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0333032143

This Instrument Prepared By and Upon Recordation Return to

Costco Wholesale Corporation
999 Lake Drive
Issaquah, WA 98027
Attn: Bruce Coffey

Doc#: 0333032143
Eugene "Gene" Moore Fee: \$50.00
Cook County Recorder of Deeds
Date: 11/26/2003 12:42 PM Pg: 1 of 14

CONSENT, LEASE RECOGNITION, ATTORNTMENT AND GUARANTY AGREEMENT (Master Lease)

THIS AGREEMENT is made as of the 31st day of October, 2003 by and among COSTCO WHOLESALE CORPORATION, a Washington corporation, ("Tenant"), ROUSE-RANDHURST SHOPPING CENTER, LLC, a Maryland limited liability company ("Master Lessee") and JPMORGAN CHASE BANK, AS TRUSTEE UNDER AMENDED AND RESTATED DECLARATION OF TRUST, DATED NOVEMBER 13, 2001, AS AMENDED, FOR ITS COMMINGLED PENSION TRUST FUND (STRATEGIC PROPERTY) (formerly known as Morgan Guaranty Trust Company of New York, as Trustee under Declaration of Trust dated December 9, 1960 for the Cor mingled Pension Trust Fund (Special Situation Investments - Real Estate)) ("Trustee") in its capacity as Master Lessor under the Master Lease (as such terms are defined below), Tenant, Master Lessee, and Master Lessor being hereinafter referred to collectively as the "Parties" and individually as a "Party."

RECITALS

WHEREAS, by that certain Restated Ground Lease dated October 27, 1988, a Memorandum of which was recorded as document 8850107, Cook County, Illinois, as between Trustee, as lessor (the "Master Lessor"), and Master Lessee, as lessee, Master Lessor demised to Master Lessee that certain real property located in the Village of Mt. Prospect, County of Cook and State of Illinois, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property"), for a term expiring June 30, 2013 (as used herein, the term "Master Lease" means the Restated Ground Lease and all amendments, supplements, extensions, replacements and other modifications thereof now or hereafter in effect);

WHEREAS, by that certain Tenant Lease dated as of October 31, 2003 between Master Lessee, as landlord, and Tenant, as tenant, a Memorandum of which was recorded as document _____, Cook County, Illinois, Master Lessee demised a certain portion of the Property (the "Premises") to Tenant for an original term of twenty (20) years and six (6) optional renewal terms of five (5) years each, as provided in section 1.3 of the Tenant Lease (as used herein, the term "Tenant Lease" means such Tenant Lease and all amendments, supplements, extensions, replacements and other modifications thereof made with the consent of Master Lessor, and the term "Lease Term" means the original term and renewal terms provided the same are duly elected by Tenant by notice duly given to Master Lessee pursuant to section 1.3 of the Tenant Lease);

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WHEREAS, Master Lessor is willing to agree to not disturb Tenant's quiet possession of the Premises during the Lease Term as long as an Event of Default by Tenant has not occurred and is then continuing under the Tenant Lease which would entitle Master Lessee, as landlord, to terminate the Tenant Lease.

NOW THEREFORE, in consideration of the foregoing, Master Lessor, Master Lessee, and Tenant agree as follows:

1. CONSENT TO AND RECOGNITION OF TENANT LEASE. Master Lessor acknowledges that prior to the execution hereof, it has had the opportunity to examine the terms and conditions of the Tenant Lease, and consents to and approves the same.

2. REPRESENTATIONS AND WARRANTIES OF MASTER LESSOR. Master Lessor covenants and warrants:

a. That it possesses all of the right, title and interest of the Master Lessor named in the Master Lease and the Master Lease is in full force and effect;

b. That it will comply with all terms, provisions, covenants and obligations of the Master Lease that are binding on Master Lessor;

c. That the execution and delivery of this Agreement and Master Lessor's performance hereunder, do not conflict with or result in a violation of any contract, indenture, instrument or other agreement to which Master Lessor is a party or by which it is bound; and

d. That the Master Lease permits, and shall permit during its term, each and every provision of the Tenant Lease. No consents or approvals are required from Master Lessor for Master Lessee to perform the terms and conditions of the Tenant Lease (or if any consents or approvals are required, Master Lessor has granted such consents and approvals).

e. The Property (i.e., the Shopping Center as defined in the Tenant Lease) is not presently subject to any mortgage or deed of trust granted by Master Lessor. This Agreement and the Tenant Lease and the obligations therein are and shall remain absolutely and unconditionally prior and superior to any mortgage, deed of trust or other voluntary encumbrance granted or permitted by Master Lessor on the Property after the date hereof. Master Lessor shall execute and deliver such documents as Tenant may reasonably request to confirm the foregoing priority of this Agreement and the Tenant Lease.

f. That as of the date hereof, Master Lessor does not own any other real property within five (5) miles of the Shopping Center which is developed for retail use or which is being held for development for retail use.

