

YC Sam's ECR

Dayton (N), Ohio
Club No. 6380-00

14
**EASEMENTS WITH COVENANTS AND
RESTRICTIONS AFFECTING LAND ("ECR")**

THIS AGREEMENT ("ECR" or "Agreement") is made as of the 13th day of June, 2005, between SAM'S REAL ESTATE BUSINESS TRUST, a Delaware statutory trust, with offices at 702 S.W. Eighth Street, Bentonville, Arkansas 72716 and a mailing address of 2001 S.E. 10th Street, Bentonville, Arkansas 72716-0550, Attention: Realty Management Department - Ohio ("Sam's"), and HARSON INVESTMENTS, LTD., an Ohio limited partnership, with an address of c/o Singer Properties, 2500 Kettering Tower, 40 N. Main Street, Dayton, Ohio 45423, Attention: Shayna Kolodesh and Clifford Khouri ("Harrison").

WITNESSETH:

WHEREAS, Sam's is the owner of Tract 1 as shown on the plan attached hereto as Exhibit A hereof, said Tract being more particularly described in Exhibit B attached hereto;

WHEREAS, Harrison is the owner of Tract 2 as shown on the plan attached hereto as Exhibit A hereof, the same being more particularly described in Exhibit C hereof;

WHEREAS, Sam's and Harrison desire that Tracts 1 and 2 be subject to the easements and the covenants, conditions and restrictions hereinafter set forth; and

WHEREAS, pursuant to a Purchase Agreement dated September 22, 2004 between Wal-Mart Real Estate Business Trust, a Delaware statutory trust, an affiliate of Sam's ("Wal-Mart") and Harrison, Wal-Mart and Harrison agreed that Sam's and Harrison shall enter into this Agreement.

NOW, THEREFORE, for and in consideration of the premises, easements, covenants, conditions, restrictions and encumbrances contained herein, the sufficiency of which is hereby acknowledged, Sam's and Harrison do hereby agree as follows:

1. Use. Buildings in Tracts 1 and 2 shall be used for commercial purposes of the type normally found in a retail shopping center including, without limitation, financial institutions, service shops, offices, and retail stores. No theater, bowling alley, billiard parlor, nightclub or other place of recreation or amusement, or any business or restaurant serving alcoholic beverages with annual sales of alcohol exceeding twenty-five percent (25%) of such business' gross annual sales shall occupy space within Tract 2 without the prior written consent of Sam's. The above restrictions shall terminate upon Sam's or an affiliate of Sam's ceasing to operate a Sam's Club upon Tract 1 for a period of twelve (12) consecutive months, unless such cessation of business activities are as a result of remodeling, renovation or expansion of the Sam's Club on Tract 1. Notwithstanding anything to the contrary contained herein it is expressly

OHIO TITLE CORP.
155 W. Main St.
Columbus, OH 43215
132566
149-00 06/16/05 12:43:21
149-00 06/16/05 0016
Montgomery County
Judy Dodge-Recorder

agreed that nothing contained in this Agreement shall be construed to contain a covenant, either express or implied, to either commence the operation of a business or thereafter continuously operate a business by Sam's on Tract 1. Harson recognizes and agrees that Sam's may, at Sam's sole discretion and at any time during the term of this Agreement, cease the operation of its business on Tract 1, and Harson hereby waives any legal action for damages or for equitable relief which might be available to Harson because of such cessation of business activity by Sam's.

