

EXHIBIT "E"

SALES TAX REVENUE SHARING AGREEMENT

(See Attached)

CITY OF AURORA
RESOLUTION NO. R10-396
DATE OF PASSAGE November 23, 2010

**RESOLUTION AUTHORIZING THE EXECUTION OF A SALES TAX
REVENUE SHARING AGREEMENT WITH YORKSHIRE PLAZA, LLC**

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the 1970 Constitution of the State of Illinois; and

WHEREAS, said Section of the Constitution authorizes a home rule unit to exercise any power and perform any function pertaining to its government and affairs for the protection of the public safety, health, welfare and morals; and

WHEREAS, Yorkshire Plaza, LLC is owner of Yorkshire Plaza Shopping Centre located at the northwest corner of Route 59 and new York Street, which has three hundred sixty-one thousand, nine hundred ninety-one (361,991) square feet of leasable space, making the property one of the larger shopping centers in the city; and




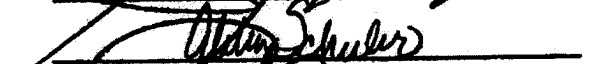



WHEREAS, Yorkshire Plaza, LLC has entered into a lease extension agreement with Best Buy Stores, LP (Best Buy), effective February 2011, and continuing for a period of ten years, ending January 31, 2021; and

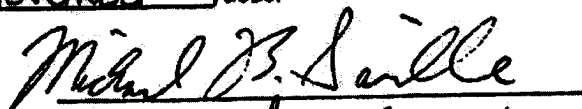

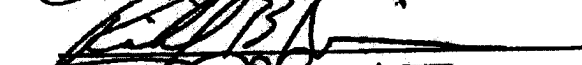
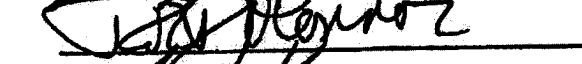



WHEREAS, in order to retain Best Buy in the City of Aurora and at Yorkshire Plaza in particular, both the City and Yorkshire Plaza, LLC acknowledge that Yorkshire Plaza, LLC will require economic assistance from the City, the particulars of which are contained in the "Sales Tax Revenue Sharing Agreement" attached hereto and made a part thereof; and

WHEREAS, the city's entry into the Sales Tax Revenue Sharing Agreement will benefit the City of Aurora with job retention, increased property values, and retention of retail sales taxes; and therefore is in the city's best interests.

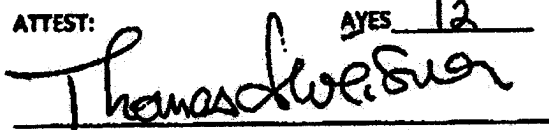
NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Aurora, Illinois, that the Mayor and City Clerk are hereby authorized to sign the attached Sales Tax Revenue Sharing Agreement.

PASSED AND APPROVED THIS 23rd DAY OF November, 2010.








ALDERMEN








ALDERMEN

ATTEST:


MAYOR THOMAS J. WEISNER

NAYS 0


CITY CLERK

SALES TAX REVENUE SHARING AGREEMENT

This Sales Tax Revenue Sharing Agreement (hereinafter referred to as the "Agreement") is entered into on this 23rd day of November, 2010 by and between the City of Aurora, Illinois, an Illinois Municipal Corporation (hereinafter referred to as the "CITY") and Yorkshire Plaza, LLC, a Delaware limited liability company (hereinafter referred to as "YORKSHIRE LLC"). (The CITY and YORKSHIRE LLC are hereinafter sometimes referred to herein individually as a "Party" or collectively as "Parties.")

RECITALS

A. The CITY is a home rule municipality and hereby enters into this Agreement pursuant to its home-rule powers; and pursuant to Section 6 (a) of Article VII of the Constitution of the State of Illinois of 1970, the CITY has determined that it has the authority to enter into this Agreement.

B. The CITY deems it to be of significant importance to encourage development and redevelopment within the CITY, so as to maintain a viable real estate tax and sales tax base and employment opportunities.

C. YORKSHIRE LLC is owner of the Yorkshire Plaza Shopping Center located at the northwest corner of Route 59 and New York Street (hereinafter referred to as the "PLAZA"); said PLAZA being legally described on Exhibit A attached hereto and made part hereof.

D. The PLAZA contains approximately three hundred sixty-one thousand nine hundred ninety-one (361,991) square feet of leasable space, with YORKSHIRE LLC

currently having lease contracts for approximately two hundred forty-four thousand four hundred eighty-six (244,486) square feet of said leasable space.

