



Doc#: 1203731032 Fee: \$58.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 02/06/2012 12:18 PM Pg: 1 of 11

Prepared by and upon
recording return to:

Glenn Garfinkel
Timm & Garfinkel, LLC
770 Lake Cook Road, Suite 150
Deerfield, IL 60015

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT ("Agreement"), made as of the 6 day of September, 2011, between U.S. Bank National Association, as Trustee, successor-in-interest to Bank of America, N.A. as successor by merger to LaSalle Bank National Association as Trustee for the registered holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2007-LDP11, having an office at c/o CWCapital Asset Management LLC, 7501 Wisconsin Avenue, Suite 500 West, Bethesda, MD 20814 (hereinafter called "Mortgagee"), ROCKWELL CERMAK LLC, an Illinois limited liability company and CERMAK PLAZA, LLC, an Illinois limited liability company, having an office at 3139 N. Lincoln Ave., Suite 212, Chicago, IL 60657 (hereinafter called "Landlord"), and WAL-MART STORES, INC., a Delaware corporation, having an office at 2001 S.E. 10th Street, Bentonville, AR 72716-0550 (hereinafter called "Tenant").

W I T N E S S E T H

WHEREAS, Mortgagee is the holder of a mortgage (hereinafter called the "Mortgage") covering a parcel of land owned by Landlord, as legally described on Exhibit "A" attached hereto and made a part hereof, together with the improvements erected thereon (said parcel of land and improvements thereon being hereinafter called the "Shopping Center"); and

WHEREAS, by a certain lease heretofore entered into between Landlord and Tenant dated as of August 1, 2011 (hereinafter called the "Lease"), Landlord leased to Tenant a portion of the Shopping Center, to wit, the premises designated "Demised Premises" on Exhibit "B" attached hereto and made a part hereof, together with the building or portion thereof located thereon (said premises and the improvements thereon being hereinafter called the "Demised Premises"); and

WHEREAS, a copy of the Lease has been delivered to Mortgagee, the receipt of which is hereby acknowledged; and

WHEREAS, as an inducement to Tenant to enter into the Lease, Section 17.5 thereof provides that the Lease is conditioned upon Landlord obtaining this Agreement from Mortgagee;

WHEREAS, the parties desire to satisfy the foregoing condition and to provide for the

S yes
P ll
S No
M No
SC yes
E yes
INT ll

UNOFFICIAL COPY

non-disturbance of Tenant by the holder of the Mortgage;

NOW THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto intending to be legally bound hereby agree as follows:

1. Mortgagee hereby consents and approves the Lease and the term thereof, including the options to extend the term as set forth in the Lease, and covenants and agrees that the exercise by Tenant of any of the rights, remedies and options therein contained shall not constitute a default under the Mortgage.

2. Tenant covenants and agrees with Mortgagee that the Lease hereby is made and shall continue hereafter to be subject and subordinate to the Mortgage, and to all modifications and extensions thereof, subject, however, to the provisions of this Agreement.

3. Tenant certifies that the Lease is presently in full force and effect and unmodified.

4. Mortgagee agrees that so long as the Lease shall be in full force and effect:

(a) Tenant shall not be named or joined as a party or otherwise in any suit, action or proceeding for the foreclosure of the Mortgage or to enforce any rights under the Mortgage or the bond or note or other obligation secured thereby, unless required by law;

(b) Other than as expressly provided herein, the possession by Tenant of the Demised Premises and Tenant's rights thereto shall not be disturbed, affected or impaired by, nor will the Lease or the term thereof be terminated or otherwise affected by (i) any suit, action or proceeding upon the Mortgage or the bond or note or other obligation secured thereby, or for the foreclosure of the Mortgage or the enforcement of any rights under the Mortgage, or by any judicial sale or execution or other sale of the Demised Premises, or any deed given in lieu of foreclosure, or by the exercise of any other rights given to any holder of the Mortgage or other documents as a matter of law, or (ii) any default under the Mortgage or the bond or note or other obligation secured thereby;

