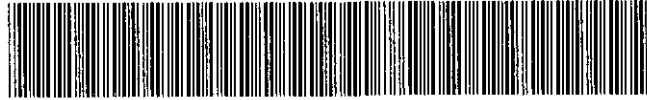





MISC 2007104135



SEP 11 2007 15:23 P 10

6 misc
 FEE \$100 FB see attached
 10/2 BKP _____ C/O _____ COMI BW
 DEL _____ SCAN _____ FV _____

PREPARED BY AND UPON
 RECORDING RETURN TO:
 RICHARD J. ROSENBLATT, ESQ.
 KUTAK ROCK LLP
 1650 FARNAM STREET
 OMAHA, NE 68102-2186

Received - DIANE L. BATTIATO
 Register of Deeds, Douglas County, NE
 9/11/2007 15:23:41.52

 2007104135

Omaha (Ranch Bowl), NE
 Store No. 4358-00

STORM SEWER EASEMENT

August THIS STORM SEWER EASEMENT (this "Easement") is made as of this 23rd day of August, 2007, by WOOLWORTH ESTATES, LTD., a Nebraska limited partnership ("Grantor") in favor of WAL-MART REAL ESTATE BUSINESS TRUST, a Delaware statutory trust ("Wal-Mart").

PRELIMINARY STATEMENTS

Grantor is the fee simple owner of certain real property legally described in Exhibit A attached hereto and incorporated herein (the "Grantor Property"). Wal-Mart is or intends to be the fee simple owner of certain real property legally described in Exhibit B attached hereto and incorporated herein (the "Wal-Mart Property"). Grantor desires to grant to Wal-Mart and its successors and assigns, for the benefit of the Wal-Mart Property, a perpetual easement to enter onto, under and/or cross over that portion of the Grantor Property described as the "Storm Sewer Easement" in Exhibit C attached hereto and incorporated herein (the "Easement Area") to construct, install, use, inspect, maintain, repair and replace those certain storm sewer improvements more particularly described on Exhibit D attached hereto and incorporated herein (the "Improvements") located upon the Easement Area, subject to the terms and conditions of this Easement.

AGREEMENT

For and in consideration of \$10 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Grant of Easement.** Subject to any restrictions, easements or other matters of record, Grantor hereby grants to Wal-Mart, and its successors and assigns, for the benefit of the Wal-Mart Property, a perpetual easement to enter upon the Easement Area to construct, install, use, inspect, maintain, repair and replace the Improvements, subject to the terms of this Easement. Grantor may grant other easement interests in and to the Easement Area provided the use and enjoyment of such rights does not unreasonably interfere with Wal-Mart's use and enjoyment of the rights granted to Wal-Mart pursuant to this Easement. Wal-Mart, at its sole cost and expense, shall repair, replace and maintain the Improvements in good working order and condition, provided that Wal-Mart shall have no obligation to modify or enlarge the Improvements. Grantor shall not construct any buildings or other structures within the Easement Area, nor shall Grantor otherwise alter or modify the Easement Area in any manner which

CRS 20846

would unreasonably interfere with Wal-Mart's use and enjoyment of the rights granted to Wal-Mart pursuant to this Easement. Grantor shall have the right at its sole option and expense to relocate the Improvements and the Easement Area upon the Grantor Property, provided Wal-Mart's use of the Improvements and the Easement Area is not interrupted.

2. **Indemnification.** Wal-Mart, its grantees, successors and assigns, agree to protect, indemnify and hold harmless Grantor, its successors and assigns, from and against all liability, loss, cost, damage and claims of every kind and character due to injury to or death of any person whomsoever, or loss or damage to any property whatsoever, arising directly or indirectly out of or incident to the construction, installation, use, inspection, maintenance, repair or replacement of the Improvements by Wal-Mart within the Easement Area, but excluding the negligence or willful misconduct of Grantor or its successors and assigns.

3. **Binding Upon Property.** The easements, rights and obligations created pursuant to this Easement shall be appurtenant to and run with and be binding upon the real properties herein identified, including future subdivisions and/or reconfigurations of such properties, and shall be binding on all entities having or acquiring any right, title or interest in such properties and shall inure to the benefit of each owner, tenant, subtenant, employee or invitee thereof.

4. **Non-Merger.** The easements, rights and obligations established by this Easement shall not merge or terminate if all of the Grantor Property and the Wal-Mart Property become owned by the same entity, but shall continue until released and terminated by all parties benefited hereby.

