

**(GENERIC)  
MAINTENANCE AGREEMENT  
FOR  
RIGHT-OF-WAY IMPROVEMENTS**

**THIS AGREEMENT** is entered into by and between MOSS CREEK PROPERTY OWNERS ASSOCIATION, INC., hereinafter referred to as the "Licensee" and Manatee County, a political subdivision of the State of Florida, hereinafter referred to as the "County".

**WITNESSETH:**

**WHEREAS**, the Licensee desires to construct and/or to assume the maintenance responsibilities for improvements installed on the public right(s)-of-way of 37<sup>TH</sup> STREET EAST, such improvements to be constructed and maintained in substantial compliance with the site plan, attached hereto as Exhibit "A" and made a part hereof, and hereinafter referred to as the "Improvements"; and

**WHEREAS**, the Licensee will pay for the construction and/or maintenance of the Improvements; and

**WHERE AS**, the County agrees to allow the Improvements to remain and/or additional Improvements to be constructed within the County's right(s)-of-way as depicted on Exhibit "A" only if the Licensee will execute and deliver this Agreement relating to the maintenance thereof and providing that the Licensee agrees to hold the County harmless therefrom; and

**WHEREAS**, the County and the Licensee desire to enter into this Agreement in order to memorialize their mutual understanding.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Licensee and County hereby agree as follows:

1. It is and shall continue to be the sole obligation of the Licensee to maintain the Improvements. Maintenance of the improvements made to the median and outside right of ways depicted in the attached Exhibit A shall include any and all signs, structures, associated lighting and irrigation facilities, and other ancillary items for so long as the Licensee desires to have such Improvements remain upon the County's right-of-way. In connection therewith, the Licensee shall maintain the Improvements in a neat and attractive condition and good repair at its sole cost and expense.
  - a. Manatee County will retain responsibility of sidewalk repair or replacement for trip hazards, however the licensee will be responsible for ensuring the cleanliness of sidewalks and removal of any mold growth due to irrigation if applicable.

2. The Licensee understands and agrees that the rights and privileges granted in this Agreement are limited by the County's rights, title and interest in the land to be entered upon and used by the Licensee, and the Licensee will at all times assume all risk of and indemnify, defend, and hold harmless the County, its officials, its employees and its agents from and against any loss, damage, cost, expense, claim, suit or judgment arising in any manner on account of the exercise or attempted exercise by the Licensee of the aforesaid rights and privileges.

3. Prior to any excavation, the Licensee declares that it will comply with the One Call Notification Procedures in accordance with Florida Statute §556.104. Further, the Licensee agrees that it has confirmed with Manatee County the location of all known existing utilities, both aerial and underground. The Licensee further agrees that construction and/or maintenance of an irrigation system and other improvements within the right-of-way shall not interfere with any existing facilities and underground utilities.

4. By signing this Agreement, Kevin Kramer confirms that (he/she) is the Director of the Licensee and has the authority to bind the Licensee to the instructions and conditions stated herein.

5. The County may require, upon a minimum thirty (30) days written notice to the Licensee, that the Licensee perform maintenance, repair, relocation or removal of the Improvements. Upon receipt of such notice, the Licensee will take or cause the necessary corrective actions within such reasonable time as may be specified in such notice. After expiration of such reasonable time, but no sooner than thirty (30) days, if the Licensee fails to take the necessary corrective actions, County may cause the maintenance, repair, relocation, or removal of the landscaping in such a manner as the County, in its sole discretion, deems appropriate, and at the expense of the Licensee.

6. County specifically reserves the right to take such action as it deems necessary, in its sole discretion, and without notice to Licensee in order to protect the public from unsafe conditions that may arise in any manner on account of the exercise or attempted exercise by the Licensee of the aforesaid rights and privileges.

7. Licensee acknowledges and agrees that no approval is given hereby for the Improvements. No Improvements shall be placed in the right-of-way unless and until all proper authorizations have been obtained and all applicable standards and requirements have been met, including without limitation those set forth in the Manatee County Comprehensive Plan, the Manatee County Land Development Code, any approved general development plan, preliminary or final site plan, or right-of-way use permit, and all conditions or stipulations thereto.

