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Doc#: 0903319051 Fee: \$30.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
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SUBCONTRACTOR'S NOTICE AND CLAIM FOR LIEN

STATE OF ILLINOIS)
) SS
COUNTY OF MCHENRY)

The claimant, BERGER EXCAVATING CONTRACTORS, INC., an Illinois corporation (hereinafter "Claimant"), with an address at 1205 Garland Road, Wauconda, Illinois 60084, hereby files its Original Subcontractor's Notice and Claim for Mechanics Lien against Kimco Select Chicago 694, L.L.C., 3333 New Hyde Park Road, New Hyde Park, Illinois, 11042; KF Schaumburg, LLC, 33 S. State Street, Suite 400, Chicago, Illinois, 60603; Champion Environmental Services, Inc., c/o Dominic A. Gorniak, Sr., 1000 Apache Court, Wisconsin, 53538; Whole Foods Market Group, c/o Robert Lang, 550 Bowie Street, Austin, Texas, 78703; and LaSalle National Bank, n/k/a Bank of America Capital Corporation c/o William B. Franklin, President, 401 N. Tryon Street, Charlotte, North Carolina, 28255 (hereinafter "Owners"); Powers Construction Co., LLC, 2360 N. Palmer Drive, Schaumburg, Illinois, 60173 (hereinafter "General") and against the interest of any person claiming an interest in the Real Estate (as hereinafter described) by, through or under Owner:

1733 East Woodfield Road, Schaumburg, Illinois, 60173 and
750 N. Martingale Road, Schaumburg, Illinois, 60173

On January 16, 2009, Claimant states as follows:

1. That on or about January 8, 1998, and subsequently to May 30, 2008, Owner KIMCO SELECT CHICAGO 694, L.L.C. owned fee simple title to the real estate (including all land and improvements thereon) (hereinafter "the Premises") in Cook County, Illinois, as legally described as follows:

PARCEL 1:

THAT PART OF THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE SOUTH LINE OF WOODFIELD ROAD AS DEDICATED PER DOCUMENT 20944554 WITH THE EAST LINE OF SAID WEST 1/2 OF THE SOUTHEAST 1/4; THENCE SOUTH 0 DEGREES 33 MINUTES 31.5 SECONDS WEST ALONG SAID EAST LINE 700 FEET; THENCE NORTH 89 DEGREES 26 MINUTES 28.5 SECONDS WEST 450 FEET ALONG A LINE DRAWN PERPENDICULARLY TO SAID EAST LINE; THENCE NORTH 0 DEGREES 33 MINUTES 31.5 SECONDS EAST 694.283 FEET ALONG A LINE PARALLEL WITH SAID EAST LINE TO A POINT IN SAID SOUTH LINE OF WOODFIELD ROAD, THENCE EASTERLY 445.846 FEET ALONG SAID SOUTH LINE OF WOODFIELD ROAD BEING THE ARC OF A CIRCLE OF 1859.86 FEET RADIUS CONVEX TO THE NORTH WHOSE CHORD BEARS NORTH 89 DEGREES 45 MINUTES 1 SECOND EAST TO A POINT OF TANGENCY, THENCE SOUTH 83 DEGREES 22 MINUTES 56 SECONDS EAST 5.294 FEET ALONG SAID SOUTH LINE OF WOODFIELD ROAD TO HEREIN DESIGNATED POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

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PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 CREATED BY AGREEMENT RECORDED JULY 1, 1971 AS DOCUMENT 21532098 MADE BY LASALLE NATIONAL BANK AS TRUSTEE UNDER TRUST AGREEMENT DATED MARCH 1, 1971 AND KNOWN AS TRUST NUMBER 42050 TO LASALLE NATIONAL BANK AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 25, 1964 AND KNOWN AS TRUST NUMBER 33071 OVER THE WEST 20 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

A STRIP OF LAND 40 FEET WIDE IN THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING SOUTH OF THE SOUTH LINE OF WOODFIELD ROAD PER DOCUMENT 20944554 AND NORTH OF A LINE DRAWN PERPENDICULARLY TO THE EAST LINE OF SAID WEST 1/2 OF THE SOUTHEAST 1/4, SAID LINE BEING 700 FEET (AS MEASURED ALONG SAID EAST LINE); THE CENTER LINE OF SAID STRIP OF LAND BEING A LINE 450 FEET (MEASURED PERPENDICULARLY) WEST OF AND PARALLEL WITH SAID EAST LINE, (EXCEPT THE SOUTH 105.89 FEET THEREOF), IN COOK COUNTY, ILLINOIS.

Parcel Identification No.: 07-13-400-004 VOL NO. 187

2. That Owner LASALLE BANK NATIONAL ASSOCIATION, n/k/a BANK OF AMERICA CAPITAL CORPORATION (hereinafter "LASALLE"), gained an interest in the Premises by way of a Mortgage that was signed and subsequently recorded on August 23, 2007 as Document No. 0723533020 for the Premises as legally described herein.

3. That Owner KF SCHAUMBURG, LLC has an interest in the Premises in that it made an Assignments of Rents with Kimco Select 694, L.L.C. to LASALLE that was recorded on August 23, 2007 as Document No. 0723533021 for the Premises as legally described herein.

4. That Owner CHAMPION ENVIRONMENTAL SERVICES, INC. gained an interest in the property by way of a Mechanics Lien recorded on December 18, 2008 as Document No. 0835316030 for the Premises as legally described herein.

5. That Owner WHOLE FOODS MARKET GROUP, INC. gained an interest in the property by way of a lease that was recorded August 30, 2006 as Document No. 0624227032.

6. That General was Owner's General Contractor for the improvements on the Premises.

7. That on May 30, 2008, Claimant made a written contract (hereinafter "Subcontract") with POWER CONSTRUCTION COMPANY, LLC, an Illinois Limited Liability Corporation, under which Claimant agreed to provide all necessary labor, material, and apparatus to provide all necessary earthwork and site utility work for the project on the Premises in exchange for payment of \$949,330.00.

8. The Subcontract was entered into by General and the work was performed by Claimant with the knowledge and consent of Owners. Alternatively, the Owner specifically authorized General and/or General's agents to enter into contracts for improvement of the Premises. Alternatively, the Owner knowingly permitted General and/or General's agents to enter into contracts for the improvement of the Real Estate.

9. That on October 12, 2008, Claimant completed work to the value of \$949,330.00.

