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Prepared by and to be Returned to:

Alvin L. Kruse
Elizabeth Pfeiler Marriott
Seyfarth Shaw LLP
131 South Dearborn Street
Suite 2400
Chicago, Illinois 60603



Doc#: 1128633010 Fee: \$68.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/13/2011 09:14 AM Pg: 1 of 17

Permanent Tax Index Numbers
and Address: See Exhibit A

er's use only.

SECOND MODIFICATION AGREEMENT

THIS SECOND MODIFICATION AGREEMENT (this "Agreement") dated as of August 31, 2011 (the "Agreement Date"), but actually executed and delivered on September 28, 2011 (the "Execution Date"), by and among KF SCHAUMBURG LLC, an Illinois limited liability company ("Borrower/KF"), and KIMCO SELECT CHICAGO 694, L.L.C., a Delaware limited liability company ("Borrower/Kimco" and together with Borrower/KF, the "Borrowers"), and BANK OF AMERICA, N.A., a national banking association ("BOA"), Successor by Merger to LaSalle Bank National Association, a national banking association ("LaSalle"), as agent (the "Agent") for the Banks from time to time party to the Amended Loan Agreement referred to below (the "Banks");

RECITALS

A. the Borrowers, LaSalle, as Agent, BOA, as Agent, the Banks and Laurance H. Freed (the "Guarantor") heretofore entered into the following documents (collectively, the "Documents"):

(i) Amended and Restated Construction Loan Agreement dated as of April 2, 2009, by and among the Borrowers, BOA, as Agent, and other Banks named therein (the "Amended Loan Agreement").

(ii) Separate Promissory Notes dated August 14, 2007, from the Borrowers to the Banks named in the Amended Loan Agreement, each in the amount of the payee Bank's maximum commitment under the Original Loan Agreement referred to in the Amended Loan Agreement.

(iii) Construction Loan Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing dated as of August 14, 2007 (the "Mortgage"), by the Borrowers to and for the benefit of LaSalle, as Agent, recorded in the Office of the

Box 400-CTCC

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Recorder of Deeds of Cook County, Illinois, on August 23, 2007, as Document No. 0723533020.

(iv) Assignment of Rents and Leases dated as of August 14, 2007 (the "Assignment of Rents"), by the Borrowers to and for the benefit of LaSalle, as Agent, recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on August 23, 2007, as Document No. 0723533021.

(v) Environmental Indemnity Agreement dated as of August 14, 2007 (the "Indemnity Agreement"), by the Borrowers and the Guarantor to and for the benefit of LaSalle, as Agent.

(vi) Guaranty dated as of August 14, 2007 (the "Guaranty"), by the Guarantor to and for the benefit of LaSalle, as Agent.

B. The documents described in Recital paragraph A above were previously modified and amended by the following document (the "Previous Modification"): the Modification Agreement dated as of April 2, 2009, by and among the Borrowers, the Guarantor and BOA, as Agent for the Banks, recorded in the Office of the Recorder of Deeds of Cook County, Illinois, on May 22, 2009, as Document No. 0914233018.

C. As of the Execution Date, the loan in the amount of \$82,500,000 which is provided for in the Amended Loan Agreement (the "Loan") has been fully disbursed and the principal balance outstanding on the Loan is \$82,450,000. On the Execution Date, prior to the Assignments which are referred to below, BOA holds an interest in the Loan under a Promissory Note dated August 14, 2007, in the face amount of \$18,500,000 and on which a principal balance of \$18,488,787.85 is outstanding (the "Original BOA Note"). On the Execution Date, (i) BOA is acquiring by assignment (the "Assignments") the interest of each of the other Banks in the Loan and the Promissory Note held by each of such other Banks (such Promissory Notes of the other Banks being referred to herein collectively as the "Replaced Notes"), and (ii) a new Promissory Note dated as of the Execution Date, in the face amount of \$64,000,000, and with an outstanding principal amount of \$63,961,212.15, is being issued by the Borrowers to BOA in replacement for the Replaced Notes (the "Additional BOA Note"). The Additional BOA Note fully replaces and supersedes the Replaced Notes in their collective entirety effective as of the Execution Date, and the Borrowers shall have no liability or obligations under the Replaced Notes on and after the Execution Date, except as provided in Section 1(d) of this Agreement.

