

RESOLUTION NO. 2003-250

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS OF AN AGREEMENT BETWEEN SEMBLER FLORIDA, INC. AND ST. JOHNS COUNTY FOR THE ACQUISITION OF PROPERTY FOR RIGHT-OF-WAY AT THE INTERSECTION OF MICKLER ROAD AND CR 210 (PALM VALLEY ROAD) AND APPROVING CERTAIN SHARED DRAINAGE AND CONSTRUCTION RESPONSIBILITIES FOR THIS TRANSPORTATION PROJECT.

WHEREAS, St. Johns County is desirous of purchasing property for the approved future four-lane roundabout at the intersection of County Road 210 (Palm Valley Road) and Mickler Road; and

WHEREAS, the property is part of a larger parcel zoned Commercial General and the developer, the Sembler Florida, Inc.(Sembler), is permitted to pursue its plan of developing a shopping center which will impact the future road improvements; and

WHEREAS, Sembler and St. Johns County have worked together to determine the roundabout design and desire to enter into an Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, that includes certain terms and conditions and defines shared drainage and construction responsibilities for the transportation project; and

WHEREAS, it is in the public interest for the County to acquire fee simple to the property for the necessary improvements in that area.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above recitals as hereby incorporated into the body of this Resolution and adopted as findings of fact.

Section 2 The Board of County Commissioners authorizes the County Administrator to execute the attached Agreement.


Section 3. The Clerk of Circuit Court is instructed to file the Agreement in the public records of St. Johns County, Florida.

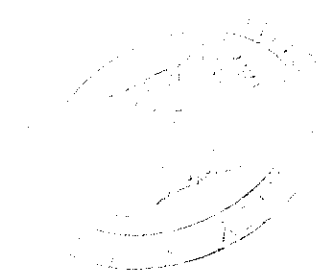
PASSED AND ADOPTED, this 16 day of December, 2003.

**BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA**

By: 
Karen R. Stern, Chair

ATTEST: Cheryl Strickland, Clerk

By: 
Deputy Clerk



AGREEMENT

THIS AGREEMENT ("Agreement") is made and effective as of _____, 2003, by and between **ST. JOHNS COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084 ("Buyer") and **SEMBLER FLORIDA, INC.**, a Florida corporation, whose address is c/o The Sembler Company 5858 Central Avenue, St. Petersburg, Florida 33707 ("Seller")

WITNESSETH:

WHEREAS, the Buyer is desirous of purchasing land from the Seller which is located at the intersection of County Road 210 (Palm Valley Road) and Mickler Boulevard, said land to be purchased by the Seller from the parties named in Section 6 below, and Seller is desirous of selling upon the terms and conditions hereinafter expressed; and

WHEREAS, it is in the public interest for the Buyer to acquire fee simple title to the property shown on Exhibit "A", attached hereto, incorporated by reference and made a part hereof, (hereinafter "Property") for the purpose of providing road improvements to the intersection of County Road 210 and Mickler Boulevard; and

WHEREAS, the Property is part of a larger parcel zoned Commercial General and Seller is permitted to pursue its plan of developing a shopping center at the site as generally depicted in Exhibit "D", attached hereto, incorporated by reference and made a part hereof; and

WHEREAS, Seller's development of a shopping center only requires improvements to the existing intersection as depicted in Exhibit "D"; and

WHEREAS, Buyer desires to make roadway improvements widening Mickler Road and constructing a roundabout as depicted in Exhibits "A" and "B"; and

WHEREAS, it is contemplated that Buyer would need to exercise its power of eminent domain and take a portion of Seller's property for necessary roadway improvements if Seller were not to agree to Buyer's purchase of the Property.

NOW THEREFORE, for and in consideration of the sum of \$100.00, receipt of which is hereby acknowledged, it is mutually agreed as follows:

1. Purchase Price and Deposit.

(a) The purchase price ("Purchase Price") is \$1,035,330.90, subject to the prorations hereinafter provided. The Purchase Price shall be paid as follows:

<u>Payment</u>	<u>Due Date</u>	<u>Amount</u>
(I) Deposit to be held in Escrow by Escrow Agent (hereinafter defined)	Due on January 3, 2003	\$ 199,900.00
(II) Cash to Close	Closing Day	\$ 835,430.90
TOTAL PURCHASE PRICE		\$ 1,035,330.90

(b) Payment of the Purchase Price shall be in cash or other immediately available funds.

(c) The parties acknowledge that in establishing the Purchase Price hereunder, they have relied upon those certain MAI appraisals prepared by Cantrell Real Estate, Inc., Report #CRE9678, dated May 2, 2003, which established the fair market value of the Property as an average of \$19.00 per square foot and Crenshaw Williams Appraisal Company, File No. 4528, dated May 2, 2003, which established the fair market value of the Property as \$14.50 per square foot. The Purchase Price was calculated as the average of the values established in said appraisals ($\$19.00 \text{ psf} + \$14.50 \text{ psf} = \$33.50 \text{ psf} \div 2 = \$16.75 \text{ psf} \times 61,810.80 \text{ sf} = \$1,035,330.90$).

2. Identity and Obligation of Escrow Agent.

(a) **ROGERS TOWERS, P.A.**, 170 Malaga Street, St. Augustine, Florida 32084, shall be Escrow Agent, at no additional charge to Seller or Buyer but with the right to serve as underwriter for the title insurance for the title insurance policy.

(b) If there is any dispute as to whether Escrow Agent is obligated to deliver the Deposit, or any other monies or documents which it holds or as to whom such Deposit, monies or documents are to be delivered, Escrow Agent shall not be obligated to make any delivery, but, in such event, may hold same until receipt by Escrow Agent of an authorization, in writing, signed by all parties having an interest in such dispute directing the disposition of same, or in the absence of such authorization, Escrow Agent may hold such Deposit, monies or documents until the final determination of rights of the parties in an appropriate proceeding. If such written authorization is not given or proceeding for such determination is not begun and diligently continued, Escrow Agent may, but not required to, bring an appropriate interpleader action or proceeding for leave to deposit such Deposit, monies or documents in court, pending such determination. Escrow Agent shall not be responsible for any acts or omissions unless the same constitutes gross negligence or willful misconduct and upon making delivery or the

Deposit, monies or documents which Escrow Agent holds, in accordance with the terms of this Agreement, Escrow Agent shall have absolutely no further liability hereunder.

