SECTION NO.:	86170
FM NO.(s):	228246
COUNTY:	Broward
S.R. NO.:	811

### DISTRICT FOUR (4) MAINTENANCE MEMORANDUM OF AGREEMENT

THIS AGREEMENT, made and entered into this day of <u>June</u> 2005 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 political subdivision of the State of Florida, existing under the Laws of Florida, hereinafter called the AGENCY.

#### WITNESSETH:

WHEREAS, the DEPARTMENT has jurisdiction over State Road 811 as part of the State Highway System; 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 the highway facility as described in Exhibit A attached hereto and incorporated by reference herein, within the corporate limits (or unincorporated if County) of the **AGENCY**; and

WHEREAS, the AGENCY is of the opinion that said highway facilities that contain landscape medians and areas outside the travel way to the right of way line, excluding standard concrete sidewalk, shall be maintained by periodic trimming, cutting, weeding, mowing, fertilizing, litter pick-up, necessary replanting, irrigation repairs, and median concrete replacements as needed; 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 No.  $\frac{05-75}{2}$  dated  $\frac{\text{April 19}}{20}$ ,  $20^{05}$ , 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. The **DEPARTMENT** hereby agrees to install or cause to be installed landscape, irrigation and/or hardscape on the highway facilities as specified in plans and specifications hereinafter referred to as the Project and incorporated herein as Exhibit B. Hardscape shall mean any non-standard roadway, sidewalk or median surface such as, but not limited to interlocking concrete or brick pavers, stamped asphalt and stamped concrete.

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2. The AGENCY agrees to maintain the landscape within the medians and areas outside the travel way to the right of way line by periodic trimming, cutting, mowing, fertilizing, curb and sidewalk edging, litter pickup and necessary replanting, following the **DEPARTMENT'S** landscape safety and plant care guidelines. The AGENCY'S responsibility for maintenance shall include all landscaped/turfed areas and areas covered with interlocking pavers or similar type surfacing (hardscape) within the median and areas within the travel way to the right of way line, including paver sidewalks, paver intersections and all paver header curbs, stamped asphalt and concrete areas. It shall be the responsibility of the AGENCY to restore an unacceptable ride condition of the roadway caused by the differential characteristics of the paver brick and/or the header curb on Department of Transportation right-of-way within the limits of the Project.

Such maintenance to be provided by the AGENCY is specifically set out as follows: To maintain, which means the proper watering and fertilization of all plants and keeping them as free as practicable from disease and harmful insects; to properly mulch the plant beds; to keep the premises free of weeds; to mow and/or cut the grass to a proper length; to properly prune all plants which includes: (1) removing dead or diseased parts of plants, or (2) pruning such parts thereof which present a visual hazard for those using the roadway. To maintain also means removing or replacing dead or diseased plants in their entirety, or removing or replacing those that fall below original Project standards. All plants removed for whatever reason shall be replaced by plants of the same size and grade as specified in the original plans and specifications. To maintain also means to keep the hardscape areas free from weeds and replacement of any areas becoming in disrepair so as to cause a safety hazard. To maintain also means to keep litter removed from the median and areas outside the travel way to the right of way line. Plants shall be those items which would be scientifically classified as plants and include but are not limited to trees, grass, or shrubs.

If it becomes necessary to provide utilities to the median or side areas (water/electricity) for these improvements, all costs associated with irrigation maintenance, impact fees and connections as well as on-going cost of water are the maintaining AGENCY'S responsibility.

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, repayment, reworking or agreement termination. The AGENCY shall not change or deviate from said plans without written approval of the **DEPARTMENT**.

3. If at any time after the AGENCY has assumed the landscape installation and/or maintenance responsibility above-mentioned, it shall come to the attention of the DEPARTMENT'S District Secretary that the limits or a part thereof is not properly maintained pursuant to the terms of this Agreement, said District Secretary may at his option issue a written notice that a deficiency or deficiencies exist(s), by sending a certified letter to the AGENCY, to place said

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**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:

- (a) Maintain the landscape or a part thereof, with **DEPARTMENT** or contractor's personnel and invoice the **AGENCY** for expenses incurred, or
- (b) Terminate the Agreement in accordance with Paragraph 7 of this Agreement and remove, by **DEPARTMENT** or contractor's personnel, all of the landscape/hardscape installed under this Agreement or any preceding agreements except as to trees and palms and charge the **AGENCY** the reasonable cost of such removal.
- 4. It is understood between the parties hereto that the landscape 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 with future criteria or planning of the **DEPARTMENT**. The **AGENCY** shall be given sixty (60) calendar days notice to remove said landscape 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 maintaining **AGENCY'S** responsibility.
- 5. The **DEPARTMENT** agrees to enter into a contract for the installation of landscape Project for an amount not to exceed <u>\$60,000,00</u> as defined in Exhibit C.

The **DEPARTMENT'S** participation in the Project cost, as described in Exhibit C is limited to only those items which are directly related to this Project. The **AGENCY** shall be invited to assist the **DEPARTMENT** in final inspection at the end of the contractor's 365 day warranty and establishment period.

- 6. The AGENCY agrees to reimburse the DEPARTMENT all monies expended for the Project, should the landscape/hardscape areas fail to be maintained in accordance with the terms and conditions of this Agreement.
- 7. 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 Paragraph 3, following ten (10) days written notice.
  - (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.

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- 8. The term of this Agreement commences upon execution.
- 9. To the extent permitted by law, the AGENCY shall indemnify and hold harmless the **DEPARTMENT**, its officers and employees from all suits, actions, claims and liability arising out of the AGENCY'S negligent performance of the work under this agreement, or due to the failure of the AGENCY to maintain the Project in conformance with the standards described in Section 2 of this Agreement.
- 10. The AGENCY may construct additional landscape/hardscape within the limits of the rightsof-ways identified as a result of this document, subject to the following conditions:
  - (a) Plans for any new landscape/hardscape shall be subject to approval by the **DEPARTMENT**. The **AGENCY** shall not change or deviate from said plans without written approval by the **DEPARTMENT**.
  - (b) All landscape shall be developed and implemented in accordance with appropriate state safety and road design standards;
  - (c) The AGENCY agrees to comply with the requirements of this Agreement with regard to any additional landscape installed;
  - (d) No change will be made in the payment terms established under item number five (5) of this Agreement due to any increase in cost to the **DEPARTMENT** resulting from the installation of landscape added under this paragraph.
- 11. 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.
- 12. 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 1 year.

13. The **DEPARTMENT'S** District Secretary shall decide all questions, difficulties and disputes S:\Maint\Landscape\MOA Folders\MOAs\SR 811 228246 Ft Lauderdale.doc

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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; and his decision upon all claims, questions and disputes shall be final and conclusive upon the parties hereto.

- 14. This Agreement may not be assigned or transferred by the AGENCY in whole or part without the consent of the DEPARTMENT.
- 15. 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.
- 16. 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 3400 West Commercial Blvd. Ft. Lauderdale, FL 33309-3421 Attention: Elisabeth A. Hassett, R.L.A. FDOT District IV Landscape Architect

If to the Agency: City of Fort Lauderdale 100 North Andrews Avenue Fort Lauderdale, FL 33301 Attention: Ms. Mina Samadi Project Engineer

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first above written.

AGENCY STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION By: Βv Transportation Development Director By: Menager Atte Attest: Executive Secretary OF TRI Approval as to Form Date Approval as to Form Date S:\Maint\Landscape\MOA Folders\MOAs\SR 811 228246 Ft Lauderdale.doc 5

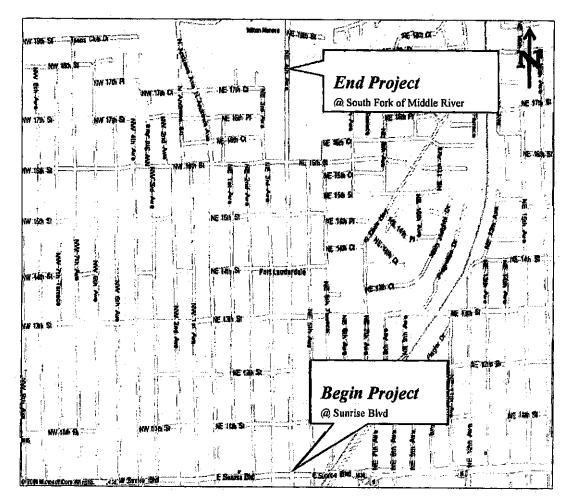
SECTION NO.:	86170
FM NO.(s):	228246
COUNTY:	Broward
S.R. NO.:	811

# **EXHIBIT A**

### **PROJECT LOCATION:**

State Road 811 from SR 838 (Sunrise Boulevard; M.P. 0.009) to south of the south fork of Middle River (M.P. 0.975).

