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Doc#: 1108331115 Fee: \$70.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 03/24/2011 04:11 PM Pg: 1 of 18

Recording Requested By
And When Recorded Mail

To:

Charity & Associates, P.C.
20 N. Clark Street, Suite 1150
Chicago, Illinois 60602
Attention: Elvin E. Charity

Space Above For Recorder's Use

43887102 MJ

SECOND MODIFICATION AND AMENDMENT TO NOTE AND LOAN AGREEMENT

This Second Modification and Amendment to Note and Loan Agreement ("Second Modification") is made and entered into this 14th day of March, but effective as of the 31st day of January, 2011, by and among WILSON YARD RETAIL I, LLC, an Illinois limited liability company ("Retail LLC"), whose address is c/o Holsten Real Estate Development Corporation, 1333 North Kingsbury, Suite 305, Chicago Illinois 60642, WILSON YARD DEVELOPMENT I, LLC, an Illinois limited liability company ("Development LLC," and together with the Retail LLC, the "Borrower"), whose address is c/o Holsten Real Estate Development Corporation, 1333 North Kingsbury, Suite 305, Chicago Illinois 60642 and BANK OF AMERICA, N.A., a national banking association ("Lender"), whose address is Bank of America, N.A., Loan Administration, Mail Code #MO1-076-03-06, 7800 Forsyth Blvd., Suite 350, Clayton, Missouri 63105 Attention: Loan Administration Manager. Development LLC is the sole member of Retail LLC.

RECITALS

A. Retail LLC is the owner of (i) fee simple title in and to the real property comprised of subdivided parcels of land (the "Land") situated at the intersection of N. Broadway and W. Montrose in the City of Chicago, Illinois and legally described in Exhibit A-1 hereto and all rights appurtenant thereto and all Improvements (as defined in the Loan Agreement), now or hereafter constructed thereon and all personal property used in the operation thereof; and (ii) Development LLC is the owner of a leasehold estate in and to the land (the "Leased Premises," and, together with the Land and Improvements, the "Property") situated at the intersection of N. Broadway and W. Montrose in the City of Chicago, Illinois and legally described in Exhibit A-2 pursuant to that certain ground lease (the "CTA Lease") dated as of November 23, 2005 between the Chicago Transit Authority, an Illinois municipal corporation, as lessor, and the Borrower, as lessee.

B. Borrower and Lender have heretofore made, executed and delivered that certain Construction Loan Agreement (as modified, amended and supplemented from time to time, the "Loan Agreement"), dated as of the 1st day of October, 2008, pursuant to the terms of which Lender agreed to make a mortgage loan (the "Loan") to Borrower in an original principal amount not to exceed Five Million Four Hundred Fifty Thousand and No/100 Dollars (\$5,450,000.00), as evidenced by that certain promissory note (as modified, amended and supplemented from time to time, the "Note"), dated as of October 1, 2008, executed by Borrower to the order of Lender.

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C. The Loan Agreement and the Note were previously modified and amended by that certain Modification and Amendment to Note and Loan Agreement (the "**First Modification**"), dated as of October 15, 2010, between Borrower and Lender and recorded in the Office of the Recorder of Cook County, Illinois on December 14, 2010 as Document No. 1034831096. In addition, pursuant to the First Modification, the Borrower and Lender entered into that certain Cash Collateral Agreement (the "**Cash Collateral Agreement**") dated as of November 29, 2010, governing, among other things, the deposit by Borrower of income derived from the Project in certain accounts maintained by Borrower with Lender and the disbursements of amounts therefrom to pay operating expenses of the Project.

D. The proceeds of the Loan were to be used and applied by the Borrower to construct (i) the Shell and Core (as defined in the Loan Agreement) of an approximately 23,000 square foot retail commercial space (the "**Retail Component**") comprising the first floor level of a building that includes an 80-unit multi-family, mid-rise, affordable housing building above the first floor level Retail Component; (ii) tenant improvements (the "**Tenant Improvements**") necessary for the occupancy of the Retail Component by tenants under Acceptable Leases (as defined in the Loan Agreement); and (iii) a surface parking lot on the Leased Premises (the "**Accessory Parking Lot**," and, together with the Retail Component, the Tenant Improvements and any related Improvements constructed by the Borrower on the Land or the Leased Premises, the "**Project**") containing approximately 119 parking spaces to provide necessary parking for the Retail Component.

