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Eugene "Gene" Moore
Cook County Recorder of Deeds
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JPH: 10/10/05 Manager's Report
11/7/05
LAND ACQUISITION

THIS ORDINANCE MAY BE CITED AS
VILLAGE ORDINANCE NUMBER
05-11-P-3398

AN ORDINANCE PROVIDING FOR THE ACQUISITION OF THE REAL ESTATE LOCATED AT 4801 AND 4829 DEMPSTER STREET, SKOKIE, ILLINOIS, FOR REDEVELOPMENT OR OTHER MUNICIPAL PURPOSES AND AUTHORIZING THE USE OF EMINENT DOMAIN AS AN ALTERNATIVE

WHEREAS, following described real property:

LOTS 1 TO 5, INCLUSIVE, IN TERMINAL SUBDIVISION, IN THE NORTHEAST ¼ OF SECTION 21, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPT THAT PART TAKEN FOR STREETS, IN COOK COUNTY, ILLINOIS.

PIN 10-21-204-016-0000

commonly known as 4801 Dempster Street, Skokie, Illinois, and

LOT 6 (EXCEPT THE NORTH 7.00 FEET THEREOF) IN TERMINAL SUBDIVISION, IN THE NORTHEAST ¼ OF SECTION 21, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN: 10-21-204-001-0000

commonly known as 4829 Dempster Street, Skokie, Illinois, (collectively referred to as the "Subject Properties"); and

WHEREAS, the property known as 4801 Dempster Street was formerly used as a gasoline service station and has been vacant, with the building boarded-up and the site barricaded, since 2001; and

WHEREAS, the property known as 4829 Dempster Street is being used as a transmission repair facility and is a nonconforming special use in the B3 Business district; and

WHEREAS, in 2001, the Village entered into a long-term lease with a developer to encourage the renovation and restoration of the historic train station adjacent to the Chicago Transit Authority (the "CTA") Skokie Swift (a/k/a Yellow Line) terminus on Dempster Street, and the station's ultimate relocation to property owned by the Village on Dempster Street; and

WHEREAS, the Community Development Department prepared a "West Dempster Street Redevelopment Plan," dated October 15, 2001 (the "Plan"), which noted, *inter alia*, that

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1 the commercial strip of West Dempster from Edens Expressway to Kilpatrick Avenue is,
2 "deteriorating and underutilized as a commercial district"; and

3 **WHEREAS**, one of the goals, as outlined in the Plan, was to change the emphasis of
4 the District from a primarily vehicle-oriented commercial corridor to a "mixed-use
5 residential/retail/office area that is transit oriented" and a description of the benefits of a
6 "transit-oriented development" were detailed; and

7 **WHEREAS**, the Subject Properties are located within the Village of Skokie's West
8 Dempster Street Business Redevelopment District (hereinafter the "District"), which was
9 created pursuant to Village Ordinance Number 02-2-Z-3067, adopted on February 4, 2002;
10 and

11 **WHEREAS**, the District was established in accordance with Division 74.3, Business
12 District Development and Redevelopment, of the Illinois Municipal Code, 65 ILCS 5/11-74.3-1
13 *et seq.*(hereinafter the "Redevelopment Act"); and

14 **WHEREAS**, Section 5/11-74.3-3 of the Redevelopment Act provides for an array of
15 specific powers that can be utilized by municipalities to further the purposes of the creation of
16 the District, including but not limited to the acquisition of real and personal property and the
17 exercise of eminent domain powers; and

18 **WHEREAS**, the Mayor and Board of Trustees adopted Village Ordinance Number 02-
19 3-Z-3073, authorizing transit oriented developments, which allow mixed-use residential and
20 commercial buildings to be established within 2,000 feet of the Dempster Street CTA
21 terminus, all within the District; and

22 **WHEREAS**, the Village adopted Village Ordinance Number 03-1-P-3149 authorizing
23 eminent domain proceedings for the acquisition of real estate in the District, commonly known
24 as 4933-4957 Dempster Street and 8734-8738 Bronx Avenue for redevelopment and other
25 public purposes and, in response to the ordinance, the property owner submitted an
26 application to the Skokie Plan Commission proposing a transit oriented development; and

