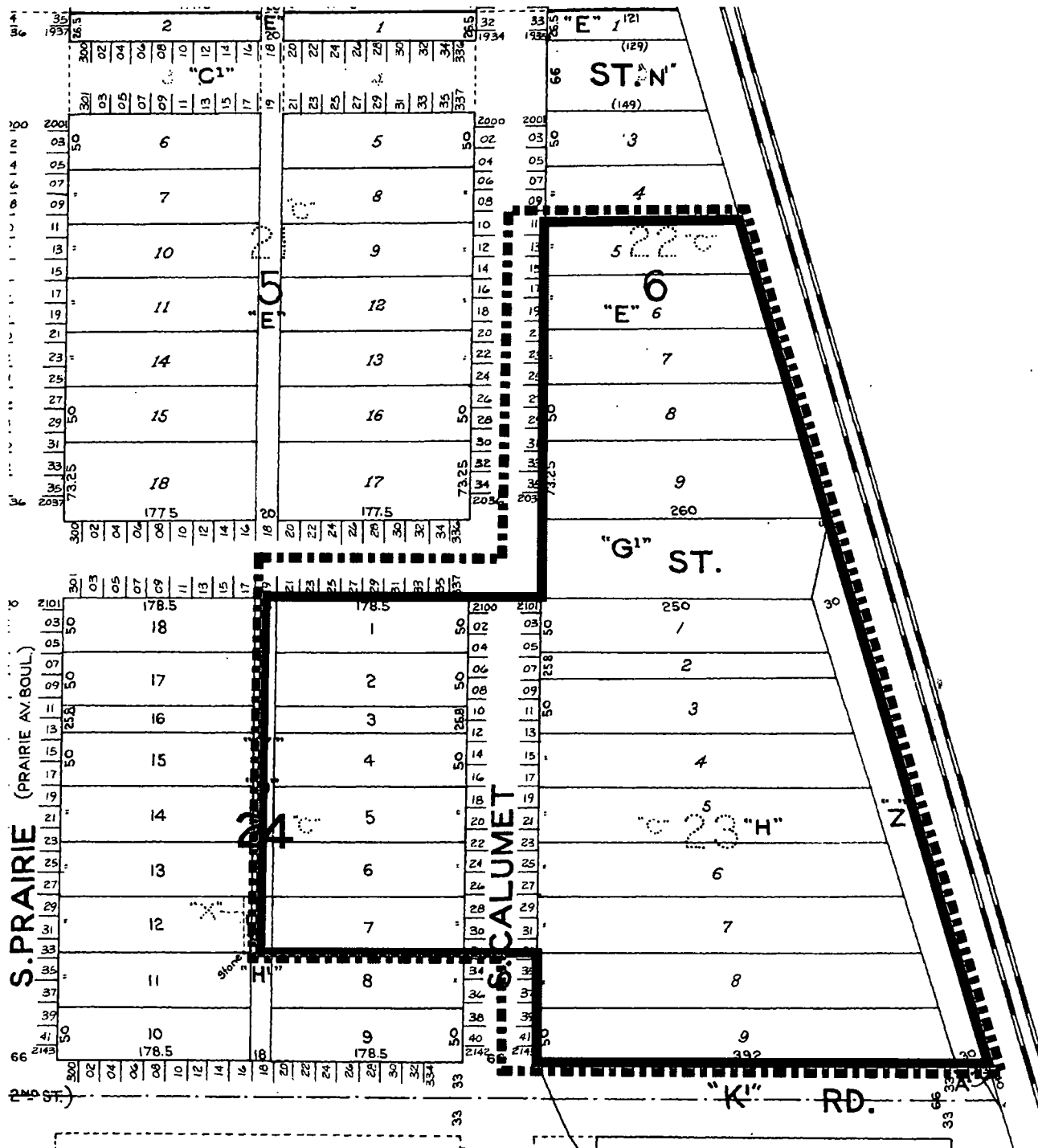
APPLICANT: CenterPoint Properties Trust  
ADDRESS: 321-337 E. 21st St.; 2100-2130 S. Calumet Ave.; 2013-2143 S. Calumet Ave.  
INTRODUCTION DATE: February 5, 2014  
REVISED / CPC DATE: ---

## Surrounding Land Use Map



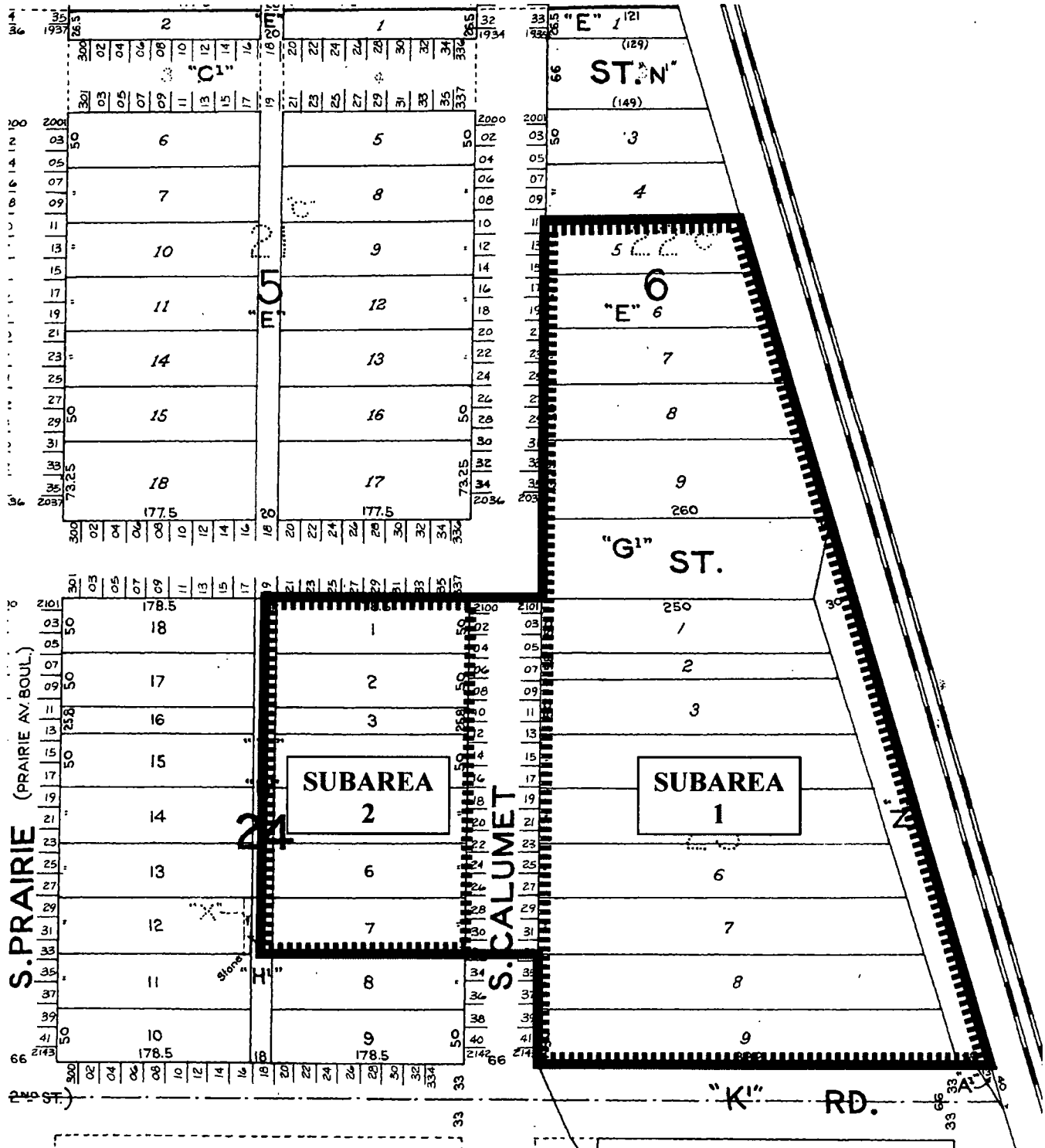
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ADDRESS:	321-337 E. 21st St.; 2100-2130 S. Calumet Ave.; 2013-2143 S. Calumet Ave.
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# Planned Development Boundary and Property Line Map



