

E 3027525 B 6790 P 295-303  
RICHARD T. MAUGHAN  
DAVIS COUNTY, UTAH RECORDER  
06/20/2017 11:49 AM  
FEE \$26.00 Pgs: 9  
DEP RT REC'D FOR ROSS STORES INC

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.

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

MEMORANDUM OF LEASE

1 APN: 14-476-0001, 14-476-0002, 14-476-0005, 14-479-0008, 14-479-0009, 14-479-0010, 14-479-  
2 0011, 14-479-0012, and 14-479-0013.

3  
4 1. This Memorandum of Lease is dated as of the date of recordation hereof and is  
5 entered into by and between CLINTON CITY CENTER, LLC, a Utah limited liability company  
6 ("Landlord"), having its principal place of business at 1178 Legacy Crossing Blvd., Suite 100,  
7 Centerville, UT 84014, and ROSS DRESS FOR LESS, INC., a Virginia corporation ("Tenant"),  
8 having its principal place of business at 5130 Hacienda Drive, Dublin, CA 94568-7579.

9 2. By written lease (the "Lease"), Landlord leases to Tenant and Tenant hires from  
10 Landlord a portion of the real property located in the City of Clinton, County of Davis, State of  
11 Utah, described in Exhibit A hereto (the "Shopping Center"), for a term of approximately ten (10)  
12 years which term is subject to extension by Tenant for four (4) additional periods of five (5) years  
13 each.

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

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

19 "3.2.1. Retail Use.

20 (a) General. Tenant has entered into this Lease in reliance upon  
21 representations by Landlord that the Shopping Center is and shall remain  
22 retail in character, and, further, except as provided in Section 3.2.1(b) below,  
23 no part of the Shopping Center shall be used for office or residential  
24 purposes or as a theater, auditorium, meeting hall, school, church or other  
25 place of public assembly, "flea market," mortuary, gymnasium, veterinary  
26 services or pet vaccination clinic or overnight stay pet facilities (except as an  
27 incidental use in conjunction with the operation of a national or regional pet  
28 store retailer, provided such pet store retailer is not located within three

1 hundred (300) feet of the front and side perimeter walls of the Store), health  
2 club, dance hall, billiard or pool hall, massage parlor, video game arcade,  
3 bowling alley, skating rink, car wash, facility for the sale, display, leasing or  
4 repair of motor vehicles, night club, on-premises consumption of alcoholic  
5 beverages except as incidental to a primarily restaurant use, facility offering  
6 gambling to the public (including any so called Internet café that offers  
7 gambling to the public, off track betting facility, casino or gaming facility),  
8 provided that the incidental sale of lottery tickets shall be permitted, the sale  
9 of adult products or adult bookstores or adult audio/video products stores  
10 (which are defined as stores in which at least ten percent (10%) of the  
11 inventory is not available for sale or rental to children under the age of  
12 majority in the state in which the Store is located because such inventory  
13 explicitly deals with or depicts human sexuality). No tenant or occupant of  
14 the Shopping Center, other than Tenant, shall be permitted to use its  
15 premises for the sale of whole bean and ground coffee, other than a  
16 supermarket, grocery store, or a retailer with less than one thousand (1,000)  
17 retail outlets operating in more than five thousand (5,000) square feet of  
18 Leasable Floor Area. Landlord shall not lease space nor allow space to be  
19 occupied in the Shopping Center by any occupant other than Tenant, whose  
20 use of the space shall be (a) for a store primarily selling merchandise at one  
21 price or set prices such as 99 Cents store or a Family Dollar store, as they are  
22 operated as of the Effective Date, and other such types of operations.  
23 Further, no restaurant or other "High Intensity Parking User" (as hereinafter  
24 defined) shall be permitted in the Shopping Center within two hundred  
25 twenty (220) feet of the front and side perimeter walls of the Store. A "High  
26 Intensity Parking User" is a tenant or occupant whose use requires more than  
27 five (5) parking spaces per one thousand (1,000) square feet of Leasable  
28 Floor Area in accordance with governmental regulations. The foregoing use  
29 restrictions are referred to herein as the "Ross Prohibited Uses."

