INTERLOCAL AGREEMENT

between

SEMINOLE COUNTY, FLORIDA

and

CITY OF WINTER PARK, FLORIDA

regarding

TANGLEWOOD CANAL IMROVEMENTS

Approved by the Seminole County								
Board of County Commissioners								
	, 2021							
Approved by the Ci	ty of Winter Park							
City Commission	2021							

INTERLOCAL AGREEMENT between SEMINOLE COUNTY, FLORIDA and CITY OF WINTER PARK, FLORIDA regarding TANGLEWOOD CANAL DRAINAGE IMPROVEMENTS

THIS INTERLOCAL AGREEMENT ("AGREEMENT") is made and entered into by and between Seminole County, Florida, a charter county and political subdivision of the State of Florida (the "County"), and the City of Winter Park, Florida, a municipal corporation created and existing under the laws of the State of Florida (the "City").

RECITALS

WHEREAS, the County has authority pursuant to Section 125.01(3)(a), Florida Statutes, to enter into contractual obligations necessary or incident to carrying on its role as a political subdivision of the state of Florida; and

WHEREAS, the City has the governmental, corporate, and proprietary authority pursuant Section 166.021, Florida Statutes, to enter into contractual agreements for a valid municipal purpose; and

WHEREAS, the County and the City have authority pursuant to Section 163.01, Florida Statutes, to enter into interlocal agreements with one another to provide facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and developments of their local communities; and

WHEREAS, certain properties within the Tanglewood subdivision on the west side of Lake Howell Road and certain properties within the Interlachen subdivision on the east side of Arbor Park Drive abut an approximately 15-foot wide by 1,842-foot long trapezoidal drainage

ditch and some segments of buried pipe (in this Agreement referred to as "Drainage Ditch") which Drainage Ditch is located approximately between the southern boundary of Glen Haven Cemetery and Briarcliff Road within some publicly dedicated easement areas which area is generally depicted on the attached **Exhibit "A"** (in this Agreement referred to as "Drainage Ditch Area"); and

WHEREAS, flooding in the areas of North Lakemont Avenue, Lake Howell Road, and Arbor Park Drive within the County and the City occurs during certain storm events; and

WHEREAS, the Drainage Ditch does not provide adequate stormwater drainage conveyance in these areas; and

WHEREAS, in order to improve the stormwater drainage in these areas of the County and the City and in proximity to and as affected by stormwater conveyance in the Drainage Ditch, the parties wish to implement certain drainage improvements in the locations as described and specified in section 2 below and on the attached Exhibit "B" (in this Agreement referred to as the "Drainage Improvements"); and

WHEREAS, the material specifications and estimated construction costs of the Drainage Improvements are set forth on the attached Exhibit "C" (in this Agreement referred to as the "Construction Specifications and Estimated Costs"); and

WHEREAS, the County and the City desire to complete all surveying and geotechnical services within four (4) months of executing this Agreement; and

WHEREAS, the County and the City desire to have the City enter into a construction contract for the Drainage Improvements within three (3) months of completing all surveying and geotechnical services; and

WHEREAS, the surveying, geotechnical services, design, engineering, permitting, construction and completion of the Drainage Improvements collectively constitutes the "Project"; and

WHEREAS, the County and the City desire to have the entirety of the Project completed within five (5) months of entering into the construction contract, if practicable; and

WHEREAS, construction of the Project will be completed under the project management, Construction Engineering Inspection, and direction of the City with only the construction costs of the Project being shared and paid equally by the County and the City in the manner set forth in this Agreement,

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

- 1. Recitals. The foregoing recitals are true and correct and form a material part of this Agreement upon which the parties have relied.
- 2. Scope of Project. Without limiting the extent and particulars for the Drainage Improvements and Project, this Project includes construction and installation of two separate concrete pipelines sections to direct and accommodate stormwater from the Drainage Ditch to existing stormwater drainage facilities located in the Interlachen Drainage Canal System as graphically depicted on the attached Exhibit "B." Areas within the Drainage Ditch where buried pipe exists will be modified to remove the buried pipe and graded to form a shallow grassed swale to direct run off from adjacent lots to the Drainage Improvements:
 - 2.1. Northern Portion. The northern portion of the Project consists of the Drainage Improvements as follows: A pipeline will be installed to transport stormwater from the Drainage Ditch Area, under Lake Howell Road, to the existing Interlachen

