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Book - 9682 Pg - 2924-2932  
GARY W. OTT  
RECORDER, SALT LAKE COUNTY, UTAH  
WAL-MART REALTY CO  
DEPT 9330  
2001 S E 10TH ST  
BENTONVILLE AR 72716  
BY: ZJM, DEPUTY - MA 9 P.

This instrument prepared by:

Wal-Mart Real Estate Business Trust  
Sam M. Walton Development Complex  
2001 S.E. 10<sup>th</sup> Street  
Bentonville, AR 72716-0550  
Attn: Brad Rogers, Assistant General Counsel  
Telephone: (479) 204-3147

Return recorded document to:

Wal-Mart Real Estate Business Trust  
Sam M. Walton Development Complex  
2001 S.E. 10<sup>th</sup> Street  
Bentonville, AR 72716-0550  
Attn: Jennifer Hedges

PIN: 27-08-178-016-0000

**UTILITY EASEMENT**

This UTILITY EASEMENT is entered into as of the 30<sup>th</sup> day of January, 2009, by and between **WAL-MART REAL ESTATE BUSINESS TRUST** ("Wal-Mart"), a Delaware statutory trust, whose address is 702 S.W. 8th Street, Bentonville, AR 72716 ("Grantor"); and **AMSOURCE SOUTH JORDAN WMP, LLC**, a Utah limited liability company, whose address is 358 South Rio Grande, Suite #200, Salt Lake City, UT 84101 ("Grantee").

**WITNESSETH**

BK 9682 PG 2924

**WHEREAS**, Grantor is the owner of that certain tract or parcel of land situated in the city of South Jordan, County of Salt Lake, State of Utah, depicted as Grantor Tract on Exhibit A, attached hereto and made a part hereof (“Grantor Tract”); and

**WHEREAS**, Grantee has requested from Grantor and Grantor is desirous of granting to Grantee, a non-exclusive easement for the extension of water utilities, more particularly described on Exhibit B, attached hereto and made a part hereof (“Utility Easement”).

**NOW THEREFORE**, in consideration of one dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor does hereby grant to Grantee a non-exclusive easement for water utility extensions over, across and under those identified portions of the Grantor Tract, subject to the following terms and conditions to which the parties hereto do hereby agree:

1. Easement for Extension of Utilities. Grantor hereby grants to Grantee a water utility easement for the maintenance of water utilities that may be needed for making underground water utility connections and or repairs. Such easement shall be at the location indicated on Exhibit B (“Water Utility Easement Area”). Grantee agrees to repair any damage caused to the overall utility system that is a direct result of the acts or negligence of Grantee, its customers, employees, invitees, or contractors in extending, maintaining, or repairing the utilities. In the exercise of such rights, Grantee shall not take or cause to be taken any action which would constitute a material change to the original civil engineering plan for the Grantor Tract and Grantee shall use reasonable efforts to minimize to the extent reasonably practicable any damage to or interference with the use and enjoyment of any other tract or of any business conducted thereon. Grantee shall exercise its water utility extension rights in such a manner that will cause minimal disruption to the on-going business operation of Grantor. Grantee shall restore, at Grantee’s sole cost and expense, the surface and all improvements disturbed in connection with the construction, installation, maintenance or repair of the water utilities, 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, irrigation system, paving, striping or other improvements that existed prior to such work. If the Grantee shall fail to restore the Water Utility Easement Area as provided herein, then Grantor, at its sole option, may proceed forthwith to have the repairs made and pay the cost thereof, and to receive reimbursement therefor from the Grantee within thirty (30) days after a written request for same.

2. Use. The Grantee, through its officers, employees and agents, shall have the right to enter upon the Water Utility Easement Area in such a manner and at such times from the date hereof as may be reasonable necessary for the purpose of constructing, building, laying, patrolling, replacing and maintaining thereon certain utility lines, including such repairs, replacements and removals as may be from time to time required. Said right shall be perpetual, but should Grantee cease to use, maintain and/or repair said easement line(s) for a period of two years, then the applicable utility lines or appurtenances thereon installed in or upon said lands shall be removed by Grantee within a reasonable time. Said utility extension lines shall be laid so that the top thereof shall be removed by Grantee within a reasonable time. Said utility

extension lines shall be laid so that the top thereof shall be buried not less than thirty inches below the natural surface of the ground.

3. Maintenance. (a) Grantee shall restore the surface of the Water Utility Easement Area to its original condition immediately following any of Grantee's permitted activities within the easement areas, so that Grantor, its successor and assigns shall have the free and unobstructed use thereof, subject to the rights of Grantee herein provided. Grantee will make no unreasonable interference with such use of the surface of said lands by Grantor, its successor and assigns.

