

**THIS INSTRUMENT PREPARED BY  
AND RETURN TO:**

Roy K. Payne, Esq.  
Chief Assistant City Attorney  
City of Orlando  
City Attorney's Office  
400 S. Orange Ave.  
Orlando, FL 32802  
(407) 246-3483  
Roy.Payne@CityofOrlando.net

**SANITARY SEWER EASEMENT AGREEMENT**

**THIS SANITARY SEWER EASEMENT AGREEMENT, "Agreement,"** is made and entered into as of the 20<sup>th</sup> day of JUNE, 2015, by and between **BALDWIN COVE HOMEOWNERS' ASSOCIATION, INC.**, a Florida not-for-profit corporation, whose mailing address is 1631 E. Vine Street, Suite 300, c/o Titan HOA Management, Kissimmee, FL 34744, ( "**Owner**" ), and the **CITY OF ORLANDO**, a municipal corporation organized and existing under the laws of the State of Florida (the "**City**" ), whose address is 400 South Orange Avenue, Orlando, FL, 32802.

**WITNESSETH:**

**WHEREAS**, the City is the owner of a roadway located in Orange County, Florida and known and hereinafter referred to as "Baldwin Cove Way"; and

**WHEREAS**, in connection with the construction of a RESIDENTIAL, "Development," Owner has installed a single,    inch underground private sanitary sewer line (the "**Private Sewer Line**"), as shown in **Exhibit "A,"** attached hereto and made a part hereof by reference, to serve the Development and provide a connection to the City's sewer facilities located in Beach Boulevard, all as shown in **Exhibit "A;"** and

**WHEREAS**, the City has agreed to grant to Owner an easement to allow Owner to install the Private Sewer Line within the Right-of-Way for Baldwin Cove Way, "Right-of-Way," strictly limited to the location shown on **Exhibit "A,"** the terms referenced herein and the City's permitted construction plans for the Private Sewer Line.

**NOW, THEREFORE**, for an in consideration of the premises hereof, of the sum of Ten and no/100ths Dollars (\$10.00) paid by Owner to the City, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Owner and the City hereby agree as follows:

1. **Recitals.** The recitals set forth above are true and correct and are incorporated herein by this reference.

2. **Sewer Easement.** The City hereby grants and conveys to Owner a perpetual, non-exclusive easement in, under, through and across the Right-of-Way as reasonably necessary to install, repair and maintain the Private Sewer Line in locations within the Right of Way as shown in **Exhibit "A."** This Easement is strictly limited to the extent reasonably necessary to install, construct, use, operate, repair, replace and maintain the Private Sewer Line as permitted by the City and may not be expanded to include other utilities or lines except by amendment of this Agreement. This Easement does not authorize installation of the Private Sewer Line in any areas other than as described herein.

3. **Private Sewer Line.**

(a) **Certification.** Upon completion of the Private Sewer Line and prior to opening the Private Sewer Line for use, Owner shall cause the Contractor to submit a final completion certification of the Private Sewer Line. This certification shall be accompanied by the As-Built drawings as well as any necessary warranties, waivers and releases from contractors, subcontractors and suppliers, test certifications, operation manuals and documentation of approval of the construction by governmental agencies having jurisdiction other than the City, if any. Nothing in this Agreement operates to impose any liability or responsibility on the City with respect to the Private Sewer Line, which remains the sole and exclusive responsibility of Owner.

(b) **Independent Contractors.** Owner, its agents, Contractor, subcontractors or design engineer, shall perform all activities that are outlined in this Agreement as independent entities and not as agents, employees or representatives of the City, or their employees or representatives. Nothing herein operates to impose any obligation, responsibility or liability upon the City with respect to the construction, operation or maintenance of the Private Sewer Line.