8. Should the Licensee fail or refuse to maintain, repair, relocate, or replace the Improvements, nothing herein shall be construed as affecting the County's right to resort to any and all legal and equitable remedies against the Licensee, including specific performance to which the Licensee hereby agrees.

9. Any notice to be given to the Licensee hereunder shall be deemed properly given upon such notice being deposited in the United States Mail, postage prepaid, addressed to the Licensee at Moss Creek Property Owners Association, Inc., 7349 Professional Parkway East, Sarasota, FL 34240, or such other address as the Licensee may hereinafter designate in writing to the County. All notices hereunder shall be by general mail, postage prepaid.

10. This Agreement and the rights and responsibilities hereunder may not be assigned or otherwise transferred without the written consent of the County. Further, this Agreement may not be amended without the written agreement of both parties.

SIGNED AND SEALED this 19<sup>th</sup> day of November, 2018.

WITNESSES:

[Signature]  
Signature

Cynthia Miller  
(Type or Print Name)

[Signature]  
Signature

Kristen Cooper  
(Type or Print Name)

MOSS CREEK PROPERTY OWNERS ASSOCIATION, INC.

a Florida corporation not for profit

By: [Signature]

Name/Title: Kevin Kramer / Director

7349 Professional Parkway East  
Sarasota, FL 34240

STATE OF FLORIDA  
COUNTY OF SEMINOLE

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of November, 2018, by Kevin Kramer as Director of MOSS CREEK PROPERTY OWNERS ASSOCIATION, INC., a Florida Corporation, who is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

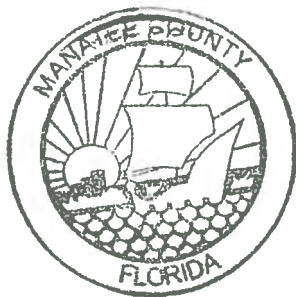


[Signature]

Notary Public

Valerie Wagoner  
(Printed Name of Notary Public)

