



THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING MAIL TO:
Christyl Marsh
Cohen, Salk & Huvard, P.C.
630 Dundee Road, Suite 120
Northbrook, Illinois 60062

Doc#: 1025603092 Fee: \$62.25
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 09/13/2010 11:55 AM Pg: 1 of 13

THIRD MODIFICATION AGREEMENT

THIS THIRD MODIFICATION AGREEMENT (hereinafter referred to as this "Modification Agreement") made as of this 21st day of August, 2010, by and among **Forest Preserve Plaza L.L.C.**, an Illinois limited liability company ("Borrower"), **Robert L. Kozonis, JoAnn Kozonis** (Robert L. Kozonis and JoAnn Kozonis are each a "Guarantor", and are collectively, the "Guarantors"), **Poplar Creek Properties, L.L.C.**, an Illinois limited liability company ("Poplar") (Borrower, Guarantors and Poplar are hereinafter each sometimes individually referred to as an "Obligor" and are collectively referred to as the "Obligors"), and **First Eagle Bank**, formerly known as First Eagle National Bank ("Lender").

WITNESSETH:

WHEREAS, on March 4, 2003 Lender made a loan to The Chicago Title Land Trust Company, not individually, but as Trustee under Trust Agreement dated May 15, 1997, and known as Trust No. 1103890 ("Trust 1103890") in the original principal amount of One Million Seven Hundred Twenty Thousand and 00/100 Dollars (\$1,720,000.00) (as assumed, modified, restated, divided, consolidated or replaced from time to time, the "Loan"), as evidenced by that certain mortgage note dated March 4, 2003 in the original principal sum of One Million Seven Hundred Twenty Thousand and 00/100 Dollars (\$1,720,000.00) (as modified, restated or replaced from time to time, the "Note"), which Note is secured by the following documents (the following documents and any and all other instruments executed by any Obligor, as modified from time to time, are hereinafter collectively referred to as the "Loan Documents"):

- (i) first mortgage and security agreement dated as of March 4, 2003, made by Trust 1103890 in favor of Lender, recorded in the Office of the Recorder of Deeds of Cook County, Illinois (the "Recorder's Office"), as Document No. 0030381000 (the "Forest Mortgage") on property commonly known as 7305-7331 W. Irving Park Road, Chicago, Illinois and legally described on **Exhibit "A"** attached hereto and made a part hereof (the "Forest Premises");
- (ii) assignment of rents and of lessor's interest in leases dated as of March 4, 2003 made by Trust 1103890 and Borrower in favor of Lender, encumbering the Forest

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Premises, recorded in the Recorder's Office, as Document No. 0030381001 (the "Forest Assignment of Rents");

- (iii) business loan agreement dated as of March 4, 2003 made by and among Trust 1103890, Borrower, Guarantors and Lender (the "Loan Agreement");
- (iv) guaranty dated as of March 4, 2003 made by Guarantors in favor of Lender (the "Guaranty");
- (vi) junior mortgage and security agreement dated as of December 18, 2001 made by made by LaSalle Bank National Association, as successor trustee to Comerica Bank-Illinois, not personally, but as Trustee under Trust Agreement dated June 10, 1993 and known as Trust No. 11806 ("Trust 11806"), and assumed by Poplar, in favor of Lender, recorded in the Recorder's Office as Document No. 0020029946, encumbering 3 vacant lots in Hoffman Estates, Illinois and legally described on **Exhibit "B"** attached hereto and made a part hereof (the "Poplar Premises");
- (vii) junior assignment of rents and of lessor's interest in leases dated as of December 18, 2001 made by Trust 11806 and Poplar, and assumed by Poplar, in favor of Lender, recorded in the Recorder's Office as Document No. 0020029947, encumbering the Poplar Premises;
- (viii) mortgage and security agreement dated as of July 31, 2008 made by Borrower in favor of Lender, recorded in the Recorder's Office as Document No. 0909712055, encumbering the Forest Premises;
- (ix) assignment of rents and of lessor's interest in leases dated as of July 31, 2008 made by Borrower in favor of Lender, recorded in the Recorder's Office as Document No. 0909712056, encumbering the Forest Premises;
- (x) junior mortgage and security agreement dated as of July 31, 2008 made by Poplar in favor of Lender, recorded in the Recorder's Office as Document No. 0909712057, encumbering the Poplar Premises;
- (xi) junior assignment of rents and of lessor's interest in leases dated as of July 31, 2008 made by Poplar in favor of Lender, recorded in the Recorder's Office, as Document No. 0909712058, encumbering the Poplar Premises;
- (xii) mortgage dated as of May 19, 2008 made by Borrower in favor of Lender, recorded in the Recorder's Office as Document No. 0825950023, encumbering the Forest Premises;
- (xiii) assignment of rents dated as of May 19, 2008 made by Borrower in favor of Lender, recorded in the Recorder's Office as Document No. 0825950024, encumbering the Forest Premises; and
- (ix) mortgage dated as of February 27, 2009 made by Guarantors in favor of Lender, recorded in the Recorder's Office as Document No. 0926841036, encumbering the

