Shelby County, AL 01/12/2006
State of Alabama

Deed Tax:$1.00

20060112000019970 1/10 $39.00
Shelby Cnty Judge of Probate,AL
01/12/2006 10:20:57AM FILED/CERT

STORM WATER DRAINAGE EASEMENT

Store # 423

THIS STORM WATER DRAINAGE EASEMENT is entered into as of the 14 day of December 2005, by and between **Wal-Mart Real Estate Business Trust, a Delaware Statutory Trust,** whose address is 2001 S.E. 10th Street, Bentonville, Arkansas 72712 ("Grantor"), and **Murphy Oil USA, INC.**, whose address is 200 Peach Street, El Dorado, Arkansas 71730 ("Grantee").

WITNESSETH

WHEREAS, Grantor is the owner of that certain tract or parcel of land situated in the City of Alabaster, County of Shelby, State of Alabama, identified as "Tract 1" on Exhibit A attached hereto and made a part hereof ("Tract 1"); and

WHEREAS, Grantee is, or will be by the time this instrument is recorded, the lessee of that certain 48,057.48 square foot tract or parcel of land in the same city, county, and state, which tract lies adjacent to Tract 1 and is identified as "Tract 2" on Exhibit B attached hereto and made a part of hereof ("Tract 2"); and

WHEREAS, Grantee has requested from Grantor and Grantor is desirous of granting to Grantee, a non-exclusive easement for storm water drainage over and across Tract 1. An overall site plan is attached hereto as Exhibit E; and

NOW THERFORE, in consideration of one dollar ($1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor does hereby grant to Grantee the non-exclusive easement for storm water drainage over, across and under those identified portions of Tract 1, subject to the following terms and conditions to which the parties hereto do hereby agree:

A. **Grantor to Grantee Storm Water Drainage Easement.** Grantor hereby grants to Grantee a non-exclusive easement for the drainage of storm water from Tract 2 onto and across Tract 1, including the right to use and impound storm water within any storm water drains or retention facilities located within Tract 1. In the exercise of such right, Grantee shall not take or cause to be taken any action which would constitute a material change to the original civil engineering plan for Tract 1 and Grantee shall use reasonable efforts to minimize to the extent reasonably practicable any damage to or interference with the use and enjoyment of Tract 1 or any other tract or of any business conducted thereon. Attached hereto and marked Exhibit "G" is a copy of the storm water drainage permit obtained by Grantee authorizing the storm water drainage activities benefited by this Easement.

B. **PURPOSELY LEFT BLANK**

C. **General Provisions.** The following general provisions apply to the easement in paragraph A. above.

1. Use. The Grantee, through its officers, employees and agents, shall have the right to enter upon the Storm Water Drainage Easement in such a manner and at such times from the date hereof as may be reasonably necessary for the purpose of constructing, building, laying, repairing, replacing and maintaining thereon certain storm water drainage lines, if applicable, including such repairs, replacements and removals as may be from time to time required. Said right shall be perpetual, but should Grantee cease to use said Storm Water Drainage Easement for a period of one year, and no need for easements exist for Grantee, then the applicable easement shall become null and void, and all such applicable storm water drainage lines or appurtenances thereon installed in or upon said lands shall be removed by Grantee within a reasonable time. Storm water drainage line, if applicable, shall be laid so that the top thereof shall be buried not less than thirty

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inches below the natural surface of the ground, except when conditions do not allow for a thirty inch minimum depth, in which case both parties shall agree on minimum standards that can be designed by a licensed engineer. Grantee shall use reasonable efforts to minimize to the extent reasonably practicable any damage to or interference with the use and enjoyment at any other tract or of any business conducted thereon.

2. **Maintenance.**

(a) Grantee shall restore the surface of the Storm Water Drainage Easement to its original condition immediately following any of Grantee's permitted activities within the easement areas, unless otherwise agreed to in writing by Grantor and Grantee, so that Grantor, its successor and assigns shall have the free and unobstructed use thereof, subject to the rights of Grantee herein provided. Grantee shall not have the obligation to maintain or restore the surface of the Storm Water Drainage Easement other than for construction and maintenance activity within such area, unless drainage has caused damage to Tract 1 across which storm water is being drained, or any improvements thereon. In that instance, Grantee will only be accountable for damages to Tract 1 to the extent attributable to Grantee. Grantee will make no unreasonable interference with such use of the surface of said lands by Grantor, its successor and assigns. Grantee agrees to repair any damage caused by or to the Storm Water Drainage Easement that is a result of the acts or omissions of Grantee, its customers, employees, invitees, or contractors.