My commission expires:  
Nov 3, 2021



MANATEE COUNTY, a political subdivision of the State of Florida

By: its Board of County Commissioners

By: [Signature]  
Chairperson

Date: 11/27/2018

ATTEST: ANGELINA COLONNESO  
CLERK OF THE CIRCUIT COURT AND COMPTROLLER

By: [Signature]  
Deputy Clerk

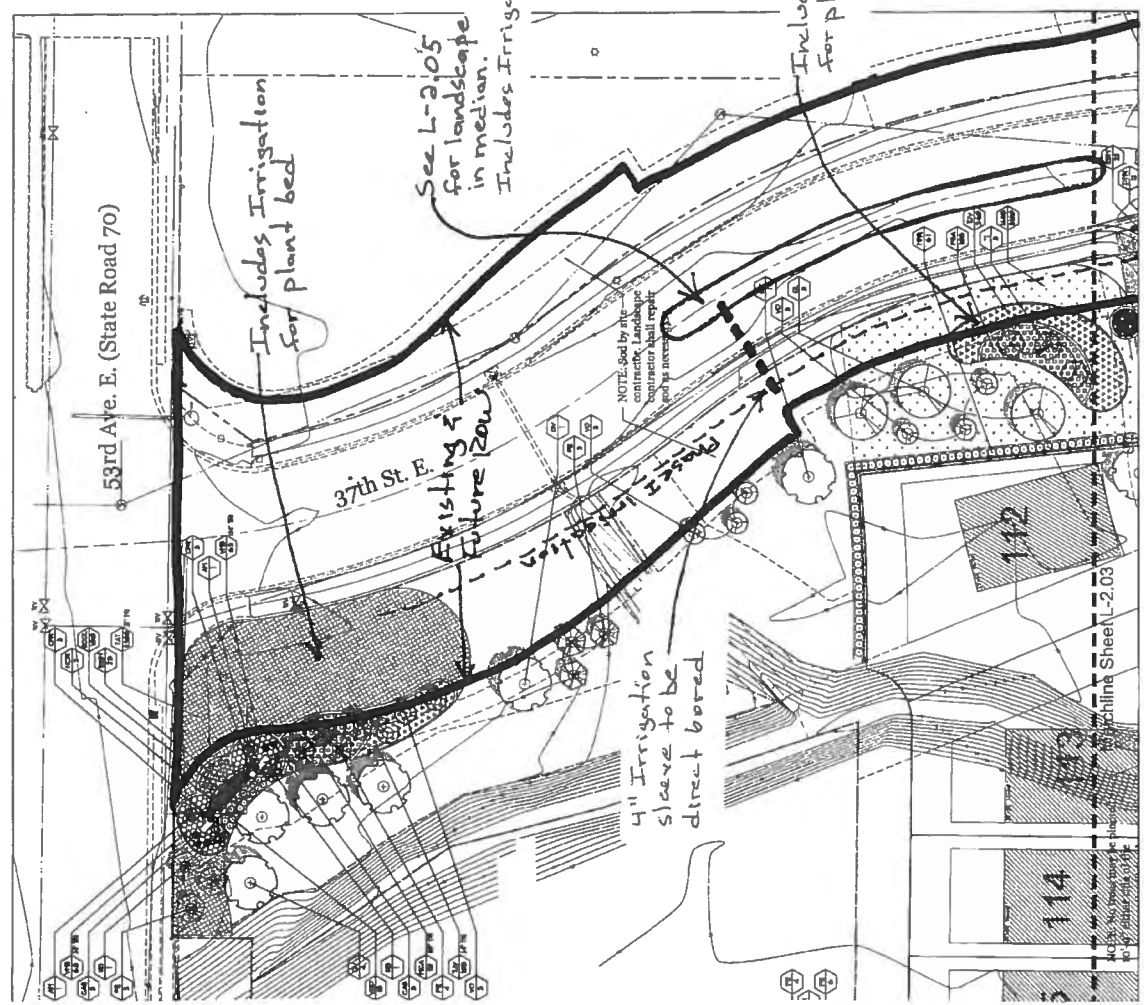


George T. Sturch, P.E., License No. 14117, State of Florida

**Exhibit A**  
(1 of 4)

**Westport (Moss Creek)**  
Manatee County, Florida

TITLE: Planting Plan  
DATE: January 9, 2018  
REVISOR:  
SHEET: L-2.02



**Tree and Site Protection Notes**

1. PROTECT ALL EXISTING TREES AND PLANTS TO REMAIN. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING NECESSARY PERMITS AND PROTECTIVE MEASURES.
2. ALL EXISTING TREES AND PLANTS TO REMAIN SHALL BE PROTECTED BY A PROTECTIVE BARRIER AND MULCH. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING NECESSARY PERMITS AND PROTECTIVE MEASURES.
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7. ALL EXISTING TREES AND PLANTS TO REMAIN SHALL BE PROTECTED BY A PROTECTIVE BARRIER AND MULCH. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING NECESSARY PERMITS AND PROTECTIVE MEASURES.
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10. ALL EXISTING TREES AND PLANTS TO REMAIN SHALL BE PROTECTED BY A PROTECTIVE BARRIER AND MULCH. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING NECESSARY PERMITS AND PROTECTIVE MEASURES.

**General Notes**

1. ALL PLANTING SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE FOLLOWING REFERENCES:
  - a. THE NATIONAL FLORIDA LANDSCAPE ARCHITECTURE ASSOCIATION (NFLA) PRACTICE MANUAL.
  - b. THE NATIONAL FLORIDA LANDSCAPE ARCHITECTURE ASSOCIATION (NFLA) PRACTICE MANUAL.
  - c. THE NATIONAL FLORIDA LANDSCAPE ARCHITECTURE ASSOCIATION (NFLA) PRACTICE MANUAL.
2. ALL PLANTING SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE FOLLOWING REFERENCES:
  - a. THE NATIONAL FLORIDA LANDSCAPE ARCHITECTURE ASSOCIATION (NFLA) PRACTICE MANUAL.
  - b. THE NATIONAL FLORIDA LANDSCAPE ARCHITECTURE ASSOCIATION (NFLA) PRACTICE MANUAL.
  - c. THE NATIONAL FLORIDA LANDSCAPE ARCHITECTURE ASSOCIATION (NFLA) PRACTICE MANUAL.
3. ALL PLANTING SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE FOLLOWING REFERENCES:
  - a. THE NATIONAL FLORIDA LANDSCAPE ARCHITECTURE ASSOCIATION (NFLA) PRACTICE MANUAL.
  - b. THE NATIONAL FLORIDA LANDSCAPE ARCHITECTURE ASSOCIATION (NFLA) PRACTICE MANUAL.
  - c. THE NATIONAL FLORIDA LANDSCAPE ARCHITECTURE ASSOCIATION (NFLA) PRACTICE MANUAL.