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property commonly known as 17 Overbrook, South Barrington, Illinois, and legally described on **Exhibit "C"** attached hereto (the "Overbrook Premises").

WHEREAS, at the direction of the beneficiaries of Trust 1103890, Trust 1103890 conveyed the Forest Premises to Borrower, and Borrower assumed the duties and obligations of Trust 1103890 under the Note, the Mortgage, the Assignment of Rents and the Loan Agreement pursuant to that certain loan modification agreement dated as of August 9, 2004, by and among Borrower, Guarantors and Lender, and recorded in the Recorder's Office as Document No. 0423241038.

WHEREAS, the Loan was cross-defaulted with various other loans extended by Lender to Borrower and Poplar, and further secured by various mortgages and assignments of rents encumbering the Forest Premises, the Poplar Premises and the Overbrook Premises, as more particularly described above, and in connection therewith Borrower, Guarantors, Poplar and Lender entered into that certain second modification agreement dated as of August 1, 2009, and recorded in the Recorder's Office as Document No. 0926841039.

WHEREAS, Obligors have requested that Lender decrease the monthly principal and interest payment due on the Note for a period of one (1) year, commencing with the September 1, 2010 payment, and ending with the August 1, 2011 payment, and Lender is willing to consent to such request, subject to the terms and provisions hereinafter provided.

NOW THEREFORE, in consideration of the mutual promises of the parties hereto, and upon the express conditions that the lien of the Forest Mortgage held by Lender is a valid, first and subsisting lien on the Forest Premises (as defined in the Forest Mortgage) and that the execution of this Modification Agreement will not impair the lien of said Forest Mortgage and that there is no existing second mortgage or other liens subsequent to the lien of the Forest Mortgage held by Lender that will not be paid in full and released concurrently herewith (for breach of which conditions, or either of them, this Modification Agreement shall not take effect and shall be void), **IT IS AGREED AS FOLLOWS:**

1. The parties represent and agree that the foregoing recitals are true and correct.
2. Subparagraphs (i) and (ii) of paragraph 3(a) of the Note are hereby amended and restated in their entirety to read as follows:

"i.) Interest only from the date of this Note, through the last day of the month in which this Note is dated shall be payable upon execution of this Note.

ii.) Commencing on May 1, 2003 and on the first day of each month thereafter, through and including August 1, 2010, installments of principal and interest in the amount of Nineteen Thousand Three Hundred Forty-Five and 38/100 Dollars (\$19,345.38) each shall be due and payable.

iii.) Commencing on September 1, 2010 and on the first day of each month thereafter, through and including August 1, 2011, installments of principal and interest in the amount of Three Thousand Seven Hundred Thirty-Seven and 67/100 Dollars (\$3,737.67) each shall be due and payable.

iv.) Commencing on September 1, 2011 and on the first day of each month thereafter, through and including March 1, 2013, installments of principal and

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interest in the amount of Nineteen Thousand Three Hundred Forty-Five and 38/100 Dollars (\$19,345.38) each shall be due and payable.

v.) The unpaid balance of this Note, if not sooner declared to be due in accordance with the terms hereof, together with all accrued and unpaid interest, shall be due and payable in full on April 1, 2013 (the "Maturity Date")."