APPLICANT: CenterPoint Properties Trust  
 ADDRESS: 321-337 E. 21st St.; 2100-2130 S. Calumet Ave.; 2013-2143 S. Calumet Ave.  
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# Sub-Area Map



APPLICANT: CenterPoint Properties Trust  
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 INTRODUCTION DATE: February 5, 2014  
 REVISED / CPC DATE: ---

## **Site Plan for Subarea 1**

Plans previously approved for Subarea 1 by the Department of Planning and Development.

## **Landscape Plan for Subarea 1**

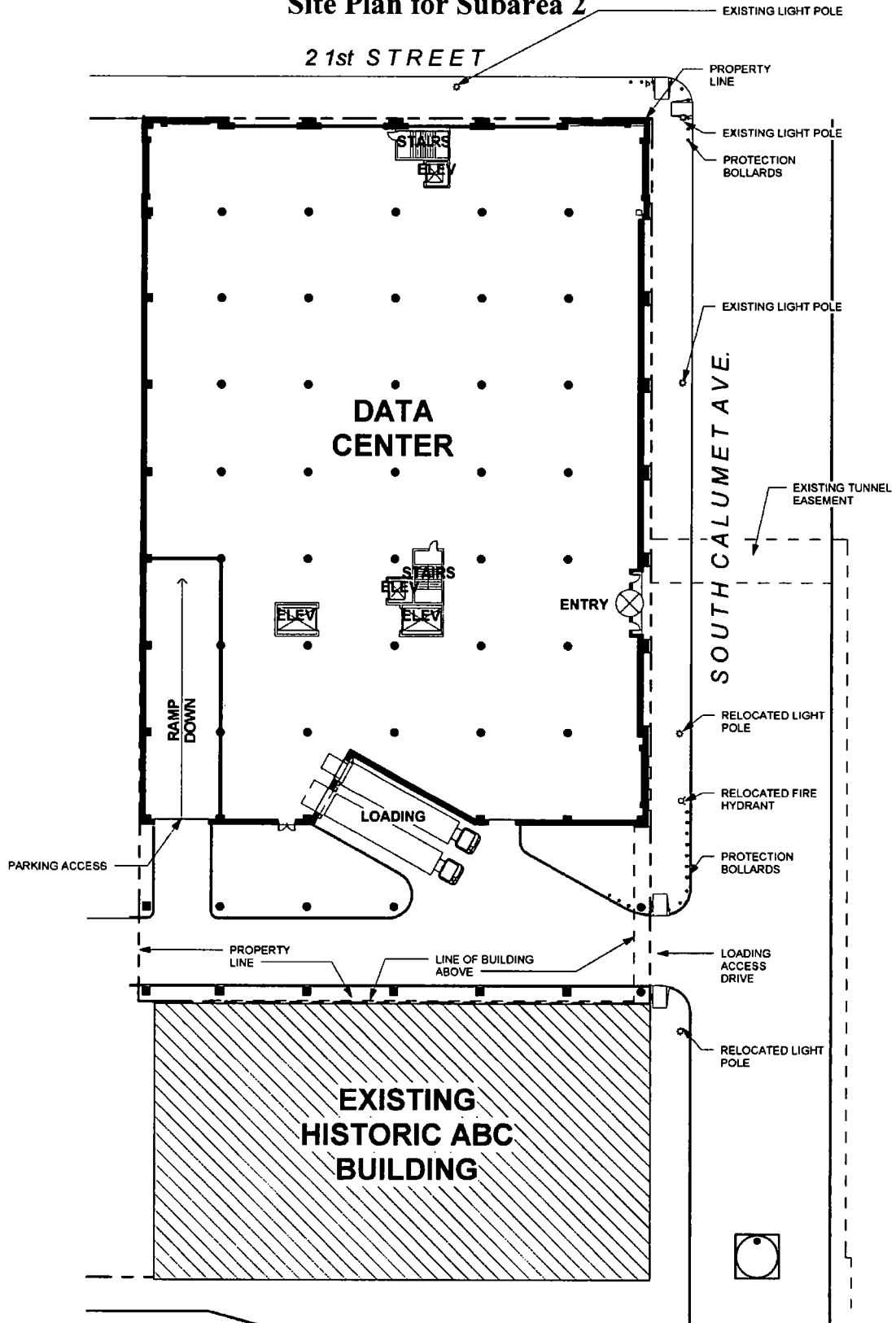
Plans previously approved for Subarea 1 by the Department of Planning and Development.

## **Elevations for Subarea 1**

Plans previously approved for Subarea 1 by the Department of Planning and Development.

