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 CHG. \_\_\_\_\_ CASH \_\_\_\_\_  
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 SHORT \_\_\_\_\_ NCR \_\_\_\_\_

FILED SARPY CO. NE.  
 INSTRUMENT NUMBER  
2009-03341  
 2009 FEB -9 A 11:17  
*Shirley J. Dowling*  
 REGISTER OF DEEDS

~~When recorded return to:~~  
 Rick Crawford, Esq.  
 The Katz Law Firm  
 435 Nichols Road, Second Floor  
 Kansas City, MO 64112

Papillion, NE  
 Store #1671-3

08-55642

SECOND AMENDMENT TO EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND

THIS SECOND AMENDMENT TO EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND (the "Second Amendment") is made as of the 22 day of December, 2008, by and among MARKET POINTE, LLC, a Missouri limited liability company ("Developer"), WAL-MART REAL ESTATE BUSINESS TRUST, a Delaware Statutory Trust ("Wal-Mart"), LOWE'S HOME CENTERS, INC., a North Carolina corporation ("Lowe's"), and KOHL'S ILLINOIS, INC., a Nevada corporation, the successor by assignment from Kohl's Department Stores, Inc. ("Kohl's").

Preliminary Statement:

A. Developer, Wal-Mart and Lowe's previously executed and recorded that certain EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND dated January 23, 2006 and filed with the Sarpy County, Nebraska Register of Deeds on January 24, 2006 as Instrument No. 2006-02430 (the "Original ECR"), as amended by Developer, Wal-Mart, Lowe's and Kohl's in that certain First Amendment to Easements With Covenants and Restrictions Affecting Land (the "First Amendment") dated September 1, 2006 and filed with Sarpy County, Nebraska Register of Deeds on September 5, 2006 as Instrument No. 2006-30539 (the "First Amendment", together with the Original ECR, is sometimes hereinafter collectively referred to as the "ECR") covering the Market Pointe Shopping Center located in Papillion, Nebraska (the "Shopping Center") as more particularly described in the ECR. This Second Amendment is intended to cover the Shopping Center which is legally described in Exhibit A-1, attached hereto and incorporated herein by reference.

B. This modification of the ECR requires the mutual agreement of Developer, Wal-Mart and Lowe's, and requires the consent and approval of Kohl's.

C. Developer desires to combine Lot 4 and Lot 5, Market Pointe Addition, a Subdivision, in Sarpy County, Nebraska, into one lot.

NOW, THEREFORE, for and in consideration of the foregoing recitals which are incorporated herein by this reference, and the easements, covenants, conditions, restrictions and encumbrances contained in the ECR, as amended herein, the sufficiency of which is hereby acknowledged, Developer, Wal-Mart and Lowe's do hereby amend the ECR, and Kohl's hereby consents to amend the ECR, as follows:

Q + RTN (E)  
 From: Origin ID: DGLA (602) 287-3583  
 Sylvia Gonzales  
 LandAmerica Commercial Service  
 1850 N. Central Avenue, Suite 300  
 Phoenix, AZ 85004

**1. Definitions.**

(a) Except as otherwise expressly provided in this Second Amendment, capitalized terms that are used herein but not defined herein shall have the meaning given to them in the ECR.

(b) All references in the ECR or herein to the term "this Agreement" shall mean and refer to the ECR, as amended herein.

(c) All references in the ECR or herein to "Kohl's", as amended herein, shall hereafter refer to Kohl's Illinois, Inc., a Nevada corporation, its successors and assigns.

**2. Combination of Lot 4 and Lot 5/Replat.** Notwithstanding anything to the contrary contained in Section 4(e)(i) of the ECR, Developer may at its option replat and combine Lot 4 and Lot 5 into one single Outparcel containing approximately 2.33 acres. In the event Lot 4 and Lot 5 are combined into one Outparcel containing approximately 2.33 acres, then the combined Outparcel shall be considered a single Outparcel referred to as Lot 2, Market Pointe Addition Replat 4, no more than one (1) Building shall be constructed thereon and all references to Lot 4 and Lot 5 in the ECR shall be deleted. Notwithstanding anything to the contrary contained in Section 4(e)(ii) of the ECR, when Lot 4 and Lot 5 are combined into one Outparcel referred to as Lot 2, Market Pointe Addition Replat 4, containing approximately 2.33 acres, the Floor Area of the Building on the new Lot 2, Market Pointe Addition Replat 4, shall not exceed twenty thousand six hundred (20,600) square feet.

