

# UNOFFICIAL COPY

5 of 5  
03-22472A

This instrument prepared by  
And after recording, return to:

Bruce D. Goodman  
Grobart & Levick, LLC  
770 Lake Cook Road, Suite 150  
Deerfield, IL 60015



Doc#: 0402719074  
Eugene "Gene" Moore Fee: \$38.50  
Cook County Recorder of Deeds  
Date: 01/27/2004 11:49 AM Pg: 1 of 8

## SUBORDINATION, NON-DISTURBANCE AND ATTORNMEN AGREEMENT ("SNDA")

THIS AGREEMENT is made as of the 1st day of December, <sup>2003</sup>~~2004~~, between Wal-Mart Real Estate Business Trust, a Delaware statutory trust, of 702 S.W. 8th Street, Bentonville, Arkansas 72716, with notices sent to 2001 S.E. 10th Street, Bentonville, Arkansas 72712-6489 ("Wal-Mart"), and , GREAT LAKES BANK, with offices at 13057 S. Western Ave. ("Mortgagee").  
Blue Island, IL 60406

### WITNESSETH:

**WHEREAS**, Mortgagee is the holder of a certain Mortgage, dated January 23, 2003, and recorded on 01-27-2003 as Document No. 0030122938, with the Cook County, Illinois, Recorder of Deeds ("Mortgagee"), encumbering the land legally described in Exhibit A attached hereto (hereinafter referred to as the "Land"); and

**WHEREAS**, Wal-Mart has leased the Land from Great Lakes Trust Company, N.A., not personally, but as Trustee under Trust Agreement dated July 18, 1991, and known as Trust No. 90075 ("Lessor") pursuant to that certain Ground Lease dated June 16, 2003, as amended by a certain First Amendment to Ground Lease dated October 19, 2003, and by a certain Second Amendment to Ground Lease dated November ~~25~~ 25, 2003 (collectively, the "Lease"), a Memorandum of which, dated 30th, 2004, was recorded on 27th, 2004 as Document No. 0402719071 with the Cook County, Illinois, Recorder of Deeds ("Lessee"); and

**WHEREAS**, Wal-Mart desires that the Lease shall not terminate, but rather shall remain in full force and effect in accordance with its terms in the event the Mortgage is foreclosed or any foreclosure sale of the mortgaged Premises is made or any transfer therein in lieu of foreclosure is

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made, and Mortgagee desires that Wal-Mart acknowledge that its interest in the Lease is subordinate to the Mortgage; and

**WHEREAS**, Lessor has delivered a copy of the Lease and any amendments to Mortgagee, the receipt of which is hereby acknowledged,

**NOW, THEREFORE**, in consideration of the Premises and other good and valuable consideration in hand paid, the parties hereto agree as follows:

1. Consent to Lease. Mortgagee hereby consents and approves the Lease and the terms thereof, including the options to extend the term as set forth in the Lease.
2. Subordination of Lease. The Lease is, and shall remain, subject and subordinate to the Mortgage and to any extensions, modifications, consolidations or renewals thereof; provided that as to any such extensions, modifications, consolidations or renewals thereof, a non-disturbance agreement in the form of this agreement is executed and delivered by the holder of the Mortgage as so extended, modified, consolidated or renewed.
3. Non-Disturbance Covenants. So long as Wal-Mart is not in default in the payment of rent under the Lease, then in such event:
  - (a) Wal-Mart shall not be joined as a party defendant in any foreclosure proceeding which may be instituted by Mortgagee;
  - (b) Wal-Mart's leasehold estate under the Lease shall not be terminated, barred, cut off, or otherwise disturbed by reason of any default under the Mortgage or any foreclosure proceeding instituted by Mortgagee.
4. Attornment. If Mortgagee shall succeed to the interest of Lessor in and to the Lease, whether through possession, foreclosure proceeding, or delivery of a deed in lieu of foreclosure, Wal-Mart shall attorn to and recognize Mortgagee or any other purchaser at a foreclosure sale as Wal-Mart's landlord under the Lease, and shall promptly execute and deliver an attornment agreement in the form of this agreement to evidence such attornment. Upon and after such attornment, the Lease shall continue in full force and effect as a direct lease between Mortgagee or such purchaser and Wal-Mart upon all of the terms, conditions and covenants as are set forth in the Lease, except that Mortgagee or such purchaser shall after such attornment:
  - (a) Be liable for any previous act or omission of any previous landlord arising directly from such landlord's responsibilities and duties pursuant to the Lease; provided, Mortgagee or such purchaser has received appropriate notice of such default, and has an opportunity to cure (having no obligation to so cure) same, all pursuant to the terms and conditions of the Lease,
  - (b) Be subject to any offset or counterclaim which Wal-Mart might be entitled to assert against any previous landlord, including deductions from rent arising pursuant to the Lease; provided, Mortgagee or such purchaser has received appropriate notice of such default, and has an

