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THIS INSTRUMENT PREPARED BY
AND UPON RECORDING RETURN TO:

Lisa M. Starceвич
Duke Realty Corporation
6133 North River Road, Suite 200
Rosemont, Illinois 60018



Doc#: 0911316062 Fee: \$54.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 04/23/2009 01:46 PM Pg: 1 of 10

2 of 2

CT 8461030 DBK

FIRST AMENDMENT TO DECLARATION OF EASEMENT

This First Amendment to Declaration of Easement (the "**Amendment**") is executed as of this ~~20th~~ day of ~~APRIL~~, 2009 by DUKE SECURED FINANCING 2009 - UNM, LLC, a Delaware limited liability company, as successor-in-interest to DUKE REALTY LIMITED PARTNERSHIP, an Indiana limited partnership ("**Duke**" or "**Declarant**") and HOWARD LAND LLC, an Illinois limited liability company ("**Howard Land**").

WITNESSETH:

WHEREAS, the predecessor-in-interest to Duke entered into that certain Declaration of Easement dated November 1, 1995 recorded with the Cook County Recorder's Office as Document No. 95871442 on December 14, 1995 (the "**Declaration**"); and

WHEREAS, Duke is the fee simple owner of that certain parcel of land commonly known as 6300 West Howard Street, in the City of Niles, Cook County, Illinois, legally described in **Exhibit A** attached hereto and incorporated herein (the "**Affected Property**"); and

WHEREAS, Howard Land is the fee simple owner of that certain adjacent parcel of land in the City of Niles, Cook County, Illinois, legally described in **Exhibit B** attached hereto and incorporated herein (the "**Benefited Property**"); and

WHEREAS, Duke and Howard Land desire to amend the Declaration to modify the Easement and to add a sign easement; and

WHEREAS, Duke and Howard Land desire to amend certain provisions of the Declaration to reflect such changes and additions to the Easement;

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Duke and Howard Land hereby amend the Declaration as follows:

I. Incorporation of Recitals. The above recitals are hereby incorporated into this Amendment as if fully set forth herein.

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2. Amendment of Paragraph 1.1. Paragraph 1.1 of the Declaration shall be deleted in its entirety and the following shall be inserted in lieu thereof:

"Declarant hereby grants to the owner of the Benefited Property and its successors and assigns for the benefit of, and as an appurtenance to the Benefited Property, a perpetual and non-exclusive easement over and across that portion of the Affected Property which is depicted as the 30' Access Easement on Exhibit C attached hereto (the "**Easement Area**"), in order to permit the ingress and egress of persons and vehicles, including tractor trailer rigs, heavy construction equipment and utilities to, from and between the Benefited Property and Howard Street (a publicly dedicated roadway). Nothing contained herein shall be construed to grant any right to use the Easement Area for parking, storage or any other uses except as expressly stated above."

3. Amendment of Paragraph 2.1. Paragraph 2.1 of the Declaration is hereby deleted and the following inserted in lieu thereof:

"Easement. Subject to the terms contained herein, the Easement shall run with the land and remain in full force and effect, and at all times shall inure to the benefit of the Benefited Property and shall be binding upon an owner, purchaser, mortgagee or to any person having an interest in the Affected Property, or any part or portion thereof; provided, however, the Easement and this Declaration and all rights and obligations hereunder shall terminate immediately and automatically upon the Benefited Property obtaining any alternative access to any publicly dedicated roadway; provided such alternative access is over a drive (1) with dimensions in width equal to or greater than the drive then existing on the Easement Area, and (b) made of standard roadway materials (i.e. asphalt), and upon the written request of the owner of the Affected Property, the owner of the Benefited Property shall execute a recordable document prepared by the owner of the Affected Property terminating this Declaration."

4. Amendment of Paragraph 3.1. The first sentence of Paragraph 3.1 of the Declaration is hereby deleted and the following inserted in lieu thereof:

"The owner of the Affected Property agrees that it shall maintain the Easement Area, at its sole cost and expense, in good order, appearance and repair, including, but not limited to all necessary patching and re-striping, and shall have a right of entry onto the Benefited Property for purposes of performing the maintenance obligations hereunder."

5. Amendment of Paragraph 3.2. Paragraph 3.2 of the Declaration shall be deleted in its entirety and of no further force or effect.

