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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 8(N)(1)

TO: Honorable Chairwoman Rebeca Sosa and Members, Board of County Commissioners

DATE: April 8, 2014

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Resolution authorizing Miami-Dade County to enter into an easement agreement with Wal-Mart Stores East, LP for a portion of a certain property owned by Wal-Mart Stores East, LP to be donated as a non-exclusive easement for the construction of the Northeast Enhanced Transit Hub Expansion project

Resolution No. R-343-14

The accompanying resolution was prepared by the Miami-Dade Transit Department and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

Memorandum

MIAMI-DADE COUNTY

Date: April 8, 2014

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution Authorizing Miami-Dade County to Enter Into an Easement Agreement With Wal-Mart Stores East, LP for a Portion of a Certain Property Owned by Wal-Mart Stores East, LP to be Donated as a Non-Exclusive Easement for the Construction of the Northeast Enhanced Transit Hub Expansion Project, Located at NE 167th Street and NE 15th Avenue in Unincorporated Miami-Dade County, Florida

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RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing Miami-Dade County (County) to enter into an Easement Agreement with Wal-Mart Stores East, LP, on behalf of the Miami-Dade Transit Department (MDT), for a portion of a certain property owned by Wal-Mart Stores East, LP (Wal-Mart) to be donated as a non-exclusive easement for the construction of the Northeast Enhanced Transit Hub Expansion Project, located at NE 167th Street and NE 15th Avenue in Unincorporated Miami-Dade County, Florida; and authorizing the County Mayor or County Mayor's designee to take all actions necessary to accomplish the acceptance and execution of the Easement Agreement.

SCOPE

The project is physically located in Commission District 4 (Heyman); however, the impact benefits the public, and is therefore, Countywide.

FISCAL IMPACT/FUNDING SOURCE

There is no fiscal impact associated with the acceptance of this non-exclusive easement.

TRACK RECORD/MONITOR

Miami-Dade County has previously entered into a License Agreement with Wal-Mart with satisfactory results. In addition, the County has accepted easements from other entities in the past. The person responsible for managing the execution of this non-exclusive easement donation is Froilan Baez, Chief, MDT Right-of-Way, Utilities and Property Management Division.

BACKGROUND

Presently, MDT has been utilizing a portion of the Wal-Mart property for the existing bus stations under a license agreement; however, the licensed space presently occupied by MDT for the Bus Stations and bus bays is inadequate and does not accommodate 60 foot articulated buses which are planned as part of the improvements.

With the enhanced improvements as designed, a larger area is needed and Wal-Mart has agreed to donate the entire area required as a non-exclusive easement as specified in the Easement Agreement. Wal-Mart and the County shall terminate the license agreement once the Easement Agreement is fully executed.

MDT proposes to improve the bus bays by extending them further into the Wal-Mart property (easement area) to allow traffic to move safely and freely in the travel lanes without interruption from

the buses. At the same time, the bus bays will also be lengthened to accommodate 60 foot articulated buses and provide other additional improvements such as wider sidewalks and newer bus shelters added to create a more user-friendly station environment.

On June 15, 2010, the Board approved Resolution R-687-10 authorizing the execution of a County Incentive Grant Program with the Florida Department of Transportation to provide funding for the Northeast Transit Hub Expansion Project to accommodate articulated buses and other incidental improvements in the amount of $1,348,442.00. Approximately one year later, June 7, 2011, additional funds in the amount of $293,485.00 were awarded to the project under a supplemental grant which increased the funding to approximately $1,641,927.00, with an equal match from Surtax funds for an estimated total project cost of $3,283,854.00 (Resolution R-443-11).

MDT anticipates the construction of the Project to commence in September 2014 and be completed by September 2015. The donation of the non-exclusive easement by Wal-Mart is necessary for the construction of the proposed facility. This easement area is legally described and illustrated in Exhibit "C" of the attached Easement Agreement.

Alina T. Hudak
Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: April 8, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(N)(1)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(N)(1)
4-8-14

RESOLUTION NO. R-343-14

RESOLUTION AUTHORIZING MIAMI-DADE COUNTY TO ENTER INTO AN EASEMENT AGREEMENT WITH WAL-MART STORES EAST, LP FOR A PORTION OF A CERTAIN PROPERTY OWNED BY WAL-MART STORES EAST, LP TO BE DONATED AS A NON-EXCLUSIVE EASEMENT FOR THE CONSTRUCTION OF THE NORTHEAST ENHANCED TRANSIT HUB EXPANSION PROJECT LOCATED AT NE 167TH STREET AND NE 15TH AVENUE; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTIONS NECESSARY TO ACCOMPLISH THE ACCEPTANCE AND EXECUTION OF THE EASEMENT AGREEMENT