Drainage Canal System. Beginning at the southern boundary of Glen Haven Cemetery, a new elliptical concrete pipeline will be installed running south to a storm manhole within the Oneco right-of-way. From the first storm manhole, an elliptical concrete pipeline will be installed in an east-south-east direction, beneath the Oneco right-of-way and under Lake Howell Road to a second storm manhole. From the second storm manhole, an elliptical concrete pipeline will be installed running south to a third storm manhole. At the third storm manhole, an elliptical concrete pipeline will be installed running east and connecting to the Interlachen Drainage Canal System.

- 2.2. Southern Portion. The southern portion of the Project consists of the Drainage Improvements as follows: This portion of the Project requires the replacement of the existing pipeline within the Interlachen Neighborhood and the installation of a new pipeline within the Drainage Ditch Area to connect the replacement pipeline to an existing stormwater drainage pipe as follows. The southern portion of the Project begins at the southwest corner of Palm Avenue and Arbor Park Drive. The existing 30-inch pipeline running east under Arbor Park Drive, parallel to Palm Avenue and draining into the Drainage Ditch, will be replaced with an appropriately sized new round concrete pipe. Such pipeline will be constructed under Arbor Park Drive and connect to a storm manhole located below or within the Drainage Ditch. From this storm manhole, a new round concrete pipe will be constructed running south to an existing 56-inch drainage pipe at the southern end of the Drainage Ditch.
- 3. City Obligations. The City shall provide the following services associated with the Project:

- **3.1.** The City waives all City permitting fees, right of way utilization fees, and all other review and permitting fees for and in any way related to the Project.
- 3.2 Design Services and Engineering Work. The City shall carry out all surveying, geotechnical services, design, engineering, and permitting for the Project (collectively the "Design and Permitting Services"). Without limiting the scope of engineering, such includes any civil and structural engineering for the Project. Without limiting the scope of permitting, this permitting includes obtaining all necessary governmental permits and approvals (collectively "Permits") for the Project. City shall submit design plans, technical specifications, and calculations to the County for peerreview at submittal milestones 60%, 90%, and Final bid deliverables. The sizes and dimensions of all of the replacement pipes and pipelines contemplated in subsections 2.1 and 2.2 above and any other needed or appropriate specifications for the Drainage Improvements and Project will be determined by the City during the design and engineering phase of the Project, and the foregoing will become part of the Drainage Improvements and Project. Geotechnical services include, without limitation, any subsurface surveying, testing, and monitoring associated with the Project. Surveying services includes, without limitation, topographic surveying, surveying of existing utilities, and any related surveying and surveying consultation services for the Project. Construction management services include, without limitation, all services regarding scheduling, cost estimates, bid preparation, bid award recommendations, quality control, coordination between contractors, actual construction of the Drainage Improvements, and any other construction related service for the Project not otherwise provided by the construction contractor.

- 4. County Obligations. The County shall provide and carry out, or cause to be carried out, the following services associated with the Project:
 - **4.1.** County Permitting Fees. The County waives all County Permit fees, right of way utilization fees, and all other review and permitting fees for and in any way related to the Project.
- 5. Mutual Obligations. The County and City shall each pay one-half of the fees, costs, and expenses for the construction and construction management portions of the Project only. Any other fees, costs, or expenses related to the Project will be the sole obligation of the City.
- 6. Geotechnical, Surveying, Engineering, and Construction Contractor Selection **Process.** The City shall select the contractors for all geotechnical services, construction, and construction management services for the Project. The City will self-perform surveying, design, and construction documents in accordance with SAI Engineering recommendations. The City shall prepare and process a request for proposals for each aspect of the Project that is required by law to be competitively bid in accordance with the City's responsibilities described in this Agreement. The City shall accept proposals for the foregoing services. The City shall also review each bid and present to the County the City's selection and proposed contract for each portion of the Project to be bid. Within fifteen (15) calendar days of the City's submission to the County of each proposed contract contemplated by this Agreement, the County either shall approve such contract or proposal or provide specific suggested revisions that would make the contract or proposal acceptable to the County, failing which, the submitted contract or proposal will be deemed as being approved by the County. If any revisions proposed by the County are not acceptable to the City, the City shall advise the County, and the County shall either accept the contract or proposal without the suggested revision(s) or be solely responsible for any additional

costs related to the County's proposed revision(s) that are not acceptable to the City. City shall complete the preparation, advertising, processing, bidding, and selection requirements of this Section 6 shall be completed by the City, at the City's sole cost and expense.