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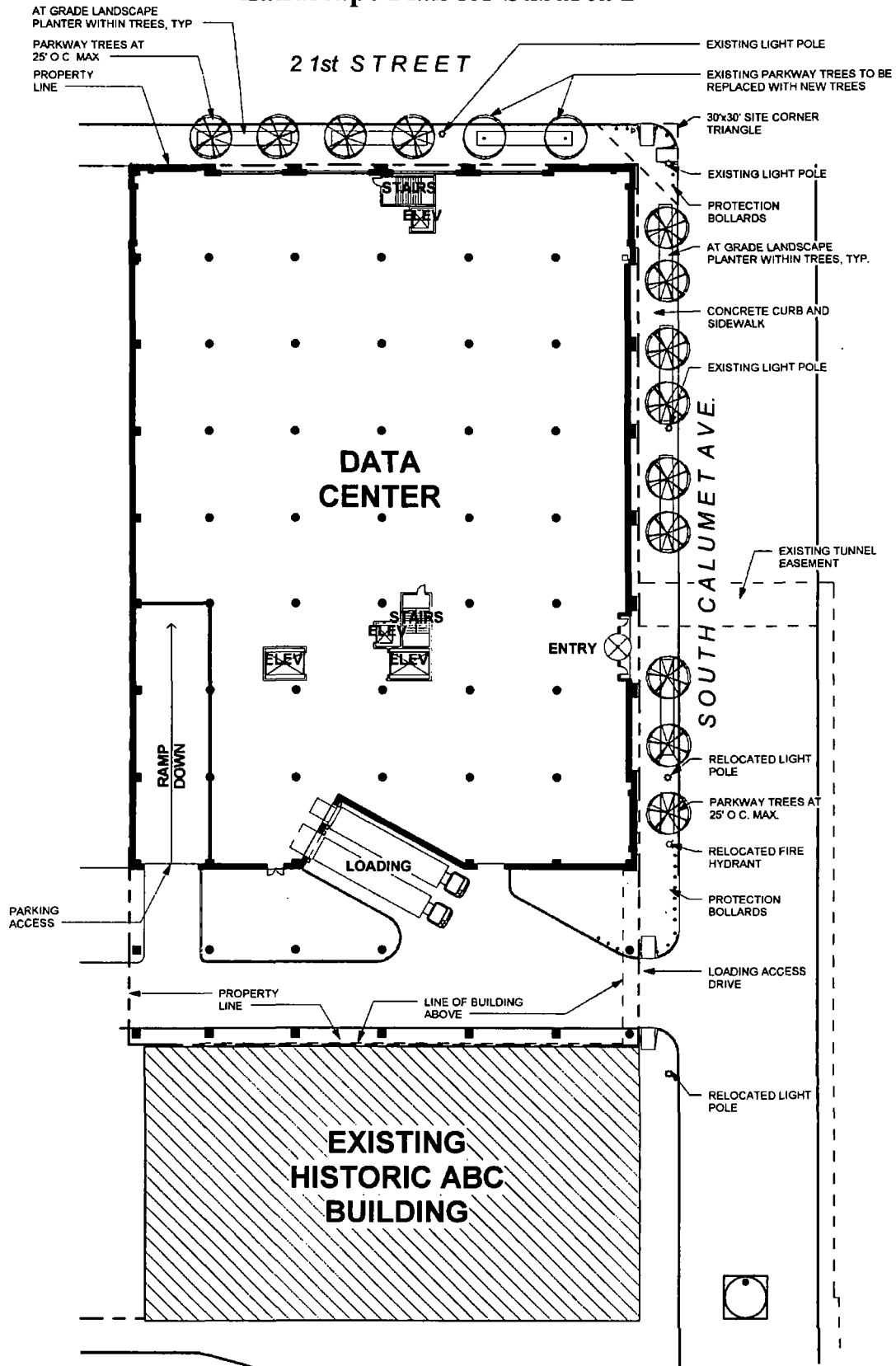
## Site Plan for Subarea 2



APPLICANT: CenterPoint Properties Trust  
 ADDRESS: 321-337 E. 21st St.; 2100-2130 S. Calumet Ave.; 2013-2143 S. Calumet Ave.  
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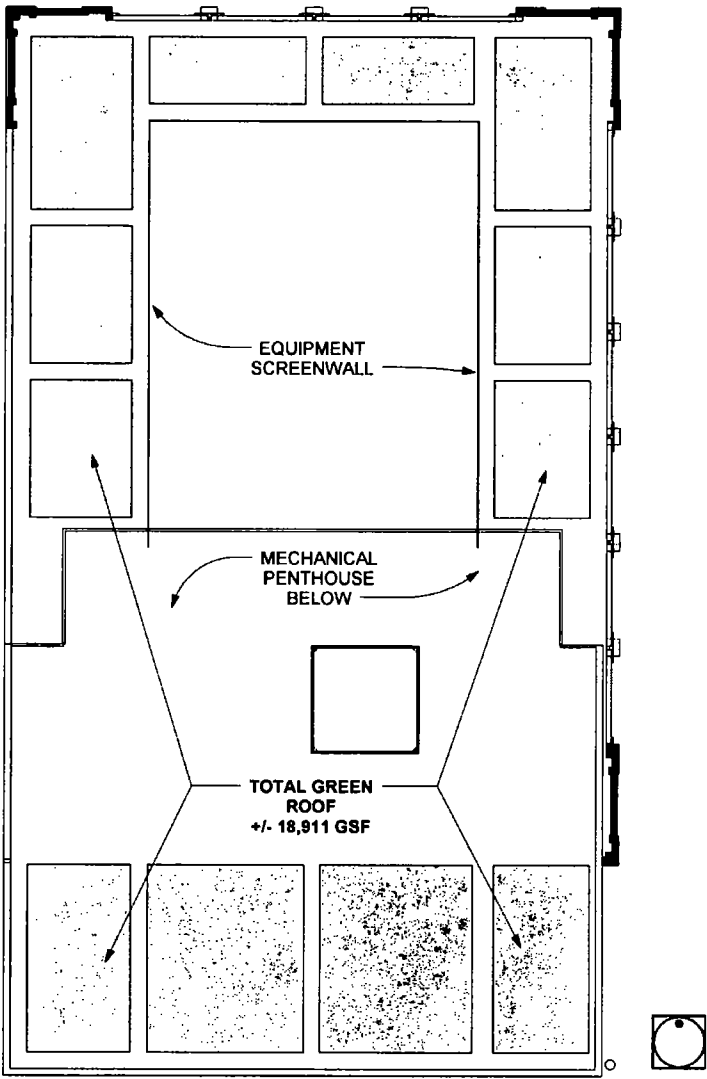