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, Wal-Mart Stores East, LP (Wal-Mart) hereby desires to donate to the Miami-Dade County (County) a non-exclusive easement with certain terms and conditions as stated in the Easement Agreement herein attached for the construction of the Northeast Enhanced Transit Hub Expansion (NETHE) Project located at NE 167th and NE 15th Avenue; and

WHEREAS, in order to accomplish such purpose, it is necessary that the County enter into this agreement with Wal-Mart for this non-exclusive easement for the project,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. That this Board adopts the foregoing recitals, approves the conveyance for no monetary consideration pursuant to section 125.38 of the Florida Statutes, subject to the terms and conditions as specified in the Easement Agreement to Miami-Dade County, in substantially the form attached hereto and made a part hereof; and authorizes the Mayor or Mayor's designee,

to approve the acceptance of the easement agreement for and on behalf of Miami-Dade County and to exercise all provisions therein;

Section 2. That this Boards authorizes the Mayor, Mayor's Designee or the Miami-Dade Transit Director to amend the easement agreement or portion thereof from time to time if deems necessary and to execute same on behalf of the County.

Section 3. Pursuant to Resolution R-974-09, record the instrument in the Public Records of Miami-Dade County, Florida; and to provide a recorded copy of the instrument to the Clerk of the Board within thirty (30) days of execution of said instrument; and directs the Clerk of the Board to attach and permanently store a recorded copy together with this resolution.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman			**aye**
Lynda Bell, Vice Chair			**aye**
Bruno A. Barreiro	**aye**	Esteban L. Bovo, Jr.	**aye**
Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**aye**
Juan C. Zapata	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 8th day of April, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Bruce Libhaber

EASEMENT AGREEMENT

THIS EASEMENT ("Easement") is entered into as of this _____ day of February, 20 14, by and between WAL-MART STORES EAST, LP, a DelawareDelaware limited partnership ("Wal-Mart" or "Grantor"), 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 Florida; and Miami-Dade County, a political subdivision of the State of Florida ("Grantee") with an address of 111 N.W. 1st Street, Suite 29, Miami, Florida 33128-1929.

WITNESSETH

WHEREAS, Wal-Mart is the owner of that certain tract or parcel of land situated in Miami-Dade County of the State of Florida, identified as Wal-Mart Tract on the site plan attached hereto as Exhibit "A" and more fully described on Exhibit "B" ("Wal-Mart Tract"); and

WHEREAS, Grantee is the owner of those abutting roads, N.E. 167th Street and N.E. 15th Avenue, in the same county, and state, which lie adjacent to and abutting Wal-Mart Tract and is identified by name on Exhibit "A" ("Roads"); and

WHEREAS, Grantee has requested from Wal-Mart, and Wal-Mart is desirous of granting to Grantee, a non-exclusive easement for the expansion of an existing bus station (including but not limited to construction and maintenance of bus bays, bus shelters, and pedestrian sidewalk, along with other related structures or improvements) (Bus Station Expansion") over and across that portion of Wal-Mart Tract identified on and more fully described on Exhibit "C" ("Easement Area").

NOW THEREFORE, in consideration of ten dollars ($10.00) and other good and valuable consideration, Wal-Mart does hereby grant to Grantee a non-exclusive easement for the Bus Station Expansion over and across the Easement Area, subject to the following terms and conditions to which the parties hereto do hereby agree:

1. Grant of Easement and Use of Easement Area.

(a) Wal-Mart hereby grants to Grantee a non-exclusive easement for the Bus Station Expansion over and across the Easement Area. The 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 bus station operation located on the Easement Area. Nothing herein shall be construed to limit or restrict ingress or egress associated with Wal-Mart Tract or any part thereof. Grantee shall not be allowed to use the Easement Area for any other

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purpose. Upon termination of this Easement, Grantee shall provide a release and extinguishment of all Grantee's rights granted hereunder in recordable form.

(b) Grantor further grants reasonable rights to Grantee to enter upon abutting property of the grantor other than the Easement Area for the purpose of exercising the rights contained herein to develop the Project and for the purpose of tying-in or harmonizing other paving with the finished grade of the construction, where reasonable and necessary. It is understood by the parties that said entry will be required by the Grantee, or its agent, from time to time. Grantee agrees to provide at least ten (10) days written and oral notice to Grantor prior to any such entrance. Moreover, no such entrance shall disrupt the business operations of Grantor; and no such entrance described in this paragraph shall occur between October 31 through January 1 of any given year. The terms of this Easement shall also govern any such entrance described in this paragraph.

