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Doc#: 2030207427 Fee: \$98.00
Edward M. Moody
Cook County Recorder of Deeds
Date: 10/28/2020 02:27 PM Pg: 1 of 15

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SUBORDINATION AGREEMENT

This Subordination Agreement (this "Agreement"), made this 24 day of September, 2020, by and among DIAMAN PROPERTIES LLC (hereinafter referred to as "OWNER" or "Borrower"), JUANITO N. ROQUE (hereinafter referred to as "SUBORDINATE LENDER") and ALSJ, INC., (hereinafter referred to as "LENDER").

WHEREAS, the OWNER is the current owner of the certain real estate commonly known as 4141 MULFORD ST Skokie, IL 60076, legally described in Exhibit A attached hereto (hereinafter referred to as the "Property"); and

WHEREAS, the LENDER has made a loan to OWNER (the "Loan") on September 24, 2020, which Loan is evidenced by a certain promissory note ("Note"), in the amount equal to THREE HUNDRED THIRTY THOUSAND and no/100 Dollars (\$330,000.00) ("Loan Amount") dated as of September 24, 2020, made by OWNER in favor of LENDER, secured by, among other things, a certain Mortgage (hereafter referred to as the "Mortgage"), dated evenly with the Note, granting a security interest to LENDER in the Property legally described in Exhibit A to the Mortgage, which Mortgage is to be recorded in the Office of the Recorder of Deeds of Cook County, Illinois;

WHEREAS, the Mortgage, the Note, this document, together with certain other loan documents executed by OWNER as part of and/or in relation to the Loan, evidencing and/or securing the Loan, collectively shall be referred to as the "Loan Documents";

WHEREAS the LENDER will be the owner and holder of the Note, Mortgage and the Loan Documents;

WHEREAS, SUBORDINATE LENDER was the seller of the Property to Owner, and as part of that sale on February 3, 2020, has received a subordinate mortgage to be

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recorded in the Office of the Recorder of Deeds of Cook County, Illinois after the Mortgage (hereinafter, the "Subordinate Mortgage") (any other documents given to SUBORDINATE LENDER in relation to the Subordinate Mortgage shall be referred to as the "Subordinate Loan Documents");

WHEREAS, LENDER is willing to make additional advances with regards to the Loan (the "Additional Advances") provided that any and all Additional Advances and the Mortgage, shall unconditionally be, and remain at all times, prior and superior to any and all rights, claims, interests, lien rights and any and all lien rights of SUBORDINATE LENDER, including but not limited to that the Mortgage, including all rights in relation to the Mortgage, Note, Loan Documents and Additional Advances, be prior and superior to any interests/rights created by the Subordinate Mortgage and prior and superior to any interests/rights created by the Subordinate Loan Documents, and prior and superior to any interests/rights of any and all other parties, as set forth herein;

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties hereto and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, and in order to induce LENDER to make the Loan above referred to, it is hereby declared, understood and agreed as follows:

1. **Recitals.** The foregoing Recitals are incorporated herein by this reference and shall form a part of this Agreement as if fully set forth hereunder.
2. **Subordination.** The parties agree that the Subordinate Mortgage, and any and all lien(s) in relation to or created by the Subordinate Mortgage, and any and all rights, claims, mortgage lien rights and any and all lien rights of SUBORDINATE LENDER, including but not limited to any interests/rights created by the Subordinate Mortgage, and that any and all of any rights, claims, interests of any and all parties hereto, are and shall at all times remain subordinate in all aspects, to the Mortgage, the Additional Advances, the lien of the Mortgage, and to all rights of LENDER under the Mortgage as well as the Loan Documents, and to all amendments, renewals and extensions of the Loan Documents (including but not limited to, all right of LENDER under the Additional Advances). The parties agree that the Mortgage securing the Note in favor of LENDER, as well as any amendments, renewals or extensions thereof (including but not limited to, the Additional Advances), shall unconditionally be and remain at all times a lien on the Property prior and superior to the Subordinate Mortgage (and any lien rights related thereto), and prior and superior to any interests/rights created by the Subordinate Mortgage, and that the Loan Documents shall unconditionally be and remain at all times prior and superior to the

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Subordinate Mortgage. SUBORDINATE LENDER declares and acknowledges that it hereby intentionally waives, relinquishes and subordinates the priority and superiority of the lien or charge of SUBORDINATE LENDER and the Subordinate Mortgage, in favor of the Mortgage and declares and acknowledges that the Mortgage, the Note and the Loan Documents shall unconditionally be and remain at all times prior and superior to the Subordinate Mortgage and the Subordinate Loan Documents.