27 **WHEREAS**, on June 2, 2004, the Skokie Plan Commission recommended site plan
28 approval for the transit oriented development for the property located at 4933-4937 Dempster
29 Street and 8734-8738 and the Mayor and Board of Trustees approved Village Ordinance
30 Number 04-9-Z-3298, on September 20, 2004, granting site plan approval for the
31 development; and

32 **WHEREAS**, the Village has created Special Service Area No. 6 (the "SSA"), by virtue
33 of Village Ordinance Number 05-3-F-3341, adopted March 7, 2005, comprised of
34 substantially all of the properties zoned B2 Commercial and B3 Business in the District; and

35 **WHEREAS**, the Village, as part of the SSA, is currently making major expenditures
36 that will exceed three million dollars (\$3,000,000) in capital improvements along West
37 Dempster Street, including new sidewalks, street lighting, landscaping, signage and
38 pedestrian appurtenances, for the purpose of enhancing functional and aesthetic conditions
39 of the public rights of way; and

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1 **WHEREAS**, the Subject Properties are located within 2,000 feet of the Dempster
2 Street CTA terminus; and

3 **WHEREAS**, the Subject Properties are located in an area where the vehicle traffic is
4 very heavy and are adjacent to two major intersections, the Skokie Boulevard/Dempster
5 Street intersection, and the Niles Center Road/Dempster Street intersection, therefore traffic
6 and pedestrian safety necessitate that the Subject Properties be developed taking into
7 consideration a minimum of ingress and egress points; and

8 **WHEREAS**, the Community Development Director and Economic Development
9 Coordinator have examined the Subject Properties and have rendered opinions that the
10 Subject Properties meet the requirements to be considered "blighted" properties under Illinois
11 law; and

12 **WHEREAS**, the Director and Coordinator have incorporated their findings, that the
13 Subject Properties clearly exhibit at least five of the "blighted" factors employed in the blight
14 determinations utilized pursuant to the Tax Increment Allocation Redevelopment Act, in a
15 Memorandum, dated November 1, 2005, a copy of which is attached to this ordinance as
16 Exhibit A; and

17 **WHEREAS**, it is determined that the Subject Properties do qualify as blighted
18 properties; and

19 **WHEREAS**, the acquisition of the Subject Properties described above is necessary
20 and is a valid public purpose and the Subject Properties are well suited for redevelopment
21 and economic development or for other valid municipal purposes; and

22 **WHEREAS**, at a duly authorized executive session, the Mayor and Board of Trustees
23 of the Village of Skokie authorized the Village Manager and the Corporation Counsel to
24 negotiate with the owners of the Subject Properties for the Village's acquisition for
25 redevelopment or other municipal purposes and to institute Eminent Domain proceedings if
26 necessary;

27 **NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Board of Trustees of the
28 Village of Skokie, Cook County, Illinois:

29 **Section 1:** That the above stated recitals to this Ordinance are hereby incorporated
30 in this Section 1 as if fully set forth herein.

31 **Section 2:** That the Subject Properties legally described above, with the common
32 addresses of 4801 and 4829 Dempster Street, Skokie, Illinois, are located within the Village
33 of Skokie.

34 **Section 3:** That the fee simple title to the Subject Properties shall be acquired for
35 redevelopment or other valid municipal purposes.

36 **Section 4:** That the Village Manager and Corporation Counsel are hereby
37 authorized to negotiate for the acquisition of the Subject Properties and enter into an
38 agreement for their purchase, subject to approval of the Mayor and Board of Trustees.

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1 **Section 5:** That in the event the Village Manager and Corporation Counsel are
2 unable to agree with the owners of the Subject Properties as to the compensation to be paid
3 for said property, the Corporation Counsel is hereby authorized, empowered and directed to
4 institute Eminent Domain proceedings to acquire the fee simple title and possession of the
5 above described Subject Properties, all in accordance with the laws of Eminent Domain of the
6 State of Illinois.

7 **Section 6:** That a copy of this Ordinance shall be recorded with the Recorder of
8 Deeds Office for Cook County.

