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Prepared by and after
recording return to:



Martin Becker, Esq.
Becker & Gurian
513 Central Avenue, 5th Floor
Highland Park, IL 60035

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DECLARATION OF RESTRICTIONS AND EASEMENTS

This Declaration of Restrictions and Easements ("**Declaration**") is made and entered into as of the 30th day of July, 2000, by REPUBLIC BANK OF CHICAGO, NOT PERSONALLY, BUT AS TRUSTEE UNDER A TRUST AGREEMENT DATED JULY 22, 1997, AND KNOWN AS TRUST NO. 1391, an Illinois land trust, hereinafter referred to as "**Declarant**" or "**Developer**".

WITNESSETH:

A. Declarant is the owner of fee simple title to certain land which, together with the improvements thereon, is commonly known as the Marketplace of Rolling Meadows and which is legally described on Exhibit A attached hereto (hereinafter referred to as the "**Center**").

B. Declarant is also the owner of certain land which is contiguous to the Center known as Outlot 4, Marketplace of Rolling Meadows, Rolling Meadows, Cook County, Illinois, which is legally described on Exhibit B attached hereto (the "**Outlot**").

C. Declarant has the right to sell property within the Center to third parties from time to time, and to add additional property to the Center from time to time. The Center, as may be constituted from time to time, and the Outlot are sometimes hereinafter referred to as the "**Project**". The Project is depicted on the site plan attached hereto as Exhibit C (the "**Site Plan**").

D. The Project is subject to that certain Declaration of Covenants, Restrictions and Easements made by Declarant as of June 22, 1999 and recorded on June 23, 1999 in the office of the Cook County, Illinois Recorder as Document No. 99606491 (the "**Project REA**").

BOX 333-CTI

14
A

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E. Declarant intends to sell the Outlot to First American Bank (the "Bank") for the purpose of developing a bank with drive-through teller and automated banking facilities thereon, and Declarant desires to establish certain restrictions upon the Outlot for the benefit of the Center and create certain reciprocal easements in, to, over and across the Outlot and the Center.

NOW, THEREFORE, Declarant for itself, its successors and assigns, does hereby agree that the Outlot shall be subject to and shall be used in conformance with the following covenants and agreements:

ARTICLE 1 DEVELOPMENT AND USE RESTRICTIONS

1.1 **Project REA.** In the event of any inconsistencies between this Declaration and the Project REA, the provisions of this Declaration shall control. The provisions of the Project REA shall control in any circumstance in which the provisions of the Project REA are not contradicted or superseded by any provisions of this Declaration. Capitalized terms used but not otherwise defined in this Declaration shall have the meaning given to such terms in the Project REA.

1.2 **Size of Improvements.** So long as the Ground Lease dated May 19, 1999, by and between Declarant and OCB Realty Co. ("OCB"), a Minnesota corporation (which Ground Lease covers Lot 6 in the Marketplace of Rolling Meadows Plat of Resubdivision), remains in full force and effect, the size of the improvements constructed on the Outlot shall not exceed four thousand (4,000) square feet, and the height of such improvements shall not exceed twenty-four (24) feet; provided, however, that, the improvements proposed to be constructed on the Outlot by the Bank, which have been approved by OCB as to location on the Outlot, may include the proposed parapet which shall not exceed a height of twenty-seven (27) feet.

ARTICLE 2 EASEMENTS

2.1 **Easement for Ingress/Egress over Outlot.** Declarant hereby reserves for the use and benefit of Declarant and its employees, agents, customers, vendors, suppliers, visitors, invitees, licensees, tenants, subtenants, concessionaires, and their respective successors and assigns, a perpetual, non-exclusive easement for ingress, egress of vehicles over and across the portion of the frontage road running east and west on the northerly portion of the Outlot as depicted by cross-hatching on the drawing attached hereto as Exhibit D, as the same may be constructed, maintained and configured thereon; provided, however, that, in no event shall any portion of the frontage road which is located on the Outlot, once configured and constructed, be re-configured or relocated by Outlot Owner without the written consent of Declarant, or by Declarant without the written consent of Outlot Owner.