**3. Legal Description of Developer Property.** If Developer combines Lot 4 and Lot 5 into a single Outparcel by filing a replat, the following shall be the legal description of the Developer Property to be shown on Exhibit C of the ECR: "Lots Two (2) and Three (3), Market Pointe Addition, a Subdivision, in Sarpy County, Nebraska; Lots Nine (9), Ten (10), Eleven (11), Market Pointe Addition Replat 1, an Administrative Subdivision, in Sarpy County, Nebraska; Lots One (1) and Two (2), Market Pointe Addition Replat 3, an Administrative Subdivision, in Sarpy County, Nebraska; Lots One (1) and Two (2), Market Pointe Addition Replat 4, an Administrative Subdivision, in Sarpy County, Nebraska; and Outlots "E" and "F", Stockmans Hollow, a Subdivision in Sarpy County, Nebraska." In such event, Developer, Wal-Mart, Lowe's, and Kohl's hereby ratify and approve such legal description.

**4. Buildings.** Notwithstanding anything to the contrary in the ECR including, without limitation, Section 4(f) thereof, Wal-Mart, Lowe's, Kohl's and Developer hereby acknowledge and agree that: (i) the Buildings existing on the Wal-Mart Property, the Lowe's Property, the Developer Property and the Outparcels are currently in compliance with the ECR and the Design Criteria and are otherwise acceptable; and (ii) without waiving any other rights under the ECR, Developer, Wal-Mart and Lowe's each hereby waive their respective right to object to the construction of the other's Buildings where such objection is based solely upon compliance with Developer's Design Criteria.

**5. Site Plan and Building Areas.** If Developer combines Lot 4 and Lot 5 into a single Outparcel by filing a replat, then the Site Plan set forth on Exhibit A to the ECR shall be deleted in its entirety and Exhibit A attached to this Second Amendment shall be substituted in its place as the Site Plan for this Agreement, and all references in the ECR to "Exhibit A" or to the "Site Plan" shall mean and refer to the Site Plan of the Shopping Center set forth on Exhibit A attached to this Second Amendment. Developer, Wal-Mart, Lowe's and Kohl's hereby ratify and approve the size and dimension of all of the lots including the Outparcels and all Building Areas as shown on Exhibit A attached hereto, subject to the terms of this Agreement. Furthermore, if Developer combines Lot 4 and Lot 5 into a single Outparcel by filing a replat, then Exhibit H to the ECR shall be deleted in its entirety and Exhibit A attached to this Second Amendment shall be substituted in its place as Exhibit A to the ECR, and all references in the

ECR to "Exhibit H" or to the "Site Plan" shall mean and refer to the Site Plan of the Shopping Center set forth on Exhibit A attached to this Second Amendment.

**6. Legal Descriptions of Outparcels.** If Developer combines Lot 4 and Lot 5 into a single Outparcel by filing a replat, the following shall be deemed to be the legal description of the Outparcels and Exhibit D of the ECR shall hereby be amended to reflect the following legal description:

"Lots Nine (9) through Thirteen (13), Market Pointe Addition Replat 1, an Administrative Subdivision, in Sarpy County, Nebraska; Lots One (1) and Two (2), Market Pointe Addition Replat 3, an Administrative Subdivision, in Sarpy County, Nebraska; Lots One (1) and Two (2), Market Pointe Addition Replat 4, an Administrative Subdivision, in Sarpy County, Nebraska".

Upon the filing of any subsequent replat or lot line adjustment permitted under and subject to the terms of the ECR which alters the legal description of any of the Outparcels, then in that event, the legal descriptions of the Outparcels affected by such replat or lot line adjustment for purposes of the ECR shall thereafter be modified to conform to the legal descriptions contained in such replat or lot line adjustment.

**7. Consents and Approvals.** Wal-Mart, Lowe's, and Kohl's hereby acknowledge they have consented and granted approval for Developer to lease space in the Shopping Center located on Lot 10 shown on the Exhibit A Site Plan attached hereto to a person, persons or entity that operate a typical Huntington Learning Center or a similar center offering children supplemental instruction in reading, writing, mathematics, study skills, phonics, and related areas, in accordance with the provisions contained in the "Huntington Consent Letter" attached hereto as Exhibit B and incorporated herein; and Wal-Mart, Lowe's and Developer agree that such use shall not violate either Section 2(j) or 2(m) of the ECR.

**8. Kohl's Consent to the ECR.** Kohl's hereby acknowledges Kohl's accepts and approves the terms of the ECR, in accordance with the terms contained in the "Kohl's ECR Consent Letter" attached hereto as Exhibit C and incorporated herein.

