

# UNOFFICIAL COPY



Prepared by and upon  
recording return to:

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

Doc#: 1211539098 Fee: \$60.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 04/24/2012 11:06 AM Pg: 1 of 12

## SUBLEASE RECOGNITION AGREEMENT

**THIS AGREEMENT** is made as of April 5, 2012, by and among the following parties (hereinafter respectively called "Owner," "Sublandlord" and "Subtenant"):

OWNER:

CHICAGO TITLE LAND TRUST COMPANY, SUCCESSOR  
TO LASALLE BANK NATIONAL, ASSOCIATION,  
SUCCESSOR TO AMERICAN NATIONAL BANK, AND  
TRUST COMPANY OF CHICAGO AS TRUSTEE UNDER  
TRUST AGREEMENT DATED NOVEMBER 4, 1997 AND  
KNOWN AS TRUST NO. 123538-01  
c/o Northside Management, Inc.  
125 N. Halsted Street, Suite 203  
Chicago, IL 60661

SUBLANDLORD:

BROADWAY @ SURF, LLC  
c/o INVESCO Real Estate  
500 Three Galleria Tower  
13155 Noel Road  
Dallas, Texas 75240  
Attention: Asset Manager -- Broadway @ Surf

Chicago, IL -- Broadway & Surf, Store #5645  
Recognition Agreement (v5)2/10/2012 (Team Connect No. 2010-63922)

CHICAGO\3529234.2  
IID\MSR - 103764/0012

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## SUBTENANT:

WAL-MART STORES, INC.  
2001 S.E. 10<sup>th</sup> Street  
Bentonville, AR 72716-0550  
Attention: Real Estate Manager and Realty Manager –  
Store No. 5645

## RECITALS

- A. Owner represents that it is the owner of the land (the "Premises") described on Exhibit A attached hereto.
- B. Owner is the landlord under that certain lease dated July 1, 1997, as amended by First Amendment to Lease dated February 1, 1999 (the "Major Lease") by and between Owner and Sublandlord, as the tenant thereunder for the Premises.
- C. Sublandlord has subsequently subleased to Subtenant a portion of the Premises (the "Demised Premises") under that certain sublease dated ~~March 5~~ <sup>April 5</sup>, 2012 (the "Sublease").

**NOW, THEREFORE**, it is agreed as follows:

1. Owner hereby acknowledges receipt of a copy of, and consents to, the Sublease and the term thereof, and agrees that the exercise by Subtenant of any of the rights, remedies and options contained therein shall not constitute a default under the Major Lease unless such exercise independently constitutes a default under the Major Lease.
2. Owner shall not, in the exercise of any of the rights arising or which may arise out of the Major Lease or of any instrument modifying or amending the same or entered into in substitution or replacement thereof disturb or deprive Subtenant in, or of, its possession or its rights to possession of the Demised Premises or of any right or privilege granted to or inuring to the benefit of Subtenant under the Sublease, provided the Sublease is then in full force and effect and Subtenant is not in default under the Sublease beyond applicable notice and cure periods.
3. In the event of the cancellation or termination of the Major Lease by reentry, notice, conditional limitation, surrender, summary proceeding or other action or proceeding, or otherwise, or, if the Major Lease shall terminate or expire for any reason before any of the dates provided in the Sublease for the termination of the initial or renewal terms of the Sublease and if the Sublease shall, immediately prior to such surrender, termination or expiration, be in full force and effect and Subtenant is not in default under the Sublease beyond applicable notice and cure periods, Subtenant shall not be made a party in any removal or eviction action or proceeding nor shall Subtenant be evicted or removed of its possession or its right of possession be disturbed or in any way