D. The Original BOA Note and the Additional BOA Note are referred to herein as the "Notes", and the documents described in Recital paragraph A above are referred to herein as the "Documents".

E. The Documents, as they may have been modified and amended by the Previous Modification, encumber the real estate described in Exhibits A-1 and A-2 attached hereto and the personal property located thereon.

F. As described in a letter from Borrower/KF to BOA dated April 28, 2011, effective April 29, 2011, Kimco Schaumburg, Inc., a Delaware corporation, is the manager of Borrower/KF, and as described in a letter from Borrower/Kimco to BOA dated April 28, 2011,

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effective April 29, 2011, Kimco Select Investments, a New York general partnership, is the manager of Kimco Select Chicago, L.L.C., a Delaware limited liability company, which is the managing member of Borrower/Kimco.

G. The parties desire to make certain modifications and amendments to the Documents, as they may have been modified and amended by the Previous Modification, as more fully provided for herein, all as modifications, amendments and continuations of, but not as novations of, the Documents.

AGREEMENTS

In consideration of the premises and the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

Section 1. Recitals Part of Agreement; Defined Terms; Status of Loan and Notes; Certain Limitations.

(a) The foregoing recitals are hereby incorporated into and made a part of this Agreement.

(b) All capitalized terms used and not otherwise defined in this Agreement shall have the meanings set forth in the Amended Loan Agreement.

(c) Except as otherwise stated herein, all references in this Agreement to any one or more of the Documents shall be deemed to include the previous modifications and amendments to the Documents provided for in the Previous Modification, or in the case of the Amended Loan Agreement, shall be deemed to refer to the Original Loan Agreement, as amended and restated in its entirety by the Amended Loan Agreement as provided for in the Previous Modification, in each case whether or not express reference is made to such previous modifications and amendments or such amendment and restatement.

(d) The parties agree as follows:

(i) As of the Execution Date, the principal balance outstanding on the Original BOA Note is \$18,488,787.85, the principal balance outstanding on the Additional BOA Note is \$63,961,212.15, and no principal is outstanding or due under the Replaced Notes.

(ii) As of the Execution Date, interest under the Original BOA Note and the Replaced Notes accrued through August 31, 2011, has been paid in full.

(iii) As of the Execution Date, interest under the Replaced Notes which accrued on and after September 1, 2011, and up to but not including the Execution Date (the "**Replaced Notes Accrued September Interest**") is not yet due and has not been paid, and such Replaced Notes Accrued September Interest will be due and payable on October 1, 2011, and will be payable to BOA as the assignee and holder of the Replaced Notes. Upon payment to BOA of the Replaced Notes Accrued September Interest, (A)

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the Borrowers shall have no further liability or obligations under the Replaced Notes, (B) the Replaced Notes shall be deemed paid, satisfied and cancelled in full, and (C) the Original BOA Note and the Additional BOA Note shall be the only promissory notes then in effect with respect to the Loan.

(iv) Interest under the Original BOA Note for the month of September, 2011, will be due and payable to BOA on October 1, 2011.

(v) The Additional BOA Note will begin bearing interest on the Execution Date.

(vi) BOA shall use commercially reasonable efforts to cause each original Replaced Note to be marked "exchanged" and delivered to the Borrowers in accordance with Section 9.1(a) of the Amended Loan Agreement. BOA shall indemnify and hold harmless the Borrowers from and against any losses, damages, actions, costs and expenses, including reasonable attorneys' fees, which are incurred by the Borrowers as a result of, or arising out of, any failure of the original Replaced Notes to be delivered to the Borrowers.

