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Doc#: 1404445015 Fee: \$58.00  
RHSP Fee: \$9.00 RPRF Fee: \$1.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 02/13/2014 09:49 AM Pg: 1 of 11

This Instrument Was Prepared By  
and When Recorded, Return to:

Morrison & Foerster LLP  
1290 Avenue of the Americas  
New York, New York 10104  
Attention: Chris Delson  
Ref: 60836-17  
PIN: 08-16-200-103

## SECOND AMENDMENT TO ASSIGNMENT OF LEASES AND RENTS: END USER LEASE

This Second Amendment to Assignment of Leases and Rents: End User Lease (this "Amendment") is made as of the 10th day of February, 2014 by SB ARLINGTON PROJECT CORPORATION, a Delaware corporation, having an office at c/o CBRE Global Investors, 515 South Flower Street, Suite 3100, Los Angeles, California 90071, Attention: Fund Manager ("Assignor"), and SB ARLINGTON FUNDING COMPANY, INC., a Delaware corporation, having an office c/o Global Securitization Services, LLC, 68 South Service Road, Suite 120, Melville, New York 11747 ("Assignee").

### RECITAL

WHEREAS, Assignee, as lessor, and Assignor, as lessee, are parties to that certain Third Amended and Restated Finance Lease (*Ijara*) and Purchase Option Agreement dated as of March 19, 2010 (as heretofore amended, the "Existing Finance Lease");

WHEREAS, in connection with the execution and delivery of the Existing Finance Lease, Assignor executed and delivered to Assignee that certain Assignment of Leases and Rents: End User Lease as described on Schedule A attached hereto (as the same may have been previously amended and as the same may have been further amended, the "Existing ALR"); the Existing

SB Arlington

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ALR as amended by this Amendment and as the same may be further amended, restated, modified or supplemented and in effect from time to time being hereinafter called the "Assignment"), with respect to certain property more particularly described on Exhibit A attached hereto;

WHEREAS, concurrently with the execution and delivery of this Amendment, Assignee and Assignor are entering into a Fourth Amended and Restated Finance Lease (*Ijara*) and Purchase Option Agreement dated as of the date hereof (the "Amended and Restated Finance Lease") pursuant to which the Existing Finance Lease is being amended and restated (the Existing Finance Lease as so amended and restated and as further amended, restated, modified or supplemented and in effect from time to time being hereinafter called the "Finance Lease"); and

WHEREAS, as a condition to entering into the Amended and Restated Finance Lease, Assignee has required that the Existing ALR be amended pursuant to the terms and provisions of this Amendment to provide, among other things, that the Existing ALR shall secure the Existing Finance Lease, as amended and restated by the Amended and Restated Finance Lease.

NOW, THEREFORE, to induce Assignor to amend and restate the Existing Finance Lease and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee have agreed that the Existing ALR shall be hereby modified as follows:

1. Definitions. Each capitalized term used herein and not otherwise defined herein shall have the meaning assigned thereto in the Existing ALR. In addition, certain terms defined in the Existing ALR shall have the following meanings:

(a) any reference in the Existing ALR to the term "Assignment" shall mean the Assignment as defined herein;

(b) any reference in the Existing ALR to the term "Finance Lease" shall mean the Finance Lease as defined herein; and

(c) any reference in the Existing ALR to the term "Note" shall mean the Note as defined in Section 2(a) below.

2. Amendment. The Existing ALR is hereby amended as follows:

(a) Paragraph A is hereby deleted in its entirety and the following substituted therefor: "The payment of the amounts evidenced by (i) that certain Basic (S) Rent Note dated as of February \_\_, 2014 made by Assignor to the order of Assignee in the principal sum of \$11,240,135.42 (as the same may be consolidated, severed, split, modified, amended or extended from time to time, the "Basic (S) Rent Note"), (ii) that certain Basic (M) Rent Note dated as of February \_\_, 2014 made by Assignor to the order of Assignee in the principal sum of \$2,002,572.65 (as the same may be consolidated, severed, split, modified, amended or extended from time to time, the "Basic (M) Rent Note"), (iii) that certain Basic (T) Rent Note dated as of February \_\_, 2014 made by Assignor to the order of Assignee in the principal sum of \$6,830,702.39 (as the same may be consolidated, severed, split, modified, amended or extended from time to time, the "Basic (T) Rent Note"); and together with the Basic (S) Rent Note and the

