

FLORIDA DEPARTMENT OF TRANSPORTATION - DISTRICT FOUR
MAINTENANCE MEMORANDUM OF AGREEMENT (MMA)

THIS AGREEMENT made and entered into on _____, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, a component agency of the State of Florida, hereinafter called the "**DEPARTMENT**", and the **CITY OF FORT LAUDERDALE**, a municipal corporation existing under the Laws of Florida, hereinafter called the "**AGENCY**".

WITNESSETH:

WHEREAS, the **DEPARTMENT** has jurisdiction over State Road (SR) 862/I-595; and

WHEREAS, as part of the continual updating of the State of Florida Highway System, the **DEPARTMENT**, for the purpose of safety, protection of the investment and other reasons, has constructed and does maintain SR 862/I-595; and

WHEREAS, the **AGENCY** seeks to relocate and install approximately 550 Linear Feet (LF) of chain link fence and maintain certain landscape areas hereinafter called **FEATURES**, specifically the landscape and drainage area from the toe of bank, to the top of bank, within **DEPARTMENT** right-of-way along SR 862/I-595 southbound on-ramp to SR-9/I-95 South, to SW 32nd Place, as described within **EXHIBIT A** (Project Location, Description and Location Map), within the corporate limits of the **AGENCY**; and

WHEREAS, it is the intent of the **AGENCY** and the **DEPARTMENT** that the **AGENCY** agrees that such **FEATURES** shall be maintained by periodic mowing, fertilizing, weeding, litter pick-up, pruning, necessary replanting, irrigation repair and/or replacement, as needed under **PERMIT NO. 2023-K-491-00059**, from SR 862/I-595 at M.P. 0.423 to SW 32nd Place, Ft. Lauderdale as detailed in **EXHIBIT A** ; and

WHEREAS, the Project involves the scope of work as described within **EXHIBIT A**, and **EXHIBIT B** (Plans), which will benefit the **AGENCY**; and

WHEREAS the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party; and

WHEREAS the **AGENCY** by Resolution Number _____ entered into this date _____, attached hereto and by this reference made a part hereof, desires to enter into this Agreement and authorizes its officers to do so.

NOW THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties covenant and agree as follows:

1. RECITALS

The recitals set forth above are true and correct and are deemed incorporated herein.

2. INSTALLATION OF FACILITIES

A. The **AGENCY** shall relocate, install and maintain, under **Permit No. 2023-K-941-00059**, the **FEATURES** as detailed in **EXHIBIT A** and **EXHIBIT B** that will benefit the **AGENCY**. The **AGENCY** agrees to maintain the **FEATURES** within the corporate limits of the **AGENCY**; and

- 1) All activities, including the **FEATURES** relocation, installation and future maintenance operations performed on State highway right of way, must be in conformity with the most current edition of the *Manual on Uniform Traffic Control (MUTCD)* and *FDOT Traffic Control through Work Zones*.
- 2) The most current edition of *FDOT Standard Plans* (Sight Distance at Intersections) must be adhered to.
- 3) Lateral Offsets as specified in the *FDOT Plans Preparation Manual*, Volume 1, Chapters 2 and 4 must be adhered to.
- 4) **FEATURES** shall not be used for staging, including but not limited to equipment, materials or vehicles.
- 5) The **AGENCY** shall provide the local FDOT Operation Center, located at FDOT Operation Center located at Broward Operations, 5548 NW 9th Ave., Ft. Lauderdale, Florida 33309, (954) 776-4300, a twenty-four (24) hour telephone number and the name of a responsible person that the **DEPARTMENT** may contact. The **AGENCY** shall notify the local maintenance office forty-eight (48) hours prior to the start of the **FEATURES**.
- 6) If there is a need to restrict the normal flow of traffic, it shall be done on non-holiday, weekday off-peak hours (9 AM to 3 PM), and the party performing such work shall give notice to the local law enforcement agency within whose jurisdiction such road is located prior to commencing work on the **FEATURES**. The **DEPARTMENT'S** Operation Center Public Information Officer (see telephone number in Paragraph 5 above) shall also be notified.
- 7) The **AGENCY** shall be responsible for clearing all utilities within the **FEATURES** limits before relocation and installation commences.
- 8) The **AGENCY** shall be solely responsible for any damages to surrounding property, real estate, vehicles, pedestrians, or other assets occurring as a result of relocation and installation operations and shall repair such damage to the satisfaction of the **DEPARTMENT** at no expense to the **DEPARTMENT**.
- 9) Tree and palm pruning shall be supervised by properly trained personnel, trained in tree pruning techniques and shall meet the most current standards set forth by the International Society of Arboriculture (ISA) and the American National Standard Institute (ANSI), Part A-300.
- 10) If it becomes necessary to provide utilities (water/electricity) to the areas, it shall be the **AGENCY'S** responsibility to obtain a permit for such work through the local Operations Center and the **AGENCY** shall be responsible for all associated fees for the installation and maintenance of these utilities.
- 11) All activities, including landscape **FEATURES** and future maintenance operations performed on State highway right of way, must be in conformity with the most current