(c) Grantee may place or permit placement of any advertising materials or public notices similar to those customarily placed on or at this bus station, as determined by Grantee in its reasonable discretion, within the Easement Area. Grantee shall have the right to retain all amounts generated by such advertising. Grantee shall not place or allow advertising of any nature, including signage, in or around this bus station which would either (i) promote or encourage the use of products legally prohibited to minors, such as tobacco products, alcohol, or adult entertainment, or (ii) promote or encourage major competitors to Wal-Mart Stores. Grantor retains the right to demand that Grantee remove any advertisement for any reason without liability for contractual obligations of the Grantee that are related to the advertisement in the event that the advertising violates this section. Grantee shall keep the Bus Station Expansion in a reasonably clean manner and free from graffiti. Grantor retains the right to demand Grantee clean said Bus Station Expansion or remove graffiti from the Bus Station Expansion. Such demands shall be in writing and shall give at least seventy-two (72) hours notice.

2. Restrictions. Grantee covenants that the Easement Area will only be used for the Bus Station Expansion and rights specified herein.

3. Maintenance. (a) Grantee shall restore the surface of the Easement Area so that there shall be safe, 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 successors and assigns, except as otherwise allowed herein. Grantee may, at any time, change the location of the bus bays, of the shelters, and of the sidewalk within the boundaries of the Easement Area, or modify the size of the existing sidewalk as it determines in its sole and absolute discretion from time to time as long as the changes do not interfere with the Grantor's facilities, and provided Grantee does not expand its use of the Easement beyond the Easement boundaries as described above. Further, Grantee shall not negligently and permanently damage property of the Grantor lying adjacent or abutting the Easement Area.

(b) If, in an emergency, it shall become necessary for Grantor to promptly make any repairs that otherwise would have been the responsibility of Grantee, or if Grantee shall fail to adequately maintain the Easement Area as provided herein, then Grantor, at Grantor's sole

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option, but Grantor is not obligated, may proceed forthwith to have the repairs made and pay the cost thereof, and to receive reimbursement therefor from Grantee within thirty (30) days after a written request for same, provided Grantor submitted detailed documentation of all expenses paid. In such instances, Grantor shall provide 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. Additionally, Grantor shall provide Grantee with written notification at the earliest practical time, if the extent of emergency allows.

(c) If, in the process of paving and developing the Easement Area, Grantee encounters any irrigation equipment previously installed by Wal-Mart in the Easement Area, which must be moved in Grantee's reasonable discretion, Grantee shall disconnect and relocate any such equipment at Grantee's sole cost.

(d) If it is necessary for Grantee to remove trees or any other type of landscaping, it shall relocate same adjacent to the Easement Area in a location acceptable to Grantor under the Grantor's ownership and control. Such landscaping shall come with a one (1) year replacement warranty in the event that the trees do not survive such relocation.

(e) Grantee agrees that any operable utility line lying in the Easement Area that is in conflict with the Project and under the ownership and control of the Grantor shall, at the Grantee's option, either be encased in order to protect the lines or be relocated to a mutually agreed location under the ownership and control of Grantor. The Grantee shall be responsible for the physical cost associated to encased or relocate such utility or utilities.

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

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 Easement Area to the extent allowed by law. However, nothing herein shall be deemed to indemnify the Wal-Mart Entities from any liability or claim arising out of the negligent performance or failure of performance of the Grantor, The Wal-Mart Entities, or any unrelated third party.

6. Curb Cuts. Intentionally omitted.

7. Relocation. Wal-Mart reserves the right in its sole and absolute discretion, and at its sole cost and expense, to modify or relocate the Easement Area provided such modification or relocation does not materially restrict or prevent the installation and/or operation of the bus bay station.

8. Compliance. Grantee in exercising its rights under this Easement shall comply fully with any applicable federal, state or local laws, regulations, ordinances, permits or other authorizations. Grantee shall comply fully with any applicable 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 agrees to comply with all applicable laws and regulations in constructing and operating the Bus Station Expansion. Grantee recognizes and affirms that Grantor would not enter into this Easement without these representations.

9. Payment & Notices. 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

Any notice to be sent pursuant to this easement shall be sent by certified mail, or by any commercially recognized delivery service that offers delivery verification to the addresses below. Such notices shall be deemed received upon delivery or refusal of delivery.

To Grantee

(Notices and Mails)
Miami-Dade Transit
Attn: The Director
701 NW 1st Court, 17th Floor
Miami, Florida 33136-3924
Tel. 786-469-5206

OR

(Notices and Mails)
Miami-Dade Transit
Attn: Chief, Right-of-Way, Utilities & Property Management
701 NW 1st Court, 15th Floor
Miami, Florida 33136-3924
Tel. 786-469-5244

To Grantor

Attn: Realty Manager for Florida
2001 SE 10th St.
Bentonville, AR 72716-0550
479-204-1286

10. Public Grant. Intentionally omitted.

11. Duration. The agreements contained herein and the rights granted hereby shall run with the titles to the Roads and the Easement Area and shall bind and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns, for a period of ninety-nine (99) years from the Effective Date. After the expiration of ninety-nine (99) years, this Easement shall terminate.

