

RECORDING REQUESTED BY

Ross Dress For Less, Inc.

PREPARED BY AND WHEN RECORDED MAIL TO:

Bartko, Zankel, Bunzel & Miller
One Embarcadero Center, Suite 800
San Francisco, CA 94111
Attn: Theani C. Louskos, Esq.



W2844823

E# 2844823 PG 1 OF 9
LEANN H KILTS, WEBER COUNTY RECORDER
28-FEB-17 133 PM FEE \$26.00 DEP DC
REC FOR: ROSS DRESS FOR LESS

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

MEMORANDUM OF LEASE

APN: 12-241-0001. *rw*

1. This Memorandum of Lease is effective upon recordation and is entered into by and between OGDEN COMMONS, LLC, a Utah limited liability company ("Landlord"), having its principal place of business at 1178 W. Legacy Crossing Blvd., Suite 100, Centerville, UT 84014, and ROSS DRESS FOR LESS, INC., a Virginia corporation ("Tenant"), having its principal place of business at 5130 Hacienda Drive, Dublin, CA 94568-7579, who agree as follows:

2. By written lease (the "Lease"), Landlord leases to Tenant and Tenant hires from Landlord a portion of the real property located in the City of Ogden, County of Weber, State of Utah, described in Exhibit A hereto, for a term of approximately ten (10) years which term is subject to extension by Tenant for four (4) additional periods of five (5) years each. The Exhibit A lands are sometimes herein referred to as the "Shopping Center."

3. Landlord has granted Tenant and its authorized representatives and invitees the nonexclusive right to use the Shopping Center common area with others who are entitled to use those areas subject to Landlord's rights as set forth in the Lease.

4. The provisions of the Lease are incorporated into this Memorandum of Lease by reference. The Lease contains the following provision(s):

"3.2.1. Retail Use.

(a) General. Tenant has entered into this Lease in reliance upon representations by Landlord that Landlord's Parcel is and shall remain retail in character, and, further, except as provided in Section 3.2.1(b) below, no part of Landlord's Parcel shall be used for office or residential purposes or as a theater, auditorium, meeting hall, school, church or other place of public assembly, "flea market," mortuary or funeral home, veterinary services or pet vaccination clinic or overnight stay pet facilities (except as an incidental use in conjunction with the operation of a national or regional pet store retailer, but not within one hundred (100) feet of the front and side perimeter walls

of the Store, subject, however, to Section 3.2.1(b)(i)), gymnasium or health club, dance hall, billiard or pool hall, massage parlor, video game arcade, bowling alley, skating rink, car wash, facility for the sale, display, leasing or repair of motor vehicles, on-premises consumption of alcoholic beverages except as incidental to a primarily restaurant use, including any night club, bar, sports bar, or any restaurant where the on-premises consumption of alcohol exceeds forty percent (40%) of gross sales (and which shall include Elephant Bar and BJ's Brewhouse regardless of the percentage sale of alcohol, and other similar establishments), facility offering gambling to the public (including any so called Internet café that offers gambling to the public, off track betting facility, casino or gaming facility), provided that the incidental sale of lottery tickets shall be permitted, the sale of adult products or adult bookstores or adult audio/video products stores (which are defined as stores in which at least ten percent (10%) of the inventory is not available for sale or rental to children under the age of majority in the state in which the Store is located because such inventory explicitly deals with or depicts human sexuality). No ATM or similar machine shall be permitted in Landlord's Parcel within one hundred (100) feet of the front and side perimeter walls of the Store, except if located wholly within the interior of another tenant's or occupant's premises. Other than a supermarket or grocery store, Landlord shall not permit the sale of whole bean or ground coffee in Landlord's Parcel by a nationally known specialty coffee retailer, having one thousand (1,000) stores or more and leasing or occupying five thousand (5,000) square feet of Leasable Floor Area or less. Further, except as set forth in Section 3.2.1(b)(iv)(B), no restaurant or other "High Intensity Parking User" (as hereinafter defined) shall be permitted in Landlord's Parcel within two hundred (200) feet of the front and side perimeter walls of the Store. A "High Intensity Parking User" is a tenant or occupant whose use requires more than five (5) parking spaces per one thousand (1,000) square feet of Leasable Floor Area in accordance with governmental regulations. The foregoing use restrictions are referred to herein as the "Ross Prohibited Uses."