4. **Insurance.** During the entire term of this Agreement, Owner shall maintain 1) worker's compensation insurance in the amount of the Florida Statutory Limit; 2) automobile liability insurance of at least \$1,000,000; and 3) general liability insurance in the amount of at least \$3,000,000 to protect City from any liability arising from this Agreement or Owner's operation, repair and maintenance of the Private Sewer Line or which is caused in whole or in part, directly or indirectly, by Owner or any of its contractors, subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. City shall be listed as an additional insured on the automobile and general liability policies. Each of the above liability policies shall contain a contractual liability endorsement in favor of the City and shall provide that the City will receive at least sixty (60) days notice prior to termination of coverage. Said insurance shall also be primary, and not contributory, as to any insurance coverage maintained by City of Orlando. This provision shall survive termination of this Agreement to the extent necessary to protect the City from liability arising during the term of this Agreement. Nothing in this Agreement operates as a waiver of the City's grant of sovereign immunity or the limits of liability established under Florida law.

5. **Indemnification.** Owner shall indemnify, release and hold harmless the City, its agents, employees and elected and appointed officials, from and against all claims, damages, losses and expenses (including all costs and attorney's fees and all costs and attorney's fees on appeal), arising out of or resulting from this Agreement, construction, installation, operation, use, replacement or maintenance of the Private Sewer Line, or which are caused in whole or in part, directly or indirectly, by Owner or any of its subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable. Nothing in this Agreement operates as a waiver of the City's grant of sovereign immunity or the limits of liability established under Florida law.

6. **Maintenance and Repairs.** The Private Sewer Line has been and shall be constructed, installed, used, owned, maintained, replaced and repaired by Owner, and Owner hereby assumes any and all responsibility and liability with respect to, or arising from, or in any way associated therewith, including, though not exclusively, any and all damage to the City's roadway and any improvements located within the Right-of-Way to the extent that said damage is caused by the operation, maintenance and repair of the Private Sewer Line. In the event Owner fails to maintain the Private Sewer Line in good condition and in accordance with applicable laws and regulations or in the event that operation, maintenance or repair of the Private Sewer Line has caused damage to the City's roadway or other improvements within the Right of Way, the City may give Owner written notice thereof and Owner shall be obligated to promptly and diligently conduct such maintenance or repair and correct such deficiency within a reasonable period of time or forty-eight (48) hours after written notice, in the case of emergency. In the event Owner fails to maintain or repair the Private Sewer Line and correct any such deficiency within a reasonable time after such written notice by the City or within such forty-eight (48) hour period in the case of emergency, then the City shall have the right, but not the obligation, to correct any such deficiency and Owner shall then reimburse the City for the City's reasonable expenses in connection therewith, no less than sixty (60) days after written request by the City, failing which the full amount shall bear interest at the highest rate allowed by law and shall become a lien in favor of the City upon the adjacent Owner property. Such liens shall become effective upon the filing of a Claim of Lien by the City in the Official Records of Orange County, Florida and may be foreclosed in the manner as provided by Florida law. The City's conduct of remedial action shall not operate to impose any obligation, responsibility or liability whatsoever upon the City. Furthermore, nothing herein operates to impose any obligation, responsibility or liability upon the City with respect to the construction, installation, use, operation or maintenance of the Private Sewer Line. In the event of an emergency situation resulting in an immediate threat to the public health, safety or welfare, the City shall only be required to attempt to give reasonable notice, prior to taking action in accordance with this Paragraph.

7. **Termination.** This Agreement may be terminated by mutual consent of the parties hereto or upon default or upon Owner's abandonment of the Private Sewer Line. Except as otherwise agreed by said parties, Owner shall remove the Private Sewer Line within one-hundred eighty days (180) of termination of this Agreement, said removal to occur in compliance with any and all applicable rules, laws and regulations. If Owner fails to remove the Private Sewer Line within said one-hundred eighty day period, City may do so and in such case, Owner

shall reimburse the City for the City's reasonable expenses in connection therewith, no less than sixty (60) days after written request by the City, failing which the full amount shall bear interest at the highest rate allowed by law and shall become a lien in favor of the City upon the adjacent Owner property. Nothing herein obligates the City to take any action to remove the Private Sewer Line and the City's removal of the Private Sewer Line shall not operate to impose any obligation, responsibility or liability whatsoever upon the City with respect to this Agreement.