## Landscape Plan for Subarea 2

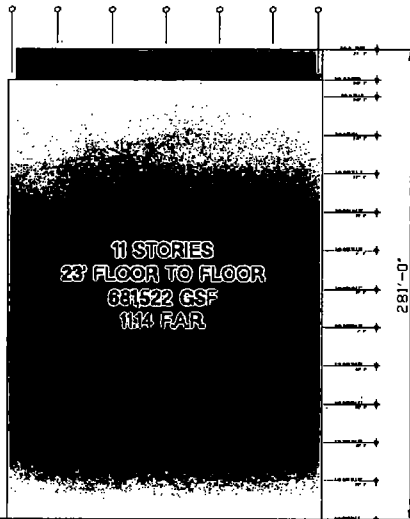


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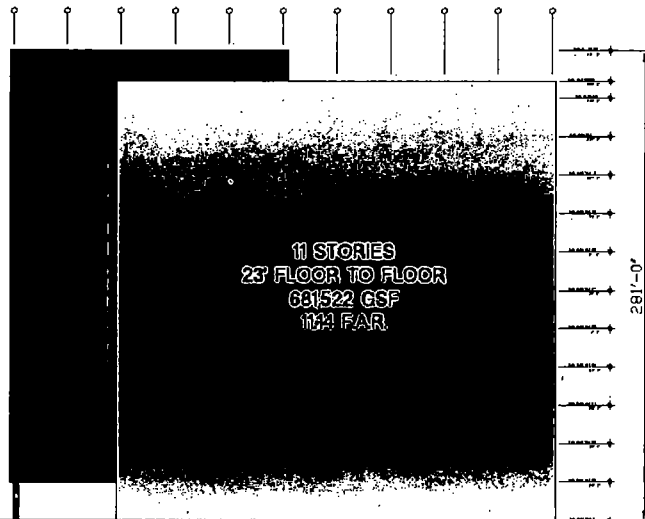
**Green Roof Plan for Subarea 2**



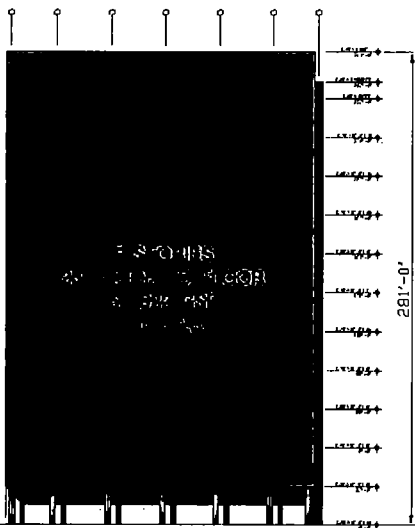
## Building Elevations for Subarea 2



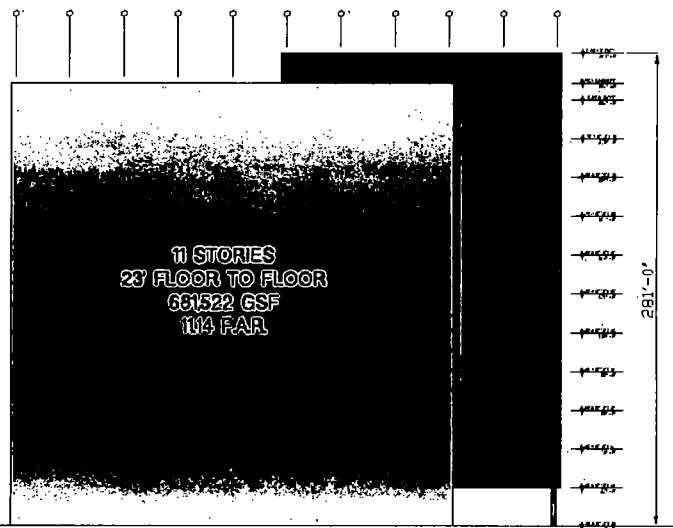
North Massing Elevation – E. 21<sup>st</sup> Street



East Massing Elevation – S. Calumet Ave.

