**9. Rights of Successors.** This Second Amendment shall bind and inure to the benefit of the parties hereto and their respective heirs, representatives, lessees, successors and assigns. The singular number includes the plural and the masculine gender includes the feminine and neuter.

**10. Non-Merger.** This Second Amendment shall not be subject to the doctrine of merger.

**11. Headings.** The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document and in no way affect the terms and provisions hereof.

**12. Entire Agreement.** This Second Amendment constitutes the entire agreement between the parties hereto. The parties do not rely upon any statement, promise or representation not herein expressed, and this Second Amendment once executed and delivered shall not be modified or altered in any respect except by a writing executed and delivered in the same manner as required by this document.

**13. Severability.** In the event any provision or portion of this Second Amendment is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not effect the remainder hereof, and the remaining provisions shall continue in full force and effect at the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.

C

14. **Exhibits.** Each reference herein to an exhibit refers to the applicable exhibit that is attached to this Second Amendment. All such exhibits constitute a part of this Second Amendment and by this reference are expressly made a part hereof. The following is a list of Exhibits:

**EXHIBIT A      NEW SITE PLAN**

**EXHIBIT A-1    LEGAL DESCRIPTION OF SHOPPING CENTER**

**EXHIBIT B      HUNTINGTON CONSENT LETTER**

**EXHIBIT C      KOHL'S ECR CONSENT LETTER**

15. **ECR Remains in Full Force and Effect.** Except as amended herein, all other terms and provisions of the ECR shall remain unchanged and in full force and effect and are ratified by the parties hereto. In the event of any conflict or inconsistency between the terms of the ECR and the terms of this Second Amendment, the terms of this Second Amendment shall govern and control.

IN WITNESS WHEREOF, the parties have executed this Second Amendment the day and year first written above.

**MARKET POINTE, LLC,**  
a Missouri limited liability company

By: *Owen J. Buckley*  
Name: Owen J. Buckley  
Title: Managing Partner

**WAL-MART REAL ESTATE BUSINESS TRUST,**  
a Delaware Statutory Trust

By: *Frances Cokerly*  
Name: FRANCES COKERLY  
Title: Director

*CA*  
*MPP*

**LOWE'S HOME CENTERS, INC.,**  
a North Carolina corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**KOHL'S ILLINOIS, INC.,**  
a Nevada corporation

By: \_\_\_\_\_  
Name: Richard D. Schepp  
Title: Attorney-in-fact

E

IN WITNESS WHEREOF, the parties have executed this Second Amendment the day and year first written above.

**MARKET POINTE, LLC,**  
a Missouri limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**WAL-MART REAL ESTATE BUSINESS TRUST,**  
a Delaware Statutory Trust

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LOWE'S HOME CENTERS, INC.,**  
a North Carolina corporation

By: *Gary E. Wyatt*  
Name: **Gary E. Wyatt**  
Title: **Senior Vice President**

*ADM*  
*JPL*  
*WH*  
*WCA*

**KOHL'S ILLINOIS, INC.,**  
a Nevada corporation

By: \_\_\_\_\_  
Name: Richard D. Schepp  
Title: Attorney-in-fact

F

IN WITNESS WHEREOF, the parties have executed this Second Amendment the day and year first written above.

**MARKET POINTE, LLC,**  
a Missouri limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

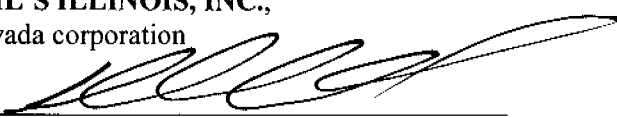
**WAL-MART REAL ESTATE BUSINESS TRUST,**  
a Delaware Statutory Trust

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**LOWE'S HOME CENTERS, INC.,**  
a North Carolina corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

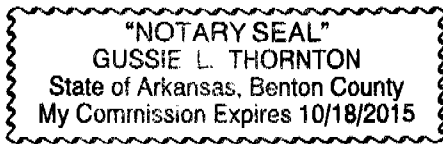
**KOHL'S ILLINOIS, INC.,**  
a Nevada corporation

By:   
Name: Steven R. Karl  
Title: Attorney-in-fact

STATE OF ARKANSAS )  
 ) ss.  
COUNTY OF BENTON )

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of April, 2008, by ~~Shannon Lee, Assistant Vice President~~ FRANCES COOPER, Director of Wal-Mart Real Estate Business Trust, a Delaware statutory trust, on behalf of the trust.