**Exotic Species Maintenance Plan**

Species Name	Planting Date	Maintenance Schedule
1. [Species Name]	1/15/18	Water weekly, fertilize monthly.
2. [Species Name]	1/15/18	Water weekly, fertilize monthly.
3. [Species Name]	1/15/18	Water weekly, fertilize monthly.
4. [Species Name]	1/15/18	Water weekly, fertilize monthly.
5. [Species Name]	1/15/18	Water weekly, fertilize monthly.
6. [Species Name]	1/15/18	Water weekly, fertilize monthly.
7. [Species Name]	1/15/18	Water weekly, fertilize monthly.
8. [Species Name]	1/15/18	Water weekly, fertilize monthly.
9. [Species Name]	1/15/18	Water weekly, fertilize monthly.
10. [Species Name]	1/15/18	Water weekly, fertilize monthly.

**Plant List**

Qty.	Symbol	Botanical Name	Common Name	Department/Notes
1	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
2	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
3	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
4	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
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83	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
84	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
85	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
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87	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
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89	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
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91	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
92	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
93	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
94	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
95	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
96	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
97	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
98	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
99	[Symbol]	[Botanical Name]	[Common Name]	[Notes]
100	[Symbol]	[Botanical Name]	[Common Name]	[Notes]

Scale: 1" = 20'-0"

See L-2.03

See L-2.03

Includes Irrigation for plant bed

See L-2.05 for landscape in median. Includes Irrigation

Includes Irrigation for plant bed

4" Irrigation slices to be direct bored

NOTE: See by the contractor for any additional work to be done.



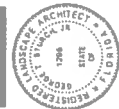
Released for Pricing

Westport (Moss Creek)  
Manatee County, Florida

Exhibit A  
(2007)

**STURCH DESIGN GROUP**  
Landscape Architecture  
Planning  
Urban Design

Sturch Design Group, Inc.  
1111 Cypress Park Blvd.  
Tampa, Florida 33606  
813.288.2225  
www.sturchdesign.com



