

**RIGHT OF WAY MAINTENANCE AGREEMENT**  
**FOR HIGHLANDS RESERVE OF PALM CITY**

This Agreement, made this 1st day of August, 2006, between Martin County, a political subdivision of the State of Florida, hereinafter call the "COUNTY" and the Highlands Reserve of Palm City Homeowners' Association, Inc., a not-for-profit corporation of Florida, hereinafter called "Highlands Reserve HOA".

WITNESSETH:

WHEREAS, the Florida Department of Transportation (FDOT) is the owner of certain right of way adjacent to the property maintained by the Highlands Reserve HOA; and

WHEREAS, the County is the owner of certain right of way adjacent to the property maintained by the Highlands Reserve HOA; and

WHEREAS, FDOT typically does not maintain enhanced landscaping along state roadways. Such responsibility is left to local governments or sponsors; and

WHEREAS, pursuant to Paragraph 18D of Exhibit "F" Special Conditions of the Highlands Reserve PUD Agreement recorded in Official Records Book 1928, Page 947, Public Records of Martin County, Florida ("PUD Agreement"), which is incorporated herein by reference, Highlands Reserve HOA is required to install and maintain the landscaping, irrigation and lighting over High Meadow Avenue owned by FDOT and County; and

WHEREAS, the County and the Highlands Reserve HOA by entering into this Agreement intend to expressly define the maintenance responsibilities being delegated to the Highlands Reserve HOA.

NOW THEREFORE, in consideration with the mutual covenants hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. The landscape and lighting improvements associated with this project and this Agreement are described in Exhibit "A", prepared by Lucido & Associates, Inc., which is attached hereto and incorporated herein.
2. All maintenance of the aforementioned landscaping, shall be the sole responsibility of Highlands Reserve HOA and will be maintained in accordance with Martin County Landscape Maintenance Standards attached hereto as Exhibit "B".

MARTIN COUNTY RECORDS  
2016 OCT 11 PM 1:35

CLERK OF CIRCUIT COURT  
BY DC



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PSS 0982 - 1000; (1955)  
MARSHA EWING MARTIN COUNTY DEPUTY CLERK C Burke

3. The irrigation improvements associated with this Agreement are described in Exhibit "C", which is attached hereto and incorporated herein.
4. All maintenance of the lighting and irrigation improvements shall be the sole responsibility of Highlands Reserve HOA, including, but not limited to, ensuring that both the lighting and irrigation systems are kept in proper working order.
5. Should the Highlands Reserve HOA be unable or unwilling to do the required maintenance work, the COUNTY may complete or contract to have such maintenance performed and bill Highlands Reserve HOA for all costs incurred. Highlands Reserve HOA agrees to pay such bill within thirty (30) days of receipt of such bill. The County agrees to provide Highlands Reserve HOA written notice of its intent to perform any such maintenance and to provide the HOA with five (5) days from the date of receipt of such notice to perform the work.
6. The Highlands Reserve HOA is not exempt from paying sales taxes for goods/services used to fulfill these contractual obligations, nor is the Highlands Reserve HOA authorized to use the COUNTY's Tax Exemption Number for such purposes.
7. The Highlands Reserve HOA (and/or subcontractors) shall have the following minimum insurance requirements during installation of landscaping, lighting and irrigation and/or maintenance work, with insurance issued by companies authorized under the laws of the State of Florida:

Type amounts and classification required during the term of the Agreement:

Comp General Liability	\$30,000.00 per occurrence
Comp Automobile Liability	\$100,000.00 per person/ \$300,000 per occurrence

Worker's Compensation and Employment's Liability to the extent required by Florida Statute.

8. For purposes of notice the addresses are as follows:

Highlands Reserve HOA  
1245 South Military Trail  
Suite 100  
Deerfield Beach, Florida 33442

Martin County  
County Administrator  
2401 SE Monterey Road  
Stuart, Florida 34996



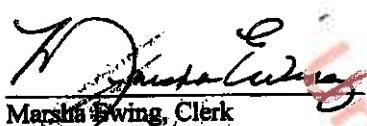
Either party may change their respective address by providing written notice thereof to the other party.

9. The Term of this Agreement shall be in perpetuity.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Contract upon the terms and conditions above stated on the date first written above.

