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Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 10/23/2006 11:19 AM Pg: 1 of 15

LW File No. 07995.00801

This space reserved for Recorder

FOURTH MODIFICATION OF LOAN DOCUMENTS

THIS FOURTH MODIFICATION OF LOAN DOCUMENTS ("Fourth Modification") is made and entered into as of the 15th day of July, 2006, by and among (i) **GROSSE POINTE MANOR REALTY, L.L.C.**, an Illinois limited liability company ("Owner"), (ii) **GROSSE POINTE MANOR, L.L.C.**, an Illinois limited liability company ("Operator", together with Owner, "Borrowers"), (iii) **JOSEPH MAUER, SHERI MAUER, LEO MAUER, FREDA MAUER and MARSHALL MAUER** ("Marshall", and collectively with the others, "Guarantors"); and (iv) **MP FINANCIAL BANK, N.A.**, a national banking association, f/k/a Manufacturers Bank ("Lender").

RECITALS:

A. As of the date hereof, Borrower is indebted to Lender in the aggregate principal sum of Five Million Nine Hundred Twelve Thousand Three Hundred and No/100 Dollars (\$5,912,300.00), pursuant to a Loan Agreement dated as of January 23, 2001 between Borrowers and Lender ("**Loan Agreement**"), which indebtedness ("**Loans**") is evidenced by the following notes (collectively, "**Notes**") executed by Borrower and delivered to Lender.

- (i) Promissory Note (Primary Loan) dated as of January 23, 2001 for \$3,500,000.00 ("**Primary Note**"), with an outstanding principal balance as of the date hereof of \$3,203,721.08;
- (ii) Promissory Note dated January 10, 2001 for \$1,500,000.00 ("**Junior Note**"), with an outstanding principal balance as of the date hereof of \$1,500,000.00; and
- (iii) Promissory Note dated September 27, 2001 for \$1,000,000.00 ("**Revolving Note**"), with an outstanding principal balance as of the date hereof of \$1,000,000.00.

B. The Loans are guaranteed by Guarantors (except that Marshall does not guaranty the Loan evidenced by the Primary Note) pursuant to Commercial Guaranties in favor of Lender ("**Guaranties**").

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- C. The Loans are secured by the following (collectively, "**Mortgages**"):
- (i) Mortgage and Security Agreement dated as of January 23, 2001 executed by Borrowers in favor of Lender and recorded on January 26, 2001 in the Recorder's Office of Cook County, Illinois as Document No. 10070986, as modified by Modification of Mortgage dated January 10, 2003 and recorded as Document No. 0216517021;
 - (ii) Mortgage dated January 10, 2001 executed by Owner in favor of Lender and recorded on January 26, 2001 as Document No. 10070988;
 - (iii) Mortgage dated January 10, 2001 executed by Owner in favor of Lender and recorded on January 26, 2001 as Document No. 10070990;
 - (iv) Mortgage recorded on November 17, 2002 as Document No. 0021248963, as modified by Modification of Mortgage recorded as Document No. 0332502304;
 - (v) Assignment of Leases and Rents dated as of September 19, 2001 executed by Borrower in favor of Lender and recorded January 26, 2001 in the Recorder's office of Cook County, Illinois as Document No. 10070987, as modified by Modification of Mortgage dated January 10, 2003 and recorded as Document No. 0216517021; and
 - (vi) Assignment of Rents dated January 10, 2001 executed by Owner in favor of Lender and recorded on January 26, 2001 as Document No. 10070989;

all as modified by Modification of Loan Documents dated as of January 23, 2003 ("**2003 Modification**"), Second Modification of Loan Documents dated as of April 23, 2004 and recorded as document number 0434660112 on December 10, 2004 ("**2004 Modification**"), and Third Modification of Loan Documents dated as of April 23, 2005 and recorded as document number 0514750090 on May 27, 2005 ("**2005 Modification**").

D. The Mortgages constitute valid liens on the real property and improvements located at 6601 W. Touhy Avenue, Niles, Illinois, which property is legally described on **Exhibit A** attached hereto.

E. The Loans are further evidenced and secured by the other documents described on **Exhibit B** attached hereto, all as modified by the 2003 Modification, 2004 Modification and 2005 Modification (said documents on said **Exhibit B**, together with the Loan Agreement, Notes, Guaranties, and Mortgages, as so modified, being collectively, the "**Loan Documents**").