5. **No Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Grantor Property to the general public, or for any public use, or purpose whatsoever. Except as herein specifically provided, no rights, privileges or immunities of any party hereto shall inure to the benefit of any third-party, nor shall any third-party be deemed to be a beneficiary of any of the provisions contained in this Easement.

6. **Title.** Grantor confirms with Wal-Mart and its assigns that Grantor is seized in fee of the Easement Area.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have caused the authorized execution of this Easement, the day and year first above written.

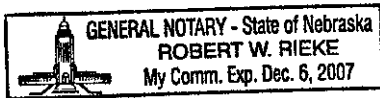
GRANTOR:

WOOLWORTH ESTATES, LTD., a Nebraska limited partnership

By *Howard M. Kooper*
Printed Name HOWARD M KOOPER
Its GEN PARTNER

STATE OF NEBRASKA)
) ss.
COUNTY OF DEWETS)

The foregoing instrument was acknowledged before me this 18 day of JULY, 2007 by HOWARD M. KOOPER, the GENERAL PARTNER of Woolworth Estates, Ltd., a Nebraska limited partnership, on behalf of the limited partnership.



Robert W. Rieke
Notary Public

My Commission Expires:

WAL-MART:

WAL-MART REAL ESTATE BUSINESS
TRUST, a Delaware statutory trust

Approved as to legal terms only

By [Signature]

WAL-MART LEGAL TEAM

Date 8/20/07

By: [Signature]

TM Shannon Letts
Regional Vice President of Design
and Real Estate

STATE OF ARKANSAS)
) ss.
COUNTY OF BENTON)

The foregoing instrument was acknowledged before me this 23rd day of Aug., 2007 by Shannon Letts, Regional Vice President of Design and Real Estate of Wal-Mart Real Estate Business Trust, a Delaware statutory trust, on behalf of the statutory trust.

[Signature]
Notary Public

My Commission Expires:
7-16-2011

Gina Norton
NOTARY PUBLIC-STATE OF ARKANSAS
BENTON COUNTY
My Commission Expires July 16, 2011

ADDENDUM

CONSENT AND JOINDER

The undersigned, Capmark Finance Inc., hereby consents to and joins in the execution of the within and foregoing Grants of Temporary Construction Easement and Storm Sewer Easement between Woolworth Estates, Ltd. and Wal-mart Real Estate Business Trust ("Easement Agreements"), by virtue of their rights and interests set forth in that certain Mortgage dated November 1, 2003, and agrees to the granting of the aforesaid easement and agrees that any sale under foreclosure of such mortgage shall be subject to such Easement Agreement.

This 3rd day of July, 2007.

Signed, sealed and delivered in the presence of:

By: Capmark Finance Inc.

Witness:

Debbie O'Drain

By: [Signature]

Name: ALLEN SULLIVAN
Title: VICE PRESIDENT

(execution is subject to the approval of HUD as hereinafter provided)

ACKNOWLEDGEMENT:

COMMONWEALTH OF PENNSYLVANIA)
)ss
COUNTY OF MONTGOMERY)

On the 3rd day of July, 2007, before me, a Notary Public in and for the said State, the personally appeared ALLEN SULLIVAN, VICE PRESIDENT, personally known to me or proved to me on the basis of satisfactory evidence to be the individual who name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

In Witness Whereof, I have hereunto set my hand and official seal.

[Signature]
Notary Public

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Jean Reese, Notary Public
Horsham Twp., Montgomery County
My Commission Expires Jan. 12, 2010
Member, Pennsylvania Association of Notaries

NOTARIAL SEAL
REGISTER OF DEEDS

The undersigned Secretary of Housing and Development, of Washington, D.C., executes this instrument for the purpose of approving the agreements contained herein.

SECRETARY OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, D.C.

By: Donald D. Johnson
Authorized Agent

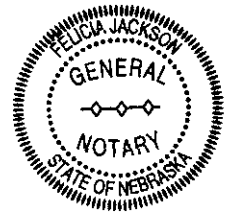
Omaha, Office

Date: 07/23/2007

STATE OF Nebraska)
COUNTY OF Douglas) SS:

The foregoing instrument was acknowledged before me this 23 day of July, 2007, by Donald D. Johnson as authorized agent on behalf of the Secretary of Housing and Urban Development, of Washington, D.C., acting by and through the Federal Housing Commissioner.

Felicia Jackson
Notary Public
My Commission Expires:



MY COMMISSION EXPIRES:
March 3, 2011

EXHIBIT A

LEGAL DESCRIPTION OF GRANTOR PROPERTY

49-44821

LOT 1, WOOLWORTH ESTATES, A PLATTED AND RECORDED SUBDIVISION IN THE CITY OF OMAHA, DOUGLAS COUNTY, NEBRASKA.