30 (b) Exceptions. Notwithstanding the prohibitions specified in  
31 Section 3.2.1(a) above, the following exceptions shall apply:

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

1 (ii) Offices. Office uses shall be permitted in Building C,  
2 as shown on Exhibit B, provided that the aggregate Leasable Floor Area of  
3 all office uses, including retail service offices (as defined in Section 1.7.1) and  
4 including office uses permitted to Existing Tenants pursuant to existing  
5 leases or occupancy agreements in effect on the Effective Date, does not  
6 exceed ten percent (10%) of the total Leasable Floor Area of the Shopping  
7 Center;

8 (iii) School or Tutoring Facility. One (1) school or retail  
9 tutoring outlet, such as Sylvan Learning Center, is permitted in the Shopping  
10 Center, provided that such use is not located within three hundred (300) feet  
11 of the front and side perimeter walls of the Store;

12 (iv) Gymnasium or Health Club. One (1) gymnasium or  
13 health club with more than three thousand (3,000) square feet of Leasable  
14 Floor Area shall be permitted in the Shopping Center provided that such use  
15 is located not less than three hundred (300) feet of the front and side  
16 perimeter walls of the Store;

17 (v) Therapeutic Massage Services. One (1) facility  
18 offering therapeutic massage services to the public in a day spa or health  
19 club, or a retail provider of therapeutic massage services, such as Massage  
20 Envy or in a chiropractic office, shall be permitted in the Shopping Center  
21 provided that such use is not located within the Northwest Quadrant; and

22 (vi) Video Game Arcade. Video game arcades are  
23 permitted as incidental to a permitted restaurant use, such as Chuck E.  
24 Cheese or Peter Piper Pizza, provided that such restaurant with video games  
25 is not located within three hundred fifty (350) feet of the front and side  
26 perimeter walls of the Store.”

27 “15.3. Protection.

28 (a) Without the prior written consent of Tenant, which consent  
29 may be withheld in the absolute and sole discretion of Tenant, no tenant or  
30 occupant of the Shopping Center (other than Tenant) may use, and  
31 Landlord, if it has the capacity to do so, shall not permit any other tenant or  
32 occupant of the Shopping Center to (i) use its premises for the Off Price Sale  
33 (as hereinafter defined) of merchandise, or (ii) use more than ten thousand  
34 (10,000) square feet of Leasable Floor Area of its premises for the sale of  
35 apparel (except for discount department stores in excess of eighty five  
36 thousand (85,000) square feet of Leasable Floor Area), or (iii) use in excess of  
37 one thousand (1,000) square feet of Leasable Floor Area of its premises for  
38 the sale of (A) silk flowers, picture frames, wedding and other party goods, or  
39 (B) health and beauty aids and related sundries, or (iv) use its premises for  
40 the sale of whole bean and ground coffee, other than a supermarket, grocery  
41 store, or a retailer with less than one thousand (1,000) retail outlets operating  
42 in more than five thousand (5,000) square feet of Leasable Floor Area, or (v)

1 use in excess of two thousand five hundred (2,500) square feet of Leasable  
2 Floor Area of its premises for the sale of any of the other types of  
3 merchandise specified in Section 15.1 above (except that the restrictions of  
4 this clause (v) shall not prohibit Landlord from leasing to a tenant that sells  
5 pet supplies in no more than thirteen thousand (13,000) square feet of  
6 Leasable Floor Area). For purposes of this Section 15.3, "Off Price Sale"  
7 shall mean the retail sale of merchandise on an everyday basis at prices  
8 reduced from those charged by full price retailers, such as full price  
9 department stores; provided, however, this definition shall not prohibit sales  
10 events by a retailer at a price discounted from that retailer's everyday price.  
11 (As of the Effective Date, examples of Off Price Sale retailers include such  
12 retailers as T.J. Maxx, Marshalls, Fallas Paredes, Nordstrom Rack, Factory  
13 2U, Burlington Coat, Steinmart, Filene's Basement, Gordmans and Beall's  
14 Outlet.)

15 (b) The provisions of Section 15.3(a) shall not prohibit Landlord  
16 from leasing space in the Shopping Center to everyday "full price" retailers,  
17 such as Big 5 Sports, Dick's Sporting Goods, Office Depot, Office Max,  
18 Barnes and Noble, Rue 21, Fashion 21, Kirkland's and GenX, provided that  
19 (i) such retailers continue to operate their respective businesses as such  
20 retailers operate their businesses as of the Effective Date (and remain "full  
21 price" retailers), (ii) with respect to Rue 21, Fashion 21 and GenX and any  
22 other full price retailer primarily selling apparel, the Leasable Floor Area of  
23 such retailer shall not exceed ten thousand (10,000) square feet; and (iii) with  
24 respect to Kirkland's and any other full price retailer primarily selling home  
25 goods, the Leasable Floor Area of such retailer shall not exceed eight  
26 thousand (8,000) square feet.

