

FILED SARPY CO. NE.
INSTRUMENT NUMBER
2007-30879

2007 OCT -9 P 3: 23 PM

Shawn J. Dowling
REGISTER OF DEEDS

COUNTER LM
VERIFY Paul
PROOF Paul
FEES \$ 37.00
CHECK # _____
CHG CRS CASH _____
REFUND _____ CREDIT _____
SHORT _____ NCR _____

Gretna, NE
Store No. 4600-00

STORM SEWER EASEMENT

October THIS STORM SEWER EASEMENT (this "Easement") is made as of this 2nd day of October, 2007 by WESTERN LAND COMPANY, L.L.C., a Nebraska limited liability company ("Grantor"), in favor of WAL-MART REAL ESTATE BUSINESS TRUST, a Delaware statutory trust ("Wal-Mart") and SANITARY IMPROVEMENT DISTRICT NO. 282, SARPY COUNTY ("SID 282"). Wal-Mart and SID 282 together shall be referred to herein as "Grantee."

PRELIMINARY STATEMENTS

Grantor is the fee simple owner of the real property legally described as follows:

Lots 4 and 5 and Outlot 1, WICKS SOUTHPOINTE, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska

(the above-described real property being referred to herein as "Grantor Property").

Wal-Mart is the fee simple owned of the real property legally described as follows:

Lot 8, WICKS SOUTHPOINTTE, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska

(the above-describe real property being referred to herein as "Wal-Mart Property").

The Grantor Property and the Wal-Mart Property are located within Sanitary Improvement District 282, Sarpy County.

Grantor desires to declare, establish and grant to Grantee and their respective successors and assigns, for the benefit of the Wal-Mart Property and the Grantor Property, an exclusive, perpetual easement to enter onto, under and/or cross over that portion of the Grantor Property described as the "Storm Sewer Easement" in Exhibit A attached hereto and incorporated herein (the "Easement Area") to construct, install, extend, use, inspect, maintain, repair and replace that certain storm sewer pipe and other improvements (the "Improvements") to be constructed, installed and located upon and within the Easement Area, subject to the terms and conditions of this Easement.

RETURN TO:
LAND AMERICA FINANCIAL GROUP, INC.
1850 N. CENTRAL AVE. #300
PHOENIX, AZ 85004
LESCROW NO. 06-45978

30879

CRS22214

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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 declares, establishes and grants to Grantee, their respective affiliates, heirs, successors, assigns, agents, licensees and invitees, for the benefit of the Wal-Mart Property and Grantor Property, an exclusive, perpetual easement to enter upon the Easement Area to construct, install, extend, use, inspect, maintain, repair and replace the Improvements, subject to the terms of this Easement. During the initial construction and installation of the Improvements, Wal-Mart shall maintain the Easement Area in good repair so that no unreasonable damage will result therefrom to Grantor. Thereafter, SID 282 shall repair, replace and maintain the Improvements in good working order and condition and shall maintain the Easement Area in good repair so that no unreasonable damage will result therefrom to Grantor. Grantor shall not grade, dig in, construct upon or otherwise alter the Easement Area; provided, however, that in the event Wal-Mart shall not have constructed the Improvements within the Easement Area prior to the time Grantor desires to develop any burdened property, upon written notice by Grantor to Wal-Mart of Grantor's intent to develop such Property, subject to Wal-Mart's review and approval and any plans and specifications for the Improvements and subject to Wal-Mart's right to inspect and approve the construction of the Improvements, Wal-Mart may permit Grantor to construct the Improvements at Grantor's cost.

2. **Grantor to Connect to Improvements.** Grantor shall have the right to tap into and connect any storm sewer drainage improvements to be located on the Grantor Property to the Improvements; provided, however, that (a) Grantor shall indemnify Grantee from any and all damage to the Improvements or other expense, causes or action, claims or other liability, in any case caused by Grantor's connection to the Improvements, (b) the increased drainage from Grantor's Property shall not cause the drainage to exceed the storm sewer capacity of the Improvements, (c) Grantor's connection to and use of the Improvements shall not interfere with the operation of business on the Wal-Mart Property. Grantor acknowledges and agrees to maintain during the term of this Easement those policies of insurance required pursuant to that certain Easements with Covenants and Restrictions by and among Grantor and Wal-Mart dated on or about the date hereof and burdening the Grantor Property.

3. **Title Upon Completion.** Upon completion of the Improvements, the parties hereto acknowledge and agree that SID 282 shall be the owner of the Improvements and responsible for the perpetual maintenance of the Improvements.