edition of the Manual on Uniform Traffic Control (MUTCD) and FDOT Standard Plans for Road Construction, and, Maintenance of Traffic.

- 12) Landscape **FEATURES** shall not obstruct roadside signs or permitted outdoor advertising signs, (see Florida Administrative Code [F.A.C.] Rule Chapter 14-10.)

3. MAINTENANCE OF FACILITIES

It is understood and agreed by the parties that upon completion of the project, the **AGENCY** shall be responsible for maintenance of the landscape **FEATURES** in accordance with **DEPARTMENT** Procedures, Standards and Specification. The **AGENCY** shall follow the minimum level of maintenance guidelines as set forth in FDOT'S Rule Chapter 14-40 Highway Beautification and Landscape Management, in the FDOT Guide to Roadside Mowing and Maintenance Management System, and **EXHIBIT C** (Maintenance Plan Requirements), for maintenance activities for landscape improvements. In event of a conflict between documents, standards and procedures, the more stringent may apply. Maintenance by the **AGENCY** will include inspection, repair, restoration, replacement, and general maintenance of all **FEATURES** as described in **EXHIBIT B** within the limits of construction as detailed in **EXHIBIT A**. Maintenance shall be as indicated below and in accordance with **EXHIBIT C**. Maintenance shall also include the following:

- A. The **AGENCY** agrees to maintain the landscape **FEATURES**, within the physical limits described in **Exhibit "A"** and as further described in **Exhibit "B"**. The **AGENCY'S** responsibility for maintenance shall include all landscape and drainage areas.
- B. Such maintenance to be provided by the **AGENCY** is specifically set out as follows: to maintain, which means to properly water and fertilize all plant materials; to keep them as free as practicable from disease and harmful insects; to properly mulch the planting beds; to keep the premises free of weeds; to mow the turf to the proper height; to properly prune all plants which at a minimum includes: (1) removing dead or diseased parts of plants, (2) pruning such parts thereof to provide clear visibility to signage, permitted outdoor advertising signs per Florida Statute 479.106 and for those using the roadway and/or sidewalk; (3) preventing any other potential roadway hazards. *Plant materials* shall be those items which would be scientifically classified as plants and including trees, palms, shrubs, groundcover and turf. To maintain also means to remove or replace dead or diseased plant materials in their entirety, or to remove or replace those that fall below original project standards. Palms shall be kept fruit free year-round. To maintain also means to keep the header curbs that contain the specialty surfacing treatment in optimum condition. To maintain also means to keep the nonstandard hardscape areas clean, free from weeds, trash, litter and debris. The **FEATURES** shall be kept free of graffiti and vagrant camps. The **FEATURES** shall be free of pests such as stinging insects, rodents, and vermin, including removal of nests as needed.
- C. As part of the maintenance responsibility, the **AGENCY** shall keep in good repair and replace, defective or worn-out parts of the **FEATURES**. The **AGENCY'S** responsibility to keep the **FEATURES** in good repair shall include all necessary inspection, maintenance, repair and replacement of any type or nature, including, but not limited