[SEAL]



Guessie L. Thornton  
Notary Public  
My Commission Expires 10/18/2015

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF JACKSON )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of April, 2008, by Owen J. Buckley, a Managing Member of Market Pointe, LLC, a Missouri limited liability company, on behalf of the limited liability company.

[SEAL]

MARTA CHASTEEN  
Notary Public-Notary Seal  
STATE OF MISSOURI  
Jackson County  
My Commission Expires May 25, 2009  
Commission # 05717330

Marta Chasteen  
Notary Public  
My Commission Expires 5/25/09

STATE OF NORTH CAROLINA )  
 ) ss.  
COUNTY OF WILKES )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2008, by \_\_\_\_\_ of Lowe's Home Centers, Inc., a North Carolina corporation, on behalf of the Corporation.

[SEAL]

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_



STATE OF ARKANSAS )  
 ) ss.  
COUNTY OF BENTON )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2008, by Shannon Lets, Assistant Vice President of Wal-Mart Real Estate Business Trust, a Delaware statutory trust, on behalf of the trust.

[SEAL]

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF JACKSON )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2008, by Owen J. Buckley, a Managing Member of Market Pointe, LLC, a Missouri limited liability company, on behalf of the limited liability company.

[SEAL]

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

STATE OF NORTH CAROLINA )  
 ) ss.  
COUNTY OF WILKES )

The foregoing instrument was acknowledged before me this 15 day of July, 2008, by Gary E. Wyatt SVP of Lowe's Home Centers, Inc., a North Carolina corporation, on behalf of the Corporation.

[SEAL]

Karen M. Underwood  
Notary Public Karen M. Underwood  
My Commission Expires 03/27/2013

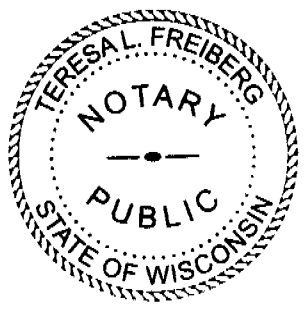
**KAREN M. UNDERWOOD**  
Notary Public  
Wilkes County, NC  
My Commission Expires 03/27/2013

I

STATE OF WISCONSIN     )  
  ) ss.  
COUNTY OF WAUKESHA    )

The foregoing instrument was acknowledged before me this 10<sup>TH</sup> day of September, 2008, by Steven R. Karl, Attorney-in-fact of Kohl's Illinois, Inc., a Nevada corporation, on behalf of the Corporation.

[SEAL]