9 **Section 7:** That this Ordinance shall be in full force and effect from and after its
10 passage, approval and publication in pamphlet form as provided by law.
11

ADOPTED this 7th day of November, 2005.

Ayes: 7 (Bromberg, Grider, McCabe, Perille
Roberts, Sucker, Van Dusen)

Nays: 0

Absent: 0

Attested and filed in my office
this 8th day of November, 2005;
and published in pamphlet form
according to law from November
8th, 2005 to November 18th, 2005.

Marlene Williams
Village Clerk

Approved by me this 7th day of
November, 2005.

George Van Dusen
Mayor, Village of Skokie

Marlene Williams
Village Clerk


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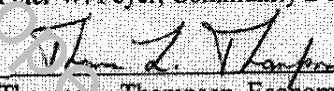
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Exhibit A

Memorandum**Community Development Department, Economic Development Division**

TO: Albert J. Rigoni, Village Manager
J. Patrick Hanley, Corporation Counsel

FROM: 
Peter W. Peyer, Community Development Director


Thomas L. Thompson, Economic Development Coordinator

DATE: November 1, 2005

**SUBJECT: 4801 and 4829 DEMPSTER STREET: FINDING OF BLIGHTING
CONDITIONS UNDER ILLINOIS REDEVELOPMENT LEGISLATION**

The subject properties are located within the West Dempster Street Business Redevelopment District created by Village Ordinance #02-2-Z-007, adopted on February 4, 2002. Each property consists of one parcel containing a single building. The Village plans to acquire both properties and combine them into a redevelopment site for purposes of attracting a transit-oriented, mixed-use development in keeping with modern zoning and the changing land uses of this commercial/residential corridor.

The West Dempster Street Business Redevelopment District was established in accordance with Division 74.3, Business District Development and Redevelopment, of the Illinois Municipal Code, 65 ILCS 5/11-74.3-1 et seq. This act does not require any findings of blight to create a redevelopment district or to utilize eminent domain. However, in light of the planned acquisition, the Village staff has reviewed the criteria established under the Illinois Tax Increment Allocation Redevelopment Act (Tax Increment Financing or TIF Act) to determine if the two properties can be stipulated as "blighted". The TIF Act includes 13 blight factors for improved properties, of which at least five must be present for a declaration of blight. Following are the factors and their definitions according to the TIF Act:

(A) Dilapidation. An advanced state of disrepair or neglect of necessary repairs to the primary structural components of buildings or improvements in such a combination that a documented building condition analysis determines that major repair is required or the defects are so serious and so extensive that the buildings must be removed.

(B) Obsolescence. The condition or process of falling into disuse. Structures have become ill suited for the original use.

(C) Deterioration. With respect to buildings, defects including, but not limited to, major defects in the secondary building components such as doors, windows, porches, gutters and downspouts,

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and fascia. With respect to surface improvements, that the condition of roadways, alleys, curbs, gutters, sidewalks, off street parking, and surface storage areas evidence deterioration, including but not limited to, surface cracking, crumbling, potholes, depressions, loose paving material, and weeds protruding through paved surfaces.

(D) Presence of structures below minimum code standards. All structures that do not meet the standards of zoning, subdivision, building, fire, and other governmental codes applicable to property, but not including housing and property maintenance codes.

(E) Illegal use of individual structures. The use of structures in violation of applicable federal, State, or local laws, exclusive of those applicable to the presence of structures below minimum code standards.

(F) Excessive vacancies. The presence of buildings that are unoccupied or under utilized and that represent an adverse influence on the area because of the frequency, extent, or duration of the vacancies.

(G) Lack of ventilation, light, or sanitary facilities. The absence of adequate ventilation for light or air circulation in spaces or rooms without windows, or that require the removal of dust, odor, gas, smoke, or other noxious airborne materials. Inadequate natural light and ventilation means the absence of skylights or windows for interior spaces or rooms and improper window sizes and amounts by room area to window area ratios. Inadequate sanitary facilities refers to the absence or inadequacy of garbage storage and enclosure, bathroom facilities, hot water and kitchens, and structural inadequacies preventing ingress and egress to and from all rooms and units within a building.