- to, inspection, maintenance, repair, and replacement due to normal wear and tear, named storm event, acts of God, vandalism, and accidents. The **AGENCY** shall take all necessary steps to maintain the **FEATURES** in a manner to protect against injury to any person or property.
- D. The above-named functions to be performed by the **AGENCY** may be subject to periodic inspections by the **DEPARTMENT** at the discretion of the **DEPARTMENT**. Such inspection findings will be shared with the **AGENCY** and shall be the basis of all decisions regarding reworking relating to the maintenance obligation / function or **AGREEMENT** termination.
- E. The **AGENCY** shall be solely responsible for any damages to surrounding property, real estate, vehicles, pedestrians, or other assets occurring as a result of maintenance and operation of the **FEATURES** and shall repair such damage to the satisfaction of the **DEPARTMENT** at no expense to the **DEPARTMENT**, as per the requirements in **Exhibit C**.
- F. The **AGENCY** shall be responsible for maintenance of the **FEATURES** in accordance with the following Federally and State accepted standards (current editions at the time of execution of this **AGREEMENT** and any amendments hereafter) and all costs related thereto: (a) FDOT Design Manual (FDM), (b) Florida Green Book, (c) Standard Specifications for Roadway and Bridge Construction, (d) FDOT Standard Plans, (e) Manual on Uniform Traffic Control Devices (MUTCD), and (f) all other applicable local, state, or federal laws, rules, resolutions, or ordinances, and FDOT procedures. In the event of a conflict between documents, standards, and procedures the more stringent shall apply.
- G. Any work impacting traffic flow along SR 862/ I-595 or adjacent roadways, must be coordinated with the **DEPARTMENT**. Lane closures must be submitted for approval in accordance with **DEPARTMENT** procedures and policies and will meet the goals established in the **DEPARTMENT**'s Open Roads Policy.

4. NOTICE OF MAINTENANCE DEFICIENCIES

- A. If at any time after the **AGENCY** has undertaken the landscape **FEATURES** maintenance responsibility for the landscape improvements it shall come to the attention of the **DEPARTMENT** that the limits, or a part thereof, are not properly maintained pursuant to the terms of this Agreement, said District Secretary, may at his/her option, issue a written notice that a deficiency or deficiencies exist(s), by sending a certified letter to the **AGENCY**, to place said **AGENCY** on notice thereof. Thereafter, the **AGENCY** shall have a period of thirty (30) calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time-period, the **DEPARTMENT** may, at its option, proceed as follows:
- 1) Maintain the landscape improvements or any part thereof, with the **DEPARTMENT** or Contractor's personnel and invoice the **AGENCY** for expenses incurred; and/or, at the discretion of the **DEPARTMENT**, terminate the Agreement in accordance with Paragraph 7 of this Agreement and remove, by the **DEPARTMENT** or Contractor's personnel, all of the landscape improvements installed under this Agreement or any

preceding Agreements, except as to trees and palms, and charge the **AGENCY** the actual cost of such removal.

5. DEPARTMENT ACCESS TO FACILITIES

The **DEPARTMENT** will periodically need access to various features within the limits of this Agreement. Upon request of the **DEPARTMENT**, the **AGENCY** will have 14 calendar days to provide access to the items noted by the **DEPARTMENT**. This may require temporary or permanent removal of **FEATURES** such as landscape or other items conflicting with the items to which the Department needs access.

Should the **AGENCY** fail to remove or relocate items as requested, the Department may:

- (a) Remove conflicting **FEATURES** or any portion thereof.
- (b) Restore the area with any material meeting Department standards.
- (c) Restore the **FEATURES** at the request and funding of the **AGENCY**.

6. FUTURE DEPARTMENT FEATURES

It is understood between the parties hereto that the landscape **FEATURES** covered by this Agreement may be removed, relocated, or adjusted at any time in the future, as determined to be necessary by the **DEPARTMENT**, in order that the adjacent state road be widened, altered, or otherwise changed to meet future criteria or planning needs of the **DEPARTMENT**.