(b) Grantee, upon the initial installation, and upon each and every occasion that the same is repaired, renewed, added or removed, shall restore the premises of Tract 1, and any such buildings or improvements disturbed, to a condition as they were prior to any such installation or work, including the restoration of any topsoil.

(c) If, in an emergency, it shall become necessary for Grantor to promptly make any repairs that otherwise would have been the responsibility of the Grantee, or if the Grantee shall fail to adequately maintain the Storm Water Drainage Easement as provided herein, then Grantor, at its sole option, may proceed forthwith to have the repairs made and pay the cost thereof, and to receive payment therefor from the Grantee within thirty (30) days of written notification of its intention to make such repairs or the occurrence of such repairs, at the earliest practicable time given the nature and extent of the emergency.

3. **Indemnification.**

(a) Grantor, its successors and assigns, will not be responsible (except in case of Grantor's negligence) for damages by others to said storm water drainage or storm water drainage line, if applicable. Grantee shall indemnify, defend and hold harmless Grantor from any damages or liability, costs or expenses, including attorney's fees on account of injury to or death of any person or persons whomsoever, or to personal or real property that might arise from the use, construction, installation, repair, replacement, operation or maintenance of the Storm Water Drainage Easement and associated lines by Grantee, its agents, employees, contractors, or anyone authorized by Grantee.

(b) The Grantee will carry and keep in force, at its own expense, Comprehensive General Liability insurance with companies licensed to do business in the state where the land is located, in an amount not less than $1,000,000 single limited personal injury and property damage; and $2,000,000 combined personal injury and property damage. All policies of insurance shall be considered primary of any existing, similar insurance carried by the Grantor. The Grantee shall furnish Grantor with a Certificate of Insurance. Grantee may self-insure if it maintains a net worth of $200,000,000 or more.

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4. **Public Grant.** Nothing contained herein shall be used or construed as a grant of any rights to any public or governmental authority or agency.

5. **Duration.** The agreements contained herein and the rights granted hereby shall run with the Grantee's lease term, or any extensions thereof, to Tract 2 for the Storm Water Drainage Easement areas and shall bind and enure to the benefit of the parties hereto and their respective heirs successors, and assigns; subject, however, to the provisions of this agreement.

6. **Change of Ownership.** Grantor its successors or assigns shall have the right at any time to assign or transfer its rights and obligations hereunder to an affiliate, subsidiary or related company without consent.

7. **Relocation**

(a) Grantor reserves the right, at its sole expense, to modify or relocate the storm water drainage lines, associated easements and storm water drainage system, provided any such modification or relocation does not prevent adequate delivery of such services to Tract 2.
(b) In case of the opening of a public road or street to or upon Tract 1, then any portion of such Storm Water Drainage Easement interfering with the proper construction and maintenance of such road or street shall be adjusted accordingly by Grantee, at its expense, so as not to interfere with such road or street.

8. **Addendum to Easement Agreement.** Grantee and Subgrantee agree to abide by and conform to all provisions contained within the Addendum to Easement Agreement attached hereto as **Exhibit F**.

9. **Headings.** The headings of the paragraphs contained herein are intended for reference purposes only and shall not be used to interpret the agreements contained herein or the rights granted hereby.

10. **Counterparts.** This Storm Water Drainage Easement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

11. **Amendment.** This Storm Water Drainage Easement may not be modified or amended except in writing signed by the parties hereto.

12. **Law Governing.** This Storm Water Drainage Easement shall be governed by the law of the state in which the land is located.

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IN WITNESS WHEROF, the parties hereto have executed this instrument the day and year first above written.