Teresal Freiberg  
Notary Public  
My Commission Expires 8-15-12

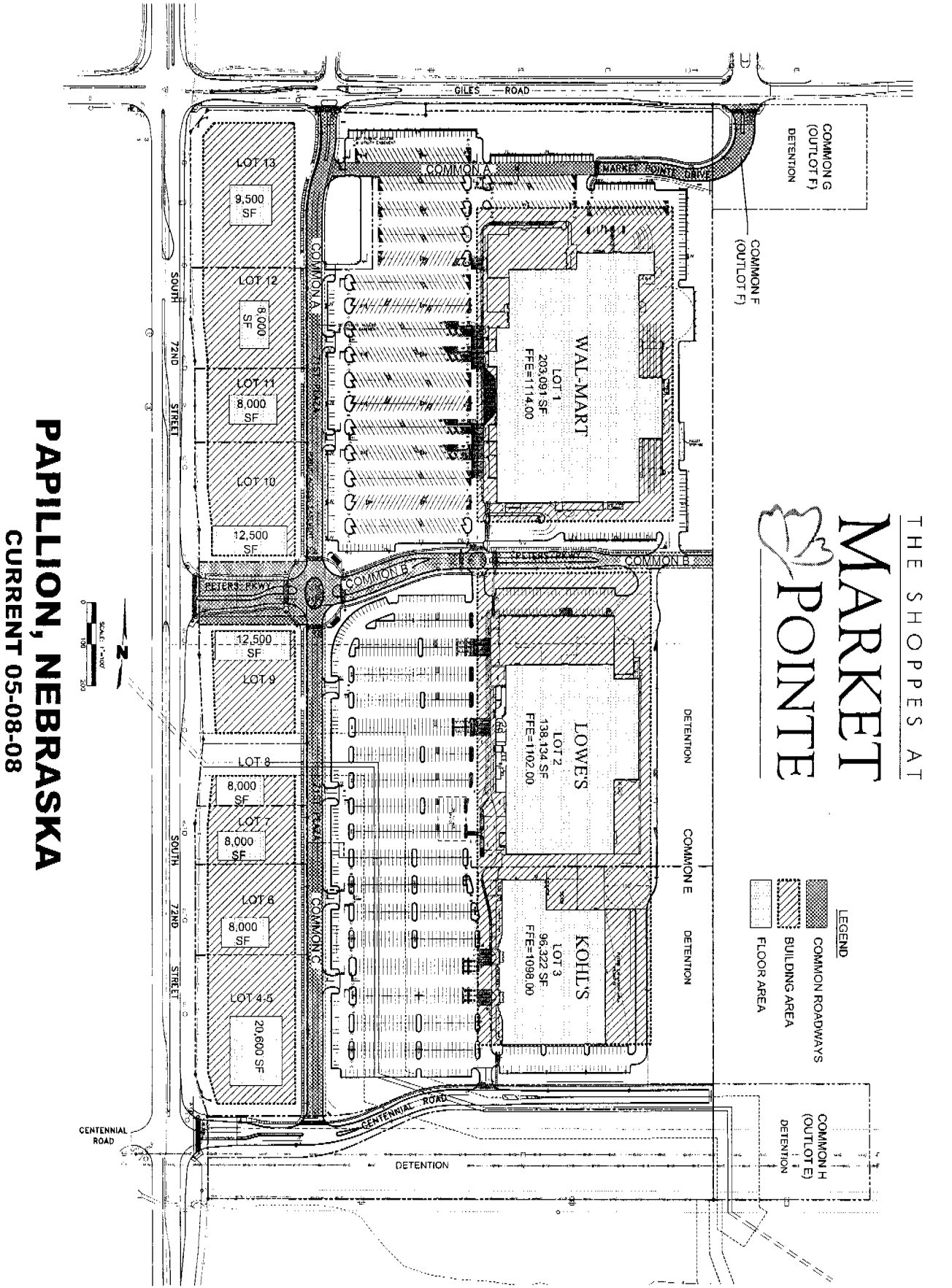
J

**EXHIBIT A**

**NEW SITE PLAN ATTACHED**

# EXHIBIT A

K



## PAPILLION, NEBRASKA CURRENT 05-08-08

### THE SHOPPES AT MARKET POINTE

**LEGEND**  
 COMMON ROADWAYS  
 BUILDING AREA  
 FLOOR AREA

SHEET 1 OF 1	EXHIBIT A MARKET POINTE ADDITION PAPILLION, NEBRASKA	REVISIONS DATE DESCRIPTION 2008	The R.H. JOHNSON COMPANY	OLSSON ASSOCIATES 2125 South 72nd Street Suite 1400 Omaha, NE 68128-1118 TEL: 402.341.1116 FAX: 402.341.6896
	Project No. Drawing No. Revision No. Date	Date Description 2008	Project No. Drawing No. Revision No. Date	Project No. Drawing No. Revision No. Date

**EXHIBIT A-1**

**FOLLOWING IS THE CURRENT LEGAL DESCRIPTION OF SHOPPING CENTER:**

Lots Four (4), Five (5), and Six (6), Market Pointe Addition, an addition in Sarpy County, Nebraska; Lots Two (2) and Three (3), Administrative Lot Line Adjustment of Lots Two (2) and Three (3), Market Pointe Addition, an addition in Sarpy County, Nebraska; Lots Nine (9) through Thirteen (13), Market Pointe Addition Replat 1, an Administrative Subdivision, being a replat of Lots Eight (8) through Fourteen (14), Market Pointe Addition, a Subdivision in Sarpy County, Nebraska; Lots One (1) and Two (2), Market Pointe Addition Replat 2, an Administrative Subdivision, being a replat of Lot One (1), Market Pointe Addition, a Subdivision in Sarpy County, Nebraska; Lots One (1) and Two (2), Market Pointe Addition Replat 3, an Administrative Subdivision, being a replat of Lot Seven (7), Market Pointe Addition and Lot Eight (8), Market Pointe Addition Replat 1, a Subdivision in Sarpy County, Nebraska; and Outlots "E" and "F", Stockmans Hollow, a Subdivision in Sarpy County, Nebraska.