(c) All condemnation awards and insurance proceeds paid or payable with respect to the Demised Premises or any other part of the Shopping Center and received by Mortgagee shall be applied and paid in the manner set forth in the Lease; and

(d) Neither the Mortgage nor any other security instrument executed in connection therewith shall cover or be construed as subjecting in any manner to the lien thereof, any trade fixtures, signs or other personal property at any time furnished or installed by or for Tenant or its subtenants or licensees on the aforementioned property regardless of the manner or mode of attachment thereof.

5. If Mortgagee or any future holder of the Mortgage shall become the owner of the Shopping Center by reason of foreclosure of the Mortgage or otherwise, or if the Shopping Center shall be sold as a result of any action or proceeding to foreclose the Mortgage, or transfer of ownership by deed given in lieu of foreclosure, the Lease shall continue in full force and effect, without necessity for executing any new lease, as a direct lease between Tenant and the then owner of the Shopping Center, as "landlord", upon all of the same terms, covenants and provisions contained in the Lease other than as expressly provided for herein, and in such event:

UNOFFICIAL COPY

(a) Other than as expressly provided for herein, Tenant shall be bound to such new owner under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the renewal periods, if Tenant elects or has elected to exercise its options to extend the term) and Tenant hereby agrees to attorn to such new owner and to recognize such new owner as "landlord" under the Lease; and

(b) Such new owner shall be bound to Tenant under all of the terms, covenants and provisions of the Lease for the remainder of the term thereof (including the renewal periods, if Tenant elects or has elected to exercise its options to extend the term) which such new owner hereby agrees to assume and perform and Tenant shall, from and after the date such new owner succeeds to the interest of "landlord" under the Lease, have the same remedies against such new owner for the breach of any covenant contained in the Lease that Tenant might have had under the Lease against Landlord if such new owner had not succeeded to the interest of "landlord", provided, however, that such new owner shall not (i) be bound by any rent or additional rent which Tenant might have paid for more than one (1) month in advance to any prior landlord (including Landlord); (ii) be bound by any amendment or modification of the Lease made without its consent, which shall not be unreasonably withheld, delayed or conditioned; (iii) be subject to any offset or counterclaim which Tenant might be entitled to assert against any previous landlord, other than by reason of a repair or maintenance obligation of such former landlord; or (iv) liable for any previous act or omission relating to a repair or maintenance obligation of any previous landlord arising pursuant to any of such previous landlord's responsibilities or duties under the Lease, except to the extent such previous act or omission remains unresolved at the time such new owner succeeds to the interest of landlord under the Lease.

6. (a) Any notices, demands, reports or communications required, desired or permitted to be given under this Agreement ("Notices") shall be in writing and, any law or statute to the contrary notwithstanding, shall not be effective for any purpose unless same shall be given by registered or certified mail, return receipt requested, postage prepaid, or by any recognized overnight mail carrier, with proof of delivery slip, (y) if to Mortgagee, at the address of Mortgagee as hereinabove set forth or at such other address as Mortgagee may designate by Notice, or (z) if to Tenant, then in duplicate, under separate cover, one copy to the attention of the Real Estate Manager – Northern Illinois, and one copy to the attention of the Real Estate Law Department – Northern Illinois, at the address of Tenant as hereinabove set forth or at such other address as Tenant may designate by Notice. During the period of any postal strike or other interference with the mail, personal delivery (with proof of delivery slip or sworn affidavit of service) shall be substituted for registered or certified mail. No default Notice given by Tenant under the Lease shall be effective as against Mortgagee unless a duplicate copy thereof has been given to Mortgagee. Furthermore, after Mortgagee receives any default Notice, Mortgagee shall have the same period provided to Landlord under the Lease to cure any such breach or default.