7. Permitting (SJRWMD)

The City will prepare and present application documentation for review and approval from the Saint John's River Water Management District. The City of Winter Park and Seminole County will apply as co-permittees to the project with maintenance jurisdictions assigned within the Boundaries of the respective jurisdictions. If that is not acceptable to the Water Management District, the City will transmit individual applications for each jurisdiction prepared by the individual parties. Both the City and the County agree to share equally all construction costs beyond the defined scope and Exhibit "C" required by the Water Management District for permit acquisition.

If the cost to comply with the Water Management District requirements is deemed excessive compared to the overall benefit of the project, either party may terminate this agreement at no cost or penalty to either party.

Timeframes described in the agreement are contingent on SJRWMD permit approval, and timeline benchmarks will be adjusted accordingly. Submittal to SJRWMD for permit approval will toll the time provided in this Agreement for performance until such permit is approved, and the timeline established in this Agreement will resume upon the commencement of the construction bidding process.

8. Cost Sharing. The total cost for the construction portion of the Project is estimated to be approximately \$1,015,800.00 ("Project Cost") as set forth on the Construction Specifications and Estimated Costs attached hereto as Exhibit "C" to this Agreement. If the amount of the

awarded and executed City construction bid contract is lower than the approximate "Project Cost," then the parties agree that this Agreement shall be automatically, without further action from either of the parties, be updated to reflect the actual "Project Cost" as stated in the awarded and executed City construction bid contract. If the amount of the awarded and executed City construction bid contract is higher than "Project Cost," the City will notify the County and request that the additional amount be shared with the County. The City reserves the right to notify the County, reduce the scope of work, and re-solicit the project to lower the cost of the project. County payment for the one-half contribution of the construction cost will be made within 30 days of the County receiving proper contractor quarterly invoices and progress reports during construction. County has the right to withhold payments at any time during construction if there are valid concerns with the contractor of the construction work being performed; however, such right is contingent upon the County providing the City with 30 advance written notice of its concerns and the City's failure to remedy or otherwise address those concerns within 30 days of receiving such notice.

At the end of each quarter, the City shall deliver to the County a summary and documentation for the time, fees, and costs incurred for the Project ("Documentation"). Within ten (10) days of County's receipt of Documentation, the County shall notify the City, in writing, of any dispute, questions, or concerns with the Documentation. Within twenty (20) days following the City's receipt of the County's written notice, the City shall correct any error in the Documentation and provide satisfactory and supplemental materials or explanations to the County to resolve any questions or concerns. If the fees, costs and expenses related to the construction portion of the Project exceed the Project Cost, the County shall pay the City one-half of the overage within thirty (30) days of the County's receipt of the Documentation supporting the overage. If,

upon completion of the Project, the fees, costs, and expenses related to the construction portion of the Project amount to less than the Project Cost, the City shall pay the County one-half of the difference between the Project Cost and the actual total fees, costs and expenses to complete the construction portion of the Project within thirty (30) days. City shall submit to the County the reasons and justifications for the cost increase for County review and acceptance, if, upon completion of the Project, the total fees, costs, and expenses related to the construction portion of the Project are greater than the Project Cost. In addition to providing such reasons and justifications to the County, the City shall invoice the County for one-half of the difference, and the County shall pay the City the appropriate amount due within thirty (30) days of the invoice.