In the Event Escrow Agent places the Deposit, monies or documents that have actually been delivered to Escrow Agent in the Registry of the Circuit Court in and for the County in which the Property is located and files an action of interpleader, naming the parties hereto, Escrow Agent shall be released and relieved from any and all further obligation and liability hereunder or in connection herewith.

3. Title Evidence.

(a) Buyer agrees, at its sole option and expense, to take all reasonable action to obtain within 20 days from the effective date, a title guarantee commitment ("Commitment") issued by a title company authorized to do business in the State of Florida ("Title Company") agreeing to issue to Buyer, upon recording the Deed, an owner's policy of title insurance in the amount of the Purchase Price, insuring Buyer's interest in the property subject only to the following (the "Permitted Encumbrances"):

(i) zoning, restrictions, prohibitions, regulations, ordinances and other requirements of any applicable governmental authority;

(ii) the lien of taxes and assessments for the calendar year of the Closing and all subsequent years;

(iii) restrictions and matters appearing on the plat of the Property, and

(iv) conditions contained in this Agreement.

(b) Buyer shall notify Seller in writing ("Title Notice") within 10 days after Buyer's receipt of the Commitment if the Commitment discloses any defects in the title to the Property, other than the Permitted Encumbrances. Any such defects appearing in the Commitment not timely noted by Buyer in the Title Notice shall be deemed to have been waived by Buyer. In the event the Commitment discloses any defect and such defect is timely noted in a Title Notice, Seller, at Seller's sole option and expense, shall have 60 days from the date it receives the Title Notice within which to cure such defect (with a corresponding extension to the Closing Date as necessary). If after the expiration of such 60-day period, Seller has not cured title defects, then in such event, Buyer's remedies shall be limited solely to either (x) accepting such title to the Property as Seller shall be able to convey, without adjustment or to diminution of the Purchase Price or (y) terminating this Agreement and receiving return of the Deposit.

4. Survey, Tests and Legal Description. Within sixty (60) days' from the effective date of this Agreement, Seller shall have the Property surveyed. Buyer shall provide written notice ("Survey Notice") to Seller within 10 days after Buyer's receipt of the survey ("Survey") if the Survey discloses any encroachments or any other title defects which would prohibit the Buyer from using and improving the Property for roadway and stormwater retention/pond

purposes (“Buyer’s Intended Purpose”), other than the Permitted Encumbrances. All such encroachments or defects so noted in the Survey Notice are to be regarded for all purposes under this Agreement as title defects and, as such, are to be treated in the manner provided in Section 3. Any such title defects shown on the Survey and not timely noted in the Survey Notice to Seller shall be deemed to have been waived by Buyer.

5. Buyer’s Right to Conduct Environmental Inspection. Buyer shall have the right for sixty (60) days from the date of this Agreement (“Inspection Termination Date”) to enter upon the Property for the purpose of conducting environmental studies, tests or assessments including but not limited to a Phase 1 environmental study. Seller hereby gives Buyer the right to enter upon, test and inspect the Property at Buyer’s sole cost and risk. Buyer agrees to provide Seller with copies of all reports conducted on the Property. If Buyer determines that the environmental condition of the Property is unacceptable for Buyer’s Intended Purpose (“Environmental Defect”), Buyer shall give written notice to Seller advising the presence and specifics of such Environmental Defect (“Environmental Notice”). Such notice must be given on or before the Inspection Termination Date. In the event Environmental Notice is timely given as provided, Seller, at Seller’s sole option and expense, shall have 90 days from the date it receives the Environmental Notice within which to cure such Environmental Defect (with a corresponding extension to the Closing Date as necessary). If after the expiration of such 90-day period, Seller has not cured the Environmental Defects, then in such event, Buyer’s remedies shall be limited solely to either (x) accepting the Property, without adjustment or to diminution of the Purchase Price or (y) terminating this Agreement and receiving return of the Deposit.

Buyer shall cause all persons or entities furnishing materials or services in connection with the inspection rights granted hereunder to be promptly paid, and Buyer shall not allow the filing of any mechanics’ liens against the Property in connection with the inspection permitted hereunder. To the extent allowed by Florida law, Buyer hereby holds Seller harmless from any damages or liabilities arising from injuries caused solely by Buyer, its agents, or representatives in pursuing the activities permitted under this Section, and Buyer agrees to immediately return the Property to its original condition prior to the inspections. In the event Buyer fails to purchase the Property for any reason other than Seller’s default, copies of all information obtained by Buyer from Seller or third parties shall be delivered to Seller.

6. Seller’s Representations. Seller represents to the Buyer that Seller does not yet own fee simple title to the Property but is currently under contract to purchase it from Franklin D. Winberry, Franklin E. Winberry, Sr. and Patricia A. Winberry (the “Winberrys”) and the Seller further represents to the Buyer that it has full right and authority to execute this Agreement and to consummate the transactions contemplated hereby subject to the terms, provisions and conditions hereof, including the consummation of the closing on the purchase of the Property from the Winberrys.

7. Closing. Unless extended by the terms of Section 3, or other provisions hereof, and subject to the satisfaction of the conditions precedent set forth in Section 11 hereof, the closing of the sale of the Property (“Closing”) shall take place via mail by delivery of all necessary closing documents, funds and escrow instructions to the Escrow Agent, on March 31,

2004 or at such earlier date after the Inspection Termination Date as Seller may select upon fifteen (15) days written notice to Buyer ("Closing Date"), TIME BEING OF THE ESSENCE.

8. Prorations. Any real property taxes shall be prorated on the basis of the 2003 taxes at the highest allowable discount.

9. Closing Procedure and Documents.

(a) At the Closing, simultaneously with the payment of the Purchase Price by Buyer, Seller shall deliver or cause to be delivered to Buyer the following:

(i) a Special Warranty Deed ("Deed") conveying the fee simple title to the Property, subject only to the Permitted Encumbrances and the matters referred to on the Commitment.

