



Doc#: 1013218046 Fee: \$88.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 05/12/2010 03:53 PM Pg: 1 of 27

This instrument prepared by
and when recorded, return to:
Sutherland Asbill & Brennan LLP
1275 Pennsylvania Ave., NW
Washington, DC 20004
Attn: Lisa A. Rosen, Esq.

ABOVE SPACE FOR RECORDER'S USE

Berkadia Loan No. 991072737

18899/11
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CONSENT AND REAFFIRMATION AGREEMENT

THIS CONSENT AND REAFFIRMATION AGREEMENT (this "Agreement") is effective as of April 30, 2010 (the "Effective Date"), by and among **FW IL-RIVERVIEW PLAZA, LLC**, a Delaware limited liability company ("Borrower"), whose address is One Independent Drive, Suite 114, Jacksonville, Florida 32202, **GRI-REGENCY, LLC, F/K/A MACQUARIE COUNTRYWIDE-REGENCY II, LLC**, a Delaware limited liability company ("Guarantor"), whose address is One Independent Drive, Suite 114, Jacksonville, Florida 32202, **BANK OF AMERICA, AS SUCCESSOR BY MERGER TO LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE REGISTERED HOLDERS OF J.P. MORGAN CHASE COMMERCIAL MORTGAGE SECURITIES CORP., COMMERCIAL MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-CIBC12** ("Lender"), whose address is c/o Berkadia Commercial Mortgage LLC, 118 Welsh Road, Horsham, Pennsylvania 19044, and **MACQUARIE COUNTRYWIDE (US) NO. 2 LLC**, a Delaware limited liability company, the withdrawing equity owner of Borrower to evidence and acknowledge this Agreement (the "Withdrawing Owner"), whose address is 155 N. Wacker Drive, Suite 1680, Chicago, Illinois 60606, and acknowledged by **REGENCY REALTY GROUP, INC.**, a Florida corporation ("Manager"), whose address is One Independent Drive, Suite 114, Jacksonville, Florida 32202.

Box 15 Office

RECITALS

A. Borrower is the maker of that certain Promissory Note (the "Note") dated June 16, 2005 (the "Loan Closing Date") in the original principal amount of Fourteen Million One Hundred Sixty Thousand and 00/100 Dollars (\$14,160,000.00) and payable to the order of JPMorgan Chase Bank, N.A. ("Original Lender"). The loan evidenced by the Note is herein referred to as the "Loan."

B. The Note is secured by that certain Mortgage and Security Agreement (the "Mortgage") dated June 16, 2005 executed by Borrower for the benefit of Original Lender and recorded in the land records of Cook County, Illinois (the "Public Records") on July 20, 2005 as Document # 0520144025, as affected by Assignment of Mortgage and Security Agreement and

After Recording Return To:
T Vaillant
Commonwealth Land Title Insurance Co.
1015 15th Street, NW, Suite 300
Washington, DC 20005 69-001153 A

C.F.
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Assignment of Leases and Rents dated June 29, 2005 and recorded in the Public Records on October 24, 2005 as Document # 0529739003. The Mortgage encumbers the real property set forth on *Exhibit A* attached hereto (together with all other property, real and personal, encumbered by the Mortgage, the "Property").

C. The Note is further secured by that certain (i) Assignment of Leases and Rents, dated June 16, 2005 and executed by Borrower in favor of Original Lender ("Assignment of Leases") and recorded in the Public Records on July 20, 2005 as Document # 0520144026, as affected by Assignment of Mortgage and Security Agreement and Assignment of Leases and Rents dated June 29, 2005 and recorded in the Public Records on October 24, 2005 as Document # 0529739003; (ii) Indemnity Agreement ("Indemnity"), dated June 16, 2005 and executed by Borrower in favor of Original Lender, and (iii) Conditional Assignment of Management Agreement made by Borrower in favor of Original Lender and consented to by Manager, dated June 16, 2005 (the "Management Assignment").

D. The Note, the Mortgage, the Assignment of Leases, the Indemnity, the Management Assignment and all other documents evidencing or securing the Loan, including this Agreement, the New Indemnity (as herein defined) and all documents executed on even date herewith in connection with the Loan, are hereinafter collectively referred to as the "Loan Documents". Original Lender has transferred, assigned, and conveyed all of its right, title, and interest in and to the Note and the Loan Documents to Lender, and Lender is the current holder of Original Lender's interest therein.

E. Prior to July 2009, Withdrawing Owner held seventy-five percent (75%) of the membership interests in Guarantor, which is the sole member of Borrower's sole member, FW-Reg II Holdings, LLC, f/k/a FW MCW-Reg II Holdings, LLC, a Delaware limited liability company, such that Withdrawing Owner held an indirect seventy percent (75%) ownership interest in Borrower.

F. On July 31, 2009 (the "July Transfer"), (i) Withdrawing Owner conveyed and transferred a forty-five (45%) membership interest in Guarantor to Global Retail Investors, LLC, a Delaware limited liability company ("Global") and (ii) Macquarie-Regency Management, LLC, a Delaware limited liability company ("US Manager"), an affiliate of Withdrawing Owner, conveyed and transferred a one tenths of one percent (0.10%) membership interest in Guarantor to Regency Centers, L.P., a Delaware limited partnership ("Regency").