- 9. Contract Approval. Neither party may enter into a contract with a contractor under this Agreement without approval of the other party. Every contract must be presented to the other party for review and comment prior to ratification, subject to Section 6 *supra*.
- 10. Construction of Drainage Improvements. The City shall have the Project constructed in a good and workmanlike manner in accordance with all applicable laws, rules, and regulations and pursuant to those plans and specifications acceptable to the City and the County. The Project will commence within thirty (30) days after the parties agree on (i) the first work effort for the Project and (ii) the City receives of the County's payment of one-half of the Project Cost.
- 11. Inspections. The County may inspect the Drainage Improvements prior to and during the duration of the Project. All inspections of the Drainage Improvements by the County or its representatives performed pursuant to this Agreement must not interfere with the construction of the Drainage Improvements or the day-to-day activities of the City's personnel, including the City's or contractors and subcontractors.

12. Miscellaneous.

- 12.1. Validity. The County and the City each represents, warrants, and covenants to and with the other its respective authority and power under Florida law to enter into this Agreement, acknowledges the validity and enforceability of this Agreement, and waives any future right of defense based on claim of illegality, invalidity or unenforceability of any nature. Also, the County and the City each hereby represents, warrants and covenants to and with the other that this Agreement has been validly approved by its respective governing body, and that this Agreement constitutes a legal, valid and binding contract enforceable against the respective party in accordance with its terms (assuming the due authorization, execution, and delivery by the other party).
- 12.2 Indemnification / Sovereign Immunity. Each party shall indemnify, defend, and hold harmless the other party from any third-party claims, actions, liabilities, losses, expenses, damages, fees, costs, or fines, including costs and attorney's fees at trial and appeal, (for personal injury or property damage) to the extent arising from the indemnifying party's own acts or omissions. Regardless of the foregoing, each party expressly retains all rights, benefits, and immunities of the doctrine of sovereign immunity, including any limited waiver of sovereign immunity as set forth in § 768.28, Florida Statutes, and nothing in this Agreement may be interpreted or construed as requiring either party to waive any defense of sovereign immunity or one party to indemnify or otherwise insure the other party for the other party's own negligence in contravention of § 768.28(19), Florida Statutes. Furthermore, nothing in this Agreement may inure to the benefit of any third party for the purpose of allowing any claim against either of the parties, which claim would otherwise be barred under the doctrine of sovereign immunity or by operation of law. This section will survive the expiration and termination of this Agreement.

- 12.3 Ambiguities. Both parties have been allowed equal input regarding the terms and wording of this Agreement and have had the benefit of consultation with their respective legal counsel prior to its execution, and therefore, no language in this Agreement may be construed for or against either party.
- 12.4 Headings. The headings or captions of sections or subsections used in this Agreement are merely for the convenience of the parties for reference only and are not intended to define or limit their contents, nor are they to affect the construction of or to be taken into consideration in interpreting this Agreement.
- 12.5. Severability. If any term of this Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced, such term will be excluded to the extent of such invalidity or unenforceability; and all other terms will remain in full force and effect. To the extent permitted and possible, the invalid or unenforceable term will be deemed replaced by a term that is valid and enforceable and comes closest to expressing the intention of such invalid or unenforceable term. If application of this Severability provision materially and adversely affects the substance and purpose of the Agreement, the party adversely impacted may terminate this Agreement without penalty by submitting 30 days' written notice to the other party setting forth the nature of the adverse effect and announcing its intention to terminate the Agreement.

12.6. Governing Law; Venue; Attorney's Fees and Costs.

- a. This Agreement is governed by and will be construed in accordance with laws of the State of Florida.
- b. Venue for and jurisdiction over any action arising out of or related to this Agreement will be, if in state court, in the Circuit Court for the Eighteenth Judicial

Circuit in Seminole County, Florida, or, if in federal court, in the Middle District of Florida, Orlando Division.