2.2 **Prohibition on Parking at Center.** In no event shall the Outlot Owner, its employees, agents, customers, vendors, suppliers, visitors, invitees, licensees, subtenants,

concessionaires, and their respective successors and assigns, shall be permitted to park their vehicles on any parking areas located at the Center, as the same may from time to time be constructed, maintained, configured, re-configured and relocated for parking use. The parking of vehicles by all such parties shall be confined to the parking areas located on the Outlot, notwithstanding any parking easements and/or parking rights which may have been granted or implied in the Project REA, expressly including, without limitation, the provisions of Section 3.01 thereof, any and all such parking easements and/or rights to park on any parking areas located at the Center (other than parking areas located on the Outlot) being hereby expressly and forever waived by Outlot Owner, the aforementioned parties and their respective successors and assigns.

2.3 **Easement for Shopping Center Monument and Pylon Signs.** Declarant, as the "Developer" under the Project REA, has agreed to relocate the Shopping Center monument or pylon signs to portions of the Center other than the Outlot. Developer agrees that it voluntarily shall not install or construct any monument or pylon signs on the Outlot in the permitted easement area described in Section 7.02 of the Project REA, unless Developer is required to do so by an Owner (other than Developer), Anchor Tenant, the City of Rolling Meadows or other governmental entity having jurisdiction, or any other party who is a beneficiary of the Project REA.

ARTICLE 3 **RING ROAD MAINTENANCE AND REPAIR**

3.1 **Performance of Routine Common Area Maintenance.** During the term of the Project REA and subject to the sharing of costs provided in Section 3.2 below, Declarant shall perform, or cause to be performed, Routine Common Area Maintenance of the access, driveway and roadway portions of the common area of the Center, including, without limitation, the portion of the frontage road running east and west on the northerly portion of the Outlot as depicted by cross-hatching on the drawing attached hereto as Exhibit D, as the same may from time to time be constructed, maintained, configured, re-configured and relocated for such use. "**Routine Common Area Maintenance**" shall mean maintaining and repairing all paved surfaces located on the common area, re-stripping paved areas, periodic removal of debris, ice and snow, and maintaining signs and markers, lighting and landscaped areas.

3.2 **Cost of Routine Common Area Maintenance.** Commencing as of the conveyance of the Outlot to the Outlot Owner, Outlot Owner shall be obligated to pay to Declarant, as and for Outlot Owner's share of the costs of Routine Common Area Maintenance performed by Declarant pursuant to Section 3.1 above, and in lieu of the payments to or reimbursement of Developer for its Pro Rata Share of any CAM Expenses (as such terms are defined in the Project REA), the sum of Two Thousand Five Hundred Dollars (\$2,500) per year ("**Outlot Owner Share of CAM**"), in quarterly or such other installments in advance as Declarant shall request in writing. Outlot Owner Share of CAM shall be adjusted every five (5) years based upon the percentage change in the CPI from the date of execution of this Declaration, with the first such adjustment to be calculated on the fifth anniversary of the date of execution of this Declaration and each subsequent adjustment on the fifth anniversary thereafter. In no event shall any adjustment to the Outlot Owner Share of CAM

result in a decrease below the sum of Two Thousand Five Hundred Dollars (\$2,500) per year, notwithstanding a decrease in the CPI. For purposes of this Declaration, the term "CPI" shall mean the Consumer Price Index for all Urban Consumers (1982-84=100) published monthly by the U.S. Department of Labor, Bureau of Labor Statistics, or, if not then published, a comparable index designated by Declarant.