(e) Notwithstanding anything to the contrary contained in this Agreement, the Memorandum of Agreement Regarding Amended Ownership Chart provided for herein (the "**Memorandum**") or any of the Documents (as previously or hereby modified, amended or restated) --

(i) In no event shall the Borrowers be deemed to make any representation, warranty or certification hereunder, under the Memorandum or under any of the Documents (as previously or hereby modified, amended or restated) with respect to, involving, requiring (in order to be accurate) or based upon (A) BOA, Streets of Woodfield Shopping Centers Syndicated Holdings, LLC, an Illinois limited liability company, or any person or entity affiliated with either of such named entities (any such person or entity, a "**BOA Member**") being, or not being, a direct or indirect owner of any equity interest in, or a member of, the Borrowers or any Signing Entity (as hereinafter defined), or having consented to or approved, or not consented to or approved, any action by any Borrower or any Signing Entity, or (B) the validity or effectiveness, or lack of validity or effectiveness, of any transfer of any such equity interest to, or admission as a member in Borrower or any Signing Entity of, any BOA Member or (C) the effectiveness (or lack of effectiveness) or validity (or lack of validity) or binding nature (or lack of binding nature) of this Agreement in respect of amending or modifying any of the Documents to which the Guarantor is a party, or (D) the existence, or non-existence, of the Pledge Agreements dated as of July 5, 2007, executed by Freed Schaumburg LLC, an Illinois limited liability company, which granted security interests in, among other collateral, its 55% membership interests in Borrower/KF and Kimco Select Chicago, L.L.C., a Delaware limited liability company (the "**BOA Pledge Agreements**"), or any foreclosure, Uniform Commercial Code sale, transfer or other exercise of remedies with respect to the BOA Pledge Agreements, or (E) any distributions or other payments to the members of the Borrowers or the members of any Signing Entity made during any period in which JFA Management LLC, an Illinois

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limited liability company ("JFA Management"), was the manager of the Borrowers or any Signing Entity; and

(ii) In no event shall the Borrowers have any liability under or be in breach of, or in default under, nor shall a Default or Event of Default exist under, this Agreement, the Memorandum or any of the Documents (as previously or hereby modified, amended or restated) to the extent that such liability, breach, default, Default or Event of Default is, or would be, based upon, results from or arises out of (A) any BOA Member being, or not being, a direct or indirect owner of any equity interest in, or a member of, the Borrowers or any Signing Entity, or (B) the validity or effectiveness, or lack of validity or effectiveness, of any transfer of any such equity interest to, or admission as a member in the Borrowers or any Signing Entity of, any BOA Member, or (C) the effectiveness (or lack of effectiveness) or validity (or lack of validity) or binding nature (or lack of binding nature) of this Agreement in respect of modifying or amending any of the Documents to which the Guarantor is a party, or (D) the existence, or non-existence, of the BOA Pledge Agreements or any foreclosure, Uniform Commercial Code sale, transfer or other exercise of remedies with respect to the BOA Pledge Agreements, or (E) any distributions or other payments to the members of the Borrowers or the members of any Signing Entity made during any period in which JFA Management, was the manager of the Borrowers or any Signing Entity.

Section 2. Merger of LaSalle. The parties acknowledge that LaSalle was merged into BOA effective as of October 17, 2008, and that by virtue of such merger BOA is the successor by merger to all of rights and obligations of LaSalle under the Documents. Effective as of October 17, 2008, all references in the Documents to LaSalle, either by its full name "LaSalle Bank National Association" or by a defined term such as, but not limited to, "Lender," "Bank," "Agent," "Mortgagee" or "Assignee," shall be deemed to refer to Bank of America, N.A., as Successor by Merger to LaSalle.

Section 3. Extension of Maturity Date; No Further Right to Extend.