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opportunity to cure (having no obligation to so cure) same, all pursuant to the terms and conditions of the Lease;

(c) Not be bound by any previous prepayment of more than one month's fixed rent, unless such prepayment shall have been expressly approved in writing by Mortgagee;

(d) Not be bound by any modification of the Lease made after the date of this agreement without its written consent, but only if such modification affects the rent or duration of the Lease, or the responsibility for the payment of property taxes, insurance premiums or maintenance.

5. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

6. Mortgagee's Performance of Defaulted Acts. At any time before the rights of the Lessor shall have been forfeited or adversely affected because of any default on its part, or within the time permitted the Lessor to cure any default under the Lease as there provided, Mortgagee may, at its option, pay any taxes and assessments, make any repairs and improvements, make any deposits or do any other act or thing required of the Lessor by the terms of the Lease, and all payments so made and all things so done and performed by Mortgagee shall be as effective to prevent the rights of the Lessor from being forfeited or adversely affected because of any default under this Lease as the same would have been if done and performed by the Lessor.

7. Notices. Any notices or communication given under this agreement shall be in writing and shall be given by a recognized national "overnight" carrier service, with delivery charges prepaid, (a) if to Mortgagee, at the address of Mortgagee as hereinabove set forth or at such other address of Mortgagee as hereinabove set forth or at such other address as Mortgagee may designate by notice, or (b) if to Lessee, then to the attention of Property Management at the address of Lessee as hereinabove set forth or at such other address as Lessee may designate by notice. No default notice given by Lessee under the Lease shall be effective as against Mortgagee unless a duplicate copy thereof has been given to Mortgagee.

8. Entire Agreement. This agreement contains the entire agreement between the parties and cannot be changed, modified, waived or canceled except by an agreement in writing executed by the party against whom enforcement of such modification, change, waiver or cancellation is sought.

9. Run With the Land. This agreement and the covenants herein contained are intended to run with and bind all lands affected thereby.

*[Handwritten Signature]*  
Vice President  
12-23-03

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IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto.

Signed, sealed and delivered this 1<sup>st</sup> day of December, 2003, in the presence of:

ATTEST:

[Signature]  
Assistant Secretary  
(SEAL)

TENANT:  
WAL-MART REAL ESTATE  
BUSINESS TRUST  
a Delaware statutory trust

By [Signature]  
Kim Lane, Ass't Vice President

Signed, sealed and delivered this 1<sup>st</sup> day of December, 2003, in the presence of:

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Title)

LENDER: INITIAL  
GREAT LAKES BANK

By [Signature]  
Senior Vice President (Title)

Approved as to legal terms only  
by [Signature]  
WAL-MART LEGAL DEPT.  
Date: 12/29/03

Property of Cook County Clerk's Office



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## CORPORATE ACKNOWLEDGMENT

STATE OF Illinois )  
 ) SS  
COUNTY OF Cook )

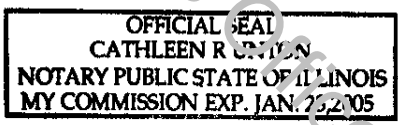
Be it remembered that on this 1 day of December, 2003, before me a notary public in and for the county and state aforesaid, came James J. Jurik, Sr. Vice President of GREAT LAKES BANK, a corporation, who is personally known to me to be the person who executed as such officer the within instrument of writing on behalf of such corporation, and such person duly acknowledge the execution of the same to be the act and deed of said corporation.

In testimony whereof, I have hereunto set my hand and affixed my notary seal the day and year last above written.