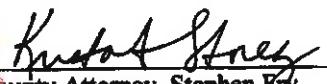
ATTEST:

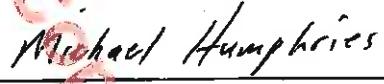
BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA

  
Marshia Ewing, Clerk

  
Chairman, Susan Valliere

APPROVED AS TO FORM AND  
CORRECTNESS

  
County Attorney, Stephen Ery  
By: Krista A. Storey  
Senior Assistant County Attorney

  
President, Highlands Reserve of Palm City  
Homeowners' Association, Inc.

  
Signature

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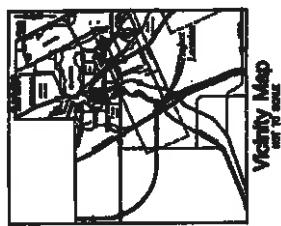


EXHIBIT "A"

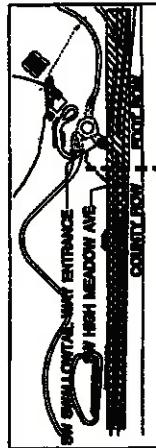
# *Highlands Reserve PUD*

*D.R. HORTON*

## Martin County, Florida

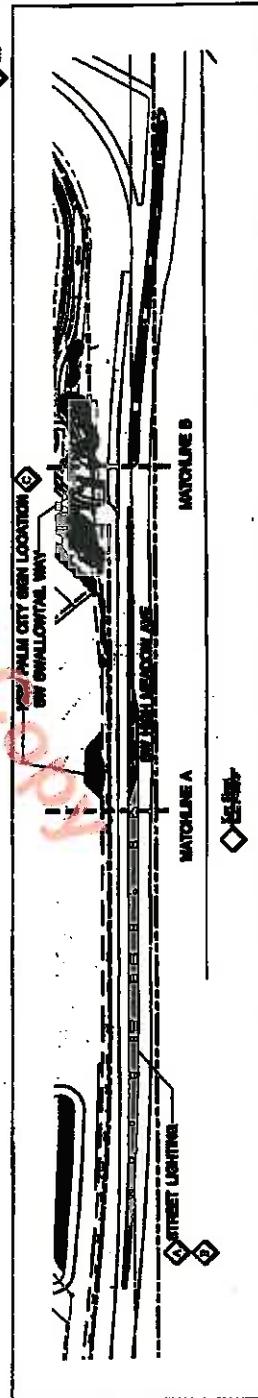


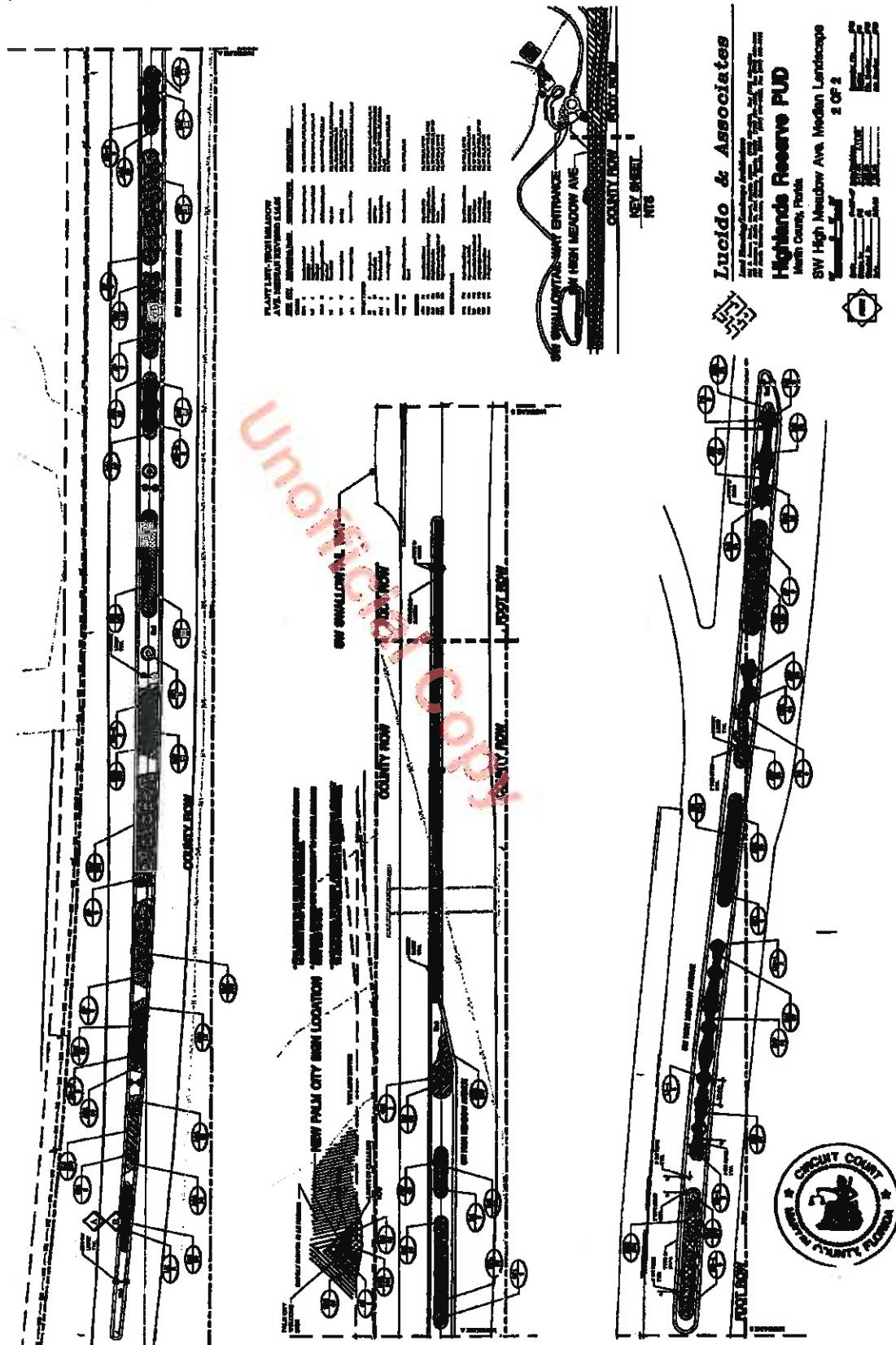
## Victory Map



THE SIGHTS & SCENES OF LAMBERTVILLE

Lucido & Associates





**EXHIBIT B****LANDSCAPE PERFORMANCE STANDARDS****MANAGEMENT**

The Highlands Reserve of Palm City Homeowners' Association, Inc. (Highlands Reserve HOA) is expected to have on staff or retain the necessary experts to be able to properly manage the designated landscape, streetscape project. The Highlands Reserve HOA is required to schedule all maintenance activities to always meet the prescribed level of service described herein. All services performed shall comply with all laws, ordinances, codes, rules, orders, and regulations relating to the performance of the service. Services must be accomplished by using professional methods in compliance with standards of the trade.