(b) Any Notice hereunder shall be deemed to have been given or served for all purposes on the date of delivery or refusal thereof.

(c) Notwithstanding anything herein to the contrary, neither party may designate any address for delivery of Notices unless same shall include a (i) street address, (ii) building name and/or number, (iii) street designation, (iv) city, (v) state, and (vi) zip code.

7. This Agreement shall bind and inure to the benefit of and be binding upon and enforceable by the parties hereto and their respective successors and assigns.

UNOFFICIAL COPY

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

9. This Agreement and the covenants herein contained are intended to run with and bind all lands affected thereby.

10. Notwithstanding anything to the contrary in this Agreement or the Lease, upon any attornment pursuant to this Agreement, the Lease shall be deemed to have been automatically amended to provide that Mortgagee's obligations and liability under the Lease shall never extend beyond Mortgagee's (or its successors or assigns) interest, if any, in the Shopping Center from time to time, Mortgagee's interest in the Lease and the proceeds from any sale or other disposition of the Shopping Center (collectively, "Mortgagee's Interest"). Tenant shall look exclusively to Mortgagee's Interest (or that of its successors and assigns) for payment or discharge of any obligations of Mortgagee (or its successors or assigns) under the Lease as modified by this Agreement.

11. Furthermore, from and after Tenant's receipt of written notice from Mortgagee (a "Rent Payment Notice"), Tenant shall pay all Rent to Mortgagee or as Mortgagee shall direct in writing, until such time as Mortgagee directs otherwise in writing. Tenant shall comply with any Rent Payment Notice, notwithstanding any contrary instruction, direction or assertion from Landlord.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day and year first above written.

Attest:

By: J. Lynn Rye
Secretary

By: Chatterjee
Vice President

ROCKWELL CERMAK, LLC, an Illinois limited liability company

By: [Signature]
Print Name: Gary Solomon
Its: Managing Member

CERMAK PLAZA LLC, an Illinois limited liability company

By: [Signature]
Print Name: Gary Solomon
Its: Managing Member

UNOFFICIAL COPY

WAL-MART STORES, INC., a Delaware corporation

Attest:

By: Adelle [Signature]

By: Brian Hooper [Signature]

Brian Hooper, Vice President – Real Estate

Property of Cook County Clerk's Office

MORTGAGE

U.S. Bank National Association, as Trustee, successor-in-interest to Bank of America, N.A. as successor by merger to LaSalle Bank National Association as Trustee for the registered holders of J.P. Morgan Chase Commercial Mortgage Securities Corp., Commercial Mortgage Pass-Through Certificates, Series 2007-LDP11

By: CWCapital Asset Management LLC, solely in its capacity As Special Servicer

Name: Gregory F. Akins [Signature]

Title: Senior Vice President

Gregory F. Akins
Senior Vice President

STATE OF MARYLAND)

COUNTY Montgomery) SS

Be it remembered that on this 10th day of September 2011 before me a notary public in and for the county and state aforesaid, came Gregory Akins a(n) Senior Vice President of CWCapital Asset Management, LLC 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 acknowledged 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.

[Signature]
Notary Public

Uchechi Ojunta
NOTARY PUBLIC
Montgomery County, Maryland
My Commission Expires 12/3/2014

(SEAL)

My commission expires:

UNOFFICIAL COPY

STATE OF ARKANSAS)
)
 COUNTY OF BENTON) ss.

