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Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
9/7/2012 13:16:02.41



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THIS PAGE INCLUDED FOR INDEXING

PAGE DOWN FOR BALANCE OF INSTRUMENT

RETURN TO:

See Attached

CHECK NUMBER

✓111911

Upon Recording Return to:
Erin O'Gara, Esq.
~~Kutak Rock LLP~~
~~1650 Farnam Street~~
~~Omaha, NE 68102-2186~~

Nebraska Land Title & Abstract
PO Box 6577
Lincoln NE 68506

With Recorded Copy To:
Bridgestone Retail Operations, LLC
Attn: Law Department – Real Estate
333 East Lake Street
Bloomington, IL 60108

Omaha, NE
Store No. 3172-0
BSRO PN: 117897

STORMWATER DRAINAGE EASEMENT AGREEMENT

THIS STORMWATER DRAINAGE EASEMENT AGREEMENT (this “Easement”) is made as of this 7 day of Sept., 2012, by and among **BRIDGESTONE RETAIL OPERATIONS, LLC**, a Delaware limited liability company d/b/a Firestone Complete Auto Care (“Grantor”) and **WAL-MART REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust (“Grantee”).

PRELIMINARY STATEMENTS

Grantor is the fee simple owner of certain real property legally described in Exhibit A attached hereto (the “Grantor Property”). Grantee is the fee simple owner of the real property legally described in Exhibit B attached hereto (the “Grantee Property”). Grantor hereby acknowledges that stormwater and other water from the Grantee Property, naturally and currently flow over the Grantor Property. Grantor further acknowledges that Grantee intends to develop its property for commercial purposes and that water shall continue to flow onto the Grantor Property. Subject to the terms and conditions granted herein, Grantor desires to grant to Grantee and its successors and assigns, for the benefit of the Grantee Property a non-exclusive, perpetual easement to allow stormwater and other water leaving the Grantee Property to enter onto, under and/or across that portion of the Grantor Property as legally and pictorially described in Exhibit C attached hereto (the “Stormwater Easement Area”).

AGREEMENT

For and in consideration of \$10.00 and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. **Grant of Easement.** Subject to any restrictions, easements or other matters of record, Grantor hereby grants to Grantee, and its successors and assigns, for the benefit of the Grantee Property a non-exclusive, easement to allow stormwater and other water leaving the Grantee Property to enter onto, under and/or cross over the Grantor Property within the Stormwater Easement Area.

2. **Use; Improvements.** Grantee acknowledges Grantor's right to use, landscape, cultivate and otherwise enjoy the Grantor Property, provided that Grantor agrees not to build, create or construct or permit to be built, created, or constructed any building or other obstruction that would unreasonably interfere with the Stormwater Easement Area and Grantee's rights hereunder.

3. **Binding Upon Property.** The easements, rights and obligations created pursuant to this Easement shall be appurtenant to and run with and be binding upon the real properties herein identified, including future subdivisions and/or reconfigurations of such properties, and shall be binding on all entities having or acquiring any right, title or interest in such properties and shall inure to the benefit of each owner, tenant, subtenant, employee or invitee thereof.

4. **Non-Merger.** The easements, rights and obligations established by this Easement shall not merge or terminate if all of the Grantor Property and the Grantee Property become owned by the same entity, but shall continue until released and terminated by all parties benefited hereby.

5. **No Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Grantor Property to the general public, or for any public use, or purpose whatsoever. Except as herein specifically provided, no rights, privileges or immunities of any party hereto shall inure to the benefit of any third-party, nor shall any third-party be deemed to be a beneficiary of any of the provisions contained in this Easement.

6. **Title.** Grantor confirms with Grantee that Grantor is seized in fee and is the sole holder of the Grantor Property and that it has the right to grant and convey this Easement and the rights granted herein, and that it will warrant and defend such Easement and rights to the Grantee against the lawful claims and demands of all persons.

7. **Maintenance.** Grantee agrees to repair any damage to the Stormwater Easement Area resulting from the deposit of sediment within the Stormwater Easement Area originating from the Grantee Property. Grantee shall use best management practices on the Grantee Property to control sediment discharge originating from the Grantee Property. Grantee shall maintain the Stormwater Easement Area to the extent the overall flow rate of stormwater increases as a result Grantee's use of the Stormwater Easement Area. Grantee shall have a right of ingress and egress over the Grantor Property as necessary to use, inspect, maintain and repair the Stormwater Easement Area. Grantor shall mow and be responsible for the general upkeep of the Grantor Property, including the Stormwater Easement Area.