2. Competing Business. Harson covenants that as long as Sam's, or an affiliate of Sam's is the owner, lessee or user of Tract 1, no space in or portion of Tract 2, and no space in or portion of any other real property adjacent to Tracts 1 or 2 which may subsequently be acquired by Harson, shall be used, leased or occupied by or conveyed to any other party for use as or in support of (including parking and access) (a) a grocery store or supermarket, as hereinafter defined, (b) a wholesale club operation similar to that of a Sam's Club owned and operated by Sam's, (c) a discount department store or other discount store, as hereinafter defined, (d) a pharmacy, as hereinafter defined or (e) a gas station or gas station/convenience store, as hereinafter defined. The above restrictions shall terminate upon Sam's or an affiliate of Sam's ceasing to operate a Sam's Club upon Tract 1 for a period of twelve (12) consecutive months, unless such cessation of business activities are as a result of remodeling, renovation or expansion of the Sam's Club on Tract 1. In the event of a breach of this covenant, Sam's shall have the right to terminate this Agreement and/or to seek any and all remedies afforded by either law or equity, including, without limitation, the rights to injunctive relief. "Grocery store" and "supermarket", as those terms are used herein, shall mean a food store or a food department containing more than ten thousand (10,000) square feet of gross leasable area for the purpose of selling food for consumption off the premises, which shall include, but not be limited to, the sale of dry, refrigerated or frozen groceries, meat, seafood, poultry, produce, delicatessen or bakery products, refrigerated or frozen dairy products, or any grocery products normally sold in such stores or departments. "Discount department store" and/or "discount store", as those terms are used herein, shall mean a discount department store or discount store containing more than thirty-five thousand (35,000) square feet of gross leasable area for the purpose of selling a full line of hard goods and soft goods (e.g. clothing, cards, gifts, electronics, garden supplies, furniture, pharmacy, lawnmowers, toys, health and beauty aids, hardware items, bath accessories and auto accessories) at a discount in a retail operation similar to that of a Sam's. "Pharmacy", as that term is used herein, shall mean any retail or wholesale store of any size (free-standing or included within another store) which sells or dispenses prescription drugs or pharmaceuticals; (either over-the-counter or by script/prescription), whether or not such activities are primary to such store. "Gas station" as used herein shall mean a retail or wholesale facility of any size and including one or more devices for the purpose of dispensing motor fuels or fuel additives including by pump, container or any future method of dispensing and introducing fuel into automobiles, trucks or other motor vehicles whether or not such activities are primary to such store or operation. "Gas station/convenience store" as used herein shall mean a facility which would meet the definition of a gas station, as defined above, and which additionally includes a

retail store which offers for sale tobacco, candy, beverages, snacks, pantry-type products, automotive products and/or other general merchandise items in a store building containing less than ten thousand (10,000) square feet.

3 Easements.

(a) Cross Access Easement.

- (1) Harson and Sam's, as their interests may appear, hereby establish and grant a nonexclusive easement for the benefit of the owner of each Tract and their agents, customers, invitees, licensees, tenants and employees, over, through and around those areas of their respective Tracts intended for roadways, walkways and ingress and egress; provided, however, in no event shall the owner occupant, licensee or invitee of any Tract be permitted to use the other Tract for vehicular parking or for any other purpose other than as described above. Harson acknowledges and agrees that heavy truck traffic across Tract 1 servicing Tract 2 shall be prohibited.
- (2) Harson, at its sole cost and expense, shall have the right to install two (2) "curb cuts" connecting Tract 2 and Tract 1. Harson shall be responsible for obtaining all necessary permits, approvals and for all costs to build the curb cuts, including restriping the parking isle. The curb cuts shall be designed and in locations consistent with maintaining reasonable and unrestricted traffic flows. Prior to any such construction by Harson to build the curb cuts, Harson shall submit its plans and specifications (the "Access Plans") to Sam's for Sam's review and approval. Sam's shall provide Harson with written approval or disapproval of the Access Plans within sixty (60) days after Sam's receipt of the same from Harson. Harson shall not commence any such work to build the curb cuts until Sam's has provided its written approval to the Access Plans.

(b) Detention Pond.

- (1) Sam's, as its interest may appear, hereby establishes and grants a nonexclusive easement for the benefit of the owner of Tract 2 to use, maintain and repair the water detention pond located on Tract 1 as shown on Exhibit A (the "Detention Pond").
- (2) Harson, at its sole cost and expense, shall have the right to expand the Detention Pond. Harson shall be responsible for obtaining all necessary permits, approvals and for all costs to expand the Detention Pond. Prior to any such construction by Harson to expand the Detention Pond, Harson shall submit its plans and specifications (the "Detention Pond Plans") to Sam's for Sam's review and approval. Sam's shall provide Harson with

written approval or disapproval of the Detention Pond Plans within sixty (60) days after Sam's receipt of the same from Harson. Harson shall not commence any such work to expand the Detention Pond until Sam's has provided its written approval to the Detention Pond Plans.