(b) Exceptions.

(i) Existing Tenants. The Ross Prohibited Uses set forth in Section 3.2.1(a) shall not apply to those tenants or occupants operating in Landlord's Parcel and listed on Exhibit K who lease space in Landlord's Parcel pursuant to leases or occupancy agreements in effect on the Effective Date, and their like kind replacements operating in the same space as the tenant being replaced (the "Existing Tenants"), and who, in accordance with the terms of said existing leases or occupancy agreements cannot be prohibited from so operating, but only for the balance of the term(s) of such existing lease(s) or occupancy agreement(s), including any extension periods. Landlord covenants and agrees that if Landlord has the right to consent to a change in use of the premises by any such Existing Tenant, Landlord shall

not consent to a change in use which violates the Ross Prohibited Uses set forth in Section 3.2.1(a).

(ii) Notwithstanding the prohibition on health clubs and gymnasiums set forth in Section 3.2.1(a) above, one (1) health club not to exceed five thousand (5,000) square feet of Leasable Floor Area shall be permitted, provided that such health club shall not be located within two hundred (200) feet of the front and side perimeter walls of the Store.

(iii) Notwithstanding the prohibition on massage parlors set forth in Section 3.2.1(a) above, the following massage services shall be permitted: (A) massage services provided as incidental to a chiropractor's office use, to the extent such use is otherwise permitted under this Lease; and (B) massage services provided by a nationally recognized day spa or nationally recognized therapeutic massage facility (such as, but not limited to, Massage Envy), provided that such day spa or therapeutic massage facility shall not exceed three thousand (3,000) square feet of Leasable Floor Area and is not located within one hundred (100) feet of the front and side perimeter walls of the Store.

(iv) Notwithstanding the prohibition on video game arcades set forth in Section 3.2.1(a) above, the following arcades shall be permitted: (A) one (1) video game arcade not to exceed three thousand (3,000) square feet of Leasable Floor Area, provided that such arcade is not located within one hundred (100) feet of the front and side perimeter walls of the Store; and (B) Chuck E. Cheese's, Peter Piper Pizza and similar retailers where games are incidental to food services, provided that such use is not located within three hundred (300) feet of the front and side perimeter walls of the Store."

"15.3. Protection.

(a) Without the prior written consent of Tenant, which consent may be withheld in the absolute and sole discretion of Tenant, no tenant or occupant of Landlord's Parcel (other than Tenant) may use, and Landlord, if it has the capacity to do so, shall not permit any other tenant or occupant of Landlord's Parcel to (i) use its premises for the Off Price Sale (as hereinafter defined) of merchandise, or (ii) use more than ten thousand (10,000) square feet of Leasable Floor Area of its premises for the sale of apparel (except for discount department stores in excess of eighty five thousand (85,000) square feet of Leasable Floor Area), or (iii) use in excess of five hundred (500) square feet of Leasable Floor Area of its premises for the sale of silk flowers or picture frames, or (iv) use in excess of four thousand (4,000) square feet of Leasable Floor Area of its premises for the sale of any of the other types of merchandise specified in Section 15.1 above; provided, however, that a specialty shoe store shall be permitted. For purposes of this Section 15.3(a), "Off Price Sale" shall mean the retail sale of merchandise on an everyday basis at prices reduced from those charged by full price retailers, such as full

price department stores; provided, however, this definition shall not prohibit sales events by a retailer at a price discounted from that retailer's everyday price. (As of the Effective Date, examples of Off Price Sale retailers include such retailers as T.J. Maxx, Marshalls, Fallas Paredes, Nordstrom Rack, Factory 2U, Burlington Coat, Steinmart, Filene's Basement, Gordmans and Beall's Outlet.)