3. Each Guarantor hereby agrees that any and all debts, liabilities and obligations now or hereafter arising and owing to such Guarantors by the Borrower, Poplar, or any other party liable to Lender in connection with the Loan, are hereby subordinated to the Lender's claims for repayment of the Obligations (as such term is defined in the Guaranty) and Guarantor's obligations under the Guaranty.

4. The Loan Documents are hereby amended to secure the obligations and liabilities evidenced by the Note, as hereby modified.

5. Except for the modifications stated herein, the Note and Loan Documents are not otherwise changed, modified or amended. Except as expressly provided herein, the Note and other Loan Documents and each other instrument or agreement delivered by any Obligor to or for the benefit of Lender in connection with the Loan evidenced by the Note shall remain in full force and effect in accordance with their respective terms and the execution and delivery of this Modification Agreement shall not operate to waive any rights or remedies that Lender may have with respect to the Note and other Loan Documents, to forgive or waive any violation, default or breach under the Note or any other Loan Document, or to obligate Lender in any manner to make any further extensions of credit other than as expressly set forth herein.

6. Contemporaneously with the execution of this Modification Agreement by Lender, Obligors shall pay to Lender all of Lender's attorneys' fees incurred in connection with the negotiation and documentation of the agreements contained in this Modification Agreement, all recording fees and charges, title insurance charges and premiums, appraisal fees, and all other expenses, charges, costs and fees necessitated by or otherwise relating to this Modification Agreement (the "Additional Fees"). If any of the Additional Fees are not paid at the time this Modification Agreement is executed by Lender, such Additional Fees shall be paid by Obligors within five days after written demand therefor by Lender, and if not timely paid, they shall bear interest from the date so incurred until paid at an annual rate equal to the Default Rate (as defined in the Note).

7. The Forest Premises described in the Forest Mortgage shall remain in all events subject to the lien, charge or encumbrance of the Mortgage, and nothing herein contained, and nothing done pursuant hereto, shall affect or be construed to affect the lien, charge or encumbrance of the Forest Mortgage, or the priority thereof over any other liens, charges, or encumbrances or conveyances, or, except as expressly provided herein, to release or affect the liability of any party or parties whomsoever may now or hereafter be liable under or on account of the Note, the Mortgage and/or the other Loan Documents, nor shall anything herein contained or done in pursuance thereof affect or be construed to affect any other security or instrument, if any, held by Lender as security for or evidence of the aforesaid indebtedness.

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8. This Modification Agreement shall extend to and be binding upon each of the Obligors and their respective heirs, legatees, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

9. Each Obligor hereby ratifies and confirms his, her or its respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as hereby amended, and the liens and security interest created thereby, and acknowledge that he or it have no defenses, claims or set-offs against the enforcement by Lender of their respective obligations and liabilities under the Note, the Guaranty and other Loan Documents, as so amended.

Without limiting the generality of the foregoing paragraph, each Guarantor hereby further represents and warrants to the Lender with the intent that the Lender rely thereon, as follows with regard to the Guaranty, as hereby modified: (a) the Guaranty is in full force and effect and is binding and enforceable against the Guarantor in accordance with its terms; (b) the Guarantor irrevocably consents and agrees to the Borrower's execution and delivery of this Modification Agreement; (c) the liability of the Guarantor to the Lender under the Guaranty shall in no way be affected, modified, altered, or discharged in any fashion by the Borrower's execution, delivery or performance of this Modification Agreement; (d) the Guarantor hereby restates and reaffirms to Lender all terms and provisions of the Guaranty as if set forth in full herein; and (e) the Guarantor does not possess any claims, defenses, offsets, or counterclaims against the enforcement of the Guaranty as of the date hereof, and any and all such claims, defenses, offsets and counterclaims, whether known or unknown, are forever waived and released, and the Guarantor is unconditionally liable under the Guaranty, for the payment and performance of all present and future indebtedness and all other obligations described therein.