On this the 15 day of September, 2011, before me, the undersigned officer, personally appeared Brian Hooper, who acknowledged himself to be the Vice President - Real Estate of Wal-Mart Stores, Inc., a Delaware corporation, and that he, as such Vice President - Real Estate, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of said corporation by himself as Vice President - Real Estate.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

LISA M. GARCIA
 NOTARY PUBLIC-STATE OF ARKANSAS
 WASHINGTON COUNTY
 My Commission Expires May 01, 2017
 Commission # 12360574

Lisa M Garcia
 Notary Public

[SEAL]

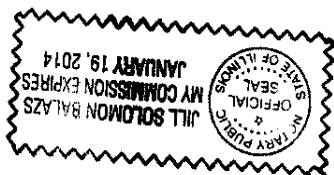
My commission expires: May 01, 2017

STATE OF IL)
) ss:
 COUNTY OF COOK)

The foregoing instrument was acknowledged before me this 9 day of Sept, 2011 by Guy Solomon as managing member of ROCKWELL CERMAK LLC, an Illinois limited liability company and Guy Solomon as managing member of CERMAK PLAZA LLC, an Illinois limited liability company, on behalf of said limited liability companies. He personally appeared before me, is personally known to me or produced _____ as identification.

Notary: Jill Solomon Balazs
 Print Name: Jill Solomon Balazs

[NOTARIAL SEAL]
 My commission expires:



UNOFFICIAL COPY

EXHIBIT "A"

SHOPPING CENTER LEGAL DESCRIPTION

PARCEL A:

PARCEL 1: PART OF BLOCK 2 OF S. J. WALKER'S SUBDIVISION OF THE NORTHEAST 1/4 OF SECTION 25, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID SUBDIVISION RECORDED FEBRUARY 11, 1871 IN BOOK 172 OF PLATS, PAGE 94, IN COOK COUNTY, ILLINOIS. DESCRIBED AS FOLLOWS:: COMMENCING AT THE NORTHWEST CORNER OF BLOCK 2 OF S. J. WALKER'S SUBDIVISION; THENCE NORTH 89 DEGREES, 58 MINUTES, 50 SECONDS EAST, 256.00 FEET ALONG THE NORTH LINE OF SAID BLOCK 2 TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE, 273.00 FEET TO A POINT DESCRIBED AS BEING 55.00 FEET WEST OF THE WEST LINE OF THE TRACT OF GROUND CONVEYED TO THE PITTSBURGH CINCINNATI CHICAGO AND ST. LOUIS RAILWAY COMPANY, AN ILLINOIS CORPORATION, BY DEED DATED NOVEMBER 11, 1896 AND RECORDED DECEMBER 15, 1896 IN BOOK 5904, PAGE 487, AS DOCUMENT 2475750, AND ALSO BEING THE POINT OF BEGINNING DESCRIBED IN QUIT CLAIM DEED DATED JANUARY 7, 1902 AND RECORDED FEBRUARY 3, 1902 IN BOOK 7725, PAGE 4, AS DOCUMENT 3202751 FROM HAROLD MCCORMICK AND HIS WIFE TO THE CHICAGO BURLINGTON AND QUINCY RAILROAD COMPANY, A CORPORATION; THENCE SOUTH 00 DEGREES, 11 MINUTES, 00 SECONDS EAST, 50.00 FEET; THENCE SOUTH 12 DEGREES, 04 MINUTES, 28 SECONDS EAST, 194.20 FEET TO A POINT 240.00 FEET SOUTH OF THE NORTH LINE OF SAID BLOCK 2 AND 25.00 FEET WEST OF THE WESTERLY LINE OF SAID LAND DEEDED TO THE PITTSBURGH CINCINNATI CHICAGO AND ST. LOUIS RAILWAY COMPANY; THENCE SOUTH 00 DEGREES, 11 MINUTES, 08 SECONDS EAST, 355.00 FEET (DEED) 355.24 FEET (MEASURED), TO THE SOUTH LINE OF SAID BLOCK 2, SAID POINT BEING 25.00 FEET WEST OF THE WESTERLY LINE OF LAND DEEDED TO SAID RAILWAY COMPANY; THENCE NORTH, 90 DEGREES, 00 MINUTES, 00 SECONDS WEST, 184.37 FEET, ALONG THE SOUTH LINE OF SAID BLOCK 2 TO A POINT 395.00 FEET EAST OF THE SOUTHWEST CORNER OF SAID BLOCK 2; THENCE NORTH 00 DEGREES, 09 MINUTES, 00 SECONDS WEST, 40.00 FEET PARALLEL WITH THE WEST LINE OF SAID BLOCK 2; THENCE NORTH 85 DEGREES, 21 MINUTES, 53 SECONDS WEST, 185.65 FEET; THENCE NORTH 00 DEGREES, 09 MINUTES, 00 SECONDS WEST, 210.00 FEET; THENCE NORTH 89 DEGREES, 58 MINUTES, 50 SECONDS EAST, 62.00 FEET; THENCE NORTH 00 DEGREES, 09 MINUTES, 00 SECONDS WEST 36 FEET; THENCE NORTH 09 DEGREES, 58 MINUTES, 50 SECONDS EAST 62 FEET; THENCE NORTH 00 DEGREES, 09 MINUTES, 00 SECONDS WEST, 234.00 FEET; THENCE SOUTH 89 DEGREES, 59 MINUTES, 50 SECONDS WEST, 58.00 FEET; THENCE NORTH 00 DEGREES, 09 MINUTES, 00 SECONDS WEST, 60.08 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