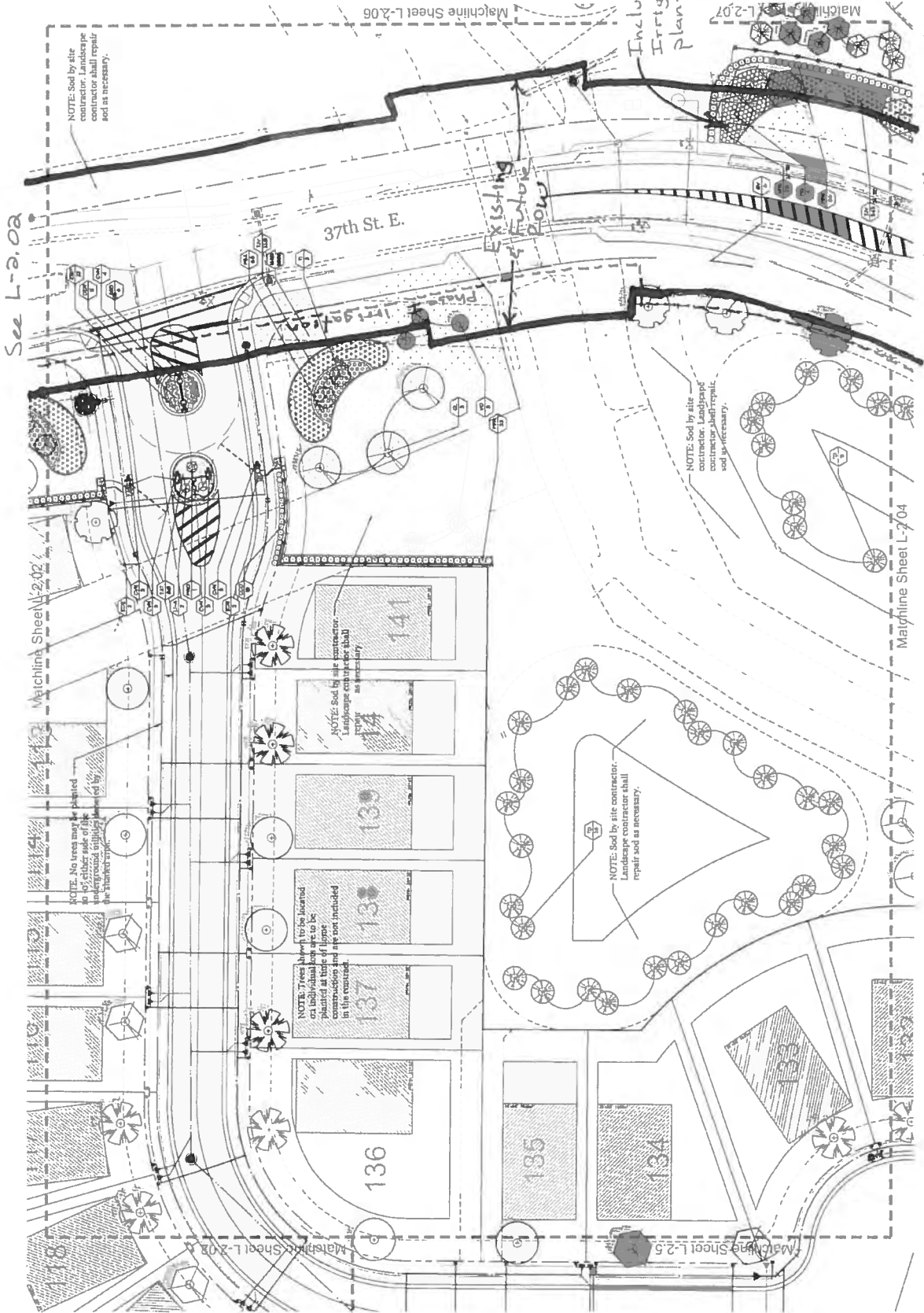
George T. Simon, Jr., P.E., L.A. 1298  
Civil Engineer

TITLE:	Planting Plan
DATE:	January 9, 2010
REVISIONS:	

SHEET  
L-2.03

Released for Pricing

Scale: 1" = 20'-0"



See L-2.02

See L-2.04

Exhibit A  
(3 of 4)

Westport (Moss Creek)  
Manatee County, Florida

STURCH  
DESIGN  
GROUP

Landscape Architecture  
Urban Design

Westport (Moss Creek), FL  
11115 Cypress Way, Suite 200  
Tampa, FL 33634  
Tel: 813.288.2222  
www.sturchdesign.com