(ii) a Non-Foreign Certificate and Request for Taxpayer Identification Number "FIRPTA" affidavit to be signed by Seller.

(iii) an affidavit in the form required by the Title Company to delete the standard printed exception relating to the "gap" and to remove the standard printed exceptions for mechanics' lien and parties in possession other than Occupancy Tenants (except to the extent the same constitute Permitted Encumbrances).

(iv) the Easements (as such are defined in Section 13 below).

(b) At the Closing Escrow Agent shall deliver the Deposit and Buyer shall deliver the cash to close, to Seller, in accordance with Section 1. At Closing, Buyer shall execute and deliver to Seller such consents and authorizations as Seller may reasonably deem necessary to evidence the authority of Buyer to purchase the Property and to consummate all other actions required to be taken by Buyer under this Agreement.

(c) At the Closing, Seller and Buyer shall execute such further documents and agreements as are reasonably appropriate or reasonably necessary to consummate the transaction as herein contemplated.

10. Closing Expenses. Buyer shall pay the cost of the owner's title policy issued pursuant to the Commitment, the cost of recording the Deed, all of the expenses in connection with recording fees, and if applicable, documentary stamp taxes on the Deed. Each party shall bear the expense of its own legal counsel.

11. Conditions to Closing. The obligation of Seller hereunder to consummate the Closing contemplated hereby, is subject to the satisfaction, as of the Closing, of all of the following conditions (any of which may be waived in whole or in part in writing by Seller at or prior to Closing). Notwithstanding anything contained herein to the contrary, if any of the following conditions precedent are not satisfied prior to Closing, Seller may elect to extend the Closing until the conditions are satisfied (with no change or amendment to the Purchase Price),

or Seller may terminate this Agreement by giving the Buyer written notice within any extension, in which event, this Agreement and the rights of the parties hereunder shall immediately and automatically terminate, and the Buyer shall be entitled to receive an immediate refund of the Deposit. The conditions precedent to Closing are as follows:

(a) Simultaneous Purchase of Winberry, Hughes and Young Properties. Buyer understands and acknowledges that the Seller is under contract with the Winberrys, Stephen L. Hughes and Kathleen A. Hughes (the "Hughes") and Franklin C. Young and Selena G. Young (the "Youngs") for the purchase of certain parcels of property, which includes the Property, to be developed as a grocery store-anchored retail shopping center (the "Proposed Shopping Center"). Seller and Buyer hereby agree that Seller's obligations hereunder are expressly conditioned on Seller being able to close simultaneously on the purchase of each of the parcels from the Winberrys, the Hughes' and the Youngs, and on the simultaneous sale of the Property to the Buyer hereunder.

(b) Governmental Approvals. Seller's receipt, prior to Closing, of all necessary and requisite non-appealable governmental and quasi-governmental approvals and development permits to construct and operate the Proposed Shopping Center, and design, permit, construct and operate the Roundabout, Ponds and Temporary Access Roads, including without limitation all permits, licenses, variances, plats or replats, environmental and related permits, licenses and approvals, easements and/or approvals pertaining to the Proposed Shopping Center buildings, improvements, occupancy, land use designation, signs, curb cuts, drive-thrus, parking areas, driveways, ingress and egress to private thoroughfares, and zoning, utilities and environmental controls which, in the judgment of Seller, are necessary to permit Seller to develop and use the Winberry, Hughes and Young lands for Seller's intended use as the Proposed Shopping Center (the "Governmental Approvals") and to permit Seller to design, permit and construct the Roundabout and Pond improvements, as well as evidence of Buyer's receipt of approval of funding sufficient to reimburse Seller for all construction costs as provided herein.

(c) Anchor Tenant Lease. Prior to Closing, Seller must enter into a lease with its grocery store anchor tenant for the leasing of space in the Proposed Shopping Center.

(d) Financing. Prior to Closing, Seller shall secure the acquisition and construction financing which is necessary for the Seller's development of the Proposed Shopping Center.

(e) Utilities. Evidence that Intercoastal Utilities, its successors and assigns or St. Johns County shall provide and/or enable water and sewer utilities to be extended to the Proposed Shopping Center no later than thirty (30) days from the Effective Date.

(f) Other Agreements. The Seller and Buyer shall have entered into all necessary agreements to memorialize the agreements reached between the Seller and Buyer with respect to the roads and ponds and pervious surface areas which are more particularly described in Sections 12 through 15 below.

(g) Winberry Agreement. Buyer and the Winberrys shall have terminated that certain Agreement between said parties dated May 5, 1999, which termination shall be in the form of a written instrument, in recordable form.

12. Roundabout, Ponds and Temporary Access Road. Seller agrees to construct a Roundabout at Palm Valley Road and Mickler Road, Stormwater Retention Ponds and two Temporary Access Roads to the Shopping Center Site from Mickler Road, which are shown in the sketches attached hereto as Exhibits "A" and "B", in accordance with the following:

(a) Seller will be responsible, at its cost and expense, subject to the terms of subparagraphs (d) and (e) below, for preparing/obtaining the designs and permits and construction for the Roundabout, Ponds and Temporary Access Roads, as necessary. Seller agrees to use BHR, Inc., or a Buyer approved engineer for the design work.

(b) The Stormwater Retention Ponds are intended to accommodate both the Shopping Center stormwater drainage needs at full capacity/buildout and the County's stormwater requirements for the Roundabout. The Stormwater Retention Ponds being partly composed of Seller's Property, which is currently zoned Commercial General.

(c) Conceptually, the Buyer consents to the configuration and location of the Roundabout, Ponds and Temporary Access Easements as depicted on Exhibits "A" and "B" attached hereto as appropriate for such uses and consents to the Seller's construction of same. However, Seller will need to comply with subparagraph (a) above and be subject to the St. Johns County Development Review Process;

(d) The Buyer shall reimburse Seller for the design, permit and construction of the Roundabout, Ponds and Temporary Access Roads in the total amount of \$ 1,034,915.00 (hereinafter "Reimbursement Amount"). This Reimbursement Amount represents the total cost of the intersection improvements desired by the Buyer, including the construction of a Roundabout, less the amount Seller would incur in improving the existing intersection to meet Seller's intended use, as set forth more particularly in Exhibit "C", attached hereto, incorporated by reference and made a part hereof. The Reimbursement Amount is further calculated on the basis of the parties' shared utilization of the stormwater ponds to be built, with each party bearing its respective share of the cost in proportion to anticipated usage. Such Reimbursement Amount shall be placed into an escrow account and payments to Seller shall be made monthly, commencing with the completion of the design. Seller shall submit monthly payment requests, which shall be substantiated with appropriate vendor information and any partial/progress waivers. The Buyer shall retain ten percent (10%) of each monthly request pending completion of the necessary construction.