G. On or prior to the date hereof, (i) Regency, an existing owner of indirect ownership interests in Borrower, has acquired or will acquire from Withdrawing Owner a fifteen percent (15%) ownership interest in Guarantor (the "Regency Transfer"); (ii) Global will acquire from Withdrawing Owner the remaining fifteen percent (15%) ownership interest in Guarantor, which will result in Global owning a sixty percent (60%) membership interest in Guarantor and sixty percent (60%) indirect ownership interest in Borrower and in Regency owning a forty percent (40%) ownership interest in Guarantor and forty percent (40%) indirect ownership interest in Borrower (the "Final Transfer"); and (iii) Guarantor has filed a name change affidavit

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with the Secretary of State of Delaware to reflect its current name and has been reconstituted with Regency and Global as its sole members, with Regency remaining as the managing member of Guarantor (the "Guarantor Reconstitution") (the July Transfer, the Regency Transfer and the Final Transfer, inclusive of the Guarantor Reconstitution, are hereinafter referred to collectively as the "Transfers").

H. Borrower has requested that Lender acknowledge and/or consent to the Transfers on the terms and conditions set forth herein and Lender is willing to do so on the terms and conditions set forth herein.

I. Pursuant to the terms of the Loan Documents, certain of the Transfers require the prior written consent of the Lender. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Loan Agreement. All references herein to the Borrower, shall mean the Borrower, as the ownership thereof has been reconstituted, as of the Effective Date.

AGREEMENTS:

NOW THEREFORE, in consideration of the foregoing recitals (which are hereby incorporated herein by this reference) and the mutual covenants and promises of the parties hereto and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. ACKNOWLEDGMENT AND CONSENT OF LENDER. Subject to the terms and conditions set forth herein, Lender hereby acknowledges and consents to the Transfers and agrees that the completion of the Transfers shall not constitute an Event of Default under the Loan Documents.

2. FULL FORCE AND EFFECT. Borrower, Guarantor and Lender acknowledge and agree that the Loan Documents remain in full force and effect. Borrower acknowledges and agrees that it is bound by the terms of the Loan Documents, including but not limited to the Indemnity, and agrees to comply with all covenants and obligations contained in the Loan Documents. Lender requires as a condition to its consent to the Transfers that Guarantor execute that certain Indemnity Agreement from Guarantor in favor of Lender dated the date hereof (the "New Indemnity"). Guarantor acknowledges and agrees that it is bound by the New Indemnity and by the representations of Guarantor set forth therein. All references in the Loan Documents to Guarantor and/or Indemnitor shall for all periods from and after the date hereof, mean Guarantor as hereinabove defined and all references in the Loan Documents to Lender shall mean Lender as hereinabove defined.

3. NO DEFAULTS. Borrower hereby represents and warrants to Lender as of the Effective Date that no Event of Default has occurred and is continuing under the Loan Documents. To the actual knowledge of Lender as of the Effective Date, no Event of Default

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has occurred and is continuing under the Loan Documents and no facts or matters exist which with the passage of time or giving of notice, or both, would constitute an Event of Default under the Loan Documents.

4. ORGANIZATION OF BORROWER. Borrower hereby warrants and represents as follows:

(i) Attached hereto as *Exhibit B* is a chart of the organizational structure of the Borrower immediately prior to the July Transfer, which Borrower certifies is true, correct and complete (the "Original Organization Chart").

(ii) Attached hereto as *Exhibit C* is a chart of the organizational structure of the Borrower upon completion of the Transfers on the Effective Date, which Borrower certifies is true, correct and complete (the "Revised Organization Chart").

(iii) Upon completion of the Transfers, (i) Global will own sixty percent (60%) of the membership interests in Guarantor and Borrower and Regency will own forty percent (40%) of the membership interests in Guarantor and Borrower, in each case free and clear of any claim, lien or pledge in favor of any other person, including Withdrawing Owner except with respect to the Pledge Agreement (as defined in Section 6(a)(xvi) hereof) affecting Global's membership interest, and (ii) Regency remains and continues to be the manager of Guarantor, which in turn owns 100% of the membership interests of FW-Reg II Holdings, LLC, which remained and continues to be the sole member and manager of the Borrower. No further transfer of beneficial ownership interests (direct or indirect) in Borrower or Guarantor shall be made without the written consent of Lender or except in accordance with the Loan Documents.

5. NO OFFSETS OR DEFENSES. Borrower hereby acknowledges, confirms and warrants to Lender that as of the Effective Date, Borrower does not claim any offset, defense, claim, right of set-off or counterclaim against Lender under, arising out of or in connection with this Agreement, the Note, the Transfers or any of the other Loan Documents. In addition, Borrower covenants and agrees with Lender that if any offset, defense, claim, right of set-off or counterclaim exists, Borrower hereby irrevocably and expressly waives the right to assert such matter.

6. REPRESENTATIONS AND WARRANTIES.

a. Borrower and, as applicable, Guarantor represent and warrant to Lender as follows:

(i) Borrower has the full power and authority to enter into and perform this Agreement and has obtained all consents and approvals required in connection therewith. The execution, delivery and performance of this Agreement by Borrower (1) has been duly and validly authorized by all necessary action on the part of Borrower, (2) does not conflict with or result in a violation of Borrower's organizational documents or any

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judgment, order or decree of any court or arbiter in any proceeding to which Borrower is a party, and (3) does not conflict with, or constitute a material breach of, or constitute a material default under, any contract, agreement or other instrument by which Borrower is bound or to which Borrower is a party.