6. Amendment of Paragraph 3.3. Paragraph 3.3 of the Declaration is hereby deleted in its entirety and the following shall be inserted in lieu thereof:

"In the event the owner of the Benefited Property, or any of its tenants, employees or agents, damages all or any portion of the Easement Area by its own negligence or any willful act, the Owner of the Benefited Property shall, at the owner of the Affected Property's option either (a) repair promptly all said damages at the sole cost and expense of the owner of the Benefited Property, or (b) promptly reimburse the owner of the Affected Property for the costs and expenses incurred by the owner of the Affected Property in connection with the repair and restoration of such damage. Failure of the owner of the Benefited Property to perform the maintenance, repair or other work

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required by this Paragraph 3.3, shall be deemed a default and, in addition to the remedies set forth herein, the owner of the Affected Property shall be entitled to the remedies set forth in Paragraph 4.1 of the Declaration."

6. New Paragraph 3.4. The following shall be inserted in the Declaration as Paragraph 3.4:

"3.4 Compliance. Each of the parties shall fully comply with all applicable laws, rules, regulations, ordinances, restrictions, covenants and conditions affecting the Easement Area in connection with any entry thereupon pursuant to this Agreement. In no event shall either party suffer, allow or permit any lien, charge or other encumbrance (including, without limitation, any mechanic's lien, but excluding mortgage liens) to be placed on the Easement Area (or any portion thereof). If a lien, charge or encumbrance is so placed, within thirty (30) days thereafter, the non-performing party shall fully discharge the lien, charge or encumbrance by settlement, bonding or insurance or by otherwise removing the lien, charge or encumbrance in a manner prescribed by law. If the non-performing party fails to so discharge the lien, the performing party may do so, at the non-performing party's cost and expense."

7. Amendment of Paragraph 6.3. Paragraph 6.3 of the Declaration shall be amended to incorporate the following:

"The notice address for the Duke and Howard Land shall be as follows:

Duke: Duke Secured Financing 2009 - UNM, LLC
c/o Duke Realty Corporation
Attn: Chicago Market - Vice President,
Asset Management & Customer Service
6133 North River Road, Suite 200
Rosemont, IL 60018

With a Copy to: Duke Secured Financing 2009 - UNM, LLC
c/o Duke Realty Corporation
Attn: Chicago Market Attorney
6133 North River Road, Suite 200
Rosemont, IL 60018

Howard Land: Howard Land LLC
2340 River Road, Suite 310
Des Plaines, IL 60018
Attn: John M. Daley

Either party may change its address by giving written notice thereof to the other party."

8. Grant of Sign Easement. The owner of the Affected Property hereby grants, bargains, sells and conveys to the owner of the Benefited Property, for the benefit of the Benefited Property, its successors and assigns, a perpetual, non-exclusive easement to install, maintain, repair, and replace a monument sign within the area depicted as the Sign Easement Area on Exhibit D attached hereto and incorporated herein (the "Sign") for the purpose of displaying the name, logo and/or mark of the business conducted on the Benefited Property. The design, color, size, and configuration of the Sign, as well as the location of the Sign, shall be

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subject to the prior approval of the owner of the Affected Property, which approval shall not be unreasonably withheld.

9. Maintenance of Sign. The owner of the Benefited Property will keep and maintain the Sign in good condition and repair, and in compliance with all applicable laws, rules, regulations and covenants. Failure of the owner of the Benefited Property to perform the maintenance, repair or other work required by this Paragraph 9, shall be deemed a default and the owner of the Affected Property shall be entitled to the remedies set forth in Paragraph 4.1 of the Declaration.

10. Definitions. Except as specifically set forth herein, the terms set forth herein shall have the meanings set forth in the Declaration.

11. Rule Against Perpetuities. If the Declaration shall hereafter be deemed to violate the rule against perpetuities or any similar legal or equitable rule regarding restraint of alienation, then the Declaration shall remain in full force and effect for a period of twenty-one (21) years after the death of the last currently living descendant of George Herbert Walker Bush, the 41st President of the United States.

12. Incorporation. This Amendment shall be incorporated into and made a part of the Declaration and all provisions of the Declaration not expressly modified or amended hereby shall remain in full force and effect.

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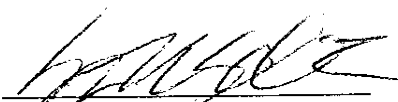
IN WITNESS WHEREOF, this Amendment is executed on the day and year first written above.

DUKE:

DUKE SECURED FINANCING 2009 -UNM LLC, a Delaware limited liability company


By: Duke Realty Limited Partnership, an Indiana limited partnership, its manager

By: Duke Realty Corporation, an Indiana corporation, its general partner

By: 
Steven W. Schnur
Senior Vice President

HOWARD LAND:

HOWARD LAND LLC, an Illinois limited liability company

By: 

Name: JOHN M. DABEY

Title: MANAGER

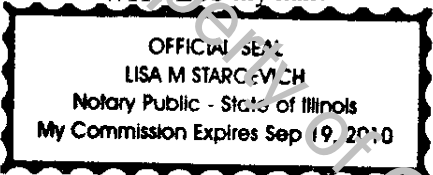
Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

Before me, a Notary Public in and for said County and State, personally appeared Steven W. Schnur, by me known and by me known to be the Senior Vice President of Duke Realty Corporation, an Indiana corporation, the general partner of Duke Realty Limited Partnership, an Indiana limited partnership, the manager of Duke Secured Financing 2009 - UNM, LLC, a Delaware limited liability company who acknowledged the execution of the foregoing "First Amendment to Declaration of Easement " on behalf of said limited liability company.