(e) Should potential unknown subsurface conditions in the Property, Roundabout, Ponds, and Temporary Access Roads be encountered during construction, Seller may submit a change order for reimbursement from the Buyer for the additional work to be performed. Further, if any law or governmental regulation results in an increase in the scope of the design documents, Seller may submit a change order for reimbursement from the Buyer for the additional work.

(f) On completion of construction, the Buyer shall maintain and repair, at Buyer's sole cost and expense, the permanent roadways and Roundabout, from time to time in a good and safe condition. Seller shall maintain and repair, at Seller's sole cost and expense, the Ponds and Temporary Access Roads.

(g) Seller shall not be required to competitively bid, but have the right to negotiate with a qualified vendor and contract for all design and construction work for the Roundabout, Ponds and Temporary Access Roads.

(h) Buyer shall cooperate and assist Seller in obtaining Governmental Approvals.

13. Grant of Easement to Seller.

(a) At Closing, the Buyer shall grant and convey to Seller, or shall otherwise provide for the public dedication of, for the benefit of the owners, tenants, customers, guests, invitees and vendors of the Proposed Shopping Center, a permanent and perpetual, non-exclusive drainage easement (the "Pond Easement"), over, under, across and through the pond areas and the underground stormwater discharge pipes and related facilities to be located within that portion of the Property which is more particularly described and shown in the sketch and description attached hereto as Exhibit "B" and by this reference made a part hereof (the "Pond Easement Area"), for the purpose of discharging and retaining stormwater run-off generated from the Proposed Shopping Center and the county roads adjacent thereto, from time to time. The Pond Easement shall take effect when the surface water drainage improvements have been fully constructed by the Seller. In the event that Buyer wishes, at some future date, to relocate the Pond Easement Area, the Buyer shall do so without any business interruption to Seller and shall be responsible, at its sole cost and expense, for such relocation and restoration of the Pond Easement Area pursuant to the conditions within this Agreement. Buyer shall be responsible to obtain, if required, any additional outfall easements for the Ponds, which may become necessary from time to time.

(b) At Closing, the Buyer shall grant and convey to Seller, or shall otherwise provide for the public dedication of, for the benefit of the owners, tenants, customers, guests, invitees and vendors of the Proposed Shopping Center, a permanent and perpetual, non-exclusive access easement (the "Road Easement") over and across the roadways/driveways located within that portion of the Property and the adjacent properties which are more particularly described and shown in the sketch and description attached hereto as Exhibit "B" and by this reference made a part hereof (the "Road Easement Area"), for vehicular and pedestrian ingress and egress from the Proposed Shopping Center.

(c) Between the effective date of this Agreement and the Inspection Termination Date, the Seller and Buyer agree to use good faith efforts to negotiate and agree upon the terms of the Easement Agreements to be executed at the Closing, in order to create and grant the easements and the pervious surface areas which are more specifically described in Sections 12 through 14 of this Agreement, and to set forth the understandings and agreements of

the parties with respect to said easements and areas described in Sections 12 through 14 of this Agreement.

14. Pervious Surface Areas/Wetland Mitigation.

(a) It is specifically agreed to by Buyer that Section 10.03.02.I., St. Johns County Land Development Code, applies to Buyer's purchase of the Property and Seller's use, remaining property, and all development rights shall continue to be deemed conforming. This specifically includes any and all pervious surface calculations, setbacks, signage, storm water discharge, retention ponds and drainage, and all other development requirements.

(b) The Property may be landscaped by the Seller. Any landscaping located in the Property shall in no event exceed three (3) feet in height and shall not obstruct the visibility of the Proposed Shopping Center from the Roundabout or Mickler Road.

(c) All land required of Buyer or Seller for mitigation of wetland impacts in connection with the construction of the Roundabout, Ponds and Temporary Access Roads or any other construction within the road right-of-way and Property pursuant to the terms hereof shall be provided by Buyer out of the 68 acres set aside in the Nocatee Development Order. If the 68 acres is insufficient for the wetland mitigation needs of Buyer, the parties agree to negotiate in good faith to obtain additional mitigation property, however, Buyer or Seller may terminate this Agreement at its option. Buyer shall provide to Seller written confirmation and identification of the off-site mitigation land area on or before February 28, 2004.

15. Definition of Completed Construction. Wherever in this Agreement, the term "completed" is used in reference to the construction of the roadway and stormwater retention/pond improvements which are more specifically described in this Agreement, such term shall be deemed to mean that all government agencies having jurisdiction over such improvements have accepted the improvements as being final, complete and constructed in accordance with the particular agency's rules, regulations, ordinances, laws, or other governing documents, and if applicable, that a certificate of completion (or its equivalent) has been issued by the responsible governing agency as to the improvements.

16. Excavated Fill. The Seller shall have the right, but not the obligation, to keep and retain all suitable fill that is excavated from the Road Easement Area and Pond Easement Area for the Seller's use in conjunction with the development of the Proposed Shopping Center and/or construction of the Roundabout, Ponds and Temporary Access Roads. Upon Seller's election of retention of the fill, all such suitable fill excavated from the easement areas described herein may be stockpiled on the Proposed Shopping Center property.

17. Default.

(a) Default by Seller. If Seller defaults in the performance of any of Seller's obligations in this Agreement or breaches any warranty or representation, Buyer shall give written notice to Seller of such default ("Notice of Default"). In the event Notice of Default is given as provided, Seller, at Seller's sole option and expense, shall have 90 days from the date it

receives the Notice of Default within which to cure such default (with a corresponding extension to the Closing Date as necessary). If after the expiration of such 90-day period, Seller has not cured the default, then Buyer may terminate this Agreement by giving Seller written notice of such termination, in which event, this Agreement and the rights of the parties hereunder shall immediately and automatically terminate and the Buyer shall be entitled to receive an immediate refund of the Deposit, and may sue for actual damages.

