

**RESOLUTION NO. 41-2008**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, ACCEPTING DEDICATION OF CERTAIN PROPERTY AND INFRASTRUCTURE AND APPROVING AN AGREEMENT FOR MAINTENANCE OF CERTAIN PROPERTY AND INFRASTRUCTURE BETWEEN WAL-MART STORES, INC., AND THE CITY OF BENSON.

WHEREAS, the City of Benson [the "City"] entered into a development agreement, recorded on December 1, 2005, in the Office of the Cochise County Recorder, as No. 051246422 [the "Agreement"], with Wal-Mart Stores, Inc. ["Wal-Mart"]; and

WHEREAS, pursuant to the terms of the Agreement, section 7, Wal-Mart is required to dedicate, and the City is required to accept, certain property and infrastructure; and

WHEREAS, section 7 of the Agreement also provides that after dedication and acceptance of certain elements of the property and infrastructure, Wal-Mart shall continue to maintain said property and infrastructure; and

WHEREAS, a Special Warranty Deed and a Maintenance Easement Agreement are attached hereto as Exhibits A and B, respectively, and are incorporated herein by this reference; and

WHEREAS, the Mayor and Council of the City have determined that approval and execution of the Special Warranty Deed and the Maintenance Easement Agreement are in the best interests of the City and its residents.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Benson, Arizona, that the City hereby approves the Special Warranty Deed and the Maintenance Easement Agreement between Wal-Mart and the City, and the Mayor is hereby directed to execute said documents on behalf of the City.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BENSON, ARIZONA, this 9th day of June, 2008.

\_\_\_\_\_  
MARK M. FENN, Mayor

ATTEST:

\_\_\_\_\_  
VICKI L. VIVIAN, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
THOMAS A. BENAVIDEZ, City Attorney

Exhibit A  
[Special Warranty Deed]

TABLED

Exhibit B  
[Maintenance Easement Agreement]

TABLED

When recorded return to:  
City Attorney  
Benson City Hall  
120 W. 6th Street  
Benson, Arizona 85602

EXEMPT PURSUANT TO A.R.S. §11-1134.A.3.

Benson, AZ # 3807-00

### **SPECIAL WARRANTY DEED**

For and in consideration of Ten Dollars, and other valuable consideration, **WAL-MART STORES, INC.**, a Delaware corporation ("Grantor"), whose address is 2001 S.E. 10<sup>th</sup> Street, Bentonville, Arkansas 72716-0550, does hereby convey to **THE CITY OF BENSON**, an Arizona municipal corporation, whose address is 120 W. 6th Street, Benson, Arizona 85602, the following real property situated in Cochise County, Arizona, together with all rights and privileges appurtenant thereto:

See *Exhibit "A"* attached hereto and made a part hereof.

SUBJECT to current taxes and assessments, reservations in patents and all easements, rights of way, covenants, conditions, restrictions, liens, encumbrances, obligations, matters and liabilities as may appear of record, and all matters that an accurate ALTA survey or physical inspection of the property would reveal. Grantor warrants title against its own acts only and those of no other.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2008.

**[SIGNATURE AND NOTARY PAGE FOLLOWS]**

**WAL-MART STORES, INC.**, a Delaware corporation

By: \_\_\_\_\_

Its: Regional Vice President

State of Arkansas

County of Benton

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2008, by \_\_\_\_\_, the Regional Vice President of Wal-Mart Stores, Inc., a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

\_\_\_\_\_  
Notary Public

**Exhibit A**

Legal Description

**PARCEL I**

THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 17 SOUTH, RANGE 20 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, COCHISE COUNTY, ARIZONA;

EXCEPT THEREFROM THE FOLLOWING DESCRIBED PARCELS A THROUGH L, INCLUSIVE;

(A) THAT PORTION OF SAID SOUTHWEST QUARTER OF SECTION 9, LAYING NORTHERLY OF THE SOUTHERLY LINES OF THOSE CERTAIN STREETS AND ALLEYS CONTIGUOUS TO BLOCKS 5, 6, 7, 9 AND 10 OF GETZWILLER ADDITION AND GETZWILLER ADDITION SUPPLEMENTAL BLOCKS, TO BENSON, AS SHOWN ON MAP ENTITLED ADDITIONAL STREETS & ALLEYS GETZWILLER ADDITION, RECORDED JULY 7, 1965 IN BOOK 5 OF MAPS, PAGE 58.

(B) THAT PORTION OF SAID SOUTHWEST QUARTER OF SECTION 9, LYING WITHIN OCOTILLO AVENUE, ACCORDING TO MAP RECORDED IN BOOK 5 OF MAPS, PAGE 96.

(C) COMMENCING AT A POINT SOUTH 0 DEGREES 4 MINUTES EAST 918.2 FEET FROM THE WEST QUARTER SECTION CORNER OF SAID SECTION 9;

THENCE NORTH 89 DEGREES 52 MINUTES EAST 600 FEET;

THENCE SOUTH 0 DEGREES 4 MINUTES EAST 174.2 FEET;

THENCE SOUTH 89 DEGREES 52 MINUTES WEST 600 FEET;

THENCE NORTH 0 DEGREES 4 MINUTES WEST 174.2 FEET TO THE POINT OF BEGINNING.

(D) BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 9;

THENCE RUNNING SOUTH 0 DEGREES 04 MINUTES EAST 1644.4 FEET AND NORTH 88 DEGREES 42 MINUTES EAST 417.4 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 0 DEGREES 04 MINUTES EAST 417.4 FEET;

THENCE NORTH 88 DEGREES 42 MINUTES EAST 417.4 FEET;

THENCE NORTH 0 DEGREES 04 MINUTES WEST 417.4 FEET;

THENCE SOUTH 88 DEGREES 42 MINUTES WEST 417.4 FEET TO THE TRUE POINT OF BEGINNING.

(E) BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 9;

THENCE RUNNING SOUTH 0 DEGREES 04 MINUTES EAST 1644.4 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 0 DEGREES 04 MINUTES EAST 417.4 FEET;

THENCE NORTH 88 DEGREES 42 MINUTES EAST 417.4 FEET;

THENCE NORTH 0 DEGREES 04 MINUTES WEST 417.4 FEET;

THENCE SOUTH 88 DEGREES 42 MINUTES WEST 417.4 FEET TO THE TRUE POINT OF BEGINNING.

