

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (“Agreement”) is entered into by and among the **Pinellas Suncoast Transit Authority**, an independent special district created by and existing under Florida law (“PSTA”), **KB Crossroads, LLC**, a Florida limited liability company (“KB”), Largo/Crossroads Shopping Center Property Owners Association, Inc., a Florida not for profit corporation (“POA”) and **Wal-Mart Stores East, LP**, a Delaware limited partnership (“Wal-Mart”), each a “party” and together, the “parties.”

Recitals

- A. PSTA operates the public transit system in Pinellas County, Florida.
- B. On October 2, 2012, PSTA, the City of Largo, a municipality located in Pinellas County, Florida (“City”), and KB, the owner and developer of certain real property located in Pinellas County being developed as the Largo/Crossroads Project (“Development”) entered into an agreement titled “Largo Crossroads Transit Facility Agreement” (“TFA”). The TFA was recorded on February 14, 2013 in Book 17891 at Pages 1537-1603 of the Official Records of Pinellas County.
- C. In connection with the Development, the City issued a DRI Development Order, which included a DRI mitigation option for KB to assist in the construction of a mass transit transfer facility within the Development (“PSTA Transfer Station,” as further defined in the TFA).
- D. KB elected to perform the DRI mitigation and assist with the construction of the PSTA Transfer Station, and PSTA, the City, and KB entered into the TFA to provide the terms governing the location, conveyance, design, construction, costs, operation, and maintenance of the PSTA Transfer Station and Bus Ingress/Egress Roadways to be used as the ingress and egress route to the PSTA Transfer Station.
- E. The TFA provided that KB, as “Developer” under the TFA, would, at its own cost, construct the PSTA Station Improvements and Bus

Ingress/Egress Roadways in compliance with the terms and conditions stated in the TFA.

- F. The TFA further provided that, upon PSTA's approval and acceptance of the completed construction, KB would convey the PSTA Transfer Station Area to PSTA and grant PSTA a non-exclusive permanent easement over the Bus Ingress/Egress Roadways, and the conveyance would be subject to the obligations and restrictions set forth in the Easement With Covenants and Restrictions Affecting Land to be recorded for the Development.
- G. After the TFA was entered, Wal-Mart acquired ownership of Lot 1 of the Development.
- H. As the owners of property within the Development, KB and Wal-Mart entered into an "Easement With Covenants and Restrictions Affecting Land," which was recorded on April 19, 2013, in Book 17970 at Page 874 of the Official Records of Pinellas County ("ECRs"), subjecting the Development to certain easements, covenants, conditions, and restrictions.
- I. Wells Fargo Bank, N.A. ("WF"), KB's mortgagee, joined in and consented to the ECRs pursuant to the terms and provisions of the "Joinder and Consent of Mortgagee" attached to said ECRs, and except as stated therein, WF has no other obligations, duties and responsibilities under the ECRs or TFA.
- J. "Addendum I to Easements With Covenants and Restrictions Affecting Land – PSTA Transfer Station Addendum" ("Addendum I"), executed by PSTA on February 27, 2013, and recorded as an attachment to the ECRs, sets forth the easements, covenants, conditions, and restrictions that will take effect at the time the deed conveying the PSTA Transfer Station Area from KB to PSTA is recorded.
- K. Under the TFA and the ECRs, as amended by Addendum I, costs associated with replacing concrete for the Bus Ingress/Egress Roadways

will be assessed among the property owners within the Development as follows: PSTA – 85%; Owner of Lot 1 (also known as the Wal-Mart tract) – 10%; Owner of Lot 2 (also known as the Apartment tract) – 5%.

- L. By letter dated January 13, 2014, KB advised PSTA of the completion of the PSTA Station Improvements.
- M. By letter dated February 5, 2014, supplemented by a letter dated February 21, 2014, PSTA notified KB of deficiencies in the construction of the Bus Ingress/Egress Roadways.
- N. Wal-Mart has succeeded to and assumed certain remaining obligations of KB, as the “Developer” under the TFA, relating to the construction of the Bus Ingress/Egress Roadways. All obligations of the “Developer” under the TFA not assumed by Wal-Mart under the terms of the TFA, remain obligations of KB.
- O. By letter dated July 10, 2014, PSTA declared the Developer and/or Wal-Mart to be in breach of the TFA based on PSTA’s determination that the Bus Ingress/Egress Roadways were not constructed in compliance with the TFA due to various deficiencies in the construction of the Bus Ingress/Engress Roadways.
- P. As a result of the declaration of default, PSTA has not accepted conveyance of the PSTA Transfer Station Area.
- Q. KB and Wal-Mart deny and dispute that there has been a breach under the TFA with respect to the construction of the Bus Ingress/Egress Roadways.
- R. Effective September 22, 2014, KB conveyed by Fee Simple Deed lots 4, 5, 6, 7, 8, 10, 11 and 12 of the Development (the “POA Lots”) to the “POA”. Wal-Mart is the POA’s principal.