E. The Loan is secured by, among other things, (i) that certain Future Advance Mortgage, Assignment, Security Agreement and Fixture Filing (Fee and Leasehold) (the "**Mortgage**"), dated as of October 1, 2008, made by the Borrower to the Lender encumbering the Borrower's interest in the Property and recorded in the Office of the Recorder of Cook County, Illinois on October 20, 2008 as Document No. 0829411141; (ii) that certain Irrevocable Standby Letter of Credit No. 616284600-500 (the "**Letter of Credit**"), dated as of October 1, 2008 in the stated amount of \$2,500,000 issued by Bridgeview Bank Group for the account of Development LLC to the benefit of the Lender, as amended and extended; and (iii) that certain Payment and Performance Guaranty (this "**Guaranty**") dated as of October 1, 2008, made by Holsten Real Estate Development Corporation, an Illinois corporation (the "**Corporate Guarantor**"), John M. Mullen ("**Mullen**") and Peter M. Holsten ("**Holsten**," and together with Mullen and the Corporate Guarantor, referred to hereinafter sometimes collectively and sometimes singly, as the context requires, as the "**Guarantor**") in favor of Lender.

F. As of February 1, 2011, the outstanding principal balance of the Loan was Two Million Five Hundred Twenty-Seven Thousand Three Hundred Sixty-Six and 66/100 and No/100 Dollars (\$2,527,366.66).

G. The Borrower has requested that Lender disburse the remaining undisbursed principal sum of the Loan to finance in part the construction of Tenant Improvements to the premises leased to pursuant to Acceptable Leases (as defined in the Loan Agreement) approved by Lender.

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H. Borrower and Lender desire and intend by this Second Modification to amend the Loan Agreement and the Note to, among other things, (i) extend the Maturity Date of the Note from February 1, 2011 to February 1, 2012; and (ii) provide for the disbursement of the remaining undisbursed principal sum of the Loan to finance in part the construction of Tenant Improvements (as defined in the Loan Agreement) to the premises leased to pursuant to Acceptable Leases.

I. As used here, the term "**Loan Documents**" means the Loan Agreement, the Note, the Mortgage, the Letter of Credit, the Guaranty, the First Modification, the Cash Collateral Agreement and any other documents executed to evidence or secure the Loan, as any or all of them may have been amended to date. This Agreement is a Loan Document.

J. All capitalized terms not otherwise defined herein shall have the meanings assigned to such terms in the Loan Agreement.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) paid and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Recitals.** The Borrower certifies that the recitals set forth above in the Factual Background are true, accurate and correct.

2. **Reaffirmation of Loan.** The Borrower hereby reaffirms all of its obligations under the Loan Documents, and Borrower acknowledges that it has no claims, offsets or defenses with respect to the payment of sums due under the Loan Agreement, the Note, the Mortgage or any of the other Loan Document to which the Borrower is a party, together with all modifications and amendments thereto.

3. **Modifications to Note.** The Note is hereby modified, amended and supplemented as follows:

(a) Section 1.1 of the Note is hereby replaced in its entirety by the following:

"This Note shall have an initial term (the "Construction Term") expiring February 1, 2012. The last day of the Construction Term is referred to in this Note as the "Maturity Date." During the Construction Term, accrued and unpaid interest at the Construction Term Interest Rate (as defined in Section 3(a) hereof) shall be due and payable in arrears on the first (1st) day of each month commencing on the first (1st) day of the first calendar month following the initial advance by Lender under this Note. On the Maturity Date, the full unpaid principal balance of this Note, all unpaid accrued interest and all other sums then due and owing pursuant to this Note or any other Loan Document (as defined in section 2, below), shall be due and payable in full."