(F) BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 9;

THENCE SOUTH 0 DEGREES 04 MINUTES EAST 1092.4 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 89 DEGREES 52 MINUTES EAST 800 FEET;

THENCE SOUTH 0 DEGREES 04 MINUTES EAST 535.7 FEET;

THENCE SOUTH 88 DEGREES 42 MINUTES WEST 700 FEET TO A POINT WHICH IS NORTH 88 DEGREES 42 MINUTES EAST 100 FEET AND SOUTH 0 DEGREES 04 MINUTES EAST 552 FEET FROM THE POINT OF BEGINNING;

THENCE SOUTH 88 DEGREES 42 MINUTES WEST 100 FEET;

THENCE NORTH 0 DEGREES 04 MINUTES WEST 552 FEET TO THE POINT OF BEGINNING.

(G) BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 9;

THENCE NORTH 0 DEGREES 02 MINUTES 10 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 750.0 FEET TO A POINT;

THENCE NORTH 89 DEGREES 18 MINUTES 17 SECONDS WEST A DISTANCE OF 33.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 89 DEGREES 18 MINUTES 17 SECONDS WEST A DISTANCE OF 842.00 FEET TO A POINT;

THENCE SOUTH 0 DEGREES 02 MINUTES 10 SECONDS EAST A DISTANCE OF 625.00 FEET TO A POINT;

THENCE NORTH 76 DEGREES 19 MINUTES 39 SECONDS EAST A DISTANCE OF 866.36 FEET TO A POINT, SAID POINT LYING 33.00 FEET WEST OF THE EAST LINE OF SAID SOUTHWEST QUARTER;

THENCE NORTH 0 DEGREES 02 MINUTES 10 SECONDS WEST A DISTANCE OF 410.00 FEET TO THE TRUE POINT OF BEGINNING.

(H) BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 9;

THENCE SOUTH 0 DEGREES 04 MINUTES EAST A DISTANCE OF 2061.8 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING THE SOUTHWESTERLY OF THAT PARCEL AS DESCRIBED IN DOCKET 224, PAGE 478, RECORDS OF COCHISE COUNTY, ARIZONA ON AUGUST 25, 1959;

THENCE SOUTH 0 DEGREES 04 MINUTES EAST A DISTANCE OF 100.0 FEET;

THENCE NORTH 88 DEGREES 42 MINUTES EAST A DISTANCE OF 150.0 FEET;

THENCE NORTH 0 DEGREES 04 MINUTES WEST A DISTANCE OF 100.0 FEET;

THENCE SOUTH 88 DEGREES 42 MINUTES WEST A DISTANCE OF 150.0 FEET TO THE TRUE POINT OF BEGINNING.

(I) THE NORTH 492 FEET OF THE FOLLOWING DESCRIBED REAL PROPERTY;

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 9;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 9, A DISTANCE OF 750.00 FEET;

THENCE NORTH 89 DEGREES 22 MINUTES 34 SECONDS WEST 33.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL CONVEYED BY DEED OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF COCHISE COUNTY, ARIZONA, IN DOCKET 565, PAGE 424;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, PARALLEL WITH SAID EAST LINE AND ALONG THE WEST LINE OF OCOTILLO AVENUE, 20.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, ALONG SAID WEST LINE OF OCOTILLO AVENUE, 652.26 FEET TO A POINT OF CURVE;

THENCE NORTHWESTERLY ALONG THE ARC OF A 25 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 89 DEGREES 06 MINUTES 40 SECONDS, A DISTANCE OF 38.8 FEET TO A POINT OF TANGENT;

THENCE NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 375.43 FEET TO A POINT IN A LINE PARALLEL WITH AND 400.00 FEET WESTERLY FROM SAID WEST LINE OF OCOTILLO AVENUE;

THENCE SOUTH 00 DEGREES 06 MINUTES 27 SECONDS EAST ALONG SAID PARALLEL LINE 652.98 FEET;

THENCE SOUTH 44 DEGREES 44 MINUTES 30 SECONDS EAST 35.58 FEET TO A POINT IN A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY FROM THE NORTH LINE OF SAID PARCEL CONVEYED BY DEED IN DOCKET 565, PAGE 424;

THENCE SOUTH 89 DEGREES 22 MINUTES 34 SECONDS EAST ALONG SAID PARALLEL LINE 375.03 FEET TO THE POINT OF BEGINNING.

(J) BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 9;

THENCE NORTH ALONG THE WEST LINE OF SAID SECTION 9 A DISTANCE OF 80.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH ALONG SAID WEST LINE OF SECTION 9 A DISTANCE OF 400.00 FEET;

THENCE EAST A DISTANCE OF 150.00 FEET;

THENCE NORTH A DISTANCE OF 100.00 FEET;

THENCE EAST A DISTANCE OF 190.00 FEET;

THENCE SOUTH 21 DEGREES 18 MINUTES 21 SECONDS WEST A DISTANCE OF 536.68 FEET;

THENCE WEST A DISTANCE OF 145.00 FEET TO THE TRUE POINT OF BEGINNING.

(K) COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 9;

THENCE ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER, NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST 750.00 FEET;

THENCE LEAVING SAID LINE, NORTH 89 DEGREES 22 MINUTES 34 SECONDS WEST 33.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL OF LAND CONVEYED BY DEED RECORDED IN DOCKET 565, PAGE 424, RECORDS OF COCHISE COUNTY, ARIZONA;

THENCE PARALLEL WITH SAID EAST LINE AND ALONG THE WEST LINE OF OCOTILLO AVENUE, NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST 204.87 FEET;

THENCE LEAVING SAID PARALLEL LINE, NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 183.50 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 216.54 FEET;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST 492.00 FEET;

THENCE NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 40 FEET;

THENCE SOUTH 00 DEGREES 06 MINUTES 27 SECONDS EAST 522.00 FEET;

THENCE SOUTH 89 DEGREES 13 MINUTES 07 SECONDS EAST 256.54 FEET;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST 30.00 FEET TO THE TRUE POINT OF BEGINNING.