E. YORKSHIRE LLC intends to renew the lease with Best Buy Stores, L.P. (hereinafter referred to as "BEST BUY"), for approximately fifty-seven thousand nine hundred sixty (57,960) square feet of leasable space, with said renewed lease being effective for a ten (10) year period, beginning February 1, 2011, and ending January 31, 2021, with extension options available thereafter (hereinafter referred to as the "BB LEASE").

F. The BB LEASE will include requirements that YORKSHIRE LLC: (i) fund up to One Million and 00/100ths Dollars (\$1,000,000.00) in improvements and/or renovations which BEST BUY may complete to the interior and/or exterior of the BEST BUY premises, including building signage upgrades, furniture, fixtures and equipment; (ii) assist with the funding of leasing costs; and (iii) provide tenant inducements in the form of annual rent buy-downs for the full ten (10) years of the BB LEASE (hereinafter referred to as the "BEST BUY PROJECT"); with the cost of said BEST BUY PROJECT projected to be approximately Three Million One Hundred Fifteen Thousand Nine Hundred Twenty and 00/100^{ths} Dollars (\$3,115,920.00) as more fully detailed on Exhibit B attached hereto and made part of hereof.

G. The Parties anticipate that the BEST BUY PROJECT will maintain, and even possibly enhance, the CITY's real estate and sales tax base, and will maintain existing, and create additional, employment opportunities in the CITY, by maintaining current, and creating additional, sales, which will require the need for additional employees at BEST BUY.

H. Both YORKSHIRE LLC and the CITY acknowledge that a lease extension with BEST BUY will have a positive impact on the PLAZA's ability to attract new tenants and retain existing tenants, and will allow the PLAZA to remain competitive in future business attraction and retention.

I. Both YORKSHIRE LLC and the CITY acknowledge that YORKSHIRE LLC will require economic assistance from the CITY in order to complete the BEST BUY PROJECT. The description and anticipated costs of the BEST BUY PROJECT.

J. The CITY and YORKSHIRE LLC believe that unless the economic assistance is given by the CITY, the BEST BUY PROJECT, as contemplated, would not be economically feasible, and thus YORKSHIRE LLC would be unable to renew the lease with BEST BUY, and, as such, the CITY anticipates assisting YORKSHIRE LLC with a portion of the cost of the BEST BUY PROJECT in an amount not to exceed Two Million and 00/100ths Dollars (\$2,000,000.00) (hereinafter referred to as the "BEST BUY SHARED COSTS").

K. For purposes of this Agreement, the use of the terms "SALES TAX" or "SALES TAXES" shall be construed to refer to only the net portion of sales taxes imposed by the State of Illinois (hereinafter referred to as the "State"), for distribution to the CITY, pursuant to the Retailers' Occupation Tax Act, 35 ILCS 120/1 et seq. and the Service Occupation Tax Act, 35 ILCS 115/1 et seq. (as said Acts may be amended or pursuant to any replacement taxes enacted in lieu of said taxes), and which are distributed to the CITY by the State. The term "SALES TAX" shall not include any other taxes imposed by, or levied by, either the CITY or the State.

L. This Agreement is expressly limited to a rebate of fifty percent (50%) of the total amount of the SALES TAXES received by the CITY from sales at BEST BUY during the term of the BB LEASE, not to exceed the total amount of the BEST BUY SHARED COSTS.

M. The CITY and YORKSHIRE LLC agree that it is in their respective best interests to enter into the Agreement.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein made, the Parties hereto hereby agree as follows:

ARTICLE I
RECITALS AS PART OF AGREEMENT

The Parties acknowledge that the statements and representations contained in the foregoing Recitals are true and accurate, to the best of their respective knowledge and belief, without the requirement of further investigation or research, and incorporate such Recitals into this Agreement as if fully set forth herein as this Article I.

ARTICLE II
OBLIGATIONS OF YORKSHIRE LLC
CONDITION PRECEDENT TO CITY UNDERTAKINGS

2.01 Condition Precedent. Each of the obligations specified in this Article II shall be deemed as a condition precedent to the related, ongoing financial undertakings on the part of the CITY pursuant to this Agreement. The CITY shall only have those financial obligations for which YORKSHIRE LLC has satisfied all relevant requirements of this Article II.