### **II. PROJECT LOCATION MAP:**



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# **EXHIBIT B**

The **DEPARTMENT** agrees to install the Project with a contractor in accordance with the plans and specifications attached hereto and incorporated herein.

Please see attached plans prepared by Land Design South

Dated <u>3/22/05</u>

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## **EXHIBIT C**

### **PROJECT COST**

This Exhibit forms an integral part of the DISTRICT FOUR (4) HIGHWAY MAINTENANCE MEMORANDUM OF AGREEMENT between the State of Florida, Department of Transportation and the AGENCY.

Dated April 4, 2005

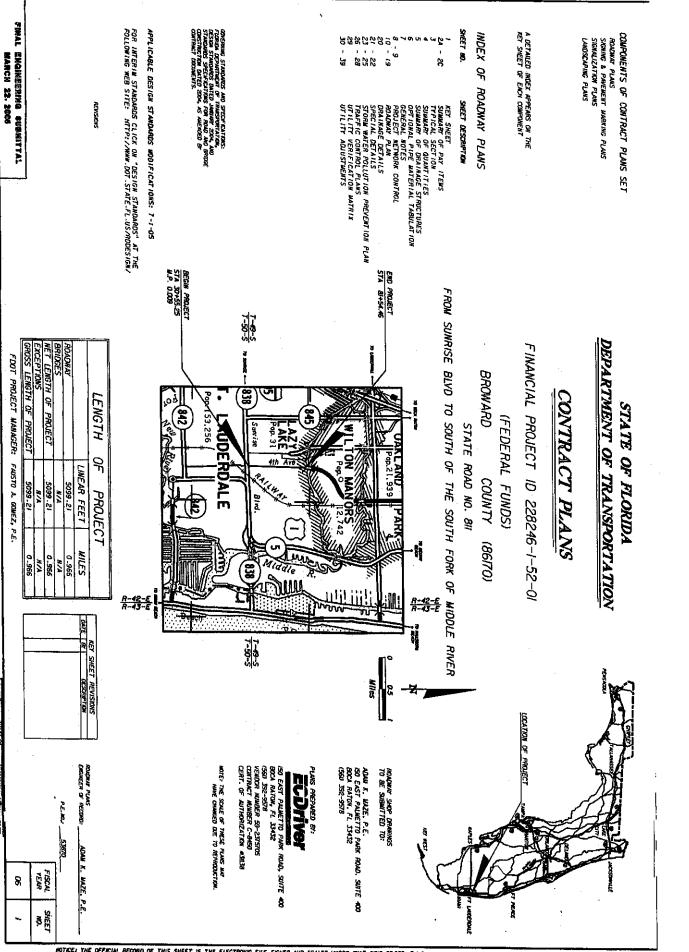
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**APPROXIMATE PROJECT COST:** 

\$<u>60,000.00</u>

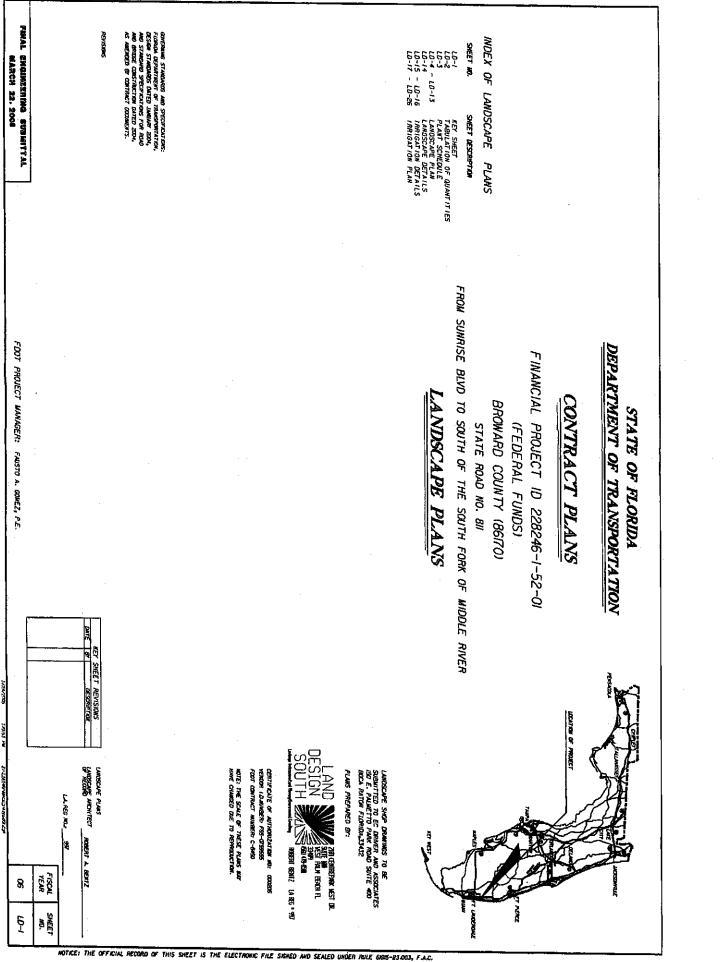
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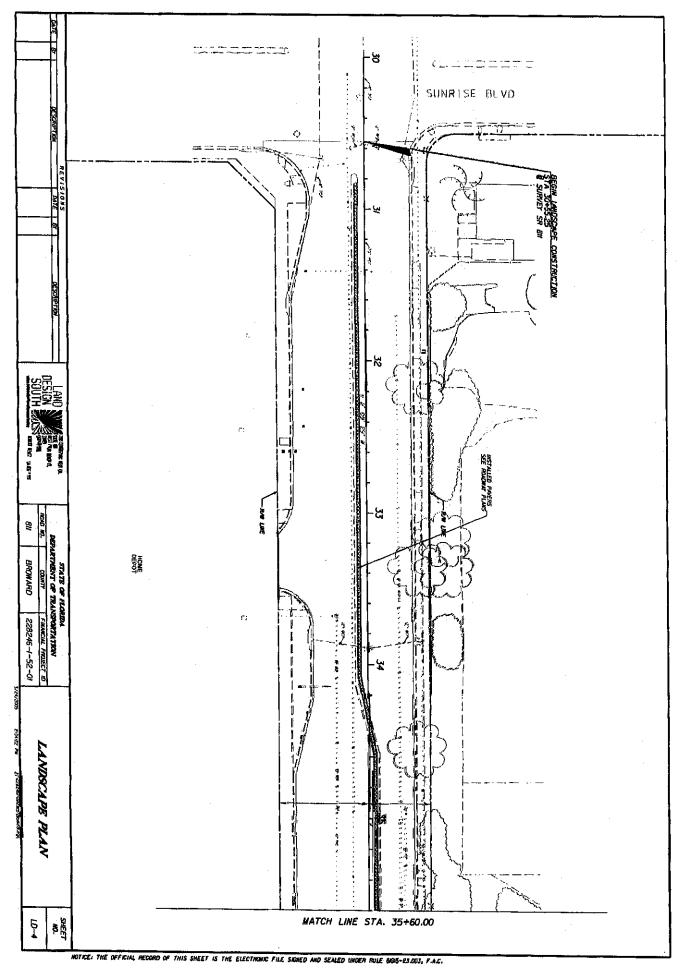
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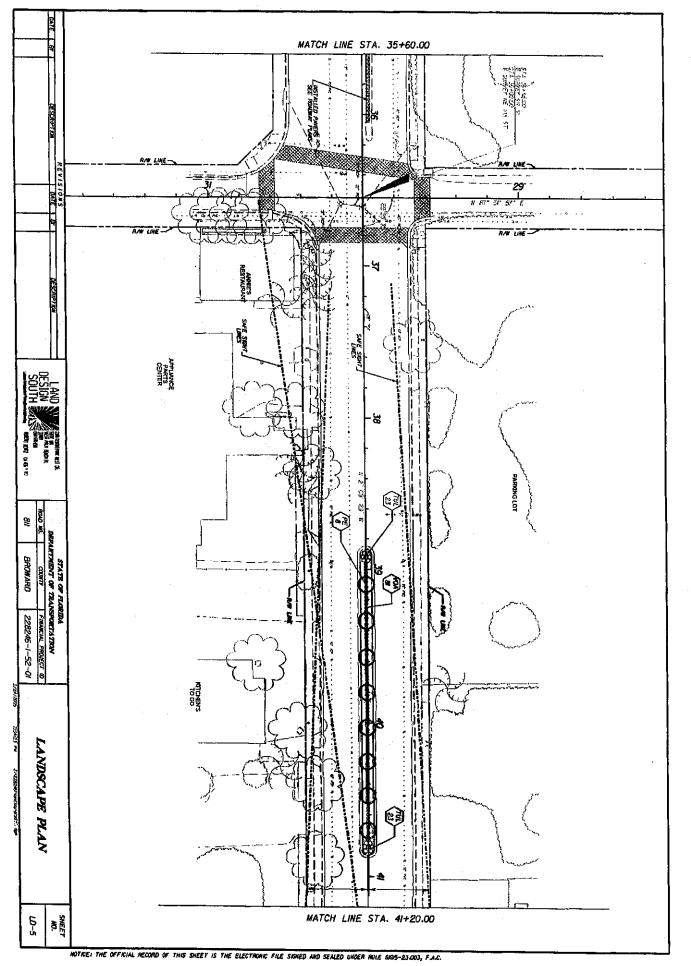
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2415 87 DESCRIPTION NOTE: "GRADES AND STANDARDS FOR MURSERY PLANTS". WINIMUM GRADE FOR ALL TREES AND SHRUBS IS FLORIDA #1. AND PLANT REGULATIONS IN ACCORDANCE WITH THE LATEST ADDITION OF THE FLORIDA DEPARTMENT'S NURSERY GROWN MATERIAL THAT COMPLIES WITH ALL REQUIRED INSPECTION, GRADING STANDARDS. USE ONLY NURSERY GROWN MATERIAL EXCEPT WHERE SPECIFIED AS COLLECTED MATERIAL. USE QUANTITY KEY \$ 8 ĸ DATE BY STUBOL YQA TUL R Viburnum adoratissimum Awabuki Ptychosperma elegans OFSCRIPTION Tubaghia violaced BOTANICAL NAME 込孔 Awabuki Viburoun ΞŚ Solitaire Paim CONNON NAME Society Gartic INSTALLED SIZE 888, 16° 04 3 gat. 3 get. Ħ HOND MD. Bli STATE OF FLORDA DEPARTMENT OF TRANSPORTATION R. COUNT FRANCIA FO PAY SIZE Large Small Small BROWARD MAINTAINED SIZE 12° 04, 24° 04, HT ģ OA HT FINANCIAL PROJECT ID HT 228246-1-52-01 NATINE ð řes Ň 1241-00 ß SPACING shown plans P. ġ, AL ROSE 3 PLANT SCHEDULE Full, Single trunk REMARKS thick shrubs SHEET 6-3 NOTICE: THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE SKINED AND SEALED UNDER RULE GOD-23.003, F.A.C.