The **AGENCY** shall be given sixty (60) calendar day notice to remove said landscape **FEATURES** at the **AGENCY'S** expense after which time the **DEPARTMENT** may remove same. All permits (including tree permits), fees, and any mitigation associated with the removal, relocation or adjustments of these improvements are the **AGENCY'S** responsibility.

7. AGREEMENT TERMINATION

This Agreement may be terminated under any one (1) of the following conditions:

- A. By the **DEPARTMENT**, if the **AGENCY** fails to perform its duties under this Agreement, following ten (10) days written notice. The **AGENCY** shall reimburse the **DEPARTMENT** for any expenditures for the installation of said **FEATURES** and the cost to remove and or replace said improvement with the standard improvement or remove in its entirety.
- B. By the **DEPARTMENT**, for refusal by the **AGENCY** to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter

119, Florida Statutes, and made or received by the **AGENCY** in conjunction with this Agreement.

C. By the **DEPARTMENT** with a six (6) month written notice.

8. AGREEMENT TERM

The term of this **AGREEMENT** commences upon execution by all parties. The term of this **AGREEMENT** shall remain in effect for as long as the **FEATURES** shall exist.

9. LIABILITY AND INSURANCE REQUIREMENTS

A. With respect to any of the **AGENCY'S** agents, consultants, sub-consultants, contractors, and/or sub-contractors, such party in any contract for the **FEATURES** shall agree to indemnify, defend, save and hold harmless the **DEPARTMENT** from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of such agents, consultants, sub consultants, contractors and/or subcontractors. The **AGENCY** shall provide to the **DEPARTMENT** written evidence of the foregoing upon the request of the **DEPARTMENT**. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the **DEPARTMENT** for its own negligence.

B. In the event that **AGENCY** contracts with a third party to provide the services set forth herein, any contract with such third party shall include the following provisions:

- 1) **AGENCY'S** contractor shall at all times during the term of this Agreement keep and maintain in full force and effect, at contractor's sole cost and expense, Comprehensive General Liability with minimum limits of \$1,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability and Worker's Compensation insurance with minimum limits of \$500,000.00 per Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability and Worker's Compensation policy without restrictive endorsements, as filed by the Insurance Services Office and shall name the **DEPARTMENT** as an additional insured.
- 2) **AGENCY'S** contractor shall furnish **AGENCY** with Certificates of Insurance of Endorsements evidencing the insurance coverages specified herein prior to the beginning performance of work under this Agreement.
- 3) Coverage is not to cease and is to remain in full force and effect (subject to cancellation notice) until all performance required of **AGENCY'S** contractor is completed. All policies must be endorsed to provide the **DEPARTMENT** with at least thirty (30) days' notice of cancellation and or/or restriction. If any of the insurance coverages will expire prior to the completion of work, copies of renewal policies shall be furnished at least (30) days prior to the date of expiration.

10. E-VERIFY REQUIREMENTS

The **AGENCY** shall:

- A. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the **AGENCY** for the work performed under this **AGREEMENT**; and
- B. Expressly require any contractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

11. ENTIRE AGREEMENT

This writing embodies the entire Agreement and understanding between the parties hereto and there are no other Agreements and understanding, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby except the construction agreement **2023-K-491-00059** all other **FEATURES** not specifically mentioned in this Agreement.

12. EXPENDITURE OF MONEY

The **DEPARTMENT**, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The **DEPARTMENT** shall require a statement from the Comptroller of the **DEPARTMENT** that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the **DEPARTMENT** which are for an amount in excess of TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00) and which have a term for a period of more than one year.

13. DISPUTES

The **DEPARTMENT** shall decide all questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this Agreement, the prosecution or fulfillment of the service hereunder and the character, quality, amount and value thereof. Should the **AGENCY** disagree with the **DEPARTMENT** decision, the **AGENCY** may pursue any and all legal and equitable remedies available under this agreement.