12. Change of Ownership. In the event Grantee conveys, transfers, or assigns or transfers title to the Roads 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.

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13. Hazardous Waste. Grantee (hereafter the indemnifying party), its successors and assigns, shall indemnify, defend and hold harmless Grantor 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" and/or "Hazardous Material" (as those terms may be defined in the acts recited herein below) resulting from the operations of 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 (and any and all amendments to the above-referenced acts), 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 such Hazardous Substance and/or Hazardous Material, subject to applicable laws and regulations.

14. Hazardous Materials. Grantee, and Grantee's successors and assigns, shall indemnify, defend and hold harmless Grantor from and against any and all losses, liabilities (including strict liability), claims, causes of action, damages, injuries, expenses and costs, including without limitation reasonable attorney's fees of any settlement, judgment or claims of any and every kind whatsoever paid, incurred or suffered by, or asserted against, Grantor, and 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 construction of Grantee's improvements, use of Grantee's improvements by Grantee, its customers, suppliers, employees, and tenants or anyone else using the such improvements, the use of the Utility Easement, or any claims the escape, seepage, leakage, spillage, emission, discharge or release of any hazardous substance resulting from the operations of Grantee upon or under any tract 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, subject to applicable laws and regulations.

15. Storm Water Requirements. In exercising any rights and privileges under this Easement, Grantee shall comply fully with any applicable federal, state or local laws, regulations, ordinances, permits or other authorizations or approvals or other requirements relating to storm

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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 applicable Storm Water Requirements:

(a) Grantee shall, as required by any applicable Storm Water Requirements, prepare a Storm Water Pollution Prevention Plan (the "Grantee SWPPP") for that part of the property owned by Grantor on which Grantee plans to conduct earth-disturbing activities, including but not limited to the Easement Area. 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 Grantee and any such contractor, entity or individual shall coordinate to comply with the Storm Water Requirements and to avoid negatively impacting any erosion or sediment controls during earth-disturbing activities. Grantee shall provide Grantor with a copy of the Grantee SWPPP prior to initiating any earth-disturbing activities.

(b) Grantee shall, as required by any applicable Storm Water Requirements, submit a "Notice of Intent" (as such term is commonly defined in the environmental compliance industry) or other permit application prior to initiating any ground-disturbing activities at the property owned by Grantor, including but not limited to the Easement Area, covering the number of acres which will be disturbed by Grantee. 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. Grantee shall provide Grantor with a copy of the Notice of Intent or other permit application prior to initiating any earth-disturbing activities.

(c) If Grantee and Grantor, or any agent or contractor of Grantee or Grantor, contemporaneously undertake any earth-disturbing activities, 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, including but not limited to the Easement Area, to address any problems that have arisen in implementing the SWPPPs or maintaining Best Management Practices ("BMPs").

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

16. Immigration Requirements. To the extent required by law, Grantee shall (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. To the extent required by law, Grantee shall 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. Only to the extent required by law, Grantee shall, on a bi-annual basis during the term of this Easement, conduct an audit of the I-9 Forms for its employees and shall promptly correct any defects or deficiencies which are identified as a result of such audit. Grantor may, in its sole discretion, terminate this Easement immediately if, at any time during the term, (x) Grantee violates or is in breach of any provision of this paragraph or (y) the USCIS determines that Grantee has not complied with any of the immigration laws, statutes, rules, codes and regulations of the United States. Grantee shall require all subcontractors performing any work on the Utility System to comply with the covenants set forth in this paragraph.

17. Permits and Licenses. Grantee shall secure, maintain and comply with all required licenses, permits and certificates relating to, or otherwise necessary or appropriate for, the construction, installation, repair, replacement and maintenance of Grantee's improvements. Grantee shall comply with any and all applicable federal, state and local laws, rules, regulations, statutes, codes, orders and ordinances, including, but not limited to, those governing the prevention, abatement and elimination of pollution and/or protection of the environment and the employment of its workers. Grantee acknowledges that it is Grantee's sole responsibility to obtain any necessary 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, as applicable.

18. Default by Grantee. If Grantee or its contractor(s) default in the performance of any provision contained in this Easement, Grantor may terminate this Easement following written notice and a fifteen-(15) day period during which Grantee shall have the opportunity to cure such default to Grantor's satisfaction, in Grantor's reasonable discretion. If Grantor terminates this Easement under this provision, Grantee may exercise any and all remedies available at law or in equity.

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

20. 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.

21. 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.

