

Meeting Date: May 12, 2015

Agenda Item 8

REQUESTED COMMISSION ACTION:

Consent  Ordinance  Resolution  Consideration/Discussion  Presentation

**SHORT TITLE** A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONSENT AND INDEMNIFICATION AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND NAPLETON INVESTMENT PARTNERSHIP, LP; PROVIDING AN EFFECTIVE DATE.

**Summary of Purpose and Why:**

Summary: The property is located at 350 W Copans Road. This site previously had an agreement that allowed for the construction of a canopy over a public utility easement via Resolution 97-208. At that time the building was a Sam's Club (Wal-Mart Stores, Inc.) The building now houses a Mercedes-Benz dealership. The applicant is proposing to replace the canopy, and extend the coverage over the easement (PZ# 15-12000007). This modification requires an update to the previous agreement. Included in the back-up is a copy of Resolution 97-208, which includes a plan demonstrating the canopy over the easement area. Exhibit "B" is a site plan showing the proposed canopy and a portion of the building entrance, planters, canopy support columns, within the easement. Issues raised by City Attorney in 4/8/15 email have been resolved.

- (1) Origin of request for this action: Development Services Department
- (2) Primary staff contact: Scott Reale/ Robin Bird Ext. 4667
- (3) Expiration of contract, if applicable: N/A
- (4) Fiscal impact and source of funding: N/A

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
Dev. Services	3/20/2015	Approval	<i>[Signature]</i>
City Attorney	4/10/2015	—	CAC: #2015-853 <i>[Signature]</i>
Public Works	4/24/15	APPROVED	<i>[Signature]</i>
Risk Management	4/27/15	Approved	<i>[Signature]</i>
			<i>[Signature]</i>
<input checked="" type="checkbox"/> City Manager <i>[Signature]</i>		<i>[Signature]</i>	

ACTION TAKEN BY COMMISSION:

Ordinance	Resolution	Consideration	Workshop
1 <sup>st</sup> Reading	1 <sup>st</sup> Reading	Results:	Results:
2 <sup>nd</sup> Reading			





# DEVELOPMENT SERVICES

Robin M. Bird, Development Services Director  
E: robin.bird@copbfl.com | P: 954.786.4629 | F: 954.786.4044

**MEMORANDUM NO. 15-229**

DATE: May 7, 2015

TO: Dennis W. Beach, City Manager

VIA: Robin M. Bird, Development Services Director

FROM: Scott Reale, AICP, Planner

SUBJECT: Agenda item 8  
Revision to Reso 97-208  
Mercedes-Benz canopy  
350 W Copans Rd

P&Z: 15-12100002

The revised consent and indemnification agreement is currently being reviewed by the attorneys for Napleton Investment Partnership, LP. It is expected page 5 of this agreement will be signed, notarized, and provided to the City prior to the 5/12/15 Commission meeting.



# MEMORANDUM

## Development Services

**ADMINISTRATIVE REPORT NO. 15- 101**

**DATE:** February 26, 2015 – **REVISED March 4, 2015**

**TO:** Gordon B. Linn, City Attorney

**VIA:** Robin M. Bird, Development Services Director

**FROM:** Scott Reale, Planner

**RE:** Revision to Reso 97-208  
Mercedes-Benz canopy  
350 W Copans Rd

P&Z: 15-12100002

Attached please find Resolution 97-208 which allowed construction of a canopy over a public utility easement. At that time the building was a Sam's Club (Wal-Mart Stores, Inc.) The building now houses a Mercedes-Benz dealership, and the applicant is proposing to replace the canopy with a larger one over the easement. It is the opinion of Development Services staff that this modification shall require an update to the Resolution. The attached exhibit shows the proposed canopy in the easement, along with a portion of the building entrance, planters, and canopy support columns.

The proposal is currently be reviewed by Public Works. Development Services staff has no objection to the expansion, subject to City Commission approval.