- (3) Upon expansion of the Detention Pond, Tract 2 shall reimburse Sam's for its pro rata share of the operation and maintenance costs for the Detention Pond within thirty (30) days of presentment of invoices. Tract 2's pro rata share of costs associated with the operation and maintenance of the Detention Pond shall be based in proportion to the ratio that the acreage of Tract 2 bears to the total acreage of Tract 1 and 2 combined, exclusive of the acreage constituting the Detention Pond.

- (c) Landscaping. Harson and Sam's, as their interests may appear, hereby establish and grant a nonexclusive easement for the benefit of the owner of each Tract on, across and under the area bordering each Tract to maintain landscaping; it being understood that no party shall have an obligation to compensate the other for landscaping costs without that party's prior approval.

- (d) Indemnity. In addition to the indemnification provided in Paragraph 4 below, Harson shall indemnify Sam's and its officers, employees and agents harmless from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from personal injury, death, or property damage arising out of or resulting from any construction activities performed by or at the request of Harson, except if caused by the act or negligence of Sam's.

4. Indemnification/Insurance.

- (a) Indemnification. The owner of each Tract hereby indemnifies and saves the other parties harmless from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from personal injury, death, or property damage and occurring on or from its own Tract, except if caused by the act or negligence of the other party hereto.

- (b) Insurance.

- (1) The owner of each Tract shall maintain comprehensive general public liability insurance and property damage insurance on the Tracts, their buildings, appurtenances and other improvements located thereon. Such insurance shall (i) be carried with reputable companies licensed to do business in the State of Ohio; (ii) have liability limits of at least Three Million Dollars (\$3,000,000) for each occurrence, bodily injury and property damage combined; and (iii) not be subject to change, cancellation or termination without at least thirty (30) days prior written notice to

Sam's and the owners of Tract 1 and Tract 2. The obligations of the owner of Tract 1 to maintain insurance under this provision may be satisfied by Sam's.

- (2) Policies of insurance provided for in this Paragraph 4 shall name Sam's and owner of each Tract as additional insureds as their respective interests may appear, and each of them shall provide to the other certificates evidencing the fact that such insurance has been obtained.
- (3) Sam's and the owner of each Tract, each for itself and its property insurer, hereby releases the others, and their tenants, employees and agents from and against any and all claims, demands, liabilities or obligations whatsoever for damage to each other's property or loss of rents or profits resulting from or in any way connected with any fire or other casualty whether or not such fire or other casualty shall have been caused by the negligence or the contributory negligence of the party being released or by any tenant, agent, associate or employee of the party being released, this release being to the extent that such damage or loss is covered by the property insurance which the releasing party is obligated under this Agreement to carry, or, if the releasing party is not carrying that insurance, then to the extent such damage or loss would be covered if the releasing party were carrying that insurance.
- (4) Notwithstanding anything to the contrary contained in this Paragraph 4, (i) so long as the net worth of Sam's shall exceed One Hundred Million Dollars (\$100,000,000), and so long as Sam's is owner of Tract 1, Sam's shall have the right to retain the financial risk for any claim and (ii) so long as the net worth of Harson shall exceed One Hundred Million Dollars (\$100,000,000), and so long as Harson is owner of Tract 2, Harson shall have the right to retain the financial risk for any claim.

5. Eminent Domain.

- (a) Owner's Right To Award. Nothing herein shall be construed to give the owner of any Tract any interest in any award or payment made to another party in connection with any exercise of eminent domain or transfer in lieu thereof affecting said other party's Tract or giving the public or any government any rights in said Tract.
- (b) Collateral Claims. All other owners of Tracts may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another owner.

- (c) Tenant's Claim. Nothing in this Paragraph 5 shall prevent a tenant from making a claim against an owner pursuant to the provisions of any lease between tenant and owner for all or a portion of any such award or payment.

6. Rights And Obligations Of Lenders. If by virtue of any right or obligation set forth herein a lien shall be placed upon any Tract, such lien shall expressly be subordinate and inferior to the lien of any first lienholder now or hereafter placed on such Tract. Except as set forth in the preceding sentence, however, any holder of a first lien on any Tract, and any assignee or successor in interest of such first lienholder, shall be subject to the terms and conditions of this Agreement.

7. Expansion Of Tracts 1 and 2. If applicable, the parties agree that in the event that Tracts 1 and 2 are expanded by ownership, control of the parties or agreement with a third party, all of the provisions of this Agreement shall apply to the expanded area.