WITNESS my hand and Notarial Seal this 17th day of April, 2009.



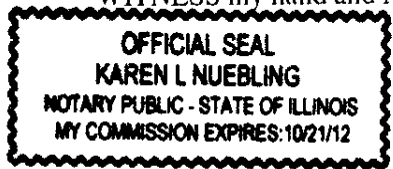
[Signature]
Notary Public
Lisa M Starcewich
(Printed Signature)

My Commission Expires: 9/19/10
My County of Residence: COOK

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

Before me, a Notary Public in and for said County and State, personally appeared JOHN M. DALEY, by me known and by me known to be the MANAGER of Howard Land LLC., an Illinois limited liability company, who acknowledged the execution of the foregoing "First Amendment to Declaration of Easement" on behalf of said limited liability company.

WITNESS my hand and Notarial Seal this 20 day of APRIL, 2009.



[Signature]
Notary Public
KAREN L NUEBLING
(Printed Signature)

My Commission Expires: 10/21/12
My County of Residence: COOK

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EXHIBIT A

LEGAL DESCRIPTION OF AFFECTED PROPERTY

THAT PART OF THE FOLLOWING DESCRIBED PARCELS OF LAND TAKEN AS A SINGLE TRACT: THE WEST 20 ACRES (EXCEPT THE SOUTH 40 FEET THEREOF DEDICATED FOR HOWARD STREET) OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

ALSO

THE SOUTH 1/2 OF THE NORTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPTING THEREFROM THE NORTH 409.69 FEET THEREOF AND ALSO EXCEPTING THEREFROM THAT PART THEREOF LYING EAST OF THE EAST LINE EXTENDED NORTH, OF THE WEST 20 ACRES OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29), LYING SOUTH OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT ON THE EAST LINE OF SAID TRACT 283.50 FEET SOUTH OF THE NORTHEAST CORNER THEREOF; THENCE WESTERLY 662.06 FEET, MORE OR LESS TO A POINT ON THE WEST LINE OF SAID TRACT 272.50 FEET SOUTH OF THE NORTHWEST CORNER THEREOF, ALL IN COOK COUNTY, ILLINOIS.

THE ABOVE DESCRIPTION MAY ALSO BE DESCRIBED AS FOLLOWS:

THAT PART OF THE WEST 20 ACRES (EXCEPT THE SOUTH 40 FEET THEREOF DEDICATED FOR HOWARD STREET) OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 29, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT A POINT ON THE EAST LINE OF SAID TRACT 35.15 FEET SOUTH OF THE NORTHEAST CORNER THEREOF, THENCE WESTERLY 662.02 FEET, MORE OR LESS, TO A POINT ON THE WEST LINE OF SAID TRACT, 24.32 FEET SOUTH OF THE NORTHWEST CORNER THEREOF, ALL IN COOK COUNTY, ILLINOIS.

ADDRESS: 6300 Howard Street, Niles, IL
PIN: 10-29-102-018-0000

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EXHIBIT B

LEGAL DESCRIPTION OF BENEFITED PROPERTY

THAT PART OF THE FOLLOWING DESCRIBED PARCELS OF LAND TAKEN AS A SINGLE TRACT: THE WEST 20 ACRES (EXCEPT THE SOUTH 40.00 FEET THEREOF DEDICATED FOR HOWARD STREET) OF THE SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 29, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN; ALSO