22. Venue & Law. Any litigation regarding this action shall have a venue in Miami-Dade County, Florida, and Florida law shall apply. This Easement shall be governed by, and construed in accordance with, the laws of the State of Florida, without application of its conflict of law principles.

23. Entire Agreement. This Easement embodies and constitutes the entire understanding between WAL-MART STORES EAST, LP, a Delaware limited partnership, and Miami-Dade County, a political subdivision of the State of Florida, concerning the rights granted herein and all prior contemporaneous agreements, understandings, representations, and statements, oral or written, with respect thereto are merged herein.

24. Recordation. This document shall be recorded in the Public Records of Miami-Dade County, Florida.

[Signature Pages Follow]

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

ATTEST:

Assistant Secretary

WAL-MART STORES EAST, LP

BY: G.M. Senior Manager II

TITLE:

AND

MIAMI-DADE County, a political subdivision of the State of Florida

ATTEST:

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

By: _____

By: _____

Date: _____

Approved as to Legal Sufficiency _____

The foregoing was authorized and approved by Resolution No. _____ of the Board of county Commissioners of Miami-Dade County, Florida, on the _____ of _____, 20__

ACKNOWLEDGMENT

STATE OF ARKANSAS)
) ss.
COUNTY OF BENTON)

LATRICIA RUDMAN
Benton County
Commission Number 12388170
Notary Public - Arkansas
My Commission Expires April 01, 2022

On this 7th day of February, 20 14, before me, the undersigned notary public in and for said County and State, personally appeared before me Barri Tulgetske to me personally known, who, being by me duly sworn, did say that he/she is Senior Manager II of Wal-Mart Stores East, LP, and that the seal affixed to the foregoing instrument is the seal of saidcompany, and that said instrument was signed, sealed and delivered on behalf of said company by proper authority and said Barri Tulgetske 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.

Latricia Rudman
NOTARY PUBLIC

My Commission Expires: April 1, 2022

CORPORATE ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

On this day of , 20 , before me, the undersigned notary public in and for said County and State, personally appeared before me to me personally known, who, being by me duly sworn, did say that he/she is of and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed, sealed and delivered on behalf of said corporation by authority of its Board of Directors, and said 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 of , 20 .