8. Release from Liability. Any person acquiring fee or leasehold title on any Tract subject hereto, or any expansion of Tracts 1 and 2 pursuant to Paragraph 7 or any portion thereof, shall be bound by this Agreement only as to the Tract, or portion thereof, acquired by such person. In addition, such person shall be bound by this Agreement only during the period such person is the fee or leasehold owner of such Tract, or portion thereof, except as to obligations, liabilities or responsibilities that accrue during said period. Although persons may be released under this paragraph, the easements, covenants and restrictions in this Agreement shall continue to be benefits to and servitudes upon said Tracts running with the land.

9. Breach.

(a) Parties With Remedies. In the event of breach or threatened breach of this Agreement, only all record owners of Tract 1 as a group, or all record owners of Tract 2 as a group, or Sam's so long as it or any affiliate has an interest as owner or lessee of Tract 1 or Harson so long as it or any affiliate has an interest as owner of Tract 2, shall be entitled to institute proceedings for full and adequate relief from the consequences of said breach or threatened breach. The unsuccessful party in any action shall pay to the prevailing party a reasonable sum for attorney's fees, which shall be deemed to have accrued on the date such action was filed.

(b) Remedies. If any owner shall fail to perform any covenant or condition contained in this Agreement, the aggrieved party shall give the defaulting party at least thirty (30) days written notice of such alleged default. If such default shall not have been cured within said period of thirty (30) days after the service of notice of default [or if such default be not reasonably susceptible of being cured within said period of thirty (30) days, and said defaulting party shall have not in good faith commenced curing such default within said thirty (30) day period and shall not thereafter prosecute curing such default with diligence and continuity to

completion] the aggrieved party may institute legal proceedings for full and adequate relief from the consequences of said default or threatened default.

- (c) Right of Entry. The defaulting party hereby grants to the aggrieved party a non-exclusive right of entry and non-exclusive easements across and under any and all parts of the defaulting party's Tract (excluding the right to enter any buildings demised to or owned by others) for all purposes reasonably necessary to enable the aggrieved party (acting directly or through agents, contractors, or subcontractors), to perform any of the terms, provisions, covenants or conditions of this Agreement which the defaulting party shall have failed to perform, after notice and time to cure, as aforesaid, but no notice and time to cure need be given in the event of any emergency.

10. Rights of Successors. The easements, restrictions, benefits and obligations hereunder shall create mutual benefits and servitudes running with the land. This Agreement shall bind and inure to the benefit of the parties hereto, their respective heirs, representatives, lessees, successors and assigns. The singular number includes the plural and the masculine gender includes the feminine and neuter.

11. Document Execution, Modification and Cancellation. It is understood and agreed that until this document is fully executed by both Harson and Sam's there is not and shall not be an agreement of any kind between the parties hereto upon which any commitment, undertaking or obligation can be founded. This Agreement (including exhibits) may be modified or canceled only by the mutual agreement of (a) Sam's as long as it or its affiliate has any interest as either owner or Lessor of Tract 1, or its successors in interest; and (b) Harson, as long as it or its affiliate has any interest as either owner or Lessor of Tract 2, or its successors in interest.

12. Non-Merger. So long as Sam's or its affiliate is owner of Tract 1, this Agreement shall not be subject to the doctrine of merger.

13. Duration. Unless otherwise canceled or terminated, all of the easements granted in this Agreement shall continue in perpetuity and all other rights and obligations hereof shall automatically terminate and be of no further force and effect after ninety-nine (99) years from the date hereof.

14. Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

15. Transfer of Interests; Notices.

- (a) In the event that any person or entity (the "Acquiring Party") shall acquire a fee or mortgage interest in any tract subject to this Agreement, or any portion thereof, the Acquiring Party shall execute and file in the land records of Montgomery County, Ohio, a statement setting forth the name of the Acquiring Party, the

address of the Acquiring Party to which all notices for the purposes of this Agreement may be sent, the nature of the interest held by the Acquiring Party, and the date that such interest was acquired (the "Notice Statement"). Contemporaneously with such filing, the Acquiring Party shall also send by certified mail, return receipt requested, a copy of such Notice Statement to all other persons or entities then holding fee or mortgage interests in any tract subject to this Agreement, or any portion thereof, as reflected by the Notice Statements then of record in the land records of Montgomery County, Ohio (the "Existing Interest Holders"). Until such time as an Acquiring Party files and mails such Notice Statement in accordance with the terms of this Subparagraph (a), it shall not be entitled to receive any notice required or permitted to be given under this Declaration, and the Existing Interest Holders shall have no obligation to give any such notice to the Acquiring Party. Any change of address shall require the filing and mailing of a new Notice Statement. It is understood and agreed that the provisions of this Paragraph 15 regarding the recordation of the Notice Statement are satisfied with respect to Harson and Sam's.