8. **Defaults.** Failure by either party to comply with or perform any of the terms, conditions, covenants, agreements or obligations contained in this Agreement to be performed by each of them respectively, shall constitute a default under this Agreement, and (i) if such default is not cured or remedied within sixty (60) days after the non-defaulting party provides written notice to the defaulting party specifying with particularity the nature of such default, or (ii) if such default cannot be reasonably cured or remedied within such sixty (60) day period, the defaulting party fails to commence to cure or remedy the default within such sixty (60) day period and thereafter fails to diligently and expeditiously pursue such cure or remedy, the non-defaulting party, in its sole discretion, shall be entitled to exercise any and all rights and remedies available to it under this Agreement, at law and in equity, including without limitation, the right to terminate this Agreement. Upon any such termination, this Agreement and all rights and obligations created hereunder shall be deemed null and void and of no further force or effect, except as otherwise provided herein.

9. **Litigation and Attorneys' Fees.** In the event either party to this Agreement should bring suit to enforce or interpret any provision hereof, the prevailing party shall be entitled to recover its attorneys' fees, experts' fees and costs, in addition to any other relief granted as a result of such litigation.

10. **Binding Effect.** The easement herein granted by the City shall run in favor of Owner. The terms and conditions of this Agreement shall run with the title to the real property owned by Owner, as of the date hereof, and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

11. **No Waiver of Regulatory Authority.** Owner acknowledges that the City is the entity responsible for issuing building permits and certain other types of permits which will be required in connection with activities within the Right-of-Way and on other property owned by Owner, and further acknowledges that nothing in this Agreement constitutes or is intended to operate as a waiver of such regulatory authority or the application of any applicable laws, rules or regulations. Furthermore, nothing herein operates to vest any particular manner or means of development of any property. Lastly, the Private Sewer Line remains subject to the City's police power and shall not be operated or utilized in any manner so as to interfere with the operation and maintenance of the Right-of-Way or any improvements located therein.

12. **Estoppel Certificate.** Owner and the City shall execute and deliver to each other, within fifteen (15) days of any written request therefore by the other party, a certificate addressed as indicated by the requesting party and stating: (i) whether this Agreement is in full force and effect; (ii) whether this Agreement has been modified or amended in any respect; (iii) whether

there are any existing defaults hereunder known to the party executing the certificate, and specifying the nature thereof; and (iv) such other matters as may be reasonably requested.

**13. Amendment.** This Agreement may not be terminated, modified or amended except by an instrument in writing signed by each of the parties.

**14. Taxes/Fees.** Owner shall be responsible for the payment of all taxes or fees which may be assessed or levied against the Private Sewer Line or any equipment, furnishings, inventory or other personal property located thereon, and all taxes or fees associated with Owner's use of the Right of Way.

**15. Effective Date.** This Agreement shall become effective on the date of full and complete execution by all parties hereto.

**[SIGNATURES APPEAR ON NEXT PAGE]**

IN WITNESS WHEREOF, Owner and the City have executed this Sanitary Sewer Easement Agreement in manner and form sufficient to bind them as of the day and year first written above.

Signed, sealed and delivered  
in the presence of:

Sign: [Signature]

Print Name: Nancy Licari

Sign: [Signature]

Print Name: Albainis Otero

**BALDWIN COVE HOMEOWNERS'  
ASSOCIATION, INC.**, a Florida non-profit  
corporation (SEAL)

By: [Signature]

Print Name: ISAAC MANZO

Title: PRESIDENT

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing was acknowledged before me this 26 day of JUNE, 2015,  
by ISAAC MANZO, as the PRESIDENT of **BALDWIN COVE  
HOMEOWNERS' ASSOCIATION, INC.**, a Florida not-for-profit corporation, on behalf of  
the corporation.

