

# NOT AN OFFICIAL DOCUMENT

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

2023-019969

9:03 AM 2023 Apr 5

## DRAINAGE EASEMENT AND MAINTENANCE AGREEMENT

THIS AGREEMENT ("Agreement") is made this 14<sup>th</sup> day of March, 2023, by and between **ON BROADWAY CO-OWNERS ASSOCIATION, INC.**, an Indiana corporation ("On Broadway") and **KEVKO, LLC**, and Indiana limited liability company, ("OB North").

WHEREAS, On Broadway is the owner of the following real estate parcel in Lake County, Indiana:

PART OF THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 34 NORTH, RANGE 8 WEST OF THE 2ND PRINCIPAL MERIDIAN, LAKE COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT 765.42 FEET SOUTH OF THE NORTHWEST CORNER OF SECTION 10; THENCE NORTH 89 DEGREES 43 MINUTES 58 SECONDS EAST AND PARALLEL TO THE NORTH LINE OF SECTION 10 A DISTANCE OF 732.86 FEET TO THE CENTERLINE OF BEAVER DAM DITCH LATERAL NO. 1; THENCE SOUTH 06 DEGREES 04 MINUTES 50 SECONDS WEST, 407.26 FEET; THENCE SOUTH 21 DEGREES 29 MINUTES 29 SECONDS WEST, 77.12 FEET; THENCE SOUTH 36 DEGREES 54 MINUTES 09 SECONDS WEST, 279.65 FEET; THENCE SOUTH 57 DEGREES 02 MINUTES 20 SECONDS WEST, 10.67 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 58 SECONDS WEST, 484.59 FEET TO THE WEST LINE OF SECTION 10; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SECTION 10 A DISTANCE OF 705.00 FEET TO THE POINT OF BEGINNING, CONTAINING 10.739 ACRES MORE OR LESS.

(hereinafter referred to as "**OB Property**")

WHEREAS, OB North is the owner of the following real estate in Lake County, Indiana:

Lot Number 2 in Coyne Addition, as per plat thereof, recorded February 5, 2016 as Instrument No. 2016-008372, in Plat Book 108, page 85 in the Office of the Recorder of Lake County, Indiana.

(hereinafter referred to as "**OB North Property**"); and

WHEREAS, the OB Property and OB North Property are adjacent to each other so that the North property line of the OB Property forms the South property line of the OB North Property; and

WHEREAS, the OB Property contains a platted drainage easement ("Pond"), depicted on **Exhibit A**, intended and utilized as and for the storm drainage system for the OB Property, being a general common area for condominium owners upon the OB Property; and

WHEREAS, On Broadway has agreed to grant to OB North a storm drainage easement over, through and upon the OB Property; and

WHEREAS, the parties desire to provide for the maintenance of the drainage easement area and the sharing of costs and expenses related thereto

**FILED**

APR 05 2023

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cc  
[Signature]

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NOW, THEREFORE, in consideration of the mutual covenants, agreements, conditions and stipulations contained in this Agreement, On Broadway and OB North agree as follows:

1. **Grant of Drainage Easement:** On Broadway does hereby grant and convey unto Kevko, LLC, and to its successors and assigns, an easement and right of way for the purpose of directing and discharging storm water from the OB North Property into the drainage system and easements upon the OB Property, as described and depicted on Exhibit "A" hereto. This easement consists of only that portion of the OB Property described and depicted in Exhibit "A" and is given for the sole purpose of storm sewer utility/drainage facilities location and the necessary maintenance thereof.

2. **Easement Maintenance:** The responsibility for the performance of maintaining, replacing, repairing and landscaping the drainage easement facilities upon the OP Property, and maintenance of insurance thereon as part of a general common area of the OB Property, shall be borne by On Broadway or the successor in interest to the OB Property. Kevko, LLC as the owner of the OB North Property, and its successors and assigns, all of whom utilize and benefit from the drainage easement, agrees to share all reasonable and customary costs to maintain, replace and repair the Pond ("Shared Maintenance Costs"). The allocable share of the Shared Maintenance Costs of the OB North Property shall be based upon the proportionate share of the square footage of the land areas of the OB Property and the OB North Property serviced by the drainage easement area upon the OB Property, excluding the area of any drainage pond within the easement area. In other words, the Shared Maintenance Costs shall be apportioned amongst owners of the OB Property and OB North Property in accordance with the percentage of square footage its property bears to the entirety of the property utilizing the drainage easement area of the OB Property, excluding the square footage of any drainage pond within the easement area.