3. Covenants, Representations, Warranties and Agreements of OWNER.

OWNER agrees, covenants, represents and warrants as follows:

- a. That the Mortgages granted by Owner to LENDER is and shall be a valid first lien against the Property that is prior and superior to the Subordinate Mortgage, and prior and superior to any interests/rights created by the Subordinate Mortgage;

4. Covenants, Representations, Warranties, and Agreements of SUBORDINATE LENDER. SUBORDINATE LENDER agrees, covenants, represents and warrants as follows:

- a. That the Mortgage granted by Owner to LENDER is and shall be a valid first lien against all properties in the Mortgage, that is prior and superior to the Subordinate Mortgage, and prior and superior to any interests/rights created by the Subordinate Mortgage (including but not limited to, that the liens rights of LENDER in (and/or created by the Additional Advances shall be prior and superior to the Subordinate Mortgage, and prior and superior to any interests/rights created by the Subordinate Mortgage);
- b. Except for the liens, security interests and encumbrances created by the Subordinate Mortgage and the other currently existing Subordinate Loan Documents, SUBORDINATE LENDER shall not be entitled to obtain or maintain any other mortgage or other liens, security interests or encumbrances on, in or against the Property, or any part thereof, whether voluntarily or involuntarily, by subrogation, express agreement, court order or otherwise (including, without limitation, any which may arise with respect to real estate taxes, assessments or other governmental charges).
- c. Subordinate LENDER shall not exercise any rights or remedies available to SUBORDINATE LENDER upon the occurrence of a breach or

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default under the Subordinate Loan Documents, whether available at law, in equity, under bankruptcy or insolvency laws, pursuant to the express provisions of the Subordinate Loan Documents or otherwise, including, without limitation, the right to foreclose the Subordinate Mortgage or any other lien or security interest in favor of SUBORDINATE LENDER, the right to the appointment of a receiver or the appointment of Subordinate LENDER as mortgagee in possession, or the institution of any involuntary bankruptcy proceedings; subject to the limitations set forth herein (including the right to accelerate the Subordinate Loan and pursue an Enforcement Action, as permitted under Paragraph 5 below).

d. (1) all amounts due to SUBORDINATE LENDER under the Subordinate Loan and rights with respect thereto are and shall at all times continue to be expressly subject and subordinate in right of payment to the indebtedness of, and all amounts due from, Borrower and/or Guarantors evidenced by or set forth in the Loan Documents (including the obligations of the Guarantors for the payment of the Guarantors obligations to LENDER) (including but not limited to any and all subsequent and/or additional advances made by LENDER to Borrower pursuant to the Loan, and/or obligatory advances and protective advances advanced or incurred in accordance with the Loan), and (2) until all of Borrower's obligations under the Loan Documents have been paid and performed in full, other than the payments set forth below, no payment whatsoever shall be made to SUBORDINATE LENDER by or on behalf of Borrower or any Guarantor for or on account of any amount due under the Subordinate Loan Documents. For purposes of this Agreement, Borrower's obligations shall not be deemed to be paid and performed until LENDER has received full payment of all amounts due LENDER under the Loan Documents. In the event any payment of amounts due under or with respect to the Subordinate Loan Documents that are subordinated and prohibited as set forth above is made, SUBORDINATE LENDER shall hold the same in trust for LENDER and promptly pay and deliver same to LENDER for the benefit of LENDER. Furthermore, in the event that after the Loan is repaid in full: (a) Borrower or any Guarantor becomes obligated to pay to LENDER any amounts due under the Loan Documents for any reason, including, without limitation, because of an indemnity or other obligation that survives repayment of the Loan or because LENDER is required to surrender any amount previously paid under the Loan Documents because of a preference, or other bankruptcy or insolvency defense, or otherwise; and (b) SUBORDINATE LENDER has received any amount due under or with respect to the Subordinate Loan after

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the date the Loan was deemed to have been repaid in full, SUBORDINATE LENDER shall pay to LENDER the amount owing under the Loan Documents up to the amount so received by SUBORDINATE LENDER.