**MAINTENANCE**

The Highlands Reserve HOA's work force shall be experienced, landscape maintenance personnel, shall be well versed in landscape maintenance, plant disease problems, and needed remedies. The level of maintenance of the facilities shall consistently be within the tolerances listed below. These guidelines are not intended to be all-inclusive but a guide to describe the level of service expected by Martin County from the Highlands Reserve HOA.

**TRAFFIC CONTROL**

The Highlands Reserve HOA shall be responsible for traffic control during operations performed by the Highlands Reserve HOA's personnel and/or Highlands Reserve HOAs. Traffic control shall be in conformance with the Federal Highway Administration, Manual on Uniform Traffic Control Devices, latest edition, and the Florida Department of Transportation Roadway and Traffic Design Standards, latest edition. The foregoing requirements are to be considered as minimum and the Highlands Reserve HOA's compliance shall in no way relieve the Highlands Reserve HOA of final responsibility for providing adequate traffic control devices for the protection of the public and employees throughout the work areas.

**LITTER**

The Highlands Reserve HOA shall keep all areas within the work limits free of all visible litter. It is the Highlands Reserve HOA's responsibility to schedule litter removal as needed to maintain a litter free appearance. Before mowing operations begin, all visible trash and litter shall be removed from the designated work areas. Additional litter pickup should be done as needed between mowing cycles in order to maintain the required litter free appearance.