4. **Modifications to Loan Agreement.** The Loan Agreement is hereby modified, amended and supplemented as follows:

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(a) Notwithstanding anything to the contrary contained in the Loan Agreement, all references in the Loan Agreement to the term "Note" shall be deemed to mean and reference the Note, as hereby modified, amended and supplemented.

(b) Notwithstanding anything to the contrary contained in the Loan Agreement, all references in the Loan Agreement to the term "Maturity Date" shall be deemed to mean February 1, 2012.

(c) Borrower covenants and agrees to deliver or cause to be delivered to the Lender not later than December 15, 2011 a written extension of the expiration date of the Letter of Credit in form and for a period satisfactory to Bank in its sole discretion. Upon the delivery of the written extension of the Letter of Credit satisfying the requirements of this paragraph, the Lender will consider, subject to the Lender's normal and customary underwriting and credit approval processes and procedures, a further modification of the Note and Loan Agreement to extend the term of the Loan to a date that is no later than thirty (30) days prior to the extended expiration date of the amended Letter of Credit.

(d) Section 2.6 of the Loan Agreement is hereby supplemented by the addition of the following:

"Section 2.6 Limits on Advances. Notwithstanding anything herein to the contrary contained, the Lender may make additional advances in excess of the aggregate of the Initial Construction Advance Amount, plus the Initial Tenant Improvement Advance Amount, to pay or reimburse the Borrower for costs of Tenant Improvements required to be constructed by Borrower under Acceptable Leases of the premises comprising the Retail Component of the Project."

(e) Paragraph 5 of Schedule 4 attached to and made a part of the Loan Agreement is hereby replaced in its entirety by the following:

"5 Project Leasing.

Borrower shall cause the commercial space in the Project to be leased by bona fide third-party tenants, in compliance with all applicable Laws and at rents satisfying the pro-forma projections presented by the Borrower to, and approved by, the Lender, in accordance with the following:

48% of commercial space. February 1, 2011"

(f) Paragraph 6 of Schedule 5 attached to and made a part of Loan Agreement is hereby replaced in its entirety by the following:

"6 Advances for Tenant Improvements.

Lender shall make advances for tenant improvements which are to be constructed

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within space subject to Acceptable Leases conforming to the requirements set forth in Schedule 6. Advances for tenant improvements under any Acceptable Lease shall not exceed the lesser of (a) Four Hundred Sixty-Three Thousand Four Hundred Twenty Dollars (\$463,420) or (b) Twenty Dollars (\$20) per square foot of net rentable area. At Lender's option, Lender may make a single advance for tenant improvements under a specified Acceptable Lease or Lender may make periodic advances for tenant improvements as construction progresses, subject to such retainage requirements as Lender in its reasonable judgment may impose. Lender shall not be obligated to make the final advance of the Loan for tenant improvements under a given Acceptable Lease unless the following conditions shall have been satisfied, to the extent required by Lender:

(i) Lender shall have received such evidence as Lender may require that construction has been completed in a good and workmanlike manner, in accordance with applicable requirements of all Governmental Authorities and substantially in accordance with tenant improvement plans and specifications satisfactory to Lender;

(ii) To the extent required by applicable Governmental Authorities for the use and occupancy of the tenant improvements, certificates of occupancy and other applicable permits and releases shall have been issued with respect to the tenant improvements and copies thereof shall have been furnished to Lender;

(iii) Lender shall have received a satisfactory set of as-built plans and specifications for the tenant improvements;

(iv) Certificates in form and content acceptable to the Lender of the General Contractor and the Architect certifying that the work has been completed in accordance with the applicable Plans and Specifications therefore, together with final payment affidavits and complete releases of lien from the General Contractor;

(v) Lender shall have received, from the tenant accepting the work, a tenant estoppel, nondisturbance and attornment agreement, in form and content satisfactory to Lender; and

(vi) Lender shall have received a satisfactory endorsement to its title insurance policy."

(g) Paragraph 3 of Schedule 6 attached to and made a part of Loan Agreement is hereby replaced in its entirety by the following:

"3. Retail and Commercial Leasing Guidelines.