(b) Grantee, upon each and every occasion that the same is repaired, renewed, added or removed, shall restore the premises of the Grantor Tract, and any such buildings or improvements disturbed, to a condition as they were prior to any such installation or work, including the restoration of any topsoil.

(c) If, in an emergency, it shall become necessary for Grantor to promptly make any repairs that otherwise would have been the responsibility of the Grantee, or if the Grantee shall fail to adequately maintain the Water Utility Easement Area as provided herein, then Grantor, at its sole option, may proceed forthwith to have the repairs made and pay the cost thereof, and to receive reimbursement therefor from the Grantee within thirty (30) days after a written request for same. In such instance, Grantor shall provide the Grantee with oral notification of its intention to make such repairs or the occurrence of such repairs, at the earliest practicable time given the nature and extent of the emergency.

4. Indemnification and Insurance. (a) Grantor, its successors and assigns, will not be responsible for damage by others to said water utility lines. Grantee shall indemnify, defend and hold harmless Grantor from any damages or liability to persons or property that might arise from the use, construction, operation or maintenance of this Utility Easement and associated lines by Grantee, its agents, employees, contractors, or anyone authorized by Grantee.

(b) The Grantee will carry and keep in force, at its own expense, Commercial General Liability insurance with companies that do business in this State, in an amount not less than \$2,000,000.00 single limited personal injury and property damage; and \$2,000,000.00 combined personal injury and property damage. All policies of insurance shall be considered primary of any existing, similar insurance carried by Grantor. The Grantee shall furnish Grantor with a Certificate of Insurance upon written request.

5. Hazardous Waste. Grantee (hereafter the indemnifying party), its successors and assigns, shall indemnify and hold harmless from and against any and all losses, liabilities (including strict liability), damages, injuries, expenses, and costs including, without limitation, reasonable attorney's fees, of any settlement or judgment and claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, Grantor, its successors and assigns by any person or entity or governmental agency, for, with respect to, or as a direct or indirect result of the escape, seepage, leakage, spillage, emission, discharge or release of any Hazardous Substance (as defined hereinbelow) resulting from the operations of the Grantee upon or under any parcel of land owned by Grantor including without limitation, any losses, liabilities

(including strict liability), damage, injuries, expenses, and costs, including, without limitation, reasonable attorney's fees, of any settlement or judgment or claims asserted or arising under, as amended, the comprehensive Environmental Response, compensation and Liability Act, the Superfund Amendment and Reauthorization Act, the Resource conservation Recovery Act, the Federal Water Pollution Control Act, the Federal Environmental Pesticides Act, the Clean Water Act, any so called federal, state or local "Superfund" or "Superlien" statute, or any other statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability (including strict liability), or standards of conduct concerning any Hazardous Substance.

6. Duration. The agreements contained herein and the rights granted hereby shall run with the title to the Water Utility Easement Area and shall bind and inure to the benefit of the parties hereto and their respective heirs, successors, sublessees and assigns; subject, however, to the provisions of Paragraph 1 herein above.

7. Relocation. (a) Grantor reserves the right to modify or relocate the water utility lines and associated easements, at the expense of Grantor, provided any such modification or relocation does not prevent adequate delivery of such water utility services.

(b) In case of the opening of a public road or street to or upon the Grantor Tract, then any portion of such line interfering with the proper construction and maintenance of such road or street shall be adjusted accordingly by Grantee, at its expense, so as not to interfere with such road or street or Grantor's business operations.

8. Headings. The headings of the paragraphs contained herein are intended for reference purposes only and shall not be used to interpret the agreements contained herein or the rights granted hereby.

9. Counterparts. This agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

10. Storm Water Compliance. In exercising any rights and privileges under this Deed of Easement, the Grantee shall comply fully with any federal, state or local laws, regulations, ordinances, permits or other authorizations or approvals or other requirements relating to storm water discharges or the control of erosion or sediment discharges from construction projects, including but not limited to the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and the Storm Water General Permit for Discharges Associated with Construction Activities (collectively the "Storm Water Requirements"). In addition to any other provisions of any Storm Water Requirements, the Grantee shall:

(a) SWPPP Development. The Grantee shall, as required by any Storm Water Requirements, prepare a Storm Water Pollution Prevention Plan (the "Grantee SWPPP") for that part of the property owned by Grantor and shown on Exhibit A on which the Grantee plans to conduct earth-disturbing activities. The Grantee SWPPP shall identify and describe the role of any other contractor, entity or individual contemporaneously undertaking earth-disturbing

activities in complying with the Storm Water Requirements, and shall identify the manner in which the Grantee and any such contractor, entity or individual will coordinate to comply with the Storm Water Requirements and to avoid negatively impacting any erosion or sediment controls during earth-disturbing activities. The Grantee shall provide Grantor with a copy of the Grantee SWPPP prior to initiating any earth-disturbing activities.