(b) Default by Buyer. If Buyer defaults in performance of any of Buyer's obligations in this Agreement for any reason, other than the Seller's default or the termination of this Agreement pursuant to the specific provisions hereof, the Seller will be entitled to receive the Deposit as Seller's remedy for such default, without the Seller waiving any rights it might otherwise have to sue for damages or specific performance.

18. Survival. All covenants, terms, provisions, representations and warranties set forth in this Agreement, except as specifically provided otherwise herein, shall survive the Closing.

19. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.

20. Modification Must be in Writing. No modification or termination of this Agreement shall be valid unless executed in writing and signed by the applicable duly authorized representatives of Seller and Buyer.

21. No Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing and signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

22. Assignability. Seller shall have the absolute right and authority to assign in whole or in part its rights under this Agreement to any subsidiary or affiliate of the Seller, or to any entity in which the Seller has an interest. Upon any such assignment, such assignee shall succeed to all of the rights and obligations of Seller hereunder and shall for all purposes hereof, be substituted as and be deemed the Seller hereunder. No person, firm, corporation, or other entity, other than Seller, shall have any obligation or liability hereunder as a principal, disclosed or undisclosed, or otherwise, except as otherwise herein expressly provided. The Buyer shall not have the right to assign this Agreement.

23. Severability. Should any part, clause, provision or condition of this Agreement be held to be void, invalid, or inoperative, the parties agree that such invalidity shall not affect any other part, clause, provision or condition thereof, and that the remainder of this Agreement shall be effective as though such void part, clause, provision or condition had not been contained herein.

24. Time. Time is of the essence of all provisions of this Agreement. In computing any period of time prescribed by this Agreement, the day of the act, event or default in which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday nor legal holiday.

25. Governing Law and Venue. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Florida. The invalidation of one or more of the terms of this Agreement shall not affect the validity of the remaining terms. It is agreed venue for determination of such disputes shall be in St. Johns County.

26. Notices. Any notice hereunder must be in writing and delivered personally or by United States mail, Registered or Certified, Return Receipt Requested; United States Express Mail; or Federal Express or equivalent courier service; and shall be effective only if and when received by the party to be notified. For purposes of notice, the addresses of the parties shall be set forth below or as may be designated by notice to the other from time to time.

Seller: Sembler Florida, Inc.
c/o The Sembler Company
5858 Central Avenue
St. Petersburg, Florida 33707-1728
Attn: Craig H. Sher

With a Copy To: Powell, Carney, Gross, Maller & Ramsay, P.A.
One Progress Plaza, Suite 1210
St. Petersburg, Florida 33701
Attn: Mary Jo Carney, Esquire

Buyer: St. Johns County
Ben W. Adams, Jr., County Administrator
4020 Lewis Speedway
St. Augustine, Florida 32084

Escrow Agent: Rogers Towers, P.A.
170 Malaga Street
St. Augustine, Florida 32084
Attn: Susan Bloodworth

27. Entire Agreement. This Agreement constitutes the entire agreement between the parties and there are no agreements, representations or warranties, oral or written, which have not been incorporated herein.

28. Applicability. This Agreement shall be binding upon and shall inure to the benefits of the parties hereto and their respective successors and, to the extent that assignment is permitted hereunder, their assigns.

29. Commission Dues. Buyer and Seller agree that there are no real estate commissions that may be owned as a result of this transaction.

30. Board of County Commission Approval. This Agreement is subject to the adoption of a resolution by the St. Johns County Commissioners no later than December 16, 2003, authorizing the County Administrator to execute this Agreement and approving the performance of this Agreement by Buyer.

31. Funding. In entering this agreement, Buyer is not committing non-ad valorem tax dollars for more than one year.

32. Effective Date. The effective date of this Agreement shall be the first date upon which this Agreement, or its valid counterparts, are properly executed by all named parties.

The remainder of this page is intentionally left blank

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement or its counterparties.

Signed, sealed and delivered in the presence of: **SELLER:**

SEMBLER FLORIDA, INC.

Signature of Witness

Legibly Print Name of Witness

By: _____
Name: _____
Title: _____

Signature of Witness

(CORPORATE SEAL)

Legibly Print Name of Witness

STATE OF FLORIDA)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2003, by _____ who is the _____ of Sembler Florida, Inc., a Florida corporation, on behalf of the corporation. He [] is personally known to me or [] has produced _____ as identification.

Notary
My Commission Expires: _____

Signed, sealed and delivered in the presence of:

BUYER:

ST. JOHNS COUNTY, FLORIDA

Signature of Witness

Legibly Print Name of Witness

By:

Ben W. Adams, Jr.
County Administrator

Signature of Witness

(CORPORATE SEAL)

