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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
1/10/2008 12:14:00 PM
FEE \$20.00 Pgs: 6
DEP eCASH REC'D FOR METRO NATIONAL TITLE

This instrument prepared by:

Wal-Mart Real Estate Business Trust
Sam M. Walton Development Complex
2001 S.E. 10th Street
Bentonville, AR 72716-0550

After recording return to:

Chicago Title Insurance Company
171 N. Clark Street
Chicago, IL 60601-3294
Attn: Susan Marchewski
MNT 06049346
12-606-0002

UTILITY EASEMENT AGREEMENT

This UTILITY EASEMENT AGREEMENT ("Agreement"), dated December 21, 2007, is made by and between **CARL KARCHER ENTERPRISES, INC.**, a California corporation, with an address of 6307 Carpinteria Blvd., Suite A, Carpinteria, California 93013 ("Grantor"), and **WAL-MART REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, whose address is 702 S.W. 8th Street Bentonville, AR 72716, with a mailing address of Sam M. Walton Development Complex, 2001 S.E. 10th Street Bentonville, AR 72716-0550, Attn: Realty Management-Utah ("Wal-Mart" or "Grantee"). The following statements are a material part of this Agreement:

WHEREAS, Grantor is or will be by the time of this recording the owner of a tract of land depicted as Tract 1 on **Exhibit A**, attached hereto and made a part hereof; and

WHEREAS, Grantee is the owner of a tract of land depicted as Tract 2 on **Exhibit A**; and

WHEREAS, Grantor wishes to quitclaim, and Grantee wishes to receive, easements over, under and across Tract 1 for storm water drainage, the "Future Utility Easement" as depicted on **Exhibit A** and legally described on **Exhibit B**, attached hereto and made a part hereof, and any and all existing utility easements on, over, and under Tract 1 that benefit Tract 2.

THEREFORE, in consideration of the covenants contained in this Agreement and other good and valuable consideration, the receipt of which is acknowledged, the following grants, agreements, covenants and restrictions are made:

1. Grantor quitclaims to Grantee perpetual, non-exclusive right, privilege and easements (collectively, the "Easement") for the benefit of Grantee to tie into, use, maintain, replace and repair the existing storm water drainage and utility lines (collectively, the "Utility System"), as such utility lines exist from time to time, as described on **Exhibit B**. Grantee shall, at Grantee's sole cost and expense, construct and install all initial improvements (collectively, "Grantee's Improvements") tie into, or otherwise utilize the existing Utility System.

2. Grantee shall restore, at Grantee's sole cost and expense, the surface and improvements disturbed in connection with the construction, installation, maintenance or repair of the Grantee's Improvements or the Utility System, as applicable, to a condition equal or better than the condition which existed prior to its commencement of such work, including without limitation replacement of any sod, landscaping, paving or other improvements that existed prior to such work. Any owner of any tract whose negligence or intentional conduct causes the need for repair or maintenance of the Utility System shall promptly cause such repair or maintenance to be made at its own expense.

3. Each owner of each tract shall have the right, at its sole cost and expense, to relocate, alter or change all or any portion of the Grantee's Improvements, or the Utility System located on its tract, provided: (i) such relocation, alteration or change does not result in any interruption of service or use, and (ii) such relocation, alteration or change is completed so as to minimize interference to the owners and occupants of the other tracts.

4. Each owner of each tract shall have the right to use the surface of its tract over all or any part of the underground Utility System to the extent such use does not unreasonably interfere with the underground Utility System.

5. Any maintenance, alteration, relocation or repair of any portion of Grantee's Improvements or the Utility System located on a tract owned by another, or servicing another tract or tracts, shall be performed by Grantee. Grantee shall provide adequate notice to the owner of such tract on which such activity is required (except in an emergency, when the work may be initiated with reasonable notice), shall be done after normal business hours whenever possible, and otherwise shall be performed in such a manner as to cause as little disturbance in the use of such tract as is practicable under the circumstances.

6. Grantee agrees to use due care in any use of the Easement, and in the construction, installation, repair, replacement and maintenance of Grantee's Improvements and the Utility System, so as not to unreasonably disturb Grantor's use of its property. Grantee further agrees it shall not materially interfere with Grantor's business operations while utilizing the Easement.

7. Grantee shall indemnify and hold harmless Grantor from any damages or liability to persons or property that might arise from the use of the Easement by Grantee. Grantee further agrees that Grantee will at all times during the duration of this easement maintain and pay for comprehensive general liability insurance affording protection to Grantor and Grantee naming Grantor as an additional insured on the policy or policies for a combined bodily injury and property damage limit of liability not less than \$2,000,000.00 for each occurrence. Grantee further agrees, upon request to deliver to Grantor a certificate or certificates from an insurance company or insurance companies satisfactory to Grantor evidencing the existence of such insurance and naming Grantor as an additional insured. Notwithstanding anything to the contrary, provided that the net worth of Wal-Mart Stores, Inc. exceeds One Hundred Million (\$100,000,000.00) Dollars, Wal-Mart shall have the right to self insure.

8. The rights contained in this Agreement shall run with the land and inure to, and be for the benefit of Grantor and Grantee, their successors and assigns, and the tenants, sub-tenants, licensees, concessionaires, mortgagees in possession, customers and business invitees of such parties.

9. This Easement is a permanent easement and will continue in full force and effect so long as the Easement is used by Grantee, its successors and assigns for the purposes set forth in this Agreement. Grantor and Grantee agree Grantor shall have the right, at Grantor's sole option and expense, to relocate the Easement upon Grantor's property.