- (b) Any notice hereunder shall be in writing and shall be served by overnight delivery or certified mail, return receipt requested, postage prepaid, addressed to the respective addresses of the parties as follows:

If intended for Harson:

Harson Investments, Ltd.
c/o Singer Properties
2500 Kettering Tower
40 N. Main Street
Attention: Shayna Kolodesh
Attention: Clifford Khouri

With a copy to:

Mr. Alan Biegel
5975 Kentshire Drive
Kettering, Ohio 45440-4256

If intended for Sam's:

Sam's Real Estate Business Trust
2001 S.E. 10th Street
Bentonville, Arkansas 72716-0550
Store No. 3783-00
Attention: Realty Management Department - Ohio

Each party to this Agreement may designate by notice in writing a new or other address to which such notice shall thereafter be so given or served. A copy of any such notice shall also be contemporaneously delivered in the manner herein specified to any fee mortgagee or tenant who shall have duly registered with any party its name and address. Notice shall be deemed given when received.

16. Consent. The owner of Tract 1 agrees that for so long as a lease of all or a portion of Tract 1 is in effect, whenever the consent of the owner of Tract 1 is required under this Agreement, the owner of Tract 1 will give such consent only after obtaining Sam's consent.

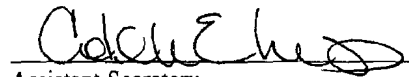
17. Obligations of the Owner of Tract 1. Sam's hereby agrees that so long as a lease of all or a portion of Tract 1 is in effect, it will satisfy the obligations of the owner of Tract 1 hereunder, and will hold harmless and indemnify the owner of Tract 1 from any and all loss, damage, expense, fees, claims, costs, and liabilities, including, but not limited to, attorneys' fees and costs of litigation, arising out of this Agreement, except for those arising out of the acts or omissions of the owner of Tract 1 or its employees, agents, contractors or invitees.

18. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto. The parties do not rely upon any statement, promise or representation not herein expressed, and this Agreement once executed and delivered shall not be modified or altered in any respect except by a writing executed and delivered in the same manner as required by this document.

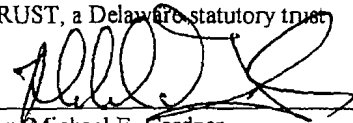
[Remainder of Page Left Blank; Signature Page Follows]

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

ATTEST


Assistant Secretary
(SEAL)

SAM'S REAL ESTATE BUSINESS
TRUST, a Delaware statutory trust

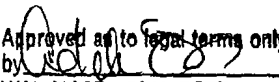

By: Michael E. Gardner
Assistant Vice President

ATTEST

HARSON INVESTMENTS, LTD., an Ohio
limited partnership

Its: _____

By: _____
Its: _____

Approved as to legal terms only
by 
WAL-MART LEGAL DEPT
Date: 6-8-05

STATE OF ARKANSAS)
) SS.
COUNTY OF BENTON)

This document was acknowledged before me this 9 day of June, 2005 by Michael E. Gardner, Assistant Vice President of SAM'S REAL ESTATE BUSINESS TRUST, a Delaware statutory trust, on behalf of the Trust.



Sarah E. Lapar
Benton County, Arkansas
My Commission Expires: 11-22-2014

STATE OF OHIO)
) SS.
COUNTY OF _____)

This document was acknowledged before me this _____ day of _____, 2005 by _____, the _____ of Dayton Co., an Ohio corporation and the sole General Partner of HARSON INVESTMENTS, LTD., an Ohio limited partnership, on behalf of the corporation and the limited partnership.