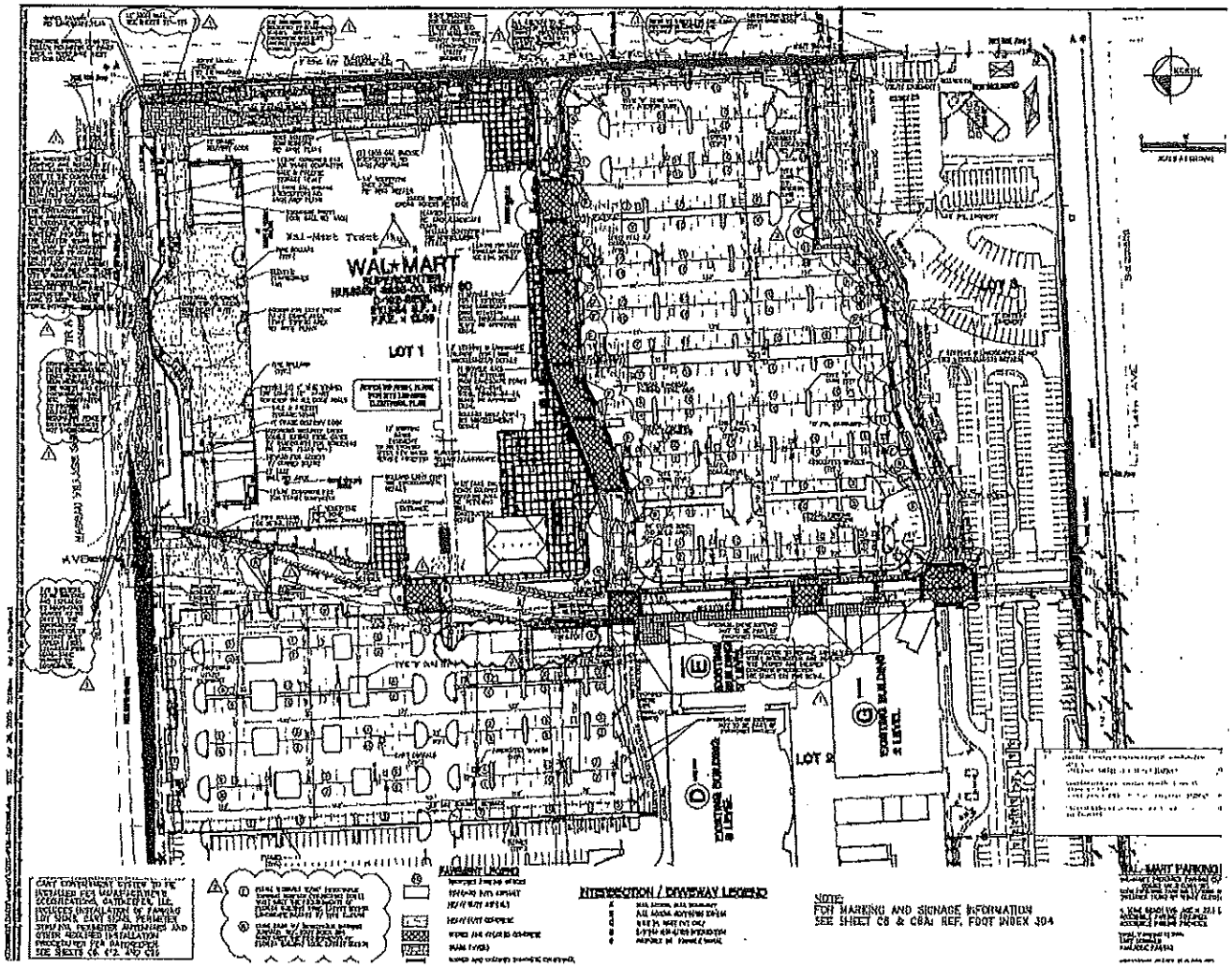
_____
NOTARY PUBLIC

My Commission Expires:_____

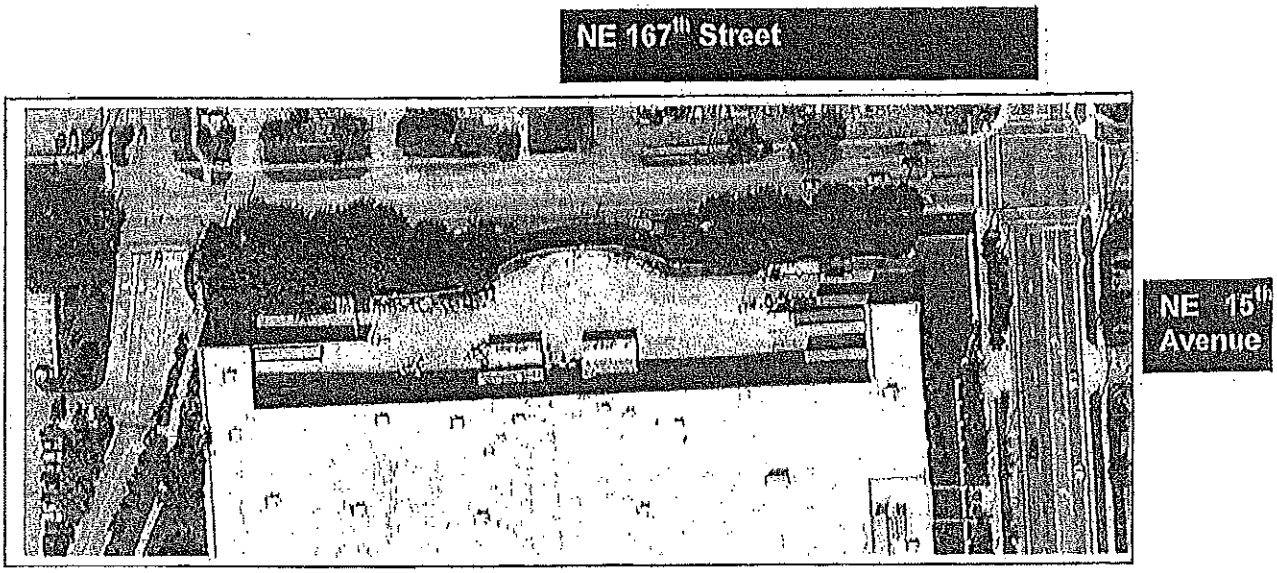
#3235

EXHIBIT "A"

Site Plan



#3235



#3235

EXHIBIT "B"
Wal-Mart Tract

(Wal-Mart's Tract legal description)

Lot 1, Block 1 of 163rd STREET MALL, according to the plat thereof, as recorded in Plat Book 162, Page 54 of the Public Records of Miami-Dade County, Florida.