- c. If a party deems it necessary to take legal action to enforce any provisions of this Agreement, each party shall bear its own attorney's fees and costs at both the trial and appellate levels.
- 12.7 Entire Agreement. This Agreement, together with any exhibits, constitutes the entire Agreement between the parties regarding the subject matter of this Agreement. Any prior oral or written agreements or understandings of any kind between the parties relating to the subject matter of this Agreement are null and void and of no further effect.
- **12.8. Amendments.** This Agreement may be amended only by express written instrument approved by the Board of County Commissioners of the County and the City Commission of the City, and executed by the authorized officers of each party.
- 12.9 No Waiver of Regulatory Jurisdictions. Neither this Agreement, nor any provision thereof, may be construed as a waiver of any regulatory jurisdiction of the County or the City that exists on the Effective Date or at any other time thereafter.
- 12.10 Assignment. Neither party may sell, assign or transfer this Agreement or any interest it may have under it, without prior written approval of the other party, such approval to be not unreasonably withheld, and provided that any such assignment will not unreasonably interfere with the rights of the non-assigning party. All covenants, terms, conditions, and provisions of this Agreement are binding upon the parties hereto and shall extend to and be binding upon the successors and permitted assigns of the parties.

12.11 No Third-Party Beneficiaries. This Agreement is solely for the benefit of City and County and no rights or cause of action will accrue upon or by reason hereof, to or for the benefit of, any third party not a formal party to this Agreement.

12.12. Notices. Any notice required to be given or otherwise given by one party to the other party must be in writing and will be deemed delivered when given by hand delivery; five (5) days after being deposited in the United States Mail, postage prepaid, certified or registered; or the next business day after being deposited with a recognized overnight mail; and addressed as follows:

If to the County: Seminole County Engineering Division

100 East 1st Street Sanford, Florida 32771

With a copy to: Seminole County Project Manager

Attention: Tuan Huynh, P.E.

100 East 1st Street Sanford, Florida 32771

If to the City: Director, Public Works

City of Winter Park 401 South Park Avenue Winter Park, Florida 32789

With a copy to: City Manager

City of Winter Park 401 South Park Avenue Winter Park, Florida 32789

In all cases, notices will be deemed delivered to a party only upon delivery of copies to the persons indicated above in the same manner as for the party being notified. Either party may change its designated official or address for receipt of notice by giving notice of such change to the other party in the manner provided in this section.

13. Insurance Requirements.

(a) Each party shall maintain adequate insurance coverage to protect its own interests

and obligations under this Agreement.

(b) The City shall require that all contractors employed to perform the responsibilities specified in this Agreement are sufficiently insured and are liable for the payment of reasonable compensation to the County for property damaged or destroyed during the course of the Drainage Improvement Project. The County shall notify the City of its preferred types of coverage and minimum policy limits in advance of the City's issuance of any solicitations pursuant to this Agreement so that the City can ensure that its Contractors and Consultants acquire and maintain insurance satisfactory to the County. Any such insurance requirements must be reasonable under the circumstances and bear a reasonable relationship to the risk posed by the tasks or services to be provided.

14. Conflict of Interest.

- (a) Each party shall not engage in any action that would create a conflict of interest in the performance of its obligations pursuant to this Agreement with the other party or that would violate or cause third parties to violate the provisions of Part III, Chapter 112, Florida Statutes (2020), as this statute may be amended from time to time, relating to ethics in government.
- (b) Each party hereby certifies that none of its officers, agents, or employees have any material interest (as defined in Section 112.312(15), Florida Statutes (2020), as this statute may be amended from time to time, as over 5%) either directly or indirectly, in the business of the other party to be conducted here, and that no such person will have any such interest at any time during the term of this Agreement.
- (c) Each party has the continuing duty to report to the other party any information that indicates a possible violation of this Section 14. Conflict of Interest.
 - 15. Dispute Resolution. Disputes pursuant to this Agreement are governed by Chapter

164, Florida Statutes. If any dispute cannot be resolved under Chapter 164, Florida Statutes, it may be filed as a civil action in the Circuit Court of the Eighteenth Judicial Circuit of Florida, in and for Seminole County, Florida, which, as provided in Section 12.6 *supra*, is the sole venue for any such civil action. The parties further agree that any such action will be tried to the Court, and the parties hereby waive the right to jury trial as to such action.