e. Without limiting the generality of the foregoing, in the event that, prior to the time that the obligations of Borrower set forth in the Loan Documents have been paid and performed in full: (i) SUBORDINATE LENDER receives any payment of any kind whatsoever from Borrower or any Guarantor; or (ii) SUBORDINATE LENDER acquires any lien on, security interest in or other encumbrance against any of the Property (other than the liens, security interests and other encumbrances set forth in the Subordinate Loan Documents as of the date hereof) or any assets of any Guarantor, SUBORDINATE LENDER shall immediately take all action reasonably required by LENDER to pay such payment to LENDER, but only to the extent of the outstanding amount of the amount owed to LENDER, or to release and remove such lien or other encumbrance. The term "Protective Advances" means any advances necessary in LENDER's or SUBORDINATE LENDER's reasonable judgment to protect the security for the Loan or the Subordinate Loan, as the case may be, such as, by way of example and not limitation, advances to pay real estate taxes, insurance premiums or necessary repair, maintenance or construction costs or amounts advanced in connection with its exercise of rights hereunder to cure defaults under the Loan Documents.

f. SUBORDINATE LENDER agrees and acknowledges that it shall not exercise any remedy set forth in the subordinate promissory note until such time as all obligations of the Owner under the Loan have been paid in full to LENDER.

g. SUBORDINATE LENDER has the authority to enter in this agreement, and that SUBORDINATE LENDER has, by all necessary action, validly authorized the execution and delivery of this Agreement;

h. SUBORDINATE LENDER has delivered to LENDER true and complete fully executed copies of the Subordinate Loan Documents, such documents have not been amended, modified or supplemented in any way and such documents constitute (i) the entire agreement of SUBORDINATE LENDER and Borrower and (ii) all of the documents evidencing, securing, guaranteeing or governing the Subordinate Loan.

i. Without LENDER's prior, written consent, which may be denied in

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the LENDER's sole and absolute discretion, SUBORDINATE LENDER shall not enter into any Prohibited Subordinate Amendment (as defined below). SUBORDINATE LENDER may enter into any modification or amendment of the Subordinate Loan Documents that is not a Prohibited Subordinate Amendment; provided, however, that the modified and amended Subordinate Loan Documents shall otherwise remain subject to the terms, conditions and limitations set forth herein.

For purposes hereof, "**Prohibited Subordinate Amendment**" means any amendment or modification of the Subordinate Loan Documents which (i) expands the rights of the holder of the Subordinate Loan Documents to advance additional indebtedness beyond that permitted under the Subordinate Loan Documents in effect on the date hereof (which permitted additional advances include, without limitation, Protective Advances), (ii) shortens the term of the Subordinate Loan, (iii) increases the total payments (including both principal and interest) required under the Subordinate Loan Documents or recharacterizes principal payments as interest, fees or other amounts, (iv) increases the rate at which interest accrues on the Subordinate Loan, (v) shortens the cure periods available to Borrower, (vi) imposes additional fees, prepayment premiums or penalties beyond those amounts or rights provided in the existing Subordinate Loan Documents, (vii) limits the contractual ability of Borrower to make any payment of principal, interest or other amounts due under the Loan Documents, (viii) creates any new defaults or events of default, (ix) grants the holders thereof any additional lien or encumbrance on or security interest in the Property or in any other property that secures the Loan, or (x) grants the holders thereof a lien or encumbrance on or security interest in any property owned by any Guarantor. Copies of any amendments to the Subordinate Loan Documents will be delivered to LENDER upon execution thereof, regardless of whether consent thereto is required.

j. Without the prior written consent of LENDER, no additional advances will be made under the Subordinate Loan Documents other than Protective Advances.

k. Notwithstanding any other provisions in the Subordinate Loan Documents to the contrary, until the payment and performance in full of all of Borrower's obligations under the Loan Documents, SUBORDINATE LENDER agrees to assign and release unto LENDER or any other holder or holders of the Loan all of its right, title and interest or claim in and to (i) all insurance policies and insurance proceeds in respect to the Property for application pursuant to the provisions of the Mortgage and (ii) all condemnation awards made for any taking of any part of the Property for application pursuant to the provisions of the Mortgage.