In the event the CPI calculation described in the preceding paragraph shall result in an adjustment to the Outlot Owner Share of CAM, either party shall have the right to deliver a written notice to the other party (referred to herein as an "Adjustment Notice"), specifying in reasonable detail the adjusted amount of the Outlot Owner Share of CAM, calculated in accordance with the terms of the preceding paragraph. In the event neither party delivers an Adjustment Notice to the other party prior to the date when such party would have the right under the terms of the preceding paragraph to adjust the Outlot Owner Share of CAM (referred to herein as an "Effective Adjustment Date"), then Outlot Owner shall continue to pay the then-effective amount of Outlot Owner Share of CAM until it delivers or receives an Adjustment Notice. Upon receipt or delivery of an Adjustment Notice, Outlot Owner shall be obligated to pay the adjusted amount of Outlot Owner Share of CAM as of the applicable Effective Adjustment Date; provided, however, that if an Adjustment Notice is delivered or received more than two (2) years after the applicable Effective Adjustment Date, then payments of Outlot Owner Share of CAM made prior to the receipt of such Adjustment Notice shall not be subject to adjustment.

3.3 **Lien on Outlot.** In the event of Outlot Owner's default in the payment of the Outlot Owner Share of CAM, the unpaid amount of the Outlot Owner Share of CAM (and all reasonable costs and expenses, including reasonable attorneys' fees, incurred by Declarant with respect to the collection thereof) shall constitute a lien against the Outlot. If Outlot Owner fails to pay the Outlot Owner Share of CAM, such lien shall attach and take effect upon recordation of a claim of lien in the office of the Recorder of Deeds of Cook County, Illinois by Declarant.

ARTICLE 4 **SALES TAX REPORTS**

4.1 **Sales Tax Reports.** To the extent required to satisfy Declarant's obligations under that certain Economic Development Agreement dated March 9, 1999 with the City of Rolling Meadows (the "City"), upon written request by Declarant, Outlot Owner shall deliver authorization to the City to authorize the Illinois Department of Revenue (the "IDOR") to allow the City to examine and review sales tax reports filed by Outlot Owner with the IDOR, if any, for the purpose of monitoring sales tax revenues generated by Outlot Owner's retail activities at the Outlot, as shown in required filings with the IDOR, if and to the extent such retail sales are subject to Illinois sales tax. Upon request of either Declarant or the City, Outlot Owner shall provide Declarant and/or the City with true and accurate copies of Outlot Owner's Illinois Department of Revenue sales tax returns, if any, relating to retail sales from the business operated at the Outlot on a quarterly basis.

ARTICLE 5

Intentionally Omitted.

ARTICLE 6
MISCELLANEOUS

6.1 **Default.** The occurrence of any one or more of the following events shall constitute a material default and breach of this Declaration by the non-performing Party (the "**Defaulting Party**"): *Property of Court Office*

- (a) The failure to make any payment required to be made hereunder within ten (10) business days after written notice of such failure from the Non-Defaulting Party; or
- (b) The failure to observe or perform any of the covenants, conditions or obligations of this Declaration within thirty (30) days after notice by the Non-Defaulting Party specifying the nature of the default claimed or such longer period of time as is reasonably necessary to cure such default if the Defaulting Party has commenced to cure such default within said thirty (30) day period and is diligently pursuing same to completion.

In the event of default hereunder, the Non-Defaulting Party shall have the right to pursue any remedy available to it at law or in equity against the Defaulting Party, or any other person violating or threatening to violate any of the terms and covenants or provisions of this Declaration, and to recover damages for any such violation (excluding punitive, consequential or special damages). Any available remedy shall include the right to restrain by injunction any violation or threatened violation of this Declaration, or to obtain a decree to compel performance of its terms, it being agreed that the remedy at law for a breach of any such term, covenant or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate. All of the remedies permitted or available to a Non-Defaulting Party under this Declaration, or at law or in equity, shall be cumulative and not alternative, and the invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

6.2 **Notices.** All notices and demands (collectively, a "**notice**") required or permitted to be given under this Declaration shall be in writing and shall be deemed to have been given as of the date such notice is (i) delivered to the Party intended, (ii) delivered to the then current address of the Party intended, or (iii) rejected at the then current address of the Party intended provided such rejected notice was sent prepaid certified mail, return receipt requested. The initial notice addresses shall be as follows:

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If to Declarant: Inter-Continental Real Estate and Development Corporation
Suite 28
15750 S. Harlem Avenue
Orland Park, IL 60462

with a copy to: Becker & Gurian
513 Central Avenue, 5th Floor
Highland Park, IL 60035
Attn: Martin Becker, Esq.
Fax Number: (847) 433-6735

If to Outlet Owner: First American Bank
1650 Louis Avenue
Elk Grove Village, IL 60007-2350
Attn: Chief Executive Officer
Fax Number: (847) 290-6917

with a copy to: Duane, Morris & Heckscher LLP
227 West Monroe Street, Suite 3400
Chicago, IL 60606
Attn: David B. Yelin, Esq.
Fax Number: (312) 499-6701

Upon at least five (5) days' prior written notice, each Party shall have the right to change its address for notice purposes to any other address within the United States.

6.3 **Construction and Interpretation.**

A. Invalidation of any of the provisions contained in this Declaration, or of the application thereof to any person by judgment or court order, shall in no way affect any of the other provisions hereof or the application thereof to any other person, and the same shall remain in full force and effect.

B. Whenever required by the context of this Declaration: (i) the singular shall include the plural and vice versa, and the masculine shall include the feminine and neuter genders and vice versa; and (ii) use of the words "including", "such as", or words of similar import, when following any general term, statement or matter shall not be construed to limit such statement, term or matter to specific items, whether or not language of non-limitation, such as "without limitation", or "but not limited to", are used with reference thereto, but rather they be deemed to refer to all other items or matters that could reasonably fall within the broadest scope of such statement, terms or matter.

C. The captions preceding the text of each article and section are included only for convenience of reference. Captions shall be disregarded in the construction and interpretation of this Declaration. Capitalized terms are also selected only for convenience of reference and do not

necessarily have any connection to the meaning that might otherwise be attached to such term in a context outside of this Declaration.

6.4 **Binding Effect.** The terms of this Declaration and all easements granted and obligations undertaken hereunder shall constitute covenants running with the land and shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns, who become parties hereunder. Except as specifically set forth in this Declaration, this Declaration is not intended to supersede, modify, amend or otherwise change the provisions of any prior instrument affecting the Outlot.

6.5 **Amendment.** This Declaration may be amended by, and only by, a written agreement signed by all of the then current parties and shall be effective only when recorded in the Office of the Recorder of Deeds of Cook County, Illinois; provided, however, that any amendment or modification of this Declaration made without the consent of the holder of a mortgage of a party's Parcel which has notified all Parties of its status as such a holder ("**Mortgagee**") shall not be binding upon such Mortgagee without such Mortgagee's consent; and except as expressly permitted by the terms of this Declaration, this Declaration shall not be terminated or amended or modified in any material respect which would or might adversely affect such Mortgagee without such Mortgagee's consent. No consent to an amendment of this Declaration shall ever be required of any Occupant or Person other than the Parties and the Mortgagee, if any, except that no amendment shall be binding on any Occupant unless said Occupant consents to same.

6.6 **No Restriction.** Neither the execution of this Declaration nor the easements and rights granted to Outlot Owner hereunder shall, expressly or impliedly, create or impose upon Declarant any restrictions or limitation with respect to the operation, use or development of the Center, and Declarant hereby reserves the right, in its sole discretion: (i) to add additional land or improvements to the Center, and to make alterations, changes and modifications to the land or improvements comprising the Center from time to time, including, without limitation, the size, gross leasable areas, height, facade, signage of the buildings located thereon; (ii) to change the configuration or size of the common areas of the Center and to re-locate the driveways, access areas, curb cuts, and parking areas and other common areas of the Center, provided, however, no such change shall have a material impact upon the ingress and egress hereinabove described for the benefit of the Outlot; and (iii) to determine the types of uses which shall be permitted within the portions of the Center.

6.7 **Not a Public Dedication.** Except as otherwise specifically set forth herein, nothing herein contained shall be deemed to be a gift or dedication of any portion of any parcel or of any portion thereof to the general public, or for any public use or purpose whatsoever.

