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Affected PINs

22-27-300-079            22-27-300-080  
 22-27-300-080-1001   22-27-300-080-1002  
 22-27-300-080-1003   22-27-300-080-1004  
 22-27-300-080-1005   22-27-300-080-1006  
 22-27-300-080-1007   22-27-300-080-1008  
 22-27-300-080-1009   22-27-300-080-1010  
 22-27-300-080-1011   22-27-300-080-1012



Doc# 1919122875 Fee \$88.00  
 RHSP FEE: \$9.00 RPRF FEE: \$1.00  
 EDWARD M. MOODY  
 COOK COUNTY RECORDER OF DEEDS  
 DATE: 07/10/2019 11:12 AM PG: 1 OF 13

Prepared by/Return to:

Gregory L. Dose, Esq.  
 Goldstine, Skrodzki, Russian  
 Nemec and Hoff, Ltd.  
 835 McClintock Drive, 2<sup>nd</sup> Flr.  
 Burr Ridge, IL 60527

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## AGREEMENT FOR RECIPROCAL EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS; DERBY PLAZA SUBDIVISION AND OFFICE CONDOMINIUMS

[Vacating and Replacing Document No. 08-14245100]

This Agreement for Reciprocal Easements, Covenants, Conditions and Restrictions ("Agreement") is made as of July 3, 2019, by and between **CMC Real Estate Holdings, LLC** ("CMC"), an Illinois limited liability company, and **Derby Plaza Office Condominium Association** (the "Association"), an Illinois not-for-profit corporation (also known as Derby Plaza Condominium Association). CMC and the Association are herein sometimes referred to individually as a "Party" and collectively as the "Parties."

### RECITALS

A. CMC holds title to real property ("Lot 1") legally described as Lot 1 in Derby Plaza, being a subdivision in the southwest quarter of Section 27, Township 37 North, Range 11 east of the Third Principal Meridian in Cook County, recorded as Document No. 08-05803077 on February 27, 2008 ("Derby Plaza Subdivision"). The CMC Property consists of approximately 1.5 acres at the southwest corner of McCarthy Road and Derby Road in the Village of Lemont. The Lot 1 is improved with a 14,000 square foot, multi-tenant, single-story retail shopping center with street addresses of 14160 to 14196 McCarthy Road, together with an access driveway to

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Derby Road, two monument signs, drive aisle, and parking lot. Lot 1 is depicted on Exhibit A hereto.

B. The Association represents all the unit owners of Derby Plaza Condominium (the "Condominium"), which is located on Lots 2, 3, 4 and 5, and Outlots A and B of Derby Plaza Subdivision and was established pursuant to a Declaration made by CMC dated April 30, 2008, and recorded as Document No. 08-14316038 on May 22, 2008 (said Lots and Outlots are hereinafter referred individually and jointly by their respective numbers and letters without reference to the name of the subdivision). The Condominium consists of four three-unit single-story office buildings, one building on each of said Lots 2, 3, 4, and 5, together with an access driveway to McCarthy Road, refuse enclosures, drive aisles and parking lots thereon, and stormwater detention ponds on Outlots A and B, which serve as stormwater management facilities for all Lots in Derby Plaza Subdivision. The twelve Condominium units have street addresses of 14200 to 14244 McCarthy Road. The Condominium is depicted on Exhibit A hereto.

C. Concurrent with the Condominium Declaration, CMC made a declaration, which was recorded as Document No. 08-14245100 on May 21, 2008, that established reciprocal easements rights, shared maintenance responsibilities, and use restrictions affecting the CMC Property and the Condominium. Based on operating experience since development of the Lot 1 retail center and the Condominium buildings, CMC and the Association are agreed that said declaration should be released and replaced with the easements, covenants, conditions, rights, responsibilities, and restrictions imposed by this Agreement.