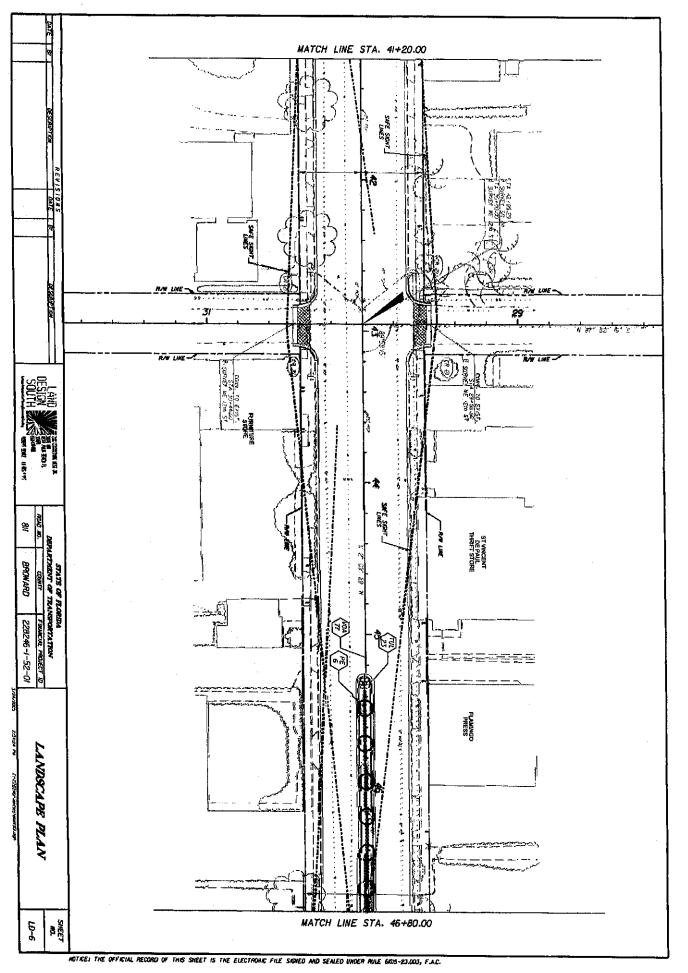
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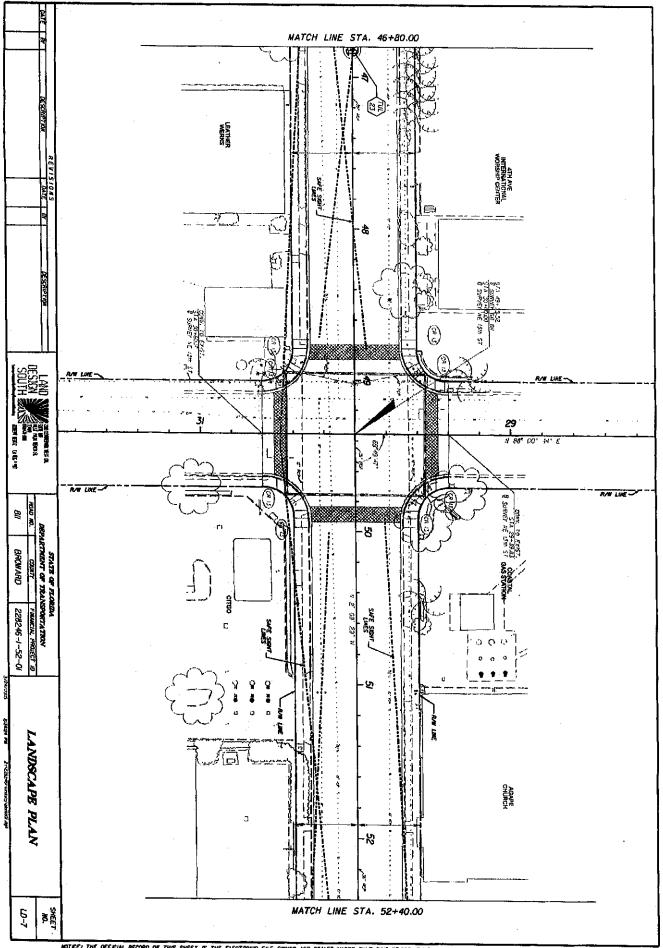