Borrower shall not enter into any Lease of retail or commercial space in the Improvements unless approved or deemed approved by Lender prior to execution. Borrower's standard form of tenant lease, and any revisions thereto, must have the prior written approval of Lender. Lender shall be "deemed" to have approved any retail or commercial Lease that: (a) is on the standard form lease approved by Lender with no

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deviations except as approved by Lender; (b) is entered into in the ordinary course of business with a bona fide unrelated third party tenant, and Borrower, acting in good faith and exercising due diligence, has determined that the tenant is financially capable of performing its obligations under the Lease; (c) is received by Lender, together with any guaranty(ies) and financial information received by Borrower regarding the tenant and any guarantor(s), within fifteen (15) days after execution; (d) reflects an arm's length transaction at then-current market rate for comparable space; (e) contains no option or right of first refusal to purchase all or any portion of the Property or any present or future interest therein; (f) does not require Borrower to provide funds for tenant improvements in excess of \$20 per square foot; (g) requires the tenant to execute and deliver to Lender an estoppel certificate in form and substance acceptable to Lender within ten (10) days after notice from Lender; (h) does not cover in excess of twenty percent (20%) of the aggregate net rentable area of the improvements or have a rental rate that is less than \$28 per square foot and (i) is for a term of not fewer than five (5) years. Borrower shall provide to Lender a correct and complete copy of each Lease, including any exhibits, and any guaranty(ies) thereof, and unless the Lease meets the foregoing requirements for "deemed" approval by Lender, Borrower shall provide such copy of the Lease prior to execution. Borrower shall pay all reasonable costs incurred by Lender in reviewing and approving Leases and any guaranties thereof, and also in negotiating estoppel, nondisturbance and attornment agreements with tenants, including reasonable attorneys' fees and costs, (i) conforms to the projections of the Project Schedule."

(h) Attached hereto as Exhibit B is a revised Budget covering hard and soft costs for the remainder of the work comprising the Project to be paid for from the proceeds of the outstanding principal balance of the Loan. Further advances of the Loan to be made from and after the date of this Second Modification shall be disbursed only to fund costs in accordance with the attached Budget, as same may be revised from time to time with the written approval of Lender.

5. **Borrower's Reimbursement Obligation/Extension Fee.** In consideration of the extension of the term of the Loan and the other amendments to the Loan Documents set forth in this Second Modification, the Borrower shall pay to Lender contemporaneously with the execution and delivery of this Second Modification, a modification and extension fee equal to Forty Thousand Eight Hundred Seventy-Five Hundred and No/100 Dollars (\$40,875.00). Borrower shall pay and reimburse Lender for all reasonable costs and expenses incurred by Lender in connection with this Second Modification, including, without limitation, legal fees and expenses of Lender's counsel.

6. **Conditions Precedent.** Before this Agreement becomes effective and any party becomes obligated under it, all of the following conditions shall have been satisfied at Borrower's sole cost and expense in a manner acceptable to Lender in the exercise of Lender's sole judgment:

(a) Lender shall have received such assurance as Lender may require that the validity and priority of the Mortgage has not been and will not be impaired by this Agreement or the transactions contemplated by it, including a date down endorsement to be attached to Loan Title Policy No. 1301-4388716C-GITC, dated October 20, 2008, issued by Greater Illinois Title Insurance Company.

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(b) Lender shall have received fully executed and, where appropriate, acknowledged originals of this Agreement, the attached consent signed by Guarantor and any other documents which Lender may require or request in accordance with this Agreement or the other Loan Documents.

(c) Lender shall have received an extension fee in the amount of \$40,875 in immediately available funds.

(d) Lender shall have received reimbursement, in immediately available funds, of all costs and expenses incurred by Lender in connection with this Agreement, including charges for title insurance (including endorsements), recording, filing and escrow charges, fees for appraisal, architectural and engineering review, construction services and environmental services, mortgage taxes, and legal fees and expenses of Lender's counsel. Such costs and expenses may include the allocated costs for services of Lender's in-house staffs, such as legal, appraisal, construction services and environmental services. Borrower acknowledges that the extension fee payable in connection with this transaction does not include the amounts payable by Borrower under this subsection.

