

JOHN ATHEY
149 ARMSTRONG STREET
KEYSER, WV 26726-3504

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ACCESS EASEMENT

THIS ACCESS EASEMENT ("Easement") is entered into as of the 9th day of November, 2009, by and between **WAL-MART REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust with an address of 702 S.W. 8th Street, Bentonville, AR 72716 and with notices sent to 2001 SE 10th Street, Bentonville, AR 72716-0550, Attention: Realty Manager of West Virginia ("Wal-Mart"); and **GREYHOUND PROPERTIES, LLC**, a West Virginia limited liability company, with an address of 110 South Centre Street, Cumberland, Maryland 21502 ("Grantee").

WITNESSETH

WHEREAS, Wal-Mart is the owner of that certain tract or parcel of land situated South of the City of Keyser, County of Mineral, State of West Virginia, identified as Tract 1 on the site plan attached hereto as Exhibit "A" and more fully described on Exhibit "B" ("Tract 1"); and

WHEREAS, Grantee is or will be by the time this instrument is recorded the owner of that 22.16 acre(s), more or less, tract or parcel of land in the same city, county, and state, which tract lies adjacent to Tract 1 and is identified as Tract 2 on Exhibit "A" and more fully described on Exhibit "B" ("Tract 2"); and

WHEREAS, Grantee has requested from Wal-Mart, and Wal-Mart is desirous of granting to Grantee, a non-exclusive easement for pedestrian and vehicular ingress and egress over and across that portion of Tract 1 identified as the Access Area on Exhibit "A" and more fully described on Exhibit "C" ("Access Area").

NOW THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, Wal-Mart does hereby grant to Grantee a non-exclusive easement for vehicular and pedestrian ingress and egress (but not parking) over and across the Access Area for access to and from Tract 2, subject to the following terms and conditions to which the parties hereto do hereby agree:

1. Grant of Easement and Use of Access Area. Wal-Mart hereby grants to Grantee a non-exclusive easement for pedestrian and vehicular ingress and egress (but not parking) over and across the Access Area. The ingress and egress rights granted hereby may be used non-exclusively by, and are limited to, Grantee and its tenants and their respective customers and employees directly associated with the business operation to be located on Tract 2. Only passenger vehicles, light trucks and pedestrian traffic associated with Tract 2 may use the Access Area, but nothing herein shall be construed to limit or restrict ingress or egress associated with Tract 1 or any part thereof. Grantee shall not be allowed to use the Access Area

1

for heavy truck traffic, delivering merchandise to the business operation to be located on Tract 2 or parking of any kind. Wal-Mart shall have the right, at Wal-Mart's sole discretion and expense to relocate the Access Area upon Wal-Mart's property. Upon termination of this Easement, Grantee shall provide a release and extinguishment of all Grantee's rights granted hereunder in recordable form.

2. Restrictions. Grantee covenants that Tract 2 will only be used for purposes of the kind typically found in shopping centers, and for no other purpose without the prior written consent of Wal-Mart, or its successors. Grantee further covenants that Tract 2 shall not be used for or in support of the following: (i) a discount store in excess of eight thousand (8,000) square feet in floor size, wholesale membership/warehouse club, grocery store/supermarket, pharmacy/drug store; (ii) gas station, quick lube/oil change facility, automobile tire sales; (iii) movie theater, bowling alley, health spa/fitness center; (iv) adult book store, adult video store (an adult video store is a video store that sells or rents videos that are rated NC-17, X, XX, XXX, or of a rating assigned to works containing material more sexually explicit than XXX, by the film rating board of the Classification and Rating Administration), pawn shop, bar, night club, billiard parlor, any place of recreation/amusement, or any business whose principal revenues are from the sale of alcoholic beverages; or (v) any business whose major source of business is derived from the cashing of checks or making loans. This is not to exclude the regular business of any bank or financial institution insured by the F.D.I.C.