D. CMC, at its sole cost, has caused the control and metering for electrical service to the seven (7) parking lot and drive aisle lights that will be maintained by the Association in accordance with Sections 5 and 7 of this Agreement to be incorporated in the existing control panel and meter for external/non-unit lighting that is in the mechanical room of the building on Lot 3. The control and metering for electrical service to the fourteen (14) parking lot and drive aisle lights that will be maintained by CMC in accordance with Sections 5 and 7 of this Agreement has been incorporated in the control panel and meter for external/non-unit lighting in the mechanical room of the building on Lot 1.

E. CMC, at its sole cost, has caused the landscape irrigation system on Lot 1 to be disconnected and separated from the landscape irrigation system on Lots 2, 3, 4, and 5 and Outlots A and B in a manner that allows CMC and the Association to maintain separate systems in accordance with Section 10 of This Agreement.

## TERMS

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**NOW, THEREFORE**, in consideration of the foregoing Recitals and the mutual covenants, agreements, terms and conditions herein set forth, the Parties agree as follows:

**1. Incorporation of Recitals.** The Recitals hereinabove set forth are hereby restated and incorporated in the Terms of this Agreement by this reference.

**2. Reciprocal Easement for Access and Parking.** The Parties hereby grant to each other, the owners of the units of the Condominium and to their respective successors and assigns in title to the CMC Property and the units of the Condominium a mutual, non-exclusive easement for use of the access driveways, drive aisles and parking spaces constructed on Lot 1 and Lots 2, 3, 4 and 5 for the use of themselves, their tenants and occupants, and all of their respective clients, patients, customers, vendors, employees and guests. Neither Party nor its respective tenants, occupants and unit owners shall limit, reduce or change the use, size, number or configuration of the access driveways, drive aisles and parking spaces constructed on Lots 1, 2, 3, 4 or 5 as of the date of this Agreement without the written approval of the other Party and the Village of Lemont.

**3. Maintenance of Driveways and Parking Lots.** CMC shall have sole responsibility for maintenance (including snow plowing, sweeping and seal coating), repair and replacement of all paved areas (including sidewalks and curbing) on the parts of Lots 1 and 4 designated on Exhibit A hereto. CMC's costs for such work shall not be shared by the Association. The Association shall have sole responsibility for maintenance (including snow plowing, sweeping and seal coating), repair and replacement of all paved areas (including sidewalks and curbing) on the parts of Lots 1, 2, 3, 4 and 5 designated on Exhibit A hereto. The Association's costs for such work shall not be shared by CMC.

**4. Maintenance of Landscaped Areas.** CMC shall have sole responsibility for maintenance of all landscaped areas on Lot 1, including lawn mowing, irrigation, raking, and plant and tree trimming and replacement. CMC's costs for such work shall not be shared by the Association. The Association shall have sole responsibility for maintenance of all landscaped areas on Lots 2, 3, 4 and 5, and Outlots A and B, including lawn mowing, irrigation, raking, and plant and tree trimming and replacement. The Association's costs for such work shall not be shared by CMC.

**5. Maintenance of Parking Lot and Drive Aisle Light Poles.** CMC shall have sole responsibility for maintenance, repair and replacement of fourteen (14) parking lot and drive aisle light poles and fixtures: twelve (12) located on Lot 1 and two (2) located on the north end of Lot 2 on either side of the access driveway to McCarthy Road. The costs of such work, structures and fixtures shall not be shared by the Association. The Association shall have sole responsibility for maintenance, repair and replacement of the seven (7) parking lot and drive aisle light poles and

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fixtures located on Lots 3, 4 and 5. The costs of such work, structures and fixtures shall not be shared by CMC. The locations of the light poles and fixtures for which CMC and the Association are responsible are noted on Exhibit B hereto. Replacement parking lot and drive aisle light poles and fixtures installed by either Party shall, to the greatest extent possible, be of the same height, style and materials as the poles and fixtures originally installed, unless otherwise agreed in writing by the other Party, which agreement will not be unreasonably withheld or delayed.