(L) THE SOUTH 184.87 FEET OF THE FOLLOWING DESCRIBED PROPERTY;

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 9;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 9, A DISTANCE OF 750.00 FEET;

THENCE NORTH 89 DEGREES 22 MINUTES 34 SECONDS WEST 33.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL CONVEYED BY DEED OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF COCHISE COUNTY, ARIZONA, IN DOCKET 565, PAGE 424;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, PARALLEL WITH SAID EAST LINE AND ALONG THE WEST LINE OF OCOTILLO AVENUE, 20.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, ALONG SAID WEST LINE OF OCOTILLO AVENUE, 652.26 FEET TO A POINT OF CURVE;

THENCE NORTHWESTERLY ALONG THE ARC OF A 25 FEET RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 89 DEGREES 06 MINUTES 40 SECONDS, A DISTANCE OF 38.88 FEET TO A POINT OF TANGENT;

THENCE NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 375.43 FEET TO A POINT IN A LINE PARALLEL WITH AND 400.00 FEET WESTERLY FROM SAID WEST LINE OF OCOTILLO AVENUE;

THENCE SOUTH 00 DEGREES 06 MINUTES 27 SECONDS EAST ALONG SAID PARALLEL LINE 652.98 FEET;

THENCE SOUTH 44 DEGREES 44 MINUTES 30 SECONDS EAST 35.58 FEET TO A POINT IN A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY FROM THE NORTH LINE OF SAID PARCEL CONVEYED BY DEED IN DOCKET 565, PAGE 424;

THENCE SOUTH 89 DEGREES 22 MINUTES 24 SECONDS EAST ALONG SAID PARALLEL LINE 375.03 FEET TO THE POINT OF BEGINNING.

**PARCEL II**

THE SOUTH 184.87 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 17 SOUTH, RANGE 20 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, COCHISE COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 9;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 9, A DISTANCE OF 750.00 FEET;

THENCE NORTH 89 DEGREES 22 MINUTES 34 SECONDS WEST 33.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL CONVEYED BY DEED OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF COCHISE COUNTY, ARIZONA, IN DOCKET 565, PAGE 424;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, PARALLEL WITH SAID EAST LINE AND ALONG THE WEST LINE OF OCOTILLO AVENUE, 20.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, ALONG SAID WEST LINE OF OCOTILLO AVENUE, 652.26 FEET TO A POINT OF CURVE;

THENCE NORTHWESTERLY ALONG THE ARC OF A 25 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 89 DEGREES 06 MINUTES 40 SECONDS, A DISTANCE OF 38.88 FEET TO A POINT OF TANGENT;

THENCE NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 375.43 FEET TO A POINT IN A LINE PARALLEL WITH AND 400.00 FEET WESTERLY FROM SAID WEST LINE OF OCOTILLO AVENUE;

THENCE SOUTH 00 DEGREES 06 MINUTES 27 SECONDS EAST ALONG SAID PARALLEL LINE 652.98 FEET;

THENCE SOUTH 44 DEGREES 44 MINUTES 30 SECONDS EAST 35.58 FEET TO A POINT IN A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY FROM THE NORTH LINE OF SAID PARCEL CONVEYED BY DEED IN DOCKET 565, PAGE 424.

THENCE SOUTH 89 DEGREES 22 MINUTES 34 SECONDS EAST ALONG SAID PARALLEL LINE 375.03 FEET TO THE POINT OF BEGINNING.

**PARCEL III**

EASEMENT APPURTENANT TO PARCEL II HEREIN FOR INGRESS AND EGRESS AND THE RIGHT TO THE PARKING AREA LOCATED ON SAID PROPERTY, AS CREATED BY INSTRUMENTS RECORDED IN DOCKET 1010, PAGE 391 AND DOCKET 1013, PAGE 433, RECORDS OF COCHISE COUNTY, ARIZONA, OVER:

THE NORTH 492 FEET OF THE FOLLOWING DESCRIBED REAL PROPERTY SITUATED IN COCHISE COUNTY, ARIZONA;

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 17 SOUTH, RANGE 20 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, COCHISE COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 9;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 9, A DISTANCE OF 750.00 FEET;

THENCE NORTH 89 DEGREES 22 MINUTES 34 SECONDS WEST 33.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL CONVEYED BY DEED OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF COCHISE COUNTY, ARIZONA, IN DOCKET 565, PAGE 424;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, PARALLEL WITH SAID EAST LINE AND ALONG THE WEST LINE OF OCOTILLO AVENUE, 20.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST ALONG SAID WEST LINE OF OCOTILLO AVENUE 652.26 FEET TO A POINT OF CURVE;

THENCE NORTHWESTERLY ALONG THE ARC OF A 25 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 89 DEGREES 06 MINUTES 40 SECONDS A DISTANCE OF 38.88 FEET TO A POINT OF TANGENT.

THENCE NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 375.43 FEET TO A POINT IN A LINE PARALLEL WITH AND 400.00 FEET WESTERLY FROM SAID WEST LINE OF OCOTILLO AVENUE;

THENCE SOUTH 00 DEGREES 06 MINUTES 27 SECONDS EAST ALONG SAID PARALLEL LINE 652.98 FEET;

THENCE SOUTH 44 DEGREES 44 MINUTES 30 SECONDS EAST 35.58 FEET TO A POINT IN A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY FROM THE NORTH LINE OF SAID PARCEL CONVEYED BY DEED IN DOCKET 565, PAGE 424;

THENCE SOUTH 89 DEGREES 22 MINUTES 34 SECONDS EAST ALONG SAID PARALLEL LINE 375.03 FEET TO THE TRUE POINT OF BEGINNING.

**PARCEL IV**

A TRACT OF LAND IN A PORTION OF THE SOUTHWEST QUARTER SECTION 9, TOWNSHIP 17 SOUTH, RANGE 20 EAST OF THE GILA AND SALT RIVER BASE MERIDIAN, COCHISE COUNTY, ARIZONA, IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 17 SOUTH, RANGE 20 EAST, OF THE GILA AND SALT RIVER BASE MERIDIAN, COCHISE COUNTY, ARIZONA TRAVERSING SOUTHERLY ALONG THE WEST LINE OF SAID QUARTER SECTION, BEARING SOUTH 00 DEGREES 03 MINUTES 50 SECONDS EAST A DISTANCE OF 190.07 FEET;

THENCE SOUTH 86 DEGREES 09 MINUTES 13 SECONDS EAST A DISTANCE OF 903.80 FEET TO THE WEST RIGHT OF WAY LINE OF QUARTER HORSE AVENUE;