(a) Effective as of the Agreement Date, the maturity date of the Loans and the Notes is hereby extended from August 31, 2011, to February 29, 2012, and all of the Documents, as they may have been modified and amended by the Previous Modification, are hereby modified and amended accordingly. Without limitation on the generality of the foregoing provisions of this Section --

(i) The date "August 31, 2011" is hereby changed to "February 29, 2012" each time it appears in the Documents, as they may have been modified and amended by the Previous Modification, in reference to the Original Maturity Date or the Maturity Date, including, without limitation in the definition of the term Original Maturity Date in Section 1.1 of the Amended Loan Agreement, and in the definition of Maturity Date in Recital A on page 1 of the Mortgage; and

(ii) The definition of the term Maturity Date in Section 1.1 of the Amended Loan Agreement is hereby modified and amended in its entirety to read as follows:

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Maturity Date: February 29, 2012.

(b) From and after the Agreement Date, Section 4.12 of the Amended Loan Agreement shall be of no further force and effect and notwithstanding such Section or any other provision of the Documents, the Borrowers shall have no right to extend the Original Maturity Date to the Extended Maturity Date. All of the Documents, as they may have been modified and amended by the Previous Modification, are hereby modified and amended accordingly. Without limitation on the generality of the foregoing provisions of this paragraph --

(i) The phrase "subject to extension to August 31, 2012, as provided in the Notes or the Amended Loan Agreement" which appears in Recital A on pages 1 and 2 of the Mortgage is hereby deleted therefrom; and

(ii) The defined term Extended Maturity Date in Section 1.1 of the Amended Loan Agreement is hereby deleted therefrom.

(c) Section 4.2(b) of the Amended Loan Agreement, which was to apply if the Borrowers exercised their extension right under Section 4.12 of the Amended Loan Agreement, is hereby deleted from the Amended Loan Agreement.

Section 4. Increase in Applicable Margin. The Applicable Margin with respect to both Base Rate Loans and LIBOR Loans is hereby increased by 0.50% per annum effective as of the Execution Date, and all of the Documents, as they may have been modified and amended by the Previous Modification, are hereby modified and amended accordingly. Without limitation on the generality of the foregoing provisions of this Section, the definition of the term Applicable Margin in Section 1.1 of the Amended Loan Agreement is hereby modified and amended in its entirety to read as follows as of the Execution Date, with the existing definition of the term Applicable Margin in Section 1.1 of the Amended Loan Agreement to continue to be effective for periods prior to the Execution Date:

Applicable Margin: With respect to Base Rate Loans, 0.50% per annum and with respect to LIBOR Loans, 2.20% per annum.

Section 5. Extension Fee. On the Execution Date, the Borrowers shall pay to the Agent a non-refundable extension fee in the amount of \$164,900 (being 0.20% of the principal balance of \$82,450,000 which is outstanding on the Loan).

Section 6. Direct and Indirect Ownership of Borrowers. Subject to the provisions of Section 1(e) of this Agreement, the ownership chart attached to the Amended Loan Agreement as Exhibit J (Direct and Indirect Ownership of Borrowers) is hereby modified and amended in its entirety to read as set forth in the ownership chart attached as Exhibit A to the Memorandum of Agreement Regarding Amended Ownership Chart dated as of the Execution Date, by and among the parties to this Agreement (the "**Amended Ownership Chart**"), and from and after the Execution Date, all references in the Amended Loan Agreement and the other Documents to such ownership chart shall be deemed to be a reference to the Amended Ownership Chart.

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Section 7. Approval of Settlement Agreement. The Agent, for itself and on behalf of the Banks, hereby consents to and approves the execution, delivery and performance by the parties thereto of that certain Settlement Agreement dated as of the Execution Date, by and among Bank of America, N.A., a national banking association, as agent for certain lenders, Streets of Woodfield Shopping Centers Syndicated Holdings, LLC, an Illinois limited liability company, Kimco Schaumburg, Inc., a Delaware corporation, and Kimco Select Investments, a New York general partnership, and agrees that such execution, delivery and performance does not cause or result in a breach or violation of the terms and provisions of the Documents as previously and hereby modified and amended.

