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SUBMITTED NEBRASKA TITLE COMPANY-ON

FILED SARPY CO. NE.  
INSTRUMENT NUMBER

**2018-20356**

2018 Aug 29 08:38:18 AM

*Sheryl J. Dowling*

REGISTER OF DEEDS



RECORDING REQUESTED BY,  
AND WHEN RECORDED, RETURN TO:

PREP Property Group LLC  
5905 E. Galbraith Road,  
Suite 1000  
Cincinnati, OH 45236  
Attn: Vivian M. Knight

The consideration for this Agreement is included in the consideration paid for the Deed being recorded concurrently herewith.

#### ASSIGNMENT AND ASSUMPTION OF RIGHTS UNDER ECR

**THIS ASSIGNMENT AND ASSUMPTION OF RIGHTS UNDER ECR** (this "Agreement") is made on August **27**, 2018 (the "Effective Date"), by Papillion Development, LLC, a Nebraska limited liability company ("Assignor"), in favor of PPG Shadow Real Estate LLC, a Delaware limited liability company ("Assignee").

WHEREAS, Assignor is the Developer under that certain Declaration of Reciprocal Easements, Covenants and Restrictions recorded June 20, 2006 as Document No. 2006-20802 (the "**Original ECR**"), as amended by that certain First Amendment to Declaration of Reciprocal Easements, Covenants and Restrictions recorded March 21, 2012, as Document No. 2012-08360 (the "**First Amendment**"), and as may be amended or supplemented from time to time (the "**ECR**") governing the use and development of the Shadow Lake Towne Center shopping center. For clarification purposes, the ECR includes those Supplemental Agreements referenced on Exhibit A. The real property encumbered by the ECR (the "**Affected Real Property**") is legally described on Exhibit B attached hereto and incorporated herein by this reference.

WHEREAS, concurrently with the execution and delivery of this Agreement, Assignee has acquired ownership of various Lots encumbered by the ECR.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor desires to assign to Assignee all of Assignor's right, title and interest in, to and under the ECR as the Developer. Unless otherwise defined herein, all capitalized terms used in this Agreement shall have the same meanings as is given to such terms in the ECR. The parties further agree as follows:

1. Assignor does hereby ASSIGN, SET OVER AND DELIVER to Assignee, its successors and assigns, all of Assignor's rights, titles and interest under the ECR, as the "Developer".

2. Assignee does hereby accept the foregoing assignment and assumes and shall pay, perform and discharge, as and when due, all of the agreements and obligations of Developer under the ECR accruing from and after the Effective Date and agrees to be bound by all of the terms and conditions of the ECR.

3. Assignor agrees to indemnify, protect, defend and hold Assignee harmless from and against any and all claims, demands, liabilities, losses, costs, damages or expenses including, without limitation, reasonable attorneys' fees and costs (collectively, "**Claims**") arising as a result of (a) any unperformed obligation of Assignor arising or accruing with respect to the ECR prior to the date hereof, which indemnity shall survive the execution and delivery of this Agreement for a period of one (1) year (provided that such survival shall extend beyond one (1) year for losses, liability, damages, costs and expenses covered by this indemnity which relate to claims made by Assignee against Assignor in accordance with this indemnity prior to such one (1) year anniversary), and (b) the Retained Parcels.

4. Assignee agrees to indemnify, protect, defend and hold Assignor harmless from and against any and all Claims arising as a result of any unperformed obligation of Assignee arising or accruing with respect to the ECR on or after the date hereof.

5. Notice. Developer's current notice address under Section 25 of the ECR is deleted and replaced as follows:

c/o PREP Property Group, LLC  
5905 E. Galbraith Road, Suite 1000  
Cincinnati, OH 45236  
Attn: Mark Wilhoite, Chief Development Officer  
Facsimile: (513) 828-6020  
Email: mark.wilhoite@preppg.com

With copies to:

PREP Property Group, LLC  
5905 E. Galbraith Road, Suite 1000  
Cincinnati, Ohio 45236

Attn: Vivian M. Knight, Legal Services  
Facsimile: (513) 828-6020  
Email: Vivian.knight@preppg.com

6. The provisions of this Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective successors and assigns.

7. The Agreement shall be construed under and enforced in accordance with the laws of the State of Nebraska.

8. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. The signature and acknowledgment pages of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) and acknowledgment(s) thereon, provided such signature and acknowledgment pages are attached to any other counterpart identical thereto except having additional signature and acknowledgment pages executed and acknowledged by other parties to this Agreement attached thereto.