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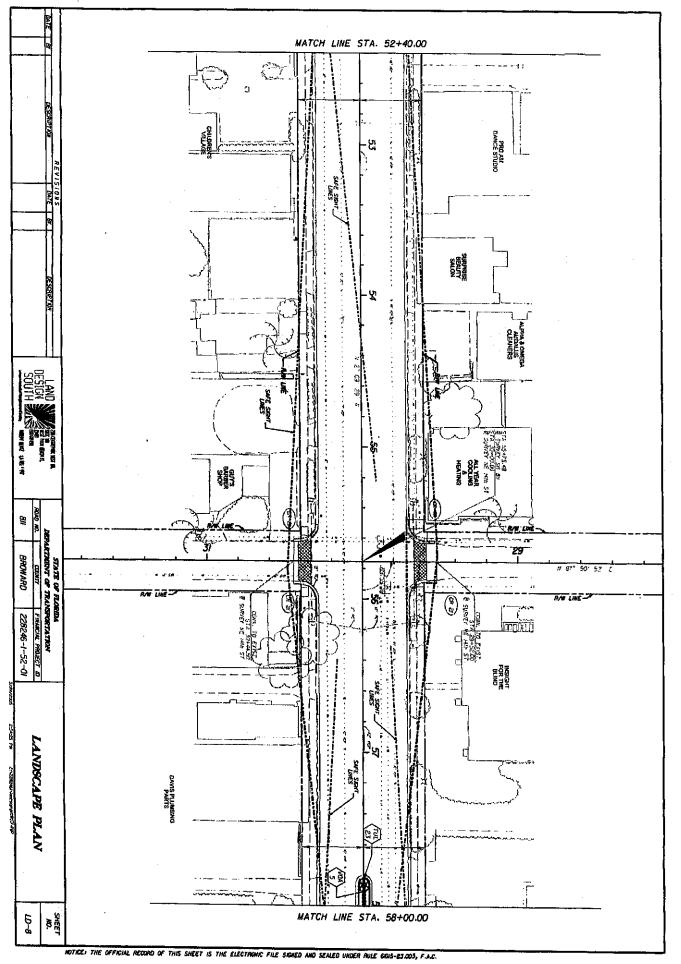




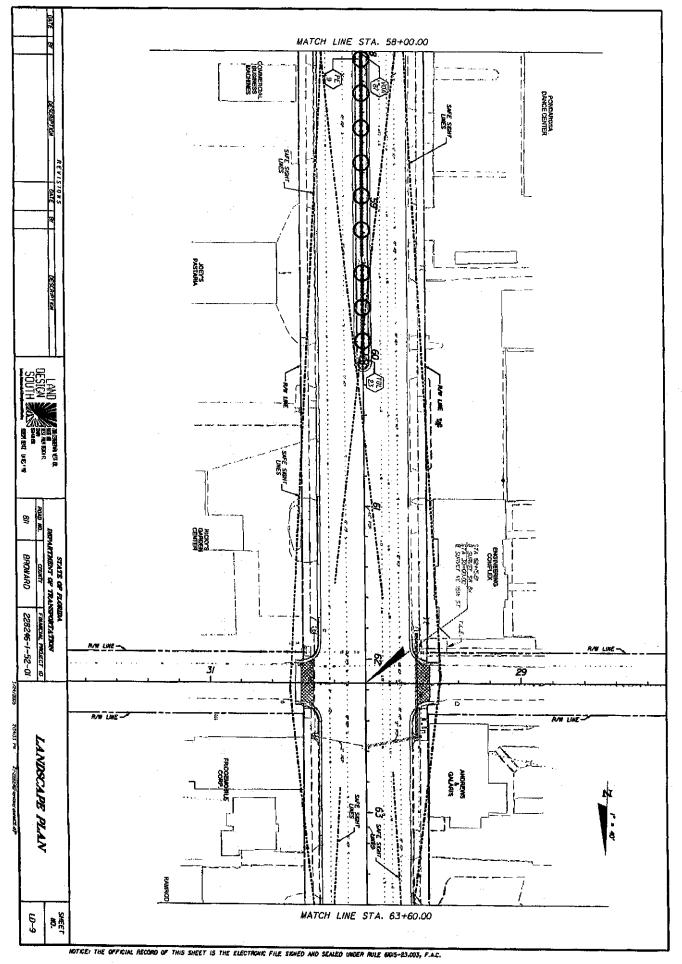


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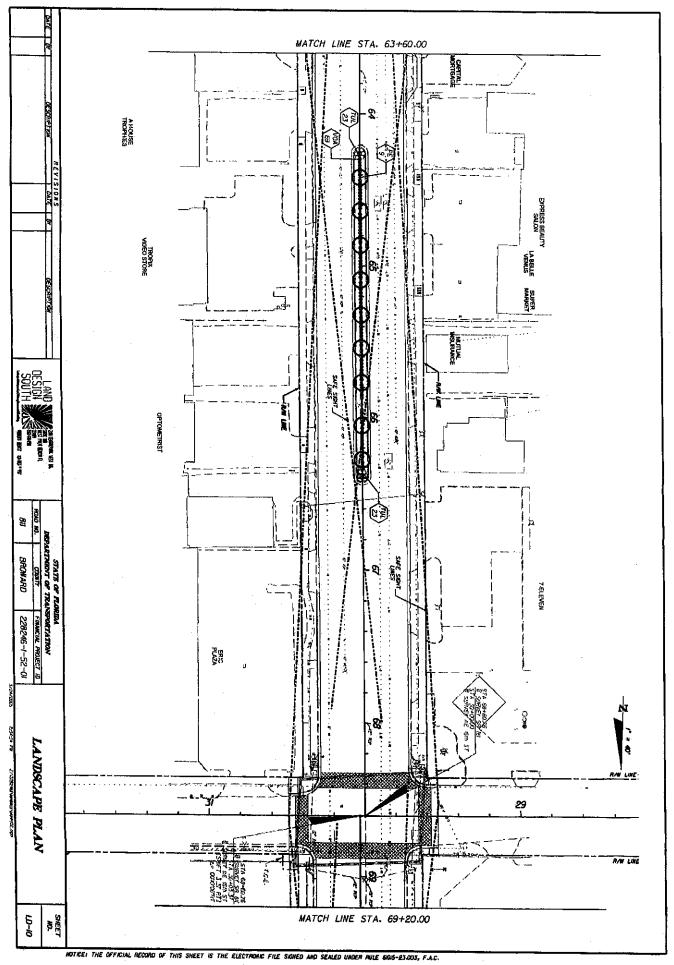
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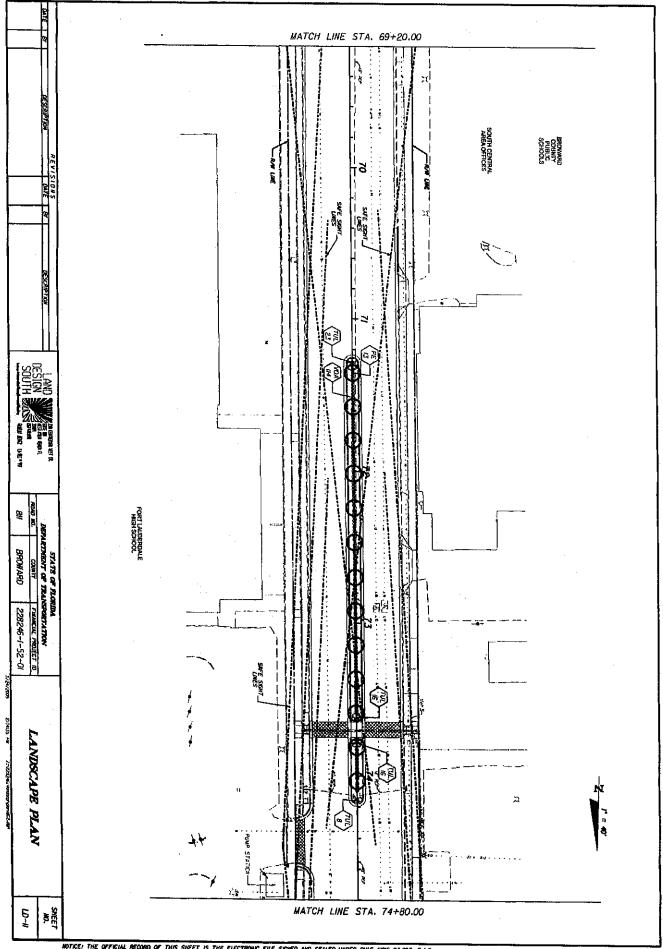