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l. If SUBORDINATE LENDER obtains any assets of Borrower or any Guarantor and is not entitled to apply such assets to the Subordinate Loan in accordance with the provisions of this Agreement, SUBORDINATE LENDER will hold such assets in trust for, and immediately pay, deliver and assign to LENDER such assets for application to the Loan.

m. SUBORDINATE LENDER, as the holder of the Subordinate Loan, shall not at any time prior to the payment and performance in full of all of Borrower's obligations under the Loan Documents, demand or retain any voluntary or optional payment, prepayment, redemption or repurchase of any portion of the Subordinate Loan from Borrower.

n. If LENDER or any other the holder or holders of the Loan, or their agents, exercise any right or take any remedial action pursuant to the terms and provisions of the Mortgage or the Loan Documents, SUBORDINATE LENDER expressly waives any defenses or claims it may have as a mortgagor, creditor or otherwise against LENDER or any other holder of all or any part of the Loan, in connection with such act by LENDER or any other holder or holders of the Loan, or their agents.

o. SUBORDINATE LENDER will not assign, sell, transfer or pledge any or all of the Subordinate Loan or any portion thereof or interest therein or any of the Subordinate Loan Documents without the prior consent of LENDER which may be withheld in LENDER's sole discretion, so long as the Loan remains outstanding. Notwithstanding the foregoing, and provided that any such sale, transfer, assignment, pledge or hypothecation of the Subordinate Loan shall be subject in all events to the terms and provisions of this Agreement, SUBORDINATE LENDER shall, without the prior consent of the LENDER, have the right to assign and transfer all or any portion of SUBORDINATE LENDER's interest in the Subordinate Loan and in all of the Subordinate Loan Documents to any entity controlling, controlled by or under common control with SUBORDINATE LENDER (as it is currently organized, owned and controlled).

p. The foregoing provisions are solely for the purpose of defining the relative rights of the holder or holders of the Subordinate Loan and the holder or holders of the Loan, and nothing herein shall impair, as between the Borrower and SUBORDINATE LENDER, the obligation of the Borrower, which is unconditional and absolute, to pay the Subordinate Loan in accordance with

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its terms, nor shall anything herein prevent SUBORDINATE LENDER from exercising all remedies otherwise permitted by applicable law or under the Subordinate Note, Subordinate Mortgage or other Subordinate Loan Documents, subject to the provisions of this Agreement.

5. **Ratification of Loan Documents.** This Agreement is supplementary to the Note, Mortgage and the other Loan Documents. All of the provisions thereof, including the right to declare principal and accrued interest due for any cause specified therein, shall remain in full force and effect. OWNER agrees to continue to comply with and perform all of the covenants, conditions and obligations set forth in the Loan Documents.
6. **Further Extensions.** The Mortgage and other collateral given to secure payment of the Note, as amended, shall secure any and all maturity date extensions, however evidenced, and any such extensions shall not impair in any manner the validity of or priority of the Mortgage to the Subordinate Mortgage (and any liens related thereto).
7. **Waiver and Release of Claims/Disclaimer of Reliance.** OWNER represents and warrants to LENDER that he has no defenses, setoffs, claims or counterclaims of any kind or nature whatsoever against the LENDER in connection with the Loan Documents or any extensions or modifications thereof or any action taken or not taken by the LENDER with respect thereto, including but not necessarily limited to, this Agreement. Without limiting the generality of the foregoing, and in consideration of LENDER's agreements hereunder, OWNER hereby releases and forever discharges LENDER, its affiliates and each of their officers, agents, employees, attorneys, insurers, successors and assigns (collectively the "Released Parties"), from and against any and all claims, rights, losses, liability, expenses, or causes of action, known or unknown, arising in conjunction therewith. OWNER also waives, releases and forever discharges the Released parties and each of them from and against any and all known or unknown rights to setoff, defenses, claims, counterclaims, causes of action, or other bar to the enforcement of the Mortgage, Note or the Loan Documents. OWNER expressly disclaims any reliance on any oral representation made by the LENDER with respect to the subject matter of this Agreement and agrees to fully indemnify and hold LENDER harmless against all loss, liability, claims, suits, litigation, actions, causes of action, judgments, damages, debts, obligations, demands, liens, attorneys' fees, costs, and expenses, of any kind, nature or description whatsoever, in relation to the Mortgage not being prior to the Subordinate Mortgage (and any liens related thereto).