**IF DEVELOPER COMBINES LOT 4 AND LOT 5 INTO A SINGLE OUTPARCEL BY FILING A REPLAT, THEN AFTER THE FILING OF SUCH REPLAT IN THE REGISTER OF DEEDS OFFICE IN SARPY COUNTY, THE FOLLOWING SHALL BE THE LEGAL DESCRIPTION OF THE SHOPPING CENTER:**

Lots Two (2) and Three (3), Administrative Lot Line Adjustment of Lots Two (2) and Three (3), Market Pointe Addition, an addition in Sarpy County, Nebraska; Lots Nine (9) through Thirteen (13), Market Pointe Addition Replat 1, an Administrative Subdivision, being a replat of Lots Eight (8) through Fourteen (14), Market Pointe Addition, a Subdivision in Sarpy County, Nebraska; Lots One (1) and Two (2), Market Pointe Addition Replat 2, an Administrative Subdivision, being a replat of Lot One (1), Market Pointe Addition, a Subdivision in Sarpy County, Nebraska; Lots One (1) and Two (2), Market Pointe Addition Replat 3, an Administrative Subdivision, being a replat of Lot Seven (7), Market Pointe Addition and Lot Eight (8), Market Pointe Addition Replat 1 and, a Subdivision in Sarpy County, Nebraska; Lots One (1) and Two (2), Market Pointe Addition Replat 4, an Administrative Subdivision, being a replat of Lots Four (4), Five (5) and Six (6), Market Pointe Addition, a Subdivision in Sarpy County, Nebraska; and Outlots "E" and "F", Stockmans Hollow, a Subdivision in Sarpy County, Nebraska.

M

**EXHIBIT B**

**HUNTINGTON CONSENT LETTER**

(see attached)

N

February 14, 2007

Wal-Mart Real Estate Business Trust  
c/o Wal-Mart Stores, Inc.  
2001 S.E. 10<sup>th</sup> Street  
Bentonville, AR 72716-0550  
Attn: James J. Harris, Assoc. Gen. Counsel

Lowe's Home Centers, Inc.  
~~Highway 268 East~~ 1605 CURTIS BRIDGE RD -  
North-Wilkesboro, NC 28659-97 REED OOMC  
Attn: Law Department (REQ)  
LCSG  
ATTN: PROPERTY  
MANAGEMENT DEPT (FMNG)

Kohl's Illinois, Inc.  
c/o Kohl's Department Stores, Inc.  
N56 W17000 Ridgewood Drive  
Menomonee Falls, Wisconsin 53051  
Attention: Law Department

RE: Easements with Covenants and Restrictions Affecting Land dated January 23, 2006, between Wal-Mart Real Estate Business Trust ("Wal-Mart"), Lowe's Home Centers, Inc. ("Lowe's") and Market Pointe, LLC ("Developer") and filed with the Sarpy County, Nebraska Register of Deeds on January 24, 2006 as Instrument No. 2006-02430, as amended by Developer, Wal-Mart, Lowe's and Kohl's in that certain First Amendment to Easements With Covenants and Restrictions Affecting Land dated September 1, 2006 and filed with Sarpy County, Nebraska Register of Deeds on September 5, 2006 as Instrument No. 2006-30539 (both documents collectively herein referred to as the "ECR") covering the Market Pointe Shopping Center located in Papillion, Nebraska (the "Shopping Center") as more particularly described in the ECR; and Consent for Developer to lease space in the Shopping Center to Huntington Learning Center

Dear Wal-Mart, Lowe's and Kohl's (the "Parties"):

Developer hereby requests to obtain the Parties' consent and agreement that Developer shall be permitted to lease space in the Shopping Center located on Lot 10 on the Exhibit A Site Plan attached hereto to a person, persons or entity that operate a typical Huntington Learning Center or a similar center ("Huntington"), offering children supplemental instruction in reading, writing, mathematics, study skills, phonics, and related areas, provided the space occupied by Huntington does not consist of more than

3,000 square feet of Floor Area (as defined in the ECR); and the Parties agree that such use shall not violate either Section 2(j) or 2(m) of the ECR.

If you consent and agree with the terms provided herein, please counter-sign this letter in the space provided below and fax it back to Dawn Hilty with The Katz Law Firm at 816-714-1047. Lowe's, Wal-Mart, Kohl's and Developer agree that facsimile copies of this letter agreement with signatures shall be deemed as originals, and that this letter agreement may be counter-signed in counterparts and shall have the same force and effect as if all required signatures were contained in a single, original instrument.

If you have any questions or need further information, please contact Dawn Hilty at 816-714-1053 to discuss.

Respectfully,

MARKET POINTE, LLC

By:   
Owen Buckley, Managing Member

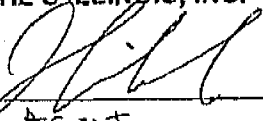
Acknowledged and Agreed to this  
\_\_\_\_\_ day of \_\_\_\_\_, 2007:  
WAL-MART REAL ESTATE BUSINESS TRUST

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Acknowledged and Agreed to this  
\_\_\_\_\_ day of \_\_\_\_\_, 2007:  
LOWE'S HOME CENTERS, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Acknowledged and Agreed to this  
2/5<sup>th</sup> day of February, 2007:  
KOHL'S ILLINOIS, INC.