8. **Indemnification.** Grantee agrees to protect, indemnify and save harmless Grantor from and against any and all loss, costs, damage and expenses occasioned by, or arising out of, any accident or other occurrence or series of occurrences causing or inflicting injury and/or damage to the Grantor Property, or any person or property, in, upon or about the Grantor Property, arising out of or resulting from the negligence or willful misconduct of Grantee or its agents, employees or contractors in connection with Grantee's use of the Stormwater Easement Area; provided, however, Grantee shall have no liability for any pre-existing condition on the Grantor Property except to the extent Grantee, through its negligence or willful misconduct, exacerbates such condition.

[SIGNATURE PAGE FOLLOWS]

Omaha, NE
Acre # _____
BSRO PN: 117897

IN WITNESS WHEREOF, the undersigned has caused the authorized execution hereof, the day and year first above written.

GRANTOR:

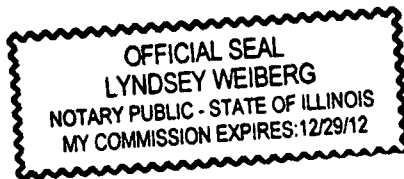
BRIDGESTONE RETAIL OPERATIONS, LLC

By: *James M. Blecha*
Name: _____
Its: James M. Blecha, Director
Real Estate Assets & New Store Development

STATE OF Illinois)
COUNTY OF DuPage) ss.

The foregoing instrument was acknowledged before me this 13th day of March, 2012 by James M. Blecha the Director of Bridgestone Retail Operations, LLC, a Delaware limited liability company on behalf of the limited liability company.

[SEAL]



My Commission Expires 12/29/12

Lyndsey Weiberg
Notary Public

EXHIBIT A

GRANTOR PROPERTY

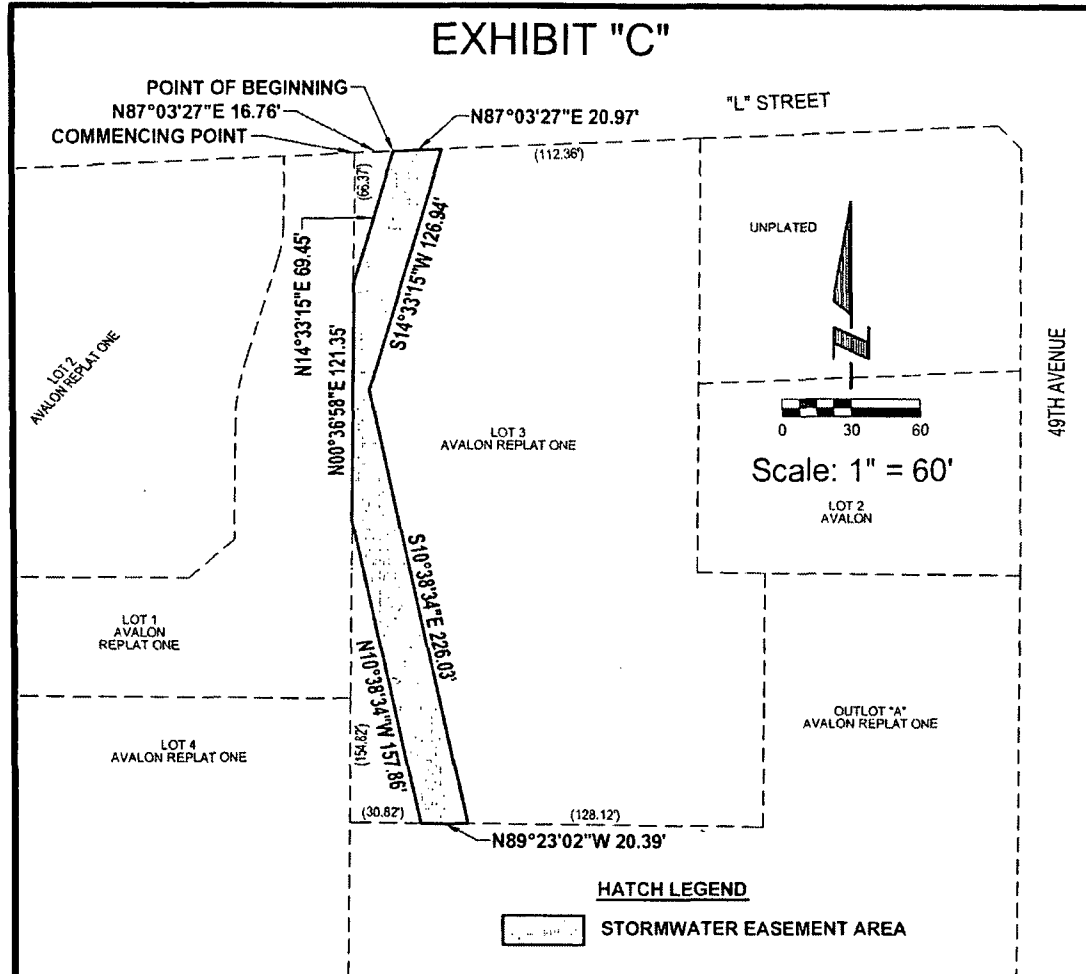
Lot 3, Avalon Replat One, Douglas County, Nebraska