6.8 **Estoppel Certificate.** Each party agrees that upon the written request of the other party, such party will issue to the requesting party, or its prospective mortgagee or successor, an estoppel certificate in a form reasonably acceptable to the requesting party, stating:

- (a) whether it knows of any default under this Declaration by the requesting party, and if there are known defaults, specifying the nature thereof;
- (b) whether this Declaration has been modified or amended in any way by it and, if so, stating the nature of such modification or amendment; and
- (c) whether this Declaration is in full force and effect.

6.9 **Trustee Clause.** It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of Declarant hereunder, while in form purporting to be the warranties, indemnities, representations, covenants, undertakings and agreements of Declarant are nevertheless each and every one of them, made and intended not as personal warranties, indemnities, representations, covenants, undertakings and agreements by Declarant or for the purpose or with the intention of binding Declarant personally, and this instrument is executed and delivered by Declarant not in its own right, but solely in the exercise of the powers conferred upon it as Declarant; and that no personal liabilities or personal responsibility is assumed by nor shall at any time be asserted or enforceable against Declarant or the corporation or entity that is acting as Declarant on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of Declarant in this instrument contained, either expressed or implied, all such personal liability, if any, being expressly waived and released. Nothing contained in this Section shall relieve Declarant from any liability or obligation to the extent of Declarant's trust assets.

(The remainder of this page is left intentionally blank)

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed effective as of the day and year first above written.

REPUBLIC BANK OF CHICAGO, not personally, but as trustee under Trust Agreement dated July 22, 1997 and known as Trust No. 1391

By: _____
Name: Steven J. Colompos
Title: Trust Officer

Property of Cook County Clerk's Office

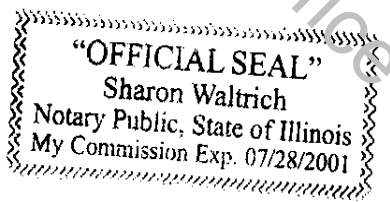
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

Before me, a Notary Public in and for said County and State, personally appeared STEVEN J. COLOMPOS, to me personally known (or proved on the basis of satisfactory evidence) to be the person who executed the foregoing instrument as TRUST OFFICER of Republic Bank of Chicago, as trustee under trust agreement dated July 22, 1997 and known as Trust No. 1391, and acknowledged to me that by his/her signature on the foregoing instrument, such trustee executed it.

GIVEN under my hand and Notary Seal this 10th day of July, 2000.

Sharon Waltrich
Notary Public

My Commission Expires: 7-28-2001



CONSENT

LASALLE BANK, NA, a national banking association, as mortgagee in Construction Mortgage and Security Agreement recorded June 23, 1999 in the office of the Cook County, Illinois Recorder as Document Number 99606492, as assignee in Assignment of Rents and Leases recorded June 23, 1999 as Document Number 99606493, and as secured party in Financing Statements Filed June 24, 1999 as Document Numbers 99U06611 and 99U06610, does hereby consent to the execution of the attached Declaration of Restrictions and Easement and to the easements, terms and conditions contained therein.

LENDER:

LaSalle Bank, NA, a national banking association

By:

Its:

[Signature]
Vice President

STATE OF ILLINOIS)
) SS
COUNTY OF WILL)

On this 5th day of July, 2000, before me, a Notary Public within and for said County, personally appeared Andrea Vethoven, to me personally known, and by me duly sworn, did say she is the Vice President of LaSalle Bank, NA, a national banking association, and that said instrument was signed on behalf of said bank by authority of its Board of Directors and she acknowledged said instrument to be the free act and deed of said bank.