A RECIPROCAL, NON-EXCLUSIVE EASEMENT DATED MARCH 25, 1985 AND RECORDED JUNE 10, 1985 AS DOCUMENT NUMBER 85053684 MADE BY AND BETWEEN TOYS R US, INC., A DELAWARE CORPORATION, AND CHICAGO TITLE AND TRUST COMPANY, AS TRUSTEE UNDER TRUST AGREEMENT 1085305, FOR.

UNOFFICIAL COPY

INGRESS FOR THE BENEFIT OF PARCEL I OVER AND UPON THE COMMON AREAS LOCATED ON THE FOLLOWING DESCRIBED LAND: PART OF BLOCK 2 OF S.J. WALKER'S SUBDIVISION OF THE NORTHEAST 1/4 OF SECTION 25, TOWNSHIP 39 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT OF SAID SUBDIVISION RECORDED FEBRUARY 11, 1871 IN BOOK 172 OF PLATS, PAGE 94, IN COOK COUNTY, ILLINOIS DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF BLOCK 2 OF S.J. WALKER'S SUBDIVISION; THENCE NORTH 90 DEGREES, 00 MINUTES, 00 SECONDS EAST, 365 FEET; THENCE NORTH 00 DEGREES, 09 MINUTES, 00 SECONDS WEST, 40.00 FEET PARALLEL, WITH THE WEST LINE OF SAID BLOCK 2; THENCE NORTH 85 DEGREES, 21 MINUTES, 53 SECONDS WEST, 185.65 FEET; THENCE NORTH 00 DEGREES, 09 MINUTES, 00 SECONDS WEST, 210.00 FEET; THENCE NORTH 89 DEGREES, 58 MINUTES, 50 SECONDS EAST, 62.00 FEET; THENCE NORTH 00 DEGREES, 09 MINUTES, 00 SECONDS WEST, 35.00 FEET; THENCE NORTH 89 DEGREES, 58 MINUTES, 50 SECONDS EAST, 62.00 FEET; THENCE NORTH 00 DEGREES, 09 MINUTES, 00 SECONDS WEST, 234.00 FEET; THENCE SOUTH 89 DEGREES, 58 MINUTES, 50 SECONDS WEST, 68.00 FEET; THENCE NORTH 00 DEGREES, 09 MINUTES, 00 SECONDS WEST, 60.08 FEET TO THE NORTH LINE OF SAID BLOCK 2; THENCE SOUTH 89 DEGREES, 58 MINUTES, 50 SECONDS WEST ALONG SAID NORTH LINE, 256.00 FEET TO THE NORTHWEST CORNER OF SAID BLOCK 2; THENCE SOUTH 00 DEGREES, 09 MINUTES, 00 SECONDS EAST, 595.05 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

