


STATE OF ALABAMA

COUNTY OF SHELBY


20030411000222980 Pg 1/4 20.50
Shelby Cnty Judge of Probate, AL
04/11/2003 16:13:00 FILED/CERTIFIED

TEMPORARY CONSTRUCTION EASEMENT

WHEREAS, Wal-Mart Real Estate Business Trust, a Delaware Statutory Trust ("Wal-Mart"), is the owner of a parcel of real property containing approximately 24.3 acres, said parcel located at the northeast corner of the intersection of U.S. Highway 31 and Winslett Road, in Shelby County, Alabama; and

WHEREAS, BMW Investments, Inc. ("BMW"), an Alabama corporation, is the owner of a parcel of real property adjoining said Wal-Mart property on the its southeast property line; and

WHEREAS, pursuant to its development of the said property owned by it, Wal-Mart will connect with a utility easement(s) on the said property owned by BMW; and

WHEREAS, Wal-Mart has requested, and BMW has agreed, for access to BMW's said property to perform said work, at Wal-Mart's expenses;

NOW, THEREFORE, NOW ALL MEN BY THESE PRESENTS that Wal-Mart and BMW, pursuant to the considerations and covenants set forth herein, agree as follows:

1. BMW hereby grants Wal-Mart, its contractors, representatives and agents, temporary access to the portion of its premises on shown on Exhibit "A" attached hereto and incorporated herein by reference, for the sole purpose of constructing said utility improvements on and across the subject property as set forth in the plans and specifications attached hereto as Exhibit "B" and incorporated herein by reference.
2. Wal-Mart, on behalf of itself, its contractors, employees, agents, representatives, subcontractors and suppliers, does hereby indemnify, and agree to hold harmless, BMW, its officers, employees and representatives, of and from any and all liability, loss, claims, damages and injuries to either personal or real property resulting from the actions of Wal-Mart, its contractors, employees, agents, representatives, subcontractors and suppliers in connection with the construction work referenced herein.
3. The rights and obligations of all parties hereto shall commence on the date Wal-Mart notifies BMW, in writing, that it will begin the construction work described herein, said notification which shall be within 365 days from the date Wal-Mart begins construction of the development on its own property, and shall terminate 365 days from said notification. The said written notice shall be sent to 101 CAHABA VALLEY PKWY W. PELHAM, AL 35124 and delivered by either hand delivery or overnight mail. The said 365 day period which this Temporary Easement will remain

in effect commences upon receipt by BMW of said written notification.

IN WITNESS WHEREOF, the parties hereto have executed this agreement on this the 11TH day
of ~~March~~, 2003.
APRIL

WAL-MART REAL ESTATE BUSINESS TRUST,
A Delaware Business Trust

By: [Signature]
Its: Asst. V.P.

BMW INVESTMENTS, INC.

By: [Signature]
Its: SECRETARY

State of Arkansas
County of

I, the undersigned Notary Public, in and for said State and County, do hereby certify that
Robert M. Ridard, whose name as Asst. Vice Pres. of Wal-Mart Real Estate
Business Trust, is signed to the above and foregoing instrument, and who is known by me, acknowledged
before me on this day, that being informed of the contents of said instrument, he/she, as such officer and
with full authority, executed the same voluntarily for and as the act of said company on the day the same
bears date.

Given under my hand and official seal of office on this the 9th day of April, 2003.

[Signature]
NOTARY PUBLIC
My Commission Expires: 10-30-2008

" NOTARY SEAL "
Karen D. Milligan, Notary Public
Washington County, State of Arkansas
My Commission Expires 10/30/2008

State of Alabama
County of

I, the undersigned Notary Public, in and for said State and County, do hereby certify that Franklin P. Webb, Jr., whose name as Secretary of BMW Investments, Inc., is signed to the above and foregoing instrument, and who is known by me, acknowledged before me on this day, that being informed of the contents of said instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said company on the day the same bears date.

Given under my hand and official seal of office on this the 1 day of April, 2003.



NOTARY PUBLIC

My Commission Expires: 8-1-05

EXHIBIT "A"

20030411000222980 Pg 4/4 20.50
Shelby Cnty Judge of Probate, AL
04/11/2003 16:13:00 FILED/CERTIFIED

Parcel A

A parcel of land situated in the Southeast one-quarter of the Northwest one-quarter of Section 31, Township 19 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northwest corner of said quarter-quarter and run South 88 degrees 09 minutes 00 seconds East along the North line for a distance of 447.14 feet; thence run South 01 degrees 19 minutes 31 seconds East for a distance of 496.34 to the POINT OF BEGINNING; thence run North 88 degrees 40 minutes 29 seconds East for a distance of 7.64 feet; thence run South 01 degrees 34 minutes 27 seconds East for a distance of 35.94 feet; thence run South 88 degrees 08 minutes 39 seconds West for a distance of 7.80 feet; thence run North 01 degrees 19 minutes 31 seconds West for a distance of 36.01 feet to the POINT OF BEGINNING. Said parcel contains 278 square feet or 0.01 acres more or less.

Parcel B

A parcel of land situated in the Southeast one-quarter of the Northwest one-quarter of Section 31, Township 19 South, Range 2 West, Shelby County, Alabama, being more particularly described as follows:

Commence at the Northwest corner of said quarter-quarter and run South 88 degrees 09 minutes 00 seconds East along the North line for a distance of 447.14 feet; thence run South 01 degrees 19 minutes 31 seconds East for a distance of 496.34 feet; thence run North 88 degrees 40 minutes 29 seconds East for a distance of 7.64 feet to the POINT OF BEGINNING; thence run along last described course for a distance of 17.30 feet; thence run South 30 degrees 17 minutes 19 seconds West for a distance of 18.32 feet; thence run South 01 degrees 53 minutes 43 seconds East for a distance of 20.27 feet; thence run South 88 degrees 08 minutes 39 seconds West for a distance of 7.74 feet; thence run North 01 degrees 34 minutes 27 seconds West for a distance of 35.94 feet to the POINT OF BEGINNING. Said parcel contains 350 square feet 0.01 acres more or less.