10. This Modification Agreement shall, in all respects, be governed by and construed in accordance with the laws of the State of Illinois (exclusive of choice of law principles), including all matters of construction, validity and performance.

11. This Modification Agreement constitutes the entire agreement between the parties with respect to the aforesaid modification and shall not be amended or modified in any way except by a document in writing executed by all of the parties thereto.

12. This Modification Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be one agreement.

13. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY AGREES THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS MODIFICATION AGREEMENT SHALL BE TRIED AND DETERMINED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, OR, AT THE SOLE OPTION OF LENDER IN ANY OTHER COURT IN WHICH LENDER SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR HEREBY EXPRESSLY WAIVES ANY RIGHT IT MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS PARAGRAPH.

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TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY EXPRESSLY WAIVE ANY RIGHT TO TRIAL BY JURY OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND, OR PROCEEDING ARISING UNDER OR WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR IN ANY WAY CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE DEALINGS OF OBLIGORS AND LENDER WITH RESPECT TO THIS MODIFICATION AGREEMENT, OR THE TRANSACTION RELATED HERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH OBLIGOR AND LENDER HEREBY AGREE THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT ANY OBLIGOR OR LENDER MAY FILE A COPY OF THIS EXECUTED MODIFICATION AGREEMENT WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF EACH OBLIGOR AND LENDER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY.

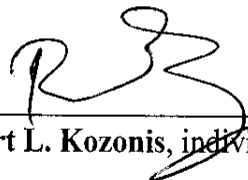
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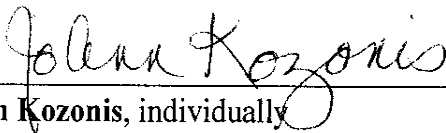
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IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date first above written.


Forest Preserve Plaza L.L.C., an Illinois limited liability company

By: 
Robert L. Kozonis, Manager


Robert L. Kozonis, individually


JoAnn Kozonis, individually

Poplar Creek Properties, L.L.C., an Illinois limited liability company

By: 
Robert I. Kozonis, Manager

First Eagle Bank

By: 

Its: SUP

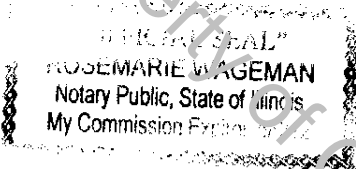
Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Robert L. Kozonis, personally known to me to be a manager of **Forest Preserve Plaza L.L.C.**, an Illinois limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as such manager of said limited liability company, pursuant to authority, given by the members of said limited liability company as his own and 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 31st day of August, 2010.



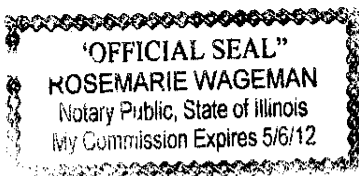
Rose Wageman
Notary Public

My Commission Expires: 5/6/12

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that **Robert L. Kozonis** personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 31st day of August, 2010.



Rose Wageman
Notary Public

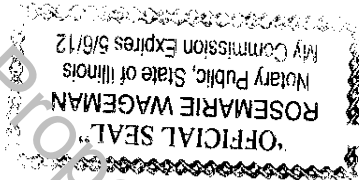
My Commission Expires: 5/6/12

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that **JoAnn Kozonis** personally appeared before me this day and subscribed his name to the foregoing instrument for the uses and purposes therein stated.

Given under my hand and notarial seal this 31st day of August, 2010.



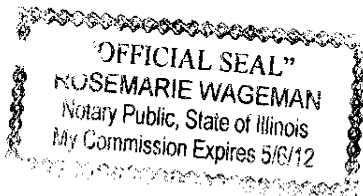
[Signature]
Notary Public

My Commission Expires: 5/6/12

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Robert L. Kozonis, personally known to me to be a manager of **Poplar Creek Properties, L.L.C.**, an Illinois limited liability company, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as such manager of said limited liability company, pursuant to authority, given by the members of said limited liability company, as his own and 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 31st day of August, 2010.