#3235

EXHIBIT "C"

Easement Area

Wal-Mart Tract

Legal Description:

A portion of Lot 1, Block 1 of 163RD STREET MALL, according to the plat thereof, as recorded in Plat Book 162, Page 54 of the Public Records of Miami-Dade County, Florida, lying in Section 17, Township 52 South Range 42 East Miami-Dade County, Florida, being more particularly described as follows:

Commence at the Northwest corner of said Lot 1, thence N 86° 57' 21" E, along the North Line of said Lot 1, for 380.90 feet to a point of intersection with the West Line of the Northeast One Quarter of said Section 17, thence N 87° 02' 21" E, continuing along said North line for 34.98 feet to the **Point of Beginning** of the herein described Easement:

Thence continuing along said North Line, N 87°02'21" E, for 566.31 feet to the point of curvature of a circular curve, concave to the southwest, thence southeasterly 39.37 feet along the arc of said circular curve, having a radius of 25.00 feet, through a central angle of 90°13'52" to a point of tangency with the East line of said Lot 1; thence S 02°43'47" E, along the East line of said Lot 1, for 434.63 feet to a point; thence leaving said East Line and through said Lot 1 the following fourteen (14) courses: thence S 87°16'13" W, for 13.00 feet; thence N02°43'47" W, for 425.07 feet to point of curvature of a circular curve, concave to the southwest, thence northwesterly 39.37 feet along the arc of said circular curve, having a radius of 25.00 feet, through a central angle of 90°13'52" to a point of tangency; thence S 87°02'21" W, for 10.01 feet; thence S 02°57'39" E, for 7.00 feet; thence S 87°02'21" W, for 232.82 feet; thence N 02°57'39" W, for 2.00 feet; thence S 87°02'21" W, for 55.93 feet; thence S 02°57'39" E, for 2.00 feet; thence S 87°02'21" W, for 211.28 feet; thence N 02°57'39"W, for 11.50 feet; thence S 87°02'21" W, for 43.24 feet; thence N 02°57'39" W, for 5.00 feet to the **Point of Beginning** .

Notes:

The basis for the bearing of the attached sketch is the Northern most Easterly line of section 17, Township 52 South, Range 42 East, being the centerline of NE 167th Street and as shown on the referenced plat as recorded in Plat Book 162, Page 54 of the Public Records of Miami-Dade County, Florida.

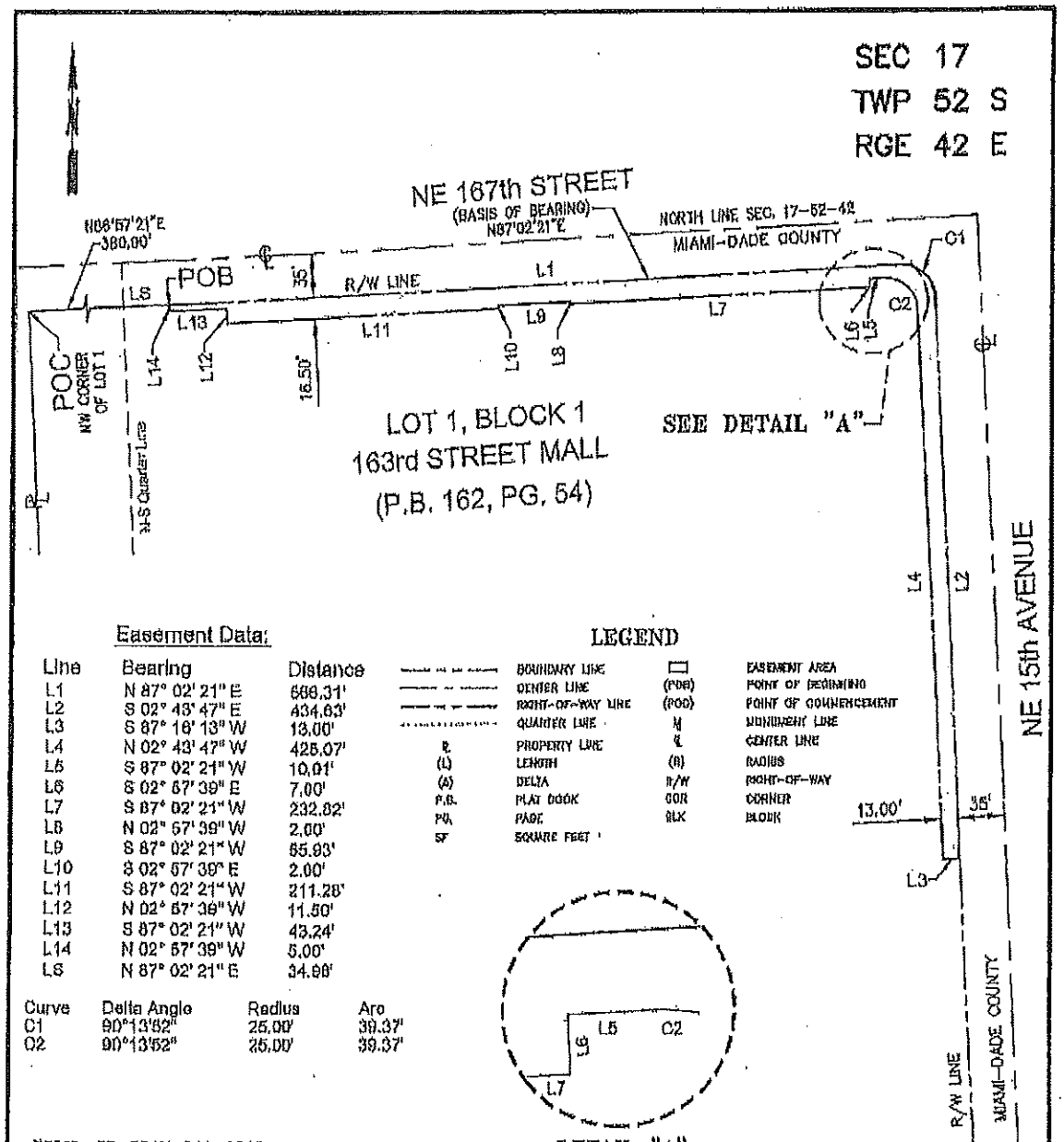
This sketch is an accurate depiction of the legal description to which it is attached and is all cases subordinate thereof.