**6. Maintenance of Monument Signs.** CMC shall have sole responsibility for the maintenance, repair and replacement of the eastern monument sign on Lot 1, and shall have sole control of the verbiage, symbols and panels on the eastern monument sign. The Association shall have sole responsibility for the maintenance, repair and replacement of the western monument sign on Lot 1, and shall have sole control of the verbiage, symbols and panels on the western monument sign. The Association and its agents and contractors are hereby granted the right to access Lot 1 as reasonably necessary for maintenance, repair and replacement of the western monument sign. Any replacement of or structural modification to the western monument sign shall not increase the height, width or depth of the sign structure, and shall be in the same materials and style of the original sign, unless otherwise agreed in writing by CMC, which agreement shall not be unreasonably withheld or delayed.

**7. Electrical Service to Parking Lot Lights and Monument Signs.** CMC shall be solely responsible for electricity costs incidental to (i) the fourteen (14) parking lot and drive aisle lights for which it has maintenance responsibility in accordance with Section 5 of this Agreement, and (ii) the eastern and western monument signs on Lot 1. Such electricity costs shall not be shared by the Association. The Association shall be solely responsible for electricity costs incidental to the seven (7) parking lot and drive aisle lights for which it has maintenance responsibility in accordance with Section 5 of this Agreement. Such electricity costs shall not be shared by CMC.

**8. Use and Maintenance of Refuse Enclosures.** CMC and occupants of the Lot 1 shopping center are hereby given the exclusive right to use the entire eastern refuse enclosure on Lot 4 and the east half of the western refuse enclosure on Lot 4, and shall have sole responsibility for the costs of refuse removal from those areas. CMC and the occupants of the Lot 1 shopping center and their refuse removal vendors are hereby granted the right to access the refuse enclosures on Lot 4 for placement and removal of refuse. The Association and occupants of the buildings on Lots 2, 3, 4 and 5 shall have exclusive use of the entire refuse enclosure on Lot 5 and the west half of the western refuse enclosure on Lot 4, and shall have sole responsibility for the costs of refuse removal from those areas. All refuse shall be bagged and placed in covered containers maintained by refuse removal vendors. CMC shall be responsible for the maintenance, repair and replacement of the eastern refuse enclosure on Lot 4. The Association shall be responsible for maintenance, repair and replacement of the refuse enclosure on Lot 5 and the western refuse enclosure on Lot 4.

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9. **Stormwater Facility Maintenance.** The Association shall have sole responsibility for maintenance and repair of the stormwater detention facilities on Outlots A and B, including water treatment and dredging, in accordance with the standards and requirements of the Village of Lemont. The Association's costs for such work shall not be shared by CMC.

10. **Landscape Irrigation System Use and Maintenance.** The Association shall be solely responsible for maintenance, repair and replacement of and water supply to the landscape irrigation system located on Lots 2, 3, 4 and 5 and Outlots A and B. The Association's costs for the maintenance of and water supply to the landscape irrigation system on Lots 2, 3, 4 and 5 and Outlots A and B shall not be shared by CMC. CMC shall be solely responsible for the maintenance, repair and replacement of and water supply to the landscape irrigation system located on Lot 1. CMC's costs for the maintenance of and water supply to the landscape irrigation system on Lot 1 shall not be shared by the Association.

11. **Work Standards; No Liens.** All maintenance, installation, repair and replacement work carried by a Party pursuant to this Agreement shall done in a safe, clean and workmanlike manner that maintains the facilities and equipment on the affected Lot(s) and Outlot(s) in a first-class commercial quality condition. All maintenance, installation, repair and replacement work carried by a Party pursuant to this Agreement on a Lot or Outlot owned or controlled by the other Party shall be done without imposition of any lien thereon. CMC and the Association shall continuously maintain the Lots and Outlots which they own or have maintenance responsibility for in good and safe condition, free of rubbish, debris and hazards, and in compliance with all laws, rules, ordinances, regulations and orders of any governmental authority having jurisdiction over them.