By:   
Its: Agent  
Date: 2-21-07

cc: Dawn Hilty, The Katz Law Firm



P

3,000 square feet of Floor Area (as defined in the ECR); and the Parties agree that such use shall not violate either Section 2(j) or 2(m) of the ECR.

If you consent and agree with the terms provided herein, please counter-sign this letter in the space provided below and fax it back to Dawn Hilty with The Katz Law Firm at 816-714-1047. Lowe's, Wal-Mart, Kohl's and Developer agree that facsimile copies of this letter agreement with signatures shall be deemed as originals, and that this letter agreement may be counter-signed in counterparts and shall have the same force and effect as if all required signatures were contained in a single, original instrument.

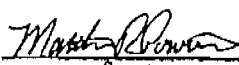
If you have any questions or need further information, please contact Dawn Hilty at 816-714-1053 to discuss.

Respectfully,

MARKET POINTE, LLC

By:   
Owen Buckley, Managing Member

Acknowledged and Agreed to this  
19<sup>th</sup> day of February, 2007:  
WAL-MART REAL ESTATE BUSINESS TRUST

By:   
Its: Senior Realty Manager  
Date: 2/19/07



Acknowledged and Agreed to this  
\_\_\_\_\_ day of \_\_\_\_\_, 2007:  
LOWE'S HOME CENTERS, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Acknowledged and Agreed to this  
\_\_\_\_\_ day of \_\_\_\_\_, 2007:  
KOHL'S ILLINOIS, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

cc: Dawn Hilty, The Katz Law Firm

4

3,000 square feet of Floor Area (as defined in the ECR); and the Parties agree that such use shall not violate either Section 2(j) or 2(m) of the ECR.

If you consent and agree with the terms provided herein, please counter-sign this letter in the space provided below and fax it back to Dawn Hilty with The Katz Law Firm at 816-714-1047. Lowe's, Wal-Mart, Kohl's and Developer agree that facsimile copies of this letter agreement with signatures shall be deemed as originals, and that this letter agreement may be counter-signed in counterparts and shall have the same force and effect as if all required signatures were contained in a single, original instrument.

If you have any questions or need further information, please contact Dawn Hilty at 816-714-1053 to discuss.


Respectfully,

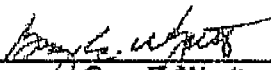

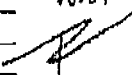
MARKET POINTE, LLC

By:   
Owen Buckley, Managing Member

Acknowledged and Agreed to this  
\_\_\_\_\_ day of \_\_\_\_\_, 2007:  
WAL-MART REAL ESTATE BUSINESS TRUST

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

Acknowledged and Agreed to this  
\_\_\_\_\_ day of \_\_\_\_\_, 2007:  
LOWE'S HOME CENTERS, INC. 

By:    
Its: Gary E. Wyatt  
Date: Senior Vice President 

Acknowledged and Agreed to this  
\_\_\_\_\_ day of \_\_\_\_\_, 2007:  
KOHLS INC. ILLINOIS, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

cc: Dawn Hilty, The Katz Law Firm

R

**EXHIBIT C**

**KOHL'S ECR CONSENT LETTER**

(see attached)

# KOHL'S

March 13, 2008

Market Pointe, LLC  
c/o Lane4 Property Group, Inc.  
Attention: Owen J. Buckley  
4705 Central Street  
Kansas City, MO 64112

RE: Lease dated June 16, 2004, by and between Market Point, LLC, as Landlord, and Kohl's Illinois, Inc., as successor in interest to Kohl's Department Stores, Inc. ("Kohl's"), as tenant, pursuant to that certain Assignment and Assumption Agreement dated August 28, 2004, and referenced by that certain Memorandum of Lease dated June 16, 2004 and recorded August 4, 2006 as Document No. 2006-26624 (the "Kohl's Lease"); and Easements with Covenants and Restrictions Affecting Land dated January 23, 2006, between Wal-Mart Real Estate Business Trust, Lowe's Home Centers, Inc. and Developer filed with the Sarpy County, Nebraska Register of Deeds on January 24, 2006 as Instrument No. 2006-02430, as amended (the "ECR") covering the Market Pointe Shopping Center located in Papillion, Nebraska as more particularly described in the ECR.