Project: Westport (Moss Creek)  
Date: 02/20/18

TITLE:  
Planting Plan

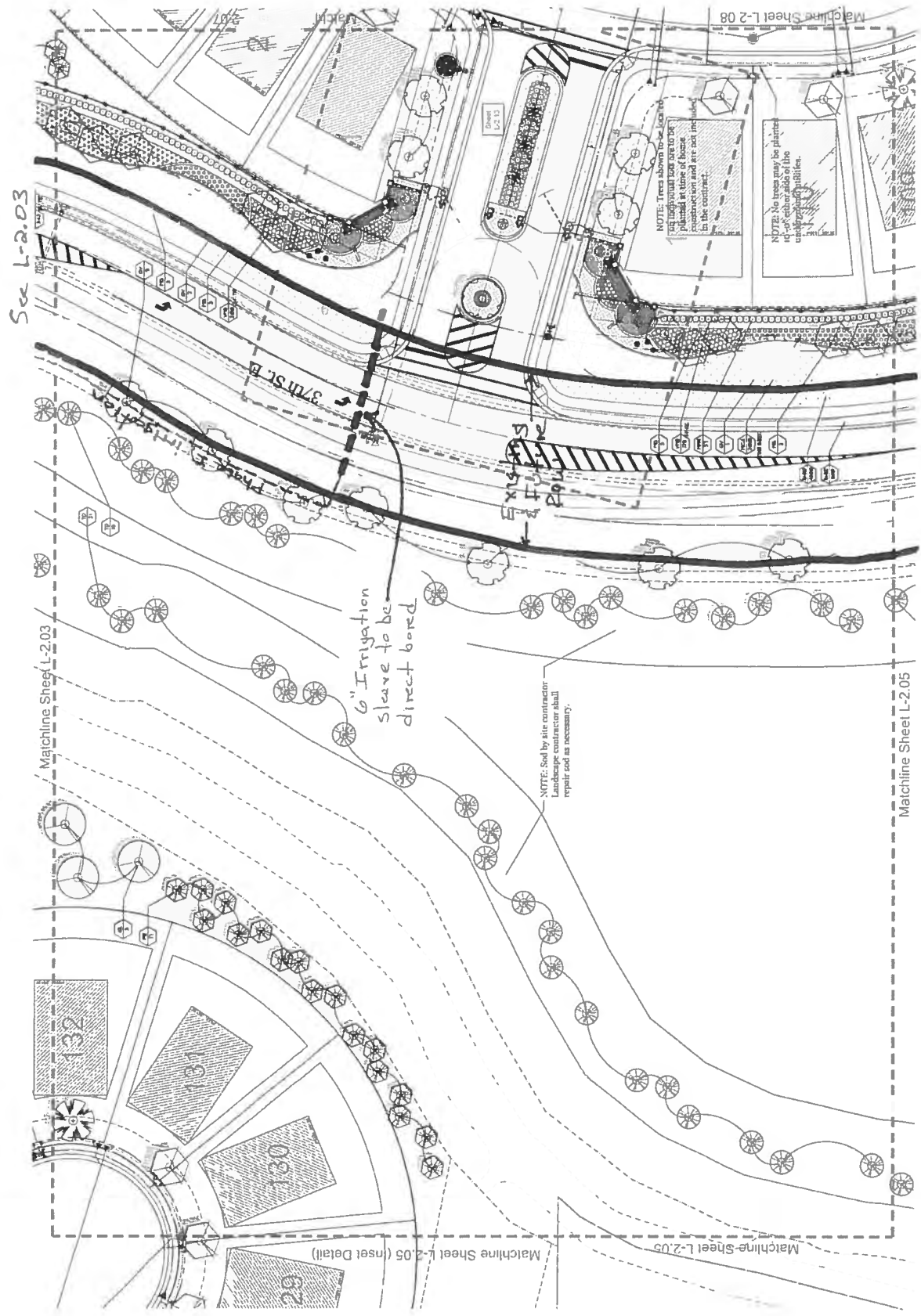
DATE:  
January 2, 2018

REVISIONS:

SHEET:

L-2.04

Released for Pricing



See L-2.03

Matchline Sheet L-2.03

132

131

130

Matchline Sheet L-2.05 (Inset Detail)

6" Irrigation  
sleeve to be  
direct board

NOTE: Soil by site contractor  
Landscape contractor shall  
repair sod as necessary.