4. **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. In the event any portion of the Grantor Property is transferred to a third-party, such portion of the Grantor Property shall have the benefit of this Easement.

5. **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.

6. **Title.** Grantor confirms to Grantee and their respective successors and assigns that Grantor is seized in fee of the Grantor Property and the Easement Area and that it has the right to grant

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and convey the easement and rights granted herein, and that it will warrant and defend such easement and rights to Grantee and their respective successors and assigns against the lawful claims and demands of all persons.

7. **No Warranty; Hold Harmless.** Wal-Mart hereby makes no representations or warranties, either expressed or implied, by operation of law or otherwise, with respect to the quality, physical condition or value of the Improvements, the Improvements' suitability, merchantability or fitness for a particular purpose, the presence or absence of conditions on the Improvements that could give rise to any claims for personal injury, property or natural resource damages or otherwise; or the presence of hazardous or toxic substances, materials, waste, contaminants or pollutants on, under or about the Improvements. Grantor will forever waive and hold Wal-Mart harmless for, and defend Wal-Mart against, any claims, losses, causes of action, and suits which arise from Grantor's, its agents', employees' or invitees' acts or omissions in connection with its use of the Improvements.


[Signature Page to Follow]

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

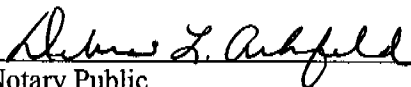
GRANTOR:

WESTERN LAND COMPANY, L.L.C., a
Nebraska limited liability company

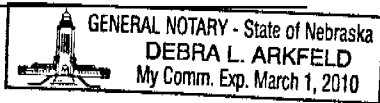
By: 
Gale L. Wickersham, Managing Member

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 22nd day of August, 2007 by Gale L. Wickersham, the Managing Member of Western Land Company, L.L.C., a Nebraska limited liability company, on behalf of the limited liability company.


Notary Public

My Commission Expires:



D

WAL-MART:

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

By Shannon Letts
Shannon Letts
Regional Vice President
Design and Real Estate

STATE OF ARKANSAS)
) ss.
COUNTY OF BENTON)

The foregoing instrument was acknowledged before me this 2nd day of October, 2007 by Shannon Letts, Regional Vice President, Design and Real Estate of Wal-Mart Real Estate Business Trust, a Delaware statutory trust, on behalf of the trust.

Karen D. Milligan
Notary Public

My Commission Expires:
10-30-2008

" NOTARY SEAL
Karen D. Milligan, Notary Public
Washington County, State of Arkansas
My Commission Expires 10/30/2008

Approved as to legal terms only
by [Signature]
WAL-MART LEGAL DEPT.
Date: 8/28/07

E

Gretna, NE
Store No. 4600-00

SID 282:

SANITARY IMPROVEMENT DISTRICT
282, Sarpy County

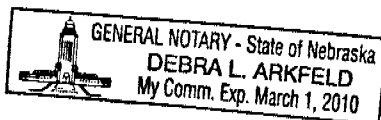
By: *Gale L. Wickersham*
Name Gale L. Wickersham
Title Chairman

STATE OF NEBRASKA)
) ss.
COUNTY OF Sarpy)

The foregoing instrument was acknowledged before me this 22nd day of August, 2007 by Gale L. Wickersham the Chairman of Sanitary Improvement District 282, Sarpy County, on behalf of the sanitary improvement district.

Debra L. Arkfeld
Notary Public

My Commission Expires:



EASEMENT AREA

LEGAL DESCRIPTION

A permanent easement for the construction and maintenance of storm sewers in favor of Lot 8 over that part of Lots 4 and 5, AND Outlot 1, WICKS SOUTHPOINTE, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, described as follows:

Commencing at the west corner of said Lot 5;

Thence South 56°13'25" East (bearings referenced to the Final Plat of WICKS SOUTHPOINTE) for 36.22 feet along the southwest line of said Lot 5 to the TRUE POINT OF BEGINNING;

Thence North 37°26'29" East for 417.31 feet parallel with and twenty-foot (20') northwest of the northwest line of existing sanitary sewer easement as granted in the Final Plat of WICKS SOUTHPOINTE;

Thence North 24°34'42" East for 153.05 feet to the northwest line of said Lot 4;

Thence North 37°38'59" East for 5.74 feet along the northwest line of said Lot 4 and Outlot 1;

Thence North 87°02'50" East for 250.75 feet;

Thence South 02°57'10" East for 20.00 feet;