EXHIBIT B
GRANTEE PROPERTY

Lots 1, 2, 4 and Outlot A, Avalon Replat One, Douglas County, Nebraska

EXHIBIT C

STORMWATER EASEMENT AREA



LEGAL DESCRIPTION:

A PERMANENT STORMWATER EASEMENT LOCATED IN LOT 3, AVALON REPLAT ONE, A SUBDIVISION LOCATED IN THE SE1/4 OF SECTION 6, TOWNSHIP 14 NORTH, RANGE 13 EAST OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT NORTHWEST CORNER OF SAID LOT 3, AVALON REPLAT ONE, SAID POINT ALSO BEING THE NORTHEAST CORNER OF LOT 1, SAID AVALON REPLAT ONE AND ALSO ON THE SOUTHERLY RIGHT-OF-WAY LINE OF "L" STREET; THENCE N87°03'27"E (ASSUMED BEARING) ALONG THE NORTH LINE OF SAID LOT 3, AVALON REPLAT ONE, SAID LINE ALSO BEING SAID SOUTHERLY RIGHT-OF-WAY LINE OF "L" STREET A DISTANCE OF 16.76 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N87°03'27"E ALONG SAID NORTH LINE OF LOT 3, AVALON REPLAT ONE, SAID LINE ALSO BEING SAID SOUTHERLY RIGHT-OF-WAY LINE OF "L" STREET A DISTANCE OF 20.97 FEET; THENCE S14°33'15"W, A DISTANCE OF 126.94 FEET; THENCE S10°38'34"E, A DISTANCE OF 226.03 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 3, AVALON REPLAT ONE, SAID LINE ALSO BEING THE NORTHERLY LINE OF OUTLOT "A", SAID AVALON REPLAT ONE; THENCE N89°23'02"W ALONG SAID SOUTH LINE OF LOT 3, AVALON REPLAT ONE, SAID LINE ALSO BEING SAID NORTHERLY LINE OF OUTLOT "A", AVALON REPLAT ONE, A DISTANCE OF 20.39 FEET THENCE N10°38'34"W, A DISTANCE OF 157.88 FEET TO A POINT ON THE WEST LINE OF SAID LOT 3, AVALON REPLAT ONE, SAID LINE ALSO BEING THE EASTERLY LINE OF SAID LOT 1, AVALON REPLAT ONE; THENCE N00°36'58"E ALONG SAID WEST LINE OF LOT 3, AVALON REPLAT ONE, SAID LINE ALSO BEING SAID EASTERLY LINE OF SAID LOT 1, AVALON REPLAT ONE, A DISTANCE OF 121.35 FEET; THENCE N14°33'15"E, A DISTANCE OF 69.45 FEET TO THE POINT OF BEGINNING.

SAID PERMANENT STORMWATER EASEMENT CONTAINS AN AREA OF 6,233 SQUARE FEET OR 0.143 ACRES MORE OR LESS.



E&A CONSULTING GROUP, INC.
ENGINEERING • PLANNING • FIELD SERVICES
300 NORTH 117TH STREET, CLAYTON, NE 68544 PHONE: (402) 860-4700

STORMWATER EASEMENT

LOT 3, AVALON REPLAT ONE
SE1/4 SECTION 6, T14N, R13E
DOUGLAS COUNTY, NEBRASKA

Drawn by: FCE Chkd by: Chkd by:
Job No.: 2011.182.008 Date: 12/08/11 Book No.: XXXXX

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