Legibly Print Name of Witness

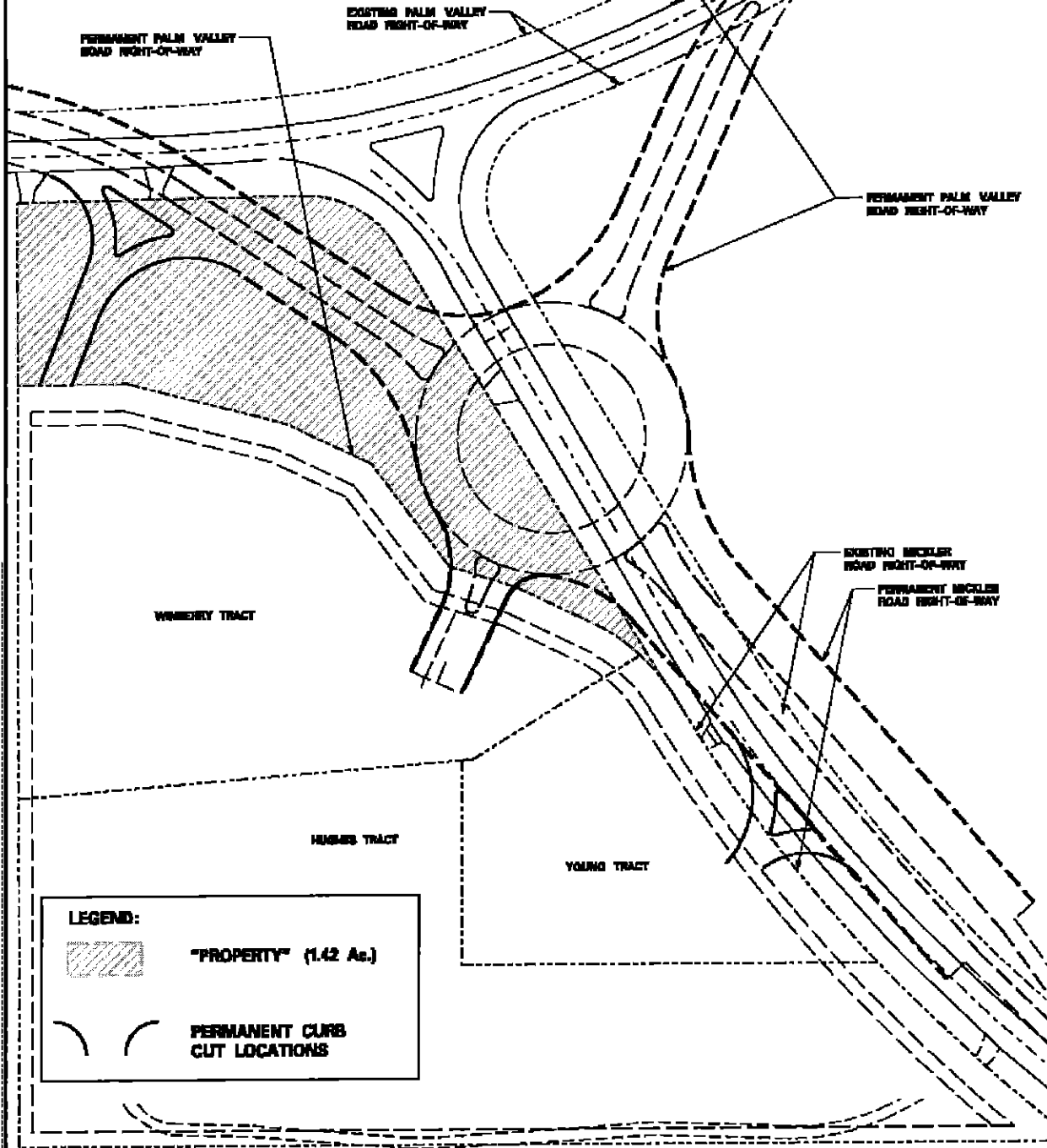
STATE OF FLORIDA)
COUNTY OF ST. JOHNS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2003, by **Ben W. Adams, Jr.**, who is the County Administrator of ST. JOHNS COUNTY, FLORIDA, on behalf of the County. He [] is personally known to me or [] has produced _____ as identification.

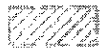

Notary
My Commission Expires: _____


"PROPERTY" EXHIBIT "A"

LEGAL DESCRIPTION:
APPROXIMATELY 1.42 ACRES IN GOVERNMENT LOT 3, SECTION 19,
TOWNSHIP 4 SOUTH, RANGE 29 EAST, ST. JOHNS COUNTY, FLORIDA.



LEGEND:

-  "PROPERTY" (1.42 Ac.)
-  PERMANENT CURB CUT LOCATIONS



H.F.R., Inc.
 Engineers - Planners - Landscape Architects - Surveyors
 2800 Corporate Square Boulevard • Tallahassee, Florida 32310
 (904) 224-6671 • Fax: (904) 224-6771