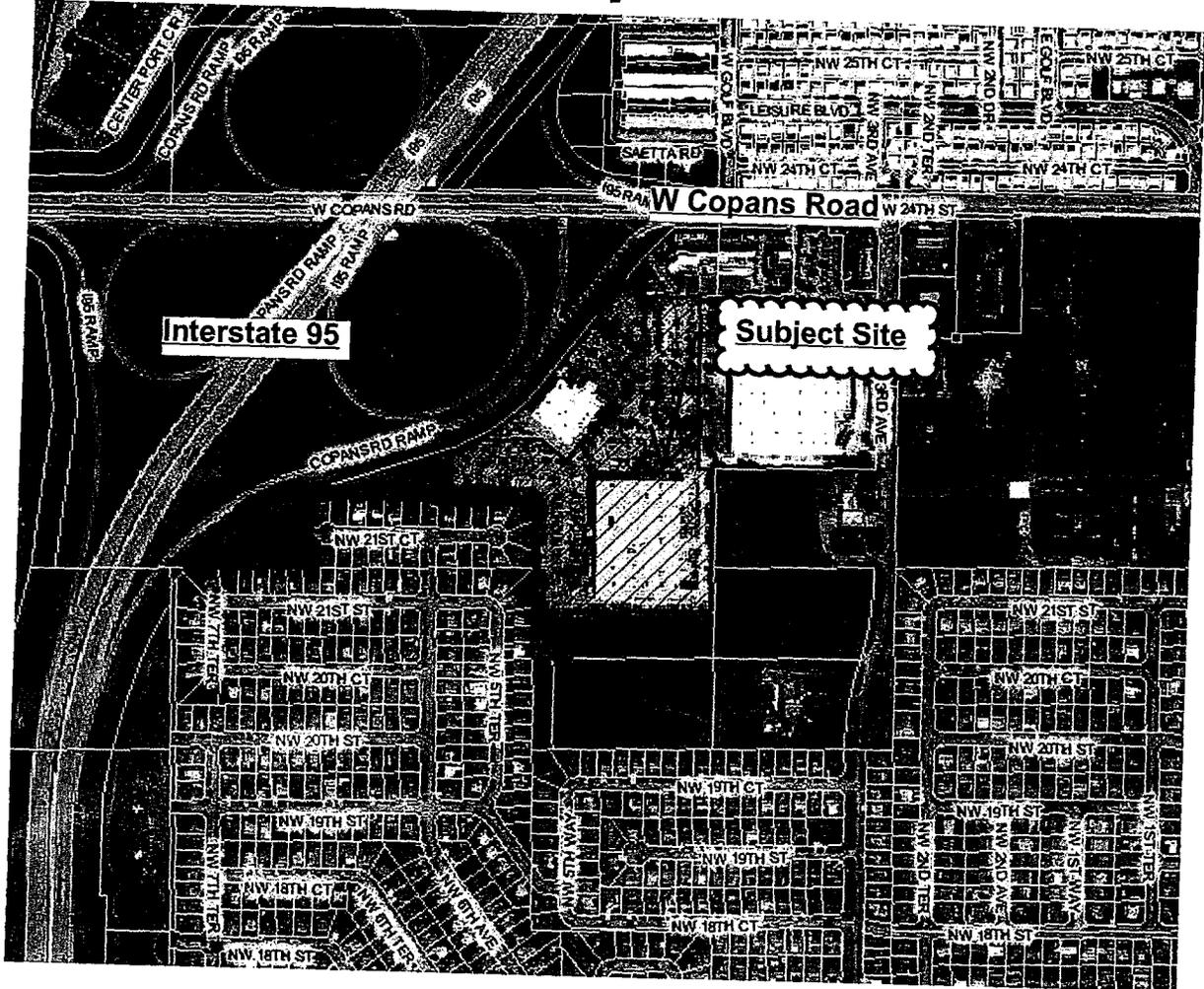
Please review and prepare an updated resolution for City Commission. The applicant's attorney is Mark J. Lynn, Esq. of Greenspoon Marder Law. His contact information is 954.734.1835 / [mark.lynn@gmlaw.com](mailto:mark.lynn@gmlaw.com).

Please contact me at extension 4667 / [scott.reale@copbfl.com](mailto:scott.reale@copbfl.com) if you need additional information or have any questions.

Thank you.

Attachments

# 350 W Copans Rd





**City Attorney's Communication #2015-853**

April 10, 2015

**TO:** Scott Reale, AICP, Planner  
**FROM:** Gordon B. Linn, City Attorney  
**RE:** Resolution – Consent and Indemnification Agreement

As requested in your e-mail of April 8, 2015, the following form of resolution, relative to the above-referenced matter, has been prepared and is attached:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONSENT AND INDEMNIFICATION AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND NAPLETON INVESTMENT PARTNERSHIP, LP; PROVIDING AN EFFECTIVE DATE.**

Please address issues in my e-mail to you prior to presentation to the City Commission.

---

GORDON B. LINN

GBL/jrm  
l:cor/dev-srv/2015-853

Attachment

## Scott Reale

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**From:** Gordon Linn  
**Sent:** Wednesday, April 08, 2015 4:30 PM  
**To:** Scott Reale  
**Subject:** FW: Consent and Indemnification Agreement  
**Attachments:** Mercedes Benz of Pompano - Revised consent agreement

Scott,

The proposed agreement is acceptable. I would suggest that the indemnification language include "its elected officials". ~~This may be a question for engineering or public works~~; do we have an interest in limiting the distance the canopy extends from the building or how wide it is? If we do, then the agreement should so provide.

I will have a resolution prepared while these issues are being addressed.

Gordon

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**From:** Jill Mesojedec  
**Sent:** Wednesday, April 08, 2015 4:22 PM  
**To:** Gordon Linn  
**Subject:** FW: Consent and Indemnification Agreement

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**From:** Scott Reale  
**Sent:** Wednesday, April 08, 2015 2:24 PM  
**To:** Jill Mesojedec  
**Subject:** RE: Consent and Indemnification Agreement

Hi Jill,

Attached is the revised consent and indemnification agreement provided by the applicant's attorney. (This is for the proposed canopy being built over an existing utility easement at the Mercedes-Benz dealership.)

Please let me know if you need anything else from me.