- S. To avoid the time, expense, and uncertainty of litigation, PSTA, KB, POA and Wal-Mart desire to fully resolve the dispute regarding the construction of the Bus Ingress/Egress Roadways (the "Dispute") on the terms set forth in this Agreement.

In consideration of the mutual promises and other consideration contained in this Agreement (the receipt and sufficiency of which is conclusively acknowledged) the parties, intending to be legally bound, agree as follows:

- 1. Recitals Incorporated**

The foregoing recitals are incorporated into and made part of this Agreement.

- 2. Undefined Capitalized Terms**

All undefined capital terms referred to herein shall have the same meaning as set forth in the TFA.

- 3. Binding on Successors, Agents, Assigns, etc.**

PSTA, Wal-Mart, the POA and KB enter into this Agreement on behalf of themselves, all persons and entities who may claim by or through them, and their officers, directors, agents, mortgagees, successors, and assigns.

- 4. Releases by PSTA**

Except for the obligations contained in this Agreement, and expressly contingent on Wal-Mart's, the POA's and KB's full performance of their obligations under this Agreement, PSTA (for itself and for all other persons and entities identified in paragraph 3 with respect to PSTA) hereby completely releases, waives, and forever discharges any and all claims, rights, demands, actions, or causes of action, of any kind whatsoever, known or unknown, foreseen or unforeseen, foreseeable or unforeseeable, and any consequences thereof, which it may have against KB and Wal-Mart (and all other persons and entities identified in paragraph 3 with respect to KB and Wal-Mart) relating only to the subject of the Dispute.

- 5. Releases by Wal-Mart**

Except for the obligations contained in this Agreement, and expressly contingent on PSTA's full performance of its obligations under this Agreement, Wal-Mart (for itself and for all other persons and entities identified in paragraph 3 with respect to Wal-Mart) hereby completely releases, waives, and forever discharges any and all claims, rights, demands, actions, or causes of action, of any kind whatsoever, known or unknown, foreseen or unforeseen, foreseeable or unforeseeable, and any consequences thereof,

which it may have against PSTA and KB (and all other persons and entities identified in paragraph 3 with respect to PSTA and KB) relating only to the subject of the Dispute.

6. Releases by KB

Except for the obligations contained in this Agreement, and expressly contingent on PSTA's and Wal-Mart's full performance of their obligations under this Agreement, KB (for itself and for all other persons and entities identified in paragraph 3 with respect to KB) hereby completely releases, waives, and forever discharges any and all claims, rights, demands, actions, or causes of action, of any kind whatsoever, known or unknown, foreseen or unforeseen, foreseeable or unforeseeable, and any consequences thereof, which it may have against PSTA and Wal-Mart (and all other persons and entities identified in paragraph 3 with respect to PSTA and Wal-Mart) relating only to the subject of the Dispute.

7. Payment of Settlement Amount to PSTA

Wal-Mart shall pay PSTA \$250,000 ("Settlement Amount") on or prior to the Closing as defined in paragraph 11(a).

8. Release of Escrow to Wal-Mart

Wal-Mart hereby agrees that upon payment by KB to Wal-Mart of the sum of Five Hundred Thousand and no/100 Dollars (\$500,000.00), which payment is due at or prior to the Closing, KB is released from any costs or expenses owed by KB pursuant to the Site Development Agreement dated March 5, 2013, the Bus Ingress/Egress Roadways Pavement and Redesign Agreement dated October 30, 2013, and the Bus Pad and Handrail Redesign Agreement dated January 13, 2014.