12. **Exclusive Use: Unit 10; Podiatric Medicine.** The Parties covenant and agree that so long as Condominium Unit 10 (14236 McCarthy Road, hereinafter "Unit 10") is utilized as a podiatric medical office or podiatric clinic, no other podiatric medical office, podiatric clinic, podiatric physician, or other medical practitioner specializing in the treatment of the foot or ankle shall be permitted to lease, own, use or occupy in any space within the Lot 1 shopping center or other Condominium Unit for the purpose practicing podiatric medicine. If Unit 10 ceases to be used for the practice of podiatric medicine for a period exceeding sixty (60) days, which time period shall be extended for up to six (6) months for a good reason, such as repair or renovation, casualty, condemnation, Act of God or *force majeure*, the exclusive use hereby granted shall terminate. Upon the expiration of such time period, either Party or the owner of another unit in the Condominium may record a document confirming such termination. In the event of a breach hereof, the owner, tenant or occupant of Unit 10 benefiting from the exclusive use hereby granted shall have the right to obtain a temporary restraining order, preliminary injunction and permanent injunction, as well has any other remedy available at law or in equity, including attorneys' fees and costs against the breaching party or parties without the requirement to provide a bond for any

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equitable relief. The provisions of this Section 12 shall run with the land of Lot 1 and all Condominium units, and shall be deemed incorporated in any deed or document or instrument of conveyance for Lot 1 or any other Condominium unit subsequent to the recording of this Agreement as though fully set forth. For the purposes of this Section 12, either the owner of Unit 10 or the Association may enforce its terms.

**13. Prohibited Uses.** No space within the Lot 1 shopping center or any Condominium unit shall be occupied or used for any of the following uses: bar or tavern serving alcoholic beverages without cooked meals, adult book store/entertainment, tattoo parlor, pawn shop, lodging, vehicle repair or gas station, pinball or video game arcade, theater/cinema, unemployment office, firearms dealer or shooting range, or off track betting or other gambling facility that is not accessory to a restaurant or retail store.

**14. Continuation of Benefits and Burdens.** All provisions of this Agreement, including its easements, covenants, conditions, requirements, benefits, burdens, rights and obligations, shall run with the land of Lot 1, Lots 2, 3, 4 and 5, Outlots A and B, and all units of the Condominium, and shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns in title to any part of said Lots, Outlots and Condominium units. All easements and rights granted herein are subordinate to the easements and rights granted by the recorded plat of the Derby Plaza Subdivision.

**15. Enforcement and Remedies.** Either Party may seek to enforce this Agreement or obtain remedy for breach or default of any provision thereof by an appropriate civil action initiated in the Circuit Court for Cook County. Before any such action is filed, the Party claiming a breach or default shall notify, in writing, the Party alleged to be in breach and specify the alleged breach and demand performance or compensation. Absent an emergency situation, no action may be filed until thirty (30) days after demand for performance or compensation has been made to the alleged breaching Party. The court costs and reasonable fees of the attorneys for the prevailing Party in any such action shall be paid by the Party against whom judgment is entered, as determined by the presiding judge.

**16. Applicable Law and Construction; Severability.** This Agreement shall be governed by the laws of the State of Illinois. Strict construction shall not apply to this Agreement. This Agreement shall be given a reasonable construction so that the intention of the Parties to confer commercially reasonable and usable rights and obligations as to their respective properties. If any term or provision of this Agreement, or the application thereof shall, to any extent, be deemed invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and to that end all terms and provisions of this Agreement are declared to be severable.

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**17. Termination of Prior Declaration.** CMC hereby releases and vacates all terms, provisions, rights and obligations contained in the declaration titled *Parking, Access Easement, Utilities, Signage, Refuse, Storm Water, Maintenance and Restricted Use Agreement* that was recorded on May 21, 2008, as Document No. 08-14245100, and the same is hereby deemed terminated and superseded by this Agreement.

**18. Amendment or Termination.** This Agreement may be amended or terminated by an instrument executed by CMC, or its successor or assign in title to Lot 1, and the Association, or its successor representative of the unit owners of the Condominium, and recorded with the Cook County Recorder of Deeds.