F. Borrower has requested that Lender extend the maturity of the Primary Note, the Junior Note and the Revolving Note to July 15, 2007 and to increase the principal amount of the Revolving Note to \$1,500,000.00.

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G. Lender is willing to do so provided that: (i) the Loan Documents are so modified; and (ii) Borrowers and Guarantors (collectively, the "**Obligors**") comply with all other conditions precedent provided thereto as set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements hereinafter set forth, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Obligors and Lender hereby mutually agree as follows (initially capitalized terms used but not defined here shall have the meanings ascribed to such terms in the Loan Agreement):

1. **Incorporation by Reference.** The foregoing Recitals are hereby incorporated herein by reference as if set forth in full in the body of this Fourth Modification.
2. **Modifications of Notes.**
 - (a) The Maturity Dates of the Primary Note, the Junior Note and the Revolving Note are hereby extended to July 15, 2007; and
 - (b) The principal amount of the Revolving Note is increased to \$1,500,000.00.
3. **Additional Revolving Loan Agreement.** The Revolving Loan and Note shall, in addition to the Loan Agreement, be secured by the asset based business loan security agreement attached hereto as **Exhibit C**. Borrowers shall execute and deliver such agreement to Lender simultaneously with the execution of this Agreement.
4. **Modifications of Other Loan Documents.** The Loan Documents are hereby amended as follows:
 - (a) All references in the Loan Documents to the maturity of the Primary Note, the Junior Note or the Revolving Note shall be deemed to refer to July 15, 2007;
 - (b) All modifications to the Loans reflected herein are hereby incorporated by reference into the Loan Documents, and to the extent the provisions hereof conflict or are inconsistent with those of the Loan Documents, the provisions hereof shall be controlling and shall be deemed to supersede such provisions in the Loan Documents;
 - (c) The Loans shall be secured by the Mortgages and the other collateral as described in the Loan Documents; and
 - (d) All references in the Loan Documents to any other Loan Document shall be deemed to refer to such Loan Document as modified by this Fourth Modification.
5. **Consent of Guarantors.** Guarantors (a) have received and reviewed this Fourth Modification and all documents and instruments in connection herewith, (b) hereby consent to the execution and delivery hereof, and (c) agree that their duties, liabilities and obligations under the Guaranties shall not in any manner be impaired, discharged or released by the execution and delivery of this Fourth Modification and all documents or instruments in connection herewith.

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6. Reaffirmation of Obligations.

(a) The Obligors hereby acknowledge and reaffirm their obligations under the Loan Documents and the indebtedness evidenced thereby, and acknowledge and agree that such indebtedness is owing to Lender and is enforceable against the Obligors in accordance with the terms of the Loan Documents as modified, amended and extended by this Fourth Modification, subject to no defenses, counterclaims, deductions or set-offs whatsoever.

(b) Nothing contained in this Fourth Modification, or the transactions contemplated hereby, shall be deemed or construed to be a consent to or a waiver of any breach or default in the performance by the Obligors of their respective obligations to Lender, whether evidenced by the Loan Documents or otherwise, nor shall Lender be impaired or limited in its ability to fully and completely enforce any and all the rights and remedies presently available to Lender under the Loan Documents for a breach of any Obligor's obligations as required by the Loan Documents.

7. Reaffirmation of Representations and Warranties. The Obligors hereby acknowledge and reaffirm that all the representations and warranties of the Obligors as stated in the Loan Documents are true and correct in all material respects as of the date of this Fourth Modification.

8. Offsets and Defenses. The Obligors hereby acknowledge and agree that: (a) as of the date of this Fourth Modification, there are no offsets, defenses or counterclaims against Lender arising out of or in any way relating to the Loan Documents, (b) they release and forever discharge, and indemnify and hold harmless Lender, its agents, servants, employees, directors, officers, attorneys, branches, affiliates, subsidiaries, successors and assigns and all persons, firms, corporations and organizations acting or who have acted in its behalf of and from all damage, loss, claims, demands, liabilities, obligations, actions and causes of action whatsoever which they or any of them may now have or claim to have against Lender or any of the other persons or entities described in this clause (b) as of the date of this Fourth Modification, and whether presently known or unknown, and of every nature and extent whatsoever on account of or in any way touching, concerning, arising out of or founded upon the Loan Documents, and (c) Lender is not in default under the Loan Documents and has fulfilled any and all of Lender's obligations under the Loan Documents to date.