Thank you,



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**From:** Jill Mesojedec  
**Sent:** Friday, March 06, 2015 3:27 PM  
**To:** Scott Reale  
**Subject:** Consent and Indemnification Agreement

Hi Scott,

Gordon wanted me to forward to you the previous consent agreement and ask that you mark it up to include all the new information for this new agreement. When you have that completed, forward it to us and we will prepare the new agreement as well as the resolution.

Jill R. Mesojedec, FRP  
Florida Registered Paralegal  
Office of the City Attorney  
City of Pompano Beach  
P. O. Box 2083  
Pompano Beach, Florida 33061  
954-786-4614 (office)  
954-786-4617 (fax)

Street Address:  
100 W. Atlantic Blvd., Suite 467  
Pompano Beach, Florida 33060

**Disclaimer:**

This e-mail is intended only for the person addressed. It may contain confidential information and/or privileged material. If you receive this in error, please notify the sender immediately and delete the information from your computer. Please do not copy or use it for any purpose nor disclose its contents to any other person.

## Scott Reale

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**From:** John Sfiropoulos  
**Sent:** Thursday, April 23, 2015 11:21 AM  
**To:** Randolph Brown; William Herrmann  
**Cc:** Robert McCaughan; Alessandra Delfico; Robin Bird; Scott Reale  
**Subject:** FW: Pompano Mercedes  
**Attachments:** CANOPY-EASEMENT RESOLUTION EXHIBIT.PDF; Consent Agreement.pdf; Pic 1.jpg; Pic 2.jpg; Pic 3.jpg

Randy / Bill,

Please see below and find attached. I've taken some photos of existing conditions of the canopy as well the locate marks of our water main. As you can see, the existing water main location is not ideal, and the proposal to extend the canopy will neither help nor hurt the situation, therefore I find the "Indemnification and Consent" Agreement attached which is to extend the canopy (going before May 12<sup>th</sup> Commission) acceptable – there exists sufficient language in the proposed Agreement to protect the City. The only item I noticed was that according to the "Exhibit" attached, a significant portion of the water main sits outside of the easement to the north. We'll need to coordinate with Thomas Engineering to have the easement re-described as part of this Agreement for short term, and look into possible water main re-location altogether as a long term solution.

Thanks,  
John

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**From:** Andrea Virgin [mailto:avirgin@Thomaseg.com]  
**Sent:** Wednesday, April 22, 2015 5:57 PM  
**To:** John Sfiropoulos  
**Subject:** Pompano Mercedes

Sorry for the delay in sending this today – it was one of those Wednesdays! ☺

Columns are just over a foot in diameter and they have been kept a minimum 3-ft away from the watermain (edge of pipe to edge of pipe).

Let me know if you have any questions. Thanks John and have a great night!

Sincerely,

**Andrea R. Virgin, PE, LEED AP**  
Project Manager

**THOMAS**  
ENGINEERING GROUP  
THOMAS ENGINEERING GROUP

1000 Corporate Drive, Suite 250  
Fort Lauderdale, FL 33334  
P: 954-202-7000 x. 1043  
C: 561-859-2117  
E: [avirgin@thomaseg.com](mailto:avirgin@thomaseg.com)

RESOLUTION NO. 2015-\_\_\_\_\_

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONSENT AND INDEMNIFICATION AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND NAPLETON INVESTMENT PARTNERSHIP, LP; PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That an Agreement between the City of Pompano Beach and Napleton Investment Partnership, LP, a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

**SECTION 2.** That the proper City officials are hereby authorized to execute said Agreement between the City of Pompano Beach and Napleton Investment Partnership, LP.

**SECTION 3.** This Resolution shall become effective upon passage.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
**LAMAR FISHER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**ASCELETA HAMMOND, CITY CLERK**

**CONSENT AND INDEMNIFICATION**  
**AGREEMENT**

**THIS AGREEMENT**, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between the CITY OF POMPANO BEACH, a municipal corporation, with an office and place of business at 100 West Atlantic Boulevard, Pompano Beach, FL 33060 (hereinafter referred to as the "CITY") and NAPLETON INVESTMENT PARTNERSHIP, LP, an Illinois corporation, with an office and place of business at 1 East Oak Hill Drive, Suite 100, Westmont, IL 60559 (hereinafter referred to as "NAPLETON INVESTMENT");

**WITNESSETH**

**WHEREAS**, WAL-MART Stores, Inc., granted to the CITY that certain Easement dated December 14, 1990 (the "Easement Agreement") which was accepted by the CITY by Resolution Accepting a Grant of Easement, which Resolution was passed and adopted on February 5, 1991 (the Easement Agreement and Resolution being attached hereto and made a part hereof as Exhibit "A"); and which "Easement Agreement" was recorded on February 8, 1991 in Official Records Book 18130, Page 810 of the Public Records of Broward County, Florida; and

**WHEREAS**, the Easement Agreement granted to the CITY a perpetual public utilities easement over and across that certain real property formerly known as "Sam's Wholesale Club" and more fully shown and described herein ("Easement Area"), the CITY having constructed therein a water main, all as shown upon the drawing thereof, attached hereto and made a part hereof as Exhibit "B"; and