**19. Notices.** Any notice required or permitted by the provisions of this Agreement shall be in writing and sent by certified U.S. Mail, return receipt requested, or personally delivered to the Parties at the following addresses, or at such other addresses the Parties or their successors in interest may, by notice designate:

If to CMC: CMC Real Estate Holdings, LLC  
Attn: Jozef Czapka, Manager  
14600 W. 135<sup>th</sup> Street  
Lemont, IL 60439

With a copy to: Gregory Dose, Esq.  
Goldstine Skrodzki Law Firm  
835 McClintock Dr.  
Burr Ridge, IL 60527

If to Association: Derby Plaza Office Condominium Association  
Attn: MC Property Management - Michaelene Conrad  
14224 McCarthy Road  
Lemont, IL 60439

With a copy to: Jeffrey D. Swanson, Esq.  
Fullett Swanson PC  
430-440 Telsler Road  
Lake Zurich, IL 60047

**20. Authority.** Each individual executing this Agreement personally warrants and represents that she or he is authorized to enter into this Agreement on behalf of her or his respective Party and to bind said Party to the terms and provisions of this Agreement.

**[Remainder of page left blank intentionally. Signature page follows.]**

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

**CMC Real Estate Holdings, LLC**

By:   
Its: Manager

**Derby Office Plaza Office Condominium Association**  
For itself and on behalf of all Derby Plaza Condominium Unit Owners

By: \_\_\_\_\_

Its: \_\_\_\_\_

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

**CMC Real Estate Holdings, LLC**

By: \_\_\_\_\_

Its: Manager

**Derby Office Plaza Office Condominium Association**

For itself and on behalf of all Derby Plaza Condominium Unit Owners

By: Michaela Cant

Its: President

Property of COOP County Clerk's Office

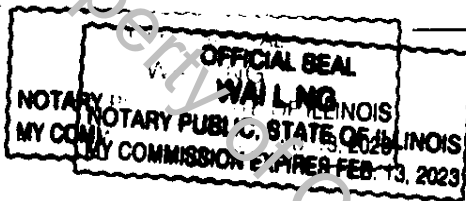
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## NOTARY CERTIFICATES

County of Cook        )  
State of Illinois     ) SS

The undersigned Notary Public in and for the County and State aforesaid does hereby certify that Jozef Czupta, personally known to me as a Manager of CMC Real Estate Holdings, LLC, acknowledged to me that he subscribed the foregoing instrument as his free and voluntary act and the free and voluntary act of said company, for the uses and purposes therein set forth.

Given under my hand and Notarial seal this 22<sup>nd</sup> day of June, 2019.



*[Handwritten Signature]*  
\_\_\_\_\_  
Notary Public

County of Cook        )  
State of Illinois     ) SS

The undersigned Notary Public in and for the County and State aforesaid does hereby certify that \_\_\_\_\_, personally known to me as \_\_\_\_\_ of Derby Plaza Office Condominium Association, acknowledged to me that he subscribed the foregoing instrument as his free and voluntary act and the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and Notarial seal this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public

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## NOTARY CERTIFICATES

County of Cook        )  
State of Illinois      ) SS

The undersigned Notary Public in and for the County and State aforesaid does hereby certify that Jozef Czupta, personally known to me as a Manager of CMC Real Estate Holdings, LLC, acknowledged to me that he subscribed the foregoing instrument as his free and voluntary act and the free and voluntary act of said company, for the uses and purposes therein set forth.

Given under my hand and Notarial seal this \_\_\_\_ day of \_\_\_\_\_, 2019.

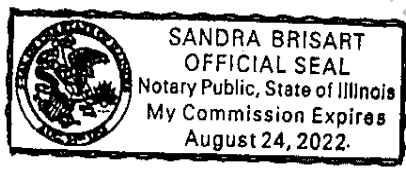
\_\_\_\_\_  
Notary Public

County of Cook        )  
State of Illinois      ) SS

The undersigned Notary Public in and for the County and State aforesaid does hereby certify that MICHAEL W. CONRAD, personally known to me as PRESIDENT of Derby Plaza Office Condominium Association, acknowledged to me that he subscribed the foregoing instrument as his free and voluntary act and the free and voluntary act of said corporation, for the uses and purposes therein set forth.