South Massing Elevation



West Massing Elevation

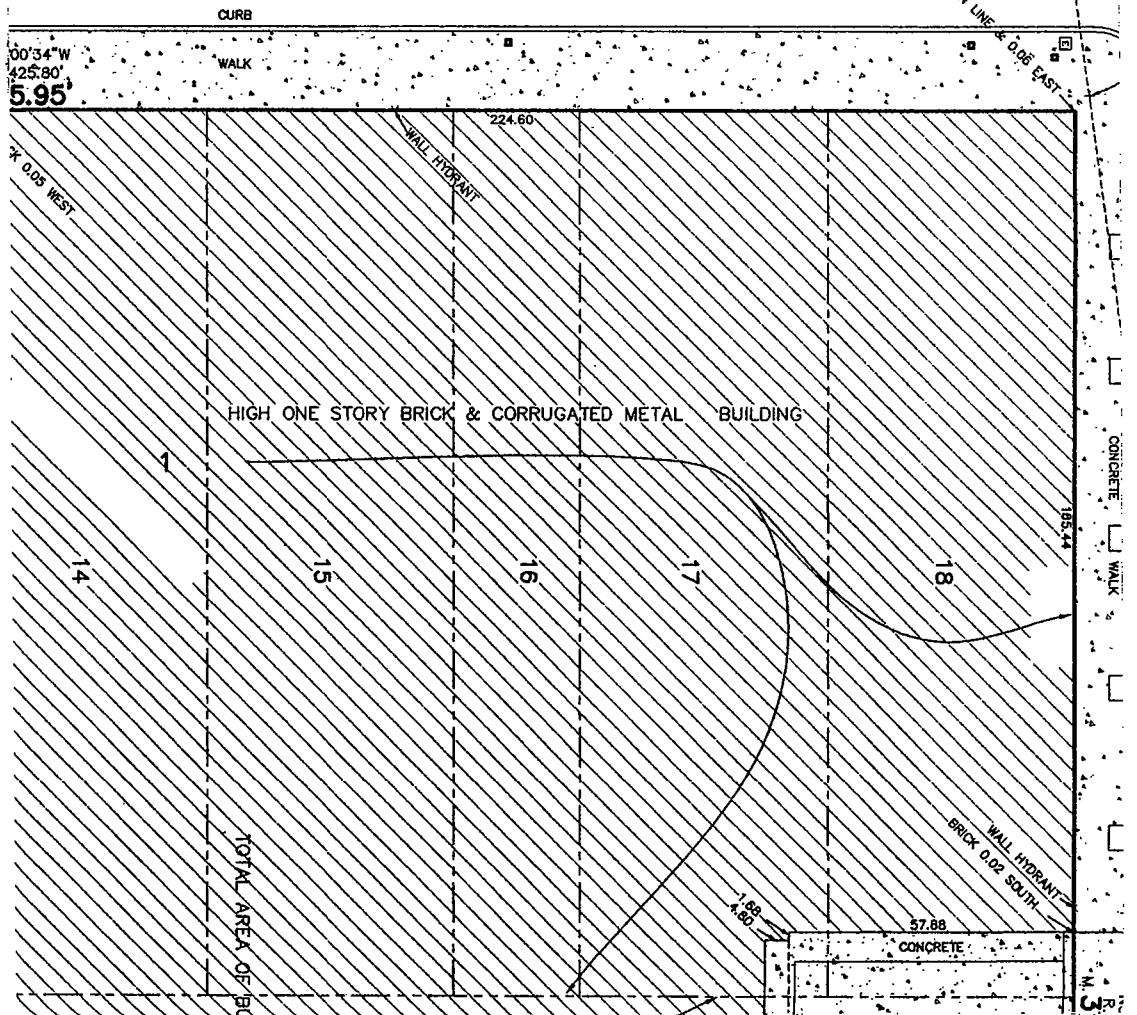
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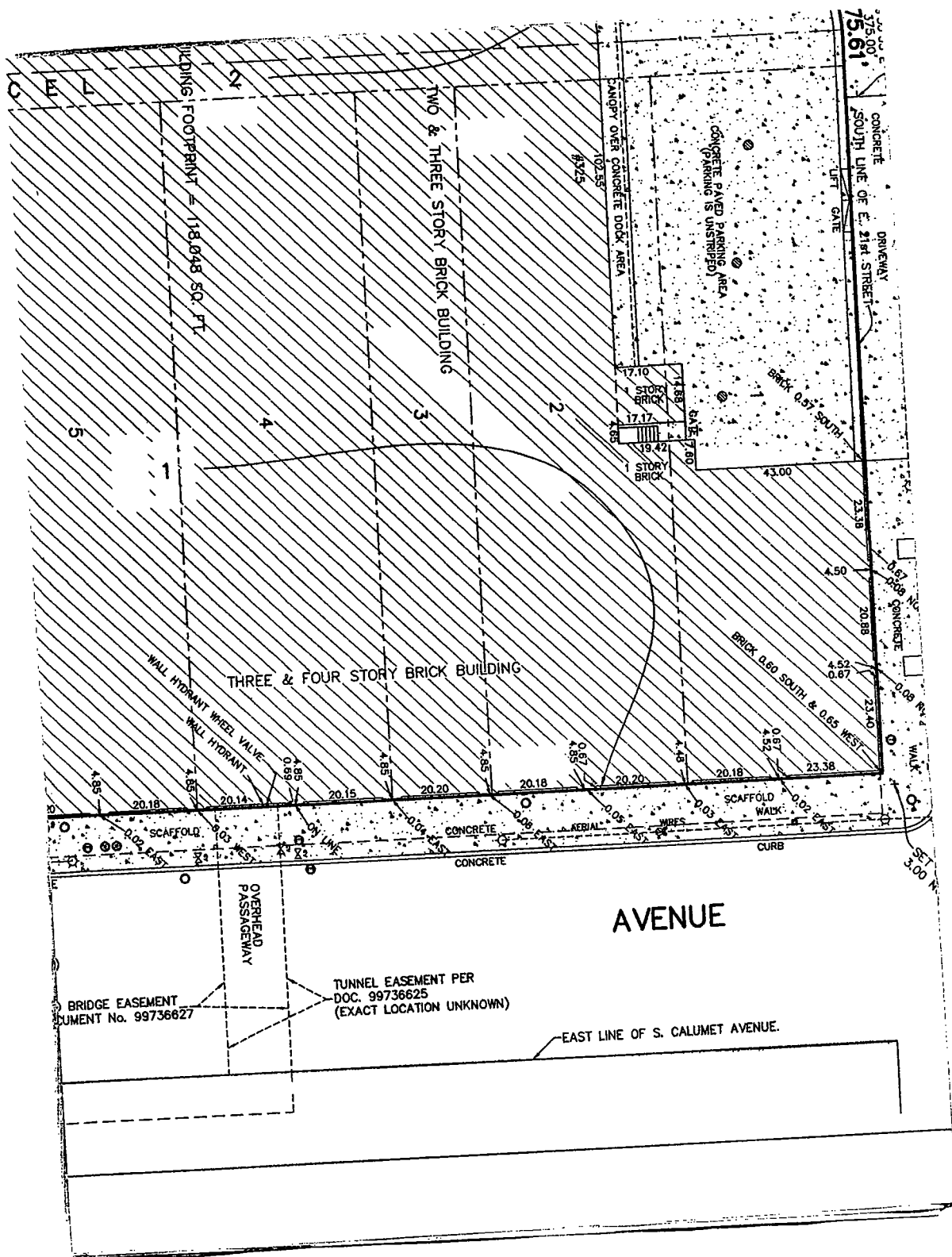
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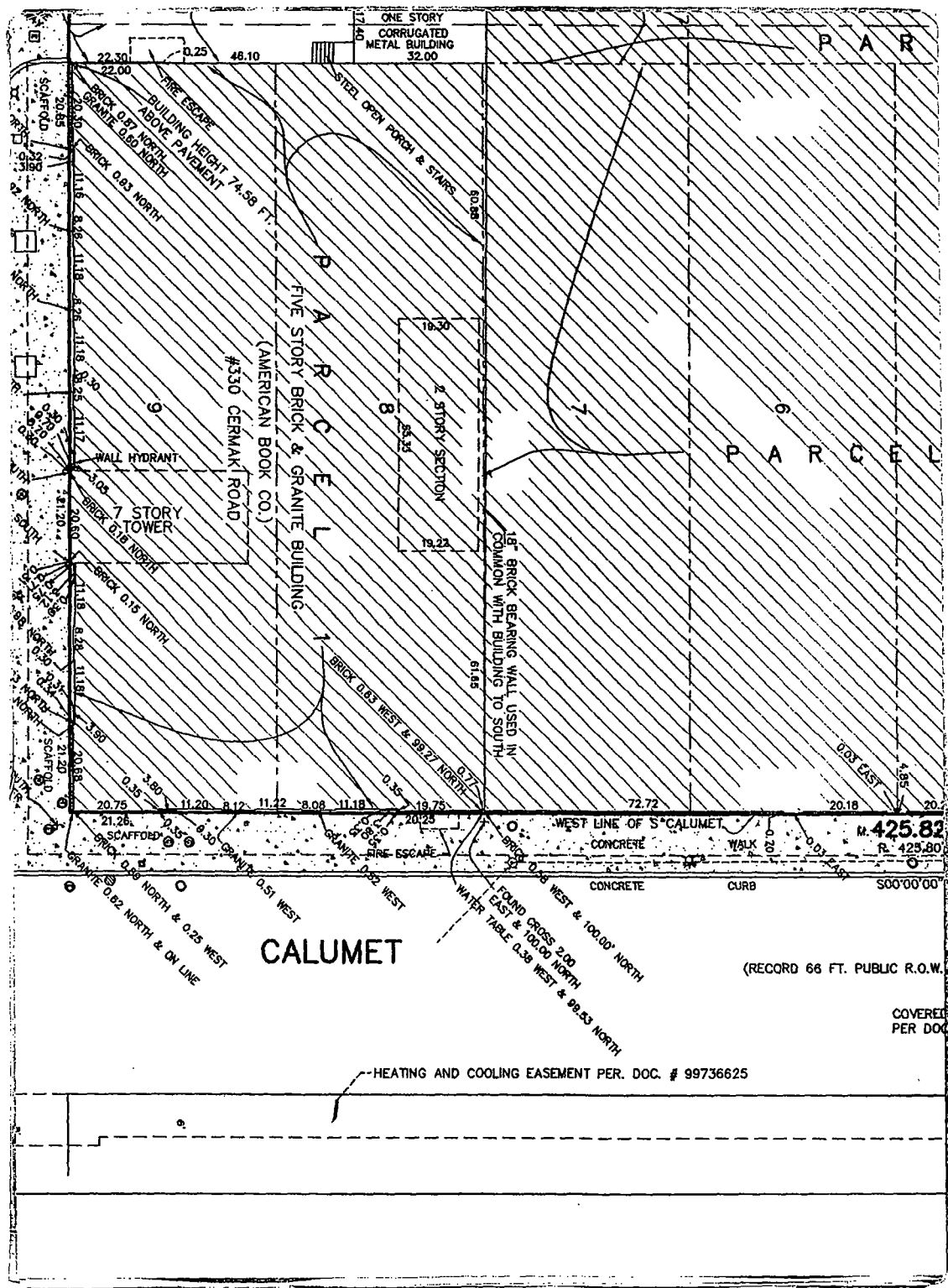
-  Storm CB
-  Storm Inlet
-  Water MH
-  Water Fire Hydrant
-  Telephone MH
-  Electric MH
-  Electric Vault
-  Electric Light Pole
-  Electric Traffic Signal
-  Electric Light Pole with Traffic Signal
-  Electric Traffic Control Box
-  Gas Buffalo Box
-  Gas Valve
-  Gas MH