3. NONDISTURBANCE. Master Lessor agrees with Tenant that so long as conditions do not exist which entitle Master Lessee to declare the Tenant Lease terminated (including the expiration of all periods to cure), (i) the Tenant Lease and the estate thereby created shall not be terminated by Master Lessor, (ii) neither Tenant nor any subtenants,

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licensees or assigns of Tenant permitted under the Tenant Lease shall be joined by Master Lessor in any proceedings under the Master Lease except as may be procedurally necessary to bring any legal action or proceeding against the Master Lessee, (iii) possession and enjoyment of the Premises by Tenant (including any subtenants, licensees or assigns as permitted pursuant to the Tenant Lease) shall not be interfered with by or in any action or proceeding instituted under or in connection with or by reason of any termination of the Master Lease, it being the express intention of Master Lessor and Tenant that Tenant shall not be disturbed in its possession and use of the Premises under the Tenant Lease for any reason other than the termination of the Tenant Lease in accordance with its terms or pursuant to applicable law, and (iv) insurance and condemnation proceeds shall be administered as provided in the Tenant Lease, notwithstanding any contrary provisions of the Master Lease.

4. TERMINATION OF MASTER LEASE. If the Master Lease is cancelled, terminated or surrendered, whether voluntarily, involuntarily or by operation of law, or its term expires, prior to expiration of the Tenant Lease, including any extensions and renewals of the Tenant Lease, the Tenant Lease shall continue in full force and effect without further act of the parties as a direct lease between Master Lessor and Tenant, upon and subject to the terms, covenants, and conditions of the Tenant Lease, prior and superior to any mortgage, deed of trust, judgment or other encumbrance, whether voluntary or involuntary, granted or permitted by Master Lessor on the Property, provided, however, in such event, Master Lessor's liability under such direct lease shall extend to, and be limited to, Master Lessor's interest in the Property and any judgment against Master Lessor shall be enforced only out of the proceeds of the sale of Master Lessor's interest in the Property or by other realization proceedings against Master Lessor's interest in the Property.

5. ATTORNMEN. Upon a termination of the Master Lease, Tenant agrees (a) to attorn to and recognize as landlord under the Tenant Lease, the Master Lessor or any successor thereto, in the event of cancellation or other early termination of the Master Lease upon all the terms and conditions of the Tenant Lease as may be modified by this Agreement; (b) upon request, to execute and deliver to Master Lessor and/or its successors or assigns any instrument or instruments in recordable form that may be necessary or appropriate to confirm the performance of the agreements herein contained, and (c) to be bound to perform all of the obligations imposed by the Tenant Lease upon Tenant thereunder. Attornment pursuant to the foregoing sentence shall be effective upon the earlier of the expiration or earlier termination of the Master Lease; provided, however, Tenant shall be under no obligation to pay rent to Master Lessor until Tenant receives a written notice from Master Lessor requiring payment to Master Lessor (which notice Master Lessee authorized Tenant to rely on). Tenant waives the provisions of any statute or rule of law now or hereafter in effect that may give or purport to give Tenant any right or election to terminate or otherwise adversely affect the Tenant Lease or Tenant's obligations thereunder by reason of any expiration or termination of the Master Lease, or the exercise of any of Master Lessor's rights under or otherwise available with respect to the Master Lease.