[Signature]  
Signature of Notary Public

Nancy Licari

(Print Notary Name)

My Commission Expires: \_\_\_\_\_

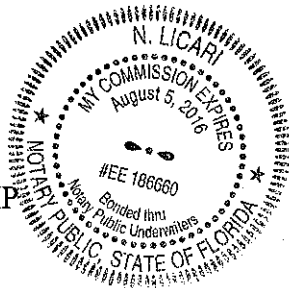
Commission No.: \_\_\_\_\_

☒ Personally known, or

☐ Produced Identification

Type of Identification Produced \_\_\_\_\_

AFFIX NOTARY STAMP



SIGNATURES CONTINUE NEXT PAGE

ATTEST:

**CITY OF ORLANDO, FLORIDA**, a municipal corporation, organized and existing under the laws of the State of Florida

\_\_\_\_\_  
Celeste T. Brown, City Clerk

By: \_\_\_\_\_  
Mayor / Mayor Pro Tem

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF ORANGE

PERSONALLY APPEARED before me, the undersigned authority, \_\_\_\_\_ and, \_\_\_\_\_, well known to me and known by me to be Mayor \_\_\_\_\_ and City Clerk, respectively, of the City of Orlando, Florida, and acknowledged before me that they executed the foregoing instrument on behalf of the City of Orlando as its true act and deed, and that they were duly authorized so to do.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

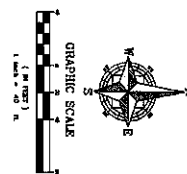
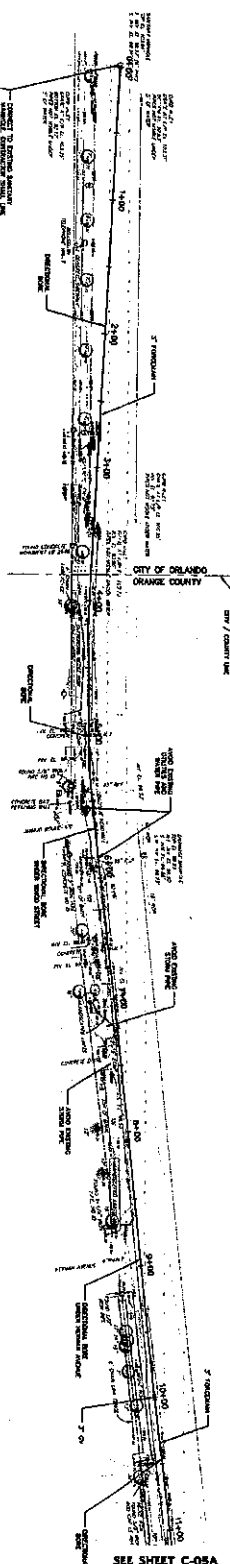
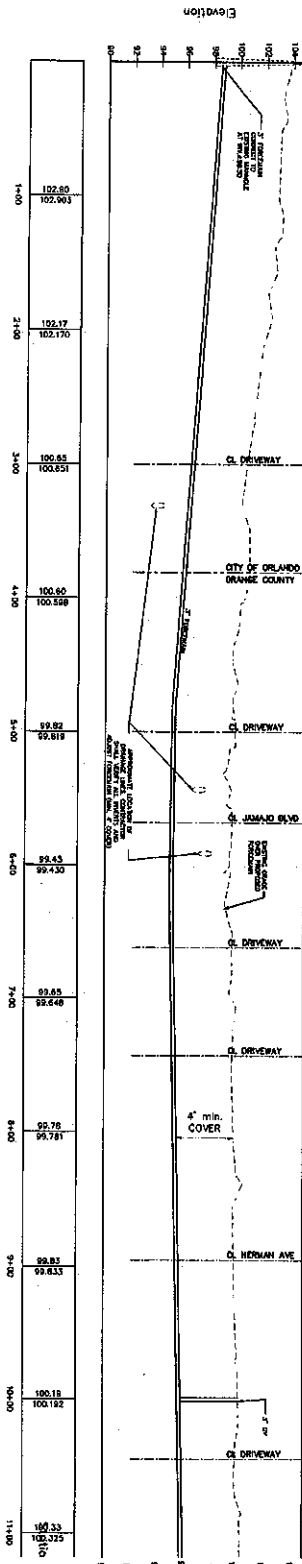
\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