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interfered with, and the Sublease shall continue in full force and effect as a direct lease from Owner to Subtenant. The foregoing to the contrary notwithstanding, Owner shall have no duty of payment or performance of or with respect to any duty, liability or obligation of payment or performance to or for the benefit of Subtenant to the extent that Sublandlord failed to pay or perform prior to the termination of the Major Lease; and if the Sublease imposes on the landlord a duty of payment or performance to or for the benefit of Subtenant, and if, as a consequence of Owner becoming the direct landlord of Subtenant under the Sublease under the circumstances described herein, Owner becomes required to make a payment or perform an act to or for the benefit of Subtenant following the termination of the Major Lease, and if Owner elects not to make such payment or performance, then, the provisions of the Sublease to the contrary notwithstanding, Subtenant's sole and exclusive recourse and remedies shall be such rights of setoff and termination as are set forth in the Sublease.

4. Owner covenants and represents that as of the date hereof, the Major Lease is in full force and effect and Sublandlord is not in default under any of the terms and conditions thereof.

5. Any notices, consents, approvals, submissions, demands or other communications (hereinafter collectively referred to as "Notices") given under this Agreement shall be in writing. Unless otherwise required by law or governmental regulation, Notices shall be deemed given if sent by registered or certified mail, return receipt requested, postage prepaid (a) to Owner, at the address of Owner as hereinabove set forth, or such other address as Owner may designate by Notice to the other parties hereto, (b) to Sublandlord, at the address of Sublandlord as hereinabove set forth or such other address as Sublandlord may designate by Notice to the other parties hereto, or (c) to Subtenant, at the address of Subtenant as hereinabove set forth or such other address or persons as Subtenant may designate by Notice to the other parties hereto. During the period of any postal strike or other interference with the mails, personal delivery shall be substituted for registered or certified mail. All Notices shall become effective only on the receipt of same by the proper parties.

6. No modification, amendment, waiver or release of any provision of this Agreement or of any right, obligation, claim or cause of action arising hereunder shall be valid or binding for any purpose whatsoever unless in writing and duly executed by the party against whom the same is sought to be asserted.

7. This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, assigns and sublessees.

8. This Agreement is executed by Owner not personally, but solely as trustee under a trust agreement dated November 4, 1997 and known as Trust No. 123538-01. All of the covenants and conditions to be performed hereunder by Owner are to be performed by it solely as trustee as aforesaid and not individually, and no personal responsibility or liability shall be asserted or be enforceable against Owner by reason of any of the covenants, statements, representations, or warranties contained in this instrument.

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9. This Agreement may be executed in any number of counterparts, each of which counterparts, once executed and delivered, shall be deemed to be an original and all of which counterparts taken together, shall constitute but one and the same Agreement.

**[THE BALANCE OF THIS PAGE IS INTENTIONALLY LEFT BLANK;  
SIGNATURE PAGE FOLLOWS]**

Property of Cook County Clerk's Office

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IN WITNESS WHEREOF, the parties have caused this instrument to be executed under seal the date first above written.

## OWNER:

CHICAGO TITLE LAND TRUST COMPANY, SUCCESSOR TO LASALLE BANK NATIONAL ASSOCIATION, SUCCESSOR TO AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, NOT INDIVIDUALLY, BUT SOLELY AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 4, 1997 AND KNOWN AS TRUST NO. 123538-01



By: *Patricia L. Alvarez*  
 Name: Patricia L. Alvarez  
 Its: Trust Officer

## SUBLANDLORD:

**BROADWAY @ SURF, LLC, a Delaware limited liability company**

By: **ICRE REIT HOLDINGS, a Maryland real estate investment trust, its sole member**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Its: \_\_\_\_\_

## SUBTENANT:

**WAL-MART STORES, INC., a Delaware corporation**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Its: \_\_\_\_\_

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IN WITNESS WHEREOF, the parties have caused this instrument to be executed under seal the date first above written.