(ii) Borrower has thoroughly read and reviewed the terms and provisions of this Agreement and the Loan Documents and is familiar with same, and Borrower has entered into this Agreement voluntarily, without duress or undue influence of any kind, and with the advice and representation of legal counsel, if any, selected by Borrower.

(iii) Guarantor has the full power and authority to enter into and perform this Agreement and has obtained all consents and approvals required in connection therewith. The execution, delivery and performance of this Agreement by Guarantor (1) has been duly and validly authorized by all necessary action on the part of Guarantor, (2) does not conflict with or result in a violation of Guarantor's organizational documents or any judgment, order or decree of any court or arbiter in any proceeding to which Guarantor is a party, and (3) does not conflict with, or constitute a material breach of, or constitute a material default under, any contract, agreement or other instrument by which Guarantor is bound or to which Guarantor is a party.

(iv) Guarantor has thoroughly read and reviewed the terms and provisions of this Agreement and the Loan Documents and is familiar with same, and Guarantor has entered into this Agreement voluntarily, without duress or undue influence of any kind, and with the advice and representation of legal counsel, if any, selected by Guarantor.

(v) Regency Realty Group, Inc. is the Manager of the Property. The Management Agreement between Borrower and Manager remains in full force and effect with no modifications or amendments thereto and the Management Assignment remains in full force and effect in accordance with its terms and is reaffirmed in all respects in favor of Lender. First Washington Realty, Inc. ("First Washington Realty") is no longer a Manager of the Property and the Conditional Assignment of Management Agreement made by Borrower in favor of Original Lender and consented to by First Washington Realty dated as of July 1, 2005 but effective as of June 16, 2005 is no longer in force and effect.

(vi) The entity documents provided by Borrower to Lender with respect to itself and to Guarantor as reflected in the Revised Organizational Chart are true, correct and accurate in all material respects and have not been modified or amended since the date of delivery thereof to Lender, and each of Borrower and Guarantor are in good standing in the states of their respective formation and have not been dissolved or liquidated or become the subject of any bankruptcy or insolvency proceeding.

(vii) Borrower is a limited liability company, duly formed and validly existing under the laws of the State of Delaware and qualified to transact business in the State of

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Illinois. Borrower is and shall remain a bankruptcy remote, special purpose entity throughout the term of the Loan.

(viii) Guarantor is a limited liability company, duly formed and validly existing under the laws of the State of Delaware.

(ix) Borrower and Guarantor have reviewed the Purchase and Sale Agreement by and among Guarantor, Withdrawing Owner, US Manager, Regency and Global dated July 16, 2009 and consent to the Transfers under the terms thereof and hereof. Borrower and Guarantor further agree that the Transfers shall not, and shall not be deemed to, impair, limit, abrogate or reduce in any manner to any extent the respective liability or obligations of the borrower and Guarantor under the Loan Documents.

(x) To the actual knowledge of Borrower, other than the Permitted Exceptions (as defined in the Mortgage) or as reflected in the title policy endorsement or the new Lender's title policy, as applicable, delivered to the Lender in connection with this Agreement), there are no subordinate liens of any kind covering or relating to the Property nor are there any mechanic's liens or liens for unpaid taxes or assessments encumbering the Property, nor has written notice of a lien or written notice of intent to file a lien been received.

(xi) None of the funds used by Global and/or Regency in connection with the Transfers are secured directly or indirectly by an interest in Borrower or other collateral for the Loan.

(xii) The insurance requirements specified in the Mortgage remain satisfied, with all required policies (and loss payee provisions) in full force and effect, with premiums paid in full and without default, termination or notice of revocation thereunder.

(xiii) The financial statements and other material data and information supplied by Guarantor in connection with the Transfers were in all material respects true and correct as of the dates they were supplied, and since their dates no material adverse change in the financial condition of Guarantor has occurred, and there is not any pending or, to Borrower's actual knowledge, threatened litigation or proceedings which might impair to a material extent the business or financial condition of Guarantor.

(xiv) Borrower has not received any written notices from any governmental entity claiming that the Property is not presently in compliance with any laws, ordinances, rules, and regulations bearing upon the use and operation of the Property, including, without limitation, any notice relating to zoning laws or building code regulations.

(xv) The certified rent roll provided to Lender of even date herewith, is in all material respects a true, complete and accurate summary of all tenant leases ("Tenant

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Leases” or individually, a “Tenant Lease”) affecting the Property as of the date of this Agreement.

(xvi) Borrower is the current owner of the Property. There are no pending or, to the Borrower’s knowledge, threatened suits, judgments, arbitration proceeding, administrative claims, executions or other legal or equitable actions or proceedings against Borrower or the Property, any pending or, to the Borrower’s knowledge, threatened condemnation or annexation proceedings affecting the Property, any agreements to convey any portion of the Property, or any rights thereto, that are not disclosed in this Agreement, including, without limitation, any pending or threatened administrative claim by any governmental agency.