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Basic (M) Rent Note, individually and collectively, the “Note”), and the other Project Company Obligations, which Project Company Obligations are secured by, *inter alia*, the Finance Lease, the Understanding to Purchase and the Understanding to Sell (such agreements described above, together with the Note, are hereinafter collectively referred to as the “Obligation Documents”).”

3. Confirmation and Restatement. Assignor hereby confirms and restates the grant to Assignee pursuant to the Existing ALR of the Leases and Rents. Nothing contained in this Amendment shall be construed as (a) a novation of the Project Company Obligations, (b) a release or waiver of all or any portion of the grant to Assignee of the Leases and Rents pursuant to the Existing ALR or (c) an impairment of the lien, charge or priority on the Existing ALR upon the Leases and Rents.

4. Representations and Warranties.

(a) Assignor hereby represents and warrants that the representations and warranties made by it in the Existing ALR are true and correct in all material respects on and as of the date hereof as if made on and as of the date hereof and as if each reference therein to this “Assignment” included reference to the Existing ALR, as amended by this Amendment.

(b) Assignor has full power and authority to enter into this Amendment and perform its obligations hereunder, and Assignor’s execution and delivery of this Amendment has been duly authorized by all necessary corporate, partnership or limited liability company action. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any governmental authority or any other Person is necessary or required in connection with the execution, delivery or performance by Assignor of this Amendment other than in connection with perfecting security interests as provided in the Project Documents. This Amendment has been duly executed and delivered, and constitutes the legal, valid and binding obligation of Assignor, enforceable against Assignor in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors’ rights generally, or by equitable principles relating to enforceability.

(c) As of the date hereof and immediately after giving effect to the Amended and Restated Finance Lease and the Project Documents as amended by the Amended Documents, this Amendment and the actions contemplated thereby, no Lease Default or Lease Event of Default has occurred and is continuing.

5. Miscellaneous.

(a) Controlling Provisions. In the event of any inconsistencies between the provisions of this Amendment and the provisions of any other Obligation Document, the provisions of this Amendment shall govern and prevail. Except as expressly amended, modified and supplemented by this Amendment, the Existing ALR shall remain unchanged and in full force and effect and is hereby ratified and confirmed.

(b) Further Assurances. At Assignee’s request, Assignor shall promptly execute any other document or instrument and/or seek any consent or agreement from any third party that Assignee reasonably determines is necessary to evidence or further, or is otherwise relevant to, the intent of the parties, as set forth in this Amendment. At Assignee’s request, Assignee shall

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promptly cause any of the holders of any equity interest in Assignee to execute any other document or instrument and/or diligently seek any consent or agreement from any third party that Assignee reasonably determines is necessary to evidence or further, or is otherwise relevant to, the intent of the parties, as set forth in this Amendment. Assignor hereby authorizes Assignee to file such amendments or supplements to any UCC Financing Statements filed in connection herewith, and to take such other actions as may be reasonably necessary, in order to continue and maintain the perfection of its Liens created under the Obligation Documents.

(c) Counterparts. This Amendment may be executed by one or more of the parties to this Amendment in any number of separate counterparts, each of which, when so executed, shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

(d) Successors and Assigns. The provisions of this Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(e) No Third Parties Benefited. This Amendment is made and entered into for the sole protection and legal benefit of Assignor, Assignee and Financing Agent and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Amendment or any of the other Obligation Documents. Neither Assignee nor Financing Agent shall have any obligation under this Amendment to any Person not a party to this Amendment or the other Project Documents.

(f) APPLICABLE LAW. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED.