**WHEREAS**, NAPLETON INVESTMENT has requested that the CITY grant its consent to the removal of an existing roof canopy and installation of a proposed new roof canopy bridging a portion of the Easement Area all as shown upon Exhibit "B" (hereinafter called the "New Canopy"); and

**WHEREAS**, the CITY is willing to grant its consent to the New Canopy provided that (a) NAPLETON INVESTMENT will indemnify and hold the CITY harmless from any damages, cost or expense arising out of the New Canopy; (b) certain minimum height restrictions are imposed upon the roof canopy; and (c) the CITY shall not be responsible for replacement of the canopy or the concrete floor comprising the New Canopy in the event that repair, maintenance or replacement is required to the water main located within the Easement Area.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and agreements set forth in this Agreement, the CITY and NAPLETON INVESTMENT hereby agree as follows:

1. The recitals set forth above are accurate and are incorporated into this Agreement by this reference.

2. The CITY hereby agrees upon fulfillment of this Agreement and all other applicable City Ordinances and in consideration of the assurances given herein to permit NAPLETON INVESTMENT to (i) install, locate, operate and maintain, repair and replace the New Canopy twenty (20) feet in height measured from the existing concrete floor thereunder, excepting for an existing tie beam, and (ii) removal and replacement and/or repair of structural columns and flooring as necessary to accommodate the installation of the New Canopy (collectively, the "New Retrofit")

3. NAPLETON INVESTMENT herein indemnifies and holds harmless the CITY, its agent and employees, from and against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees arising from or resulting from the performance of work upon the location of the New Retrofit improvements within the Easement Area; or the use of the Easement Area, including any damages or losses to vehicles parked in the Easement Area, except such damages, claims or actions resulting from negligent acts or omissions directly or indirectly attributable to the negligence or willful misconduct of the CITY.

4. In the event that the CITY shall determine that it is necessary or desirable to maintain, repair or replace the water main or other utilities so that the Easement Area must be excavated, the CITY shall not be responsible for the repair or replacement of any of the New Retrofit improvements including the New Canopy and/or concrete floor thereunder.

5. In the event CITY must repair any portion of the City System located within the Easement Area, NAPLETON INVESTMENT hereby agrees to remove any parked vehicle from the portion of the Easement Area under repair within twenty-four (24) hours of written notification by the CITY to NAPLETON INVESTMENT. In the event of an emergency, as determined by the CITY, and an immediate repair is necessary, City shall have the right to verbally demand NAPLETON INVESTMENT to relocate or remove any parked vehicles obstructing the portion of the Easement area under repair. In the event NAPLETON INVESTMENT fails to relocate the parked vehicle immediately upon request, City shall remove or relocate such parked vehicle and charge NAPLETON INVESTMENT for the cost of said removal or relocation. In such an event, the CITY shall further be released and held harmless by NAPLETON INVESTMENT for any damage or loss to any vehicle which must be moved or relocated.

6. Notices hereunder will be given by registered mail, return receipt requested, with postage prepaid at the addresses below or in accordance with the latest change of address given by registered mail, return receipt requested, to the party to which it is sent:

To the City:                      The City of Pompano Beach  
   1201 N.W. 5th Avenue  
   Pompano Beach, Florida 33060

Attention: Rob McCaughan, Public Works Director

with copies to: City of Pompano Beach  
Office of the City Attorney  
P. O. Box 2083  
Pompano Beach, Florida 33061  
Attention: Gordon B. Linn, City Attorney

To NAPLETON INVESTMENT: Napleton Investment Partnership, L.P.  
1 East Oak Hill Drive, Suite 100  
Westmont, IL 60559  
ATTN: \_\_\_\_\_

7. This Agreement is personal in nature and is not intended to benefit successor parties or assigns and contains all of the terms agreed upon by the parties and may not be changed except in writing by the parties to this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

Witnesses:

**CITY OF POMPANO BEACH**

\_\_\_\_\_

By: \_\_\_\_\_  
LAMAR FISHER, MAYOR

\_\_\_\_\_

By: \_\_\_\_\_  
DENNIS W. BEACH, CITY MANAGER

Attest:

\_\_\_\_\_  
ASCELETA HAMMOND, CITY CLERK

(SEAL)

APPROVED AS TO DEPARTMENT HEAD:

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

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

"NAPLETON INVESTMENT":

Witnesses:

NAPLETON INVESTMENT PARTNERSHIP, LP

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

Typed or Printed Name

Title: \_\_\_\_\_

(SEAL)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015 by \_\_\_\_\_ as \_\_\_\_\_ of NAPLETON INVESTMENT, LP, an Illinois Limited Partnership, on behalf of the partnership. He/she is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

# Exhibit "A"

**CITY OF POMPANO BEACH  
Broward County, Florida**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONSENT AND INDEMNIFICATION AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND WAL-MART STORES, INC. PROVIDING CONSENT FOR CERTAIN STRUCTURES TO BRIDGE AN EASEMENT AREA; PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1:** That a Consent and Indemnification Agreement between the City of Pompano Beach and Wal-Mart Stores, Inc., a copy of which Agreement is attached hereto and incorporated by reference as if set forth in full, is hereby approved.