(b) The provisions of Section 15.3(a) shall not prohibit Landlord from leasing space on Landlord's Parcel to everyday "full price" retailers, such as PetSmart, Petco (or similar full price pet product retailers), Big 5 Sports, Dick's Sporting Goods, Office Depot, Office Max, Barnes and Noble, Rue 21, Fashion 21, Kirkland's and GenX; provided that (i) such retailers continue to operate their respective businesses as such retailers operate their businesses as of the Effective Date (and remain "full price" retailers); (ii) with respect to Rue 21, Fashion 21 and GenX and any other full price retailer primarily selling apparel, the Leasable Floor Area of such retailer shall not exceed ten thousand (10,000) square feet; and (iii) with respect to Kirkland's and any other full price retailer primarily selling home goods, the Leasable Floor Area of such retailer shall not exceed eight thousand (8,000) square feet.

(c) The restrictions set forth in Section 15.3(a) shall not apply to Existing Tenants who, in accordance with the terms of existing leases or occupancy agreements in effect on the Effective Date cannot be prohibited from so operating, but only for the balance of the term(s) of such existing lease(s) or occupancy agreement(s) (including any extensions of such terms). Landlord covenants and agrees that if Landlord has the right to consent to a change in use of the premises occupied by any such Existing Tenant, Landlord shall not consent to a change in use which violates the restrictions set forth in Section 15.3(a)."

5. The terms, conditions, restrictions and covenants in the Lease, including the provisions of the Lease to be performed by Landlord whether to be performed at the Tenant's store, or any other portion of the Shopping Center, whether affirmative or negative in nature shall run with the real property comprising the Shopping Center and shall inure to the benefit of and be binding upon the parties hereto and the heirs, executors, administrators, successors, assigns and other successors in interest to the parties hereto.

6. This Memorandum of Lease is prepared for the purpose of constructive notice and in no way modifies the provisions of the Lease.

Contents of Memorandum of Lease:

Paragraphs 1-6

Exhibit A - Legal Description of the Shopping Center
(Landlord's Parcel)

Exhibit B - Site Plan


IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Memorandum of Lease on the respective dates shown below.

LANDLORD:
OGDEN COMMONS, LLC,
a Utah limited liability company

TENANT:
ROSS DRESS FOR LESS, INC.,
a Virginia corporation

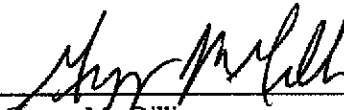
By: MILLCREEK PARTNERS LLC,
a Utah limited liability company
its Managing Member

By: 
James Fasso
Its: President and Chief Development Officer

By: 
Name: Gary M. Wright
Title: Manager

Dated: NOVEMBER 7, 2016

Dated: 11/10/16

By: 
Gregg McGillis
Its: Group Senior Vice President, Property Development

Dated: NOVEMBER 7, 2016

TENANT ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)
County of Alameda)

On November 7, 2016 before me, Sarah R. Hernandez,
a Notary Public, personally appeared James Fassio and Gregg McGillis, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Sarah R. Hernandez
Notary Public



LANDLORD ACKNOWLEDGMENT

State of Utah)
)
County of Davis)

On November 10, 2016 before me, Julie B. Boyle, a Notary Public, personally appeared Gary M. Wright, personally known to me or who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Julie B. Boyle
Notary Public