ATTEST:

Assistant Secretary

WAL-MART REAL ESTATE BUSINESS TRUST, A Delaware Statutory Trust (GRANTOR)

By: _____

Martin G. Gilbert, Jr.
Director, Fueling Station Development

ATTEST:

Assistant Secretary

AGREED AND CONSENTED BY:
WAL-MART STORES EAST, LP
A Delaware Limited Partnership

By: _____

Romona West
Senior Realty Manager

ATTEST:

John A. Moore
Assisstant Secretary

Murphy Oil USA, INC. (Grantee)

By: _____

Henry J. Hofthaus
Senior Vice President
Murphy USA Marketing Company

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CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS)
) S.S.
COUNTY OF BENTON)

On this 14 day of November, 2005, before me, the undersigned notary public in and for said County and State, personally appeared before me Martin G Gilbert Jr., to me personally known, who, being by me duly sworn, did say that HE is the DIRECTOR of FUELING STATION DEVELOPMENT, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Donna L West, Assistant Secretary, acknowledged said instrument to be the free act and deed of said corporation.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the 14 day of November, 2005.

OFFICIAL SEAL
PAM WOODS
NOTARY PUBLIC-ARKANSAS
BENTON COUNTY
MY COMMISSION EXPIRES: 12-09-13

Pam Woods
Notary Public
Residing at: Benton County

My Commission Expires:

12-9-13

12943

CORPORATE ACKNOWLEDGMENT

STATE OF ARKANSAS)
) SS.
COUNTY OF UNION)

On this 8th day of Nov, 2005, before me, the undersigned notary public in and for said County and State, personally appeared before me Henry J. Heithaus, to me personally known, who, being by me duly sworn, did say that he is SENIOR VICE PRESIDENT of **MURPHY USA MARKETING COMPANY a division of MURPHY OIL USA, INC.**, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and he acknowledged said instrument to be the free act and deed of said corporation.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State the 8th day of Nov, 2005.

Donna Herrera
Notary Public
Residing at: El Dorado, AR

My Commission Expires:

3/31/2015

Donna L. Herrera
County of Union
Notary Public - Arkansas
My Commission Exp. 03/31/2015

CEI Engineering, Inc.
3715 Northside Parkway,
200 Northcreek, Suite 100
Atlanta, GA 30327
Steven Heng
404-816-6800