(H) Inadequate utilities. Underground and overhead utilities such as storm sewers and storm drainage, sanitary sewers, water lines, and gas, telephone, and electrical services that are shown to be inadequate. Inadequate utilities are those that are: (i) of insufficient capacity to serve the uses in the redevelopment project area, (ii) deteriorated, antiquated, obsolete, or in disrepair, or (iii) lacking within the redevelopment project area.

(I) Excessive land coverage and overcrowding of structures and community facilities. The over intensive use of property and the crowding of buildings and accessory facilities on a site. Examples of problem conditions warranting the designation of an area as one exhibiting excessive land coverage are: (i) the presence of buildings either improperly situated on parcels or located on parcels of inadequate size and shape in relation to present day standards of development for health and safety and (ii) the presence of multiple buildings on a single parcel. For there to be a finding of excessive land coverage, these parcels must exhibit one or more of the following conditions: insufficient provision for light and air within or around buildings, increased threat of spread of fire due to the close proximity of buildings, lack of adequate or proper access to a public right of way, lack of reasonably required off street parking, or inadequate provision for loading and service.

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(J) Deleterious land use or layout. The existence of incompatible land use relationships, buildings occupied by inappropriate mixed uses, or uses considered to be noxious, offensive, or unsuitable for the surrounding area.

(K) Environmental clean up. The proposed redevelopment project area has incurred Illinois Environmental Protection Agency or United States Environmental Protection Agency remediation costs for, or a study conducted by an independent consultant recognized as having expertise in environmental remediation has determined a need for, the clean up of hazardous waste, hazardous substances, or underground storage tanks required by State or federal law, provided that the remediation costs constitute a material impediment to the development or redevelopment of the redevelopment project area.

(L) Lack of community planning. The proposed redevelopment project area was developed prior to or without the benefit or guidance of a community plan. This means that the development occurred prior to the adoption by the municipality of a comprehensive or other community plan or that the plan was not followed at the time of the area's development. This factor must be documented by evidence of adverse or incompatible land use relationships, inadequate street layout, improper subdivision, parcels of inadequate shape and size to meet contemporary development standards, or other evidence demonstrating an absence of effective community planning.

(M) The total equalized assessed value of the proposed redevelopment project area value has declined for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated or is increasing at an annual rate that is less than the balance of the municipality for 3 of the last 5 calendar years for which information is available or is increasing at an annual rate that is less than the Consumer Price Index for All Urban Consumers published by the United States Department of Labor or successor agency for 3 of the last 5 calendar years prior to the year in which the redevelopment project area is designated.

We have examined both properties and found that there is sufficient presence of at least five of the factors for each parcel, and a sixth factor (excessive vacancies) for the 4801 Dempster property, to make a determination of "blight".

1. Deterioration of Buildings and Site Improvements – The surface condition of the 4801 Dempster property is in extremely poor condition and continues to be the source of an outstanding Property Standards code violation. The building at this site has not been used for at least four years and all windows are boarded up. The entire site is barricaded and has had a sign advertising the availability of the property for development for several years. All surrounding concrete and asphalt is in poor condition. The lot contains overgrown vegetation, weeds (another outstanding code violation) and potholes.

The neighboring property at 4829 Dempster also shows signs of deterioration in the parking lot and site conditions. Wood trim exhibits flaking paint, the open area to the south and east of the building is heavily weeded, and there is a rusty above ground fuel storage tank connected to the east side of the building. There is no other landscaping on the site.

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Both sites are deficient in landscaping and parking control measures required in the zoning chapter of the Village Code for new commercial facilities.

2. Obsolescence - The former gasoline station at 4801 Dempster closed about four or five years ago. It was seemingly too small and difficult to access to compete with other stations in the area. The building and site are not suitable for modern gasoline station usage, and the building has no known conversion potential for another land use. Siting of the building is not in conformance with current zoning or land use controls.

