

FILED SARPY CO. NE.

INSTRUMENT NUMBER

2006-27783

2006 AUG 14 A 9:27



REGISTER OF DEEDS

COUNTER

C.E.

VERIFY

D.E.

PROOF

FEES \$

CHECK #

CHG

REFUND

SHORT

LM C.E. LM
 P D.E. LM
 33.50
 800503
 CASH
 CREDIT
 NGR

Record & Return to:

Attn: Richard King

Title Associates

825 Third Avenue, 30th Floor

New York, NY 10022

SS N06-1308

(The Above Space for Recorder's Use Only)

MEMORANDUM OF LEASE

THIS MEMORANDUM OF LEASE, made as of June 27, 2006 by and between Papillion Development, LLC, a Nebraska limited liability company, having an office at 6263 N. Scottsdale Road, Suite 330, Scottsdale, AZ 85250 ("**Landlord**"), and BED BATH & BEYOND INC., a New York corporation, having an office at 650 Liberty Avenue, Union, New Jersey 07083 ("**Tenant**").

Preliminary Statement

Landlord is the fee owner of certain real property located in the County of Sarpy, State of Nebraska, as more particularly described on Exhibit A-1 hereto annexed, together with improvements constructed or to be constructed thereon (the "**Shopping Center**"). Landlord and Tenant, as of the date hereof, have entered into a Lease Agreement (the "**Lease**") demising a portion of the Shopping Center as more particularly described therein (the "**Premises**") to Tenant. In connection therewith, Landlord and Tenant have entered into this Memorandum to confirm the demise of the Premises and to provide notice to any interested party of such demise and of the terms and provisions of the Lease.

NOW, THEREFORE, the parties state as follows:

1. All capitalized terms used, but not otherwise defined, herein shall have the meanings ascribed to them in the Lease.
2. The terms and conditions of the Lease are incorporated herein as though set forth in full, whereby Tenant may have and hold the Premises together with any and all rights, benefits, privileges and easements, now or hereafter appurtenant thereto, at the rental and upon the terms and conditions therein stated, for an initial term of approximately ten (10) years commencing on the Rent Commencement Date (the "**Initial Term**"). Under the terms of the Lease, Tenant has the right to extend the Initial Term for four (4) separate and additional periods of five (5) years each after the expiration of the Initial Term.
3. This Memorandum of Lease is executed for the purpose of recordation in order to give notice of all of the terms, provisions and conditions of the Lease, including, without limitation:

27783

A

(i) the restrictions set forth therein on Landlord's ability to lease certain portions of the Shopping Center for certain uses which are otherwise prohibited by the terms of the Lease;

(ii) provisions set forth therein regarding Tenant's right to install and maintain signage upon the exterior of the Premises and upon a pylon and/or monument sign located at the Shopping Center;

(iii) provisions set forth therein regarding Tenant's right to use (and to permit Tenant's customers, employees, agents and contractors to use) certain common areas of the Shopping Center (such as, without limitation, the parking facilities of the Shopping Center); and

(iv) provisions set forth therein regarding certain areas in the Shopping Center, in which no improvements are to be constructed and in which no changes may be made;

4. In addition to those terms hereinabove set forth, the Lease contains numerous other terms, covenants and conditions which likewise affect not only the Premises but also the Shopping Center, and notice is hereby given that reference should be had to the Lease directly with respect to the details of such terms, covenants and conditions. The Lease and exhibits thereto are hereby incorporated by reference in this Memorandum of Lease and the parties hereby ratify and confirm the Lease as if said Lease were being re-executed by them and recorded. In the event of any conflict between the provisions of this instrument and the Lease, the provisions of the Lease shall control.

[signature page follows]

B

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the day and year first above written.

LANDLORD:

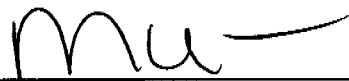
WITNESS:

PAPILLION DEVELOPMENT, LLC, a Nebraska limited liability company

By: RED Papillion, LLC, Its Manager, a Missouri limited liability company

By: E & R Holdings, LLC, Managing Member




By: 

Michael L. Ebert
Manager

TENANT:

WITNESS:


BED BATH & BEYOND INC., a New York corporation



Katherine Sloss

(4)

By:



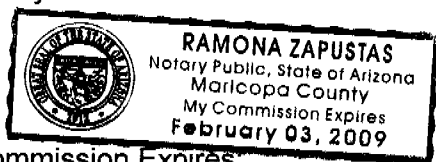
Warren Eisenberg
Co-Chairman

C

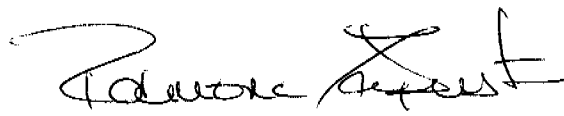
STATE OF ARIZONA)
): ss.
COUNTY OF MARICOPA)

Now on this 27th day of June, 2006, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came Michael L. Ebert, Manager of E&R Holdings, LLC which entity is a member of RED Papillion, LLC, which entity is a member of Papillion Development, LLC who is personally known to me to be the same person who executed in such capacity the within instrument on behalf of said limited partnership, and who duly acknowledged the execution of the same to be the act and deed of said limited partnership.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

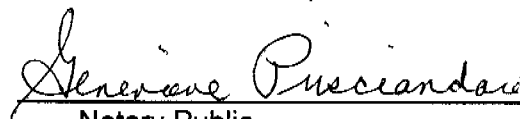


My Commission Expires:


Notary Public

STATE OF NEW JERSEY)
): ss.
COUNTY OF UNION)

On this 10th day of July 2006, before me personally came Warren Eisenberg to me known, who being by me duly sworn, did depose and say that he is the Co-Chairman of Bed Bath & Beyond Inc., the corporation described in and which executed the above instrument and that he signed his name thereto by order of the Board of Directors of said corporation.


Notary Public

My Commission Expires: 11/4/07

GENEVIEVE PRISCIANDARO
Notary Public - State of N.J.
My Commission Expires 11/4/07

EXHIBIT A-1

LEGAL DESCRIPTION OF THE SHOPPING CENTER

Lot 2, Lots 4 through 12, inclusive, Lot 15 and Outlots A and B, Shadow Lake Towne Center, a subdivision in Sarpy County, Nebraska, according to the recorded plat thereof.

And

Lot 1, Lot 2 and Outlots A, B and C, Shadow Lake Towne Center Replat 1, an Administrative Subdivision (being a replat of Lot 13 and Outlot C, Shadow Lake Towne Center) in Sarpy County, Nebraska, according to the recorded plat thereof.

The above is comprised of the following:

Landlord's Parcels:

Lot 11, Lot 12 and Outlots A and B, Shadow Lake Towne Center, a subdivision in Sarpy County, Nebraska, according to the recorded plat thereof.

And

Lot 1, Lot 2 and Outlots A, B and C, Shadow Lake Towne Center Replat 1, an Administrative Subdivision (being a replat of Lot 13 and Outlot C, Shadow Lake Towne Center) in Sarpy County, Nebraska, according to the recorded plat thereof.

Outparcels:

Lot 2, Lots 4 through 10, inclusive and Lot 15, Shadow Lake Towne Center, a subdivision in Sarpy County, Nebraska, according to the recorded plat thereof.