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EXHIBIT A

STORM WATER DRAINAGE EASEMENT

ALABASTER, AL
WAL-MART #423

WM LEGAL DESCRIPTION

BEING ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE EAST 1/2 OF SECTION 1, TOWNSHIP 21 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT LOCATED AT THE SOUTHEAST RIGHT-OF-WAY LINE OF COLONIAL PROMENADE PARKWAY (VARIABLE); SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING. THUS HAVING ESTABLISHED THE TRUE POINT OF BEGINNING;
THENCE ALONG SAID RIGHT-OF-WAY LINE OF COLONIAL PROMENADE PARKWAY N 28°49'12" E, A DISTANCE OF 258.78 FEET TO A POINT; THENCE LEAVING SAID RIGHT-OF-WAY LINE S 66°04'42" E, A DISTANCE OF 112.00 FEET TO A POINT; THENCE N 23°18'24" E, A DISTANCE OF 89.17 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 338.50 FEET AN ARC LENGTH OF 135.76 FEET, THE CHORD OF WHICH BEARS N 34°47'46" E FOR A DISTANCE OF 134.85 FEET TO A POINT; THENCE N 46°17'07" E, A DISTANCE OF 165.27 FEET TO A POINT; THENCE S 61°10'47" E, A DISTANCE OF 14.15 FEET TO A POINT; THENCE N 46°17'07" E, A DISTANCE OF 119.53 FEET TO A POINT; THENCE S 64°57'32" E, A DISTANCE OF 88.28 FEET TO A POINT; THENCE N 46°17'07" E, A DISTANCE OF 104.15 FEET TO A POINT; THENCE S 66°41'32" E, A DISTANCE OF 267.67 FEET TO A POINT; THENCE S 36°41'32" E, A DISTANCE OF 141.88 FEET TO A POINT; THENCE S 66°43'11" E, A DISTANCE OF 224.45 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 55.00 FEET AN ARC LENGTH OF 60.20 FEET, THE CHORD OF WHICH BEARS S 32°46'33" E FOR A DISTANCE OF 57.24 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 72.00 FEET AN ARC LENGTH OF 148.78 FEET, THE CHORD OF WHICH BEARS S 04°56'15" E FOR A DISTANCE OF 123.69 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 45.00 AN ARC LENGTH OF 24.31 FEET, THE CHORD OF WHICH BEARS S 38°47'01" W, FOR A DISTANCE OF 24.02 FEET TO A POINT; THENCE S 23°18'28" W, A DISTANCE OF 307.13 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 45.00 FEET AN ARC LENGTH OF 31.61 FEET, THE CHORD OF WHICH BEARS S 03°11'02" W FOR A DISTANCE OF 30.96 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 72.00 FEET AN ARC LENGTH OF 101.16 FEET, THE CHORD OF WHICH BEARS S 23°18'34" W FOR A DISTANCE OF 93.04 FEET TO A POINT; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 45.00 AN ARC LENGTH OF 31.61 FEET, THE CHORD OF WHICH BEARS S 43°25'59" W, FOR A DISTANCE OF 30.97 FEET TO A POINT; THENCE S 23°18'24" W, A DISTANCE OF 203.14 FEET TO A POINT; THENCE N 66°41'36" W, A DISTANCE OF 840.36 FEET TO A POINT; THENCE N 18°02'12" W, A DISTANCE OF 34.63 FEET TO A POINT; THENCE N 66°41'36" W, A DISTANCE OF 79.38 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1045.00 FEET AN ARC LENGTH OF 34.01 FEET, THE CHORD OF WHICH BEARS N 65°45'39" W FOR A DISTANCE OF 34.01 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1045.00 FEET AN ARC LENGTH OF 66.54 FEET, THE CHORD OF WHICH BEARS N 63°00'15" W FOR A DISTANCE OF 66.53 FEET TO A POINT; THENCE N 61°10'48" W, A DISTANCE OF 67.30 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET AN ARC LENGTH OF 39.27 FEET, THE CHORD OF WHICH BEARS N 16°10'48" W FOR A DISTANCE OF 35.36 FEET TO THE TRUE POINT OF BEGINNING;

CONTAINING AN AREA OF 849,023.57 SQ.FT OR 19.4908 ACRES.

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EXHIBIT B

STORM WATER DRAINAGE EASEMENT

ALABASTER, AL
WAL-MART #423

MURPHY LEGAL DESCRIPTION

BEING ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN THE EAST 1/2 OF SECTION 1, TOWNSHIP 21 SOUTH, RANGE 3 WEST, SHELBY COUNTY, ALABAMA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT LOCATED AT THE SOUTHEAST RIGHT-OF-WAY LINE OF COLONIAL PROMENADE PARKWAY (VARIABLE); SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING. THUS HAVING ESTABLISHED THE TRUE POINT OF BEGINNING;
THENCE ALONG SAID RIGHT-OF-WAY LINE OF COLONIAL PROMENADE PARKWAY N 28°49'12" E, A DISTANCE OF 258.78 FEET TO A POINT; THENCE LEAVING SAID RIGHT-OF-WAY LINE S 66°04'42" E, A DISTANCE OF 133.50 FEET TO A POINT; THENCE S 23°18'24" W, A DISTANCE OF 150.00 FEET TO A POINT; THENCE S 05°28'41" E, A DISTANCE OF 133.19 FEET TO A POINT; THENCE S 23°18'24" W, A DISTANCE OF 28.00 FEET TO A POINT; THENCE N 66°41'36" W, A DISTANCE OF 32.63 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1045.00 FEET AN ARC LENGTH OF 34.01 FEET, THE CHORD OF WHICH BEARS N 65°45'39" W FOR A DISTANCE OF 34.01 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1045.00 FEET AN ARC LENGTH OF 66.54 FEET, THE CHORD OF WHICH BEARS N 63°00'15" W FOR A DISTANCE OF 66.53 FEET TO A POINT; THENCE N 61°10'48" W, A DISTANCE OF 67.30 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 25.00 FEET AN ARC LENGTH OF 39.27 FEET, THE CHORD OF WHICH BEARS N 16°10'48" W FOR A DISTANCE OF 35.36 FEET TO THE TRUE POINT OF BEGINNING;

CONTAINING AN AREA OF 48,057.48 SQ.FT OR 1.1032 ACRES.