Cathleen R. Union  
Notary Public

(SEAL)

My commission expires: 1-23-05



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## EXHIBIT A

### Legal Description of the Land

Parcel 1:

All of Lots 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, and 33 (except the South 10 feet thereof), and lot 34 (except the South 10 feet thereof), in block 8 in Brett and Power's Boulevard Subdivision of block 7 and 8 of Barrell Chambers and Thayer's Subdivision of the East half of the Southeast quarter of Section 1, Township 37 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2:

The West 2 1/2 acres of the North 5 acres of the South 15 acres of the East half of the Southeast quarter of Section 1, Township 37 North, Range 13, East of the Third Principal Meridian, (excepting from said tract the West 33 feet thereof and excepting from said tract the East 242 feet thereof), in Cook County, Illinois.

Parcel 3:

lots 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 35, 36, 37, 38, 39, and 40 (except the south 10 feet thereof of all of the aforesaid lots) and all of lots 1, 2, 3, 4, 11, 12, 13, and 14 in block 8 in Brett and Powers' Boulevard Subdivision of block 7 and 8 of Barrell, Chambers and Thayer's Subdivision of the east 1/2 of the southeast 1/4 of section 1, township 37 north, range 13, east of the third principal meridian, in Cook County, Illinois

parcel 4:

the east 242 feet of the west 2 1/2 acres of the north 5 acres of the south 15 acres of the east 1/2 of the southeast 1/4 of section 1, township 37 north, range 13, east of the third principal meridian, in Cook County, Illinois

parcel 5:

that portion of vacated 94th Street lying north of and immediately adjacent to lots 1 through 4 in block 8 in Brett and Powers' Boulevard Subdivision of blocks 7 and 8 of Barrell, Chambers and Thayer's Subdivision of the east 1/2 of the southeast 1/4 of section 1, township 37 north, range 13, east of the third principal meridian, in Cook County, Illinois

parcel 6:

easement for the benefit of parcel 4 over property north and adjoining for encroachment of improvements on parcel 4 over and onto said adjoining property as created by easement agreement filed March 18, 1982 as document number LR3253316.

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Permanent Tax / Assessor Parcel Number(s)

24-01-404-009-0000  
 24-01-406-046-0000  
 24-01-406-051-0000  
 24-01-406-064-0000  
 24-01-406-052-0000 (affects lot 21 of parcel 3)  
 24-01-406-053-0000 (affects lot 22 of parcel 3)  
 24-01-406-054-0000 (affects lot 23 of parcel 3)  
 24-01-406-055-0000 (affects lot 24 of parcel 3)  
 24-01-406-056-0000 (affects lot 25 of parcel 3)  
 24-01-406-057-0000 (affects lot 26 of parcel 3)  
 24-01-406-058-0000 (affects lot 27 of parcel 3)  
 24-01-406-059-0000 (affects lot 28 of parcel 3)  
 24-01-406-060-0000 (affects lot 29 of parcel 3)  
 24-01-406-061-0000 (affects lot 30 of parcel 3)  
 24-01-406-062-0000 (affects lot 31 of parcel 3)  
 24-01-406-063-0000 (affects lot 32 of parcel 3)  
 24-01-406-064-0000 (affects lots 35, 36, 37, and 38 of parcel 3)  
 24-01-406-066-0000 (affects lot 39 of parcel 3)  
 24-01-406-067-0000 (affects lot 40 of parcel 3)  
 24-01-406-041-0000 (affects lot 1 of parcel 3 and part of parcel 5)  
 24-01-406-043-0000 (affects lot 2 of parcel 3 and part of parcel 5)  
 24-01-406-044-0000 (affects lot 3 of parcel 3 and part of parcel 5)  
 24-01-406-045-0000 (affects lot 4 of parcel 3 and part of parcel 5)  
 24-01-406-047-0000 (affects lot 11 of parcel 3)  
 24-01-406-048-0000 (affects lot 12 of parcel 3)  
 24-01-406-049-0000 (affects lot 13 of parcel 3)  
 24-01-406-050-0000 (affects lot 14 of parcel 3)  
 24-01-404-010-0000 (affects parcel 4)

Property of Cook County Clerk's Office