10. Grantee acknowledges that it is Grantee's sole responsibility to obtain any governmental permits to perform any required maintenance checks, and to abide by any governmental regulations associated with the use, construction, patrolling, replacement and maintenance of Grantee's Improvements, or the Utility System, as applicable.

11. This Agreement may be executed in one or more counterparts (including by facsimile), all parties need not be signatories to the same documents, and all counterpart signed documents shall be deemed to be an original and one (1) instrument.

[Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

WITNESS OR ATTEST:

CARL KARCHER ENTERPRISES, INC.
("Grantor")

Sammy Robinson

BY: [Signature]

TITLE: Senior Vice President

CORPORATE ACKNOWLEDGMENT

STATE OF Missouri)
City St. Louis) §§
COUNTY OF St. Louis)

On this 20th day of December, 2007, before me, the undersigned notary public in and for said County and State, personally appeared before me William P. Werner to me personally known, who, being by me duly sworn, did say that he/she is Senior Vice President of Carl Karcher Enterprises, Inc. and that the seal, if any, affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed, sealed and delivered by him/her on behalf of said corporation by authority of its Board of Directors, and said William P. Werner acknowledged said instrument to be the free act and deed of said corporation.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State, the day and year in this certificate above written.

[Signature]
NOTARY PUBLIC

My Commission Expires:

6-26-2010



Exhibit A

[Site Plan]

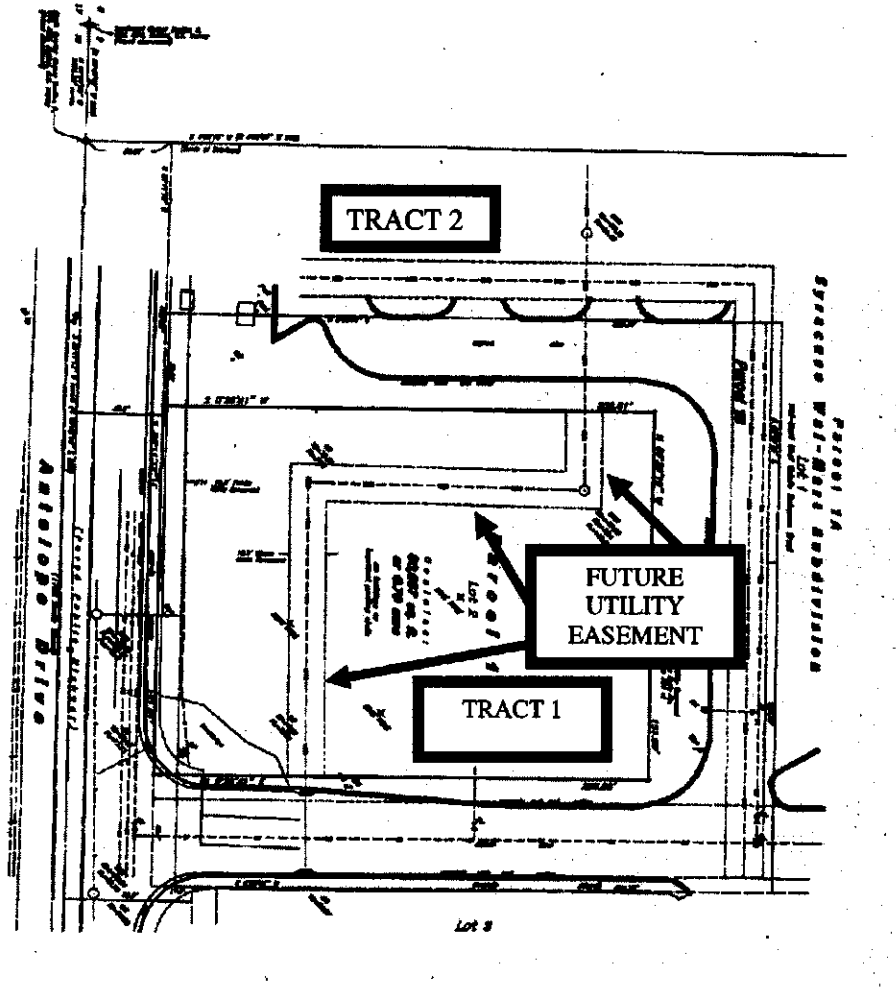


Exhibit B

A 15.0 foot wide easement for storm drain facilities being 7.5 feet each side of the following described centerline:

A part of Lot 2, Syracuse Wal-Mart Subdivision being within the Southeast Corner of Section 6, Township 4 North, Range 2 West, Salt Lake Base and Meridian, U.S. Survey, in Syracuse, Davis County, Utah:

Beginning at a point on the West line of said Lot 2 located 28.24 feet South $0^{\circ}20'41''$ West from the Northwest Corner of said Lot 2; being 199.48 feet North $0^{\circ}30'16''$ East along the Quarter Section Line and 1926.76 South $89^{\circ}29'44''$ East from the South Quarter Corner of said Section 6; and running thence North $89^{\circ}47'59''$ East 32.38 feet; thence South $1^{\circ}17'36''$ West 113.87 feet; thence North $89^{\circ}56'12''$ East 120.51 feet to the East Line of said Lot 2 and the endpoint of this easement centerline, said endpoint being 62.92 feet North $0^{\circ}20'41''$ East from the Southeast Corner of said Lot 2.

Contains 4,001 sq. ft.