9. Intent of Parties. The parties expressly agree that the liens evidenced and granted by the Loan Documents shall be in no way deemed to have been subordinated, released, modified, terminated, or otherwise affected by this Fourth Modification, it being understood by the parties hereto that the liens of said documents shall continue in full force and effect, and are to have the same validity, priority and effect that they had immediately prior to the execution of this Fourth Modification and the documents and instruments executed and delivered pursuant to this Fourth Modification, and shall survive and not be merged into the execution and delivery of this Fourth Modification or any of the documents and instruments to be executed pursuant to this Fourth Modification, without interruption.

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10. **Guarantors Not Insolvent.** Guarantors hereby represent and warrant to Lender that each Guarantor is currently solvent and generally paying his debts as they become due and payable. Each Guarantor further represents and warrants that he owns property which, at fair valuation, is greater than the sum of his or her debts.
11. **No Third Party Beneficiaries.** This Fourth Modification is made and entered into for the sole protection and benefit of the Lender, Borrowers and Guarantors, and no other person, entity or entities shall have the right of action hereon, right to claim any right or benefit from the terms contained herein or be deemed a third party beneficiary hereunder.
12. **Conflicts.** The provisions of this Fourth Modification shall govern and control in the event of any conflict between this Fourth Modification and the provisions of any of the Loan Documents.
13. **Entire Agreement.** Except as expressly set forth herein, this Fourth Modification and the Loan Documents constitute the entire agreement of the parties hereto with respect to the matters addressed herein, and supersede all prior or contemporaneous contracts, representations, statements and warranties, whether oral or written, with respect to such matters.
14. **Successors and Assigns; Assignability.** This Fourth Modification shall be binding upon and inure to the benefit of the parties hereto, their respective successors, legal representatives and assigns; provided, however, that no Obligor may assign its rights under the Loan Documents or this Fourth Modification.
15. **Effect of Modification.** Except as specifically amended or modified by the terms of this Fourth Modification, all terms and provisions of each of the Loan Documents shall remain in full force and effect. Lender's agreement to modify the Loans and the Loan Documents as set forth herein shall not be interpreted or construed as obligating Lender to make any future modifications to or extensions of the Loans.
16. **Governing Law.** This Fourth Modification shall be governed by and be construed in accordance with the internal laws of the State of Illinois.
17. **Captions.** The title of this Fourth Modification and the headings of the various paragraphs of this Fourth Modification have been inserted only for the purposes of convenience and are not part of this Fourth Modification and should not be deemed in any manner to modify, explain, expand or restrict any of the provisions of this Fourth Modification.
18. **Attorneys' Fees, Costs and Expenses.** In any action or proceeding arising out of this Fourth Modification, Lender shall be entitled to recover from the Obligors the reasonable attorneys' fees, court costs, filing fees, publication costs and other expenses incurred by Lender in connection therewith.
19. **Further Assurances.** The parties hereto and each of them agree to execute from time to time any and all documents reasonably requested by the others to carry out the intent of this Fourth Modification.

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20. **Counterparts and Execution.** This Fourth Modification may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. However, this Fourth Modification shall not be binding on any party until all the parties hereto have executed this document, either all on one document or in counterparts, it being intended that if such execution by all the parties shall not occur or be satisfied, as applicable, then no party shall be bound by this Fourth Modification.

21. **Recording.** The Obligors shall, or Lender may at its election, record this Fourth Modification and Obligors shall pay all reasonable expenses in connection with the items described herein, and forward to Lender such other matters as Lender may reasonably require.


IN WITNESS WHEREOF, the parties hereto have executed this Fourth Modification on the day first above written.

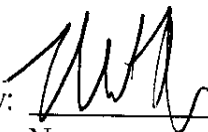
BORROWER:

LENDER:

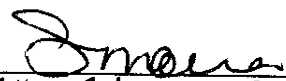
**GROSSE POINTE MANOR REALTY,
L.L.C.,** an Illinois limited liability company

MB FINANCIAL BANK, N.A.