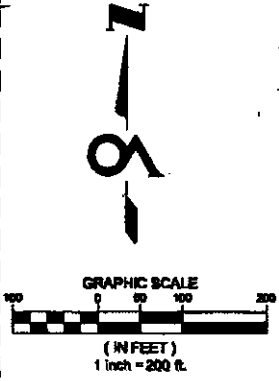
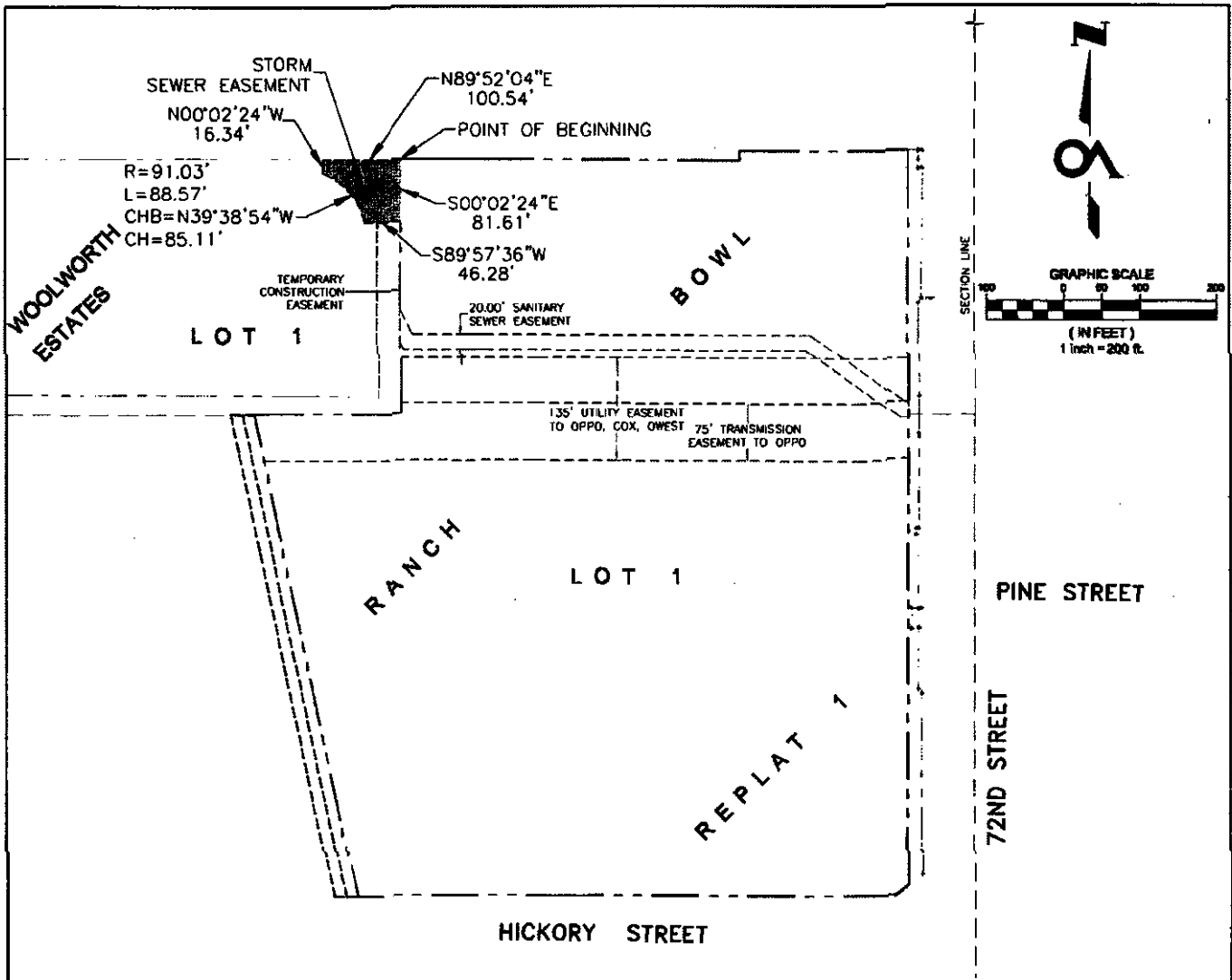
EXHIBIT B