[Signature]
Notary Public

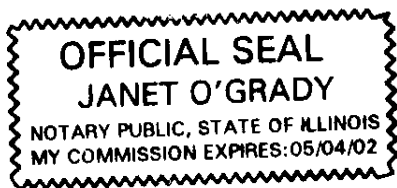


EXHIBIT A LEGAL DESCRIPTION OF CENTER

Lots 1, 2, 3, 6, 7, 8, 9 and 10 in the Marketplace of Rolling Meadows, according to the plat thereof RECORDED IN THE COOK COUNTY RECORDERS OFFICE ON SEPTEMBER 27, 1999 AS DOCUMENT NUMBER 99910798 IN COOK COUNTY, ILLINOIS, BEING A RESUBDIVISION OF LOTS 1, 2, 4 AND 5 IN JCP MEADOWS PUD BEING A RESUBDIVISION OF LOT 1 IN JCP MEADOWS SUBDIVISION, IN SOUTHWEST 1/4 OF SECTION 9 AND THE SOUTHEAST 1/4 OF SECTION 8, BOTH IN TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS ACCORDING TO THAT PLAT THEREOF RECORDED IN THE COOK COUNTY RECORDERS OFFICE ON DECEMBER 18, 1985 AS DOCUMENT NUMBER 85329240 AND CORRECTED BY CERTIFICATE OF CORRECTION RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON AUGUST 11, 1988 AS DOCUMENT NUMBER 88364191 IN COOK COUNTY, ILLINOIS, AND ALSO LOT 1 AND OUTLOT A IN MTM RESUBDIVISION BEING A RESUBDIVISION OF LOT 3 AND OUTLOT A IN JCP MEADOWS P.U.D IN THE SOUTHWEST 1/4 OF SECTION 9 AND SOUTHEAST 1/4 OF SECTION 8, BOTH IN TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THAT PLAT THEREOF RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON SEPTEMBER 16, 1993 AS DOCUMENT NUMBER 93742116, ALL IN COOK COUNTY, ILLINOIS.

PIN: 08-09-302-016

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08-09-302-021

08-09-302-022

08-08-403-023-0000

08-08-403-025-0000

08-08-403-030-0000

08-08-403-031-0000

Marketplace of Rolling Meadows
Northwest Corner of Golf Road + Algonquin Road

Property of Cook County Clerk's Office

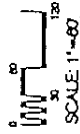
EXHIBIT B
LEGAL DESCRIPTION OF OUTLOT

LOT 4 IN THE MARKETPLACE OF ROLLING MEADOWS, ACCORDING TO THE PLAT THEREOF RECORDED IN THE COOK COUNTY RECORDERS OFFICE ON SEPTEMBER 27, 1999 AS DOCUMENT NUMBER 99910798 IN COOK COUNTY, ILLINOIS, BEING A RESUBDIVISION OF LOTS 1, 2, 4 AND 5 IN JCP MEADOWS PUD BEING A RESUBDIVISION OF LOT 1 IN JCP MEADOWS SUBDIVISION, IN SOUTHWEST 1/4 OF SECTION 9 AND THE SOUTHEAST 1/4 OF SECTION 8, BOTH IN TOWNSHIP 41 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS ACCORDING TO THAT PLAT THEREOF RECORDED IN THE COOK COUNTY RECORDERS OFFICE ON DECEMBER 18, 1985 AS DOCUMENT NUMBER 85329240 AND CORRECTED BY CERTIFICATE OF CORRECTION RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON AUGUST 11, 1988 AS DOCUMENT NUMBER 88364191 IN COOK COUNTY, ILLINOIS, AND ALSO LOT 1 AND OUTLOT A IN MTM RESUBDIVISION BEING A RESUBDIVISION OF LOT 3 AND OUTLOT A IN JCP MEADOWS PUD IN THE SOUTHWEST 1/4 OF SECTION 9 AND SOUTHEAST 1/4 OF SECTION 8, BOTH IN TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THAT PLAT THEREOF RECORDED IN THE COOK COUNTY RECORDER'S OFFICE ON SEPTEMBER 16, 1993 AS DOCUMENT NUMBER 93742116, ALL IN COOK COUNTY, ILLINOIS.

PIN: 08-09-302-022-0000

Lot 4 - marketplace of Rolling Meadows
Northwest Corner of Golf Road + Algonquin Road
South
1430 Golf Road, Rolling Meadows, IL

MARKETPLACE OF
ROLLING MEADOWS
1400 EAST GOLF ROAD
ROLLING MEADOWS, ILLINOIS 60008



Property of BRADFORD