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6. LIMITATION ON LIABILITY.

a. Notwithstanding anything to the contrary in the Tenant Lease or this Agreement, if Master Lessor or any other person or entity who succeeds to the interest of Master Lessee under the Tenant Lease by virtue of the expiration or sooner termination of the Master Lease (whether by virtue of a direct lease pursuant to Section 4 above or pursuant to the expiration or earlier termination of the Master Lease or termination of Master Lessee's right of possession to the Premises or otherwise (such other person or entity being hereinafter referred to as "Successor Landlord")), such Successor Landlord:

(i) shall not be bound by any payment of rent or additional rent made by Tenant to Master Lessee for more than one month in advance;

(ii) shall not be liable for any security or other deposit under the Tenant Lease, except to the extent actually received by Successor Landlord;

(iii) shall not be liable for any payment for or performance of any preparatory work or alterations required under the Tenant Lease, except as provided in clauses (v) and (vi) below in this Section 6(a);

(iv) [Intentionally deleted]

(v) except as provided in the guaranty pursuant to Section 8, shall not be subject to any defense, counterclaim, set off, credit or deduction that Tenant has against Master Lessee, except any offset that Tenant may be entitled to take in accordance with the provisions of the Tenant Lease;

(vi) except as provided in the guaranty pursuant to Section 8, shall not be liable for any default by Master Lessee under the Tenant Lease or for any other act or omission of Master Lessee unless and until Successor Landlord succeeds to the Master Lessee's interest under the Tenant Lease and obtains possession of the Premises;

(vii) shall not be obligated to restore any part of the Property in the event of damage thereto or destruction thereof by fire or other casualty, or in the event of a partial condemnation; provided that Successor Landlord shall make the proceeds of any insurance or condemnation available for restoration or repair as provided in Section 6, Section 7 and Section 8 of the Lease;

(viii) shall not be bound by any extension (except as provided therein) or reduction in the Term of the Tenant Lease, reduction in the Minimum Rent, or any other material amendment, extension, replacement, or other modification of the Tenant Lease adverse to Master Lessor, and/or any surrender of the Premises not provided for in the Lease or otherwise consented to in writing by Successor Landlord, and shall not be personally liable under or with respect to the Tenant Lease, this Agreement, or the Premises beyond Successor Landlord's interest in the Property and any judgment against Successor Landlord relating to the Tenant Lease, this Agreement or the Property shall be enforced against Successor Landlord solely out of

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the proceeds of the sale of its interest in the Property and/or the rents, income and profits generated by the Property after the date Successor Landlord shall become Successor Landlord, provided that the foregoing provisions of this clause (viii) shall not be deemed to limit Successor Landlord's obligations under the Tenant Lease as modified by this Agreement, but only to limit the personal liability of Successor Landlord in case of enforcement thereof against Successor Landlord, nor shall the foregoing provisions of this clause (viii) be deemed to limit Tenant's rights subject to the provisions of this Agreement to obtain injunctive relief, to specific performance or to avail itself of any other right or remedy under the Tenant Lease as modified by this Agreement or applicable law, provided that no judgment for monetary damages or other relief, including specific performance shall be enforced against Successor Landlord other than solely out of the proceeds of the sale of its interest in the Property and/or the rents, income and profits generated by the Property after the date such party shall become Successor Landlord.

b. Tenant agrees that, as long as the Master Lease is in effect:

(i) Tenant shall not extend (except as provided therein) or reduce the Term of the Tenant Lease, reduce the Minimum Rent, or otherwise materially amend or modify the Tenant Lease adverse to Master Lessor without the consent of the Master Lessor which consent shall not unreasonably be withheld, conditioned or delayed, nor shall Tenant terminate the Lease without the consent of Master Lessor, except as provided in Section 7 hereof, and except as provided in Sections 1.5.3, 6, 8 and 12.4 of the Lease (which termination does not require Master Lessor's consent);

(ii) Tenant shall not pay any rent or other amount payable under the Tenant Lease more than one month in advance; and

(iii) Master Lessor shall have the benefit of each provisions of the Tenant Lease that benefits Master Lessee and all notices of default to be given to Master Lessee under the Tenant Lease shall be given to Master Lessor as provided in Section 7 hereof.

7. NOTICES OF DEFAULT. Before any termination due to a breach under the Tenant Lease shall be declared by Tenant, Tenant shall give notices in writing to Master Lessor of the specific breach(es) of the Tenant Lease. Notice to such parties shall be given at least thirty (30) days (or such longer period as provided in the Tenant Lease for Master Lessee or provided in this Section 7.a for the Master Lessor to cure the default) before Tenant shall terminate the Tenant Lease. Within thirty (30) days after receipt of such notice from Tenant, Master Lessor may, in addition to any other remedies provided in the Master Lease, elect to make such payments and cure such defaults on behalf of Master Lessee and in connection therewith, do all work, and make all payments necessary to cure such default.

