

FILED SARPY CO. NE.
INSTRUMENT NUMBER
2007-30880

2007 OCT -9 P 3:24

Glenn J. Dowling
REGISTER OF DEEDS

COUNTER LM G.E. W
VERIFY Pan D.E. W
PROOF _____
FEES \$ 22.00
CHECK # _____
CHG. CRS CASH _____
REFUND _____ CREDIT _____
SHORT _____ NCR _____

Gretna, Nebraska
Store No. 4600-00

TEMPORARY GRADING EASEMENT

THIS TEMPORARY GRADING EASEMENT (this "Easement") is made this 4 day of ~~August~~ ^{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, and **WAL-MART STORES, INC.**, a Delaware corporation (collectively, "Grantee").

PRELIMINARY STATEMENTS

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

Lots 5, 6 and 7, WICKS SOUTHPOINTE, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska (the "Grantor Property").

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

Lot 8, WICKS SOUTHPOINTE, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska (the "Grantee Property").

Grantor desires to grant to Grantee a temporary easement in, on and over that portion of the Grantor Property legally described and depicted as the "40' Temporary Grading Easement in Favor of Lot 8" on Exhibit A attached hereto (the "Easement Area") for the removal, placement and deposit of fill, dirt and earth and for the grading, regrading, seeding, sloping and maintenance of a suitable slope or grade, subject to the terms and conditions hereinafter set forth.

AGREEMENT

For and in consideration of \$10 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby agrees as follows:

1. **Grant of Easement.** Grantor hereby grants to Grantee, its affiliates, heirs, successors, assigns, agents, licensees and invitees for the benefit of the Grantee Property a

RETURN TO: LAND AMERICA FINANCIAL GROUP, INC.
1850 N. CENTRAL AVE, #300
PHOENIX, AZ 85004
ESCROW NO: 06-49978

30880

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4850-3788-8769.1

FILE 5TH

A

temporary easement to enter and use the Easement Area for the removal, placement and deposit of fill, dirt and earth and for the grading, regrading, seeding, sloping and maintenance of a suitable slope or grade, generally in accordance with the grading depicted on Exhibit A. During the term of this Easement, Grantor shall grant no other right in the Easement Area or any portion thereof without Grantee's prior written consent.

2. **Improvements.** Grantee shall have no obligation to remove from or deposit onto the Easement Area any fill, dirt or earth. Grantee shall have the sole right to grade, slope and seed the Easement Area and otherwise improve the Easement Area during the term of this Easement. No buildings, improvements or other structures, nor any fill or fill material, or embankment work shall be placed in, on, over or across, nor removed from the Easement Area by Grantor without the prior written consent of Grantee during the term of this Easement. Grantor shall take no action which would result in a change in the slope or elevation of the Easement Area during the term of this Easement. Grantor hereby releases Grantee from all claims arising from the condition of the Easement Area and the Grantor Property arising from the exercise of Grantee's rights hereunder, including but not limited to claims related to the condition of soils deposited upon or removed from the Easement Area.

3. **Binding Upon Property.** The easement, rights and obligations created pursuant to the terms of this Easement shall be appurtenant to the Grantee Property and run with and be binding upon the Easement Area, 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. **Term of Easement.** The Easement and all interests granted hereby with respect to such easement shall expire without further act or release of the parties hereto on the three-year anniversary of the filing hereof.

5. **No Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Easement Area 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 Grantee and its assigns that Grantor is seized in fee of the Easement Area and that it has the right to grant and convey the easement and rights granted herein, and that it will warrant and defend such easement and rights to Grantee and its assigns against the lawful claims and demands of all persons.