9. Approval of PSTA Station Improvements and Bus Ingress/Egress Roadways by PSTA

Upon receipt of the Settlement Amount pursuant to paragraph 7 above, PSTA shall be deemed to have approved and accepted the PSTA Station Improvements and Bus Ingress/Egress Roadways under Section 4(c) of the TFA , and this Agreement shall constitute PSTA Acceptance.

10. Agreement as to Costs of Replacing Concrete on Bus Ingress/Egress Roadways

In consideration for the promises contained in this Agreement, and expressly contingent on Wal-Mart's payment of the Settlement Amount pursuant to paragraph 7 above, the conveyance of the PSTA Transfer Station to PSTA pursuant to paragraph 11(a) below, and the grant to PSTA of the non-exclusive easement for the Bus Ingress/Egress

Roadways pursuant to paragraph 11(b) below, PSTA agrees to pay, on Wal-Mart's behalf, the 10% of Bus Ingress/Egress Roadways Concrete Replacement (as defined in Addendum I and the TFA) costs allocated to Wal-Mart as the owner of Lot 1/Wal-Mart Tract under Section VI of Addendum I and Section 6(k) of the TFA Agreement ("Wal-Mart Allocation") beginning on the date the deed conveying the PSTA Transfer Station Area to PSTA is recorded, and continuing until the earlier of (i) the expiration of 20 years from the date the deed is recorded; or (ii) the date on which PSTA completes the full depth concrete slab replacement of the Bus Ingress/Egress Roadways, or any portion thereof, upon reaching the Failure Threshold, as defined below, of the concrete constructed by or on behalf of Wal-Mart has occurred. "FailureThreshold" of the concrete shall be determined to have occurred when a cumulative total equal to thirty-five (35%) of the total number of concrete slabs within the Bus Ingress/Egress Roadways have been damaged to the point that it has been determined by PSTA that a full depth concrete replacement of those slabs was necessary ("PSTA Responsibility Period"). During the PSTA Responsibility Period, PSTA shall be responsible for paying the Wal-Mart Allocation on Wal-Mart's behalf, in addition to the 85% of Bus Ingress/Egress Roadways Concrete Replacement costs allocated to PSTA under Section VI of Addendum I and Section 6(k) of the TFA. PSTA shall provide Wal-Mart with fifteen (15) days' written notification of its determination that the Failure Threshold has been reached. If Wal-Mart disagrees with PSTA's determination, it shall notify PSTA in writing within fifteen (15) days of receipt of the written notice from PSTA, and Wal-Mart and PSTA shall then agree on a civil or structural engineer whose determination as to whether the Failure Threshold, as defined above, has been reached shall be final. Wal-Mart and PSTA shall share equally in payment of the engineer's charges.

11. Conveyance of PSTA Transfer Station Area and Grant of Non-Exclusive Easement

- a) Within thirty (30) days of the Effective Date of this Agreement, KB and PSTA agree to close on the conveyance of the PSTA Transfer Station pursuant to Section 5 of the TFA, so long as Wal-mart has complied with its obligations under this Agreement, and KB, the POA and PSTA have complied with this Agreement and the requirements of Section 5 of the TFA with regard to the conveyance of the PSTA Transfer Station (the "Closing").

- b) At or prior to the Closing on the conveyance of the PSTA Transfer Station pursuant to paragraph 11(a) above, the POA shall grant to PSTA the non-exclusive easement for the Bus Ingress/Egress Roadways pursuant to Section 5 of the TFA.

12. Full Compliance with the DRI

Upon KB's conveyance of the PSTA Transfer Station and Wal-Mart's grant of the non-exclusive Bus Roadway Ingress/Egress easement through the POA, PSTA agrees that Wal-Mart and KB are in full compliance with the DRI transportation mitigation requirement set forth in Section 3.5.A of the DRI Development Order, as set forth in Section 5(c) of the TFA.

13. Continuing Effect of TFA , ECRs and Addendum I

Except as otherwise provided herein, the TFA, ECRs and Addendum I shall continue to govern the relationship of the parties as it relates to the PSTA Transfer Station, the Bus Ingress/Egress Roadways, PSTA's use of the Bus Ingress/Egress Roadways and PSTA's ownership and operation of the PSTA Transfer Station.