THENCE ALONG SAID RIGHT OF WAY LINE SOUTH 00 DEGREES 10 MINUTES 54 SECONDS EAST A DISTANCE OF 299.70 FEET;

THENCE 89 DEGREES 39 MINUTES 53 SECONDS WEST A DISTANCE OF 62.15 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 89 DEGREES 46 MINUTES 14 SECONDS WEST A DISTANCE OF 129.99 FEET;

THENCE SOUTH 00 DEGREES 00 MINUTES 13 SECONDS EAST A DISTANCE OF 364.19 FEET;

THENCE NORTH 89 DEGREES 46 MINUTES 47 SECONDS EAST A DISTANCE OF 132.29 FEET;

THENCE NORTH 00 DEGREES 21 MINUTES 51 SECONDS WEST A DISTANCE OF 364.21 FEET TO THE POINT OF BEGINNING;

THE ABOVE DESCRIBED PARCEL CONTAINS: 1.10 ACRES OR 47,760 SQUARE FEET, AND IS SUBJECT TO ALL MATTERS OF RECORD.

When recorded return to:

Emily J. Auckland  
Gust Rosenfeld, PLC  
201 E. Washington, Suite 800  
Phoenix, AZ 85004

Benson, AZ #3807

### **MAINTENANCE EASEMENT AGREEMENT**

**THIS MAINTENANCE EASEMENT AGREEMENT** (this "Agreement") is entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by and between **WAL-MART STORES, INC.**, a Delaware corporation, whose address is 702 S.W. 8<sup>th</sup> Street, Bentonville, AR 72716 and with notices sent to 2001 SE 10<sup>th</sup> Street, Bentonville, AR 72716-0550, Attention: Realty Manager of Arizona ("Wal-Mart"); and **THE CITY OF BENSON**, an Arizona municipal corporation, whose address is 120 W. 6th Street, Benson, Arizona 85602 (the "City").

#### **WITNESSETH:**

**A.** Wal-Mart is the owner of certain parcels of land situated in the City of Benson, County of Cochise, State of Arizona legally described on Exhibit A attached hereto and incorporated herein by reference (the "City Property").

**B.** Wal-Mart is also the owner of that certain real property situated in the City of Benson, County of Cochise, State of Arizona legally described on Exhibit B attached hereto and incorporated herein by reference (the "Wal-Mart Property").

**C.** Wal-Mart has, in a simultaneously recorded Special Warranty Deed, conveyed the City Property to the City as described in Section 7 of that certain Development Agreement between Wal-Mart and the City, recorded on December 1, 2005 in the Official Records of Cochise County, Arizona as Instrument No. 051246422 (the "Development Agreement").

**D.** The City has requested and Wal-Mart has agreed to continue to maintain the City Property after the conveyance of the City Property to the City, and the City is desirous of granting a non-exclusive, perpetual easement over and across the City Property to Wal-Mart for purposes of maintaining the City Property.

**NOW, THEREFORE**, for and in consideration of the mutual exchange of the covenants and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Grant of Easement over the City Property.** The City hereby grants to Wal-Mart a non-exclusive, perpetual easement over the City Property for maintenance of the detention basins, common access easements, and open space areas. This easement may be used non-exclusively by, and is limited to, Wal-Mart and its agents, employees, representatives or contractors.

2. **Maintenance.** Wal-Mart shall maintain in neat and good condition any and all detention basins, common access easements and open space located on the City Property, at Wal-Mart's sole cost and expense, in accordance with Section 7 of the Development Agreement; provided, however, in the event the City relocates the Parcel 4 Detention Basin, as defined in the Development Agreement, Wal-Mart shall have no further obligation to maintain Parcel 4 except for the truck turnaround area to be located thereon.

3. **Indemnity.** Wal-Mart agrees to indemnify and hold the City harmless from and against any and all claims, costs, liabilities, damages, fees and expenses (including reasonable attorneys' fees) for injury to persons or damage to property occurring on or about the City Property arising out of Wal-Mart's use of the City Property under this Agreement, to the extent such injuries or damage are caused or contributed to by the negligence or willful misconduct of Wal-Mart or its agents, employees, representatives or contractors.

4. **Duration.** The agreements contained herein and the rights granted hereby shall run with the title to the City Property and the Wal-Mart Property and shall bind and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.

5. **Change of Ownership.** In the event the City conveys or transfers title to the City Property to another party, the City shall notify Wal-Mart at the address above within thirty (30) days after the date of such conveyance. The City shall provide Wal-Mart with the name and address of such transferee.

6. **Effective Date.** This Agreement shall become effective on the date first written above.

7. **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.

8. **Counterparts.** This Agreement, 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.

9. **Miscellaneous.** This Agreement may be amended only by a written instrument executed by the parties hereto, or their successors and assigns. This Agreement shall be construed and enforced in accordance with the laws of the State of Arizona.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**WAL-MART STORES, INC.**, a Delaware corporation

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: Senior Realty Manager

**CORPORATE ACKNOWLEDGMENT**

STATE OF ARKANSAS        )  
  ) ss.  
COUNTY OF BENTON        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by \_\_\_\_\_, the \_\_\_\_\_ of Wal-Mart Stores, Inc., a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

\_\_\_\_\_  
NOTARY PUBLIC



**EXHIBIT A**

(Legal Description of City Property)

**PARCEL I**

THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 17 SOUTH, RANGE 20 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, COCHISE COUNTY, ARIZONA;

EXCEPT THEREFROM THE FOLLOWING DESCRIBED PARCELS A THROUGH L, INCLUSIVE:

(A) THAT PORTION OF SAID SOUTHWEST QUARTER OF SECTION 9, LAYING NORTHERLY OF THE SOUTHERLY LINES OF THOSE CERTAIN STREETS AND ALLEYS CONTIGUOUS TO BLOCKS 5, 6, 7, 9 AND 10 OF GETZWILLER ADDITION AND GETZWILLER ADDITION SUPPLEMENTAL BLOCKS, TO BENSON, AS SHOWN ON MAP ENTITLED ADDITIONAL STREETS & ALLEYS GETZWILLER ADDITION, RECORDED JULY 7, 1965 IN BOOK 5 OF MAPS, PAGE 58.

(B) THAT PORTION OF SAID SOUTHWEST QUARTER OF SECTION 9, LYING WITHIN OCOTILLO AVENUE, ACCORDING TO MAP RECORDED IN BOOK 5 OF MAPS, PAGE 96.