PARCEL B: PARCEL 1: THAT PART OF BLOCK 2 OF S. J. WALKER'S SUBDIVISION OF THE NORTHEAST 1/4 OF SECTION 25, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID BLOCK 2 THENCE NORTH 595 .05 FEET TO THE NORTHWEST CORNER OF SAID BLOCK 2; THENCE EAST ALONG THE NORTH LINE OF SAID BLOCK 2, 256.00 FEET; THENCE SOUTH PARALLEL WITH THE WEST LINE OF SAID BLOCK 2, 60.00 FEET; THENCE EAST PARALLEL WITH THE NORTH LINE OF SAID BLOCK 2, 68.00 FEET THENCE SOUTH PARALLEL WITH THE WEST LINE OF SAID BLOCK 2, 234.00 FEET; THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID BLOCK 2, 62.00 FEET; THENCE SOUTH PARALLEL WITH THE WEST LINE OF SAID BLOCK 2, 36.00 FEET; THENCE WEST PARALLEL WITH THE NORTH LINE OF SAID BLOCK 2, 62.00 FEET; THENCE SOUTH PARALLEL WITH THE WEST LINE OF SAID BLOCK 2, 210.00 FEET; THENCE SOUTHEASTERLY A DISTANCE OF 185.65 FEET TO A POINT 40.00 FEET NORTH OF THE SOUTH LINE OF SAID BLOCK 2; THENCE SOUTH PARALLEL WITH THE WEST LINE OF SAID BLOCK 2, 40.00 FEET; THENCE WEST 385.00 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 2: RECIPROCAL AND NON-EXCLUSIVE EASEMENTS FOR THE USE OF COMMON AREAS FOR THE PURPOSE OF INGRESS, EGRESS AND PARKING; INSTALLATION, OPERATION, MAINTENANCE, REPAIR, RELOCATION AND REMOVAL OF SEWERS, WATER AND GAS MAINS, ELECTRIC POWER LINES, TELEPHONE LINES, AND OTHER UNDERGROUND UTILITY LINES TO SERVE PARCEL 1; TOGETHER WITH AN EXCLUSIVE EASEMENT FOR THE CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE AND REPAIR OF A PYLON OR MONUMENT SIGN, WHICH EASEMENTS ARE APPURTENANT TO PARCEL 1, AND AS CREATED, DEFINED AND LIMITED BY THAT CERTAIN RECIPROCAL EASEMENT AND OPERATION AGREEMENT DATED MARCH 25, 1985 AND RECORDED JUNE 10, 1985 AS

UNOFFICIAL COPY

DOCUMENT 85053604, AS AMENDED BY DOCUMENT RECORDED MARCH 14, 1988 AS DOCUMENT NUMBER 88105798, EXECUTED BY AND BETWEEN CHICAGO TITLE AND TRUST COMPANY, AS TRUSTEE UNDER TRUST AGREEMENT DATED AUGUST 30, 1984 AND KNOWN AS TRUST NUMBER 1085305 AND TOYS "R" US, INC., A DELAWARE CORPORATION.

PARCEL 3: TEMPORARY, NON - EXCLUSIVE EASEMENT FOR INCIDENTAL, ENCROACHMENTS RESULTING FROM CONSTRUCTION OF THE PROPOSED SHOPPING CENTER, AS DEFINED IN THE RECIPROCAL EASEMENT AND OPERATION AGREEMENT DATED MARCH 25, 1985 AND RECORDED JUNE 10, 1985 AS DOCUMENT 85053684 AS AMENDED BY DOCUMENT RECORDED MARCH 14, 1988 AS DOCUMENT NUMBER 88105798.

Street Address: 2551 W. Cermak, Chicago, IL

PIN: 16-25-202-002-0000
16-25-202-003-0000

UNOFFICIAL COPY

EXHIBIT "B"

See Attached



Property of Cook County Clerk's Office

UNOFFICIAL COPY