3. Maintenance. (a) Wal-Mart shall be responsible for maintaining the Access Area and keeping the Access Area in a smooth and usable condition except as made necessary due to the negligence of the owner of Tract 2, in which case, the owner of Tract 2 shall be solely responsible for any necessary repairs caused by said negligence. In connection with the maintenance of the Access Area, the owner of Tract 2 shall pay to Wal-Mart, so long as Wal-Mart is the owner, lessee or occupant of Tract 1, in advance, on or before January 1st of each year, an "Annual Maintenance Fee" of Two Thousand Five Hundred dollars (\$2,500.00). For the period commencing on the date of this agreement and ending December 31, 2010, the Annual Maintenance Fee is included in the initial fee paid by Grantee to Wal-Mart. Commencing January 1, 2011 and each year thereafter, the Annual Maintenance Fee shall increase by two percent (2%) over the Annual Maintenance Fee paid during the previous year. Wal-Mart agrees that the Access Area shall remain clear and accessible at all times. If Grantee fails to pay the Annual Maintenance Fee, after 30 days of receipt of written notice from Wal-Mart, then Wal-Mart shall have the right to terminate this Easement immediately.

(b) In the event Wal-Mart fails to reasonably maintain or repair the Access Area, Grantee may do so at its sole expense, provided Grantee uses like or similar quality and type of materials originally installed on the Access Area, and further provided Grantee does not change the grade or elevation of the Access Area without the permission of Wal-Mart. Any repair or maintenance performed within the Access Area must be preceded by a thirty (30) day written notice to Wal-Mart.

(c) Grantee shall, at its sole cost and expense pave any unpaved portion of the curb cut area from Tract 2 to the Access Area, and if, in the process of paving and developing the Access Area, Grantee encounters any irrigation equipment previously installed by Wal-Mart in the Access Area, Grantee shall disconnect and relocate any such equipment at Grantee's sole

cost. If Grantee encounters any utility lines under the Access Area, Grantee shall encase said lines in order to protect same. If it is necessary for Grantee to remove trees or any other type of landscaping, it shall relocate same adjacent to the Access Area in a location acceptable to Wal-Mart.

4. Damage to Access Area, or Other Improvements. If, in the process of developing Tract 2, Grantee damages, breaks, destroys, or in any way impairs the Access Area, or any other improvements of Wal-Mart, Wal-Mart in its sole discretion, may require Grantee to either: (i) restore at Grantee's sole cost and expense the Access Area, or Wal-Mart's improvements, to their original quality and condition; or (ii) Wal-Mart may restore the Access Area, or improvements, and invoice Grantee for Wal-Mart's costs incurred restoring the damaged Access Area, or improvements; whereupon Grantee agrees to reimburse Wal-Mart within thirty (30) days of receipt of an invoice for such expenses.

5. Indemnification. Grantee shall indemnify and hold harmless Wal-Mart, Wal-Mart Stores, Inc., and all affiliates and subsidiaries thereto, and all officers, directors, shareholders employees and agents thereof (collectively the "Wal-Mart Entities"), from any damages or liability to persons or property that might arise from the use of the Access Area by Grantee, Wal-Mart Entities' customers, suppliers, employees, and tenants or anyone else using the Access Area for ingress and egress to and from Tract 2. 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 Wal-Mart and Grantee naming Wal-Mart as an additional insured on the policy or policies for a combined bodily injury and property damage limit of liability not less than \$5,000,000.00 for each occurrence. Grantee further agrees, upon request to deliver to Wal-Mart a certificate or certificates from an insurance company or insurance companies satisfactory to Wal-Mart evidencing the existence of such insurance and naming Wal-Mart as an additional insured.

6. Curb Cuts. Grantee shall be entitled to install no more than one (1) forty (40) foot curb cut(s) as shown on the Grantee's Plan of Development as approved by Wal-Mart.

7. Relocation. Wal-Mart reserves the right in its sole and absolute discretion to modify or relocate the Access Area provided such modification or relocation does not materially restrict or prevent ingress and egress to and from Tract 2.