2.02 Economic Assistance for BEST BUY PROJECT. In order to receive the economic assistance of the BEST BUY SHARED COSTS provided for in this Agreement

with respect to the BEST BUY PROJECT, YORKSHIRE LLC must enter into the BB LEASE, in accordance with the terms set forth in Recital "F", keeping BEST BUY in the CITY, so as to facilitate providing the benefits set forth in the Recitals to the CITY. All improvements made to the BEST BUY premises shall be built in accordance with all CITY approvals and all applicable ordinances, rules and regulations of the CITY. YORKSHIRE LLC shall not knowingly cause or permit the existence of any violation of CITY ordinances, including but not limited to, the building code, zoning ordinance, fire code and all rules and regulations thereunder. To the extent any work in relation to the BEST BUY PROJECT is performed by contractors under the control of YORKSHIRE LLC, prevailing wages, as provided for by the Illinois Prevailing Wage Act, shall be paid relative to said work, as provided for in Section 2.07 below.

2.03 Sales Tax Information. YORKSHIRE LLC shall require BEST BUY to either (A) provide its sales and SALES TAX information from the BEST BUY premises directly to the CITY, or (B) provide written consent to the CITY obtaining the relevant sales and SALES TAX information from the State. CITY acknowledges that YORKSHIRE LLC has no direct access to sales and SALES TAX information from which it can make representations or warranties. CITY shall use the information provided by BEST BUY and/or the State to calculate the payments to be provided to YORKSHIRE LLC, relative to the BEST BUY SHARED COSTS. YORKSHIRE LLC hereby acknowledges that the CITY shall have no obligation to refund any SALES TAX under this Agreement unless it can verify the appropriate amount to be refunded, pursuant to the information to be supplied to the CITY under this Section.

2.04 Sales Tax Reporting and Confidentiality. The CITY, upon receipt of said sales tax information directly from Best Buy and/or the State, shall provide YORKSHIRE LLC with a summary of that information, along with a calculation of the payments to YORKSHIRE LLC for each calendar year of the Revenue Sharing Term, as hereinafter defined. Such report shall be certified as accurately reflecting the information provided to the CITY by an officer of the CITY. Upon written request from CITY, YORKSHIRE LLC will provide any sales and SALES TAX information that it receives. The CITY shall deliver its report to YORKSHIRE LLC on a quarterly basis before the fifteenth (15th) day following the end of the calendar quarter for which the CITY is reporting. The CITY shall then issue payment to YORKSHIRE LLC within forty-five (45) days of the delivery of said report. Upon written request, the CITY shall have the right to review YORKSHIRE LLC's records relative to the BEST BUY PROJECT. The CITY hereby represents and warrants that any and all information regarding SALES TAXES shall be confidential and used only for the purpose of calculating any amounts due and owing to YORKSHIRE LLC pursuant to this Agreement. The CITY acknowledges that sales and SALES TAX information is proprietary financial information which, if disclosed, would place the supplier thereof at a competitive disadvantage, and, therefore, not subject to disclosure pursuant to the Freedom of Information Act. YORKSHIRE LLC agrees that the CITY's compliance with any court order to produce information shall not subject the CITY to any liability hereunder for the release of said information. The CITY shall provide both YORKSHIRE LLC and BEST BUY prompt written notice of any such attempt to gain access to the sales and SALES

TAX information, and cooperate with either or both should either or both elect to challenge any such attempt.

2.05 Real Estate Taxes and Other Charges. YORKSHIRE LLC hereby covenants and agrees to promptly pay, or cause to be paid before becoming delinquent, subject to any appeal rights, any and all real estate taxes and governmental charges of general applicability that may at any time be lawfully finally assessed with respect to YORKSHIRE LLC or the PLAZA.

2.06 Certification of Project Costs. YORKSHIRE LLC shall supply the CITY with the actual costs for the BEST BUY PROJECT, including documentary support for the BEST BUY rent buy down inducement and leasing costs, certified as true by an officer of YORKSHIRE LLC, and such other reasonable and relevant information, at the written request of the CITY's Chief Development Officer or Finance Director, as the Chief Development Officer or Finance Director shall request to determine that all said costs are reimbursable under this Agreement. YORKSHIRE LLC represents and warrants that all such information produced to the CITY pursuant to this provision and the further provisions of this Agreement are and will be at all times in the future be true and accurate and agrees that the CITY may, and for the purposes of this Agreement does, rely on the truth and accuracy of said information as a basis for making required payments under the terms of this Agreement. Except as otherwise provided by law, the CITY agrees to keep the foregoing information confidential as financial information that is proprietary to YORKSHIRE LLC and BEST BUY, in the same manner as set forth relative to Sales and sales Tax information under Section 2.04 above

2.07 Prevailing Wage Requirement. YORKSHIRE LLC shall pay "Prevailing Wage Rates" to any workers hired by YORKSHIRE LLC or contractors and subcontractors hired directly by YORKSHIRE LLC, if any, with respect to the BEST BUY PROJECT. The CITY acknowledges that YORKSHIRE LLC has no contractual right or ability to impose this requirement on BEST BUY, its contractors or subcontractors.