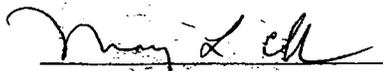
**SECTION 2:** That the proper City officials are hereby authorized to execute said Consent and Indemnification Agreement between the City of Pompano Beach and Wal-Mart Stores, Inc.

**SECTION 3:** This Resolution shall become effective upon passage.

PASSED AND ADOPTED this 9th day of September, 1997.

  
\_\_\_\_\_  
WILLIAM F. GRIFFIN, MAYOR

ATTEST:

  
\_\_\_\_\_  
MARY L. CHAMBERS, CITY CLERK

:amd  
6/10/97  
l:reso/97-313a

**CONSENT AND INDEMNIFICATION  
AGREEMENT**

**THIS AGREEMENT**, dated this 9th day of September, 1997, by and between the CITY OF POMPANO BEACH, a municipal corporation, with an office and place of business at P. O. Box 1300, Pompano Beach, Florida (hereinafter referred to as the "CITY") and WAL-MART STORES, INC., a Delaware corporation, with an office and place of business at 701 South Walton Blvd., Bentonville, AR 72716 (hereinafter referred to as "WAL-MART");

**WITNESSETH**

**WHEREAS**, WAL-MART Stores, Inc., granted to the CITY that certain Easement dated December 14, 1990 (the "Easement Agreement") which was accepted by the CITY by Resolution Accepting a Grant of Easement, which Resolution was passed and adopted on February 5, 1991 (the Easement Agreement and Resolution being attached hereto and made a part hereof as Exhibit "A"); and which "Easement Agreement" was recorded on February 8, 1991 in Official Records Book 18130, Page 810 of the Public Records of Broward County, Florida; and

**WHEREAS**, the Easement Agreement granted to the CITY a perpetual public utilities easement over and across that certain real property formerly known as "Sam's Wholesale Club" and more fully shown and described herein ("Easement Area"), the CITY having constructed therein a water main, all as shown upon the drawing thereof, attached hereto and made a part hereof as Exhibit "B"; and

**WHEREAS**, WAL-MART has requested that the CITY grant its consent to the construction of a proposed roof canopy bridging a portion of the Easement Area and a new concrete floor for the display of automobiles covering a portion of the Easement Area, all as shown upon Exhibit "B" (hereinafter called the "Sam's Retrofit"); and

**WHEREAS**, the CITY is willing to grant its consent to the Sam's Retrofit provided that (a) WAL-MART will indemnify and hold the CITY harmless from any damages, cost or expense arising out of the Sam's Retrofit; (b) certain minimum height restrictions are imposed upon the roof canopy; and (c) the CITY shall not be responsible for replacement of the canopy or the concrete floor comprising the Sam's Retrofit in the event that repair, maintenance or replacement is required to the water main located within the Easement Area.

**NOW, THEREFORE,** for and in consideration of the mutual covenants and agreements set forth in this Agreement, the CITY and WAL-MART hereby agree as follows:

1. The recitals set forth above are accurate and are incorporated into this Agreement by this reference.
2. The CITY hereby agrees upon fulfillment of this Agreement and all other applicable City Ordinances and in consideration of the assurances given herein to permit WAL-MART to install, locate, operate and maintain, repair and replace a roof canopy twenty (20) feet in height measured from a new concrete floor, excepting for a required tie beam which shall be at least fourteen (14) feet in height measured from a new concrete floor and a concrete floor bridging the Easement Area shown on Exhibit "B".
3. It is understood and agreed by the parties that the new concrete floor which is part of the Sam's Retrofit will be "saw cut" or "scored at a minimum of three (3) feet on either side of the water main location within the Easement Area.
4. WAL-MART herein indemnifies and holds harmless the CITY, its agent and employees, from and against all claims, damages, losses and expenses, including, but not limited to, attorneys' fees arising from or resulting from the performance of work upon the Sam's Retrofit, the location of Sam's Retrofit improvements within the Easement Area; or the use of the Easement Area, including any damages or losses to vehicles parked in the Easement Area, except such damages, claims or actions resulting from negligent acts or omissions directly or indirectly attributable to the negligence or willful misconduct of the CITY.
5. In the event that the CITY shall determine that it is necessary or desirable to maintain, repair or replace the water main or other utilities so that the Easement Area must be excavated, the CITY shall not be responsible for the repair or replacement of any of the Sam's Retrofit improvements including the new concrete floor or the proposed roof canopy.
6. In the event CITY must repair any portion of the City System located within the Easement Area, WAL-MART hereby agrees to remove any parked vehicle from the portion of the Easement Area under repair within twenty-four (24) hours of written notification by the CITY to WAL-MART. In the event of an emergency, as determined by the CITY, and an immediate repair is necessary, City shall have the right to verbally demand WAL-MART to relocate or remove any parked vehicles obstructing the portion of the Easement area under repair. In the event WAL-MART fails to relocate the parked vehicle immediately upon request, City shall remove or relocate such parked vehicle and charge WAL-MART for the cost of said removal or relocation. In such an event, the CITY shall further be released and held harmless by WAL-MART for any damage or loss to any vehicle which must be moved or relocated.