County, Ohio
My Commission Expires: _____

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

ATTEST

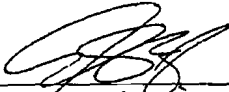
SAM'S REAL ESTATE BUSINESS
TRUST, a Delaware statutory trust


Assistant Secretary
(SEAL)

By: Michael E. Gardner
Assistant Vice President

ATTEST

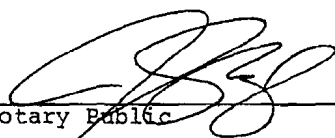
HARSON INVESTMENTS, LTD., an Ohio
limited partnership

Its: 
Alan A. Biegel

By: 
Its: Alex Kolodesh
Vice president

STATE OF OHIO
COUNTY OF MONTGOMERY, SS:

The foregoing instrument was acknowledged before me this 9th day of June, 2005, by Alex Kolodesh, the Vice President of Dayton Co., an Ohio Corporation, the sole General Partner of Harson Investments, Ltd., an Ohio Limited Partnership, on behalf of said limited partnership.


Notary Public



ALAN A. BIEGEL, Attorney at Law
Notary Public - State of Ohio
My Commission has no expiration date
Section 147.03 O.R.C.

EXHIBIT A
SITE PLAN

EXHIBIT B

TRACT 1

Situate in the Township of Butler, County of Montgomery and State of Ohio and being in Section 34, Town 3, Range 6 East, M.R.S., and being a part of a 41.914 acre of parcel of ground as conveyed to Harold H. Singer by deed as recorded in Microfiche 72-365-D10 Parcel II, being of a 5.763 acre parcel ground as conveyed to Dayton County by deed as recorded in Microfiche 77-174-B04 and being part of a 15 acre parcel of ground as conveyed to Harold H. Singer by deed as recorded in Microfiche 72-365-D10 Parcel I, Tract I, of the deed records of Montgomery County, Ohio, and being more particularly bounded and described as follows: Beginning for reference at a concrete monument found in the center of Miller Lane (80' R/W) and being the P.C. of a curve to the left (STA 51+71.52) according to the location survey plat for O.D.O.T. project MOT-75-17.66; thence South 87 degrees 46 minutes 54 seconds West for a distance of 40.00 feet to an iron pin set on the West Right-of-Way line of Miller Lane and being the true point of beginning; Thence with said West Right-of-Way line South 02 degrees 13 minutes 06 seconds West for a distance of 480.95 feet to an iron pin set; thence leaving said West-Right-of-Way line with a new division line the following six (6) courses:

South 87 degrees 46 minutes 54 seconds West for a distance of 184.24 feet to an iron pin set; South 02 degrees 04 minutes 03 seconds East for a distance of 50.00 feet to an iron pin set; South 87 degrees 55 minutes 57 seconds West for a distance of 495.00 feet to an iron pin set; South 02 degrees 04 minutes 03 seconds East for a distance of 30.00 feet to an iron pin set; South 87 degrees 55 minutes 57 seconds West for a distance of 515.00 feet to an iron pin set; North 01 degrees 09 minutes 26 seconds West, along the East line of a 1.124 acre parcel of ground conveyed to Wearly Monuments, Inc. by deed as recorded in Microfiche 81-439-D04 of the Montgomery County Deed Records and along the East line of 3.624 acre parcel of ground conveyed to Robert C. & Betty A. Huck by deed as recorded in Microfiche 85-170-B09 of the Montgomery County Deed Records, for a distance of 650.08 feet to an iron pin found on the North line of Section 34;

Thence with the North line of said Section 34 the following two (2) courses: North 87 degrees 55 minutes 57 seconds East for a distance of 998.76 feet to an iron pin found North 88 degrees 32 minutes 44 seconds East for a distance of 232.08 feet to an iron pin found on the West Right of Way line of Miller Lane;

Thence with said West Right-of-Way line South 04 degrees 22 minutes 31 seconds West for a distance of 102.33 feet to the true point of beginning. Containing 17.3776 acres (765,970 S.F.) more or less.