Section 8. Matters Relating to Guarantor. Notwithstanding anything contained in this Agreement, the Memorandum or any of the other Documents (as previously or hereby modified, amended or restated), no action, omission, event, circumstance or other matter by or relating to the Guarantor which is not also an action or omission taken or omitted to be taken by either of the Borrowers, whether previously, currently or hereafter occurring or existing, shall be deemed to be, or result in, a breach, Default or Event of Default under this Agreement, the Memorandum or any of the other Documents (as previously or hereby modified, amended or restated), or to result in any liability of the Borrowers to the Agent or the Banks under this Agreement, the Memorandum or any of the other Documents (as previously or hereby modified, amended or restated); provided, however that the foregoing shall not restrict or limit any right of the Agent or the Banks to pursue any action or other remedies directly against the Guarantor under the Guaranty or the Indemnity Agreement or otherwise with respect to any such actions, omissions, events, circumstances or other matters by or relating to the Guarantor.

Section 9. Change of Borrowers' Notice Addresses. The addresses for notices and other communications to the Borrowers under all of the Documents are hereby changed to be as follows:

KF Schaumburg LLC
 Kimco Select Chicago 694, L.L.C.
 c/o Kimco Realty Corporation
 3333 New Hyde Park Road
 New Hyde Park, New York 11042
 Fax: 516-869-2572
 Attention: Glenn Cohen

With copies to:

KF Schaumburg LLC
 Kimco Select Chicago 694, L.L.C.
 c/o Kimco Realty Corporation
 3333 New Hyde Park Road
 New Hyde Park, New York 11042
 Fax: 516-869-7201
 Attention: Bruce Rubenstein, Esq.

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and

Greenberg Traurig, LLP
77 West Wacker Drive
Suite 3100
Chicago, Illinois 60601
Fax: 312-456-8435
Attention: James J. Caserio, Esq.

Section 10. Representations and Warranties. The term "**Signing Entity**" as used in this Section means any entity (other than a Borrower itself) that appears in the signature block of either Borrower in this Agreement, if any. Subject to the provisions of Section 1(e) of this Agreement, in order to induce the Agent to enter into this Agreement, the Borrowers hereby represent and warrant to the Agent and the Banks as follows as of the Execution Date:

(a) Borrower/KT is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Illinois. Borrower/Kimco is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and duly admitted to transact business and in good standing in the State of Illinois. Each Borrower has full right, power and authority to enter into this Agreement and each of the Documents to which it is a party and the Previous Modification and to perform and consummate the transactions contemplated hereby and thereby

(b) Each Signing Entity is duly organized, validly existing and in good standing under the laws of the State in which it is organized, has all necessary power and authority to carry on its present business, and has full right, power and authority to execute this Agreement in the capacity shown in each signature block contained in this Agreement, and such execution has been duly authorized by all necessary legal action applicable to such Signing Entity.

(c) This Agreement and each of the Documents and the Previous Modification has been duly authorized, executed and delivered by such of the Borrowers as are parties thereto, and this Agreement and each of the Documents and the Previous Modification constitutes a valid and legally binding obligation enforceable against such of the Borrowers as are parties thereto (except to the extent that enforceability may be affected or limited by applicable bankruptcy, insolvency and other similar debtor relief laws affecting the enforcement of creditors' rights generally and by general principles of equity, regardless of whether the issue of enforceability is considered in a proceeding in equity or at law). The execution and delivery of this Agreement, the Documents and the Previous Modification and compliance with the provisions thereof under the circumstances contemplated therein do not and will not conflict with or constitute a breach or violation of or default under the organizational documents of either Borrower or any Signing Entity, or any agreement or other instrument to which either of the Borrowers or any Signing Entity is a party, or by which any of them is bound, or to which any of their respective properties are subject, or any existing law, administrative regulation, court order or consent decree to which any of them is subject, the effect of which breach, violation or default will materially and adversely affect the performance by either of the Borrowers of its obligations pursuant to and as contemplated by the terms and provisions of this Agreement or the other Documents or the Previous Modification.