Matchline Sheet L-2.05

Matchline Sheet L-2.08

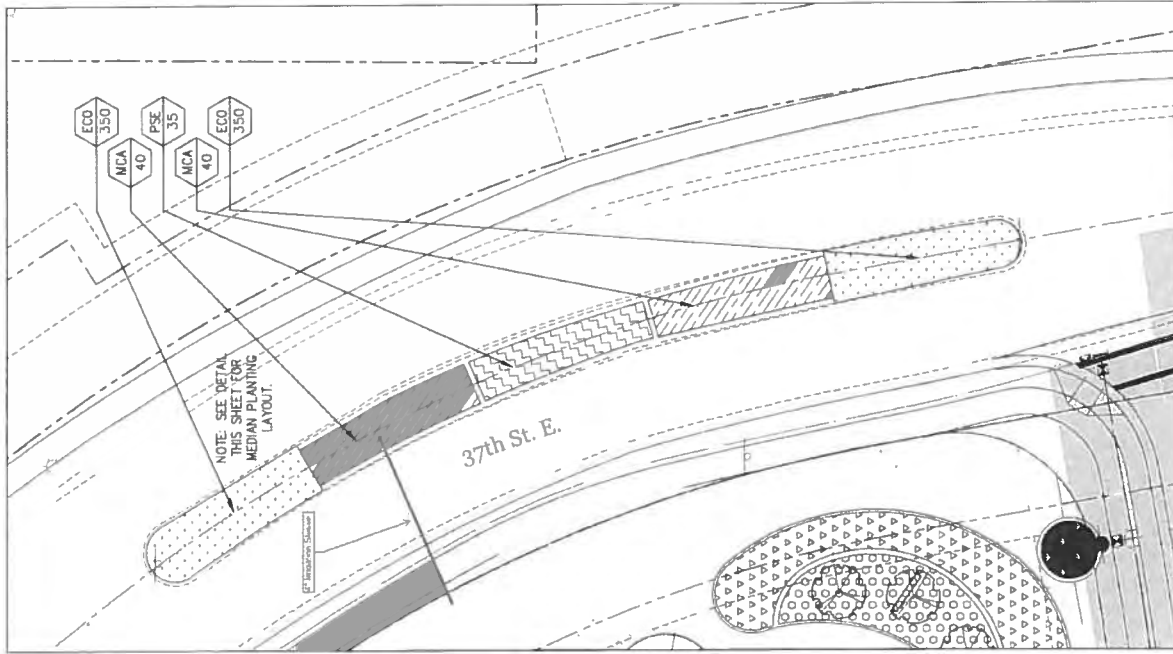
NOTE: Trees shown to be located  
on individual lots are to be  
planted at time of home  
construction and are not included  
in the contract.

NOTE: No trees may be planted  
at the discretion of the  
understanding abilities.

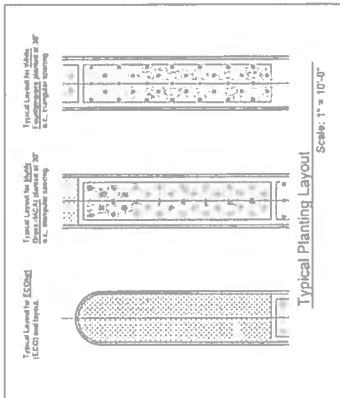


Scale: 1" = 20'-0"

Matchline Sheet L-2.05



37th Street E. Median Planting  
Scale: 1" = 10'-0"



**Plant List**

SYMBOL	QUANT	COMMON/BOTANICAL NAME	SIZE/CONDITION	SPACING	NATIVE	DREIGHT/DL
ECO	700 S.F.	ECOUrf / Anachis glabrata	Spd, laid solid	N/A	No	Yes
MCA	80	Mulhy Grass / Muhlenbergia capillaris	3 gallon, 14" ht. x 14" spr	30" o.c.	Yes	Yes
PSE	35	White Fountaingrass / Pennisetum setaceum	3 gallon, 18" ht. x 18" spr	36" o.c.	No	Yes



November 27, 2018 - Regular Meeting  
Agenda Item #62

Approved in Open Session 11/27/18  
Manatee County  
Board of County Commissioners

Subject

Right-Of-Way Maintenance Agreement with Moss Creek Property Owners Association, Inc.

Briefings

None

Contact and/or Presenter Information

Myra Prater, Field Operations Division Manager, ext 7494  
[myra.prater@mymanatee.org](mailto:myra.prater@mymanatee.org)

Action Requested

Approve and authorize execution of the proposed Right-Of-Way Maintenance Agreement with Moss Creek Property Owners Association, Inc.