ARTICLE III **CITY OBLIGATIONS AND UNDERTAKINGS**

3.01 Economic Assistance. Upon satisfaction by YORKSHIRE LLC of all of the applicable conditions stated in Article II hereof, the CITY, relying on the representations and warranties of YORKSHIRE LLC, in order to make retention of BEST BUY economically viable, shall help to defray YORKSHIRE LLC's BEST BUY SHARED COSTS by rebating certain SALES TAXES to YORKSHIRE LLC, in accordance with the terms and conditions of this Agreement. Payments of SALES TAXES to be made by the CITY to YORKSHIRE LLC, pursuant to this Agreement, shall be made by the CITY to YORKSHIRE LLC for BEST BUY SHARED COSTS, from SALES TAXES on BEST BUY sales for a period of up to ten (10) years, beginning February 1, 2011, or until the full BEST BUY SHARED COSTS have been reimbursed, whichever occurs first (the aforementioned ten (10) year period, being referred to sometimes herein as the "Revenue Sharing Term"). The annual payments to YORKSHIRE LLC by the CITY shall be subject to all of the terms and conditions contained herein, and YORKSHIRE LLC'S compliance with any applicable requirements of this Agreement.

3.02 Commencement Date; Revenue Sharing Term. YORKSHIRE LLC shall give the CITY a sixty (60) day written notice stating that it has satisfied all of the conditions of Section 2.02 of this Agreement, and that it is electing to commence the Revenue Sharing Term for BEST BUY. The notice shall specify the Commencement Date as no earlier than February 1, 2011.

ARTICLE IV **GENERAL PROVISIONS**

4.01 Delay and Force Majeure. For the purposes of any of the provisions of this Agreement, neither the CITY nor YORKSHIRE LLC, as the case may be, nor any successors in interest, shall be considered in breach of, or default in, its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain or storms or below freezing temperatures of abnormal degree or quantity for an abnormal duration, tornadoes and other events or conditions beyond the reasonable control of the Party affected which in fact interfere with the ability of such Party to discharge its respective obligations hereunder. This provision shall not apply to extend times for the CITY to satisfy its payment obligations beyond thirty (30) business days.

4.02 Assignment of Agreement. This Agreement may be assigned by YORKSHIRE LLC to a bona fide purchaser of its business, provided the transaction does not violate 65 ILCS 5/8-11-20, or any statute enacted to amend or replace 65 ILCS 5/8-11-20 and provided reasonable notice of such assignment is given to the CITY prior to said assignment and further that the assignee agrees to be bound by all of the terms,

conditions and provisions of this Agreement, including, but not limited to, the CITY's default remedies.

4.03 YORKSHIRE LLC Authority. YORKSHIRE LLC hereby represents and warrants that it is a limited liability company authorized to do business in, and in good standing with the State of Illinois. YORKSHIRE LLC further represents and warrants that all actions necessary to make YORKSHIRE LLC's obligations hereunder enforceable against YORKSHIRE LLC have been taken, and that no further approvals or actions are required.

4.04 Defaults Remedies.

- (A) In the event of any default under or violation of this Agreement, the Party not in default or violation shall serve written notice upon the Party in default or violation, which notice shall be in writing and shall specify the particular violation or default. Each Party shall have the right to cure any violation of this Agreement or default within thirty (30) days from written notice of such default (or if such violation or default cannot reasonably be cured in said time, the defaulting Party shall begin the cure within said timeframe and then diligently pursue completion of same). In the event of default by the CITY of its obligations to YORKSHIRE LLC provided for in Article III, YORKSHIRE LLC's sole and exclusive remedy shall be to seek specific performance from a court of competent jurisdiction plus interest at the rate of prime plus three percent (3%) (hereinafter referred to as "Interest") on any past due amounts and the remedy set forth in (C) below. YORKSHIRE LLC will not be entitled to any other monetary damages

(beyond collection of amounts due, interest, and attorney fees) from the CITY and hereby expressly waives any claim for monetary damages.