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

36 (d) Landlord represents, and Tenant acknowledges, that as of the  
37 Effective Date, Landlord has entered into a lease with Downeast Outfitters  
38 for the premises located adjacent to the Store in the Shopping Center.  
39 Provided that: (i) Tenant is not subject to any exclusive use or other  
40 restriction imposed by Downeast Outfitters with respect to the Shopping  
41 Center, and (ii) the height of the Downeast Outfitters building does not  
42 exceed the height of the Store and otherwise complies with the building  
43 requirements set forth in this Lease, then Tenant agrees that the provisions  
44 of Section 15.3(a) above shall not apply to Downeast Outfitters."

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

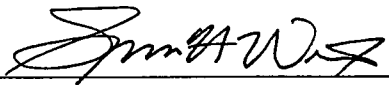
7           6.       This Memorandum of Lease is prepared for the purpose of constructive notice and  
8 in no way modifies the provisions of the Lease. This Memorandum of Lease describes only selected  
9 provisions of the Lease. In the event of any inconsistency between the terms, conditions, provisions  
10 and covenants of this Memorandum of Lease and the terms, conditions, provisions and covenants  
11 of the Lease, the terms, conditions, provisions and covenants of the Lease shall prevail.

12           Contents of Memorandum of Lease:

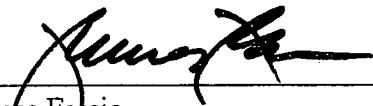
- Paragraphs 1-6
- Exhibit A - Legal Description of the Shopping Center
- Exhibit B - Site Plan

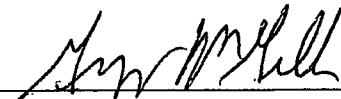
13           IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Memorandum of  
14 Lease on the respective dates shown below.  
15

**LANDLORD:**  
**CLINTON CITY CENTER, LLC,**  
a Utah limited liability company

By:   
Name: SPENCER H. WRIGHT  
Its: MANAGER  
Dated: 5/19/17

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

By:   
Name: James Fassio  
Its: President and Chief Development Officer  
Dated: May 18, 2017

By:   
Name: Gregg McGillis  
Its: Group Senior Vice President, Property Development  
Dated: May 18, 2017

16  
17

1

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.

2

State of California )  
County of Alameda )

3

4

5

6

7

8

9

10

11

On May 18, 2017 before me, Sandra Powers,  
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.

12

13

14

15

16

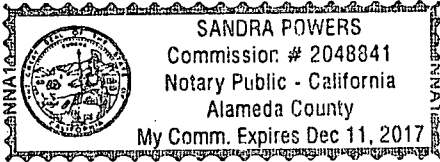
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal:

*Sandra Powers*  
Notary Public

17

18



LANDLORD ACKNOWLEDGMENT

1 State of Utah)  
2 )  
3 County of Davis)  
4 )

5 On May 19, 2017 before me, Julie B. Boyle, a Notary Public,  
6 personally appeared Spencer H. Wright, personally known to me or who  
7 proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
8 subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
9 his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
10 person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

11 WITNESS my hand and official seal.  
12

Julie B. Boyle  
Notary Public

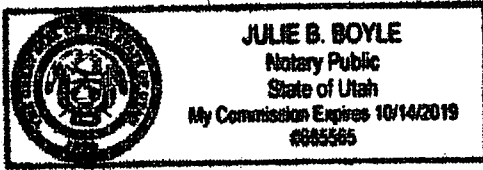


EXHIBIT A

LEGAL DESCRIPTION OF THE SHOPPING CENTER

PARCEL 1:

Lots 1,2, and 5, PARK PLAZA SUBDIVISION 2nd AMENDMENT, according to the Official Plat thereof as recorded in the Office of the Davis County Recorder, State of Utah.

PARCEL 2:

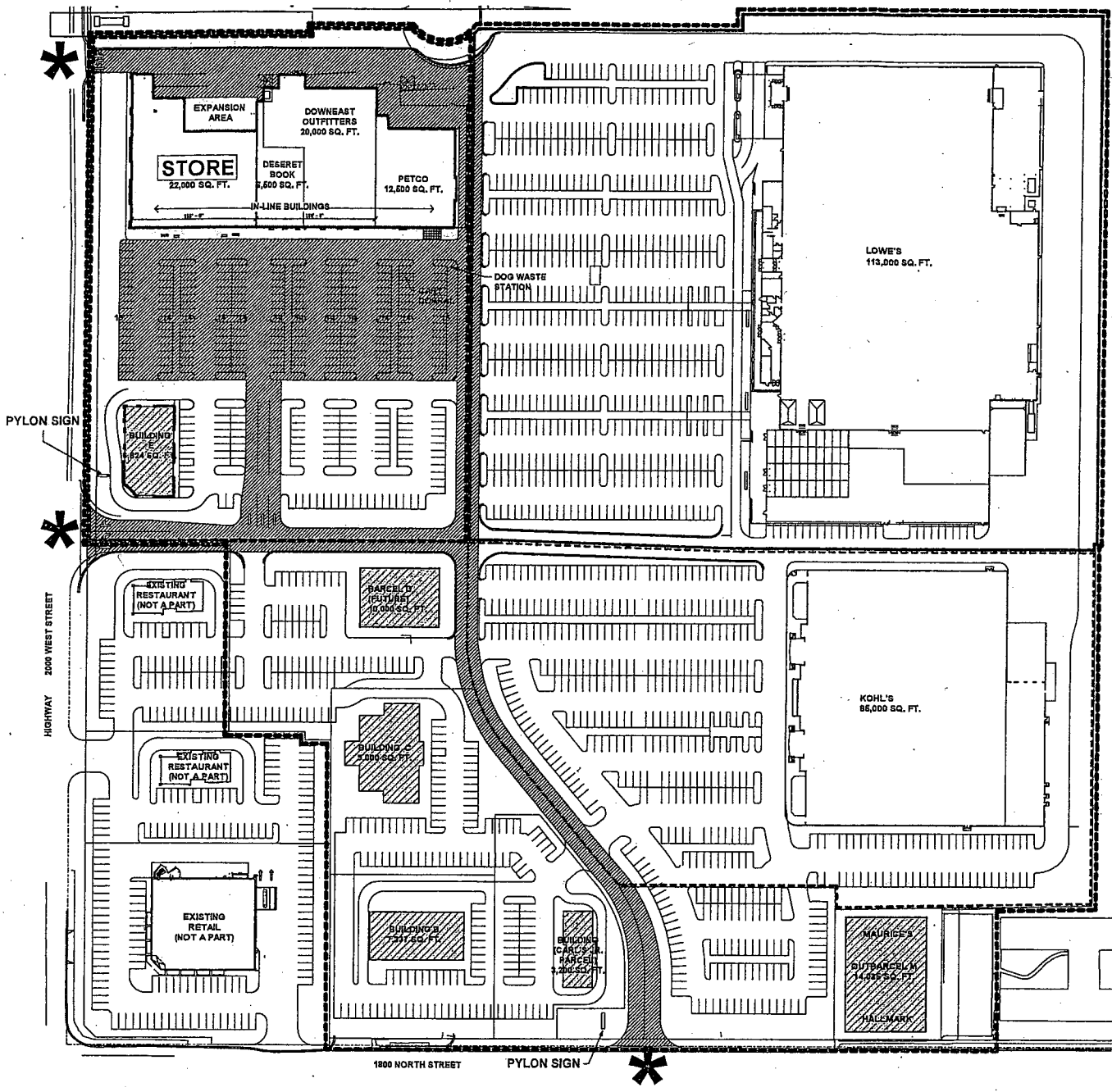
Lots 8, 9, 10, 11, 12, and 13, PARK PLAZA SUBDIVISION 3rd AMENDMENT, according to the Official Plat thereof as recorded in the Office of the Davis County Recorder, State of Utah.










PARCEL 3:

Benefits, Rights of Ingress and Egress and other Easements as, contained in Easements Covenants, Conditions and Restrictions recorded November 20, 2007 as Entry No. 2322284, in Book 4413, Page 1462, of Official Records, and Reciprocal Easement Agreement With Covenants, Conditions and Restrictions, recorded March 14, 2008, as Entry No. 2348867, in Book 4490, Page 134, of Official Records.

Tax ID: 14-476-0001, 14-476-0002, 14-476-0005, 14-479-0008, 14-479-0009, 14-479-0010, 14-479-0011, 14-479-0012, and 14-479-0013





-  LOWE'S PARCEL
-  SHOPPING CENTER 308,396 SQ. FT.
-  NORTHWEST QUADRANT
-  OUTPARCELS
-  CONTROL AREA
-  BUILDING ENVELOPE 61,000 SQ. FT.
-  PET ADOPTION AREA 300 SF
-  FULL MOVEMENT INGRESS & EGRESS
-  KOHL'S PARCEL

⊕ SITE PLAN OVERALL  
1" = 50' - 0"

# EXHIBIT B

STORE #1735  
CLINTON, UT  
05/12/2017