7. Notices hereunder will be given by registered mail, return receipt requested, with postage prepaid at the addresses below or in accordance with the latest change of address given by registered mail, return receipt requested, to the party to which it is sent:

To the City:           The City of Pompano Beach  
                          1201 N.E. 5th Avenue  
                          Pompano Beach, Florida 33060

Attention:   William F. Flaherty, P.E., Utilities Director

with copies to:       City of Pompano Beach  
                          Office of the City Attorney  
                          P. O. Box 2083  
                          Pompano Beach, Florida 33061

Attention:   Gordon B. Linn, City Attorney

To WAL-MART:        Wal-Mart Stores, Inc.  
                          701 S. Walton Boulevard  
                          Bentonville, AR 72716

8. This Agreement is personal in nature and is not intended to benefit successor parties or assigns and contains all of the terms agreed upon by the parties and may not be changed except in writing by the parties to this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

"CITY":

Witnesses:

CITY OF POMPANO BEACH

Marcella Smaker

By: William F. Griffin  
WILLIAM F. GRIFFIN, MAYOR

Gy Basche

By: C. William Largett, Jr.  
C. WILLIAM LARGETT, JR.  
CITY MANAGER

Attest:

Mary L. Chambers  
MARY L. CHAMBERS  
CITY CLERK

(SEAL)

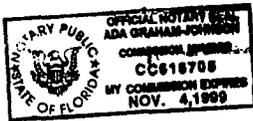
Approved by:

Gordon B. Linn, Esq.  
GORDON B. LINN, ESQ.  
CITY ATTORNEY

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 15th day of September, 1997 by WILLIAM F. GRIFFIN as Mayor of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:



Ada Graham-Johnson  
NOTARY PUBLIC, STATE OF FLORIDA

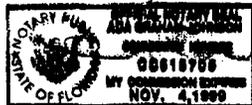
(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 15th day of September, 1997 by C. WILLIAM HARGETT, JR. as City Manager of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:



Ada Graham-Johnson  
NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 15th day of  
September, 1997 by MARY L. CHAMBERS as City Clerk of the City of Pompano Beach,  
Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:



Ada Graham-Johnson  
NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

"WAL-MART":

Witnesses:

WAL-MART STORES, INC.

Ronald J. West  
Stephen D. Zest

By: ATY  
Anthony L. Fuller  
Typed or Printed Name

Title: Vice President, Wal-Mart Realty

(SEAL)

STATE OF Arkansas  
COUNTY OF Benton

The foregoing instrument was acknowledged before me this 24th day of June, 1997 by Anthony L. Fuller as Vice President, Wal-Mart Realty of WAL-MART STORES, INC., a Delaware corporation, on behalf of the corporation. He/she is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL:

Rhonda Benson Ashby  
NOTARY PUBLIC, STATE OF ~~MISSISSIPPI~~ Arkansas

Rhonda Benson Ashby  
(Name of Acknowledger Typed, Printed or Stamped)

12-1-2001  
My Commission ~~Number~~ Expires

GBL/jrn  
3/31/97 rev. -amd  
l:sgmt/pw/97-1650

**CITY OF POMPANO BEACH  
Broward County, Florida**

**A RESOLUTION ACCEPTING A GRANT OF EASEMENT  
FROM WAL-MART STORES, INC.; PROVIDING AN  
EFFECTIVE DATE.**

WHEREAS, Wal-Mart Stores, Inc., is conveying to the City of Pompano Beach certain property rights via grant of easement; and

WHEREAS, the City Commission has determined that the best interest of the public will be served by accepting and acquiring the rights being conveyed by the grant of easement; now, therefore,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

**SECTION 1:** That the City of Pompano Beach accepts the grant of easement from Wal-Mart Stores, Inc., dated December 14, 1990, for the property described in said Easement, a copy of which is attached hereto and made a part hereof as if set forth in full.

**SECTION 2:** That it is the determination of the City Commission of the City of Pompano Beach, Florida, that the acquisition of the aforesaid property right is for a public purpose, to-wit: a perpetual public utilities easement.

**SECTION 3:** This Resolution shall become effective upon passage.

EXHIBIT A

PASSED AND ADOPTED this 5th day of February,

1991.



NATHAN N. BRAVERMAN, MAYOR

ATTEST:

  
VERNADETTE FULLER  
CITY CLERK

JCS/mh  
1/22/91  
D-14 91-135

91051990

EASEMENT

THIS INDENTURE, made this 14th day of December, 1990.

In consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged,

WAL-MART STORES, INC.

do herewith grant the CITY OF POMPANO BEACH, a Municipal Corporation, P. O. Box 1300, Pompano Beach, Florida, its successors and assigns, a perpetual public utilities Easement over and across the following described real estate:

SEE EXHIBIT A

with the right to construct, maintain, operate and repair such facilities appurtenances in or on said lands which may be required for the full enjoyment of the right herein granted.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

WITNESS:

*Rhonda Benson Adley*

*Curtis H. Barlow* (SEAL)

CURTIS H. BARLOW, VICE PRESIDENT OF REAL ESTATE

*Michael R. Nelson*

*Michael R. Nelson* (SEAL)

MICHAEL R. NELSON, ASSISTANT DIRECTOR OF REAL ESTATE

STATE OF ARKANSAS )  
COUNTY OF BENTON ) SS

I HEREBY CERTIFY that on the 14th day of December, 1990, before me personally appeared Curtis H. Barlow and Michael R. Nelson to me known to be the person(s) described in and who executed the foregoing Easement, and they acknowledged the execution thereof to be their free act and deed as and for the uses and purposes therein mentioned, and the two affixed signatures thereto.

WITNESS my hand and official seal at Bentonville, County of Benton State of Arkansas, the day and year first above written.

*Denise L. Sullivan*

MY COMMISSION EXPIRES 7/1/2006

FEE ITEM  
RETURN TO  
FRONT RECORDING

1991 FEB -8 AM 11:37

PK 118130PC0810

950

WATERLINE EASEMENT FOR WAL-MART COPANS ROAD

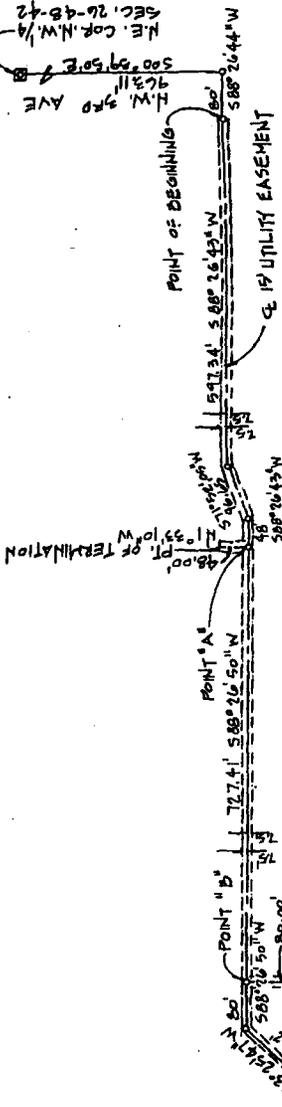
A Parcel of land lying in the Northwest 1/4 of Section 26, Township 48 South, Range 42 East, Broward County, Florida, being more particularly described as follows:

Commence at the Northeast corner of the said Northwest 1/4 of Section 26; thence S 00-59-50 E along the East line of the Northwest quarter of said Section 26, 963.11 feet; thence S 88-26-44 W, 80.00 feet to a point on a line 80.00 feet West of and parallel to the said East line of the Northwest quarter of Section 26 and the Point of Beginning of a 15.00 feet wide strip of land lying 7.50 feet on each side of the following specifically described centerline. From said Point of Beginning, proceed S 88-26-43 W, 597.34 feet; thence S 71-52-05 W 96.65 feet; thence S 88-26-50 W 48.00 feet to a point, said point hereinafter referred to as point "A"; thence continue S 88-26-50 W, 727.41 feet to a point. Said point hereinafter referred to as point "B"; thence continue S 88-26-50 W, 80.00 feet; then S 43-25-47 W, 109.62 feet; thence S 1-31-22 E, 10.00 feet to a point on a line 2.00 feet north of and parallel to the North line of Liberty Park Estates Section Three according to the plat thereof as recorded in Plat Book 61 at page 32 of the Public Records of Broward County, Florida. Said point being the Point of Termination of the foregoing specifically described centerline.

AND: begin at point "A" and proceed N 1-33-10 W, 48.00 feet to the Point of Termination of the foregoing specifically described centerline;

AND: begin at point "B" and proceed S 1-33-10E, 80.00 feet to the Point of Termination of the foregoing specifically described centerline. (All sidelines to be lengthened or shortened to form a continuous 15.00 feet strip of land.)

EXHIBIT "A"



**15' UTILITY EASEMENT**

MAXIMIZE EASEMENT FOR WALL-WALK COYAMA ROAD

A Parcel of land lying in the Northwest 1/4 of Section 26, Township 36 South Range 12 East, Broward County, Florida, being more particularly described as follows:

Commence at the Northeast corner of the said Northwest 1/4 of Section 26; thence S 88° 26' 45" W along the line of the Northwest 1/4 of Section 26, a distance of 15.00 feet to a point on a line 80.00 feet East of and parallel to the said East line of the Northwest quarter of Section 26 and the Point of Beginning of a 15.00 foot wide strip of land lying 7.50 feet on each side of the said East line; thence S 1° 33' 10" E along the said East line a distance of 72.74 feet to Point A; thence S 88° 26' 45" W 199.34 feet to Point B; thence S 88° 26' 45" W 500.00 feet to the Point of Beginning of the easement; thence S 88° 26' 45" W 508.2644 feet to a point, said point hereinafter referred to as Point "A"; thence continue S 88° 26' 45" W, 72.74 feet to Point "B"; thence continue S 88° 26' 45" W, 15.00 feet to a point, said point hereinafter referred to as Point "C"; thence S 1° 33' 10" E along a line 2.00 feet North of and parallel to the North line of Liberty Park Subdivision three according to the plat of the same as recorded in Plat Book 61 at page 32 of the Public Records of Broward County, Florida, said line being the Point of Termination of the easement specifically described herein.