Litter collection/disposal includes the pickup, removal and disposal from the right-of-way of any obstacle such as paper, plastic, wood, tires, cans or other debris. Items such as bags of trash, newspapers, magazines, boxes, etc., which would be torn, ripped, scattered or further subdivided by the mower resulting in an objectionable appearance, should be removed. The mower operator must exercise caution to avoid creation of litter during the mowing operation. Particular



attention shall be given to litter removal in planting beds. The Highlands Reserve HOA shall be responsible for proper disposal of the litter. Litter must be removed from the site the same day it is picked up. It is not acceptable to leave bags of litter on site for later pickup.

#### **EDGING/TRIMMING**

Edge grass at the curbs, sidewalks, drainage structures, edge of pavement, and all other infrastructure contained in the maintained area mechanically and/or chemically to maintain no more than two (2) inches of grass over the curbs, sidewalks, pavement, or structures. Grass shall not be herbicided or cut any farther than two (2) inches from the curb, sidewalk, pavement, or other structures.

Trimming/edging around trees and shrubs shall be performed using hand labor, mechanical devices, or herbicides. Trimming/edging around planting beds and mulched areas shall be performed using a mechanical edger to maintain a clean, well-defined edge. Use of string trimmers or other methods that may damage the trees during trimming operations is prohibited. All light/power poles, guardrails, drainage structures, signage and other appurtenances shall be mowed, trimmed or spot-sprayed with herbicide completely around their bases as needed to keep them weed free, and turf no higher than the standard mowing height.

#### **MOWING**

Mowing height shall be 4 inches to 4.5 inches for Bahia turf and 3 inches to 3.5 inches for Floratam/St. Augustine turf. Mowing operations are to be scheduled by the Highlands Reserve HOA in order to cut off no more than 1/3 (one third) of the overall turf height per mowing cycle and keep the turf height uniform and neat in appearance.

Mowing shall be performed with a mulching type mower to minimize the hazard to pedestrians and vehicles. Grass clippings should be left on the grass except in high focal areas where it may be desirable to remove them to prevent matting or build up. Grass clippings and other debris produced by the Highlands Reserve HOAs maintenance activities shall be removed from planting beds, sidewalks, curbs, gutters, pavement and other hardscape areas on the same day they are generated. Where landscaping has been established or natural landscaping has been preserved, mowing shall conform to the established contours.

#### **INSPECTION**

Martin County or its duly authorized representative will inspect the maintenance provided at each area as necessary to determine whether the work is being performed in accordance with specifications, and shall review with the Highlands Reserve HOA any problems found.

The County reserves the right to give written notice in the form of an inspection report listing deficiencies to be corrected within ten (10) working days from date of inspection.

#### **VEGETATION ENCROACHMENT**

The Highlands Reserve HOA shall trim vegetation as it grows into the designated maintained areas from adjacent property.



## TREE, SHRUB, PALM AND ORNAMENTAL CARE

Trees in general, including but not limited to: Oak, Dahoon/East Palatka Holly, Pines, Ficus, Banyan, Maple, and Loquat trees shall be trimmed by the Highlands Reserve HOA per this agreement. Trained employees skilled in the field of arboriculture shall perform tree pruning/trimming. All work to be performed shall be in accordance with the standards established in the American National Standards Institute (ANSI) publication A300 "Tree Care Operations-Tree, shrub and other woody plant maintenance-Standard Practices" latest edition. The long-term goal for most trees on road rights-of-way is to develop a singular trunk, with the lower eight feet free of limbs. The Highlands Reserve HOA shall trim trees in order to maintain vertical and horizontal clearance for vehicular traffic at all times. Clearances shall be maintained to the Florida Department of Transportation specifications, latest edition. The Highlands Reserve HOA shall remove sprouts from the trunks of trees, especially oak trees. The maximum length of sprouts allowed on trees shall be six (6) inches.

Shrubs: All shrubs shall be pruned on an as-needed basis to either retain an attractive, natural form, or where specifically designed in a precise, formal shape. Martin County shall retain the right to determine size and shape of all plantings.