By: 
Name: SHERRY MAIER
Title: Manager

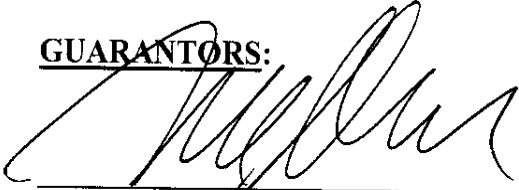
By: 
Name: Mitchell A. Morgenstern
Title: Senior Vice President

GROSSE POINTE MANOR, L.L.C.,
an Illinois limited liability company

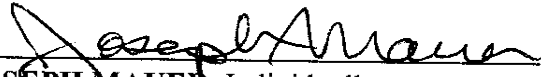
By: 
Name: SHERRY MAIER
Title: Manager

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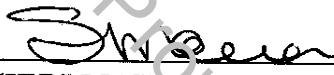
GUARANTORS:



MARSHALL MAUER, Individually




JOSEPH MAUER, Individually



SHERI MAUER, Individually



LEO MAUER, Individually



FREDA MAUER, Individually

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, **CHERYL FISCHER**, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that **MITCHELL A. MORGENSTERN** as SVP of MB FINANCIAL BANK, N.A., a national banking association, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such SVP of said Bank, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Bank, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 12th day of SEPTEMBER, 2006.



Cheryl Fischer
Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, **MITCHELL A. MORGENSTERN**, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that JOHN KALER, as Manager of GROSSE POINTE MANOR REALTY, L.L.C., who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager of said limited liability company, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 15 day of SEPTEMBER, 2006.



[Signature]
Notary Public

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, MITCHELL A. MORGENSTERN, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that _____, as Manager of **GROSSE POINTE MANOR, L.L.C.**, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager of said limited liability company, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 12th day of SEPTEMBER, 2006.



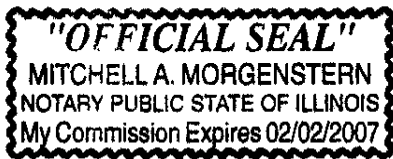
[Signature]

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, MITCHELL A. MORGENSTERN, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **JOSEPH MAUER** appeared before me this day in person and acknowledged that he signed and sealed the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 12th day of SEPTEMBER, 2006.



[Signature]

Notary Public

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, MITCHELL A. MORGENSTERN, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **SHERI MAUER** appeared before me this day in person and acknowledged that she signed and sealed the said instrument as her own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 12th day of September, 2006.

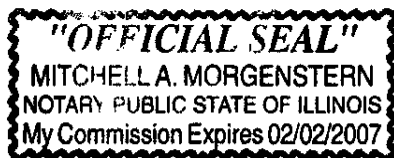


Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, MITCHELL A. MORGENSTERN, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **LEO MAUER** appeared before me this day in person and acknowledged that he signed and sealed the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 12th day of September, 2006.



Notary Public

UNOFFICIAL COPY

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, MITCHELL A. MORGENSTERN, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **FREDA MAUER** appeared before me this day in person and acknowledged that she signed and sealed the said instrument as her own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 12th day of SEPTEMBER, 2006.



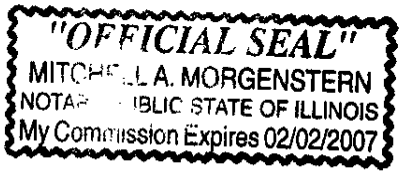
[Handwritten Signature]

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, MITCHELL A. MORGENSTERN, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that **MARSHALL MAUER** appeared before me this day in person and acknowledged that he signed and sealed the said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 12th day of SEPTEMBER, 2006.



