

***AGREEMENT BETWEEN ALACHUA COUNTY
AND WAL-MART STORES EAST, LP***

THIS AGREEMENT is made and entered into this 11th day of July 2006, by and between Alachua County, a charter county and political subdivision of the State of Florida, hereinafter referred to as the "County", and Wal-Mart Stores East, LP, hereinafter referred to as "Wal-Mart."

WHEREAS, on June 13, 2006, the Suwannee River Water Management District ("District") issued a general permit to Wal-Mart for a stormwater system for a Wal-Mart supercenter at the southeast quadrant of the intersection of U.S. Highway 441 and Interstate 75 in Alachua, Florida ("General Permit"); and

WHEREAS, on June 27, 2006, out of concern for potential impacts to the Floridan Aquifer and springs within Alachua County, the Alachua County Board of County Commissioners directed that a petition for formal administrative hearing be filed to challenge the general permit; and

WHEREAS, upon timely filed request, the District granted the County an extension until July 14, 2006, to file a petition for formal administrative hearing, in order to provide the County and Wal-Mart time to explore a resolution of the issues; and

WHEREAS, the parties diligently and in good faith worked out a proposed resolution that was presented to, and approved by, the Alachua County Board of County Commissioners on July 11, 2006.

NOW, THEREFORE, in consideration of the County's waiver of its right to pursue a challenge to the general permit, and in consideration of Wal-Mart's promises and undertakings herein, the parties agree as follows:

1. Wal-Mart hereby commits to install a pervious pavement section in a portion of the remote parking areas as determined solely by Wal-Mart. The extent of the pervious pavement will be designed by Wal-Mart to reflect the extreme grade changes across the site in an effort to ensure that the areas where the pervious pavement is installed are flat enough to take advantage of infiltration through the pavement section.

2. Wal-Mart hereby commits to evaluate the use of collected rainwater from the rooftop for use in irrigating the site. The final determination by Wal-Mart on the use of this option cannot be made until the design of the landscape plan and irrigation system is complete.

3. Wal-Mart hereby agrees to mandate, in the operation and maintenance requirements of the store, a weekly visual inspection of the stormwater pond by a store employee.

4. Wal-Mart hereby agrees to modify the Sinkhole Repair detail included on the site construction plans to require notification of the County, as well as the District, and inspection by a qualified geotechnical engineer within two (2) business days. Upon approval of an appropriate remediation plan by the District, Wal-Mart will obtain the services of a qualified contractor to complete the necessary repair in a timely manner.

5. Wal-Mart hereby commits to keep fertilizers and/or potentially hazardous substances under roof.

6. Wal-Mart hereby commits to include a drive-through pick-up area in its proposed garden center which will allow customers to load fertilizers into their vehicle at the garden center.

7. Wal-Mart hereby commits to work with the City to have floor drains in its proposed covered garden center directed to the sanitary sewer system rather than to the stormwater system.

8. Wal-Mart hereby agrees to incorporate the University of Florida Extension's Florida Yards and Neighborhood Program, Environmental Landscape Management Principles and Best Management Practices and the Guidelines for Model Ordinance Language for Protection of Water Quality and Quantity Using Florida Friendly Lawns and Landscapes (Florida Department of Environmental Protection, September 2, 2003), as it deems appropriate, into its proposed landscape plan.

9. Wal-Mart hereby commits that its proposed landscape plan will be designed to use native or non-invasive materials.

10. Wal-Mart hereby commits that it will incorporate appropriate trees and plant material into the landscape plan, including plantings around the pond.

11. Wal-Mart hereby commits to consider, in its sole discretion, participating in an area-wide pre-development assessment of the Mill Creek Cave System aquatic ecosystem.

12. Wal-Mart hereby commits to consider, in its sole discretion, participating in an area-wide plan for post-development monitoring of the Mill Creek Cave System aquatic ecosystem.