[Signature Page Follows]

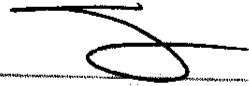
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IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

**ASSIGNOR:**

**SB ARLINGTON PROJECT CORPORATION, a  
Delaware corporation**

By: \_\_\_\_\_



Name: A. Gavin Hinze

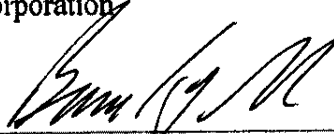
Title: Executive Vice President

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**ASSIGNEE:**

**SB ARLINGTON FUNDING COMPANY, INC.,** a  
Delaware corporation

By:  \_\_\_\_\_

Name: Bernard J. Angelo  
Title: Vice President

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STATE OF CALIFORNIA )  
 ) ss.:  
COUNTY OF LOS ANGELES )

On JANUARY 29, 2014, before me, the undersigned, personally appeared A. Gavin Hinze, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument the individual or the person upon behalf of which the individual acted executed the instrument.

Brenda Loyola Navarro BRENDA LOYOLA NAVARRO, NOTARY PUBLIC  
Signature and Office of individual  
taking acknowledgment



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Acknowledgment

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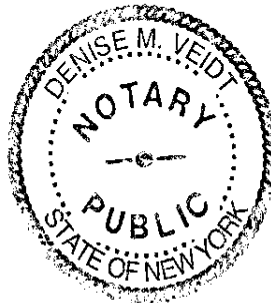
STATE OF NEW YORK )

COUNTY OF SUFFOLK )

ss.:

On January 29, 2014, before me, the undersigned, personally appeared Bernard J. Angelo, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument the individual or the person upon behalf of which the individual acted executed the instrument.

*Denise M. Veidt*, Notary  
Signature and Office of individual taking acknowledgment



DENISE M. VEIDT  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01VE6096171  
Qualified in Suffolk County  
Certificate on file in New York County  
My Commission Expires July 28, 2015

Acknowledgment



**UNOFFICIAL COPY**EXHIBIT A

## LEGAL DESCRIPTION

PARCEL 1:

LOT 3

(EXCEPTING THEREFROM THAT PART OF LOT 3 DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE SOUTHEASTERLY ALONG A 2541.29 FOOT RADIUS CURVE, BEING ALSO THE NORTHERLY LINE OF SAID LOT 3, THE CENTER OF CIRCLE OF SAID CURVE BEARS ON AN ASSUMED BEARING OF NORTH 47 DEGREES 58 MINUTES 18 SECONDS EAST FROM SAID POINT, CENTRAL ANGLE 2 DEGREES 12 MINUTES 20 SECONDS, 97.82 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHEASTERLY ALONG SAID CURVE CONCAVE TO THE NORTHEAST RADIUS 2541.29 FEET, CENTRAL ANGLE 11 DEGREES 26 MINUTES 54 SECONDS, 507.78 FEET TO A POINT OF REVERSE CURVATURE; THENCE SOUTHERLY ALONG A 30.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, CENTRAL ANGLE 55 DEGREES 04 MINUTES 09 SECONDS, 28.83 FEET TO A POINT ON A 2551.07 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS NORTH 35 DEGREES 00 MINUTE 05 SECONDS EAST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, RADIUS 2551.07 FEET, CENTRAL ANGLE 8 DEGREES 26 MINUTES 03 SECONDS, 375.52 FEET TO A POINT ON A 2546.12 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS NORTH 42 DEGREES 14 MINUTES 05 SECONDS EAST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, RADIUS 2546.12 FEET, CENTRAL ANGLE 2 DEGREES 18 MINUTES 00 SECONDS, 102.21 FEET; THENCE NORTH 40 DEGREES 00 MINUTES 33 SECONDS WEST 56.36 FEET TO THE POINT OF BEGINNING) IN ARLINGTON PLACE SUBDIVISION, BEING A SUBDIVISION IN SECTION 16, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE RECIPROCAL EASEMENT AGREEMENT BY AND BETWEEN URBS-SCHMITT AND KEPPEL INCORPORATED, AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED JULY 3, 1979 AND KNOWN AS TRUST NUMBER 47058 AND OTHERS, DATED AUGUST 2, 1979 AND RECORDED OCTOBER 1, 1979 AS DOCUMENT 25171074 AND FILED OCTOBER 1, 1979 AS DOCUMENT LR 3121973 AND AS AMENDED BY INSTRUMENT RECORDED JUNE 4, 1981 AS DOCUMENT 25893428 AND FILED AS DOCUMENT LR 3218008 FOR INGRESS AND EGRESS IN PART OF ARLINGTON PLACE SUBDIVISION AND