14. ASSIGNMENT

This Agreement may not be assigned or transferred by the **AGENCY** in whole or part without the consent of the **DEPARTMENT**.

15. LAWS GOVERNING

This **AGREEMENT** shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The venue for any dispute arising from this **AGREEMENT** shall be in Broward County, Florida.

16. NOTICES

Any and all notices given or required under this **AGREEMENT** shall be in writing and either personally delivered with receipt acknowledgement or sent by certified mail, return receipt requested. All notices shall be sent to the following addresses.

If to the **DEPARTMENT**:

State of Florida Department of Transportation
Attention: District Maintenance Engineer
3400 West Commercial Blvd
Ft. Lauderdale, FL 33309-3421

If to the **AGENCY**:

City of Fort Lauderdale
Attention: Municipal Services Director
100 N. Andrews Avenue,
Fort Lauderdale, FL 33301

17. LIST OF EXHIBITS

Exhibit A: Project Location, Description and Project Aerial
Exhibit B: Plans
Exhibit C: Maintenance Plan Requirements

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

AGENCY

City of Fort Lauderdale, a municipal
Corporation of the State of Florida

By: _____ **Date:** _____
City Mayor

Print name: _____

ATTEST:

_____ **Date:** _____
City Clerk

Print name: _____

Approved as to form

_____ **Date** _____
City Attorney

Print name: _____

SECTION No: 86095058
PERMIT No:2023-K-491-00059
COUNTY: BROWARD
S.R. No: 862

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

DEPARTMENT:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

Sign: _____
Paul A. Lampley, P. E., Director of Operations

Date: _____

Approval as to Form:

Sign: _____
Elizabeth Quintana, Assistant General Counsel

Date: _____

EXHIBIT A

PROJECT LOCATION, DESCRIPTION AND AERIAL

I. Project Location

The **FEATURES** associated with this agreement are within the **DEPARTMENT'S** right-of-way, within limits of the City of Fort Lauderdale, Florida, along SR 862/I-595 southbound on-ramp to SR-9/I-95 South, to SW 32nd Place

II. Description

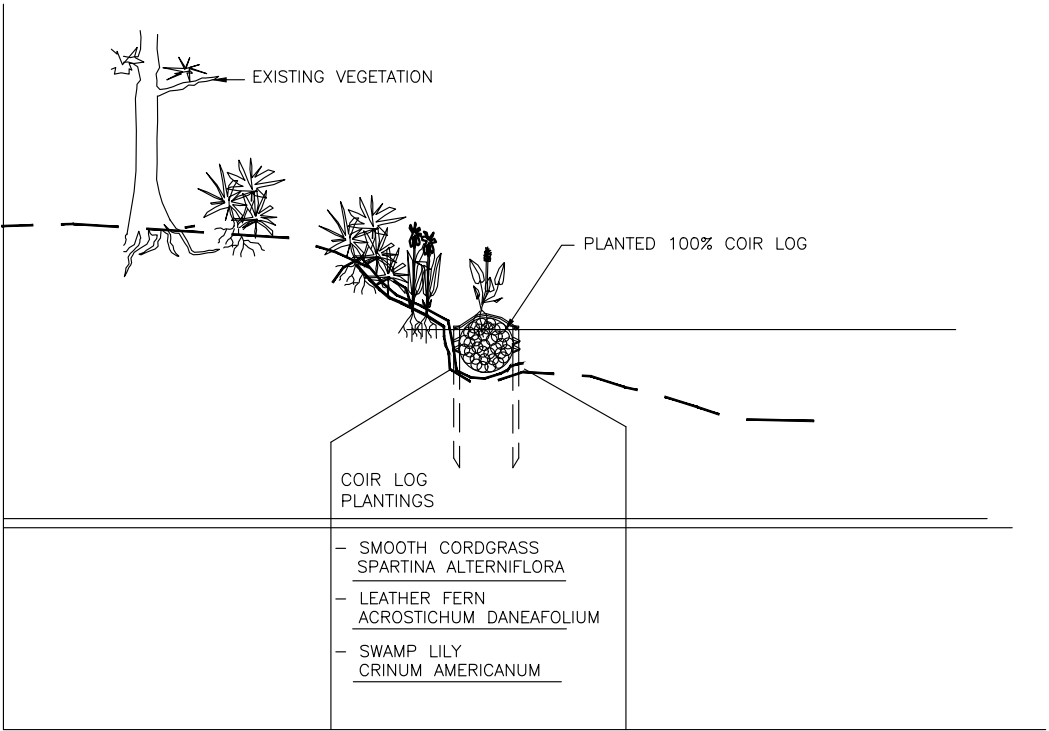
The **AGENCY** seeks to relocate and install approximately 550 Linear Feet (LF) of chain link fence and maintain certain landscape areas hereinafter called, specifically the landscape and drainage area from the toe of bank to the top of bank, within **DEPARTMENT** right-of-way along SR 862/I-595 southbound on-ramp to SR-9/I-95 South, to SW 32nd Place.