(C) COMMENCING AT A POINT SOUTH 0 DEGREES 4 MINUTES EAST 918.2 FEET FROM THE WEST QUARTER SECTION CORNER OF SAID SECTION 9;

THENCE NORTH 89 DEGREES 52 MINUTES EAST 600 FEET;

THENCE SOUTH 0 DEGREES 4 MINUTES EAST 174.2 FEET;

THENCE SOUTH 89 DEGREES 52 MINUTES WEST 600 FEET;

THENCE NORTH 0 DEGREES 4 MINUTES WEST 174.2 FEET TO THE POINT OF BEGINNING.

(D) BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 9;

THENCE RUNNING SOUTH 0 DEGREES 04 MINUTES EAST 1644.4 FEET AND NORTH 88 DEGREES 42 MINUTES EAST 417.4 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 0 DEGREES 04 MINUTES EAST 417.4 FEET;

THENCE NORTH 88 DEGREES 42 MINUTES EAST 417.4 FEET;

THENCE NORTH 0 DEGREES 04 MINUTES WEST 417.4 FEET;

THENCE SOUTH 88 DEGREES 42 MINUTES WEST 417.4 FEET TO THE TRUE POINT OF BEGINNING.

(E) BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 9;

THENCE RUNNING SOUTH 0 DEGREES 04 MINUTES EAST 1644.4 FEET TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 0 DEGREES 04 MINUTES EAST 417.4 FEET;

THENCE NORTH 88 DEGREES 42 MINUTES EAST 417.4 FEET;

THENCE NORTH 0 DEGREES 04 MINUTES WEST 417.4 FEET;

THENCE SOUTH 88 DEGREES 42 MINUTES WEST 417.4 FEET TO THE TRUE POINT OF BEGINNING.

(F) BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 9;

THENCE SOUTH 0 DEGREES 04 MINUTES EAST 1092.4 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 89 DEGREES 52 MINUTES EAST 800 FEET;

THENCE SOUTH 0 DEGREES 04 MINUTES EAST 535.7 FEET;

THENCE SOUTH 88 DEGREES 42 MINUTES WEST 700 FEET TO A POINT WHICH IS NORTH 88 DEGREES 42 MINUTES EAST 100 FEET AND SOUTH 0 DEGREES 04 MINUTES EAST 552 FEET FROM THE POINT OF BEGINNING;

THENCE SOUTH 88 DEGREES 42 MINUTES WEST 100 FEET;

THENCE NORTH 0 DEGREES 04 MINUTES WEST 552 FEET TO THE POINT OF BEGINNING.

(G) BEGINNING AT THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 9;

THENCE NORTH 0 DEGREES 02 MINUTES 10 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 750.0 FEET TO A POINT;

THENCE NORTH 89 DEGREES 18 MINUTES 17 SECONDS WEST A DISTANCE OF 33.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE NORTH 89 DEGREES 18 MINUTES 17 SECONDS WEST A DISTANCE OF 842.00 FEET TO A POINT;

THENCE SOUTH 0 DEGREES 02 MINUTES 10 SECONDS EAST A DISTANCE OF 625.00 FEET TO A POINT;

THENCE NORTH 76 DEGREES 19 MINUTES 39 SECONDS EAST A DISTANCE OF 866.36 FEET TO A POINT, SAID POINT LYING 33.00 FEET WEST OF THE EAST LINE OF SAID SOUTHWEST QUARTER;

THENCE NORTH 0 DEGREES 02 MINUTES 10 SECONDS WEST A DISTANCE OF 410.00 FEET TO THE TRUE POINT OF BEGINNING.

(H) BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 9;

THENCE SOUTH 0 DEGREES 04 MINUTES EAST A DISTANCE OF 2061.8 FEET TO THE TRUE POINT OF BEGINNING, SAID POINT BEING THE SOUTHWESTERLY OF THAT PARCEL AS DESCRIBED IN DOCKET 224, PAGE 478, RECORDS OF COCHISE COUNTY, ARIZONA ON AUGUST 25, 1959;

THENCE SOUTH 0 DEGREES 04 MINUTES EAST A DISTANCE OF 100.0 FEET;

THENCE NORTH 88 DEGREES 42 MINUTES EAST A DISTANCE OF 150.0 FEET;

THENCE NORTH 0 DEGREES 04 MINUTES WEST A DISTANCE OF 100.0 FEET;

THENCE SOUTH 88 DEGREES 42 MINUTES WEST A DISTANCE OF 150.0 FEET TO THE TRUE POINT OF BEGINNING.

(I) THE NORTH 492 FEET OF THE FOLLOWING DESCRIBED REAL PROPERTY;

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 9;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 9, A DISTANCE OF 750.00 FEET;

THENCE NORTH 89 DEGREES 22 MINUTES 34 SECONDS WEST 33.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL CONVEYED BY DEED OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF COCHISE COUNTY, ARIZONA, IN DOCKET 565, PAGE 424;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, PARALLEL WITH SAID EAST LINE AND ALONG THE WEST LINE OF OCOTILLO AVENUE, 20.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, ALONG SAID WEST LINE OF OCOTILLO AVENUE, 652.26 FEET TO A POINT OF CURVE;

THENCE NORTHWESTERLY ALONG THE ARC OF A 25 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 89 DEGREES 06 MINUTES 40 SECONDS, A DISTANCE OF 38.8 FEET TO A POINT OF TANGENT;

THENCE NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 375.43 FEET TO A POINT IN A LINE PARALLEL WITH AND 400.00 FEET WESTERLY FROM SAID WEST LINE OF OCOTILLO AVENUE;

THENCE SOUTH 00 DEGREES 06 MINUTES 27 SECONDS EAST ALONG SAID PARALLEL LINE 652.98 FEET;

THENCE SOUTH 44 DEGREES 44 MINUTES 30 SECONDS EAST 35.58 FEET TO A POINT IN A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY FROM THE NORTH LINE OF SAID PARCEL CONVEYED BY DEED IN DOCKET 565, PAGE 424;

THENCE SOUTH 89 DEGREES 22 MINUTES 34 SECONDS EAST ALONG SAID PARALLEL LINE 375.03 FEET TO THE POINT OF BEGINNING.