8. Compliance. Grantee hereby warrants and represents to Wal-Mart that Grantee in exercising its rights under this Easement shall comply fully with any federal, state or local laws, regulations, ordinances, permits or other authorizations. In addition to the other representations contained herein, Grantee hereby warrants and represents to Wal-Mart that 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") (including without limitation preparing a Storm Water Pollution Prevention Plan (if applicable) to avoid negatively impacting any erosion or sediment controls during earth-disturbing activities, if any) in exercising any rights or privileges under this Easement, Grantee

recognizing and affirming Wal-Mart would not enter into this Easement without this warranty and representation from Grantee. Furthermore, Grantee hereby warrants and represents to Wal-Mart that Grantee has a policy to (i) comply in all respects with all immigration laws, statutes, rules, codes and regulations, (ii) properly maintain all records required by the United States Citizenship and Immigration Services (the "USCIS"), including, without limitation, the completion and maintenance of the Form I-9 for each of Grantee's employees, and (iii) respond in a timely fashion to any inspection requests related to such I-9 Forms. Grantee warrants and represents it has a policy to fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by the USCIS of Grantee or any of its employees. Grantee warrants and represents to Wal-Mart it has a policy to conduct an annual audit of the I-9 Forms for its employees and has a policy to promptly correct any defects or deficiencies which are identified as a result of such audit. Grantee warrants and represents it has a policy to require all subcontractors performing any work for Grantee to comply with the covenants set forth in this Section. Grantee recognizes and affirms Wal-Mart would not enter into this Easement if Grantee did not have such policies.

9. Payment. Any reimbursable due under this agreement (payment reimbursing Wal-Mart for an expenditure made on behalf of Grantee) should be sent to either of the following addresses:

(Regular Mail)
Wal-Mart Stores, Inc.
P.O. Box 502215
St. Louis, MO 63150-2215

OR

(Overnight Mail)
Wal-Mart Stores, Inc.
800 Market St., 4th Floor
Lockbox # 502215
St. Louis, MO 63101

Any receivable (excepting reimbursable) due Wal-Mart under the terms of this agreement should be sent to either of the following addresses:

(Regular Mail)
Wal-Mart Stores, Inc.
P.O. Box 500620
St. Louis, MO 63150-0620

OR

(Overnight Mail)
Wal-Mart Stores, Inc.
800 Market St., 4th Floor
Lockbox # 500620
St. Louis, MO 63101

10. Public Grant. Nothing contained herein shall be used or construed as a grant of any rights to any public or governmental authority or agency.

11. Duration. The agreements contained herein and the rights granted hereby shall run with the titles to Tract 2 and the Access Area and shall bind and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

12. Change of Ownership. In the event Grantee conveys or transfers title to Tract 2 to another party, Wal-Mart shall be notified thereof within thirty (30) days thereafter. Wal-Mart shall be provided the name and address of such transferee.

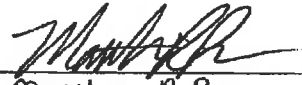
13. Effective Date. This instrument shall become effective on the date first written above.

14. 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.


15. Counterparts. This document, and any modifications, 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.

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

ATTEST:


Matthew R. Powers
Its: Assistant Secretary

WAL-MART REAL ESTATE
BUSINESS TRUST
("Grantor")


BY: 
Nick Goodner
Its: Director

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WITNESS/ATTEST:



GREYHOUND PROPERTIES, LLC
("Grantee")

BY: 
TIMOTHY P. MICHAELS,
Personal Representative
Its: Manager

TRUST ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF BENTON)

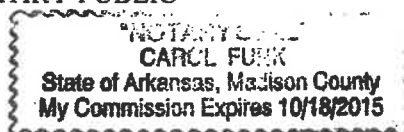
On this 9th day of November, 2009, before me, the undersigned notary public in and for said County and State, personally appeared before me Nick Goodner to me personally known, who, being by me duly sworn, did say that he is Director of Wal-Mart Real Estate Business Trust, and that the seal affixed to the foregoing instrument is the seal of said trust, and that said instrument was signed, sealed and delivered on behalf of said trust by authority of its Managing Trustee and said Nick Goodner 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.

Carol Fuik

NOTARY PUBLIC

My Commission Expires: October 18, 2015



LLC ACKNOWLEDGMENT

STATE OF MARYLAND)
) ss.
COUNTY OF ALLEGANY)

On this 5th day of November, 2009, before me, the undersigned notary public in and for said County and State, personally appeared before me **Timothy P. Michaels, Personal Representative**, to me personally known, who, being by me duly sworn, did say that he is the Manager of Greyhound Properties, LLC, and that said instrument was signed, sealed and delivered on behalf of said company by authority of its manager and sole member, and said Timothy P. Michaels, Personal Representative, 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 5th day of November, 2009.

Lauren E. Bailey

NOTARY PUBLIC

My Commission Expires: 6/29/13