**EXHIBIT "A"**



**A**

SEE ABOVE



SEE SHEET C-05A

- NOTE:
1. EXISTING MANHOLE LOCATIONS ARE SHOWN AS CIRCLES WITH 'MH' INSIDE.
  2. EXISTING UTILITY LOCATIONS ARE SHOWN AS DASHED LINES WITH 'UT' INSIDE.
  3. EXISTING CURBS ARE SHOWN AS SOLID LINES WITH 'C' INSIDE.
  4. EXISTING DRIVEWAYS ARE SHOWN AS SOLID LINES WITH 'D' INSIDE.
  5. EXISTING SIDEWALKS ARE SHOWN AS SOLID LINES WITH 'S' INSIDE.
  6. EXISTING PAVEMENT ARE SHOWN AS SOLID LINES WITH 'P' INSIDE.
  7. EXISTING GRADES ARE SHOWN AS SOLID LINES WITH 'G' INSIDE.
  8. EXISTING ELEVATIONS ARE SHOWN AS NUMBERS.
  9. EXISTING DISTANCES ARE SHOWN AS NUMBERS.
  10. EXISTING BEARING ARE SHOWN AS NUMBERS.

BALDWIN COVE (AKA CADY WAY)

OFF-SITE FORCEMAIN PLAN & PROFILE

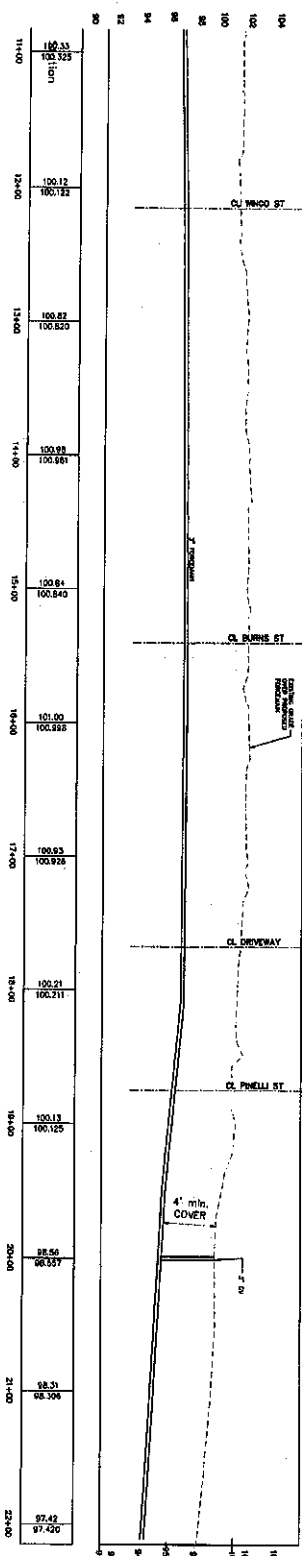
DESIGNED: J.E.M.  
CHECKED: R.C.M.  
DATE: 2/5/14

REVIEWED: C. WOLFE  
DATE: 2/5/14

**IBI GROUP**

**IBI GROUP (FL), INC.**  
ENGINEERS  
LANDSCAPE ARCHITECTS  
PLANNERS  
SURVEYORS  
ENVIRONMENTAL CONSULTANTS

PROJECT NO.	14-001
PROJECT NAME	BALDWIN COVE (AKA CADY WAY)
PROJECT LOCATION	ORANGE COUNTY, FL
PROJECT DATE	2/5/14
PROJECT SCALE	1" = 40'
PROJECT SHEET	C-05A
PROJECT TOTAL SHEETS	5
PROJECT PREPARED BY	J.E.M.
PROJECT CHECKED BY	R.C.M.
PROJECT REVIEWED BY	C.W.
PROJECT APPROVED BY	
PROJECT DATE	2/5/14
PROJECT SCALE	1" = 40'
PROJECT SHEET	C-05A
PROJECT TOTAL SHEETS	5



- EXISTING LANDSCAPE SCENE ARE TO BE MAINTAINED AND NOT TO BE REMOVED OR REPLACED BY ANY OTHER PLANTING OR MATERIALS.
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32' BELOW C-05