AVENUE

(PUBLIC R.O.W.)





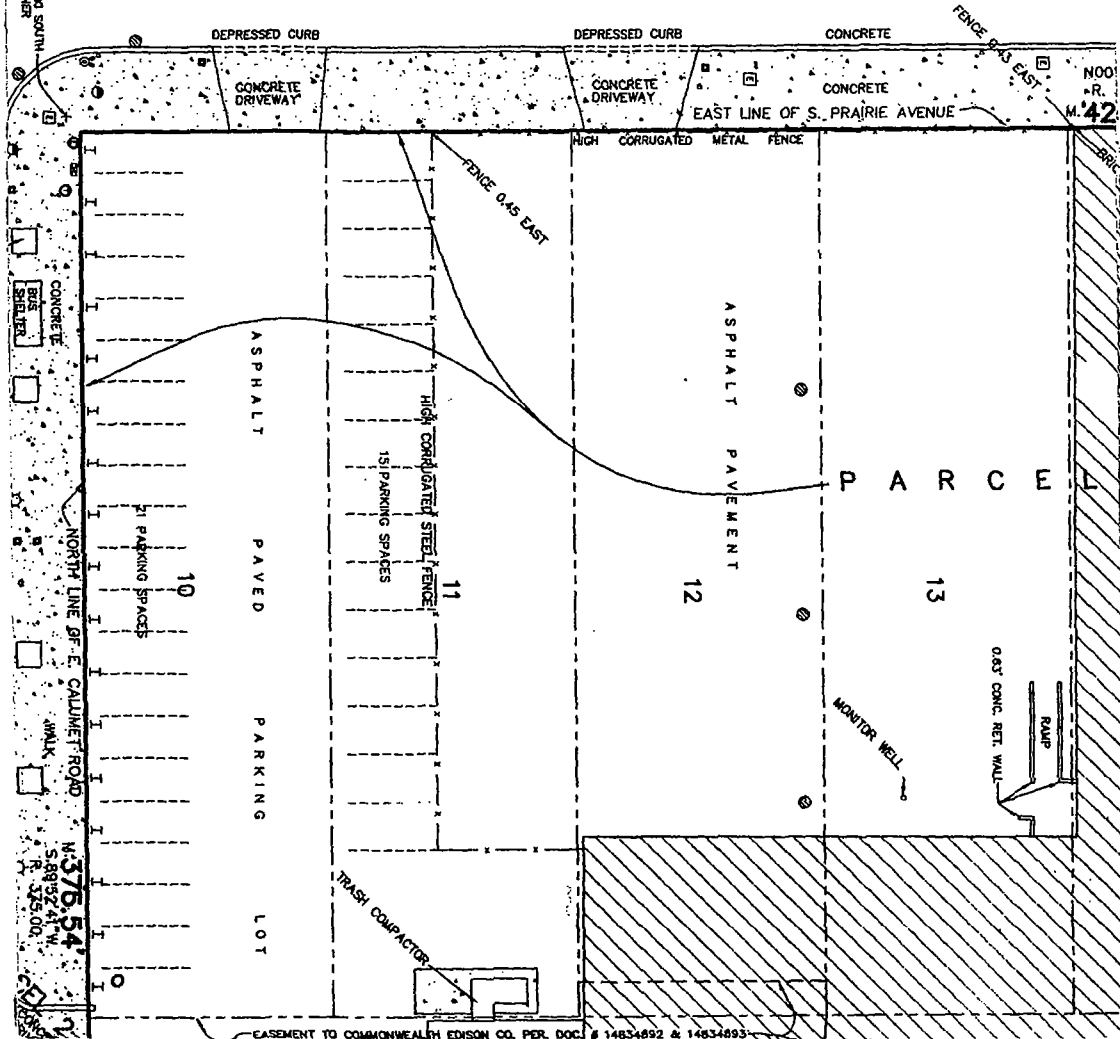


Unclassified Manhole

(RECORD 66 F

PRAIRIE

SET CROSS NORTH 100 SOUTH  
2.100 WEST OF CORNER



N001  
R.  
M. 42

# GREMLEY & F

A DIVISION  
PLCS Corp.  
LICENSE NO. 184-7

PROFESSIONAL LAND

4505 NORTH ELSTON AVENUE  
TELEPHONE: (773) 685-5102 FAX: (773) 286

## ALTA / ACSM LAI

### ABC BUILDING SITE:

#### PARCEL 1:

LOTS 8 AND 9 IN BLOCK 24 IN GURLEY'S SUBDIVISION OF BLOCKS 24 TO 28, BOTH INCLUSIVE, IN THE ASSESSOR'S DIVISION OF THE SOUTHWEST 1/4 OF SECTION 22, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

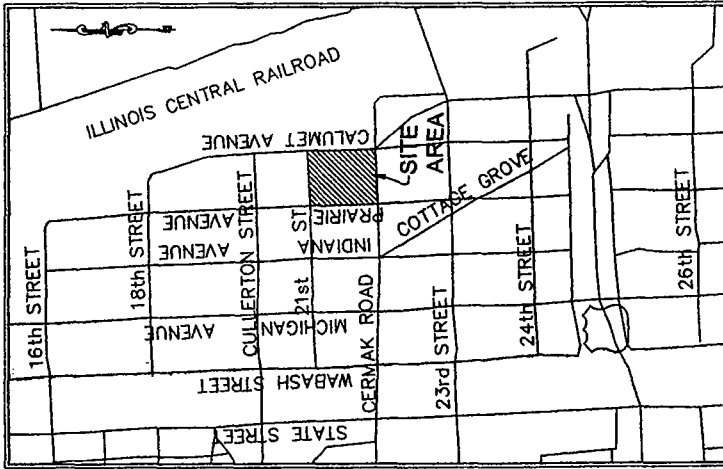
ALL OF THE NORTH AND ADJOINING ADJOINING LOTS: HALF OF SAID V/ ADJOINING LOTS: SUBDIVISION AFORESAID, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

THE EAST HALF OF THE NORTH - SOUTH VACATED ALLEY LYING WEST AND ADJOINING LOTS 8 AND 9 IN BLOCK 24 IN GURLEY'S SUBDIVISION AFORESAID, IN COOK COUNTY, ILLINOIS.

