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2010 058650

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2010 OCT 12 AM 8:52

(4)

MICHELLE S. FAJMAN
RECORDER

Cross Reference to Original Recorded Plat:

New Roby First Addition to the City of Hammond
as shown in Plat Book 104 page 70 in
the Office of the Recorder of Lake County, Indiana

RETURN TO: GLENN R. PATTERSON, ESQ.
LUCAS, HOLCOMB &
MEDREA, LLP
300 EAST 90TH DRIVE
MERRILLVILLE, IN 46410

GRANT OF EASEMENT NO. 3
(Sign)

NH VEGAS, LLC, an Indiana limited liability company, on behalf of itself and its successors and assigns (collectively the "Grantor"), for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to **WAL-MART REAL ESTATE BUSINESS TRUST**, a Delaware business trust, and its successors and assigns (collectively the "Grantee"), a perpetual and exclusive easement in, over and upon:

Lawyers Title

That part of Lot 2, New Roby First Addition to the City of Hammond, as shown in Plat Book 104, page 70, in the Office of the Recorder of Lake County, Indiana (the "NH Vegas Lot"), being the 25 foot x 30 foot rectangular area labeled on the plat thereof as "Sign Easement" (the "Sign Parcel"),

which Sign Parcel shall hereinafter be referred to as the "Servient Estate", and which easement shall be for and to the benefit of Grantee and the following described real estate:

Lot 1 in New Roby First Addition to the City of Hammond, as shown in Plat Book 104, page 70, in the Office of the Recorder of Lake County, Indiana.

which real estate shall hereinafter be referred to as the "Dominant Estate".

FILED

OCT 07 2010

PEGGY HOLINGA KATONA
LAKE COUNTY AUDITOR
1

055233

AMOUNT \$ 21⁰⁰
CASH _____ CHARGE _____
CHECK # 055334
OVERAGE 3⁰⁰
COPY _____
NON - COM _____
CLERK MS

E

Said easement shall be for the constructing, erecting, servicing, maintenance, repair and replacement of one pylon sign and the wiring and cables serving the sign, and for no other purpose.

Said grant shall be subject, nevertheless, to the following limitations and conditions:

1. Grantor reserves the right to use the Servient Estate for any purpose which does not interfere with the rights granted to Grantee herein, including but not limited to, the parking of motor vehicles.

2. The easement herein granted is appurtenant to, and shall run with the land and shall be for the use and benefit of, the Dominant Estate and the Grantee, and is appurtenant to, and shall run with the land, and shall burden and encumber the Servient Estate and the use and enjoyment thereof by Grantor.

3. Notwithstanding any other term or provision hereof:

a. The right of Grantor to exercise any right hereunder is expressly conditioned upon Grantee obtaining approval from the City of Hammond to allow the erection of one pylon sign on the Servient Estate, which shall be for the names of the businesses occupying both the Dominant Estate and the NH Vegas Lot, which pylon sign shall be at least twenty feet (20') tall, the upper most display panel of which shall be four feet (4') nine inches (9") tall and twenty feet (20') wide, for the exclusive use by the occupants of the Dominant Estate, and the lower display panel of which shall be four feet (4') nine inches (9") tall and twenty feet (20') wide and have its lower edge no lower than ten feet (10') six inches (6") from the ground, for the exclusive use by the occupants of the NH Vegas Lot (the "NH Vegas Lot Panel"); provided, however, that if said approval is for a pylon sign with a total display area greater or smaller than one hundred and ninety (190) square feet, the occupants of the Dominant Estate shall have the exclusive right to the use of the upper most fifty percent (50%) of the display area, and the occupants of the NH Vegas Lot shall have the exclusive right to the use of the lower fifty percent (50%) of the display area, and the total display area shall be located at the top of the pylon sign. Grantor agrees to reasonably cooperate with Grantee and execute any documents reasonably required to obtain any state or local permits, zoning variances, approvals or changes in the zoning classification or restriction affecting the Sign Parcel provided that Grantor shall not be required to incur any expense or liability in connection therewith or take any action that might adversely affect Grantor. Grantor covenants that the NH Vegas Lot Panel shall not contain any profane language or inferences (the "Sign Profanity Covenant"). The design and wording of the NH Vegas Lot Panel shall be subject to Grantee's prior review and approval, but solely for the purpose of

determining Grantor's compliance with the Sign Profanity Covenant.

b. Upon the commencement by Grantee or its agents or contractors of the erection of a pylon sign on the Servient Estate, Grantee shall be deemed to have agreed to defend, indemnify, and save and hold Grantor harmless, from and against any and all liability, all liability, damage, expense, causes of action, suits, claims, or judgments arising from personal injury, death, or property damage, and due directly or indirectly to the acts or omissions of Grantee as its agents and contractors in the exercise of any right hereunder.