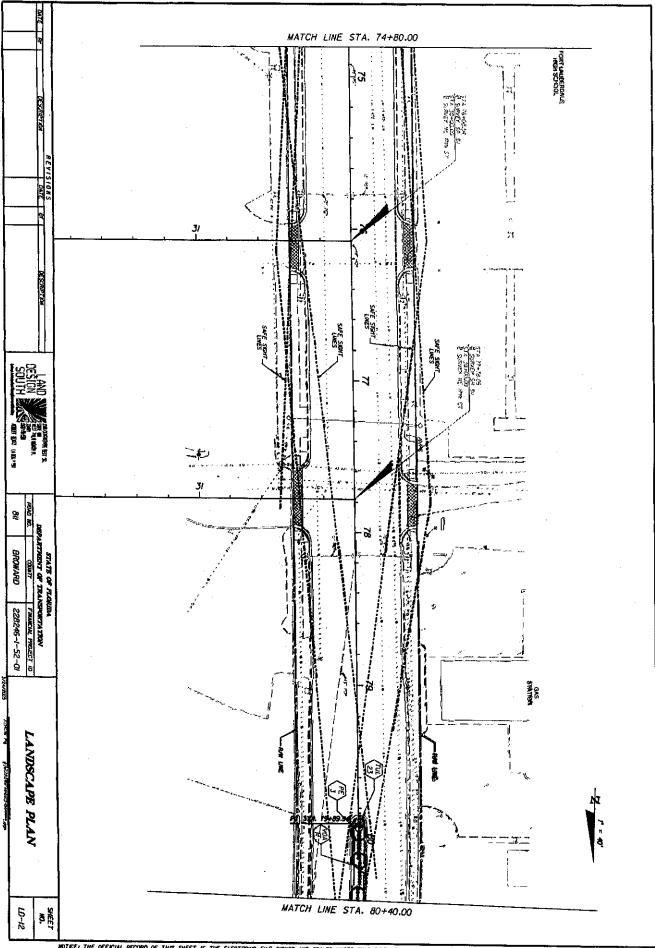
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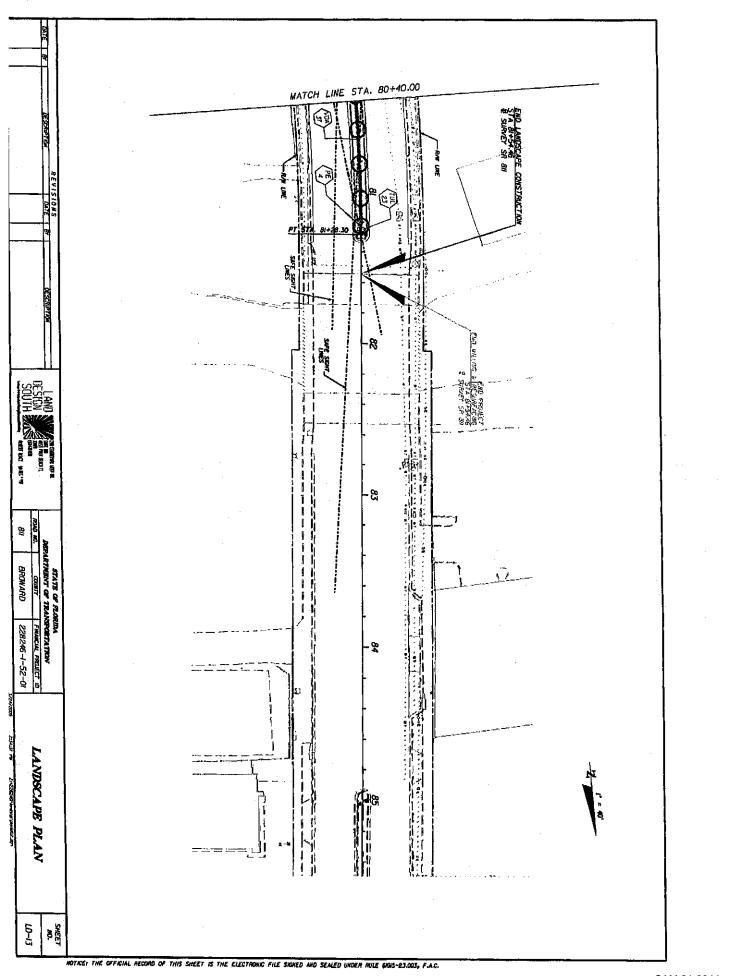
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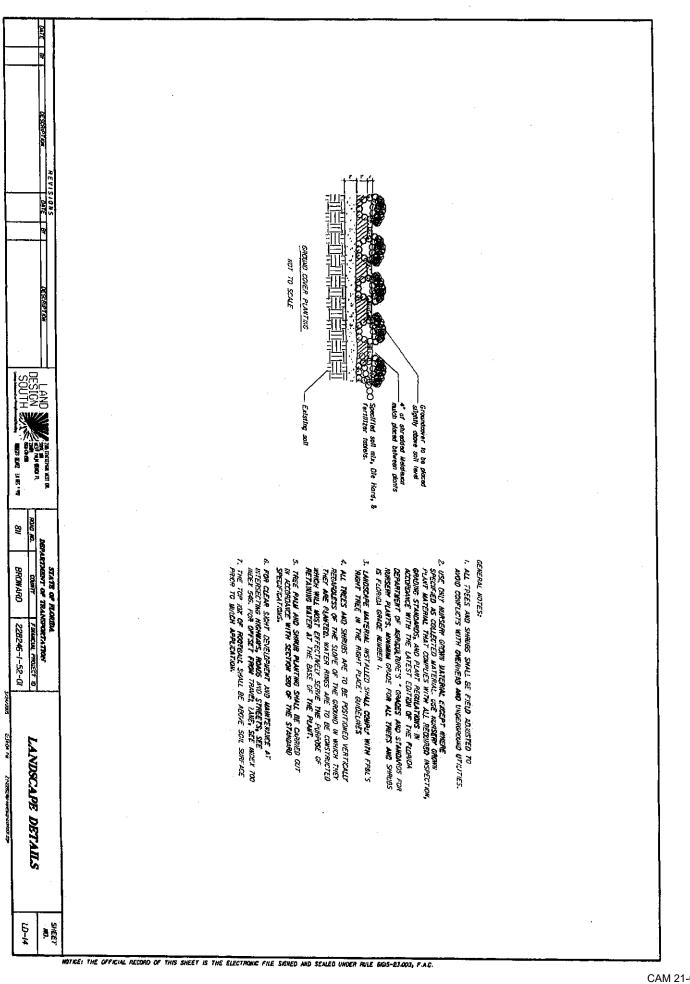


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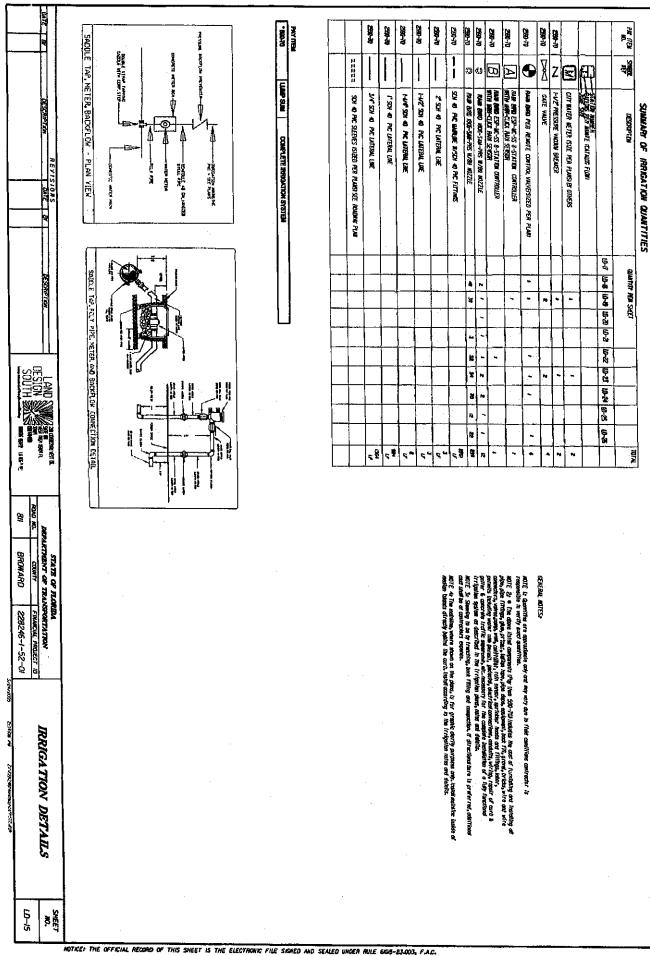