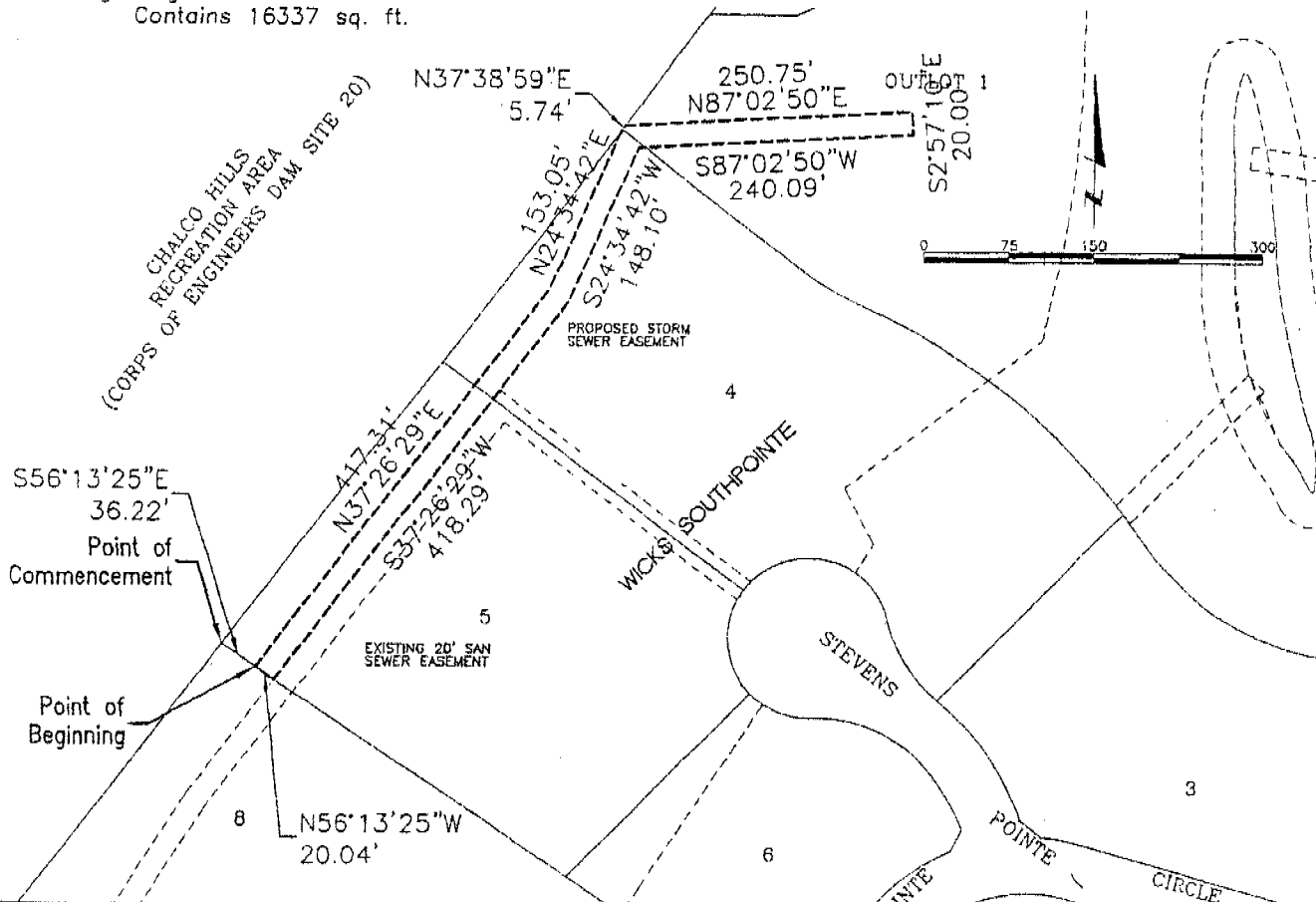
Thence South 87°02'50" West for 240.09 feet;

Thence South 24°34'42" West for 148.10 feet;

Thence South 37°26'29" West for 418.29 feet along the extended northwest line of the existing sanitary sewer easement to the southwest line of said Lot 5;

Thence North 56°13'25" West for 20.04 feet along said southwest line to the Point of Beginning.

Contains 16337 sq. ft.



Lamp, Rynearson & Associates, Inc.
 14710 West Dodge Road, Suite 100
 Omaha, Nebraska 68154-2027

WWW.LRA-INC.COM
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