The 4829 Dempster property also has access difficulties and the building is not appropriately sited to conform with current zoning or land use controls. The property was likely a gasoline service station originally and was later converted to the current transmission repair facility. The current use is non-conforming in that it is operating without a special use as is now required in this zoning district. Such a special use would not likely be granted for this type of automobile repair facility at this location due to site configuration, access, and surrounding land uses.

3. Deleterious Layout - Both properties were developed as automobile service facilities prior to the Village's current Comprehensive Plan and changes to the B-3 zoning district. The 4829 Dempster use is nonconforming under current zoning regulations and operating without the special use permit that would now be required. This site does not meet current standard conditions for motor vehicle repair facilities contained in the zoning chapter of the Village Code. Neither building conforms to current site layout standards that would require buildings to be proximate to the front sidewalk as opposed to being situated at the rear (south) of the lot. Both sites also contain driveways and access points too close to intersections that would not be approved now (they will be closed in the near future). The small sizes of both parcels make them difficult to redevelop on their own. There is inadequate landscaping, no delineation of parking spaces, deteriorated and missing curbing, haphazard ingress/egress and site parking, and both land uses would be considered as noxious given the proximity of residential uses and lack of buffering.
4. Excessive Vacancies - The 4801 Dempster site has been vacant since 2009-01. It is completely boarded up and barricaded from the public.
5. Presence of Structures Below Minimum Codes - The 4801 Dempster property has open violations regarding weed control and parking lot maintenance. The building has been boarded up for several years. The 4829 Dempster property does not have any open violations. However, the condition of the parking lot, lack of landscaping, and outdoor storage of vehicles and materials are not up to code standards. Neither property would conform to current zoning standards regarding the siting of buildings or requirements for special use permits. The motor vehicle repair use at 4829 Dempster does not meet the standard conditions for motor vehicle repair facilities contained in the zoning chapter of the Village Code.

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6. Lack of Community Planning – Both properties were developed long before the current Comprehensive Plan. The facts cited under “Obsolescence” and “Deleterious Layout” indicate that these properties were developed without benefit of a community plan or specific redevelopment plan. The West Dempster Business Redevelopment Plan was adopted to address such condition and the previous lack of planning. Recent roadway and current streetscape improvements, while addressing the need for more attractive and functional infrastructure in the area, will actually impede access to these two properties even more. These properties were developed without guidance of a plan. Parcels are of inadequate size for modern transit-oriented, mixed-use developments. Additional street improvements planned for these intersections will further limit access to these sites and actually reduce the parcel sizes making the current land uses even less appropriate in this area.

At this time, we are not able to determine if other blighting factors are pertinent to these parcels. Given the nature of the current and former uses, there is certainly reason to suspect that additional factors relative to lack of ventilation/light/sanitary facilities and environmental cleanup could be present. However, this would necessitate more extensive research and technical expertise that we do not possess. Nor do we know how recent assessed valuations of both properties have compared vis-à-vis the balance of the Village of Skokie. It is very likely that the vacant 4801 Dempster property has declined or increased at rates less than the balance of the Village. Nonetheless, it is our opinion that both properties clearly exhibit at least five of the TIF Act blighting factors, and therefore can be considered as blighted properties under the Illinois legislation.

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STATE OF ILLINOIS)
)SS
 COUNTY OF COOK)

I, MARLENE WILLIAMS, DO HEREBY CERTIFY that I am the regularly elected and acting Clerk of the Village of Skokie, County of Cook and State of Illinois.

I DO FURTHER CERTIFY that the annexed and foregoing Ordinance is a true and correct copy of an Ordinance adopted by the Mayor and Board of Trustees of the Village of Skokie on the 7th day of November, 2005 by a vote of 7 Ayes, 0 Nays and 0 Absent; that said Ordinance adopted as aforesaid was deposited and filed in the Office of the Village Clerk on the 8th day of November, 2005. and was approved by the Mayor and Board of Trustees on the 7th day of November, 2005.

I DO FURTHER CERTIFY that the original, of which the foregoing is a true copy is entrusted to my care and safekeeping and I am the Keeper of the records, journals, entries, ordinances and resolutions.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the Village of Skokie this 19th day of December, 2005.

Marlene Williams

Skokie Village Clerk
 Cook County, Illinois

(seal)