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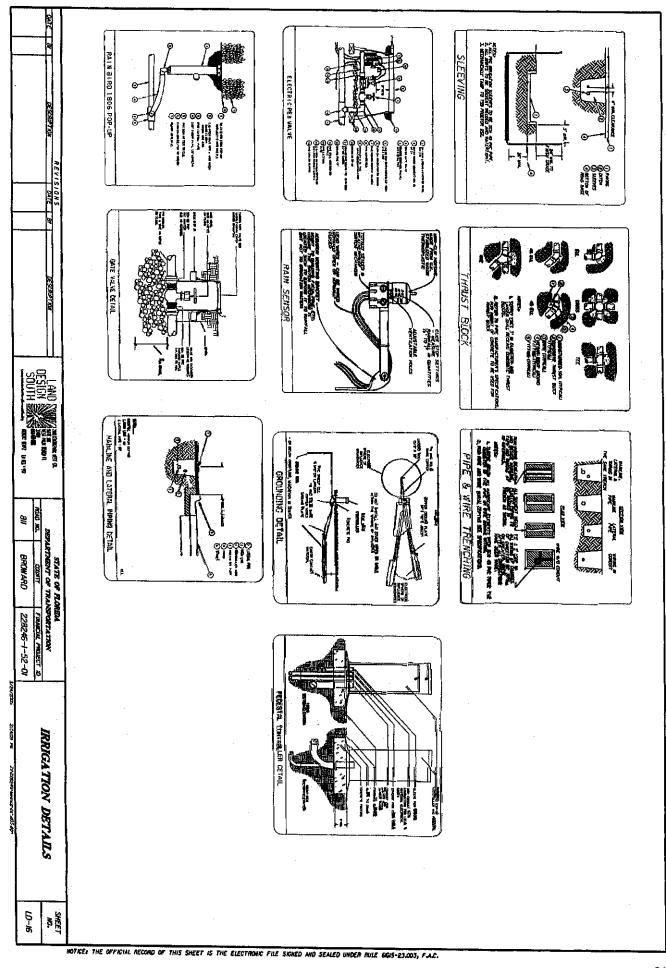
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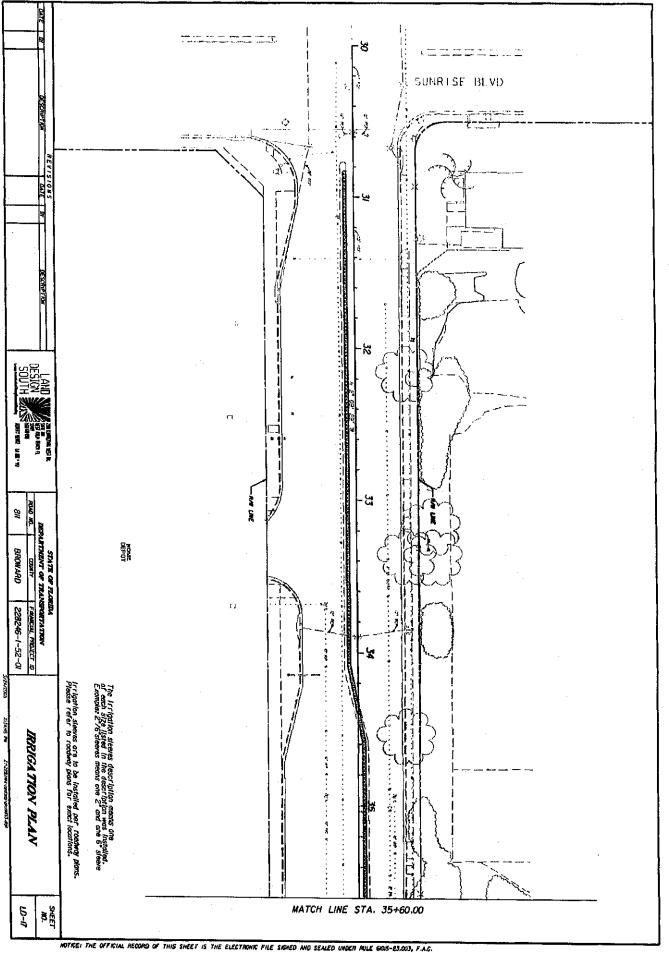
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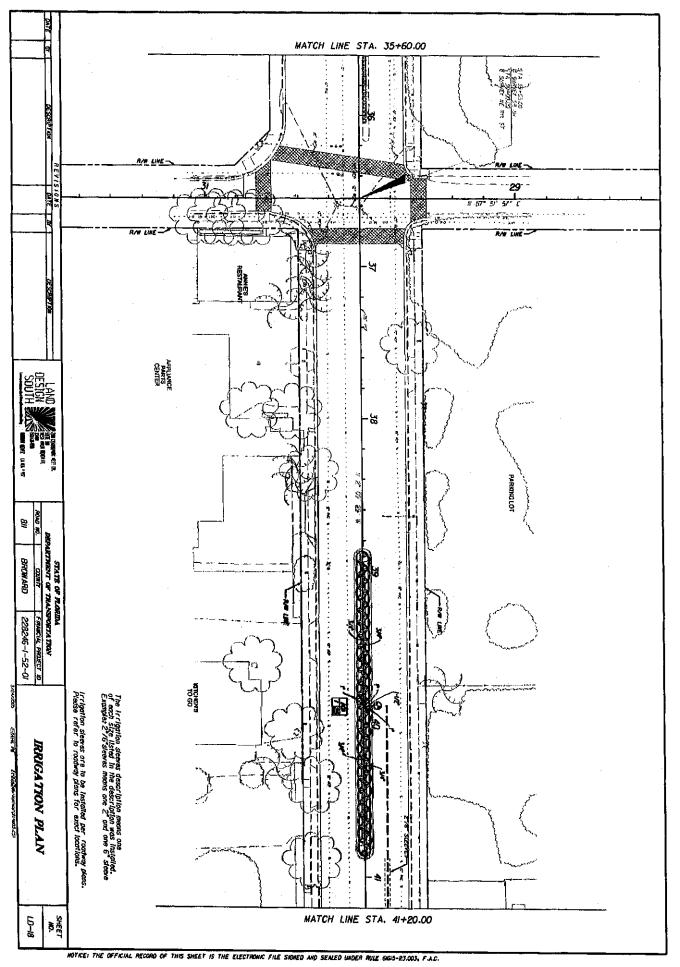
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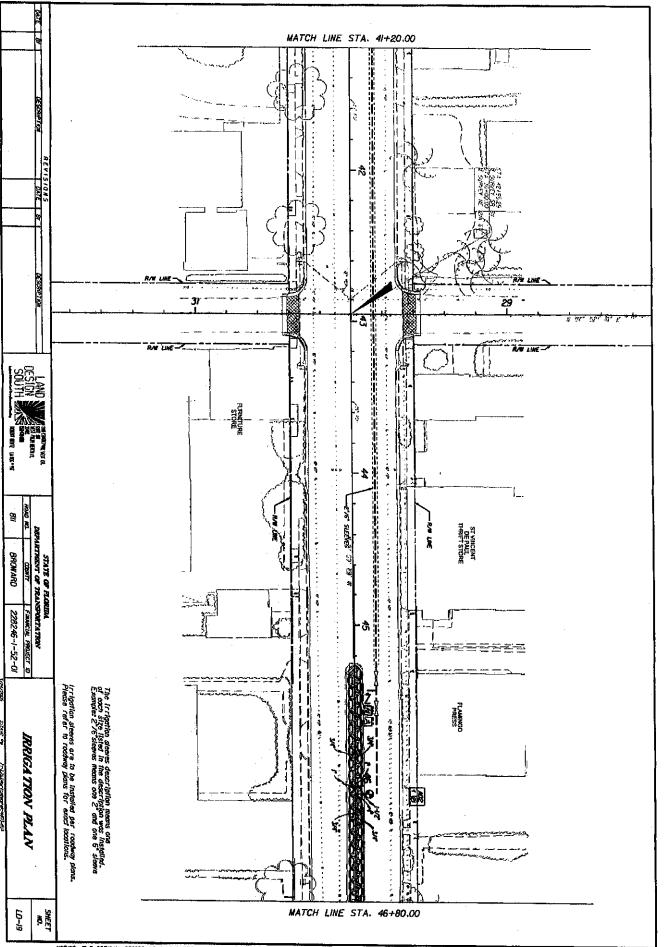
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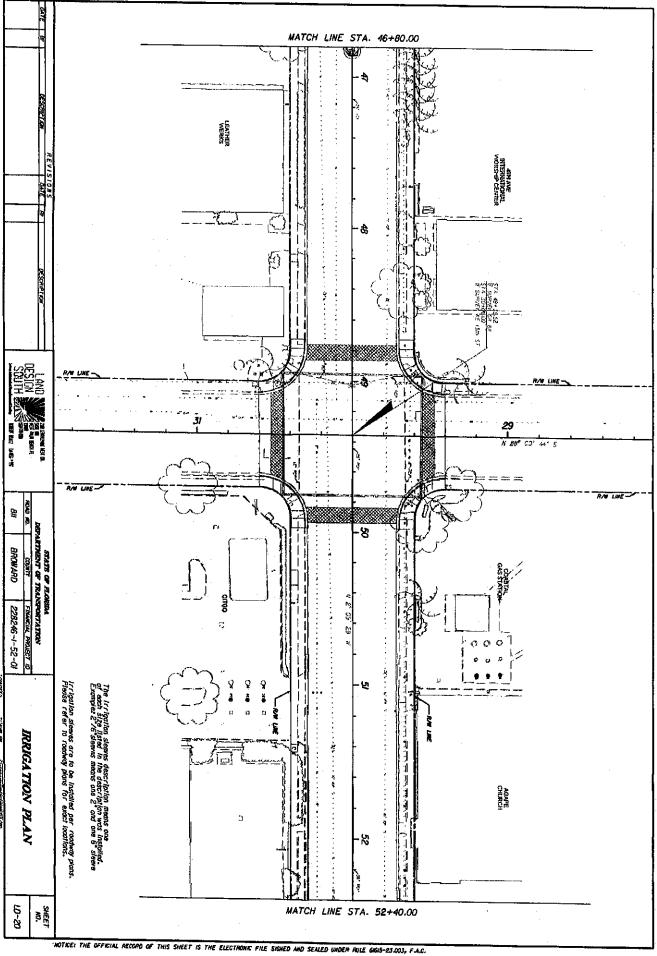