4. Access and Utility Easement. Grantor hereby grants, declares and conveys to Grantee a perpetual, non-exclusive easement in, under, on, over, across, and through the portions of the NH Vegas Lot as is reasonably necessary for ingress and egress to the sign, and for the installation, construction, operation, maintenance, repair, replacement and use of utility facilities to serve the Sign Parcel. Grantee shall make reasonable efforts to stay on the paved portions of the NH Vegas Lot, where feasible. To the extent reasonably possible, all such facilities shall be located underground. Grantee shall promptly restore any damage to the NH Vegas Lot and the Sign Parcel resulting from the installation, maintenance, repair or replacement of such facilities, Grantee's sign, and the exercise or enjoyment by Grantee of any of the rights and easements granted hereby. Grantee agrees that, notwithstanding the foregoing, (a) the construction and installation of buildings and improvements on the NH Vegas Lot in accordance with plans and specifications approved by the applicable governmental authorities shall not be a violation of the easement rights granted to Grantee under this Paragraph, (b) Grantor has reserved hereby, the right to use those portions of the Sign Parcel not physically occupied by a sign or related facilities for landscaping and/or motor vehicle parking, (c) Grantee shall relocate, at Grantee's cost and expense, all utility lines and facilities installed outside of the boundaries of the Sign Parcel if reasonably necessary to accommodate the construction of buildings and improvements on the NH Vegas Lot in those locations deemed appropriate by Grantor and/or its tenants and/or other occupants, and (d) Grantee shall not impede, interfere with or otherwise adversely affect any or all of the use, operation and occupancy of the NH Vegas Lot and the improvements thereon by Grantor.

5. Maintenance and Repair. Grantee shall be responsible for the maintenance and repair of the pylon sign located on the Sign Parcel, provided that Grantee shall pay to Grantor a maintenance fee (the "Maintenance Fee") equal to fifty percent (50%) of the costs incurred in connection with the maintenance and repair of the sign, including but not limited to utility costs, payable within thirty (30) days of invoice from Grantee; provided, however, that Grantor shall have no obligation for the payment of the Maintenance Fee until such time that the NH Vegas Lot Panel is in use by an occupant of the NH Vegas Lot. If any undisputed Maintenance Fee is not paid within thirty (30) days after its due date, the Maintenance Fee shall bear interest from the date of delinquency at the rate charged by the Internal Revenue Service on delinquent taxes. In addition, if Grantee fails to pay any undisputed Maintenance Fee within thirty (30) days after its due date, the Grantor may bring an action at law against the Grantee, and interest, costs and reasonable attorneys' fees of any such action shall be awarded to the prevailing party.

6. Indemnification and Insurance. Grantee hereby agrees to indemnify, defend and hold harmless Grantor from and against any and all demands, claims, causes of action, fines, penalties, damages, losses, liabilities, judgments and expenses, including, without limitation, reasonable attorney fees and court costs incurred, and any and all damages occasioned upon the Servient Estate, solely as a result of Grantee's use of the Sign Parcel, including, without limitation, any damage caused solely by Grantee, or its agents or employees, invitees, customers, tenants or representatives. Grantee shall obtain and maintain commercial general public liability insurance, which shall include a contractual liability or other applicable endorsement covering its indemnification obligations under this Paragraph. Such insurance policy shall also list Grantor as an additional insured. Grantee shall furnish Grantor with evidence of such insurance from time to time (but no more frequently than once each year) upon request from Grantor. Notwithstanding anything to the contrary contained in this Paragraph 6, so long as the net worth of Wal-Mart or its parent company, Wal-Mart Stores, Inc., shall exceed One Million Dollars (\$1,000,000.00), and so long as Wal-Mart is owner or lessee of the Dominant Estate, Wal-Mart shall have the right to retain the financial risk for any claim in whole or in part.

7. Notices. All notices which are required, or which any party hereto may desire to provide or give hereunder, shall be deemed to have been sufficiently made and given upon the deposit thereof in the United States Mail, postage prepaid, to that address shown as the property owner's address of such party in the Office of the Treasurer of Lake County, Indiana.

IN WITNESS WHEREOF, the Grantor has executed and delivered this instrument this 30th day of September, 2010.

GRANTOR:

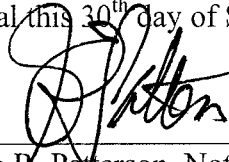
NH Vegas, LLC

By: 
Bharat Shah, Authorized Member

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Bharat Shah, the Authorized Member of NH Vegas, LLC, who acknowledged the execution of the foregoing Grant of Easement No. 3.

WITNESS my hand and notarial seal this 30th day of September, 2010.



Glenn R. Patterson, Notary Public

My Commission Expires: 11-25-2016

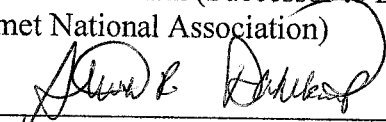
County of Residence: Lake



MORTGAGEES CONSENT

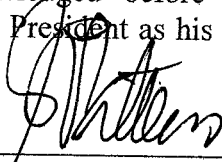
The undersigned, as mortgagee of the NH Vegas Lot, hereby consents to the placement of the easements, restrictions, and covenants contained in the foregoing instrument on the NH Vegas Lot and further agrees that the same shall not be terminated on any foreclosure of the NH Vegas Lot.

First Midwest Bank (Successor to Bank
Calumet National Association)

By: 
Steven R. Dahlkamp, Senior Vice President

STATE OF INDIANA)
) SS:
COUNTY OF LAKE)

The foregoing instrument was acknowledged before me this 30th day of September, 2010, by Steven R. Dahlkamp, Senior Vice President as his voluntary act and deed on behalf of said First Midwest Bank.


Glenn R. Patterson, Notary Public

County of Residence: Lake

Commission Expiration Date: 11-25-2016



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Glenn R. Patterson

SHERRY TUTTLE

This instrument prepared by Glenn R. Patterson, Esq., Lucas, Holcomb & Medrea, LLP, 300 East 90th Drive, Easton Court, Merrillville, Indiana 46410