9. Assignor hereby covenants that it will, at any time and from time to time upon written request therefor, execute and deliver to Assignee, and/or its successors and assigns, any new or confirmatory instruments and take such further acts as Assignee may reasonably request to fully evidence the assignment contained herein and to enable Assignee, and/or its successors and assigns, to fully realize and enjoy the rights and interests assigned hereby.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Assignor and Assignee have caused their duly authorized representatives to execute this Agreement as of the date first above written.

**ASSIGNOR:**

PAPILLION DEVELOPMENT, LLC,  
a Nebraska limited liability company

By: RED Papillion, LLC, Its Manager

By: E & R Holdings, LLC, Its Manager

By: Michael L. Ebert  
Name: Michael L. Ebert  
Its: Manager

**ACKNOWLEDGMENT**

STATE OF Arizona            )  
  ) ss.  
COUNTY OF Maricopa        )

Now on this 20<sup>th</sup> day of August, 2018, 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, Manager of RED Papillion, LLC, Manager of Papillion Development, LLC, a Nebraska limited liability company, who is personally known to me to be the same person who executed the within instrument on behalf of said company, and who duly acknowledged the execution of the same to be his free act and deed and the free act and deed of said company.

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

Lisa Gayle Sheets  
Lisa Gayle Sheets Notary Public  
(Print Name)

My Commission Expires: 9/1/2019



*[Signature Page to Developer Assignment Agreement]*

**ASSIGNEE:**

**PPG SHADOW REAL ESTATE LLC**, a  
Delaware limited liability company

By: *Sara J. Brennan*  
Name: Sara J. Brennan  
Its: Chief Operating Officer

COUNTY OF SUMMIT                    )  
  )SS:  
STATE OF UTAH                        )

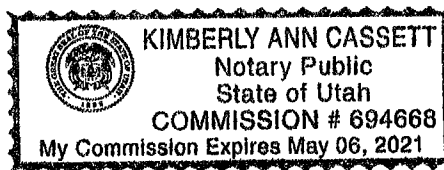
BE IT REMEMBERED that on this 22<sup>nd</sup> day of August, 2018, before me, a Notary Public in and for the said county and state, personally appeared Sara J. Brennan, Chief Operating Officer of PPG Shadow Real Estate LLC, a Delaware limited liability company, who is personally known to me and who acknowledged that he/she did sign the foregoing instrument and that the same is his/her free and voluntary act and deed as the CEO of such limited liability company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal on the date and year above-mentioned.

Notary Public

*K. A. Cassett*

My Commission expires: 5-6-2021



*[PPG Shadow Real Estate LLC Signature Page to  
Assignment and Assumption Of Rights Under ECR]*

EXHIBIT A  
SUPPLEMENTAL AGREEMENTS

1. Supplemental Agreement dated July 19, 2006 between Papillion Development, LLC and Hy-Vee, Inc.
2. Supplemental Agreement dated July 18, 2006 between Papillion Development, LLC and First National Bank of Omaha.
3. Supplemental Agreement dated March 14, 2018 between Papillion Development, LLC and Taco Bell Corp.
4. Supplemental Agreement dated April 19, 2010 between Papillion Development, LLC and Custard Cats, LLC
5. Supplemental Agreement dated May 9, 2013 between Papillion Development, LLC and SMBC Leasing and Finance, Inc., through its agent, Bridgestone Retail Operations, LLC.
6. Supplemental Agreement dated April 25, 2018 between Papillion Development, LLC and Charter West Bank Point, NE 68788-0286.

EXHIBIT B TO  
ASSIGNMENT AND ASSUMPTION OF  
RIGHTS UNDER ECR

LEGAL DESCRIPTION OF AFFECTED REAL PROPERTY

Lots 1, 2, 3, 4, 7, 8, 9, 14 and 15, Outlots A, and B, Shadow Lake Towne Center, a subdivision in Sarpy County, Nebraska.

Lots 1, 2 and Outlots A, B and C, Shadow Lake Towne Center Replat 1, an Administrative Subdivision, in Sarpy County, Nebraska,

Lots 1 and 2, Shadow Lake Towne Center Replat 2, an Administrative Subdivision in Sarpy County, Nebraska.

Lot 1, Shadow Lake Towne Center Replat 3, an Administrative Subdivision in Sarpy County, Nebraska.

Lots 2, 3 and 4, Shadow Lake Towne Center Replat 4, an Addition to the City of Papillion, in Sarpy County, Nebraska, according to the Plat recorded December 12, 2011 as Inst. No. 2011-31456 in the records of Sarpy County, Nebraska.

Lots 1 and 2, Shadow Lake Town Center Replat 5, an Addition to the City of Papillion, in Sarpy County, Nebraska, according to Plat recorded as Instrument No. 2014-29123 in the records of Sarpy County, Nebraska.