[Signature Page to Follow]

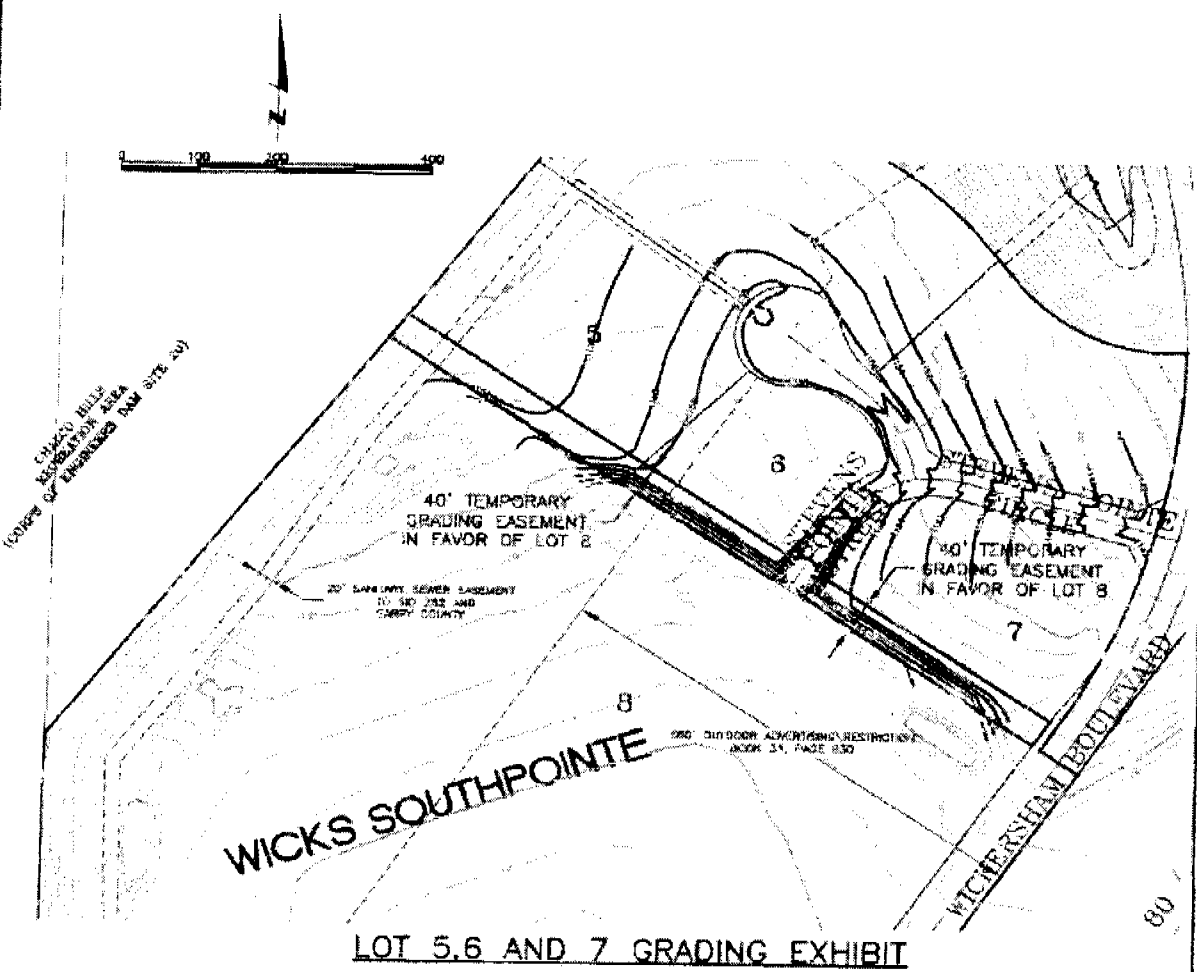
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EXHIBIT A


EASEMENT AREA LEGAL DESCRIPTION AND DEPICTION

LEGAL DESCRIPTION

A temporary easement in favor of Lot 8, WICKS SOUTHPOINTE for grading over the Southwest forty feet (40') of Lots 5, 6 and 7, WICKS SOUTHPOINTE, a subdivision, as surveyed platted and recorded in Sarpy County, Nebraska.



LOT 5, 6 AND 7 GRADING EXHIBIT

 <p>Lamp, Rynearson & Associates, Inc. 14710 West Dodge Road, Suite 100 Omaha, Nebraska 68154-2027</p>	<p>WWW.LRA-INC.COM (Ph) 402.496.2498 (Fax) 402.496.2730</p>	<p>drawn by: RJK designer: JDF job number - task: 99022.22-051 date: 06/28/07 book: 99022 GRADING file name: EXHIBIT.DWG</p>
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