(e) Lender shall have received an amendment to the Letter of Credit, in form and content acceptable to Lender in its sole discretion, extending the expiration date of the Letter of Credit through February 1, 2012. Lender acknowledges the receipt of an amendment to the Letter of Credit in satisfaction of the condition set forth in this paragraph (e).

7. **Borrower's Representations and Warranties.** Borrower represents and warrants to Lender as follows:

(a) **Loan Documents.** All representations and warranties made and given by Borrower in the Loan Agreement and the other Loan Documents are true, accurate and correct as of the date hereof.

(b) **No Event of Default.** No Default or Event of Default under the Loan Agreement or any of the other Loan Documents has occurred and is continuing, and no event has occurred and is continuing which, with notice or the passage of time or both, would be a Default or an Event of Default.

(c) **Collateral.** Borrower lawfully holds title to the Property, free and clear of any liens or encumbrances and the security interest of Lender therein is a first priority lien therein, free and clear of any other liens or encumbrances.

(d) **Organization/Authority.** Retail LLC is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Illinois. Development LLC is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of Illinois. Development LLC is the sole managing member of Retail LLC. There have been no changes in the organization, ownership structure or formation documents of Retail LLC or Development LLC since the execution and delivery of the Loan Agreement. The principal place of business of Retail LLC and Development LLC is 1333 North Kingsbury, Suite 305, Chicago, Illinois

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60642. Each of Retail LLC and Development LLC has taken all actions as a limited liability company, as are necessary to authorize the execution and delivery of this Second Modification, and this Second Modification and the Loan Documents, as hereby modified, constitute valid and binding obligations of each of them, enforceable in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other law and equity principles applied for the relief of debtors heretofore or hereafter enacted.

8. **Incorporation.** This Second Modification shall form a part of the Loan Agreement, the Note and the other Loan Documents, and all references to a given Loan Document shall mean that document as hereby modified. All references in the Loan Documents to the terms "Loan Agreement" and "Note" shall be deemed to mean and reference the Loan Agreement and the Note, as hereby modified, amended and supplemented.

9. **No Prejudice; Reservation of Rights.** This Second Modification shall not prejudice any rights or remedies of Lender under the Loan Agreement and the other Loan Documents. Lender reserves, without limitation, all rights that it has against any indemnitor, guarantor, or endorser of the Loan or the Collateral.

10. **No Impairment.** Except as specifically hereby amended, the Loan Agreement and the other Loan Documents shall each remain unaffected by this Second Modification and all Loan Documents shall remain in full force and effect and are hereby ratified and affirmed. Nothing in this Second Modification shall impair the lien of the Lender in the Property pursuant to the Mortgage.

11. **Successors and Assigns.** The provisions of this Second Modification shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns.

12. **Ratification.** Except as expressly modified and supplemented hereby, the terms, conditions and provisions of the Loan Agreement and the other Loan Documents shall continue in effect unchanged and are hereby in all respects ratified and confirmed.

13. **Counterparts.** This Second Modification may be executed in multiple counterparts.

14. **Time of the Essence.** TIME IS OF THE ESSENCE WITH RESPECT TO THIS AGREEMENT.

15. **Miscellaneous.** This Agreement and any attached consents or exhibits requiring signatures may be executed in counterparts, and all counterparts shall constitute but one and the same document. If any court of competent jurisdiction determines any provision of this Agreement or any of the other Loan Documents to be invalid, illegal or unenforceable, that portion shall be deemed severed from the rest, which shall remain in full force and effect as though the invalid, illegal or unenforceable portion had never been a part of the Loan Documents. This Agreement shall be governed by the laws of the State of Illinois, without regard to the choice of law rules of that State. As used here, the word "include(s)" means "includes(s), without limitation," and the word "including" means "including, but not limited to."


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IN WITNESS WHEREOF, Borrower and Lender have executed this Second Modification as of the date herein above first written.