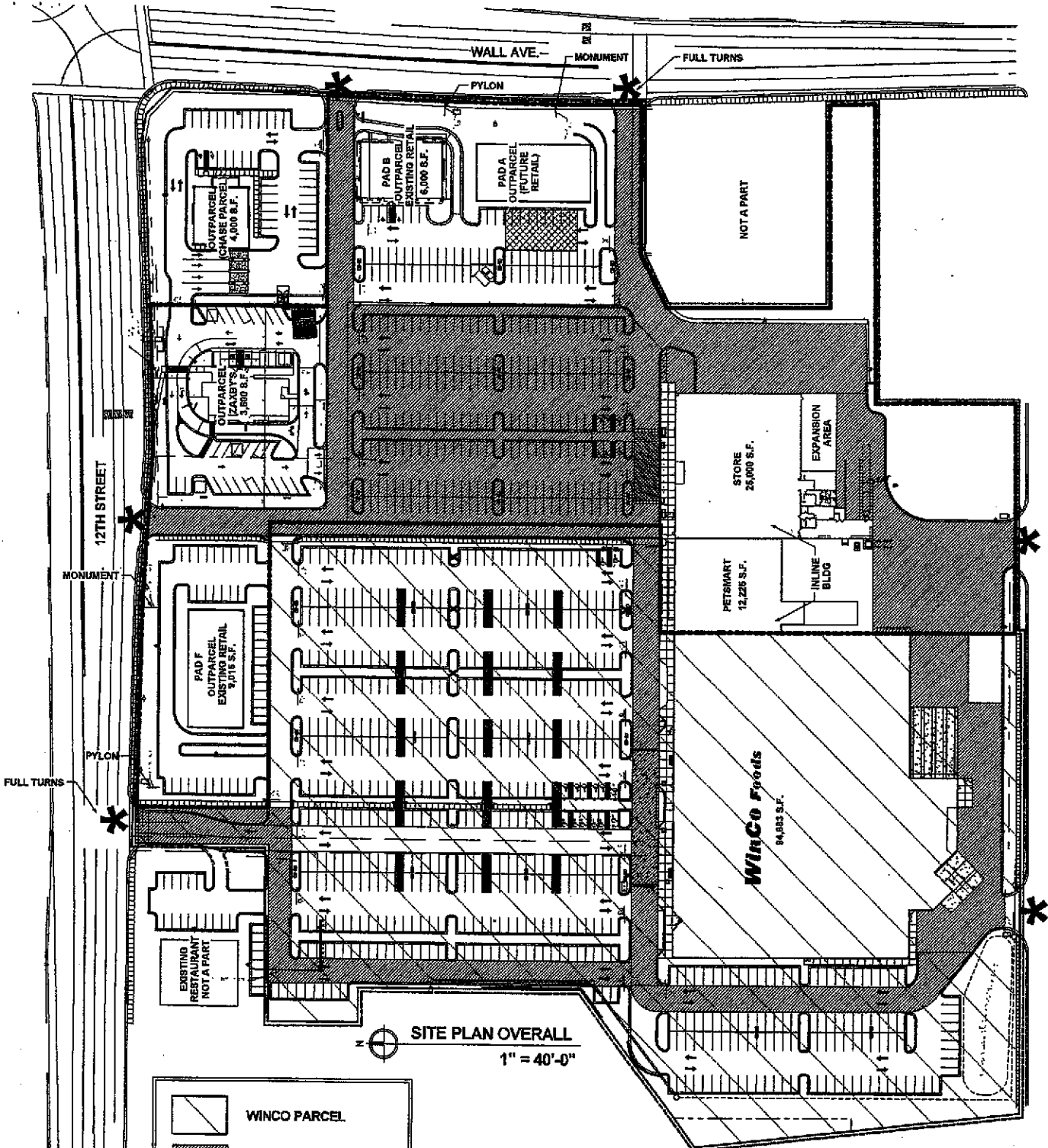


EXHIBIT A

LEGAL DESCRIPTION OF THE SHOPPING CENTER

(LANDLORD'S PARCEL)

Lot 2, THE COMMONS AT OGDEN - FIRST AMENDMENT, according to the Official Plat thereof as recorded in the Office of the Weber County Recorder, State of Utah.



SITE PLAN OVERALL
1" = 40'-0"









-  WINCO PARCEL
-  CONTROL AREA
-  INGRESS AND EGRESS
-  LANDLORD'S PARCEL
LEASABLE FLOOR AREA: 150,423 SF
-  SHOPPING CENTER
LEASABLE FLOOR AREA: 154,423 SF
-  REFURBISHMENT AREA
-  PERMITTED PETSMA RT
OOPS STATIONS
-  CONSTRUCTION STAGING
AREA

EXHIBIT B

STORE #2001
OGDEN, UT
11/2/2016