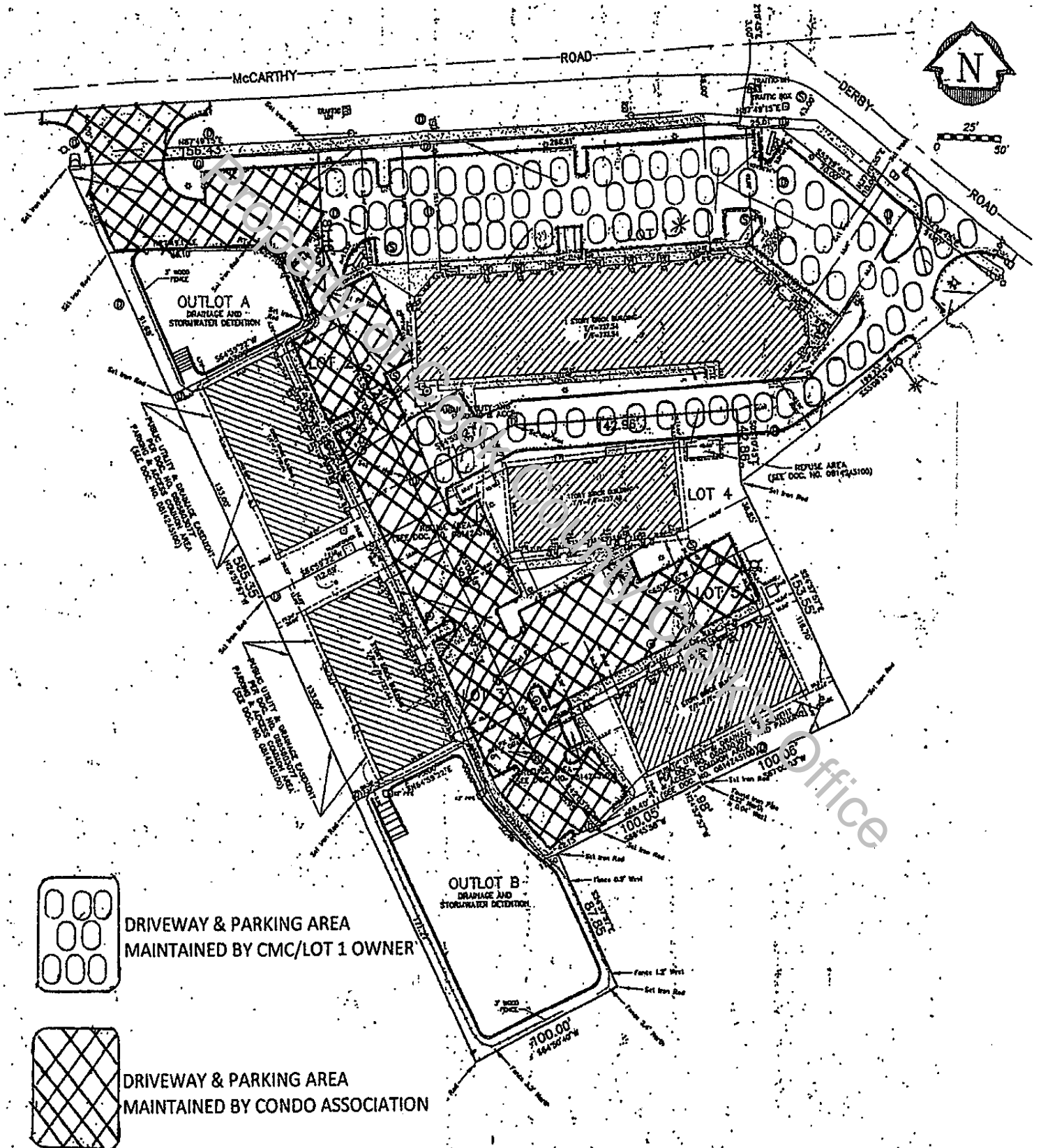
Given under my hand and Notarial seal this 23 day of June, 2019.

Sandra Brisart  
\_\_\_\_\_  
Notary Public



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## Exhibit A



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## Exhibit B