(b) Permit Coverage. The Grantee shall, as required by any Storm Water Requirements, submit a Notice of Intent or other permit application prior to initiating any ground-disturbing activities at the property owned by Grantor and shown on Exhibit A covering the number of acres which will be disturbed by the Grantee. The Grantee shall submit such Notice of Intent or other permit application regardless of whether Grantor or any agent or contractor of Grantor has also submitted any Notice of Intent or other permit application, unless any Storm Water Requirements expressly prohibit such submittal. The Grantee shall provide Grantor with a copy of the Notice of Intent or other permit application prior to initiating any earth-disturbing activities.

(c) Grantor Weekly Meetings. If the Grantee and Grantor, or any agent or contractor of Grantor, contemporaneously undertake any earth-disturbing activities, the Grantee shall attend any weekly meetings held by Grantor, or any agent or contractor of Grantor, to review the requirements of any applicable permits, the Grantee SWPPP and other SWPPPs prepared for the property owned by Grantor and shown on Exhibit A to address any problems that have arisen in implementing the SWPPPs or maintaining Best Management Practices ("BMPs").

(d) Borrow, Material, Equipment and Waste Storage Sites. In the event that the Grantee in exercising the rights and privileges of this Deed of Easement requires the development and/or use of borrow, material, equipment or waste storage sites, the Grantee agrees that it will, prior to the development and/or use of such sites, obtain any permits or approvals necessary for the legal use of such sites, and will also comply with all laws, regulations and permit conditions applicable to such sites.

[Signature pages follow]

IN WITNESS WHEREOF, Wal-Mart hereto has executed this instrument the  
30<sup>th</sup> day of January, 2009.

**WAL-MART REAL ESTATE  
BUSINESS TRUST**

BY: Carole J. Baker  
Carole J. Baker  
TITLE: Sr. Director of Building Development

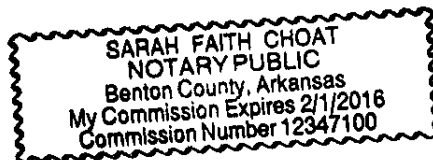
**TRUST ACKNOWLEDGMENT**

STATE OF ARKANSAS    )  
                                  ) §§  
COUNTY OF BENTON    )

On this 30<sup>th</sup> day of January, 2009, before me, the undersigned notary public in and for said County and State, personally appeared before me Carole J. Baker to me personally known, who, being by me duly sworn, did say that she is Senior Director of Building Development of Wal-Mart Real Estate Business Trust, and that the seal affixed to the foregoing instrument is the seal of said trust, and that said instrument was signed, sealed and delivered by her on behalf of said trust by authority of its Managing Trustee, and said Carole J. Baker acknowledged said instrument to be the free act and deed of said trust.

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

Sarah Faith Choat  
NOTARY PUBLIC



IN WITNESS WHEREOF, the Grantee hereto has executed this instrument the 16 day of January, 2009.

AMSOURCE SOUTH JORDAN  
WMP, LLC, a Utah limited liability company,  
("Grantee") by its Manager, Amsource Development  
Inc., a Utah corporation

BY: [Signature]  
BRYAN B. TODD  
TITLE: Vice President

**COMPANY ACKNOWLEDGMENT**

STATE OF Utah )  
COUNTY OF Salt Lake ) §§

On this 16 day of January 2009, before me, the undersigned notary public in and for said County and State, personally appeared before me Bryan B. Todd to me personally known, who, being by me duly sworn, did say that he/she is Vice president of Amsource Development and that the seal, if any, affixed to the foregoing instrument is the seal of said company, and that said instrument was signed, sealed and delivered by him/her on behalf of said company by authority of its Board of Directors, and said Bryan B. Todd acknowledged said instrument to be the free act and deed of said company.