[Signature]
Notary Public

My Commission Expires: 5/6/12

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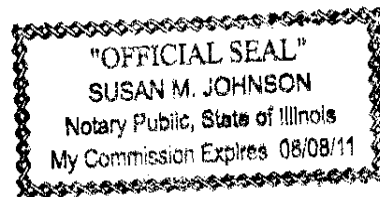
STATE OF ILLINOIS)
) SS
 COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Rose Wrogerman, of **First Eagle Bank**, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Senior Vice President appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his 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 31st day of August, 2010.

Susan M. Johnson
 Notary Public

My Commission Expires: 8-8-11



UNOFFICIAL COPY**EXHIBIT "A"****IRVING PREMISES**

PINS: 12-24-204-022
12-24-204-024

ADDRESS: 7305-31 West Irving Park Road, Chicago, Illinois

LOTS 1 TO 8 (BOTH INCLUSIVE) AND THAT PART OF THE NORTH 1/2 OF THE VACATED ALLEY SOUTH AND ADJOINING THE LAND IN BLOCK 1 IN VOLK BROTHERS IRVING PARK BOULEVARD SUBDIVISION BEING A SUBDIVISION IN THE NORTH EAST FRACTIONAL 1/4 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF THE INDIAN BOUNDARY LINE (EXCEPT THE WEST 10 FEET THEREOF) AND EXCEPT THE RIGHT OF WAY OF THE C.T.T.R.R. AND ALSO EXCEPT THAT PART OF LOT 1 AFORESAID CONVEYED TO COOK COUNTY, ILLINOIS, STATE OF ILLINOIS FOR HIGHWAY PURPOSES;

ALSO

LOT 18, EXCEPT THEREFROM THAT PART DESCRIBED AS FOLLOWS:

POINT OF BEGINNING BEING THE SOUTHWESTERLY CORNER OF SAID LOT 18, A DISTANCE OF 18.12 FEET; THENCE CONTINUING ALONG A LINE PARALLEL TO THE SOUTHWESTERLY LINE OF SAID LOT 18, A DISTANCE OF 70.72 FEET, TO A POINT IN THE NORTH LINE OF SAID LOT 18, THENCE CONTINUING WESTERLY ALONG SAID NORTH LINE OF SAID LOT 18, A DISTANCE OF 21.13 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 18; THENCE CONTINUING ALONG THE SOUTHWESTERLY LINE OF SAID LOT 18, A DISTANCE OF 81.70 FEET TO A POINT OF BEGINNING AND THAT PART OF THE SOUTH 1/2 OF THE VACATED ALLEY LYING NORTH AND ADJOINING THE LAND IN BLOCK 1, IN VOLK BROTHERS IRVING PARK BOULEVARD SUBDIVISION, BEING A SUBDIVISION IN THE NORTH EAST FRACTION 1/4 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING NORTH OF THE INDIAN BOUNDARY LINE (EXCEPT THE WEST 10 FEET THEREOF) AND EXCEPT THE RIGHT OF WAY OF THE C.T.T.R.R. AND ALSO EXCEPT THAT PART OF LOT 1 AFORESAID CONVEYED TO COOK COUNTY, ILLINOIS, THE STATE OF ILLINOIS FOR HIGHWAY PURPOSES, IN COOK COUNTY, ILLINOIS.

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EXHIBIT "B"

POPLAR PREMISES

PIN: 07-07-400-061
07-07-400-062
07-07-400-063

ADDRESS: 3 vacant lots in Hoffman Estates, IL

LOTS 2, 3 AND 4, IN POPLAR CREEK OFFICE PLAZA, BEING A SUBDIVISION OF PART OF THE EAST HALF OF SECTION 7, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 17, 1993 AS DOCUMENT 93747914, IN COOK COUNTY, ILLINOIS.

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EXHIBIT "C"

OVERBROOK PREMISES

PIN: 01-26-104-007 ✓

ADDRESS: 17 Overbrook, South Barrington, Illinois 60010 ✓

LOT 25 IN SUNSET RIDGE FARMS, UNIT NUMBER 6, BEING A SUBDIVISION OF THAT ✓
PART OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 26,
TOWNSHIP 42 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN,
ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 7, 1977 AS DOCUMENT
NUMBER 24139647, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office