(xvii) Borrower will not permit the transfer of any interest in Borrower to any person or entity (or any beneficial owner of such entity) who is listed on the specifically Designated Nationals and Blocked Persons List maintained by the Office of Foreign Asset Control, Department of the Treasury pursuant to Executive Order No. 13224, 66 Fed. Reg. 49079 (Sept. 25, 2001) and/or any other list of terrorists or terrorist organizations maintained pursuant to any of the rules and regulations of Office of Foreign Asset Control, Department of the Treasury or pursuant to any other applicable Executive Orders (such lists are collectively referred to as the “OFAC Lists”). Borrower will not knowingly enter into a lease with any party who is listed on the OFAC Lists. Borrower shall immediately notify Lender if Borrower has knowledge that any member or beneficial owner of Borrower is listed on the OFAC Lists or (A) is indicted on or (B) arraigned and held over on charges involving money laundering or predicate crimes to money laundering. Borrower shall immediately notify Lender if Borrower knows that any tenant is listed on the OFAC Lists or (A) is convicted on, (B) pleads nolo contendere to, (C) is indicted on or (D) is arraigned and held over on charges involving money laundering or predicate crimes to money laundering. Borrower further represents and warrants to Lender that Borrower is currently not on the OFAC List. None of Borrower, any subsidiary of the Borrower, to Borrower’s actual knowledge, or any affiliate of Borrower or Guarantor is (i) named on the list of Specially Designated Nationals or Blocked Persons maintained by the U.S. Department of the Treasury’s Office of Foreign Assets Control available at <http://www.treas.gov/offices/eotffc/ofac/sdn/index.html>, or (ii) (A) an agency of the government of a country, (B) an organization controlled by a country, or (C) a person residing in a country that is subject to a sanctions program identified on the list maintained by the U.S. Department of the Treasury’s Office of Foreign Assets Control and available at <http://www.treas.gov/offices/eotffc/ofac/sanctions/index.html>, or as otherwise published from time to time, as such program may be applicable to such agency, organization or person.

(xviii) The only pledge arrangement with respect to ownership interests in equity owners of Guarantor is that certain Membership Interest Pledge Agreement by and between Global and Withdrawing Owner dated as of July 31, 2009 (the “Pledge”

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Agreement”), a true and correct copy of which has been provided to Lender and which remains in full force and effect without default thereunder. Borrower agrees to cause Global to provide to Lender promptly upon receipt true and correct copies of any material notices issued, delivered and/or received under the Pledge Agreement, including notices of default. In addition, Borrower acknowledges and confirms that it has so advised each of Global and Withdrawing Owner that any effort to exercise rights pursuant to such Pledge Agreement that would result in a transfer of Global’s membership interest in Guarantor shall constitute a “transfer” pursuant to Section 8.3 of the Mortgage and shall be subject to satisfaction of the terms and conditions thereof, inclusive of receipt of Lender consent and payment of such transfer fees as are contemplated pursuant to Section 8.4 of the Mortgage.

Borrower and Guarantor each acknowledges that Lender is relying upon the foregoing representations and warranties as a material inducement to Lender's execution of this Agreement, and Withdrawing Owner acknowledges and agrees that until such time as the Loan is repaid in full, any exercise of Withdrawing Owner’s rights and remedies under the Pledge Agreement that would result in a transfer of Global’s membership interest in Guarantor will be subject to satisfaction of the terms and conditions of the Mortgage.

b. Withdrawing Owner represents and warrants to Lender as follows:

(i) Withdrawing Owner has the full power and authority to enter into and perform this Agreement and has obtained all consents and approvals required in connection therewith. The execution, delivery and performance of this Agreement by Withdrawing Owner (1) has been duly and validly authorized by all necessary action on the part of Withdrawing Owner, (2) does not conflict with or result in a violation of Withdrawing Owner's organizational documents or any judgment, order or decree of any court or arbiter in any proceeding to which Withdrawing Owner is a party, and (3) does not conflict with, or constitute a material breach of, or constitute a material default under, any contract, agreement or other instrument by which Withdrawing Owner is bound or to which Withdrawing Owner is a party.

(ii) Withdrawing Owner has thoroughly read and reviewed the terms and provisions of this Agreement and the Loan Documents and is familiar with same, and Withdrawing Owner has entered into this Agreement voluntarily, without duress or undue influence of any kind, and with the advice and representation of legal counsel, if any, selected by Withdrawing Owner.

(iii) Upon the execution and delivery of this Agreement, Withdrawing Owner shall have transferred and conveyed the remainder of its membership interests in Guarantor as set forth in Recital G hereinabove and Withdrawing Owner has received no mortgage, lien, pledge or other claim from Regency or Global to secure the payment of any sums due to Withdrawing Owner or obligations to be performed by Regency or Global, except pursuant to the Pledge Agreement.

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Withdrawing Owner acknowledges that Lender is relying upon the foregoing representations and warranties as a material inducement to Lender's execution of this Agreement.

7. **CONFIRMATION.** Except as specifically set forth herein, all other terms and conditions of the Loan Documents shall remain unmodified and in full force and effect, the same being confirmed, ratified, acknowledged and republished hereby.