AND begin at point "A" and proceed N 1° 33' 10" W, 48.00 feet to the Point of Termination of the foregoing specifically described easement;

AND begin at point "B" and proceed S 1° 33' 10" E, 80.00 feet to the Point of Termination of the foregoing specifically described easement. (All sidelines to be in-synthesized or shortened to form a continuous 15.00 foot strip of land.)

MEMO: Legibility of original typing or printing unsatisfactory. This document was microfilm.

RECORDED IN THE OFFICIAL RECORDS BOOK OF BROWARD COUNTY, FLORIDA  
**L. A. HESTER**  
 COUNTY ADMINISTRATOR

**15' UTILITY EASEMENT**

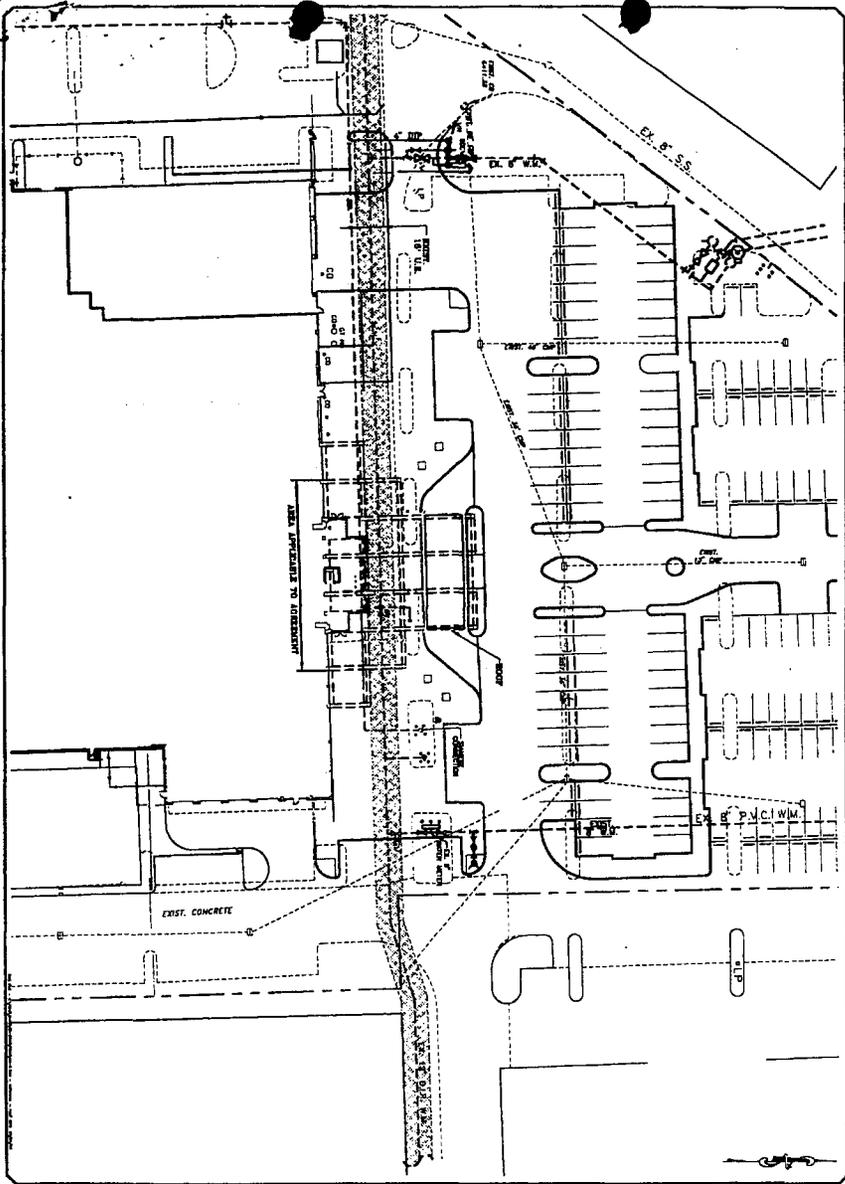
SCALE: 1"=200'

**KUNDE, SPRECHER, YASKIN & ASSOC., INC.**

engineers • architects • planners • surveyors  
 Miami • Fort Lauderdale • Tallahassee • Ft. Myers  
 Palm Beach • Lake City

8K 18130PG0811

DEC 21 1990



<p><b>AUTOHAUS MERCEDES - BENZ</b></p>		<p><b>Sun-Tech Engineering, Inc.</b></p> <p>4027 R.T. 224, Junction Road, Box 208 P.O. Lakeside, VT 05659 Phone: (802) 249-2222 Fax: (802) 249-2222</p>
<p><b>PROPOSED WATER PLAN EXHIBIT 3</b></p>		

# Exhibit "B"