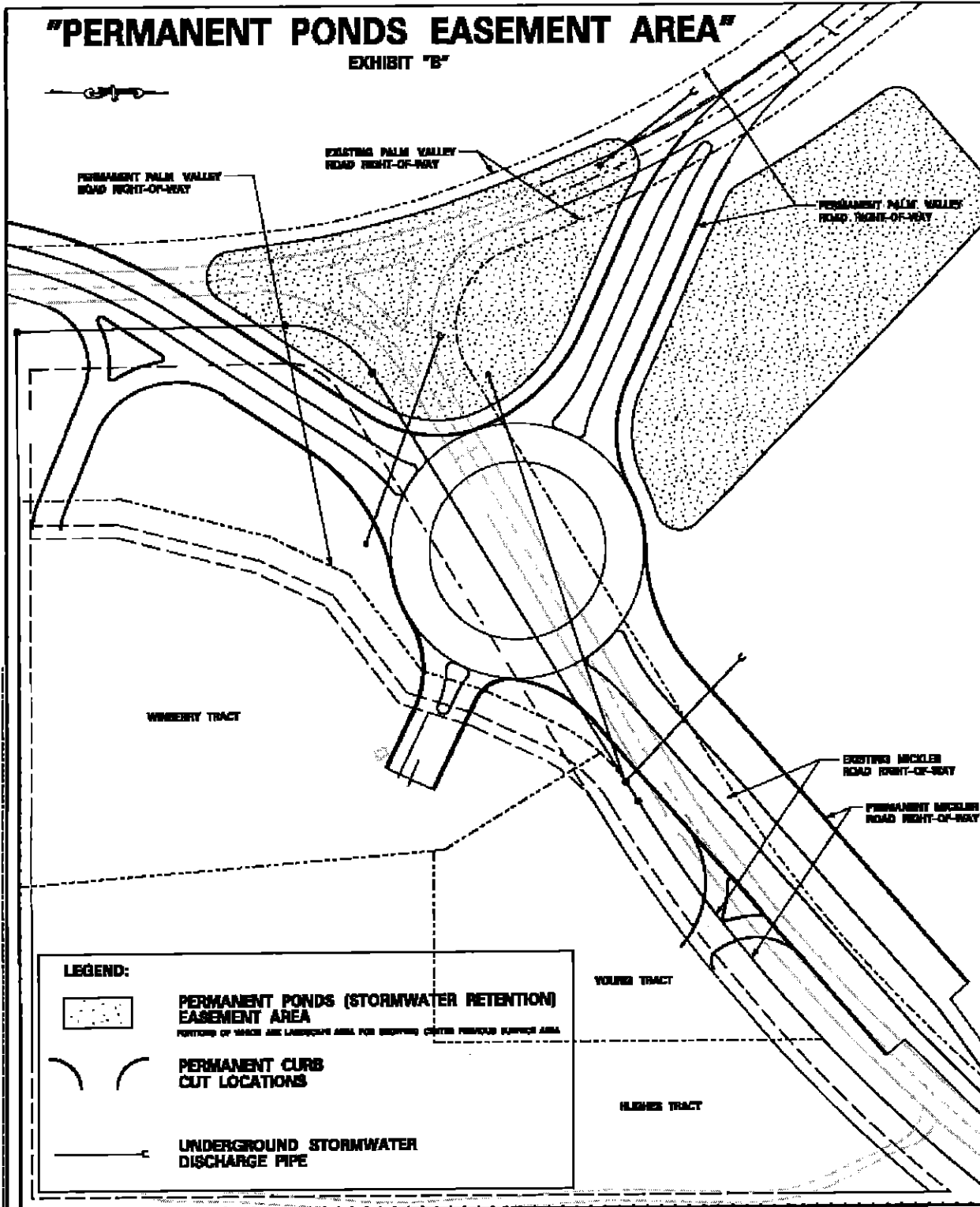
Resolving Quality and Life, by Design

Shoppes at Mickler Road

Scale:	1" = 50'
Drawing:	1 of 8
Design/Drawn:	J. WEA
Date:	2 Dec. 03
Project No.:	03000

"PERMANENT PONDS EASEMENT AREA"

EXHIBIT "B"



LEGEND:



PERMANENT PONDS (STORMWATER RETENTION) EASEMENT AREA

PORTIONS OF WHICH ARE LANDSCAPE AREA FOR SHOPPING CENTER PERVIOUS PAVED AREA



PERMANENT CURB CUT LOCATIONS



UNDERGROUND STORMWATER DISCHARGE PIPE



B.H.R. Inc.
 Engineers • Planners • Landscapers • Architects • Surveyors
 2300 Chapman Avenue, Suite 200 • Jacksonville, Florida 32217
 (904) 251-2200 • Fax: (904) 258-4171

**Shoppes
 at
 Mickler Road**

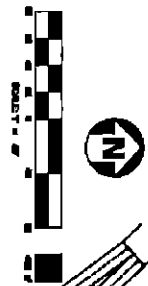
Scale: 1" = 50'
 Drawing: 1 of 8
 Design/Drawn: JMM
 Date: 11 Nov 92
 Project No.: 92001

Engineer's Final Estimate of Probable Cost
Palm Valley - Roundabout
St. Johns County

EXHIBIT C

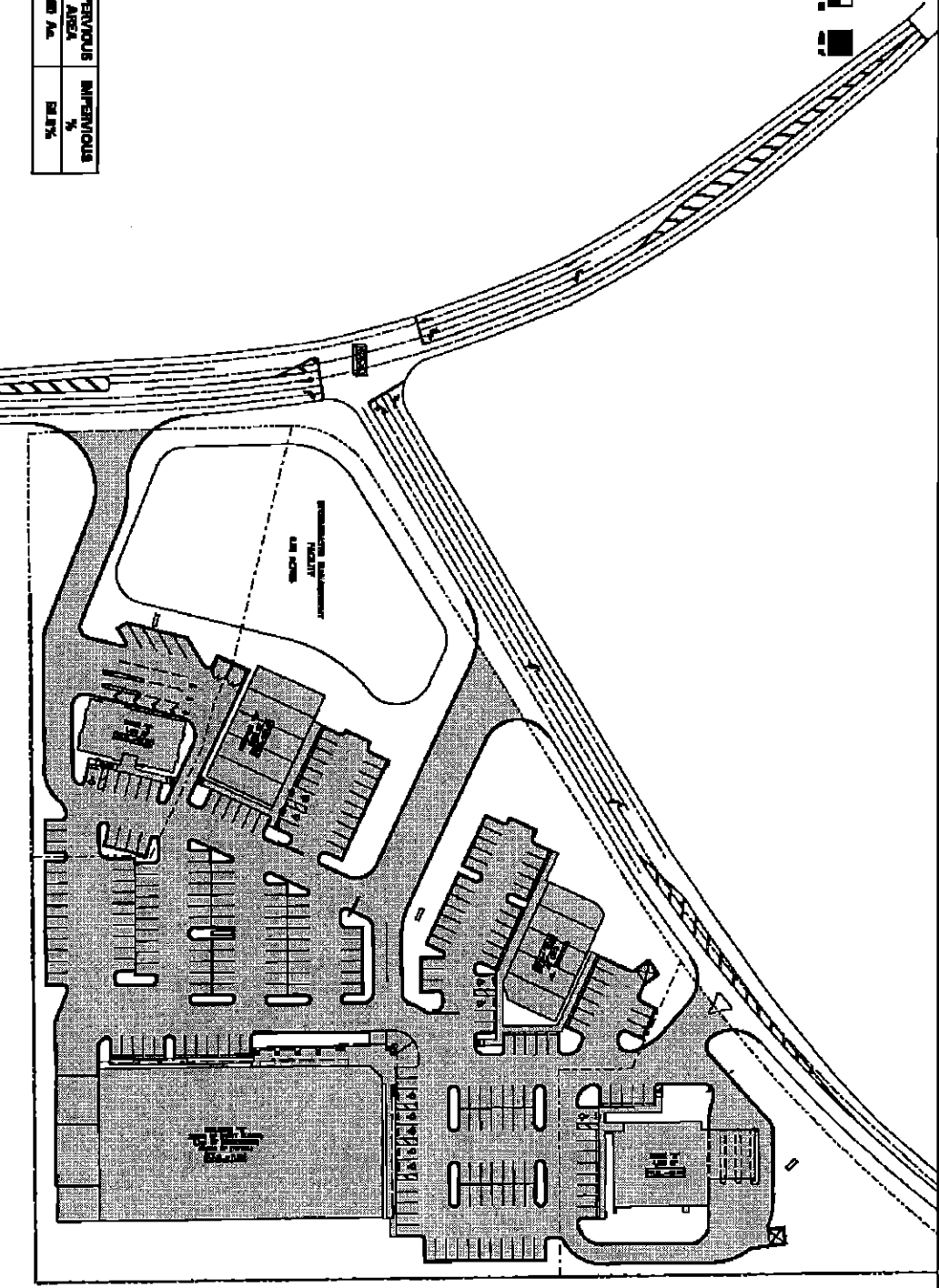
Engineer's Final Estimate of Probable Cost
Palm Valley - Traditional Intersection
St. Johns County