#### WEST PLANT SITE PARCEL 1:

LOTS 1 THROUGH 7, BOTH INCLUSIVE, AND LOTS 10 THROUGH 18, BOTH INCLUSIVE, IN BLOCK 24 OF GURLEY'S SUBDIVISION, BLOCKS 21 TO 28 OF ASSESSOR'S DIVISION, IN SECTION 22, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS.



VICINITY MAP  
(not to scale)

FOUND CROSS NORTH  
300 NORTH & 300 EAST

21 ST.

(RECORD 66 FT. PUBLI

CONCRETE CURB

WHEEL



# BIEDERMANN

OF  
oration

405322

9 SURVEYORS

CHICAGO, IL 60630  
-4184. EMAIL: INFO@PLCS-SURVEY.COM

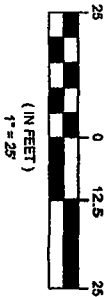
## nd Title Survey

TH-SOUTH VACATED ALLEY LYING WEST  
LOTS 1, TO 9 INCLUSIVE, AND EAST AND  
10 TO 18 INCLUSIVE EXCEPT THE EAST  
VACATED ALLEY LYING WEST AND  
18 AND 9 ALL IN BLOCK 24 IN GURLEYS  
CRESAID EAST OF THE THIRD PRINCIPAL  
OK COUNTY, ILLINOIS

JOINING EASEMENT:  
THE EASEMENT FOR THE BENEFIT OF THE  
SITE AND WEST PLANT SITE AS CREATED  
WARRANTY DEED DATED AUGUST 2,  
1999 AS DOCUMENT  
11, 2001 AS DOCUMENT 0010398234,  
CENTER LLC TO CARLYLE - CORE  
FOR THE PURPOSE (AS DEFINED THEREIN)  
COOLING.

CALUMET TUNNELS EASEMENT:  
A NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF THE  
ABC BUILDING SITE AND WEST PLANT SITE AS CREATED  
BY THE SPECIAL WARRANTY DEED DATED AUGUST 2,  
1999 AND RECORDED AUGUST 3, 1999 AS DOCUMENT  
99736625 FROM LAKESIDE CENTER LLC TO  
CARLYLE-CORE CHICAGO LLC FOR THE USE (AS  
DEFINED THEREIN) OF THE CALUMET TUNNELS.  
COVERED BRIDGE EASEMENT: A NON-EXCLUSIVE  
EASEMENT FOR THE BENEFIT OF THE ABC BUILDING  
SITE AND WEST PLANT SITE AS CREATED BY THE  
"AGREEMENT REGARDING COVERED BRIDGE" DATED  
AUGUST 2, 1999  
AND RECORDED AUGUST 3, 1999 AS DOCUMENT  
99736627 FROM LAKESIDE CENTER LLC TO CARLYLE-  
CORE CHICAGO LLC FOR THE PURPOSE OF THE USE (AS  
DEFINED THEREIN) OF SAID BRIDGE  
AREA OF PROPERTY = 159,951 SQ.FT. ± = 3.67 ACRES ±

GRAPHIC SCALE



JC R.O.W.)

FOUND NOTCH AT WEST EDGE OF JOINT  
3.00 NORTH & 171.00 WEST OF CORNER

STREET

DEPRESSED CURB

CONCRETE

CURB

CROSS NOTCH  
NORTH & 3.00 EAST

OTE:

RY WAS PREPARED BASED ON CHICAGO TITLE INSURANCE COMPANY  
INT. ORDER NO.: 1401 008934870 DZ EFFECTIVE DATE: AUGUST 5, 2013  
TERS OF RECORD.

ED IN SCHEDULE "B"

MADE BY R.R. DONNELLEY AND SONS COMPANY, A CORPORATION OF ILLINOIS, AND MARY V. NEFF, TO  
WEALTH EDISON COMPANY, DATED JANUARY 30, 1890 AND JANUARY 27, 1890, RESPECTIVELY, AND BOTH  
NE 23, 1890 AS DOCUMENTS 1483482 AND 1483483, NUMBERS 102414 AND 102415, OF FULL RIGHT,  
AND AUTHORITY TO ERECT AND FOREVER MAINTAIN, OPERATE, REPAIR, REPLACE AND RENEW POLES,  
WIRES, CABLES, CONDUIT AND OTHER OVERHEAD OR UNDERGROUND EQUIPMENT OR BOTH, FOR THE  
JOB ELECTRICITY IN, UPON, ALONG, OVER AND UNDER, WITHIN THE SURFACE OF THE VACATED ALLEY  
JOINING LOTS 7, 8 AND 9, AND THE EAST 7.00 FEET OF SAID LOT 12 FALLING WITHIN BLOCK 24, THEREFOR  
IN ALLEY PURPOSES IN BLOCK 24, APRESAID, WITH RIGHT OF ACCESS THEREIN TO ALL REASONABLE  
E ADDITIONS, ALTERATIONS OR REPAIRS TO THE SAME, (AFFECTS PORTIONS OF PARCEL 2 OF BOTH THE  
E AND WEST BUILDING SITES) (PLOTTED)

I MADE AN EXAMINATION OF THE PLAT OF SURVEY AND RELATIVE THERETO THE FOLLOWING IS NOTED:

MENT OF THE 1-STORY CORRUGATED METAL BUILDING LOCATED PRIMARILY ON THE ABC BUILDING SITE  
AT SITE OVER AND ONTO THE EASEMENTS NOTED ABOVE AT EXCEPTION REFERENCED AS LETTER "G"  
THE PLAT OF SURVEY;

MENT OF THE 7-STORY TOWER AND 5-STORY BRICK AND GRANITE BUILDING LOCATED MAINLY ON LOTS 8  
ABC BUILDING SITE OVER AND ONTO THE PUBLIC WAY (CERMAK ROAD) LYING SOUTH OF AND ADJOINING  
08 TO .11 OF A FOOT.