III. Features

Landscape areas will be maintained according to typical cross sections and master plant list, provided below in Figure 1.

III. Features - Figure 1

Excerpt from C-38, "Osceola Creek Restoration Shoreline Stabilization Master Plans" prepared by Lucia Z. Medina dated January 1st, 2023, as approved by the Department



TYPICAL CROSS-SECTION
COIR LOG PLANTING

MASTER PLANT LIST		
SCIENTIFIC NAME	COMMON NAME	PLANT DENSITY/PLANTING SIZE/SPACING
SPARTINA ALTERNIFLORA	SMOOTH CORDGRASS	ALL MATERIAL BARE ROOT. MIN SIZE 18-24" EA. 18" OC, 12" O.C. IN COIR LOG
ACROSTICHUM DANEAFOLIUM	LEATHER FERN	1 GAL., MIN SIZE 18-24" EA. 30" OC
CRINUM AMERICANUM	SWAMP LILY	ALL MATERIAL BARE ROOT. MIN SIZE 18-24" EA. 2' OC
SOD	SOD	SQUARE YARD
CONOCARPUS ERECTUS	GREEN BUTTONWOOD	45 GAL MIN
BURSERA SIMARUBA	GUMBO LIMBO	12' HIGH MIN
CONOCARPUS ERECTUS SERICEUS	SILVER BUTTONWOOD	45 GAL MIN
NATIVE TREES	NATIVE TREES	AS NEEDED FOR SHORELINE STABILIZATION 45 GAL MIN

IV. Aerial



EXHIBIT B

PLANS

Plan prepared by Lucia Z. Medina dated January 1st, 2023, as approved by the Department.