Notwithstanding anything in the Lease, in this Agreement or under applicable law to the contrary, Tenant shall not exercise any right it may have to terminate the Tenant Lease by reason of any monetary default by Master Lessee under the Tenant Lease, provided that, within thirty (30) days after Master Lessor's receipt of notice from Tenant of such default, Master Lessor or a Successor Landlord pays the amount in question.

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Notwithstanding anything in the Tenant Lease, in this Agreement or under applicable law to the contrary, except for failure to complete Landlord's Work within the time periods set forth in Section 1.8 or the last sentence of Section 1.5.3, Tenant shall not exercise any right it may have to terminate the Tenant Lease by reason of any other (non-monetary) default by Master Lessee under the Tenant Lease, provided that (a) within thirty (30) days after Master Lessor's receipt of notice from Tenant of such default, Master Lessor gives Tenant notice of Master Lessor's intention to obtain possession of the property and thereafter to cure the default in question, (b) within thirty (30) days after giving such notice, subject to any applicable stay under applicable law, Master Lessor starts proceedings to obtain possession of the Property, (c) thereafter, subject to any such stay, Master Lessor diligently continues such proceedings to conclusion, and (d) after obtaining possession Master Lessor or a Successor Landlord holding under Master Lessor, promptly cures such default if such default is one for which a Successor Landlord is liable or responsible under Section 5 above (it being understood and agreed that Tenant shall not terminate the Tenant Lease in the case of any default, except for failure to complete Landlord's Work within the time periods set forth in Section 1.8 or the last sentence of Section 1.5.3, and that Master Lessor or Successor Landlord, as the case may be, need not cure any default, for which a Successor Landlord is not liable or responsible under Section 5 above). Nothing herein shall preclude Tenant from terminating the Tenant Lease as provided in Section 12.4 of the Tenant Lease.

8. GUARANTY. Subject to the terms of Sections 11 and 13 below, Master Lessor irrevocably, absolutely and unconditionally guaranties to Tenant and any Costco Affiliate the payment and performance of Landlord's obligations pursuant to Sections 1.4.1, 1.4.2, 1.4.5 and 12.4 of the Tenant Lease ("Guarantied Obligations") with the same force and effect as if Master Lessor were primarily liable as the Landlord under the Tenant Lease with respect to the Guarantied Obligations. Master Lessor (a) waives all suretyship defenses (b) agrees that no modification, amendment, indulgence, or consents of any party to the Tenant Lease shall waive or release any liability of Master Lessor hereunder and (c) agrees that Tenant shall not be obligated to pursue or exhaust its remedies against any other person or party, including Landlord, before pursuing its remedies against Master Lessor. This Agreement and the Tenant Lease are and shall remain absolute and unconditionally prior and superior to any mortgage, deed of trust or other voluntary encumbrance granted or permitted by Master Lessor on the Property after the date hereof as provided in Section 2(e) hereof. Master Lessor shall execute and deliver such documents as Tenant may reasonably request to confirm the priority of this Agreement and the Tenant Lease. Notwithstanding anything to the contrary contained herein, Master Lessor's (and its successors' and assigns') liability under this Agreement shall be limited to its interest in the Property, and any judgment against Master Lessor shall be enforced only out of the proceeds of the sale of its interest in the Property or by other realization proceedings against Master Lessor's interest in the Property.

9. NOTICES. Any notice, demand or other communication given or served by a Party to any other Party shall not be deemed to have been duly given or served unless in writing and forwarded by certified or registered mail (return receipt requested), postage prepaid, or by another commercially recognized means of delivery, addressed as follows:

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To Master Lessor at: J. P. Morgan Investment Management Inc.
522 Fifth Avenue
New York, New York 10036
Attention: Sheryl Crosland
Vice President

With a copy to: Stroock & Stroock & Lavan LLP
180 Maiden Lane
New York, New York 10038
Attention: Brian Diamond, Esq.