8. **RELEASE OF CLAIMS.** Borrower, Withdrawing Owner and Guarantor (collectively and individually, "Borrower Parties"), hereby jointly and severally, unconditionally and irrevocably, finally and completely RELEASE AND FOREVER DISCHARGE Lender, and their respective successors, assigns, affiliates, subsidiaries, parents, officers, shareholders, directors, employees, attorneys and agents, past, present and future (collectively and individually, "Lender Parties"), of and from any and all claims, controversies, disputes, liabilities, obligations, demands, damages, debts, liens, actions and causes of action of any and every nature whatsoever, known or unknown, whether at law, by statute or in equity, in contract or in tort, under state or federal jurisdiction, and whether or not the economic effects of such alleged matters arise or are discovered in the future, which Borrower Parties have as of the Effective Date or may claim to have against Lender Parties arising out of or with respect to any and all transactions relating the Loan or the Loan Documents occurring on or before the Effective Date, including any loss, cost or damage of any kind or character arising out of or in any way connected with or in any way resulting from the acts, actions or omissions of Lender Parties occurring on or before the Effective Date. The foregoing release is intended to be, and is, a full, complete and general release in favor of Lender Parties with respect to all claims, demands, actions, causes of action and other matters described therein, including specifically, without limitation, any claims, demands or causes of action based upon allegations of breach of fiduciary duty, breach of any alleged duty of fair dealing in good faith, economic coercion, usury, or any other theory, cause of action, occurrence, matter or thing which might result in liability upon Lender Parties arising or occurring on or before the Effective Date. Borrower Parties understand and agree that the foregoing general release is in consideration for the agreements of Lender contained herein and that they will receive no further consideration for such release. Borrower Parties represent and warrant to Lender that Borrower Parties have not previously assigned or transferred to any person or entity any matter released hereunder and Borrower Parties agree to indemnify, protect and hold the Lender Parties harmless from and against any and all claims based on or arising out of any such assignment or transfer.

9. **MODIFICATION TO LOAN DOCUMENTS.**

- a. The Mortgage is modified and amended as follows:
 - i. Section 8.3(d) is amended to delete the references to "Macquarie CountryWide Trust and Macquarie Bank" as constituent "Parent Entities" and to substitute therefore (A) Global (but only if at all times Global is majority owned by the California Public Employees' Retirement System

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(“CalPERS”) and CalPERS has and retains CalPERS Rights, as such term is defined below), (B) CalPERS and (C) Regency Centers L.P. (but only if at all times Regency Centers L.P. is majority owned and is controlled by Regency Centers Corporation). In addition, the defined term “Parent Entities” shall also be amended to include the following: (x) an entity directly or indirectly wholly owned and controlled by any or all of Regency Centers Corporation, Regency Centers, L.P. (but only if at all times Regency Centers L.P. is majority owned and is controlled by Regency Centers Corporation) or Global (but only if at all times Global is majority owned by CalPERS and CalPERS has and retains CalPERS Rights) or (y) an entity directly or indirectly majority owned by CalPERS in which CalPERS has and retains CalPERS Rights. For purposes hereof, “CalPERS Rights” shall mean, with respect to any entity, major decision rights customary for similarly situated institutional investors and the power to remove the managing member of such entity.

- ii. The address of Lender set forth in Section 16.1 and otherwise set forth in the Loan Documents is deleted and the following inserted therein:

Bank of America as successor by merger to LaSalle Bank National Association, as Trustee for the Registered Holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2005-CIBC12
 c/o Berkadia Commercial Mortgage LLC
 118 Welsh Road
 Horsham, Pennsylvania 19044
 Attention: Client Relations Manager for Loan No. 99-1072737

10. AFFIRMATION AND RATIFICATION OF LOAN DOCUMENTS. Each of Borrower and Guarantor hereby affirm, reaffirm, ratify and confirm, their respective obligations and liabilities arising under the Loan Documents to which they are a party, acknowledge that such Loan Documents remain in full force and effect in favor of Lender, and have not been modified or amended, except as set forth herein, and that each of Borrower and Guarantor remain bound by the terms thereof as provided therein. To Borrower’s and Guarantor’s knowledge, all of the representations and warranties of Borrower and Guarantor, respectively, set forth in the Loan Documents are true, complete and correct in all material respects, except to the extent such representations and warranties are expressly made as of a prior date; in which case such representations and warranties are true, complete and correct in all material respects as of such prior date.

11. DEFAULT. Any breach by Borrower, Guarantor or Withdrawing Owner of any of the covenants contained in this Agreement or the material inaccuracy of any representation or

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warranty contained in this Agreement shall constitute a default under the Mortgage and each other Loan Document.

12. MODIFICATIONS. This Agreement may not be amended, modified or otherwise changed in any manner except by a writing executed by all of the parties hereto.

13. EXPENSES. Borrower hereby agrees that it shall pay all reasonable out of pocket costs and expenses, including legal fees, incurred in connection with Transfers and a fee in an amount equal to the lesser of (i) \$150,000 and (ii) one percent (1%) of the then outstanding principal balance of the Loan contemporaneously with execution and delivery hereof.

14. SUCCESSORS AND ASSIGNS. This Agreement applies to, inures to the benefit of, and binds all parties hereof, their heirs, legatees, devisees, administrators, executors, and permitted successors and assigns.

15. No NOVATION. THE PARTIES DO NOT INTEND THIS AGREEMENT NOR THE TRANSACTIONS CONTEMPLATED HEREBY TO BE, AND THIS AGREEMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY SHALL NOT BE CONSTRUED TO BE, A NOVATION OF ANY OF THE OBLIGATIONS OWING BY THE BORROWER UNDER OR IN CONNECTION WITH THE LOAN DOCUMENTS. FURTHER, THE PARTIES DO NOT INTEND THIS AGREEMENT NOR THE TRANSACTIONS CONTEMPLATED HEREBY TO AFFECT THE PRIORITY OF ANY OF THE LENDER'S LIENS IN ANY OF THE COLLATERAL SECURING THE NOTE IN ANY WAY, INCLUDING, BUT NOT LIMITED TO, THE LIENS, SECURITY INTERESTS AND ENCUMBRANCES CREATED BY THE MORTGAGE.