## OWNER:

CHICAGO TITLE LAND TRUST  
COMPANY, SUCCESSOR TO LASALLE  
BANK NATIONAL ASSOCIATION,  
SUCCESSOR TO AMERICAN  
NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO, NOT  
INDIVIDUALLY, BUT SOLELY AS  
TRUSTEE UNDER TRUST  
AGREEMENT DATED NOVEMBER 4,  
1997 AND KNOWN AS TRUST NO.  
123538-01

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

## SUBLANDLORD:

**BROADWAY @ SURF, LLC, a Delaware  
limited liability company**

By: **ICRE REIT HOLDINGS, a  
Maryland real estate investment  
trust, its sole member**

By:   
Name: **Michael Kirby**  
Its: **Vice President**

## SUBTENANT:

**WAL-MART STORES, INC., a Delaware  
corporation**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

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IN WITNESS WHEREOF, the parties have caused this instrument to be executed under seal the date first above written.

**OWNER:**

**CHICAGO TITLE LAND TRUST  
COMPANY, SUCCESSOR TO  
LASALLE BANK NATIONAL  
ASSOCIATION, SUCCESSOR TO  
AMERICAN NATIONAL BANK AND  
TRUST COMPANY OF CHICAGO,  
NOT INDIVIDUALLY, BUT SOLELY  
AS TRUSTEE UNDER TRUST  
AGREEMENT DATED NOVEMBER  
4, 1997 AND KNOWN AS TRUST NO.  
123538-01**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**SUBLANDLORD:**

**BROADWAY @ SURF, LLC, a Delaware  
limited liability company**

**By: ICRE REIT HOLDINGS, a  
Maryland real estate investment  
trust, its sole member**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**SUBTENANT:**

**WAL-MART STORES, INC., a Delaware  
corporation**

By: B. Hooper  
Name: Brian Hooper  
Its: Vice President Real Estate

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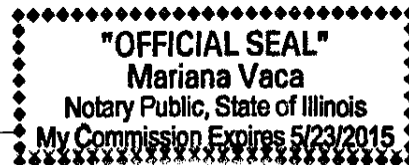
STATE OF **ILLINOIS** )  
 ) SS.  
 COUNTY OF **COOK** )

I, a notary public, in and for the County and State aforesaid, DO HEREBY CERTIFY that Patricia L. Alvarez, Trust Officer of CHICAGO TITLE LAND TRUST COMPANY as trustee as aforesaid personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged to me that he/she, being thereunto duly authorized, signed and delivered said instrument as his/her own free and voluntary act, for the use and purposes set forth therein.

GIVEN under my hand and notarial seal this 5th day of April, 2012.

[Signature]  
 Notary Public

My Commission Expires:



STATE OF )  
 ) SS.  
 COUNTY OF )

I, \_\_\_\_\_, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_, personally known to me to be the \_\_\_\_\_ of ICRE REIT HOLDINGS, sole member of BROADWAY @ SURF, LLC, a Delaware limited liability company, whose name is subscribed to the within Instrument, appeared before me this day in person and acknowledged that as such \_\_\_\_\_ he/she signed and delivered the said Instrument as \_\_\_\_\_ of said \_\_\_\_\_ as his/her free and voluntary act and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
 Notary Public

My Commission Expires:

\_\_\_\_\_



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STATE OF \_\_\_\_\_ )  
 ) SS.  
 COUNTY OF \_\_\_\_\_ )

I, , a notary public, in and for the County and State aforesaid, DO HEREBY CERTIFY that \_\_\_\_\_ as trustee as aforesaid personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged to me that he/she, being thereunto duly authorized, signed and delivered said instrument as his/her own free and voluntary act, for the use and purposes set forth therein.

GIVEN under my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
 Notary Public

My Commission Expires:  
 \_\_\_\_\_

STATE OF Texas )  
 ) SS.  
 COUNTY OF Dallas )

I, Tara L. Hall, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Michael Kirby, personally known to me to be the Vice President of IORE REIT HOLDINGS, sole member of BROADWAY @ SURF, LLC, a Delaware limited liability company, whose name is subscribed to the within Instrument, appeared before me this day in person and acknowledged that as such Vice President he/she signed and delivered the said Instrument as Vice President of said limited liability company as his/her free and voluntary act and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 5th day of April, 2012.