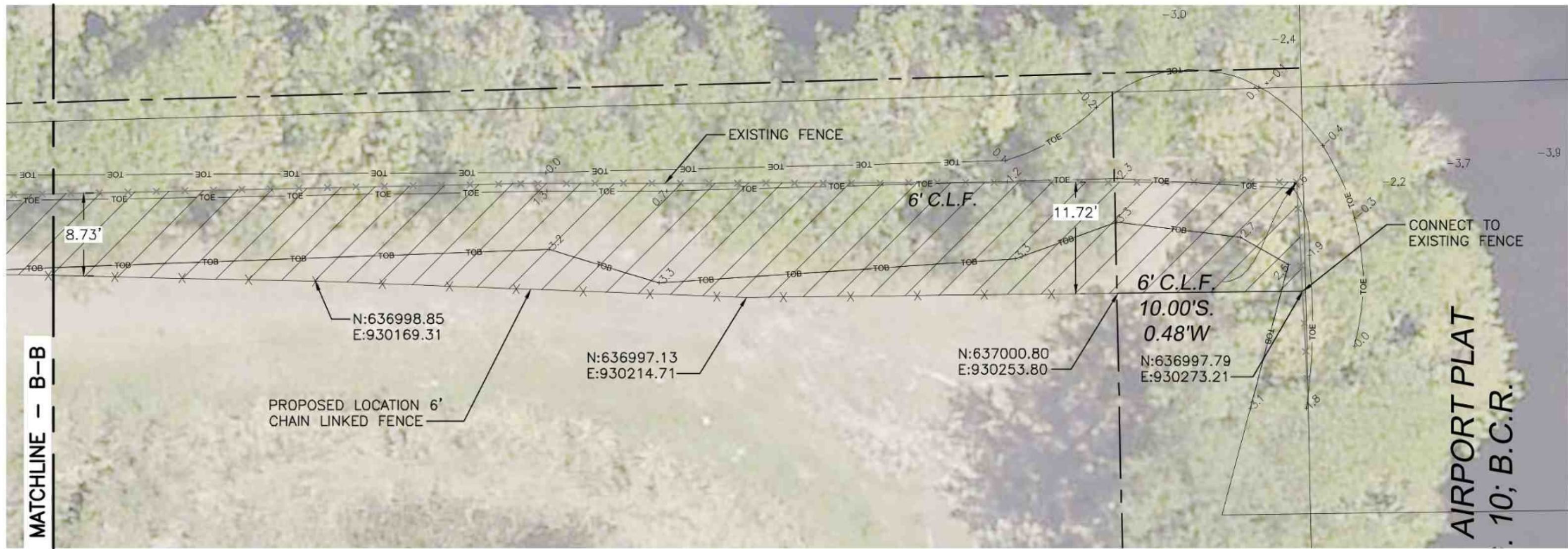
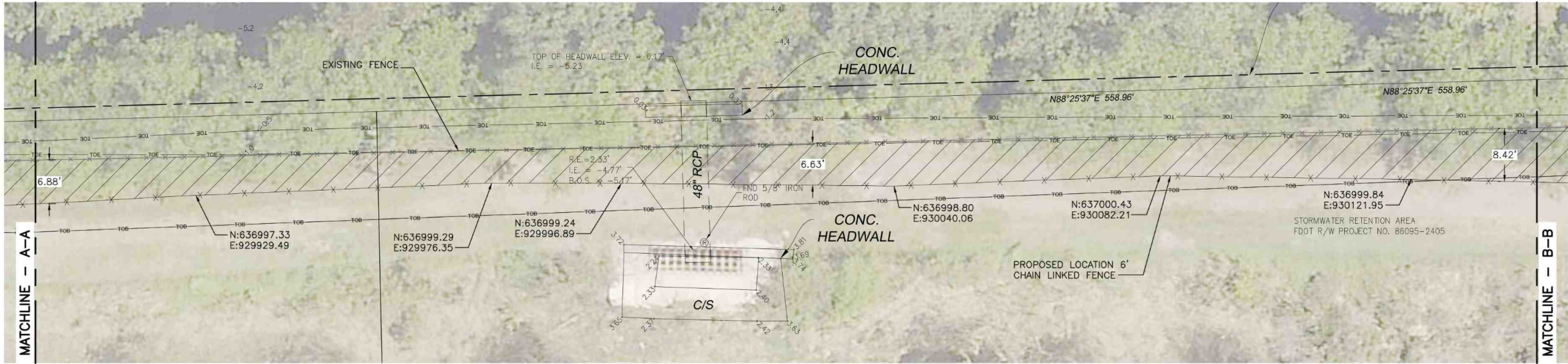
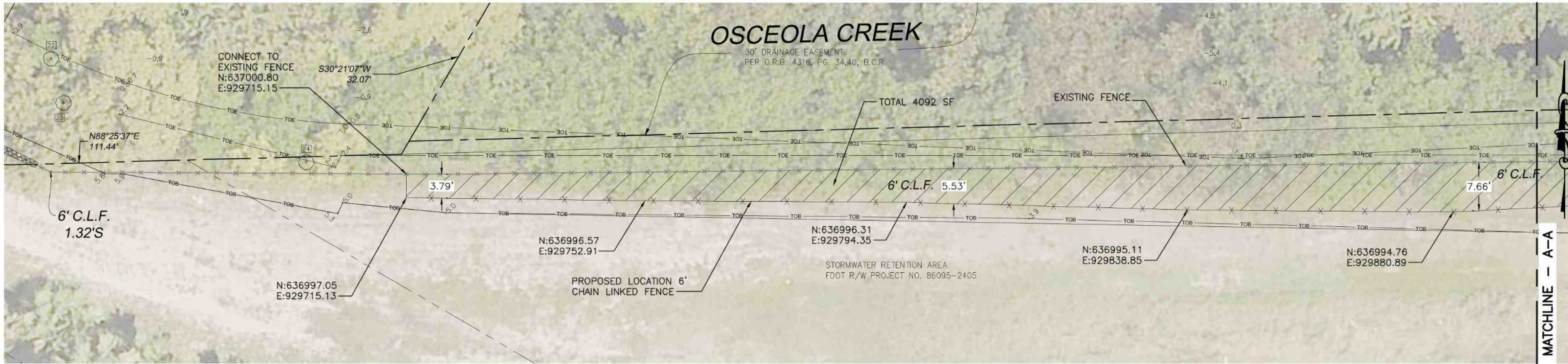
Plans will be used for purposes of locating 550 LF of fence. For all information regarding landscaping see **EXHIBIT A**.