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



Exhibit A

[Site Plan]

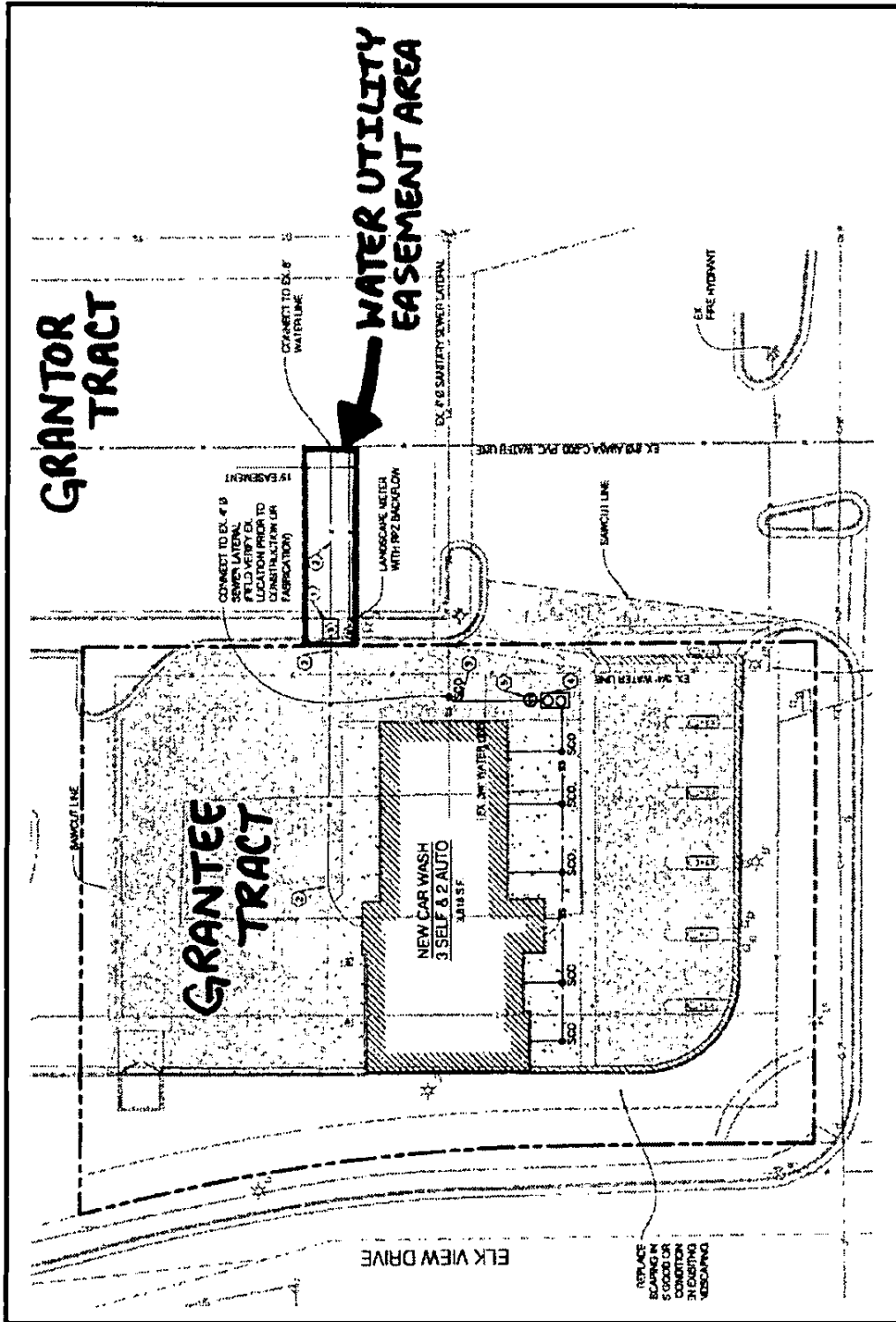




Exhibit B

PROPOSED 15' UTILITY EASEMENT

BEGINNING AT A POINT ON THE EASTERLY LINE OF LOT 2, SOUTH JORDAN NEIGHBORHOOD MARKET SUBDIVISION, ON FILE WITH THE SALT LAKE COUNTY RECORDER'S OFFICE, SALT LAKE CITY, UTAH, SAID POINT BEING SOUTH 58.84 FEET FROM THE NORTHEAST CORNER OF SAID LOT 2, AND RUNNING: THENCE EAST 52.96 FEET TO A POINT 5.00 FEET EAST OF AN EXISTING WATER MAIN; THENCE SOUTH 15.00 FEET; THENCE WEST 52.96 FEET TO THE EAST LINE OF SAID LOT 2; THENCE NORTH 15.00 FEET ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING.

CONTAINS 0.018 ACRE, MORE OR LESS