Tara L. Hall  
 Notary Public

My Commission Expires:  
10/28/2015



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STATE OF ARKANSAS            )  
   ) SS.  
 COUNTY OF BENTON            )

I, Amy M. Gabbard a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY, that Brian Hooper, personally known to me to be the Vice President – Real Estate of WAL-MART STORES, INC., a corporation of the State of Delaware, whose name is subscribed to the within Instrument, appeared before me this day in person and acknowledged that as such Vice President – Real Estate, he signed and delivered the said Instrument as Vice President – Real Estate as his free and voluntary act and as the free and voluntary act and deed of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 27<sup>th</sup> day of March, 2012.



Amy M. Gabbard  
 Notary Public

My Commission Expires

4-5-16

County Clerk's Office

**UNOFFICIAL COPY****MORTGAGEE CONSENT**

The undersigned, Lake Forest Bank & Trust Company, an Illinois banking corporation, as Mortgagee, under that certain Mortgage with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing dated July 23, 2008, and recorded on August 5, 2008, as Document Number 0821845074 with the Cook County Recorder's Office, Illinois, as amended by Second Amendment to Revolving Line Loan Agreement, Promissory Note Secured by Mortgage, Mortgage with Absolute Assignment of Leases and Rents, Security Agreement and Fixture Filing and Other Loan Documents dated November 3, 2010 and recorded on December 15, 2010, as Document Number 1034933025 (the "Mortgage"), joins herein to indicate its consent to this Sublease Recognition Agreement and the Sublease.

LAKE FOREST BANK & TRUST  
COMPANY

By: Sandra McCraren  
Name: Sandra McCraren  
Title: Executive Vice President

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF Lake )

On April 3rd, 2012 before me, EMILIO RIVERA a notary public, personally appeared Sandra McCraren, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

GIVEN under my hand and Notarial Seal, this 3rd day of April, 2012.

Emilio Rivera  
Notary Public

My Commission Expires:

02/03/2015



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## EXHIBIT A TO RECOGNITION AGREEMENT

### LEGAL DESCRIPTION

#### PARCEL 1:

THE NORTH 77 FEET OF THE EAST 15 FEET OF LOT 23 AND THE NORTH 77 FEET OF LOTS 24 AND 25 IN THE SUBDIVISION OF LOTS 4, 5 AND THE SOUTH 1/2 OF LOT 3 IN BICKERDIKE AND STEELE'S SUBDIVISION OF PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 28 TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

THE EAST 15 FEET OF LOT 23 (EXCEPT THE NORTH 77 FEET THEREOF) ALSO THE SOUTH 55.5 FEET OF LOTS 24 AND 25, ALSO THAT PART OF THE VACATED ALLEY WHICH LIES SOUTH OF THE EAST 15 FEET OF SAID LOT 23, AS SAID ALLEY IS SHOWN AND ALL THE ABOVE PREMISES LYING AND BEING IN SUBDIVISION OF LOTS 4 AND 5 AND THE SOUTH 1/2 OF LOT 3 IN BICKERDIKE AND STEELE'S SUBDIVISION OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS.

#### PARCEL 3:

LOTS 1 TO 6, BOTH INCLUSIVE, IN DYERS SUBDIVISION OF THAT PORTION OF LOTS 6, 7 AND 8 WHICH LIES WESTERLY OF LAKE SHORE PLANK ROAD IN STEELS AND BICKERDIKE SUBDIVISION OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 28, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS.

Street Address: 2830 – 2844 North Broadway, Chicago

PIN: 14-28-120-040-0000  
14-28-120-041-0000  
14-28-120-042-0000  
14-28-120-043-0000  
14-28-120-044-0000