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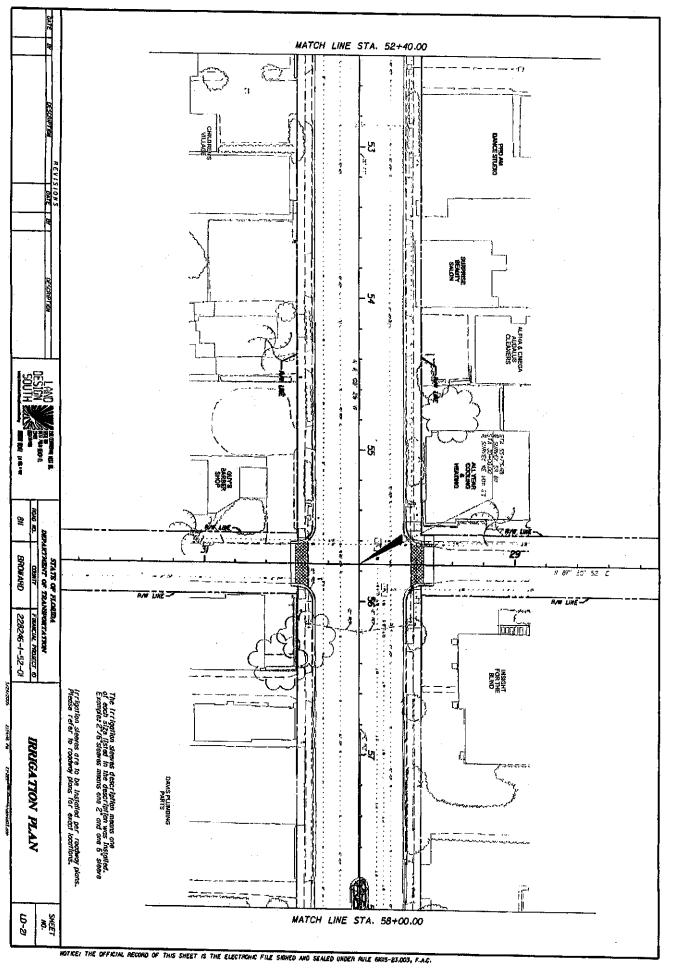


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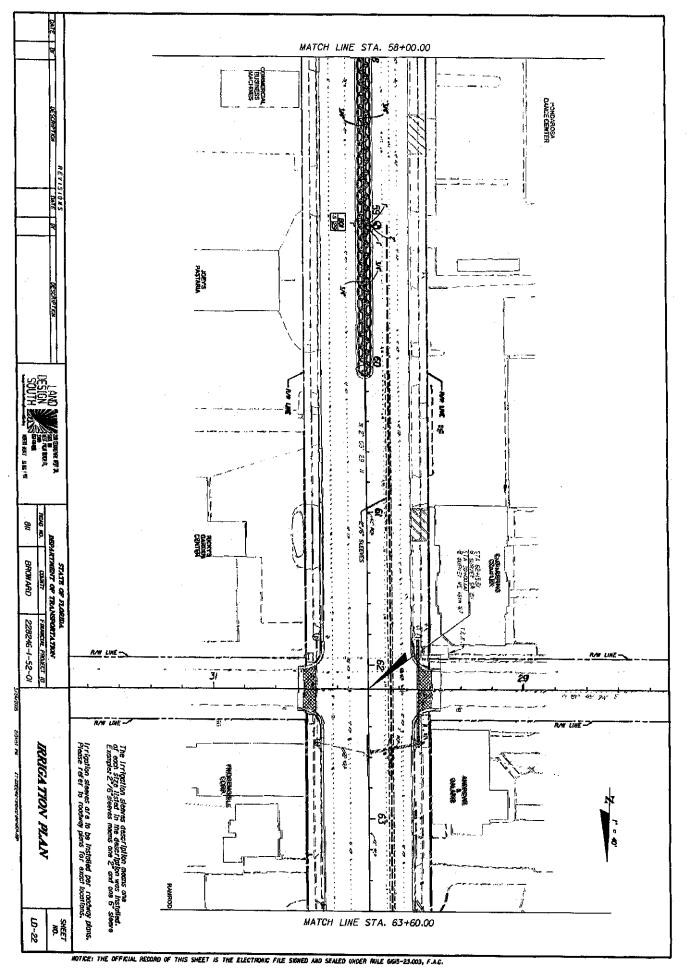