16. Public Records Law.

- (a) CITY and COUNTY acknowledge each other's obligations under Article 1, Section 24, Florida Constitution and Chapter 119, Florida Statutes (2020), as this statute may be amended from time to time, to release public records to members of the public upon request. CITY and COUNTY acknowledge each other is required to comply with Article 1, Section 24, Florida Constitution and Chapter 119, Florida Statutes (2020), as this statute may be amended from time to time, in the handling of the materials created under this Agreement and that this statute controls over the terms of this Agreement.
- (b) Failure to comply with this Section will be deemed a material breach of this Agreement, for which the non-breaching party may terminate this Agreement immediately upon written notice to the breaching party.
- 17. Effective Date. This Agreement will become effective after approval by the governing boards of each party on the date of execution by the County and the date of execution by the City, whichever date of execution is later ("Effective Date").

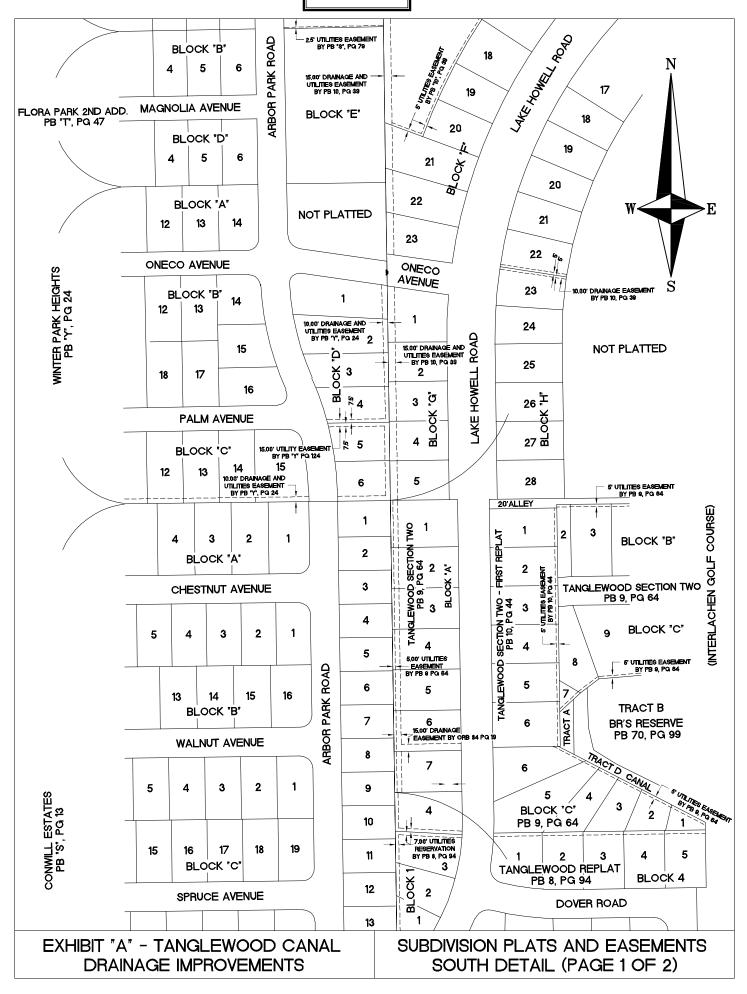
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IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year indicated below.

ATTEST:	BOARD OF COUNTY COMMISSIONERS SEMINOLE COUNTY, FLORIDA			
GRANT MALOY Clerk to the Board of County Commissioners of	Bob Dallari, Chairman			
Seminole County, Florida.	Date:			
For the use and reliance of Seminole County only.	As authorized for execution by the Board of County Commissioners at its, 2021, regular meeting.			
Approved as to form and legal sufficiency.				
County Attorney				
	CITY OF WINTER PARK, FLORIDA By: City Commission			
	By Phil Anderson, Mayor			
	Date: October 13, 2021			
ATTEST:				
By: Rene Cranis, City Clerk	_			

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EXHIBIT "A"