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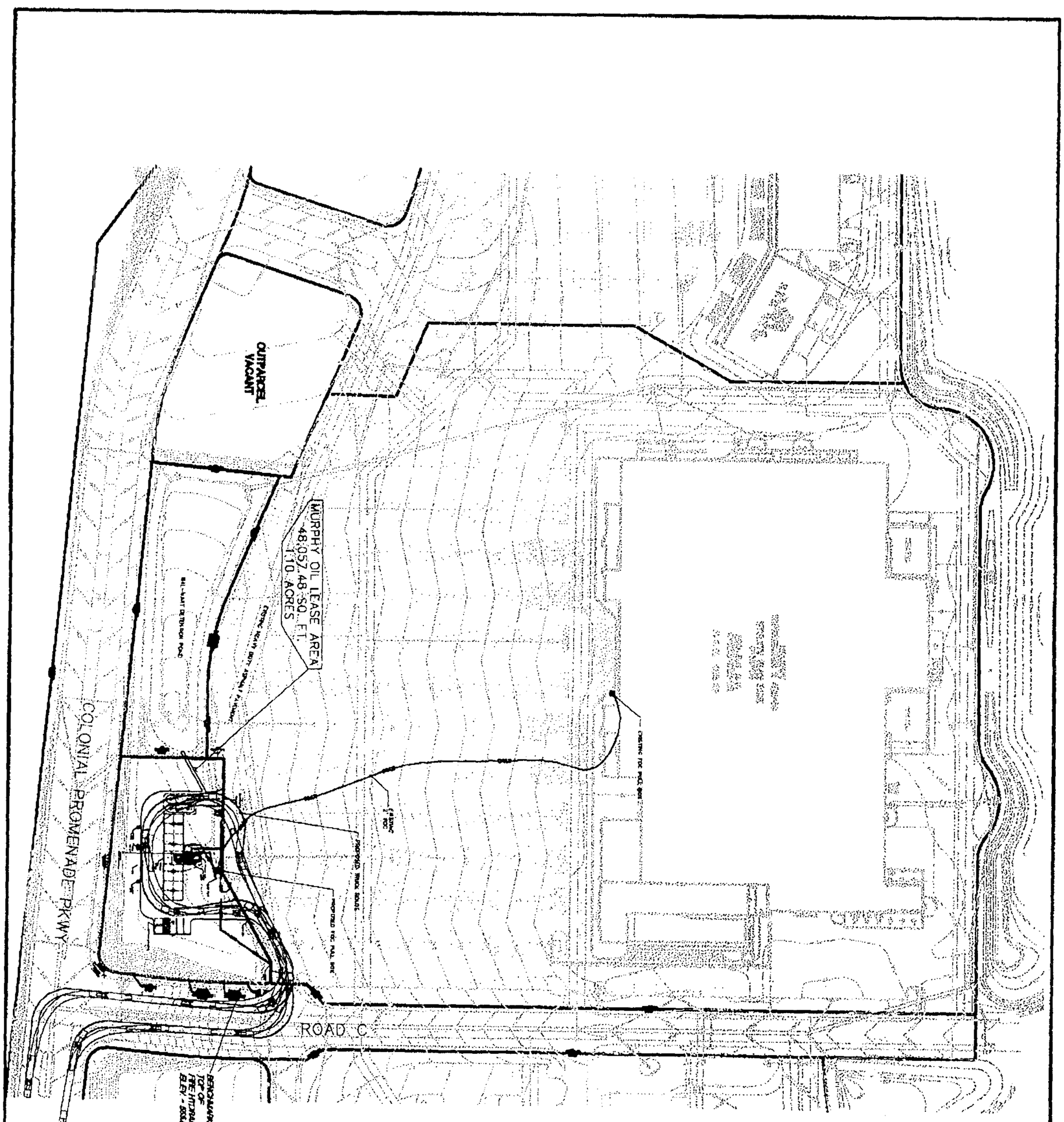
Exhibit E