[Handwritten Signature]

Notary Public

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

THAT PART OF THE SOUTHEASTERLY ½ OF LOT 2 IN JOHN H. KINZIE'S SUBDIVISION OF JANE MIRANDA'S RESERVATION IN TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING ON THE SOUTHEASTERLY LINE OF LOT 2, AFORESAID AT A POINT 300.0 FEET NORTHEASTERLY OF THE MOST SOUTHERLY CORNER OF LOT 2, AFORESAID; THENCE NORTHWESTERLY ON A STRAIGHT LINE THAT IS PARALLEL TO THE SOUTHWESTERLY LINE OF LOT 2, AFORESAID TO THE POINT OF INTERSECTION WITH A LINE THAT IS PARALLEL TO AND 100.0 FEET SOUTHEASTERLY OF (MEASURED AT RIGHT ANGLES TO) THE NORTHWESTERLY LINE OF THE SOUTHEASTERLY ½ OF LOT 2, AFORESAID; THENCE NORTHEASTERLY ON A STRAIGHT LINE THAT IS PARALLEL TO AND 100.0 FEET SOUTHEASTERLY OF (MEASURED AT RIGHT ANGLES TO) AND THE NORTHWESTERLY LINE OF THE SOUTHEASTERLY ½ OF LOT 2, AFORESAID TO THE SOUTHERLY LINE OF TOUHY AVENUE, AS DEDICATED BY DOCUMENT 11068761; THENCE EASTERLY ON THE SOUTHERLY LINE OF TOUHY AVENUE, AS DEDICATED BY SAID DOCUMENT 11068761 TO THE NORTHWESTERLY LINE OF HARTS ROAD; THENCE NORTHEASTERLY ALONG THE NORTHWESTERLY LINE OF HARTS ROAD, PRODUCED TO THE NORTHEASTERLY LINE OF LOT 2, AFORESAID; THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF LOT 2, AFORESAID TO THE MOST EASTERLY CORNER OF LOT 2, AFORESAID; THENCE SOUTHWESTERLY ALONG THE SOUTHEASTERLY LINE OF LOT 2, AFORESAID TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Common Address: 6601 W. Touhy, Niles, Illinois 60714

PIN: 10-31-205-031
10-31-205-030

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EXHIBIT B

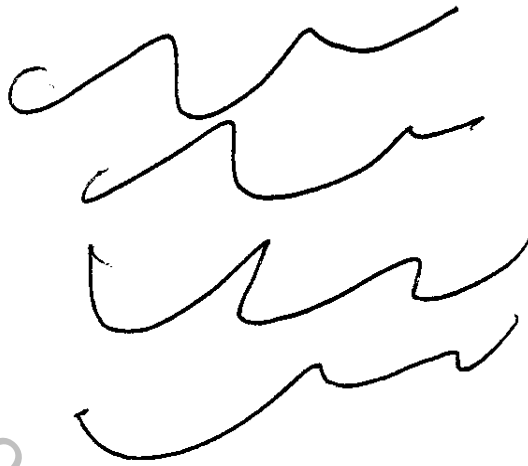
OTHER LOAN DOCUMENTS

1. Environmental Indemnity Agreement executed by Borrowers and Guarantors
2. Second Mortgages and Assignments of Rents on certain real property and improvements commonly known as 4956-5020 West Dempster Street, Skokie, Illinois, legally described in **Exhibit D** attached hereto and by this reference incorporated herein
3. Commercial Security Agreements
4. UCC Financing Statements
5. Agreements to Provide Insurance
6. **Exhibit C** to this Agreement

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EXHIBIT C

REVOLVING NOTE ASSET BASED SECURITY AGREEMENT



Property of Cook County Clerk's Office

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EXHIBIT D

LEGAL DESCRIPTION OF PROPERTY

PARCEL 2:

THAT PART OF THE SOUTH 170.10 FEET OF LOT 12 IN COUNTY CLERK'S DIVISION OF SECTION 16, TOWNSHIP 41 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING IN THE SOUTH LINE OF SAID SECTION 16, 1143.99 FEET WEST OF THE SOUTHEAST CORNER THEREOF; THENCE WEST 100.0 FEET; THENCE NORTH PARALLEL TO THE EAST LINE OF SAID SECTION, 170.10 FEET; THENCE EAST 100.0 FEET; THENCE SOUTH 170.10 FEET TO THE POINT OF BEGINNING, (EXCEPT THE SOUTH 40.0 FEET THEREOF, TAKEN FOR DEMPSTER STREET AND EXCEPT THE NORTH 10.0 FEET THEREOF); IN COOK COUNTY, ILLINOIS.

Common Address: 4956-5020 West Dempster Street
Skokie, Illinois

PIN(S): 10-16-432-026
10-16-432-027
10-16-432-028
10-16-432-029
10-16-432-030