(J) BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 9;

THENCE NORTH ALONG THE WEST LINE OF SAID SECTION 9 A DISTANCE OF 80.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH ALONG SAID WEST LINE OF SECTION 9 A DISTANCE OF 400.00 FEET;

THENCE EAST A DISTANCE OF 150.00 FEET;

THENCE NORTH A DISTANCE OF 100.00 FEET;

THENCE EAST A DISTANCE OF 190.00 FEET;

THENCE SOUTH 21 DEGREES 18 MINUTES 21 SECONDS WEST A DISTANCE OF 536.68 FEET;

THENCE WEST A DISTANCE OF 145.00 FEET TO THE TRUE POINT OF BEGINNING.

(K) COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 9;

THENCE ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER, NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST 750.00 FEET;

THENCE LEAVING SAID LINE, NORTH 89 DEGREES 22 MINUTES 34 SECONDS WEST 33.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL OF LAND CONVEYED BY DEED RECORDED IN DOCKET 565, PAGE 424, RECORDS OF COCHISE COUNTY, ARIZONA;

THENCE PARALLEL WITH SAID EAST LINE AND ALONG THE WEST LINE OF OCOTILLO AVENUE, NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST 204.87 FEET;

THENCE LEAVING SAID PARALLEL LINE, NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 183.50 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 216.54 FEET;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST 492.00 FEET;

THENCE NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 40 FEET;

THENCE SOUTH 00 DEGREES 06 MINUTES 27 SECONDS EAST 522.00 FEET;

THENCE SOUTH 89 DEGREES 13 MINUTES 07 SECONDS EAST 256.54 FEET;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST 30.00 FEET TO THE TRUE POINT OF BEGINNING.

(L) THE SOUTH 184.87 FEET OF THE FOLLOWING DESCRIBED PROPERTY;

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 9;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 9, A DISTANCE OF 750.00 FEET;

THENCE NORTH 89 DEGREES 22 MINUTES 34 SECONDS WEST 33.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL CONVEYED BY DEED OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF COCHISE COUNTY, ARIZONA, IN DOCKET 565, PAGE 424;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, PARALLEL WITH SAID EAST LINE AND ALONG THE WEST LINE OF OCOTILLO AVENUE, 20.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, ALONG SAID WEST LINE OF OCOTILLO AVENUE, 652.26 FEET TO A POINT OF CURVE;

THENCE NORTHWESTERLY ALONG THE ARC OF A 25 FEET RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 89 DEGREES 06 MINUTES 40 SECONDS, A DISTANCE OF 38.88 FEET TO A POINT OF TANGENT;

THENCE NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 375.43 FEET TO A POINT IN A LINE PARALLEL WITH AND 400.00 FEET WESTERLY FROM SAID WEST LINE OF OCOTILLO AVENUE;

THENCE SOUTH 00 DEGREES 06 MINUTES 27 SECONDS EAST ALONG SAID PARALLEL LINE 652.98 FEET;

THENCE SOUTH 44 DEGREES 44 MINUTES 30 SECONDS EAST 35.58 FEET TO A POINT IN A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY FROM THE NORTH LINE OF SAID PARCEL CONVEYED BY DEED IN DOCKET 565, PAGE 424;

THENCE SOUTH 89 DEGREES 22 MINUTES 24 SECONDS EAST ALONG SAID PARALLEL LINE 375.03 FEET TO THE POINT OF BEGINNING.

## **PARCEL II**

THE SOUTH 184.87 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 17 SOUTH, RANGE 20 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, COCHISE COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 9;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 9, A DISTANCE OF 750.00 FEET;

THENCE NORTH 89 DEGREES 22 MINUTES 34 SECONDS WEST 33.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL CONVEYED BY DEED OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF COCHISE COUNTY, ARIZONA, IN DOCKET 565, PAGE 424;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, PARALLEL WITH SAID EAST LINE AND ALONG THE WEST LINE OF OCOTILLO AVENUE, 20.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, ALONG SAID WEST LINE OF OCOTILLO AVENUE, 652.26 FEET TO A POINT OF CURVE;

THENCE NORTHWESTERLY ALONG THE ARC OF A 25 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 89 DEGREES 06 MINUTES 40 SECONDS, A DISTANCE OF 38.88 FEET TO A POINT OF TANGENT;

THENCE NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 375.43 FEET TO A POINT IN A LINE PARALLEL WITH AND 400.00 FEET WESTERLY FROM SAID WEST LINE OF OCOTILLO AVENUE;

THENCE SOUTH 00 DEGREES 06 MINUTES 27 SECONDS EAST ALONG SAID PARALLEL LINE 652.98 FEET;

THENCE SOUTH 44 DEGREES 44 MINUTES 30 SECONDS EAST 35.58 FEET TO A POINT IN A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY FROM THE NORTH LINE OF SAID PARCEL CONVEYED BY DEED IN DOCKET 565, PAGE 424.

THENCE SOUTH 89 DEGREES 22 MINUTES 34 SECONDS EAST ALONG SAID PARALLEL LINE 375.03 FEET TO THE POINT OF BEGINNING.

### **PARCEL III**

EASEMENT APPURTENANT TO PARCEL II HEREIN FOR INGRESS AND EGRESS AND THE RIGHT TO THE PARKING AREA LOCATED ON SAID PROPERTY, AS CREATED BY INSTRUMENTS RECORDED IN DOCKET 1010, PAGE 391 AND DOCKET 1013, PAGE 433, RECORDS OF COCHISE COUNTY, ARIZONA, OVER: THE NORTH 492 FEET OF THE FOLLOWING DESCRIBED REAL PROPERTY SITUATED IN COCHISE COUNTY, ARIZONA;

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 17 SOUTH, RANGE 20 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, COCHISE COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 9;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 9, A DISTANCE OF 750.00 FEET;

THENCE NORTH 89 DEGREES 22 MINUTES 34 SECONDS WEST 33.00 FEET TO THE NORTHEAST CORNER OF THAT PARCEL CONVEYED BY DEED OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF COCHISE COUNTY, ARIZONA, IN DOCKET 565, PAGE 424;

THENCE NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST, PARALLEL WITH SAID EAST LINE AND ALONG THE WEST LINE OF OCOTILLO AVENUE, 20.00 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00 DEGREES 06 MINUTES 27 SECONDS WEST ALONG SAID WEST LINE OF OCOTILLO AVENUE 652.26 FEET TO A POINT OF CURVE;

THENCE NORTHWESTERLY ALONG THE ARC OF A 25 FOOT RADIUS CURVE TO THE LEFT, THROUGH A CENTRAL ANGLE OF 89 DEGREES 06 MINUTES 40 SECONDS A DISTANCE OF 38.88 FEET TO A POINT OF TANGENT.