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(d) To the Knowledge of the Borrowers, the Borrowers are in full compliance in all material respects with all of the terms and conditions of the Documents to which they are a party and the Previous Modification, and no Default or Event of Default has occurred and is continuing with respect to any of the Documents or the Previous Modification. As used herein, the term "**Knowledge of the Borrowers**" shall be mean and be limited to the actual (and not constructive or imputed) knowledge of (i) Patrick Rooney (who has primary responsibility on behalf of the Borrowers, as of the date hereof, for the property management of the Premises), and (ii) Scott Tucker (who has primary responsibility on behalf of Borrowers, as of the date hereof, for the leasing activities with respect to the Premises).

(e) There is no litigation or administrative proceeding pending or threatened to restrain or enjoin the transactions contemplated by this Agreement or any of the Documents or the Previous Modification, or questioning the validity thereof, or in any way contesting the existence or powers of the either of the Borrowers or any Signing Entity, or in which an unfavorable decision, ruling or finding could reasonably be expected to materially and adversely affect the transactions contemplated by this Agreement or any of the Documents or the Previous Modification, or could reasonably be expected to result in any material adverse change in the financial condition, properties, business or operations of either of the Borrowers.

(f) The statements contained in the recitals to this Agreement are true and correct in all material respects.

Section 11. Documents to Remain in Effect; Confirmation of Obligations; References. The Documents shall remain in full force and effect as originally executed and delivered by the parties, except as they may have been previously modified and amended by the Previous Modification, and as expressly modified and amended by this Agreement. Subject to the provisions of Section 1(e) of this Agreement, the Borrowers hereby (i) confirm and reaffirm all of their obligations under the Documents, as they may have been previously modified and amended by the Previous Modification, and as modified and amended by this Agreement; (ii) acknowledge and agree that the Agent and the Banks, by entering into this Agreement, do not waive any existing or future default or event of default under any of the Documents, or any rights or remedies under any of the Documents, except as expressly provided herein and in the Amended Loan Agreement; (iii) acknowledge and agree that the Banks have not heretofore waived any default or event of default under any of the Documents, or any rights or remedies under any of the Documents, except as expressly provided herein and in the Amended Loan Agreement; and (iv) acknowledge and agree that they do not have any defense, set-off or counterclaim to the payment or performance of any of their obligations under the Documents, as they may have been previously modified and amended by the Previous Modification, and as modified and amended by this Agreement, including, without limitation, any defense, setoff or counterclaim based on the covenant of good faith and fair dealing. All references in the Documents to any one or more of the Documents, or to the "Loan Documents," shall be deemed to refer to such Document, Documents or Loan Documents, as the case may be, as they may have been previously modified and amended by the Previous Modification, and as modified and amended by this Agreement. Electronic records of executed documents maintained by the BOA shall be deemed to be originals thereof.

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Section 12. Certifications, Representations and Warranties. In order to induce the Agent to enter into this Agreement, the Borrowers hereby certify, represent and warrant to the Agent and the Banks that, to the Knowledge of the Borrowers, and subject to both the provisions of Section 1(e) of this Agreement and the limitations set forth in the immediately succeeding sentence, and further subject to any events, circumstances or other factual changes which have subsequently occurred since the original making thereof so long as such events, circumstances or other factual changes are not prohibited to occur under, and do not cause there to be a breach of, the Documents (as previously and hereby modified, amended and restated), all certifications, representations and warranties contained in the Documents, as they may have been previously modified and amended by the Previous Modification, and as modified and amended by this Agreement, are true and correct in all material respects as of the Execution Date, and all such certifications, representations and warranties are hereby remade and made to speak as of the Execution Date. Notwithstanding the foregoing, (i) the Borrowers make no certifications, representations or warranties concerning the Guarantor, and (ii) none of the certifications, representations and warranties made by the Borrowers to the Agent and the Banks prior to the Execution Date as to the ownership, the manager or the managing member of either of the Borrowers or as to any property manager of the Premises or property management agreement with such property manager are remade hereby.