14. Duties of "Developer" under the TFA

Both PSTA and Wal-Mart hereby acknowledge and agree that, upon PSTA's acceptance of the PSTA Station Improvements and Bus Ingress/Egress Roadways pursuant to Paragraph 9 of this Agreement and Section 4(c) of the TFA, and upon conveyance of the PSTA Transfer Station Area by KB to PSTA pursuant to Paragraph 11(a) of this Agreement and Section 5(c) of the TFA, KB, and its' mortgagee, WF, shall have no further obligations, duties, or responsibilities under the terms and provisions of the TFA with respect to the PSTA Transfer Station or the DRI transportation mitigation requirement set forth in Section 3.5.A. of the DRI Development Order for the Development, except as related to the conveyance of the PSTA Transfer Station Area to PSTA (including any legal obligations arising out of the closing of that transaction and special warranty deed). As of the date of this Agreement, and except as may otherwise be stated herein, to the best of their knowledge, the parties' representatives who are responsible for monitoring and enforcement of the TFA and the ECRs and who are responsible for the negotiation and execution of this Agreement have no knowledge of any breach (other than for the Dispute) by the parties to the TFA or the ECRs. In addition, WF's representatives have no knowledge of any breach (other than for the Dispute) by the parties to the TFA or the ECRs but acknowledge that KB Developer has breached its obligation to WF in its capacity as WF's mortgagor.

15. No Admission of Liability

This Agreement is made to avoid the uncertainty and expense of litigation and is not to be considered as an admission of liability, all liability being expressly denied by the parties. This Agreement is offered in settlement of claims and may not be introduced into evidence in any legal proceeding except to enforce or interpret the terms and promises contained in this Agreement.

16. No Construction Against Drafter

Both parties have had an opportunity to receive advice from legal counsel in connection with this Agreement, and, therefore, agree that this Agreement shall not be construed against one party or another as the drafter.

17. Effective Date

This Agreement will become effective on the date the last party signs it, as indicated by the date stated under the party's signature ("Effective Date"). The PSTA representative shall execute this agreement only after receiving all necessary authorizations from PSTA's governing board.

18. Entire Agreement

This Agreement sets forth the entire agreement between the parties and supersedes any and all prior agreements or understandings, written or oral, between the parties pertaining to the subject matter. There are no other promises or agreements which shall be binding on the parties with respect to this subject matter unless contained in this Agreement.

19. Miscellaneous

- a. This Agreement shall be governed by and construed in accordance with Florida law.
- b. This Agreement is made in settlement of claims and may not be introduced into evidence in any legal proceeding except to enforce or interpret its terms.
- c. The parties agree that in the event of any breach of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs incurred in enforcing its rights under this Agreement.
- d. If any part of this Agreement be declared illegal or invalid by any court of competent jurisdiction, the remainder of this Agreement shall be valid and enforceable.
- e. This Agreement may be executed by the parties in multiple counterparts, each of which shall be deemed an original and all of which together shall constitute a signed Agreement. Facsimile and scanned signatures are binding on the parties as if they were original signatures.

- f. Venue for purposes of any action filed in state court brought to enforce or construe this Agreement shall lie solely in the Sixth Judicial Circuit in and for Pinellas County, Florida and for purposes of any action filed in federal court, shall lie solely in the U.S. District Court, Middle District of Florida, Tampa Division.

The parties' authorized agents have executed this Agreement on the date(s) set forth below.

Pinellas Suncoast Transit Authority

By: _____

Its: _____

Date: _____

Attest:

Print Name: _____

Approved as to Form:

Alan S. Zimmet, B.C.S.
General Counsel

Wal-Mart Stores East, LP

By: _____

Its: _____

Date: _____

Witnesses:

Print Name: _____

Print Name: _____

**Largo/Crossroads Shopping Center Property
Owners Association, Inc.**

By: _____

Its: _____

Date: _____

Witnesses:

Print Name: _____

Print Name: _____

KB Crossroads, LLC

By: _____

Its: _____

Date: _____

Witnesses:

Print Name: _____

Print Name: _____

JOINDER AND CONSENT OF MORTGAGEE

Wells Fargo Bank, N.A., successor by merger to Wachovia Bank, N.A., as holder of those secured liens as more particularly described on Exhibit "1" attached hereto (collectively, the "Security Instruments") hereby joins in and consents to the Settlement Agreement and Mutual Release.

Wells Fargo Bank, N.A., successor by merger to Wachovia Bank, N.A.

By: _____

Its: _____

Date: _____

Witnesses:

Print Name: _____

Print Name: _____