3. **Easement Management:** It is acknowledged and agreed that the easement area shall be owned by the owner of the OB Property and managed and maintained by On Broadway or the successor owner thereof ("Easement Manager"). It is the responsibility of the Easement Manager to maintain the easement area in good order, condition and repair in accordance with reasonable standards customarily used in first-class commercial retail use property in the Northwest Indiana metropolitan area.

The owner(s) of the OB North Property, shall pay to the Easement Manager that owner's allocable Shared Maintenance Costs on the basis of the actual Shared Maintenance Costs incurred by the Easement Manager, within thirty (30) days of the receipt of an invoice therefor from the Easement Manager. In the event an owner shall fail to pay its Shared Maintenance Costs to the Easement Manager as provided herein, the Easement Manager shall be entitled to file of record in the Office of the Recorder of Lake County, Indiana, a Notice of Lien as to such amount upon the respective lot of the delinquent owner. Such lien may be foreclosed in the same manner and to the same extent as if such were a mortgage under Indiana law or as otherwise permitted by applicable law.

4. **Notices.** Every notice, approval, consent, or other communication authorized or required by this Agreement shall not be effective unless the same shall be in writing and delivered (i) in person, (ii) by courier, (iii) by reputable overnight courier guaranteeing next business day delivery, (iv) if sent on a business day during the business hours of 9:00 a.m. until 7:00 p.m. Eastern Standard Time, via Email with a copy to follow by reputable overnight courier guaranteeing next business day delivery, or (v) sent postage prepaid by United States certified mail, return receipt requested, directed to the appropriate party at its address provided below, or such other address as a party may designate by notice given from time to time in accordance with this Section 10. Such notices or other communications shall be effective (i) in the case of personal delivery or courier delivery, on the

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date of delivery to the party to whom such notice is addressed as evidenced by a written receipt signed on behalf of such party, (ii) if by overnight courier, one (1) business day after the deposit thereof with all delivery charges prepaid, (iii) if by Email, on the date of transmission, provided that such Email transmission is sent on a business day during the hours stated above, and provided that a confirmation sheet is received and a copy of the notice is simultaneously delivered by reputable overnight courier (with all charges prepaid) for receipt on the next business day, and (iv) in the case of certified mail, the earlier of the date receipt is acknowledged on the return receipt for such notice or five (5) business days after the date of posting by the United States Post Office. The notice addresses for the current parties are as follows:

On Broadway: On Broadway Co-Owners Association, Inc.  
11065 Broadway, Suite D  
Crown Point, IN 46307

Kevko, LLC: Kevko, LLC  
11065 Broadway, Suite D  
Crown Point, Indiana 46307

5. Counterparts: This Agreement may be executed in counterparts by the Parties and each executed counterpart thereof shall be considered an original. This instrument shall be recorded in the Office of the Recorder, Lake County, Indiana, upon proper execution by both parties.

6. Governing Law: This Agreement shall be governed by the laws of the State of Indiana.

7. Headings. The headings of the paragraphs contained herein are intended for reference purposes only and shall not be used to interpret the agreements contained herein or the rights granted hereby.


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[SIGNATURES ON FOLLOWING PAGES]

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IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first above written.

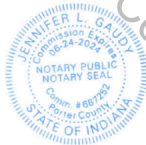
ON BROADWAY CO-OWNERS ASSOCIATION, INC.


By:   
Print: BRET A. BOLOGNA  
Title: PRESIDENT

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF LAKE )

Before me, the undersigned, a Notary Public in and for said County and State, this 14<sup>th</sup> day of March, 2023, personally appeared Bret Bologna in the capacity of President for **On Broadway Co-Owners Association, Inc.** and acknowledged the execution of the above instrument as a free and voluntary act, for the uses and purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.



  
Jennifer Gaudy, Notary Public  
Expiration: June 24, 2024

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KEVKO, LLC

By: *[Signature]*

Print: Robert M. Rossmore

Title: member

STATE OF INDIANA )  
                                  ) SS:  
COUNTY OF LAKE )

Before me, the undersigned, a Notary Public in and for said County and State, this 14<sup>th</sup> day of March, 2023, personally appeared Robert Rossmore in the capacity of Member for KeVKo, LLC and acknowledged the execution of the above instrument as a free and voluntary act, for the uses and purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.



*Jennifer Gaudy*  
Jennifer Gaudy, Notary Public  
Expiration: June 24, 2024

I affirm that I have taken reasonable care to redact each Social Security number in the attached document, unless required by law.

/s/ Patrick A. Schuster

Prepared by: Patrick A. Schuster, Attorney at Law, 115 S. Court St., Suite E., Crown Point, IN 46307

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EXHIBIT "A"

DEPICTION OF DRAINAGE EASEMENT AREA

Property of Lake County Recorder