Section 13. Entire Agreement; No Reliance. This Agreement sets forth all of the covenants, promises, agreements, conditions and understandings of the parties relating to the subject matter of this Agreement, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them relating to the subject matter of this Agreement other than as are herein and therein set forth. The Borrowers acknowledge that they are executing this Agreement without relying on any statements, representations or warranties, either oral or written, that are not expressly set forth herein or therein.

Section 14. Successors. This Agreement shall inure to the benefit of and shall be binding upon the parties and their respective successors, assigns and legal representatives.

Section 15. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 16. Amendments, Changes and Modifications. This Agreement may be amended, changed, modified, altered or terminated only by a written instrument executed by all of the parties hereto.

Section 17. Construction.

(a) The words "hereof," "herein," and "hereunder," and other words of a similar import refer to this Agreement as a whole and not to the individual Sections in which such terms are used.

(b) References to Sections and other subdivisions of this Agreement are to the designated Sections and other subdivisions of this Agreement as originally executed.

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(c) The headings of this Agreement are for convenience only and shall not define or limit the provisions hereof.

(d) Where the context so requires, words used in singular shall include the plural and vice versa, and words of one gender shall include all other genders.

(e) The Borrowers, the Agent and the Banks, and their respective legal counsel, have participated in the drafting of this Agreement, and accordingly the general rule of construction to the effect that any ambiguities in a contract are to be resolved against the party drafting the contract shall not be employed in the construction and interpretation of this Agreement.

Section 18. Counterparts; Electronic Signatures. This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same document. Receipt of an executed signature page to this Agreement by facsimile or other electronic transmission shall constitute effective delivery thereof. An electronic record of this executed Agreement maintained by BOA shall be deemed to be an original.

Section 19. Governing Law. This Agreement is prepared and entered into with the intention that the law of the State of Illinois shall govern its construction and enforcement.

[SIGNATURE PAGE(S) AND EXHIBIT(S),
IF ANY, FOLLOW THIS PAGE]

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

KF SCHAUMBURG LLC, an Illinois limited liability company

By Kimco Schaumburg, Inc., a Delaware corporation,
Manager

(M)

By Michael V. Pappallo
Printed Name: **MICHAEL V. PAPPAGALLO**
Title: **Exec. Vice President/Chief Operating Officer**

Property of Co. County Clerk's Office

KIMCO SELECT CHICAGO, 694, L.L.C., a Delaware limited liability company

By Kimco Select Chicago, L.L.C., a Delaware limited liability company, Sole Member

(M)

By Kimco Select Investments, a New York general partnership, Manager

By Kimco Select Investments, Inc., a Delaware corporation, General Partner

By Michael V. Pappallo
Printed Name: **MICHAEL V. PAPPAGALLO**
Title: **Exec. Vice President/Chief Operating Officer**

BANK OF AMERICA, N.A., Successor by Merger to LaSalle Bank National Association, as Agent

By _____
Gary J. Katunas, Senior Vice President

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

KF SCHAUMBURG LLC, an Illinois limited liability company

By **Kimco Schaumburg, Inc.**, a Delaware corporation,
Manager

By _____
Printed Name:
Title:

KIMCO SELECT CHICAGO, 694, L.L.C., a Delaware limited liability company

By **Kimco Select Chicago, L.L.C.**, a Delaware limited liability company, Sole Member

By **Kimco Select Investments**, a New York general partnership, Manager

By **Kimco Select Investments, Inc.**, a Delaware corporation, General Partner

By _____
Printed Name:
Title:

BANK OF AMERICA, N.A., Successor by Merger to LaSalle Bank National Association, as Agent

By  _____
Gary J. Katunas, Senior Vice President

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STATE OF New York)
)
COUNTY OF Nassau) SS

The foregoing instrument was acknowledged before me this 27th day of September, 2011, by Michael V. Pappasallo EVP+COO of Kimco Schaumburg, Inc., a Delaware corporation, the manager of KF Schaumburg LLC, an Illinois limited liability company, on behalf of said corporation and said limited liability company.