December 4, 2003				December 4, 2003					
Item	Unit	Quantity	Unit Price	Total	Item	Unit	Quantity	Unit Price	Total
Roundabout Roadway Construction					Traditional Intersection Roadway Construction				
Maintenance of Traffic	LS	1	\$125,000.00	\$125,000.00	Maintenance of Traffic	LS	1	\$10,000.00	\$10,000.00
Erosion Control	LS	1	\$10,000.00	\$10,000.00	Erosion Control	LS	1	\$7,500.00	\$7,500.00
Clearing and Grubbing	AC	4.70	\$10,000.00	\$47,000.00	Clearing and Grubbing	AC	1.50	\$10,000.00	\$15,000.00
Embankment	CY	13411.00	\$7.00	\$93,877.00	Embankment	CY	1000.00	\$7.00	\$7,000.00
Excavation	CY	7981.00	\$5.50	\$40,650.50	Excavation	CY	0.00	\$5.50	\$0.00
Dewatering	LS	1.00	\$20,000.00	\$20,000.00	Dewatering	LS	0.00	\$0.00	\$0.00
Base	SY	10294.00	\$10.00	\$102,940.00	Base	SY	2500.00	\$10.00	\$25,000.00
Stabilization	SY	10294.00	\$2.00	\$20,588.00	Stabilization	SY	2500.00	\$2.00	\$5,000.00
Asphalt - Heavy Duty	SY	10294.00	\$8.50	\$87,499.00	Asphalt - Heavy Duty	SY	2500.00	\$8.50	\$21,250.00
Curb and Gutter	LF	7000.00	\$9.40	\$65,800.00	Curb and Gutter	LF	0.00	\$9.40	\$0.00
Drainage Structures	EA	15	\$3,500.00	\$52,500.00	Drainage Structures	EA	0.00	\$3,500.00	\$0.00
Storm Pipe	LF	754.50	\$75.00	\$56,587.50	Storm Pipe	LF	0.00	\$75.00	\$0.00
Slidewalk Concrete (4")	SY	250.00	\$20.00	\$5,000.00	Slidewalk Concrete (4")	SY	0.00	\$20.00	\$0.00
Sodding (Bermuda)	SY	10000.00	\$3.75	\$37,500.00	Sodding (Bermuda)	SY	1200.00	\$3.75	\$4,500.00
Surveying & Staking	LS	1.00	\$30,000.00	\$30,000.00	Surveying & Staking	LS	1.00	\$5,000.00	\$5,000.00
Wetland Demucking (75AC x 4 ft deep)	CY	4940.00	\$11.00	\$53,340.00	Wetland Demucking (75AC x 4 ft deep)	CY	0.00	\$11.00	\$0.00
Signing and Marking	LS	1.00	\$35,000.00	\$35,000.00	Signing and Marking	LS	1.00	\$5,000.00	\$5,000.00
					Signalization	LS	1.00	\$100,000.00	\$100,000.00
SUBTOTAL				\$983,182.00	Subtotal				\$205,250.00
Mobilization	10%	0.10	\$893,182.00	\$89,318.20	Mobilization	10%	0.10	\$205,250.00	\$20,525.00
TOTAL HARD COSTS				\$971,800.20	TOTAL HARD COSTS				\$225,775.00
BONDS/INSURANCE (5% OF SUBTOTAL)				\$44,159.10	BONDS/INSURANCE (5% OF SUBTOTAL)				\$10,262.50
CONTINGENCY (10% OF SUBTOTAL)				\$8,318.20	CONTINGENCY (10% OF SUBTOTAL)				\$20,525.00
Engineer's Final Estimate of Probable Cost				\$1,103,977.50	Engineer's Final Estimate of Probable Cost				\$256,562.50
SOFT COSTS					SOFT COSTS				
Geotechnical survey	LS	1	\$7,500.00	\$7,500.00	Geotechnical survey	LS	1	\$2,500.00	\$2,500.00
Phase I	LS	1	\$2,500.00	\$2,500.00	Phase I	LS	1	\$0.00	\$0.00
Environmental Engineer (wetland)	LS	1	\$7,500.00	\$7,500.00	Environmental Engineer (wetland)	LS	1	\$0.00	\$0.00
Permits / Fees	LS	1	\$20,000.00	\$20,000.00	Permits / Fees	LS	1	\$0.00	\$0.00
Engineers Inspections & Certification	LS	1	\$62,000.00	\$62,000.00	Engineers Inspections	LS	1	\$9,500.00	\$9,500.00
Material Testing	LS	1	\$15,000.00	\$15,000.00	Material Testing	LS	1	\$5,000.00	\$5,000.00
Engineering Design	LS	1	\$130,000.00	\$130,000.00	Engineering Design	LS	1	\$40,000.00	\$40,000.00
TOTAL SOFT COSTS				\$224,500.00	TOTAL SOFT COSTS				\$57,000.00
TOTAL ALL COSTS				\$1,348,477.50	TOTAL ALL COSTS				\$313,562.50



PARCELS	AREA	IMPERVIOUS AREA	IMPERVIOUS %
2877	7.99 AC.	4.89 AC.	61.2%

<p>SKILL, INC. 1800 Canyon Blvd., Suite 100, Boulder, CO 80502 (303) 440-1234 Fax: (303) 440-1235</p>	<p>Shopper @ Park Valley for The Sandler Company</p>	<p>Exhibit 70*</p>	<p>DK-D 1/1/88 1/1/88</p>
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STAV