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8. **Counterparts.** This Agreement may be executed simultaneously in any number of original counterparts, which shall collectively and separately, constitute one agreement.
9. **Successors and assigns.** The provisions of this Agreement shall inure to the benefit of any Holder of said Note and shall bind the successors, heirs, personal representatives and assigns of the Borrower.
10. **Governing Law.** The terms of this Agreement shall be governed by and construed in accordance with the terms of the laws of the State of Illinois.
11. **Waiver of Jury Trial.** SUBORDINATE LENDER, OWNER/BORROWER AND EACH GUARANTOR HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY CONTROVERSY OR CLAIM, WHETHER ARISING IN TORT OR CONTRACT OR BY STATUTE OR LAW, BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH, THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, THE VALIDITY, INTERPRETATION, COLLECTION OR ENFORCEMENT HEREOF), OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF ANY PARTY IN CONNECTION HEREWITH. EACH PARTY ACKNOWLEDGES AND AGREES THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR SENIOR LENDER AND MEZZANINE LENDER TO ENTER INTO THE SENIOR LOAN AND THE MEZZANINE LOAN, RESPECTIVELY, AND THE PARTIES WOULD NOT HAVE ENTERED INTO THIS AGREEMENT WITHOUT THIS WAIVER. EACH PARTY HERETO IS HEREBY AUTHORIZED TO FILE A COPY OF THIS AGREEMENT IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL.
12. **Successors and Assigns.** Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Agreement contained by or on behalf of any party shall bind and inure to the benefit of the respective successors and assigns of such party, whether so expressed or not; provided, however, that the provision of this paragraph shall not be deemed to permit any unpermitted assignee to acquire any benefits hereunder (but such unpermitted assignee shall be bound by the assignor's obligations and restrictions

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hereunder).

13. **Only Agreement Regarding Subordination.** This Agreement shall be the whole and only agreement with regard to the subordination of the Subordinate Mortgage to the Mortgage and Loan Documents.

[SIGNATURE PAGE FOLLOWS]

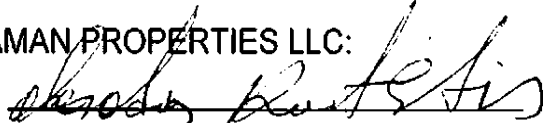
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IN WITNESS WHEREOF, the parties have executed this Subordination Agreement as of the Execution Date.

OWNER: DIAMAN PROPERTIES LLC:

By:



Name:

Adamantios Koutsovitis

Its:

Sole Manager and Sole Managing Member

SUBORDINATE LENDER:



JUANITO N. ROQUE, by Thomas W. Murphy

PCA

LENDER: ALSJ, INC.

By:

Name:

Its:

Prepared By + Return to after Recording:
Law Office of Barry Footlick, LLC
9748 S. Roberts Rd, Palms Hills, IL 60465

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, the parties have executed this Subordination Agreement as of the Execution Date.

OWNER: DIAMAN PROPERTIES LLC:

By: *Adamantios Koutsovitis*
Name: Adamantios Koutsovitis
Its: Sole Manager and Sole Managing Member

SUBORDINATE LENDER:

Juanito N. Roque by Thomas W. Murphy POA
JUANITO N. ROQUE, by Thomas Murphy
POA

LENDER: ALSJ, INC.

By: *Andrew Lee*
Name: Andrew Lee
Its: president

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State of Illinois)

SS)

County of Cook)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that ADAMANTIOS KOUTSOVITIS personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me in person and severally acknowledged that he signed and delivered the said instrument as his free and voluntary act for the purposes therein set forth.

GIVEN under my hand and official seal, this 24th day of September, 2020.



Stephanie N Hernandez

Notary Public

State of Illinois)

SS):

County of Cook)

I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that JUANITO N. ROQUE, by Thomas W. Murphy pursuant to his power of attorney personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me in person and severally acknowledged that he signed and delivered the said instrument as his free and voluntary act for the purposes therein set forth.

GIVEN under my hand and official seal, this 24th day of September, 2020.



M. Gagen

Notary Public

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State of Illinois)
)
 SS):)
)
 County of Cook)



I, the undersigned, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that Andrew Lee personally known to me to be the same person(s) whose name(s) are subscribed to the foregoing instrument, appeared before me in person and severally acknowledged that she signed and delivered the said instrument as her free and voluntary act for the purposes therein set forth.

GIVEN under my hand and official seal, this 24 day of September, 2020.

Milena Markova
 Notary Public

Cook County Clerk's Office

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EXHIBIT A LEGAL DESCRIPTION

LOT 30 (EXCEPT THE SOUTH 15 FEET) ALL OF LOTS 31 AND 32 IN GEORGE T. STEEN'S SUBDIVISION OF THE NORTH 12 ACRES OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 41 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN (EXCEPT THEREFROM THE NORTH 150 FEET THEREOF) IN COOK COUNTY, ILLINOIS

Permanent Index Number: 10-27-221-038-0000

Common Address: 4141 MILFORD ST, Skokie, IL 60076

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