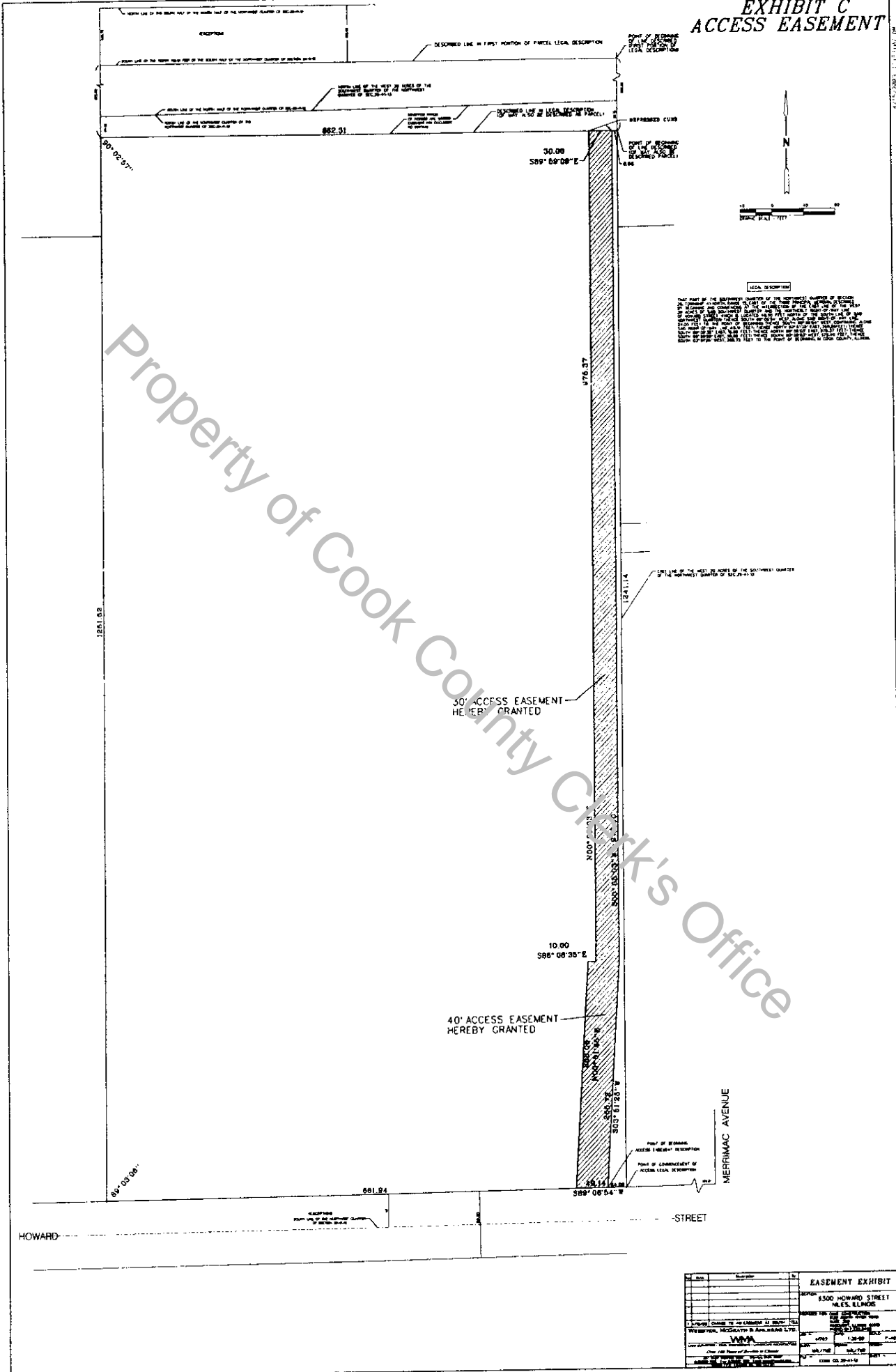
THE SOUTH $\frac{1}{2}$ OF THE NORTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 29, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPTING THEREFROM THE NORTH 409.69 FEET THEREOF AND ALSO EXCEPTING THEREFROM THAT PART THEREOF LYING EAST OF THE EAST LINE, EXTENDED NORTH, OF THE WEST 20 ACRES SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SAID SECTION 29) LYING NORTH OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE EAST LINE OF SAID TRACT, A DISTANCE OF 283.50 FEET SOUTH OF THE NORTHEAST CORNER THEREOF; THENCE WESTERLY, A DISTANCE OF 662.06 FEET, MORE OR LESS TO A POINT ON THE WEST LINE OF SAID TRACT, A DISTANCE OF 272.50 FEET SOUTH OF THE NORTHWEST CORNER THEREOF, ALL IN COOK COUNTY, ILLINOIS.

Address: vacant land located north of 6300 Howard Street, Niles, Illinois
PIN: 10-29-102-017-0000 and 10-29-102-023-0000

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EXHIBIT C ACCESS EASEMENT



EASEMENT EXHIBIT	
ADDRESS	6500 HOWARD STREET MILES, ILLINOIS
OWNER	WILSON, MARYANN B AND DAVID L
DATE	12-28-20
BY	WMA
FOR	30' ACCESS EASEMENT
DATE	12-28-20
BY	WMA
FOR	40' ACCESS EASEMENT
DATE	12-28-20
BY	WMA

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