Dear Owen:

This letter shall serve to acknowledge: (i) Kohl's acceptance and approval of the terms of the ECR, (ii) that the ECR is one of the Permitted Encumbrances as defined in the Kohl's Lease, and (iii) that the Kohl's Lease is subject to and subordinate to the ECR. In accordance with the Kohl's Lease, Kohl's consent is required for any future amendment, modification, alteration, extension or termination of the ECR.

If you have any questions or need further information, please contact me to discuss.

Respectfully,

Kohl's Illinois, Inc.

By:   
Steven R. Karl, Attorney in Fact

cc: Dawn Hilty, The Katz Law Firm (via email [dawn@rkatzlaw.com](mailto:dawn@rkatzlaw.com))  
Karen Hebert (via email)

G:\share\legal\Stores\NE\Papillion\Consent (Kohl's version).doc

CORPORATE OFFICES • N56 W17000 RIDGEWOOD DRIVE • MENOMONEE FALLS, WISCONSIN 53051 • (262) 703-7000

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CONSENT AND SUBORDINATION

First National Bank of Kansas, a national banking association, beneficiary of a Deed of Trust dated as of October 17, 2006, filed October 26, 2006 as Instrument No. 2006-36787, Records, Sarpy County, Nebraska and the beneficiary of a Deed of Trust dated June 23, 2006 and filed for record on June 26, 2006, in Instrument No. 2006-21609, Records, Sarpy county, Nebraska (the "Deeds of Trust"), does hereby subordinate the Deeds of Trust to the Second Amendment to Easements With Covenants and Restrictions Affecting Land ("Amended ECR") as though the Amended ECR was filed in the real estate records of Sarpy County, Nebraska, prior in time to the recording of the Deeds of Trust in the real estate records of Sarpy County, Nebraska; and hereby consents to the terms of the Amended ECR.

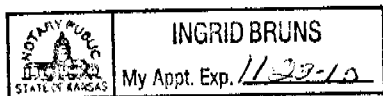
FIRST NATIONAL BANK OF KANSAS, a national banking association

By: *Thomas J. Rohling*  
Name: 12-22-08  
Title: Thomas J. Rohling  
Date: Senior Vice President

STATE OF Kansas  
COUNTY OF Johnson

Before me the undersigned authority, on this day personally appeared Thomas J. Rohling, known to me to be the person whose name is subscribed to the foregoing instrument, and upon being duly sworn did state and acknowledge he/she is Sr. V.P. of FIRST NATIONAL BANK OF KANSAS, a national banking association, and that he/she executed the foregoing instrument in the capacity stated under authority of its Board of Directors and executed the foregoing document for the uses, purposes and considerations therein expressed as the free and voluntary act and deed of the corporation.

Given under my hand and seal of office this the 22<sup>nd</sup> day of December, 2008.



Ingrid Bruns  
Notary Public


My Commission Expires 11-23-10

**CONSENT AND JOINDER**

Subsequent to the date of the execution of the foregoing Second Amendment by some of the parties thereto but prior to the full execution and recording thereof, Market Pointe, LLC ("Market Pointe") sold a portion of the Shopping Center to Cole MT Papillion NE, LLC, a Delaware limited liability company ("Cole"), and, in connection with such sale, Cole and Market Pointe entered into that certain Assignment and Assumption of Rights Under ECR dated June 26, 2008 and recorded on June 30, 2008 as Document No. 2008-18534, whereby Market Pointe assigned to Cole and Cole assumed from Market Pointe certain rights, duties, obligations and liabilities as the "Developer" and "Property Owner" of the "Developer Property" under the ECR, as more particularly set forth therein. Therefore, in order to give effect to this Second Amendment, Cole, as the new Developer and Property Owner of the Developer Property, hereby consents and agrees to the terms of this Second Amendment, and joins this Second Amendment in Cole's capacity as Developer and Property Owner of the Developer Property.

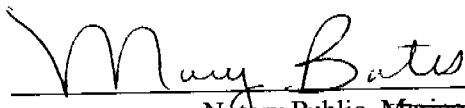
**COLE MT PAPIILLION NE, LLC**, a Delaware limited liability company

By: Cole REIT Advisors II, LLC, a Delaware limited liability company, its Manager

By:  \_\_\_\_\_  
Todd M. Weiss  
Vice President

State of Arizona )  
 ) ss.  
County of Maricopa )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of December, 2008, by Todd J. Weiss, the Vice President of Cole REIT Advisors II, LLC, a Delaware limited liability company, which is the manager of Cole MT Papillion NE, LLC, a Delaware limited liability company, on behalf of said limited liability companies for the uses and purposes therein set forth.

  
\_\_\_\_\_  
Notary Public, ~~Maricopa~~ Pinal County

My commission expires:  
9/3/2012