This sketch is not valid without the signature and raised seal of a Florida licensed Surveyor and Mapper.

By: _____
Josue Tirado, PSM
Professional Surveyor and Mapper No. 6490
State of Florida
Sheet 1 0f 2

Miami-Dade County Public
and Waste Management Department
Land Development/right-of-Way Div.
Engineering Section
111 NW 1st Street, Suite 1610
Miami, Florida 33128-1970

#325


SEC 17
TWP 52 S
RGE 42 E
NE 167th STREET
(BASIS OF BEARING)
N87°02'21"E
N06°57'21"E
380.00'
POB
POC
NW CORNER OF LOT 1
NORTH LINE SEC. 17-52-42
MIAMI-DADE COUNTY
R/W LINE
35'
L1
L5
L13
L14
L12
16.50'
L11
L10
L9
L8
L7
L6
C1
C2
LOT 1, BLOCK 1
163rd STREET MALL
(P.B. 162, PG. 54)
SEE DETAIL "A"
NE 15th AVENUE
L4
L2
L3
13.00'
35'
R/W LINE
MIAMI-DADE COUNTY
Easement Data:
Line Bearing Distance
L1 N 87° 02' 21" E 666.31'
L2 S 02° 43' 47" E 434.63'
L3 S 87° 16' 13" W 13.00'
L4 N 02° 43' 47" W 425.07'
L5 S 87° 02' 21" W 10.01'
L6 S 02° 57' 39" E 7.00'
L7 S 87° 02' 21" W 232.82'
L8 N 02° 57' 39" W 2.00'
L9 S 87° 02' 21" W 65.93'
L10 S 02° 57' 39" E 2.00'
L11 S 87° 02' 21" W 211.28'
L12 N 02° 57' 39" W 11.50'
L13 S 87° 02' 21" W 43.24'
L14 N 02° 57' 39" W 5.00'
L5 N 87° 02' 21" E 34.99'
Curve Delta Angle Radius Arc
C1 90°13'52" 25.00' 39.37'
C2 90°13'52" 25.00' 39.37'
LEGEND
BOUNDARY LINE
CENTER LINE
RIGHT-OF-WAY LINE
QUARTER LINE
PROPERTY LINE
(L) LENGTH
(A) DELTA
P.B. PLAT BOOK
PG. PAGE
SF SQUARE FEET
EASEMENT AREA
(POB) POINT OF BEGINNING
(POC) POINT OF COMMENCEMENT
MONUMENT LINE
℄ CENTER LINE
(R) RADIUS
R/W RIGHT-OF-WAY
COR CORNER
BLK BLOCK
L5 C2 L6 L7
DETAIL "A"
(NOT TO SCALE)
FOLIO: 30-2217-041-0010
PARCEL AREA: 14,665 SF
PARENT TRACT AREA: 635,408 SF
THIS SKETCH IS A GRAPHIC REPRESENTATION OF THE LEGAL DESCRIPTION TO WHICH IT IS ATTACHED AND WITHOUT WHICH THIS SKETCH IS TO BE CONSIDERED VOID AND INCOMPLETE.
MIAMI-DADE PWWM
THIS IS NOT A SURVEY
SKETCH TO ACCOMPANY LEGAL DESCRIPTION
MIAMI-DADE COUNTY PUBLIC WORKS AND WASTE MANAGEMENT DEPT.
LAND DEVELOPMENT/RIGHT-OF-WAY DIVISION
ENGINEERING SECTION
NORTHEAST TRANSIT HUB ENHANCEMENT
WAL MART EASEMENT
SCALE: 1"=100'
DATE: 11-18-13
CHECKED BY: J. Tirado
DRAWN BY: L. Espinosa
PROJECT:
SHEET: 2 of 2

#3235