STORM WATER DRAINAGE EASEMENT

ALABASTER, AL
WAL-MART #423

Overall Site Plan



MURPHY OIL U.S.A. INC.
MURPHY USA
200 PEACH STREET
P.O. BOX 7000
EL DORADO, AR 71731-7000

CEI ENGINEERING ASSOCIATES, INC.
ENGINEERS · PLANNERS · SURVEYORS
2894 SPRING ROAD
SUITE 303
ATLANTA, GA 30339
(770) 436-3711
FAX (770) 436-2313
JOB NO.: 19434.0

REV-4 | DATE 2-06-06 | PRN | PM | DES | DRW

COMPOSITE SITE PLAN
WAL-MART SUPERCENTER #423
560 COLONIAL PROMENADE PKWY.
ALABASTER, ALABAMA

BASED ON A DRAWING BY
WALTER SCHOEL ENGR. CO., INC.
CONSULTING ENGINEERS
1001 22ND STREET SOUTH
BIRMINGHAM, ALABAMA 35205
PHONE # 205-323-6166
DATE: FEBRUARY 8, 2005

SHEET NO.
C-1

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Exhibit F
Addendum to Easement Agreement

Notwithstanding anything to the contrary in the attached document:

Grantee agrees to use due care in any use of the easement herein granted and in the construction, installation, repair, replacement and maintenance either Grantee's improvements or the easement area as provided for herein so as not to unreasonably disturb Grantor's use of its property. Grantee agrees to return the easement area to its condition which existed prior to the installation of any of its improvements in the easement area, including but not limited to the replacement of any sod, landscaping, paving or other improvements that existed within the easement area prior to such installation.

Grantee will forever waive and hold Grantor harmless for, and defend Grantor against, any claims, losses, causes of action, and suits which arise out of Grantee's, its agents', employees' or invitees' use of the easement herein granted and will indemnify Grantor, except to the extent arising directly out of the negligent act or omission of Grantor, for any losses suffered due to any such claims, losses, causes of action or suits.

The easement granted hereunder is a permanent easement and will continue in full force and effect so long as the easement is used by the Grantee, its successors and assigns. Grantor shall have the right at its sole option and expense to relocate said easement upon Grantor's property. Upon fifteen (15) days written notice Grantee shall release and extinguish all its rights granted pursuant to this easement.

Grantee shall not interfere with Grantor's business operations while utilizing this easement.

In exercising any rights and privileges under this easement, Grantee shall comply fully with any federal, state or local laws, regulations, ordinances, permits or other authorizations or approvals or other requirements relating to storm water discharges or the control of erosion or sediment discharges from construction projects, including but not limited to the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, and the Storm Water General Permit for Discharges Associated with Construction Activities (collectively the "Storm Water Requirements").

Grantee shall secure, maintain and comply with all required licenses, permits and certificates relating to, or otherwise necessary or appropriate for, the construction, installation, repair, replacement and maintenance of either Grantee's improvements or the easement area as provided for herein. Grantee shall comply with any and all applicable federal, state and local laws, rules, regulations, statutes, codes, orders and ordinances, including, but not limited to, those governing the prevention, abatement and elimination of pollution and/or protection of the environment and the employment of its workers.

Grantee shall (i) comply in all respects with all immigration laws, statutes, rules, codes and regulations, (ii) properly maintain all records required by the United States Citizenship and Immigration Services (the "USCIS"), including, without limitation, the completion and maintenance of the Form I-9 for each of Grantee's employees, and (iii) respond in a timely fashion to any inspection requests related to such I-9 Forms. Grantee shall fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by the USCIS of Grantee or any of its employees. Grantor may, in its sole discretion, terminate this easement immediately if, at any time during the term, (x) Grantee violates or is in breach of any provision of this paragraph or (y) the USCIS determines that Grantee has not complied with any of the immigration laws, statutes, rules, codes and regulations of the United States. Grantee shall require all subcontractors performing any work on Grantee's improvements or the easement area as provided for herein to make the covenants set forth in this paragraph.

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Exhibit G

ALABASTER, AL
WAL-MART #423

Storm Water Drainage Permit

Permit was not required by the city