BORROWER:

WILSON YARD RETAIL I, LLC, an Illinois limited liability company

By: Wilson Yard Development I, LLC, an Illinois limited liability company

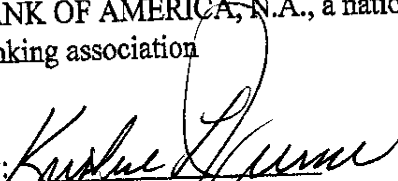
By: 
Name: Peter M. Holsten
Its: Manager

WILSON YARD DEVELOPMENT I, LLC, an Illinois limited liability company

By: 
Name: Peter M. Holsten
Its: Manager

LENDER:

BANK OF AMERICA, N.A., a national banking association

By: 
Name: Kristine L. Jurnu
Title: Senior Vice President

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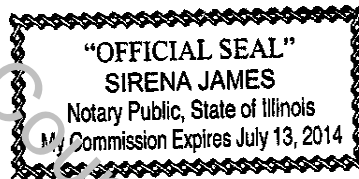
STATE OF ILLINOIS, COUNTY OF COOK, TO WIT:

I HEREBY CERTIFY, that on this 14th day of March, 2011, before me, the undersigned Notary Public of said State, personally appeared Peter M. Holsten, who acknowledged himself to be the sole manager of Wilson Yard Development I, LLC, an Illinois limited liability company ("Development LLC"), which is the sole member of Wilson Yard Retail, LLC, an Illinois limited liability company ("Retail LLC"), known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Second Modification, and acknowledged that he executed the same for the purposes therein contained, in his capacity as the manager of Development LLC, which is the sole member of Retail LLC, by signing in the name of Development LLC by himself as such manager.

WITNESS my hand and Notarial Seal.

Sirena James
Notary Public

My Commission Expires:



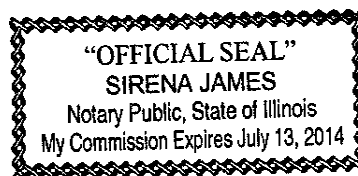
STATE OF ILLINOIS, COUNTY OF COOK, TO WIT:

I HEREBY CERTIFY, that on this 14th day of March, 2011, before me, the undersigned Notary Public of said State, personally appeared Peter M. Holsten, who acknowledged himself to be the sole manager of Wilson Yard Development I, LLC, an Illinois limited liability company, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Second Modification, and acknowledged that he executed the same for the purposes therein contained, in his capacity as the manager of said limited liability company, by signing in the name of said limited liability company by himself as such member.

WITNESS my hand and Notarial Seal.

Sirena James
Notary Public

My Commission Expires:



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STATE OF ILLINOIS, COUNTY OF COOK, TO WIT:

I HEREBY CERTIFY, that on this 15th day of March, 2011, before me, the undersigned Notary Public of said State, personally appeared Kristine L. Jurmu, who acknowledged himself to be a Senior Vice President of Bank of America, N.A., a national banking association, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within Second Modification, and acknowledged that she executed the same for the purposes therein contained, in her capacity as Senior Vice President of said bank, by signing in the name of said bank by herself as such Senior Vice President.

WITNESS my hand and Notarial Seal.



Andrea Warham
Notary Public

My Commission Expires: 9/13/2014

Of Cook County Clerk's Office

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EXHIBIT A

Legal Description of Property

Exhibit A-1

Legal Description/Fee Parcels

LOT 2 OF WILSON YARD, BEING A SUBDIVISION IN THE NORTHEAST ¼ OF SECTION 17, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 10, 2008 AS DOCUMENT NUMBER 0825416077 IN COOK COUNTY, ILLINOIS.