To Tenant at: Costco Wholesale Corporation
999 Lake Drive
Issaquah, Washington 98027
Attention: Bruce Coffey

To Master Lessee at: Rouse-Randhurst Shopping Center, LLC
c/o The Rouse Company
10275 Little Patuxent Parkway
Columbia, Maryland 21044
Attention: General Counsel

The person and place to which notice is given may be changed by notice as provided above.

10. RECORDATION. Master Lessee agrees that Master Lessee (i) shall promptly cause this Agreement to be recorded in each office where the Tenant Lease or a memorandum of the Tenant Lease is recorded and (ii) shall indemnify Master Lessor and Tenant against any expenses including taxes in connection with such recording (including interest and penalties in connection with such taxes).

11. SUCCESSORS AND ASSIGNS. This Agreement and the covenants herein shall be deemed to be covenants running with the land and shall be binding upon and inure to the benefit of the parties, Successor Landlord (if any), and their respective successors and assigns in such capacities. All references herein to the "Master Lessor," "Successor Landlord," "Master Lessee" and "Tenant" shall include the respective successors and assigns of such parties. Upon the assignment and conveyance by Master Lessor of its interest in the Property and the Master Lease, the Master Lessor shall be released from all liability under this Agreement and Master Lessor's successor or assign shall then assume and be liable under this Agreement subject to the limitations on liability set forth in the last sentence of Section 8 hereof.

12. TENANT REPRESENTATIONS AND WARRANTIES.

a. Tenant represents that, except as specified in this Agreement, the Tenant Lease is unmodified and is in full force and effect, no rent or other amount payable under the Tenant Lease has been paid more than one month in advance, to Tenant's knowledge as of the

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date of this Agreement, there is no existing default under the Tenant Lease on the part of Master Lessee; and to Tenant's knowledge as of the date of this Agreement, Tenant has no claim, defense or set off against the rent and other amounts payable under the Tenant Lease. Tenant also represents and warrants that it is the owner of the Tenant's interest under the Tenant Lease, it has the sole and unencumbered right and power to enter into this Agreement, and that upon execution by officers of Tenant and delivery to the other Parties, this Agreement shall have been duly authorized, executed and delivered by it. Terms not otherwise defined herein shall have the meaning set forth in the Tenant Lease.

b. Trustee represents and warrants that it has the right and the power to enter into this Agreement in its capacities as Master Lessor and Mortgagee, and this Agreement has been duly authorized, executed and delivered by it in such capacities.

13. MODIFICATION. This Agreement shall not be modified, waived or terminated except by an agreement in writing executed by the Party against whom enforcement of such modification, waiver or termination is sought; provided, however, upon the termination of the Ground Lease and the Tenant Lease thereby being a direct lease between Tenant and Master Lessor, the terms of this Agreement shall automatically terminate and be of no further force and effect.

14. GOVERNING LAW. This Agreement shall be governed by and construed with the law of the State of Illinois.

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IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

WITNESS OR ATTEST:

JPMORGAN CHASE BANK, AS TRUSTEE
UNDER AMENDED AND RESTATED
DECLARATION OF TRUST, DATED
NOVEMBER 13, 2001, AS AMENDED, FOR
ITS COMMINGLED PENSION TRUST
FUND (STRATEGIC PROPERTY)

By: _____
Name: _____
Title: _____

Ken W. Stalder

ROUSE-RANDHURST SHOPPING
CENTER, LLC

By: *Kathleen E. Barry*
Name: Kathleen E. Barry
Title: Vice President

COSTCO WHOLESALE CORPORATION

By: _____
Name: _____
Title: _____


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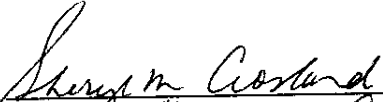
IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

WITNESS OR ATTEST:

JPMORGAN CHASE BANK, AS TRUSTEE
UNDER AMENDED AND RESTATED
DECLARATION OF TRUST, DATED
NOVEMBER 13, 2001, AS AMENDED, FOR
ITS COMMINGLED PENSION TRUST
FUND (STRATEGIC PROPERTY)



By:


Name: Sheryl M. Crostard
Title: Vice President

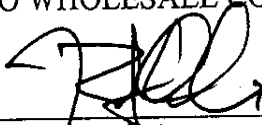
ROUSE-RANDHURST SHOPPING
CENTER, LLC

By:

Name: _____
Title: _____

COSTCO WHOLESALE CORPORATION

By:


Name: RICHARD J. OLIN
Title: Vice President/Assistant Secretary

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STATE OF MARYLAND

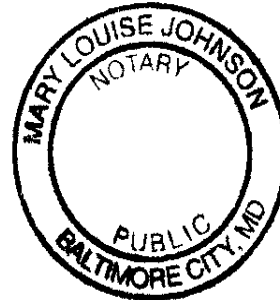
COUNTY OF Howard : to wit:

I HEREBY CERTIFY, that on this 31st day of October, 2003, before me, a Notary Public of the State of Maryland, personally appeared Kathleen E. Barry who acknowledged himself/herself to be the Vice President of ROUSE-RANDHURST SHOPPING CENTER LLC, a Maryland limited liability company, and that he/she, as such Vice President, being authorized so to do, executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I have set my hand and Notarial Seal, the day and year first above written.

Mary Louise Johnson
Notary Public

My Commission expires: 5/1/2005



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STATE OF WASHINGTON

ss.

COUNTY OF KING

RICHARD J. OLIN

I certify that I know or have satisfactory evidence that Richard J. Olin is the President/Assistant Secretary person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the RICHARD J. OLIN of COSTCO WHOLESALE CORPORATION, a corporation, for the Secretary and voluntary act of such corporation for the uses and purposes mentioned in the instrument.

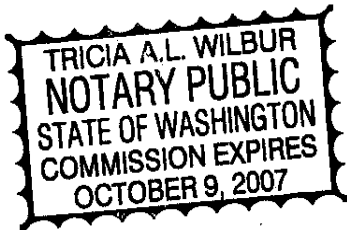
Dated this 27th day of November, 2003.

Tricia A. Wilbur
(Signature of Notary)

TRICIA A. WILBUR
(Legibly Print or Stamp Name of Notary)

Notary public in and for the state of Washington,
residing at COUNTY OF KING

My appointment expires 10-9-07



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EXHIBIT A

Legal Description of Shopping Center

Lots One and Two in Randhurst Center Resubdivision - No. 1, being a resubdivision of Lot One in Randhurst Center, being a subdivision of part of the Southeast 1/4 of Section 27, Township 42 North, Range 11 East of the 3rd Principal Meridian, Cook County, Illinois, according to the Plat of said Randhurst Center Resubdivision - No. 1 recorded in the Office of the Recorder of Deeds of Cook County, Illinois as Document No. 87408581 and registered in the Office of the Registrar of Titles of said County as Document No. 3637429.

LESS AND EXCEPTING from said Lot One that part of the West 1/2 of the South East 1/4 of Section 27, Township 42 North, Range 11, East of the Third Principal Meridian, (except that part thereof falling in a 100 foot strip conveyed to the County of Cook by Deed recorded May 5, 1941 as Document 12674702 and filed May 5, 1941 as Document 895623) described as following: beginning at the South West corner of the South East 1/4 of said Section 27; thence on an assumed bearing of North 00 degrees 00 minutes 33 seconds East along the West line of said South East 1/4 259.99 feet; thence South 89 degrees 59 minutes 27 seconds East 50.00 feet to the Eastern right of way line of Elmhurst Road as dedicated per Plat recorded September 24, 1928 as Document 10155704 in said County; thence South 34 degrees 48 minutes 52 seconds East 99.76 feet; thence South 45 degrees 31 minutes 35 seconds East 168.13 feet; thence South 67 degrees 48 minutes 12 seconds East 74.96 feet to the Northerly right of way line of Kensington Road (Foundry Road); thence South 00 degrees 10 minutes 27 seconds West 32.88 feet to the South line of the South East 1/4 of said Section 27; thence North 89 degrees 49 minutes 33 seconds West along said South line 296.28 feet to the Point of Beginning).

TOGETHER WITH AND SUBJECT TO the certain Declaration of Reciprocal Easements dated as of July 21, 1987 by LaSalle National Bank, as Trustee under Trust Agreement dated May 5, 1981 and known as Trust No. 103910, and recorded in the Office of the Recorder of Deeds of Cook County, Illinois as Document No. 87408582 and registered in the Office of the Registrar of Titles of said County as Document No. 3637420.

03 27 401 261 0000

03 27 401 266 0000

100 E Kensington
MA Prospect

EXHIBIT A