16. ENTIRE AGREEMENT. This Agreement constitutes all of the agreements among the parties relating to the matters set forth herein and supersedes all other prior or concurrent oral or written letters, agreements and understandings with respect to the matters set forth herein.

17. COUNTERPARTS. This Agreement may be signed in any number of counterparts by the parties hereto, all of which taken together shall constitute one and the same instrument.

18. GOVERNING LAW. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York without giving effect to the conflict of laws provisions of said State.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement, under seal, as of the Effective Date.

BORROWER:

FW IL-RIVERVIEW PLAZA, LLC, a Delaware limited liability company

By: FW-Reg II Holdings, LLC f/k/a FW MCW Reg II Holdings, LLC, a Delaware limited liability company, its sole member

By: GRI-Regency, LLC f/k/a Macquarie Countrywide-Regency II, LLC, a Delaware limited liability company, its sole member

By: Regency Centers, L.P., a Delaware limited partnership, its managing member

By: Regency Centers Corporation, a Florida corporation, its general partner

By:  [SEAL]

Name: Michael Mas
Title: Vice President

Property of Cook County Clerk's Office

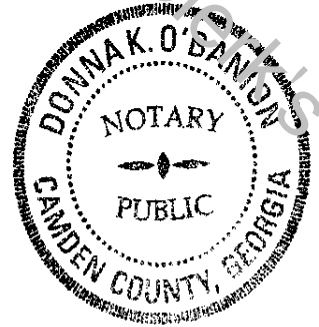
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STATE OF GEORGIA)
COUNTY OF CAMDEN)

I hereby certify that on this day, before me, an officer duly authorized in the state aforesaid, and in the county aforesaid to take acknowledgements, personally appeared Michael Mas, Vice President of Regency Centers Corporation, the general partner of Regency Centers, L.P., the managing member of GRI-Regency, LLC, the sole member of FW-Reg II Holdings, LLC, the sole member of FW IL-Riverview Plaza, LLC, to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same.

WITNESS my hand and official seal in the county and state last aforesaid, this 21ST day of April, 2010.

Donna K. O'Bannon
Notary Public



MY COMMISSION
EXPIRES 2-18-2013

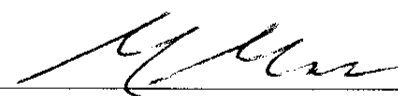
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GUARANTOR:

GRI-REGENCY, LLC F/K/A MACQUARIE COUNTRYWIDE-REGENCY II, LLC, a Delaware limited liability company

By: Regency Centers, L.P., a Delaware limited partnership, its managing member

By: Regency Centers Corporation, a Florida corporation, its general partner

By:  [SEAL]

Name: Michael Mas

Title: Vice President

Property of Cook County Clerk's Office

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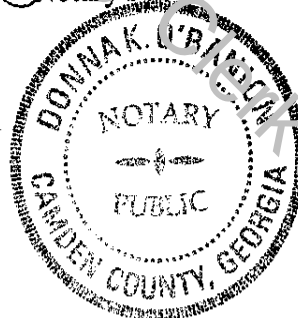
STATE OF GEORGIA)

COUNTY OF CAMDEN)

I hereby certify that on this day, before me, an officer duly authorized in the state aforesaid, and in the county aforesaid to take acknowledgements, personally appeared Michael Mas, Vice President of Regency Centers Corporation, the general partner of Regency Centers, L.P., the managing member of GRI-Regency, LLC, to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same.

WITNESS my hand and official seal in the county and state last aforesaid, this 21ST day of April, 2010.


Notary Public



MY COMMISSION
EXPIRES 2-18-2013

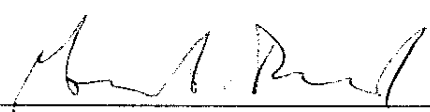
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LENDER:

**BANK OF AMERICA, AS SUCCESSOR BY MERGER TO
LASALLE BANK NATIONAL ASSOCIATION, AS
TRUSTEE FOR THE REGISTERED HOLDERS OF J.P.
MORGAN CHASE COMMERCIAL MORTGAGE
SECURITIES CORP., COMMERCIAL MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2005-
CIBC12**

By: Berkadia Commercial Mortgage LLC, a
Delaware limited liability company

Its: Master Servicer

By: 
Name: Gary A. Routzahn
Authorized Representative

Property of Cook County Clerk's Office

UNOFFICIAL COPY

COMMONWEALTH OF PENNSYLVANIA)
) SS:
 COUNTY OF MONTGOMERY)

On this the 1st day of April, 2010, before me personally came Gary A. Routzahn to me known, who, being by me duly sworn, did depose and say that he is an Authorized Representative of Berkadia Commercial Mortgage LLC, a Delaware limited liability company, the authorized agent for Bank of America, as successor by merger to LaSalle Bank National Association, as Trustee for the Registered Holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2005-CIBC12 and as Authorized Representative, being authorized to do so, executed the foregoing instrument on behalf of Berkadia Commercial Mortgage LLC on behalf of Bank of America, as successor by merger to LaSalle Bank National Association, as Trustee for the Registered Holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2005-CIBC12 for the purposes therein contained.