LEGAL DESCRIPTION OF WAL-MART PROPERTY

Lot 1 - 49-32030

RANCH BOWL REPLAT ONE, BEING A PLATTING OF THAT PART OF THE NORTHEAST QUARTER OF SECTION 26, TOWNSHIP 15 NORTH, RANGE 12 EAST OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER OF SAID SECTION 26; THENCE S00°05'40"W (ASSUMED BEARING) ALONG THE EAST LINE OF THE NE 1/4 OF SAID SECTION 26, 975.22 FEET; THENCE N89°54'20"W, 72.90 FEET TO THE WESTERLY RIGHT OF WAY LINE OF 72ND STREET, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE S00°02'42"W ALONG THE WESTERLY RIGHT OF WAY LINE OF 72ND STREET, 21.96 FEET; THENCE S85°19'17"E ALONG SAID RIGHT OF WAY LINE, 4.86 FEET; THENCE S00°05'08"W ALONG SAID RIGHT OF WAY LINE, 170.81 FEET; THENCE S37°53'11"W ALONG SAID RIGHT OF WAY LINE, 6.64 FEET; THENCE S00°05'59"W ALONG SAID RIGHT OF WAY LINE, 295.59 FEET; THENCE S89°49'04"W ALONG SAID RIGHT OF WAY LINE, 3.30 FEET; THENCE S00°02'59"W ALONG SAID RIGHT OF WAY LINE, 8.21 FEET; THENCE N89°49'04"E ALONG SAID RIGHT OF WAY LINE, 3.28 FEET; THENCE S00°03'12"W ALONG SAID RIGHT OF WAY LINE, 97.49 FEET; THENCE N89°20'00"W ALONG SAID RIGHT OF WAY LINE, 9.38 FEET; THENCE S00°15'56"W ALONG SAID RIGHT OF WAY LINE, 26.21 FEET; THENCE N89°19'36"E ALONG SAID RIGHT OF WAY LINE, 9.46 FEET; THENCE S00°02'45"W ALONG SAID RIGHT OF WAY LINE, 80.74 FEET; THENCE S34°58'04"E ALONG SAID RIGHT OF WAY LINE, 6.96 FEET; THENCE S00°07'17"W ALONG SAID RIGHT OF WAY LINE, 239.48 FEET; THENCE S52°13'21"W ALONG THE RIGHT OF WAY LINE OF 72ND STREET AND HICKORY STREET, 44.75 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF HICKORY STREET; THENCE N89°43'11"W ALONG SAID NORTHERLY RIGHT OF WAY LINE, 450.14 FEET; THENCE N89°57'20"W ALONG SAID NORTHERLY RIGHT OF WAY LINE, 253.32 FEET; THENCE N11°53'58"W, 649.57 FEET; THENCE S89°56'42"E, 192.34 FEET TO THE EXTENDED EAST LINE OF LOT 1, WOOLWORTH ESTATES, A PLATTED AND RECORDED SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA; THENCE N00°02'24"W ALONG SAID EAST LINE, 331.91 FEET; THENCE S89°52'47"E, 95.17 FEET; THENCE S89°40'14"E, 349.78 FEET; THENCE N00°26'08"E, 11.96 FEET; THENCE S89°53'19"E, 232.39 FEET TO THE POINT OF BEGINNING AND CONTAINING 16.95 ACRES, MORE OR LESS.



LEGAL DESCRIPTION

A TRACT OF LAND LOCATED IN LOT 1, WOOLWORTH ESTATES, A PLATTED AND RECORDED SUBDIVISION IN THE CITY OF OMAHA, DOUGLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 1, THENCE S00°02'24"E, 81.61 FEET; THENCE N89°57'36"W, 46.28 FEET; THENCE ON A 91.03 FOOT RADIUS CURVE TO THE LEFT, AN ARC LENGTH OF 88.57 FEET (LONG CHORD BEARS N39°38'54"W, 85.11 FEET); THENCE N00°02'24"W, 16.34 FEET TO THE NORTH LINE OF SAID LOT 1; THENCE ON SAID NORTH LINE N89°52'04"E, 100.54 FEET TO THE POINT OF BEGINNING, CONTAINING 5834 SQUARE FEET, OR 0.13 ACRES MORE OR LESS.

PROJECT: 04-1018
 DRAWN BY: BRW
 DATE: 12/06/06

STORM SEWER EASEMENT



EXHIBIT
 C

Fig. 1. Plan of Storm Sewer Easement on Lot 1, Woolworth Estates, City of Omaha, Douglas County, Nebraska, 12/06/06.