Palms: All palms, excluding Washington Palms located within landscape beds, shall receive pruning as often as necessary to have palms appear neat and orderly at all times. Removal shall only include yellowing or dead fronds and seedpods or blooms; do not remove healthy green fronds. Washington palms shall be allowed to develop a "Beard" of dead fronds around the trunk of the tree. The trunks of Washington palms will require periodic removal of frond stems or "boots" as they become loose or unsightly. All coconuts within the maintained areas shall be removed from coconut palms prior to growing to two (2) inches in size, largest measurement.

Oleander shall be trimmed at least once per year to a height of four (4) feet and old growth thinned to encourage dense foliage. Oleanders shall not be allowed to grow more than eight (8) feet tall. Wax Myrtle and similar ornamentals shall be trimmed as needed to maintain attractive compact growth no more than eight (8) feet tall.

All shrub areas shall be addressed every cycle by cleaning up and removing all paper, trash, weeds, twigs and other undesirable materials and debris.

All material trimmed and pruned from trees and shrubs shall be removed from the job site as it is generated.

The Highlands Reserve HOA shall be responsible for replacement of desirable plants killed or damaged by the Highlands Reserve HOA or by its subcontractor's actions or inactions.

## TREE STAKING

All tree staking/supports shall be per The Florida Department Of Transportation (FDOT) Roadway and Traffic Design Standards, Index 544, latest edition.



## MULCH

Provide and install mulching materials for planting beds to be accomplished as required throughout the year to provide one hundred percent (100%) coverage by the material in not less than two inch (2") depth or more than four inch (4") in depth. Mulch shall not be in contact with the trunk of the trees. Keep mulch 3 to 4 inches away from tree trunks. Mulch materials shall be clean wood chips; red dyed wood chips, Eucalyptus mulch or clean recycled mulch, free of exotic plant seeds. Shredded wood from land-clearing operations that include large pieces of wood shall not be allowed. Wood chips shall not measure more than three (3) inches in the largest dimension. Cypress mulch shall not be allowed. Repair and cover with mulch, any landscape fabric or bare ground uncovered or damaged during maintenance activities.

## WEED CONTROL

A weed is a plant out of place. Plants that were not part of the original landscape design or approved by the County shall be considered weeds. All planting beds, mulched areas, shrubs, hardscape, and sidewalk areas must be maintained essentially weed free. No individual weed (including grasses) shall remain more than two (2) weeks. Weed maintenance shall be performed as needed. No weed may remain that has grown to a height of six (6) inches and/or six (6) inches in diameter maximum.

Acceptable weed density within the above-described specifications shall not exceed over three (3) weeds per square yard over the worst half of any given area. Pre and post emergent herbicides may be used to control weeds. Chemicals to be applied must be approved in advance by the Engineering Department, Mosquito Control Administrator.

The Highlands Reserve HOA shall notify the County in writing whenever chemical weed control is to be applied. If the Highlands Reserve HOA allows plantings to be killed or damaged to the point that they require replacement, the Highlands Reserve HOA shall be responsible for the replacement of any plants killed or damaged by herbicide application.

## INSECT AND DISEASE CONTROL

Insect and disease control shall be for specific insects or diseases identified as problematic, and treated as needed by the Highlands Reserve HOA. Some specific examples are Fungus, Aphids, Scales, Thrips or Leafminers for ornamentals and Fungus and Chinch Bug in turf. Insect and disease control shall only be applied in a manner consistent with Integrated Pest Management practices (IPM).

The Highlands Reserve HOA is responsible for inspection of landscape areas on every visit for indications of pest problems. When treatment is necessary, the least toxic and most target-specific pesticide shall be chosen. Biological controls (such as Bacillus Thuringiensis (BT) formulations) will be the first choice, and if pesticides are necessary, they will be applied on a spot-treatment basis when wind drift is negligible. Insect and disease control agents shall be applied at the rate recommended by the manufacturer.

The Highlands Reserve HOA shall keep written records on pests identified and treatment applied for control. The Highlands Reserve HOA may utilize subcontractor(s) for pesticide application.



Pesticide applications shall be made in accordance with the rules and regulations governing use of pesticides by the State of Florida.

The Highlands Reserve HOA shall be responsible for replacement of desirable plants killed or damaged by, insects, fungus, or other pests.