Property Address: Northwest corner of Montrose and Broadway, Chicago, IL

Property Tax Identification Numbers:

- 14-17-217-034-0000 (portion only) – 2008 Tax Division
- 14-17-217-021-0000 (affects underlying land)
- 14-17-217-022-0000 (affects underlying land)
- 14-17-217-031-0000 (affects underlying land)

Clerk's Office

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Exhibit A-2

Legal Description/Leasehold Estate

THE LEASEHOLD ESTATE CREATED BY THAT CERTAIN GROUND LEASE, DATED AS OF NOVEMBER 23, 2005, FROM THE CHICAGO TRANSIT AUTHORITY, AN ILLINOIS MUNICIPAL CORPORATION, AS LESSOR, TO WILSON YARD DEVELOPMENT I, LLC, AN ILLINOIS LIMITED LIABILITY COMPANY, IN THE LAND HEREINAFTER DESCRIBED, AND ALL THE MORTGAGOR INTEREST IN ANY BUILDINGS AND IMPROVEMENTS NOW LOCATED OR HEREFTER CONSTRUCTED THEREON:

THAT PART OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 17, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF WEST MONTROSE AVENUE, SAID POINT BEING 403.17 FEET WEST FROM THE WESTERLY LINE OF BROADWAY (FORMERLY EVANSTON AVENUE) AS MEASURED ALONG THE NORTH LINE OF WEST MONTROSE AVENUE, AND RUNNING:

THENCE NORTH 89 DEGREES 59 MINUTES 39 SECONDS WEST (THE BASIS OF BEARING BEING ASSUMED) ALONG THE SAID NORTH LINE OF WEST MONTROSE AVENUE, A DISTANCE OF 55.33 FEET;

THENCE NORTH 11 DEGREES 44 MINUTES 30 SECONDS WEST, A DISTANCE OF 127.90 FEET, TO AN INTERSECTION WITH A LINE PARALLEL WITH SAID NORTH LINE OF WEST MONTROSE AVENUE;

THENCE NORTH 89 DEGREES 59 MINUTES 39 SECONDS WEST, ALONG SAID PARALLEL LINE, A DISTANCE OF 13.46 FEET TO AN INTERSECTION WITH THE EASTERLY LINE OF THE FORMER CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD RIGHT OF WAY;

THENCE NORTHWESTERLY ALONG SAID EASTERLY LINE OF THE FORMER CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD RIGHT OF WAY, BEING HERE AND THE ARC OF A CIRCLE, NON TANGENT WITH THE LAST DESCRIBED PARALLEL LINE, HAVING A RADIUS OF 2,893.94 FEET, A CHORD BEARING NORTH 11 DEGREES 45 MINUTES 04 SECONDS WEST, AN ARC DISTANCE OF 92.78 FEET TO A POINT ON TANGENCY;

THENCE NORTH 12 DEGREES 40 MINUTES 09 SECONDS WEST ALONG SAID EASTERLY LINE OF THE FORMER CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD RIGHT OF WAY, BEING HERE A STRAIGHT LINE, A DISTANCE OF 407.86 FEET, TO AN

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INTERSECTION WITH A NON TANGENT CURVE;

THENCE CONTINUING NORTHWESTERLY ALONG SAID FORMER RIGHT OF WAY, BEING HERE AN ARC OF CIRCLE, CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 5,973.63 FEET, A CHORD BEARING NORTH 11 DEGREES 47 MINUTES 12 SECONDS WEST, AN ARC DISTANCE OF 184.04 FEET TO AN INTERSECTION WITH A LINE NON TANGENT TO THE LAST DESCRIBED ARC;

THENCE NORTH 79 DEGREES 11 MINUTES 31 SECONDS EAST ALONG SAID LINE, A DISTANCE OF 128.16 FEET;

THENCE SOUTH 14 DEGREES 58 MINUTES 13 SECONDS EAST, A DISTANCE OF 21.95 FEET;

THENCE SOUTH 75 DEGREES 01 MINUTES 49 SECONDS WEST, A DISTANCE OF 15.43 FEET;

THENCE SOUTH 10 DEGREES 05 MINUTES 41 SECONDS EAST, A DISTANCE OF 180.32 FEET;

THENCE SOUTH 78 DEGREES 22 MINUTES 45 SECONDS WEST, A DISTANCE OF 32.80 FEET;

THENCE SOUTH 11 DEGREES 37 MINUTES 15 SECONDS EAST, A DISTANCE OF 131.04 FEET;