Ex. A-1

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TEULACH'S SUBDIVISION AS DELINEATED IN SAID AGREEMENT, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY AMENDED AND RESTATED EASEMENT AND OPERATING AGREEMENT AND GRANT OF EASEMENTS BY AND AMONG AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 45170, AND AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 52304, SAID AGREEMENT BEING DATED FEBRUARY 1, 1983 AND RECORDED MARCH 7, 1983 AS DOCUMENT 26527048 AND FILED MARCH 7, 1983 AS DOCUMENT LR. 3296792, OVER, UPON AND ACROSS LOT 1 FOR THE PURPOSE OF USING AND GAINING ACCESS TO A SURFACE WATER DETENTION/RETENTION POND LOCATED IMMEDIATELY EAST OF THE WESTERNMOST LINE OF LOT 1 IN ARLINGTON PLACE SUBDIVISION AFORESAID, AS SHOWN ON DRAWING ATTACHED AS EXHIBIT "A" TO EASEMENT AND OPERATING AGREEMENT DATED DECEMBER 1, 1979 AND RECORDED JANUARY 4, 1980 AS DOCUMENT 25306789 AND FILED JANUARY 4, 1980 AS DOCUMENT LR. 3139276 AND ALSO OVER, UPON AND ACROSS LOT 2 IN ARLINGTON PLACE SUBDIVISION AFORESAID FOR THE PURPOSE OF GAINING ACCESS TO SAID POND LOCATED ON SAID LOT 1 AS SHOWN ON DRAWING ATTACHED AS EXHIBIT "A" TO THE AFORESAID AMENDED AND RESTATED EASEMENT AND OPERATING AGREEMENT AND GRANT OF EASEMENTS IDENTIFIED ABOVE, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY GRANT OF EASEMENT DATED FEBRUARY 1, 1983 AND RECORDED MARCH 7, 1983 AS DOCUMENT 26527049 AND FILED MARCH 7, 1983 AS DOCUMENT LR. 3296793 BY AND BETWEEN AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 47058, AND AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 52304, OVER, UPON AND ACROSS THAT PART OF LOT 2 IN ARLINGTON PLACE SUBDIVISION AFORESAID AS DEPICTED ON EXHIBIT "A", FOR CONSTRUCTING, RUNNING, MAINTAINING AND REPAIRING SANITARY SEWER LINES AND PIPES, IN COOK COUNTY, ILLINOIS.

**Property Address:** 95 West Algonquin Road, Arlington Heights, Cook County, Illinois, 60005

PIN # 08-16-200-103-0000

Ex. A-2

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## Schedule A

Document:	Assignment of Leases and Rents: End User Lease
Date of Recording:	July 6, 2005
Assignor:	SB Arlington Project Corporation
Assignee:	SB Arlington Funding Company, Inc.
Recording Information:	Doc/Num: 0518702188
Recording Office:	Cook County, Illinois
Document:	First Amendment of Assignment of Leases and Rents: End User Lease
Date of Recording:	April 1, 2010
Assignor:	SB Arlington Project Corporation
Assignee:	SB Arlington Funding Company, Inc.
Recording Information:	Doc/Num: 1009141087
Recording Office:	Cook County, Illinois

Schedule A