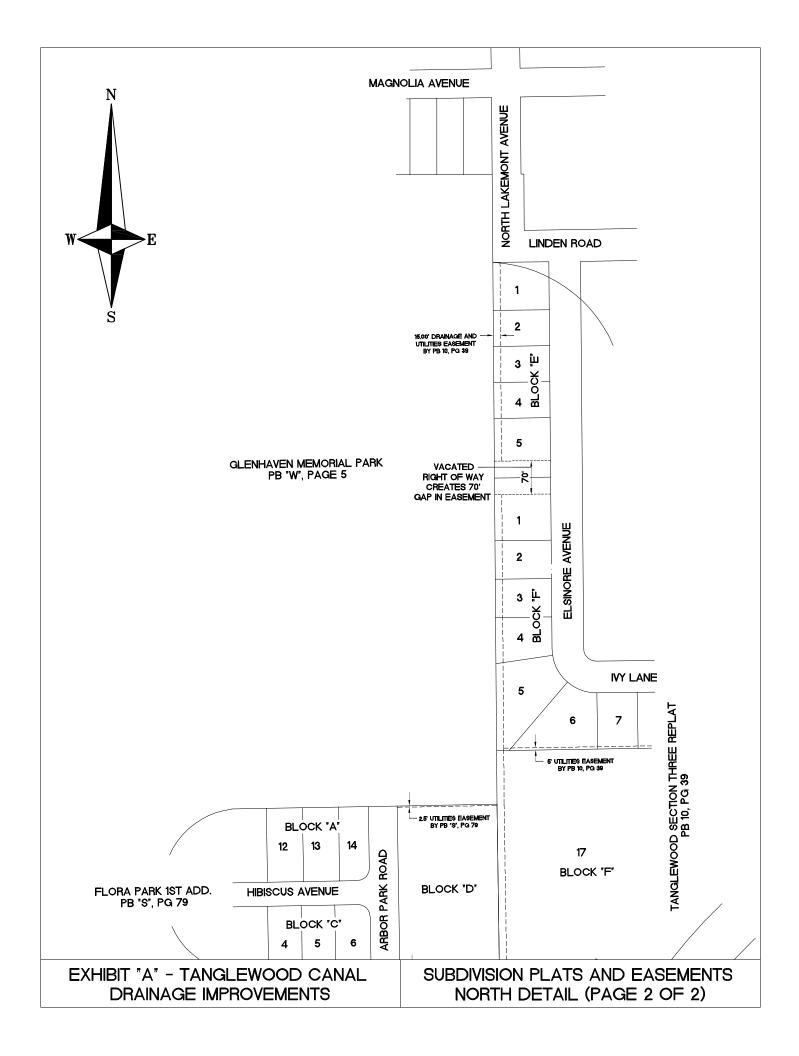


EXHIBIT "B"



Tanglewood Canal Cost Estimate

Item No.	Description	Est. Qty.	Unit	Unit Cost		Contract Price	
101-1	Mobilization	1	LS	\$	77,600.00	\$	77,600.00
102-1	MOT	1	LS	\$ 75,000.00		\$	75,000.00
104-14	Prevention, Control, and Abatement of Erosion and Water Pollution	1	LS	\$	75,000.00	\$	75,000.00
110-1-1	Clearing and Grubbing	2	AC	\$	11,609.65	\$	23,219.30
120-5	Channel Excavation	1444	CY	\$	5.53	\$	7,985.32
160-4	Type B Stabilization	687	SY	\$	3.76	\$	2,583.12
285-706	Optional Base, Base Group 06	687	SY	\$	16.38	\$	11,253.06
334-1-13	Superpave Asphaltic Conc, Traffic C	76	TN	\$	93.67	\$	7,118.92
425-2-91	Manholes J-8, <10'	3	EA	\$	7,099.53	\$	21,298.59
430-14-111	ECP (Class HE-III)(43x68)	1688	LF	\$	236.50	\$	399,212.00
430-175-136	Pipe Culv, Opt Matl, Round, 36" S/D	846	LF	\$	124.74	\$	105,530.04
			LF			\$	-
430-982-142	Mitered End Sect, Optional Rd, 54" CD	1	EA	\$	7,252.86	\$	7,252.86
522-2	Concrete Sidewalk and Driveways, 6"	88	SY	\$	54.86	\$	4,827.68
570-1-2	Performance Turf, Sod	8392	SY	\$	3.41	\$	28,616.72
		Subtotal					846,497.61
		Contingency (20%)					169,299.52
		Construction Total					1,015,797.13

^{*}Pipe cost was pulled from Seminole County Minor Projects Under \$2,000,000 Bid Form

EXHIBIT "C"