13. Wal-Mart hereby commits to prepare a detailed Surface Water Pollution Prevention Plan (SWPPP) prior to the start of construction in accordance with state regulations. The Wal-Mart contractor will hold an on-site meeting to review the SWPPP prior to earth disturbing activities. At a minimum, the City of Alachua, Alachua County, the Department of Transportation, the District, and the Department of Environmental Protection will be invited to this meeting.

14. Wal-Mart hereby commits that it will provide landscaping in its proposed stormwater pond. In light of the fact that the proposed pond relies on infiltration, the type and number of trees planted will be selected to prevent tree litter from potentially limiting the infiltration capacity of the

basin. The pond bottom and sides will be sodded with bahia, with a minimal organic topsoil mat, as these organic soils may act as a thin confining layer which then impedes percolation of stormwater.

15. Each of the items set forth in Paragraphs 1 through 14 are contingent upon not being in conflict with any requirement or regulation of any Federal agency, State agency, the District, or the City of Alachua. To the extent any conflict exists or arises, the requirement or regulation of the Federal agency, State agency, the District, or the City of Alachua shall supersede the item set forth in such Paragraphs.

16. All notices and other communications required hereunder shall be in writing and shall be delivered personally, or by Federal Express, Airborne Express Mail, or other nationally recognized overnight commercial delivery service, fees prepaid for next day delivery. Such notices shall be deemed to have been received (i) upon delivery, if personally delivered; or (ii) upon the earlier of actual receipt or the next business day if sent by Federal Express, Airborne Express, or other nationally recognized overnight commercial delivery service, if fees prepaid for next day delivery. The addresses for delivery of such notices shall be as follows:

(a) To Wal-Mart:

FL Real Estate Manager
Wal-Mart Stores, Inc.
2001 S.E. 10th Street
Bentonville, Arkansas 72716-0550

With a copy to:

David A. Theriaque, Esquire
Theriaque Vorbeck & Spain
1114 East Park Avenue
Tallahassee, Florida 32301

(b) To County:

Randall Reid
County Manager
Post Office Drawer 2877
Gainesville, FL 32602

17. This Agreement shall be construed, interpreted, enforced, and governed in accordance with the laws of the State of Florida. Venue for any action arising out of or related to this Agreement shall be in Alachua County, Florida, and the parties hereto agree that the Circuit Court in and for Alachua County, Florida, shall retain jurisdiction over the matters addressed herein and the parties hereto in the event there arise any issues relating to interpretation or enforcement hereof.

18. This Agreement shall be binding upon and shall inure to the benefit of the respective successors, assigns, estates, executors, beneficiaries, officers, directors, and members of the parties hereto.

19. All parties hereto acknowledge that they participated in the negotiation and drafting of the terms of this document and acknowledge that no provision shall be strictly construed against one party or the other based solely on draftsmanship. The parties have entered into this Agreement without duress, coercion, or under undue influence of any kind, and are motivated by a desire to avoid the costs of litigation. Further, all parties hereto acknowledge that they have been represented by counsel in connection with the negotiation of the terms of this Agreement and that they enter into this Agreement freely and voluntarily, and only after consultation with their respective counsel.

20. This Agreement may be executed in counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the parties hereto and all of which shall constitute one and the same agreement.

21. This Agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof. No representations have been made, either express or implied by the parties, other than those expressly set forth in this Agreement. This Agreement, or any part hereof, may not be changed, amended, waived, discharged, or terminated except by an instrument in writing, executed by the party against whom or which enforcement of the change, amendment, waiver, discharge, or termination is sought.

22. This Agreement shall be void if Alachua County files a legal challenge to the General Permit.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed for the uses and purposes therein expressed on the day and year first above-written.

ALACHUA COUNTY, FLORIDA

By: _____

Lee Pinkoson
Chair, Board of County Commissioners

APPROVED AS TO FORM

Alachua County Attorney

WAL-MART STORES EAST, LP,
Delaware limited liability company,
General Partner

By: _____

J. Chris Callaway
Assistant Vice President