LESS AND EXCEPT THE FOLLOWING:

Situate Section 34, Town 3, Range 6E, Butler Township, Montgomery County, Ohio, and being part of Lot 1 of Sam's Club-North Dayton as recorded in Book 149, Page 40 of the plat records of said county and being a 1.523 acre tract of land more particularly described as follows: Beginning at a 5/8" iron pin found at the Northeast corner of said Lot 1, thence from said place of beginning with the East line of said Lot 1 and the West line of Miller Lane the following 2 courses: South 04 degrees 22 minutes 31 seconds West a distance of 102.33 feet to a 5/8" iron pin found. Thence South 02 degrees 13 minutes 06 seconds West a distance of 64.40 feet to a 5/8" iron pin set. Thence on a new division line the following three (3) courses: South 88 degrees 32 minutes 44 seconds West a distance of 216.41 feet to a 5/8" iron pin set; thence South 87 degrees 55 minutes 57 seconds West a distance of 175.44 feet to a 5/8" iron pin set; thence North 02 degrees 13 minutes 06 seconds West a distance of 166.07 feet to a 5/8" iron pin set on the North line of aforementioned Lot 1. Thence with said North line and the South line of a tract conveyed to Harson Investments by deed recorded on Microfiche No. 97-003C11 of the deed records of said county and the South line of Interstate Subdivision Two, Section Three as recorded in Book 173, Page 48 of the plat records of said county the following 2 courses: North 87 degrees 55 minutes 57 seconds East a distance of 176.50 feet to a 5/8" iron pin found; thence North 88 degrees 32 minutes 44 seconds East a distance of 232.08 feet to the place of beginning, containing 1.523 acres more or less.

EXHIBIT C

TRACT 2

Situated in the County of Montgomery, in the State of Ohio and in the Township of Butler:

Located in the Southwest Quarter of Section 27, Town 3, Range 6 East, etc., and bounded and described as follows: Beginning at the northeast corner of a tract of land formerly owned by James Beatty, said corner being 39 perches (643.5 feet) south 85 degrees east from the west line of said Section; thence eastwardly 54 rods and 2 links (892.32 feet); thence southwardly 61 rods (1006.5 feet) to the south line of said Section; thence westwardly along the said Section line 54 rods and 2 links (892.32 feet); thence northwardly 61 rods (1006.5 feet) to the place of beginning, containing 20 acres more or less; and being the same premises conveyed by John O'Neil to William Stutelberg by deed dated November 14th, 1876 and recorded in Volume 125, Page 242 of the Deed Records of said County.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED REAL ESTATE:

Situate in the State of Ohio, County of Montgomery and Township of Butler, and in the southwest quarter of Section 27, Town 3, Range 6 East, more particularly described as follows: Beginning at iron pin in center line of Maxton Road north 86°54" east, a distance of 1206.26 feet from the center line of the new Troy Pike and the west line of the said Section 27; thence continuing along the center line of Maxton Road north 86°54" east, a distance of 113 feet to an iron pin; thence South 3°06" east a distance of 215 feet to an iron pin; thence south 86°54" west a distance of 113 feet to an iron pin; thence north 3°6" west a distance of 215 feet to the place of beginning, containing 0.56 Acres.

ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED REAL ESTATE:

Situate in the Township of Butler, County of Montgomery, State of Ohio, and being within the Southwest Quarter of Section 27, Town 3, Range East bounded and described as follows: Commencing at an axle found in former centerline of Maxton Road (currently under construction and realignment) which marks the Northwest corner of the INTERSTATE SUBDV., TWO - SECTION 1 as recorded in Plat Book 132 Page 19 of the Plat Records of Montgomery County, Ohio, thence South 00 deg. 54'24" East a distance to 24.41 feet to a point on the southerly right-of-way line of Maxton Road relocated, said point being the *True Point of Beginning* for the herein after described tract. Thence, South 00 deg. 54'24" East a distance of 331.51 feet to an iron pin set; Thence, with a new division line, South 88 deg. 03'42" West a distance of 191.82 feet to an iron pin set; Thence, with a new division line, North 02 deg. 12'13" West, passing an iron pin found at 140.48 feet (southeast corner of Kimira S. Zehnder's 0.56 acre tract as recorded in MF-90-0073-C01) in all, a distance of 325.87 feet to an iron pin set on the southerly right-of-way of Maxton Road; Thence, with the southerly right-of-way of Maxton Road, North 88 deg. 03'42" East a distance of 78.31 feet to an iron pin set; Thence, with a curve to the left of radius = 1311.50 feet, delta angle = 05 deg. 17'35", long chord bears North 85 deg. 24'55" East - 121.12 feet, and along the arc a distance of 121.16 feet returning to the *True Point of Beginning* containing 1.468 acres, more or less.