KATHLEEN M. GAZERRO
Notary Public, State of New York
No. 01GA4721128
Qualified in Suffolk County
Certificate on File in Nassau County
My Commission Expires 4/30/20 14

Kathleen Gazerro
Printed Name: _____
Notary Public
Commission Expires: _____

STATE OF New York)
)
COUNTY OF Nassau) SS

The foregoing instrument was acknowledged before me this 27th day of September, 2011, by Michael V. Pappasallo EVP+COO of Kimco Select Investments, Inc., a Delaware corporation, the general partner of Kimco Select Investments, a New York general partnership, the manager of Kimco Select Chicago, L.L.C., a Delaware limited liability company, the sole member of Kimco Select Chicago 694, L.L.C., a Delaware limited liability company, on behalf of said corporation, said general partnership and said limited liability companies.

KATHLEEN M. GAZERRO
Notary Public, State of New York
No. 01GA4721128
Qualified in Suffolk County
Certificate on File in Nassau County
My Commission Expires 4/30/20 14

Kathleen Gazerro
Printed Name: _____
Notary Public
Commission Expires: _____

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STATE OF ILLINOIS)
)
 COUNTY OF COOK) SS

The foregoing instrument was acknowledged before me this 28th day of September, 2011, by Gary J. Katunas, Senior Vice President of Bank of America, N.A., a national banking association, Successor by Merger to LaSalle Bank National Association, a national banking association, on behalf of the association, in its capacity as Agent, on behalf of the association.

Sela L. Brown

Printed Name: Sela L. Brown
 Notary Public
 Commission Expires: 12-6-2011



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UNOFFICIAL COPY

EXHIBIT A-1

PARCEL 1 OF THE LAND (KF SCHAUMBURG LLC)

THAT PART OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, AND THAT PART OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 18, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING 3.14 CHAINS NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 13; THENCE NORTH 7 DEGREES EAST 33.10 CHAINS TO THE SOUTH BOUNDARY OF A CONVERSE LANDS; THENCE NORTH 84 DEGREES WEST 24.20 CHAINS TO THE WEST SIDE OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 13; THENCE SOUTH ALONG THE WEST LINE OF THE EAST 1/2 OF THE SOUTH EAST 1/4 OF SECTION 13 AFORESAID, 30.80 CHAINS TO THE CENTER OF HIGGINS ROAD; THENCE SOUTH 77 DEGREES 10 MINUTES EAST 20.55 CHAINS TO THE PLACE OF BEGINNING, (EXCEPT THAT PART THEREOF TAKEN FOR HIGHWAYS AND EXCEPT THAT PORTION CONVEYED TO FOREST PRESERVE DISTRICT OF COOK COUNTY, ILLINOIS BY DOCUMENT NUMBER 17128832 RECORDED FEBRUARY 7, 1958 AND DOCUMENT NUMBER 17227068, RECORDED JUNE 6, 1958 AND EXCEPTING THAT PART LYING EASTERLY OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT A POINT ON THE NORTHERLY LINE OF HIGGINS ROAD (ROUTE 72) DISTANT 550.0 FEET WESTERLY OF THE EAST LINE OF THE SOUTH EAST 1/4 OF AFORESAID SECTION 13; THENCE NORTHEASTERLY ALONG A STRAIGHT LINE, EXTENDED TO INTERSECT THE NORTH LINE OF THE SOUTH EAST 1/4 OF SAID SECTION 13 AT A POINT 265.0 FEET WEST OF THE NORTHEAST CORNER OF SAID SECTION), IN COOK COUNTY, ILLINOIS.

PIN: 07-13-401-005

601 N. Martingale Rd.
village of Schaumburg, IL.

UNOFFICIAL COPY**EXHIBIT A-2****PARCEL 2 OF THE LAND (KIMCO SELECT CHICAGO 694, L.L.C.)**

PARCEL 1:

THAT PART OF THE WEST 1/2 OF THE SOUTH EAST 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 SOUTH EAST 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 SECOND 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 SECONDS 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.

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

PIN: 07-13-400-004

1733 E. Woodfield, Schaumburg, IL.