THENCE NORTH 89 DEGREES 13 MINUTES 07 SECONDS WEST 375.43 FEET TO A POINT IN A LINE PARALLEL WITH AND 400.00 FEET WESTERLY FROM SAID WEST LINE OF OCOTILLO AVENUE;

THENCE SOUTH 00 DEGREES 06 MINUTES 27 SECONDS EAST ALONG SAID PARALLEL LINE 652.98 FEET;

THENCE SOUTH 44 DEGREES 44 MINUTES 30 SECONDS EAST 35.58 FEET TO A POINT IN A LINE PARALLEL WITH AND 20.00 FEET NORTHERLY FROM THE NORTH LINE OF SAID PARCEL CONVEYED BY DEED IN DOCKET 565, PAGE 424;

THENCE SOUTH 89 DEGREES 22 MINUTES 34 SECONDS EAST ALONG SAID PARALLEL LINE 375.03 FEET TO THE TRUE POINT OF BEGINNING.

**PARCEL IV**

A TRACT OF LAND IN A PORTION OF THE SOUTHWEST QUARTER SECTION 9, TOWNSHIP 17 SOUTH, RANGE 20 EAST OF THE GILA AND SALT RIVER BASE MERIDIAN, COCHISE COUNTY, ARIZONA, IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 17 SOUTH, RANGE 20 EAST, OF THE GILA AND SALT RIVER BASE MERIDIAN, COCHISE COUNTY, ARIZONA TRAVERSING SOUTHERLY ALONG THE WEST LINE OF SAID QUARTER SECTION, BEARING SOUTH 00 DEGREES 03 MINUTES 50 SECONDS EAST A DISTANCE OF 190.07 FEET;

THENCE SOUTH 86 DEGREES 09 MINUTES 13 SECONDS EAST A DISTANCE OF 903.80 FEET TO THE WEST RIGHT OF WAY LINE OF QUARTER HORSE AVENUE;

THENCE ALONG SAID RIGHT OF WAY LINE SOUTH 00 DEGREES 10 MINUTES 54 SECONDS EAST A DISTANCE OF 299.70 FEET;

THENCE 89 DEGREES 39 MINUTES 53 SECONDS WEST A DISTANCE OF 62.15 FEET TO THE POINT OF BEGINNING;

THENCE SOUTH 89 DEGREES 46 MINUTES 14 SECONDS WEST A DISTANCE OF 129.99 FEET;

THENCE SOUTH 00 DEGREES 00 MINUTES 13 SECONDS EAST A DISTANCE OF 364.19 FEET;

THENCE NORTH 89 DEGREES 46 MINUTES 47 SECONDS EAST A DISTANCE OF 132.29 FEET;

THENCE NORTH 00 DEGREES 21 MINUTES 51 SECONDS WEST A DISTANCE OF 364.21 FEET TO THE POINT OF BEGINNING;

THE ABOVE DESCRIBED PARCEL CONTAINS: 1.10 ACRES OR 47,760 SQUARE FEET, AND IS SUBJECT TO ALL MATTERS OF RECORD.

**EXHIBIT B**

(Legal Description of Wal-Mart Property)

A TRACT OF LAND IN A PORTION OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 17 SOUTH, RANGE 20 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, COCHISE COUNTY, ARIZONA; IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 9 OF SECTION 9, TOWNSHIP 17 SOUTH, RANGE 20 EAST, OF THE GILA AND SALT RIVER BASE AND MERIDIAN, COCHISE COUNTY, ARIZONA, HEADING SOUTHERLY ALONG THE WEST LINE OF SAID QUARTER SECTION BEARING S 00° 03' 50" E A DISTANCE OF 190.07 FEET TO THE POINT OF BEGINNING:

THENCE S 00° 03' 50" E A DISTANCE OF 40.18 FEET;  
THENCE S 86° 09' 13" E A DISTANCE OF 121.28 FEET;  
THENCE S 00° 13' 13" E A DISTANCE OF 290.53 FEET;  
THENCE S 89° 46' 47" W A DISTANCE OF 121.79 FEET;  
THENCE S 00° 03' 50" E A DISTANCE OF 82.19 FEET;  
THENCE N 89° 46' 47" E A DISTANCE OF 122.01 FEET;  
THENCE S 00° 13' 13" E A DISTANCE OF 109.60 FEET;  
THENCE S 45° 13' 13" E A DISTANCE OF 72.31 FEET;  
THENCE S 00° 13' 13" E A DISTANCE OF 145.90 FEET;  
THENCE N 89° 46' 47" E A DISTANCE OF 535.81 FEET;  
THENCE N 00° 00' 13" W A DISTANCE OF 364.19 FEET;  
THENCE N 89° 44' 11" E A DISTANCE OF 192.14 FEET;  
THENCE N 00° 10' 54" W A DISTANCE OF 299.70 FEET;  
THENCE N 89° 09' 13" W A DISTANCE OF 903.80 FEET BACK TO THE TRUE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS: 10.92 ACRES OR 475,814 S.F. MORE OR LESS.

## EXHIBIT C

### Description of Public Infrastructure

The following is a list and description of the proposed public improvement projects associated with the Wal-Mart development in Benson, Arizona.

**Water Transmission Main** - The scope of this project consists of installing 9,760 linear feet of 12" diameter public water main extending east from Highway 90 along Highway 80 (I-10 Business Loop). This extension is intended to boost the current water pressure for domestic and fire protection service within the "Downtown" area and to create a new pressure zone to support future improvements. Also, approximately 400 linear feet of 8" service line will be extended along Prickly Pear Avenue.

**Highway 80 (I-10 Business Loop), ADOT Right of Way Improvements** - This project is the start of similar right of way improvements through the City business district to improve traffic circulation and provide safer traffic conditions. The improvements include two deceleration lanes approaching both Prickly Pear and Sunset Cactus, consisting of new pavement, curb relocation and sidewalks, intersection improvements, modification of existing landscaping and irrigation, adjusting impacted utilities and street lights locations. The improvements also include installing new raised medians, installing a new traffic signal at Sunset Cactus intersection, restriping this section of the highway and modification of existing highway signage.