(B) In the event that YORKSHIRE LLC fails to meet the provisions of this Agreement, the CITY shall have the following sole and exclusive remedies (plus the rights set forth in subsection (c) below):

1. Suspension of future payments under Section 3.01 above, until such time as the default has been cured; and
2. Specific performance of the violated terms of the Agreement.

(C) The non-prevailing Party in any action taken between the Parties on or relating to the obligations and rights under this Agreement shall pay the prevailing Party's reasonable costs and expenses, including reasonable attorney fees, in such action.

4.05 Notices. All notices and requests required pursuant to this Agreement shall be sent certified mail as follows:

to YORKSHIRE LLC: Yorkshire Plaza, LLC
 c/o Kimco Realty Corporation
 3333 New Hyde Park Road
 Suite 100
 New Hyde Park, N.Y. 11042

with copies to: Kimco Realty Corporation
 c/o Robert Nadler
 10600 West Higgins
 Suite 408
 Rosemont, IL 60018

to the CITY: City Clerk
 City of Aurora
 44 East Downer Place
 Aurora, Illinois 60507

with copies to: Corporation Counsel
 City of Aurora

44 East Downer Place
Aurora, Illinois 60507

or at such other addresses as the Parties may indicate in writing to the other either by personal or overnight delivery or by certified or registered mail, return receipt requested, with proof of delivery thereof. Notices shall be deemed effective on the date received or refused.

4.06 Law Governing. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois. Venue for any legal action brought by either Party as a result of entering into the Agreement shall be in State Court in Illinois having jurisdiction over the PLAZA and/or the CITY.

4.07 Time. Time is of the essence under this Agreement and all time limits set forth are mandatory and cannot be waived except by a lawfully authorized and executed written waiver by the Party excusing such timely performance.

4.08 Limitation of Liability. Notwithstanding anything herein contained to the contrary by implication or otherwise, any obligations of the CITY created by or arising out of this Agreement shall not be a general debt of the CITY on or a charge against its general credit or taxing powers, but shall be a limited obligation payable solely out of the specific SALES TAXES generated by BEST BUY as set forth herein, and shall further be limited to the actual sum of money required to be paid to YORKSHIRE LLC by the CITY (plus Interest and attorney fees as set forth above).

4.09 No Waiver or Relinquishment of Right to Enforce Agreement. Failure of any Party to this Agreement to insist upon the strict and prompt

performance of the terms covenants, agreements, and conditions herein contained, or any of them, upon the other Party imposed, shall not constitute or be construed as a waiver or relinquishment of any Party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect unless waived in a writing signed by the waiving Party.

4.10 Paragraph Headings and Subheadings. All paragraph headings or other headings in this Agreement are for the general aid of the reader and shall not limit the plain meaning or application of any of the provisions thereunder whether covered or relevant to such heading or not.

4.11 Authorization to Execute. The manager(s) of YORKSHIRE LLC who have executed this Agreement warrant that he/she/they respectively have been lawfully authorized by YORKSHIRE LLC to execute this Agreement. The Mayor and Clerk of the CITY hereby warrant that they have been lawfully authorized by the City Council of the CITY to execute this Agreement.

4.12 Amendment. This Agreement sets forth all the promises, inducements, agreements, conditions and understandings between YORKSHIRE LLC and the CITY relative to the subject matter thereof. There are no promises, agreements, conditions or understandings, either oral or written, express or implied, between them, other than as herein set forth. No subsequent alternation, amendment, change or addition to this Agreement shall be binding upon the Parties hereto unless authorized in accordance with law and reduced in writing and signed by them.

4.13 Counterparts. This Agreement may be executed in two (2) or more counterparts each of which taken together, shall constitute one and the same instrument.

4.14 Severability. If any provision of this Agreement is held invalid by a court of competent jurisdiction, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect any of the other provisions contained herein unless in so doing the fundamental purposes of this Agreement are frustrated or made impossible.

Dated this 13th day of DECEMBER, 2010.

2/10 YORKSHIRE PLAZA, LLC, a Delaware limited liability company
By: KUBS Income Fund I, LP, a DE limited partnership, its managing member
By: KUBS Income Fund I GP Business Trust, a MD business trust, its general partner

By: Robert Nadler Attest: GARY J. GRZDOW
Name: ROBERT NADLER Name: GARY J. GRZDOW
Title: VICE-PRESIDENT Title: REGIONAL COUNSEL

City of Aurora, an Illinois municipal corporation

By:

Paul J. Sosa
Mayor

Attest:

Cheryl M. Donohoff
City Clerk