

FILED SARPY CO. NE.  
INSTRUMENT NUMBER  
2006-33298

2006 SEP 27 AID: 18

*Glenn J. Newbery*  
REGISTER OF DEEDS

COUNTER 40 G.E. W  
VERIFY OK P.E. P  
PROOF LM  
FEES \$ 44.50  
CHECK # 458853/462388  
CHG. \_\_\_\_\_ CASH \_\_\_\_\_  
REFUND \_\_\_\_\_ CREDIT \_\_\_\_\_  
SHORT .50 NCR \_\_\_\_\_

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## MEMORANDUM OF LEASE


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Dated: August 28, 2006

PETSMART Store #1514  
Shadow Lake (Papillion)  
Sarpy County, Nebraska

A

Document to be returned after recordation to:

 PetSmart, Inc.  
19601 N. 27<sup>th</sup> Avenue  
Phoenix, AZ 85027

Attn: *Melanie Weaver*  
PetSmart Store No.: *1514*

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### MEMORANDUM OF LEASE

Notice is hereby given that **Papillion Development, LLC**, a Nebraska limited liability company ("Landlord") and **PetSmart, Inc.**, a Delaware corporation ("Tenant"), have entered into a Shopping Center Lease dated August 28, 2014 (the "Lease"), pertaining to certain premises identified on Exhibit A attached hereto and located within the real property described in Exhibit B attached hereto (the "Shopping Center"). The initial term of such Lease is ten (10) years, and Tenant has the option to extend such term for up to four (4) renewal periods of five (5) years each. Among other things, the Lease grants to Tenant the right along with Landlord and other tenants in the Shopping Center to use the Common Areas depicted on Exhibit A including, without limitation roads, driveways, sidewalks and parking areas, grants certain rights with respect to Landlord's pylon sign structures, and contains certain use prohibitions on other occupants and tenants as more particularly set forth in the Lease. The Lease imposes certain restrictions relative to building heights and parking ratios as set forth in Exhibit C hereto. Tenant's Primary Use is as follows: the retail sale of (i) pets (including but not limited to, fish, birds, reptiles, dogs, cats and other small animals), (ii) food, accessories and other products relating to pets and animals, (iii) services related to pets and animals, such as grooming, boarding, pet day care, animal training and obedience classes, pet adoption and veterinary services, (iv) products relating to nature and the environment, and (v) educational products and services related to any of the foregoing, and office and storage uses incidental to the foregoing. The Lease provides certain use rights as set forth in Exhibit G thereof.

B

LANDLORD:

**Papillion Development, LLC,**  
a Nebraska limited liability company

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

By: E&R Holdings, LLC  
Managing Member

By: Michael L. Ebert  
Michael L. Ebert  
Title: Manager

TENANT:

**PetSmart, Inc.,**  
a Delaware corporation

By: [Signature]  
Name: Timothy E. Kullman  
Title: Senior Vice President and Chief Financial  
Officer

STATE OF Ariz )  
COUNTY OF Maricopa ) ss:

On this 28 day of August, 2006, before me, the undersigned officer, personally appeared Michael Ebert, who acknowledged himself to be the manager of E&R Holdings, LLC, the Managing Member of RED Papillion, LLC, the Manager of **Papillion Development, LLC**, a Nebraska limited liability company, and that he, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing such instrument in such capacity.

[Signature]  
Notary Public

My Commission expires:  
3/2/08



C

STATE OF ARIZONA       )  
                                  ) ss:  
COUNTY OF MARICOPA )

On this 28<sup>th</sup> day of July, 2006, before me, the undersigned officer, personally appeared before me Timothy E. Kullman, who acknowledged himself to be Senior Vice President and Chief Financial Officer of **PetSmart, Inc.**, a Delaware corporation, and that he being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing such instrument in such capacity.

Lindsay Hattasch  
Notary Public

My Commission expires:

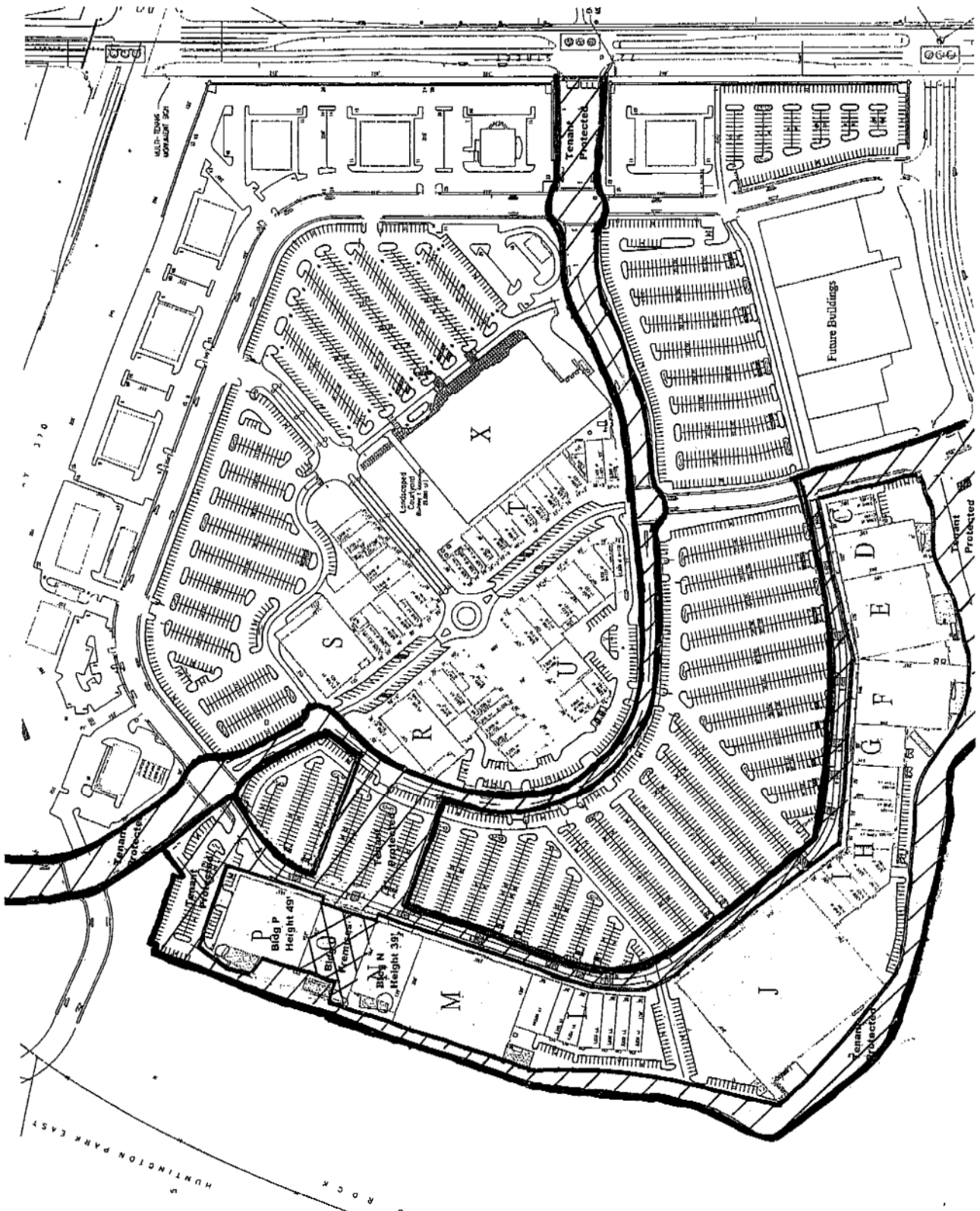
\_\_\_\_\_



**LINDSAY HATTASCH**  
Notary Public - Arizona  
Maricopa County  
Expires 12/31/09

"EXHIBIT A"

Premises  
Location  
Tenant  
Protected  
Area



E

**EXHIBIT B**

**To Memorandum of Lease**

**LEGAL DESCRIPTION**

Lots 2, 4 through 12, and 15, and Outlots A, B, D, and E, Shadow Lake Towne Center, a subdivision in Sarpy County, Nebraska, recorded April 27, 2006, in the Official Records of Sarpy County, Nebraska as Instrument No. 2006-13991, and Lots 1, 2 and Outlots A, B, and C Shadow Lake Towne Center Replat 1, an administrative subdivision in Sarpy County, Nebraska, recorded June 26, 2006, in the Official Records of Sarpy County, Nebraska as Instrument No. 2006-21348.

**EXHIBIT C****To Memorandum of Lease****PARKING RATIOS & HEIGHT RESTRICTIONS****Parking Ratios**

The Common Area shall at all times contain no less than the greater of (i) five (5) parking spaces per one thousand (1,000) square feet of Gross Floor Area for the entire Shopping Center; or (ii) the number of parking spaces required by applicable law, without variances, including the ratios required for restaurant or food service uses. Each parking space shall be no less than nine (9) feet from center to center and eighteen (18) feet from end to end, except for such handicapped parking spaces as may be required by law and except that up to ten percent (10%) of the parking spaces in the Shopping Center may be of a reduced size suitable for parking compact cars in accordance with local ordinances, so long as (a) substantially all of the two hundred (200) parking spaces closest to the front entrance of Tenant's Building shall be and remain full-sized, unless otherwise specifically shown on Exhibit A, and (b) the total area devoted to parking shall not be diminished as a result of the conversion of any full-sized parking spaces depicted on Exhibit A.

**Height Restrictions**

Tenant's Building may be thirty-five (35) feet in height above finished floor level, subject to applicable laws. The buildings immediately adjacent to Tenant's Building shall not be taller than the heights designated for those buildings on Exhibit A attached hereto.