**Prickly Pear Avenue Improvements** - The existing pavement section does not meet the specification for minor collector roads and the existing pavement is failing. A new pavement section will replace the existing one from the highway intersection to Wal-Mart's southern entrance and an asphalt pavement overlay will be installed from the end of the new pavement to Wal-Mart's property line. Half street improvements will also be constructed along Wal-Mart's side including curb and gutter, sidewalk, landscape and irrigation, and storm drain collection inlet. The new street section will also receive new striping and signage. Existing utilities will be adjusted to accommodate the proposed improvements.

**Sunset Cactus Avenue Roadway Improvements** - This section of the road extends from Highway 80 to the alley in front of Wal-Mart. The road is currently undeveloped and full roadway improvements will be constructed. The improvements will consist of grading and paving the full road section, installing curb and gutter, and adjusting existing utility boxes to match finish grade.

**Public Access (Alley) Improvements** - The Alley will be improved with approximately 800 feet of extruded curb, new heavy-duty pavement section and 9 feet of landscaping behind the curb along the north side. The improvements will also include utilities relocations and adjustments. An existing 8 inch asbestos cement water main will be removed and replaced with a new main within the vicinity of the Alley.

**Public Storm Drainage Conveyance System** – Surface runoff west of Wal-Mart's development is currently conveyed across Prickly Pear through a pipe culvert which discharges the runoff onto Wal-Mart property. A series of 24, 30 and 36 inch pipes are proposed to collect and convey this off-site runoff through Wal-Mart property to an existing regional detention area located west of Quarter Horse Avenue as shown on Exhibit D. This detention basin will be improved by Wal-Mart to increase its capacity to accommodate flows from Wal-Mart's site and shall be maintained by the City, at its sole cost and expense.

**EXHIBIT D - RETENTION BASINS, OPEN SPACE & COMMON ACCESS AREAS TO BE MAINTAINED BY WAL-MART**

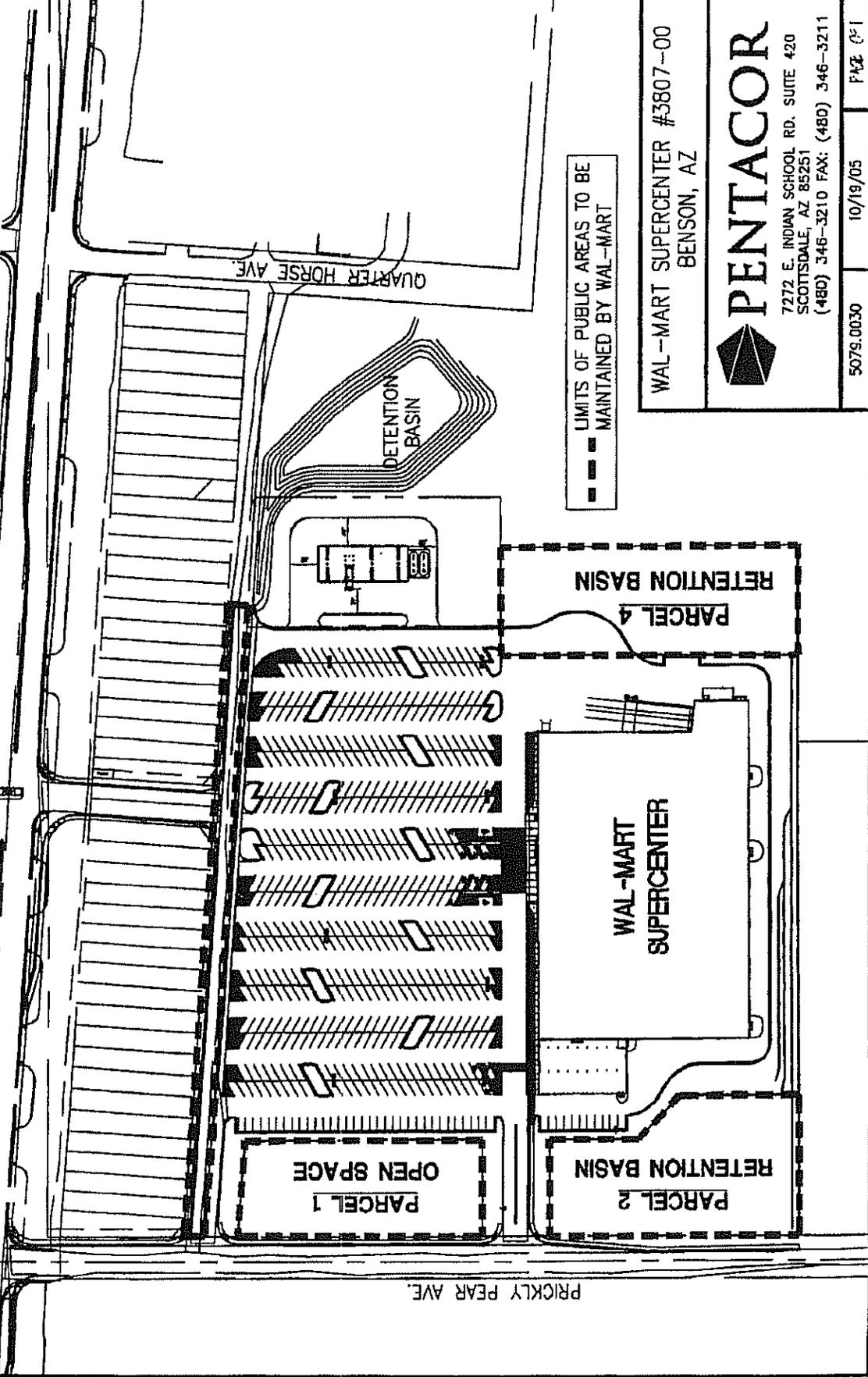


SCALE: 1" = 160'

FOURTH STREET

QUARTER HORSE AVE.

PRICKLY PEAR AVE.



--- LIMITS OF PUBLIC AREAS TO BE MAINTAINED BY WAL-MART

WAL-MART SUPERCENTER #3807-00  
BENSON, AZ



7272 E. INDIAN SCHOOL RD. SUITE 420  
SCOTTSDALE, AZ 85251  
(480) 346-3210 FAX: (480) 346-3211

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