OSCEOLA CREEK RESTORATION

Sheets Included:

PDF Page Number (#)	Plan Sheet (#)	Sheet(s) Description
15		COVER SHEET
16	C-01	PROPOSED FENCE RELOCATION PLAN

[The remainder of this page intentionally left blank.]



EXISTING SITE PLAN
1" = 10'



KEY MAP

Hazen
HAZEN AND SAWYER
4000 HOLLYWOOD BLVD, SUITE 750N
HOLLYWOOD, FLORIDA 33021

ENGINEER:
LUCIA Z. MEDINA
REG. No: 83864
DATE: 01/19/23
TEL: 954-987-0066
FAX: 954-987-2949

DRAWN BY: DATE: 01/19/23
DESIGNED BY: SCALE: 1"=10'
CHECKED BY: LZM
FIELD BOOK: XXXX

CITY OF FORT LAUDERDALE
PUBLIC WORKS DEPARTMENT
ENGINEERING & ARCHITECTURE
100 North Andrews Avenue, Fort Lauderdale, Florida 33301

REVISIONS		DESCRIPTION	
NO.	DATE	BY	CHK'D

PROJECT # 12743
OSCEOLA CREEK RESTORATION
PROPOSE FENCE RELOCATION PLAN

SHEET NO.
C-1
TOTAL: 1
CAD FILE:
DRAWING FILE NO.
4-142-71

CONFORMED SET - FOR CONSTRUCTION

EXHIBIT C

MAINTENANCE PLAN REQUIREMENTS

In reference to Maintenance to be performed under this Agreement, the **AGENCY** shall submit to the **DEPARTMENT** a maintenance plan detailing the means and methods for accomplishing any maintenance or repairs to the **FEATURES** in accordance with all **DEPARTMENT** Standards, Procedures and Specifications. This plan shall be submitted and approved by the **DEPARTMENT** prior to commencing any maintenance or repair activities. The **AGENCY** shall comply with the **DEPARTMENT's** applicable Maintenance Rating Program Standards. The plan should at minimum detail how the **AGENCY** will address the following:

1. Providing for continuous traffic control and necessary traffic control devices as required for the safe movement of traffic of vehicular and pedestrian traffic past the location of the structure being repaired for the duration of the repair in accordance with **DEPARTMENT** Standards, Procedures and Specifications.
2. Protection of adjacent surrounding property, real estate, vehicles, pedestrians, attachments to the light poles, or other assets during the preparation and recoating of surfaces.
3. Containment of debris or materials used in or resulting from the repair

After the maintenance plan is approved, the **AGENCY** shall submit a work plan to the **DEPARTMENT** for approval prior to each repair to be performed detailing:

1. The proposed date of the repair.
2. The location of the repair.
3. The nature of the repair.
4. The materials to be used for the repair.