WITNESS my hand and seal the day and year aforesaid.

Christopher S. Hauck
 NOTARY PUBLIC
 (SEAL)

COMMONWEALTH OF PENNSYLVANIA
 NOTARIAL SEAL
 CHRISTOPHER S. HAUCK, Notary Public
 Horsham Twp., Montgomery County
 My Commission Expires November 17, 2013

UNOFFICIAL COPY OF COOK COUNTY CLERK'S OFFICE

UNOFFICIAL COPY

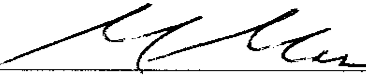
WITHDRAWING OWNER:

MACQUARIE COUNTRYWIDE (US) NO. 2 LLC,
a Delaware limited liability company

By: Macquarie-Regency Management, LLC,
its manager

By: Regency Centers, L.P., its managing member

By: Regency Centers Corporation,
its general partner

By:  [SEAL]

Name: Michael Mas
Title: Vice President

By: Macquarie CountryWide (US) No. 2 Corporation,
a Maryland corporation,
its sole member

By: _____ [SEAL]

Name: Paul Sorensen
Title: President

Property of Cook County Clerk's Office

UNOFFICIAL COPY

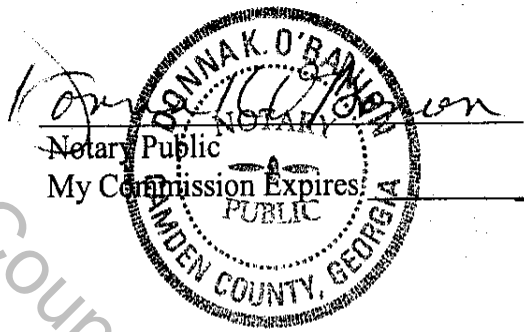
STATE OF GEORGIA)

COUNTY OF CAMDEN)

I hereby certify that on this day, before me, an officer duly authorized in the state aforesaid, and in the county aforesaid to take acknowledgements, personally appeared Michael Mas, Vice President of Regency Centers Corporation, the general partner of Regency Centers, L.P., the managing member of Macquarie-Regency Management, LLC, the manager of Macquarie CountryWide (US) No. 2 LLC, to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same.

WITNESS my hand and official seal in the county and state last aforesaid, this 21st day of April, 2010.

[Notary Seal]



MY COMMISSION EXPIRES 2-18-2013

STATE OF ILLINOIS)

COUNTY OF COOK)

SS:

I _____, a Notary Public in and for said County and State, do hereby certify that Paul Sorensen, as President of Macquarie Office (US) No. 2 Corporation, a Delaware corporation, the sole member of Macquarie Office (US) No. 2 LLC, a Delaware limited liability company, personally known to me to be the same person whose name subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such President, 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 ____ day of April, 2010.

Notary Public

My Commission Expires: _____

[Notary Seal]

UNOFFICIAL COPY

WITHDRAWING OWNER:

MACQUARIE COUNTRYWIDE (US) NO. 2 LLC,
a Delaware limited liability company

By: Macquarie-Regency Management, LLC,
its manager

By: Regency Centers, L.P., its managing member


By: Regency Centers Corporation,
its general partner

By: _____ [SEAL]

Name:

Title:

By: Macquarie CountryWide (US) No. 2 Corporation,
a Maryland corporation,
its sole member

By:  _____ [SEAL]

Name: Paul Sorensen

Title: President

Property of Cook County Clerk's Office

UNOFFICIAL COPY

ACKNOWLEDGED BY:

MANAGER:

REGENCY REALTY GROUP, INC., a Florida corporation

By:  [SEAL]

Name: Michael Mas

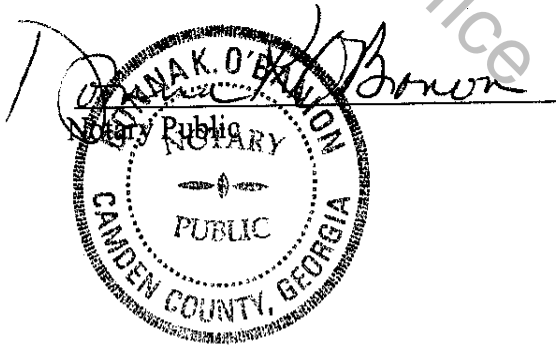
Title: Vice President

Property of Cook County Clerk's Office

STATE OF GEORGIA)
COUNTY OF CAMDEN)

I hereby certify that on this day, before me, an officer duly authorized in the state aforesaid, and in the county aforesaid to take acknowledgements, personally appeared Michael Mas, Vice President of Regency Realty Group, Inc., to me known to be the person described in and who executed the foregoing instrument and he acknowledged before me that he executed the same.

WITNESS my hand and official seal in the county and state last aforesaid, this 21st day of April, 2010.