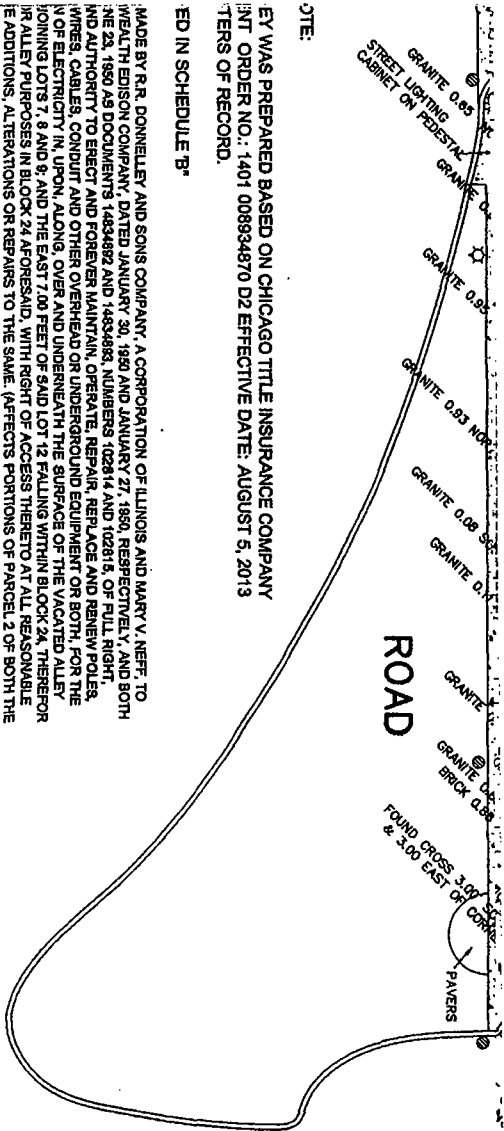
MENT OF THE 2-STORY AND 3-STORY BRICK BUILDING LOCATED MAINLY ON THE WEST PLANT SITE  
E NORTHEAST CORNER, OVER AND ONTO THE PUBLIC WAY (21st STREET) LYING TO THE NORTH BY .08 OF A  
VER AND ONTO THE PUBLIC WAY (CALLINET AVENUE) LYING TO THE EAST BY BETWEEN 0.02 TO 0.08 OF A

MENT OF THE 1-STORY HIGH BRICK BUILDING LOCATED MAINLY ON LOTS 14-18 OF THE WEST PLANT SITE  
(AND ONTO THE PUBLIC WAY (PRAIRIE AVENUE) LYING WEST OF AND ADJOINING SAID LAND BY 0.05 OF A  
IS ABC BUILDING SITE AND WEST PLANT SITE)

3. PROVISIONS, AND CONDITIONS RELATING TO THE EASEMENTS DESCRIBED IN SCHEDULE A, AS THE  
EASING EASEMENT, THE CALLINET TUNNEL'S EASEMENT AND THE COVERED BRIDGE EASEMENT AS  
THE INSTRUMENTS CREATING SAID EASEMENTS AND RECORDED AS DOCUMENT 89738624, (AMENDED  
1001098224) AND DOCUMENT 89738627.

THE ADJOINING OWNER OR OWNERS TO THE CONCURRENT USE OF SAID EASEMENTS, (AFFECTS THE  
KROCELS) (PLOTTED)

9. ITEMS ARE NOT A MATTER OF SURVEY.



This is to certify that this map or plat and the survey on which it is based  
were made in accordance with the 2011 Minimum Standard Detail  
Requirements for ALTA/ACSM Land Title Surveys, jointly established and  
adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 6(a), 7(a),  
7(b)(1), 8, 9, 11(a) and 16 of Table A thereof.

The field work was completed on August 27, 2013.

Date of Plat Sept. 9, 2013

By:

Robert G. Biedermann

Professional Illinois Land Surveyor No. 2802



CONCRETE

CURB

CERMAK

(RECORD 66 FT. PUBLIC R.O.W.)

SURVEY NOTE:  
Surveyor's license expires November 30, 2014.  
REGARDING TABLE A ITEM 16 THERE IS NO OBSERVED EVIDENCE OF CURRENT EARTH MOVING WORK, BUILDING CONSTRUCTION OR BUILDING ADDITIONS.  
ACCESS TO THE PROPERTY IS VIA 21ST. STREET, PRAIRIE AVENUE, CERMAK ROAD AND CALUMET AVENUE PHYSICALLY OPEN AND PUBLICLY DEDICATED ROADS  
PROPERTY APPEARS IN "OTHER AREAS" ZONE X. AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, PER FLOOD INSURANCE RATE MAP COOK COUNTY, ILLINOIS, MAP NO. 17031C 0528J, EFFECTIVE DATE AUGUST 19, 2008.  
THE ZONING CLASSIFICATION OF THE PROPERTY SHOWN HEREON IS PD 875 AS DELINEATED ON THE CITY OF CHICAGO, DEPARTMENT OF ZONING WEBSITE.  
THE SURVEYOR HAS NOT RESEARCHED THE APPLICABLE ZONING, BUILDING CODES, SETBACKS OR SPECIFIC USES ALLOWED WITHIN THIS ZONING CLASSIFICATION. CONTACT THE CITY OF CHICAGO.  
DEPARTMENT OF ZONING, CITY HALL, 121 NORTH LASALLE STREET, ROOM 905, CHICAGO, ILLINOIS, (312) 744-6317, FAX: (312) 744-8552 FOR CERTIFICATION, VERIFICATION AND SPECIFIC MATTERS PERTAINING TO THE ABOVE NOTED ZONING CLASSIFICATION.  
Note R. & M. denotes Record and Measured distances respectively.  
Distances are marked in feet and decimal parts thereof. Compare all points BEFORE building by same and at once report any differences BEFORE damage is done.  
For easements, building lines and other restrictions not shown on survey plat refer to your abstract, deed, contract, title policy and local building line regulations.  
NO dimensions shall be assumed by scale measurement upon this plat.  
Unless otherwise noted hereon the Bearing, Elevation Datum and Coordinate Datum if used is ASSUMED.  
COPYRIGHT GREMLEY & BIEDERMANN, INC. 2013 "All Rights Reserved"

ORDERED BY: RICHMOND BRESLIN LLP ADDRESS: 310 E. CERMAK ROAD	CHECKED: RL	DATE: AUGUST 17, 2013	PAGE NO. 1 OF 1
<b>GREMLEY &amp; BIEDERMANN</b> PLCS, CORPORATION 12000 W. 164-0552Z AUSTIN, TEXAS 78758 4505 NORTH ELSTON AVENUE, CHICAGO, IL 60630 TELEPHONE: (773) 665-3102 FAX: (773) 286-4104 EMAIL: INFO@PLCS-SURVEY.COM		DATE: AUGUST 17, 2013	PAGE NO. 1 OF 1
ORDER NO. 2013-18225-002		SCALE: 1" = 25' FEET	

G:\CAD\2013\2013-18225\2013-18225-002.dwg