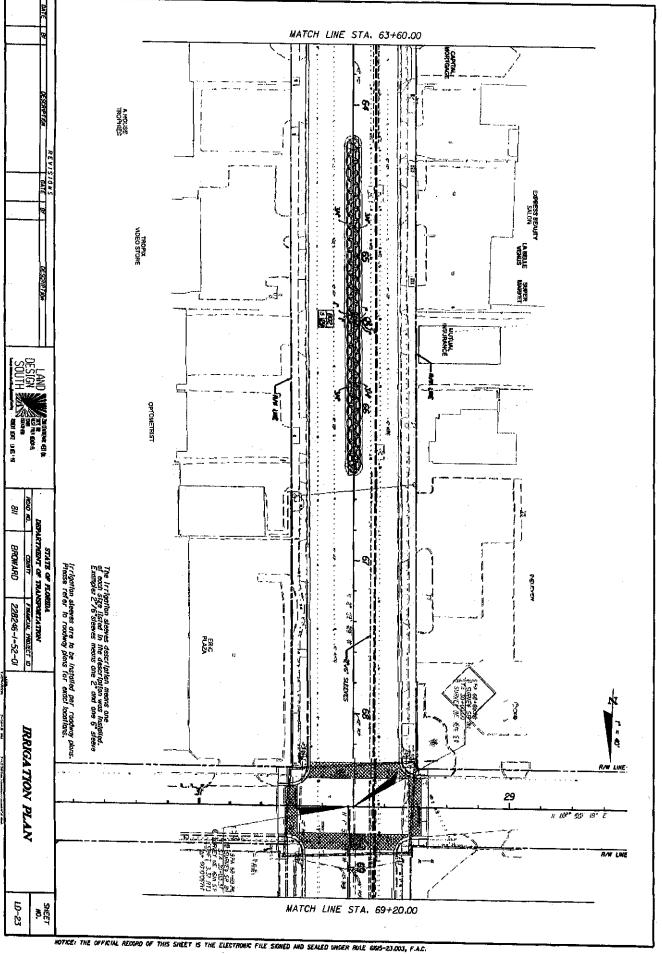
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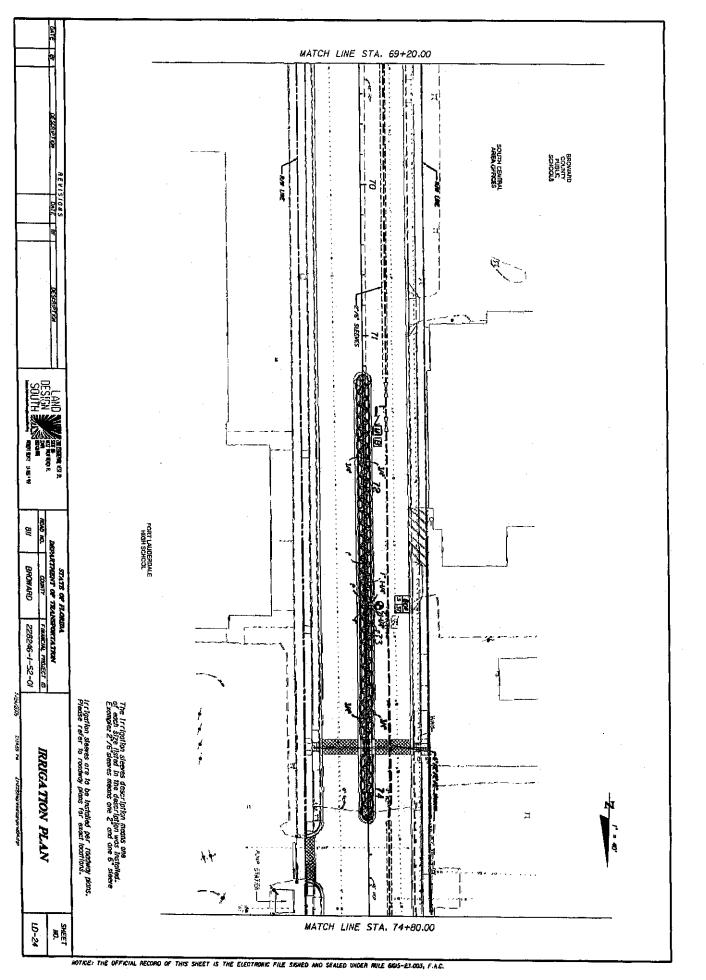
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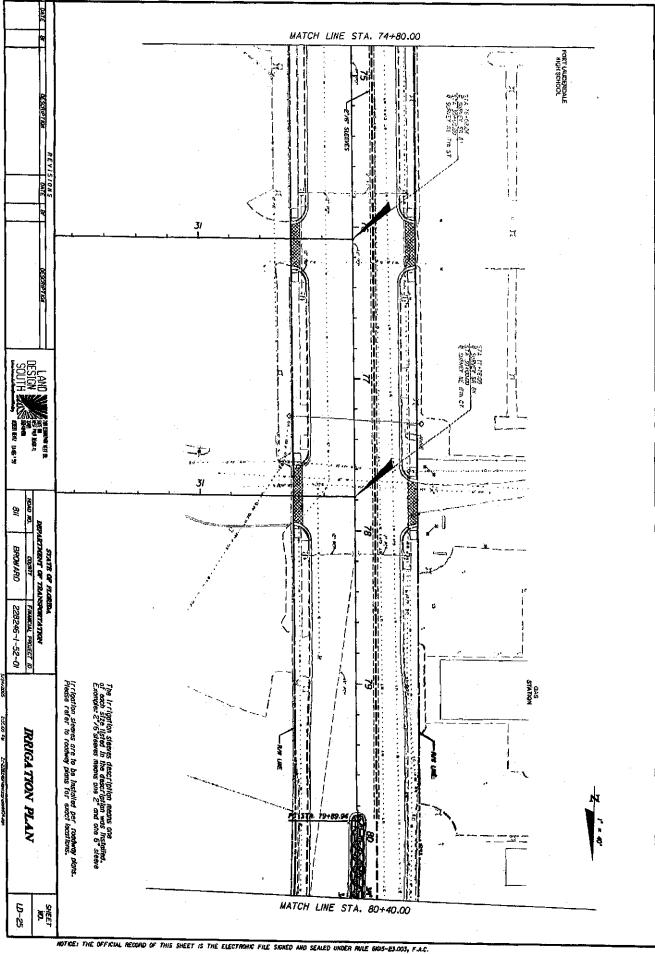
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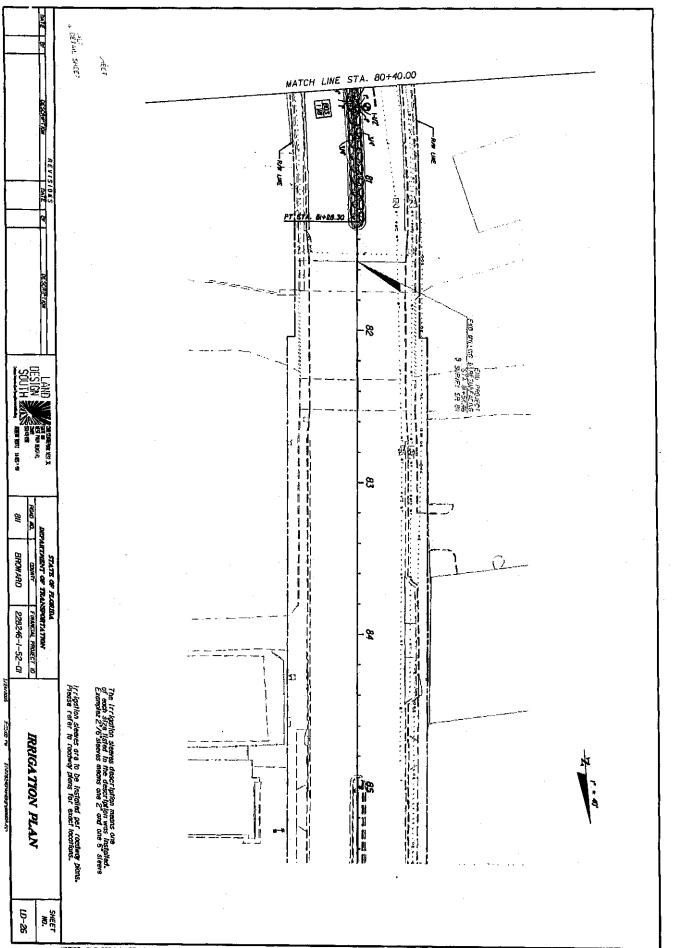




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