MY COMMISSION
EXPIRES 2-18-2013

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Exhibit A

Legal Description

Parts of lots 6, 8, 9, and 10 in County Clerk's Division of unsubdivided lands in the southeast 1/4 of section 24, township 40 north, range 13, east of the third principal meridian, according to the plat thereof recorded August 1, 1907, as document 4075557, in book 97 of plats, page 20; and of lots 19 to 23 both inclusive, in North Chicago Sharpshooter's Addition to Chicago in the southeast 1/4 of section 24, township 40 north, range 13, east of the third principal meridian, all taken as a tract and described as follows:

Beginning at a point on the east line of North Campbell Avenue, as per dedication instrument recorded July 16, 1976 as document 21212294, 535.0 feet north of the north line of West Belmont Avenue; thence easterly parallel with the north line of West Belmont Avenue, aforesaid, 610.0 feet to the west line of North Western Avenue, as widened; thence north along said west line 726.20 feet to the south line of West Roscoe Street, as per dedication instrument aforementioned; thence westerly along said south line 491.53 feet to a point of curve; thence southwesterly along a curved line, being convex northwesterly and having a radius of 117.0 feet for a distance of 185.24 feet to a point of tangency; thence southerly along the east line of North Campbell Avenue, aforesaid, 607.73 feet to the point of beginning, in Cook County, Illinois.

Known as 3330 North Western Ave, Chicago, Illinois, under the current street numbering system. PIN No. 13-24-402-007-0000.

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Exhibit B

Original Organization Chart

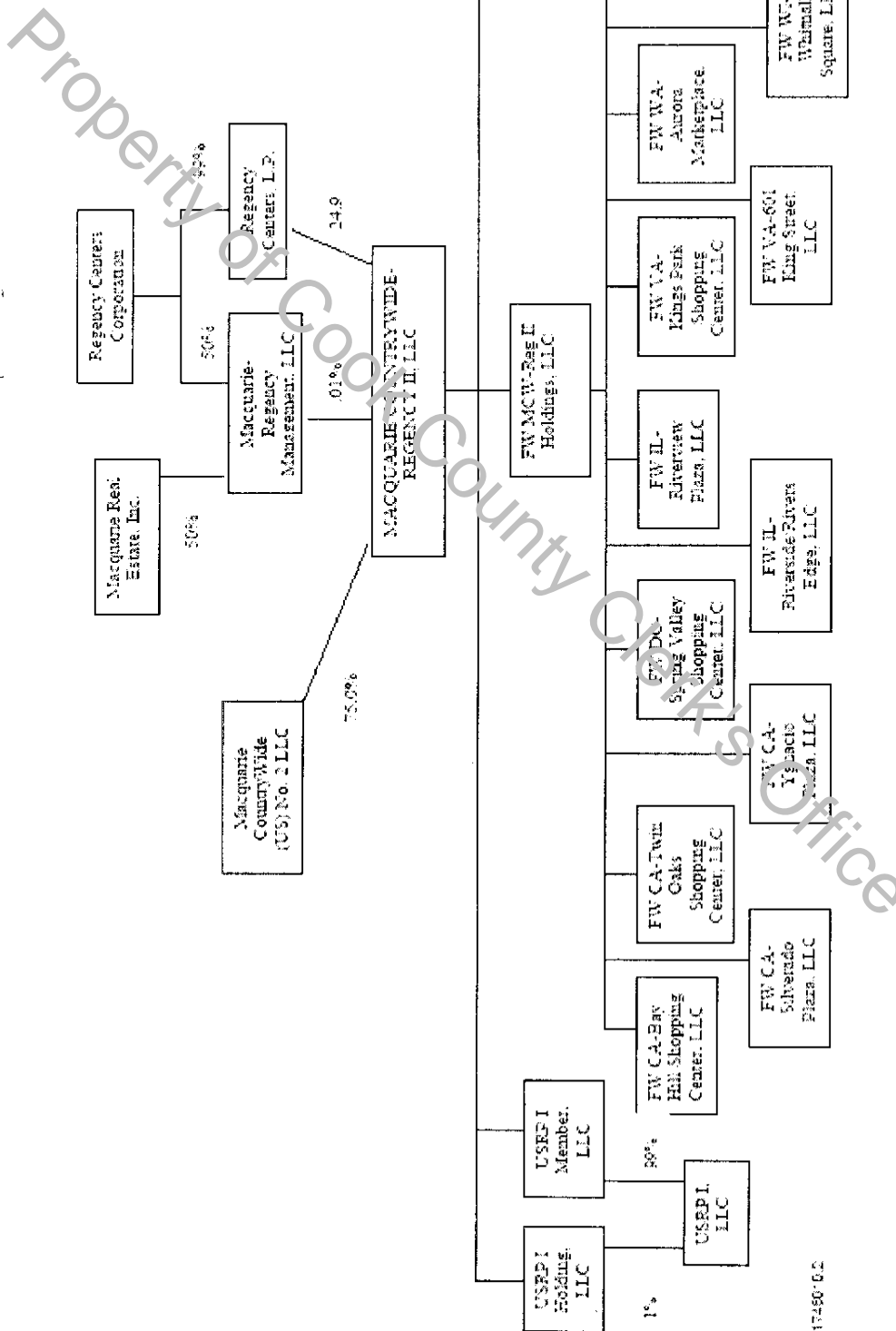
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MACQUARIE COUNTRYWIDE-REGENCY II, LLC

Structure Prior to July Closing



UNOFFICIAL COPY

Exhibit C

Revised Organization Chart

Property of Cook County Clerk's Office



UNOFFICIAL COPY

GRI-REGENCY, LLC
(Formerly Macquarie CountryWide-Regency II, LLC)

Proposed Structure on the Effective Date