Enabling/Regulating Authority

Land Development Code

Background Discussion

Moss Creek is a development on the east/west side of 37th Street East.

The developer has approached the County with a proposal to add additional landscaping to the right-of-way property where it fronts 37th Street East. The Association will not only be responsible for maintaining the landscaping they install, but also for mowing the entire right-of-way as shown in the exhibit. This is a benefit for the County in that the right-of-way will look much better than that of standard County maintenance and will also save approximately \$2,700 annually in mowing costs.

By this agenda, staff is requesting the Board of County Commissioners approve the maintenance agreement that provides for the enhanced landscaping and the assumption of lawn mowing of the entire right-of-way by the association. Attached to this agenda is a general location map of the neighborhood and the new agreement to be executed.

County Attorney Review

Not Reviewed (No apparent legal issues)

Explanation of Other

Reviewing Attorney

N/A

Instructions to Board Records

None **Orig. Agmt sent by courier to Myra Prater, for distribution 11/29/18 RT**

Cost and Funds Source Account Number and Name

N/A

Amount and Frequency of Recurring Costs

None

Attachment: [ROW Maintenance Agreement - 37th St E Moss Creek 11-19-18.pdf](#)

Attachment: [Exhibit A.pdf](#)

Attachment: [Moss Creek - General Location Map.pdf](#)



**From:** Myra Prater  
**To:** Robin Toth  
**Subject:** RE: November 27 BCC Agenda - Right-Of-Way Maintenance Agreement with Moss Creek Property Owners Association, Inc.  
**Date:** Wednesday, November 28, 2018 1:12:30 PM  
**Attachments:** image002.png

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Yes, the Exhibit A Document in the complete Exhibit A Document for attachment to the Right of Way Maintenance Agreement.

Thank you,

Myra Prater  
Field Maintenance Division Manager

---

**From:** Robin Toth [mailto:robin.toth@ManateeClerk.com]  
**Sent:** Wednesday, November 28, 2018 1:08 PM  
**To:** Myra Prater <myra.prater@mymanatee.org>  
**Subject:** RE: November 27 BCC Agenda - Right-Of-Way Maintenance Agreement with Moss Creek Property Owners Association, Inc.

Per our conversation, please confirm back to me that the Exhibit A document you forwarded below, is the complete Exhibit A that should be attached to the Right-of-Way Maintenance Agreement. I hope I do not sound redundant; however, Board Records cannot distribute a document that is not complete.

Thank you,

**Robin**

Robin Toth  
Board Records Deputy Clerk  
for Angelina Colonnese  
Clerk of Circuit Court and Comptroller  
[www.manateeclerk.com](http://www.manateeclerk.com)  
941-741-4018, Ext. 4179  
[robin.toth@manateeclerk.com](mailto:robin.toth@manateeclerk.com)

"Pride in Service with a Vision to the Future"



Florida has a very broad Public Records Law. This agency is a public entity and is subject to Chapter 119 of the Florida Statutes, concerning public records. E-mail communications are covered under

such laws & therefore e-mail sent or received on this entity's computer system, including your e-mail address, may be disclosed to the public or media upon request.

---

**From:** Myra Prater [<mailto:myra.prater@mymanatee.org>]  
**Sent:** Wednesday, November 28, 2018 1:04 PM  
**To:** Robin Toth  
**Cc:** Melissa Cundey  
**Subject:** November 27 BCC Agenda - Right-Of-Way Maintenance Agreement with Moss Creek Property Owners Association, Inc.

Good afternoon Robin,

Attached are all of the documents associated with the Agenda item that were uploaded into E-Agenda.

I do need to make a correction to the distribution of the agreement, a copy should be mailed to the following rather than to Kevin:

Moss Creek Property Owners Association, Inc  
7349 Professional Parkway East  
Sarasota, FL 34240

Thank you for all of your assistance.

Thank you,

Myra Prater  
Field Maintenance Division Manager  
Manatee County Public Works Department  
1108 26th Avenue E  
Bradenton, FL 34208  
941-708-7494  
[myra.prater@mymanatee.org](mailto:myra.prater@mymanatee.org)