THENCE SOUTH 08 DEGREES 26 MINUTES 50 SECONDS EAST, A DISTANCE OF 26.51 FEET;

THENCE SOUTH 10 DEGREES 41 MINUTES 17 SECONDS EAST, A DISTANCE OF 422.14 FEET;

THENCE SOUTH 22 DEGREES 07 MINUTES 48 SECONDS EAST, A DISTANCE OF 42.60 FEET, TO SAID NORTH LINE OF WEST MONTROSE AVENUE, AND THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Property Address: Northwest corner of Montrose and Broadway, Chicago, IL

Property Tax Identification Number:

14-17-217-027-8001

(portion

only)

UNOFFICIAL COPYExhibit BRemaining Costs Budget**Wilson Yard Retail - Sources and
Uses**

Budget	
Construction Contract	\$0
Vanilla Box	1,402,639
Tenant Improvements	463,420
Other Hard Costs	0
Hard Cost Contingency	94,041
Interest Reserve	296,668
Brokerage Fee	419,299
Other Soft Costs	246,566
TOTAL USES	2,922,633
Construction Loan	\$1,922,633
Add'l TIF Proceeds	0
Developer Equity	0
Developer Fee from WY Family	0
Developer Fee from WY Senior	0
TOTAL SOURCES	2,922,633

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GUARANTOR'S CONSENT AND WAIVER

HOLSTEN REAL ESTATE DEVELOPMENT CORPORATION, an Illinois corporation ("Guarantor") hereby consents to the terms, conditions and provisions of the foregoing Second Modification, dated as of March __, 2011, by and among WILSON YARD RETAIL I, LLC, an Illinois limited liability company, WILSON YARD DEVELOPMENT I, LLC, an Illinois limited liability company, and BANK OF AMERICA, N.A., a national banking association, and the transactions contemplated by that Second Modification. Guarantor hereby reaffirms the full force and effectiveness of its Payment and Performance Guaranty dated October 1, 2008. In addition, Guarantor acknowledges that Guarantor's unconditional, joint and several obligations under the Guaranty are separate and distinct from those of Borrower on the Loan (as defined in the Second Modification).

Dated: March 17, 2011

HOLSTEN REAL ESTATE DEVELOPMENT CORPORATION, an Illinois corporation

By: [Signature]

Name: POPER M. HOLSTEN

Title: PRESIDENT

Property of Cook County Clerk's Office

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GUARANTOR'S CONSENT AND WAIVER

JOHN M. MULLEN ("Guarantor") hereby consents to the terms, conditions and provisions of the foregoing Second Modification, dated as of March __, 2011, by and among WILSON YARD RETAIL I, LLC, an Illinois limited liability company, WILSON YARD DEVELOPMENT I, LLC, an Illinois limited liability company, and BANK OF AMERICA, N.A., a national banking association, and the transactions contemplated by that Second Modification. Guarantor hereby reaffirms the full force and effectiveness of its Payment and Performance Guaranty dated October 1, 2008. In addition, Guarantor acknowledges that Guarantor's unconditional, joint and several obligations under the Guaranty are separate and distinct from those of Borrower on the Loan (as defined in the Second Modification).

Dated: March 11, 2011


JOHN M. MULLEN

Property of Cook County Clerk's Office

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GUARANTOR'S CONSENT AND WAIVER

PETER M. HOLSTEN ("Guarantor") hereby consents to the terms, conditions and provisions of the foregoing Second Modification, dated as of March __, 2011, by and among WILSON YARD RETAIL I, LLC, an Illinois limited liability company, WILSON YARD DEVELOPMENT I, LLC, an Illinois limited liability company, and BANK OF AMERICA, N.A., a national banking association, and the transactions contemplated by that Second Modification. Guarantor hereby reaffirms the full force and effectiveness of its Payment and Performance Guaranty dated October 1, 2008. In addition, Guarantor acknowledges that Guarantor's unconditional, joint and several obligations under the Guaranty are separate and distinct from those of Borrower on the Loan (as defined in the Second Modification).

Dated: March 14, 2011



PETER M. HOLSTEN

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