#### **FERTILIZATION**

**Application:** Water plants at least 48 hours prior to the application of fertilizer. Apply the fertilizer on top of the mulch or turf areas and water thoroughly, making sure to remove any fertilizer that may have settled on foliage or near the main trunk/stem of the plant.

Ornamental and tree fertilizer to be applied mid February, mid June and mid September at a rate of 1 Lb. of Nitrogen per 1000 square feet. Trees to be fertilized at a rate of 1/2 pounds of fertilizer per inch of tree DBH, (Diameter at Breast Height). Lesco 13-3-13 (mix 011389), or approved equivalent. Turf fertilizer to be Lesco 16-2-8 or approved equivalent.

Turf areas to be fertilized as follows:

St. Augustine grass; Lesco 16-2-8 or approved equivalent, slow release fertilizer in mid February, mid June and mid September at 8 Lbs. per 1000 square feet.

Bahia grass; Lesco 16-2-8 or approved equivalent, slow release fertilizer in mid February, mid June and mid September at 5 Lbs. per 1000 square feet.

Palm trees; Fertilize palms at least three (3) times per year in mid February, mid June and mid September with a slow release 10-4-12 with minor elements formulated for palm trees. Palms under 8'-0" in height: 2-5 Lbs. per application. Mature palms: 5-8 Lbs. per application.

The Highlands Reserve HOA shall notify Martin County Engineering Department, Field Operations Division, two (2) business days prior to the application of fertilizer to enable the County to schedule an inspector to confirm the type, amount, and application of the appropriate fertilizer.

#### **IRRIGATION**

Streetscape areas containing automatic irrigation as specified on the site location list shall be checked on a monthly basis. A check of the irrigation system will include manually activating each bed or station to check the spray heads operation and direction of spray, the rain sensors are functioning properly, the individual stations are properly timed, and timers have the correct time of day and day of week.

The Highlands Reserve HOA shall repair all deficiencies.

In the event that one or more local, state, or federal governing agencies impose water use restrictions in Martin County, it shall be the responsibility of the Highlands Reserve HOA to adjust irrigation systems to comply with the restrictions. The adjustments required to make the



systems comply and to re-adjust once water use restrictions are lifted, shall be made by the Highlands Reserve HOA.

Water use restrictions normally use odd and even addresses to determine the days of the week that irrigation systems can be operated. SW High Meadow Avenue (CR-713) shall be considered a North/South road and shall be considered odd.

#### **FENCE**

Fences within the maintained areas shall be kept free of all vines and other vegetation (dead or alive). Vegetation growing into the fence shall be removed as needed to keep the fences free of vegetation.

Fence damage caused by the Highlands Reserve HOA's actions shall be the responsibility of the Highlands Reserve HOA to repair, with like materials and workmanship.

Herbicide may be used at the base of fences to aid in controlling vegetation. An area no more than six (6) inches wide each side of the fence may be herbicided where the fence meets the ground.

#### **MAINTENANCE OF GUTTERS, EDGE OF PAVEMENT AND SIDEWALKS:**

The gutters and edge of pavement shall be swept. The Highlands Reserve HOA shall remove and dispose of litter and debris at the edge of pavement and in the gutters that cannot be picked up by a street sweeper.

The surface of concrete, brick pavers, or otherwise paved medians shall be swept clean each maintenance cycle. All weeds are to be removed from all hardscape areas each cycle. Sidewalks within the maintenance area shall be edged per the edging specifications above and swept or blown off each cycle. Hardscape and sidewalks shall be kept essentially weed and debris free at all times.

#### **REPLACEMENT PLANTS**

The Highlands Reserve HOA shall be responsible for the cost of replacing plants damaged or killed by traffic accidents, vandalism, or natural disasters. Plants damaged or killed by action or inaction of the Highlands Reserve HOA or its subcontractors shall be replaced at the Highlands Reserve HOA's cost, with plantings of similar type size and quantity. Martin County reserves the right to set reasonable time deadlines for plant replacements.

#### **UNDERGROUND UTILITY LOCATES**

The contractor is responsible for following the Underground Facility Damage Prevention and Safety Act, Chapter 556, Florida Statutes for all digging/excavation performed by the Highlands Reserve HOA and or the Highlands Reserve HOA's subcontractors.



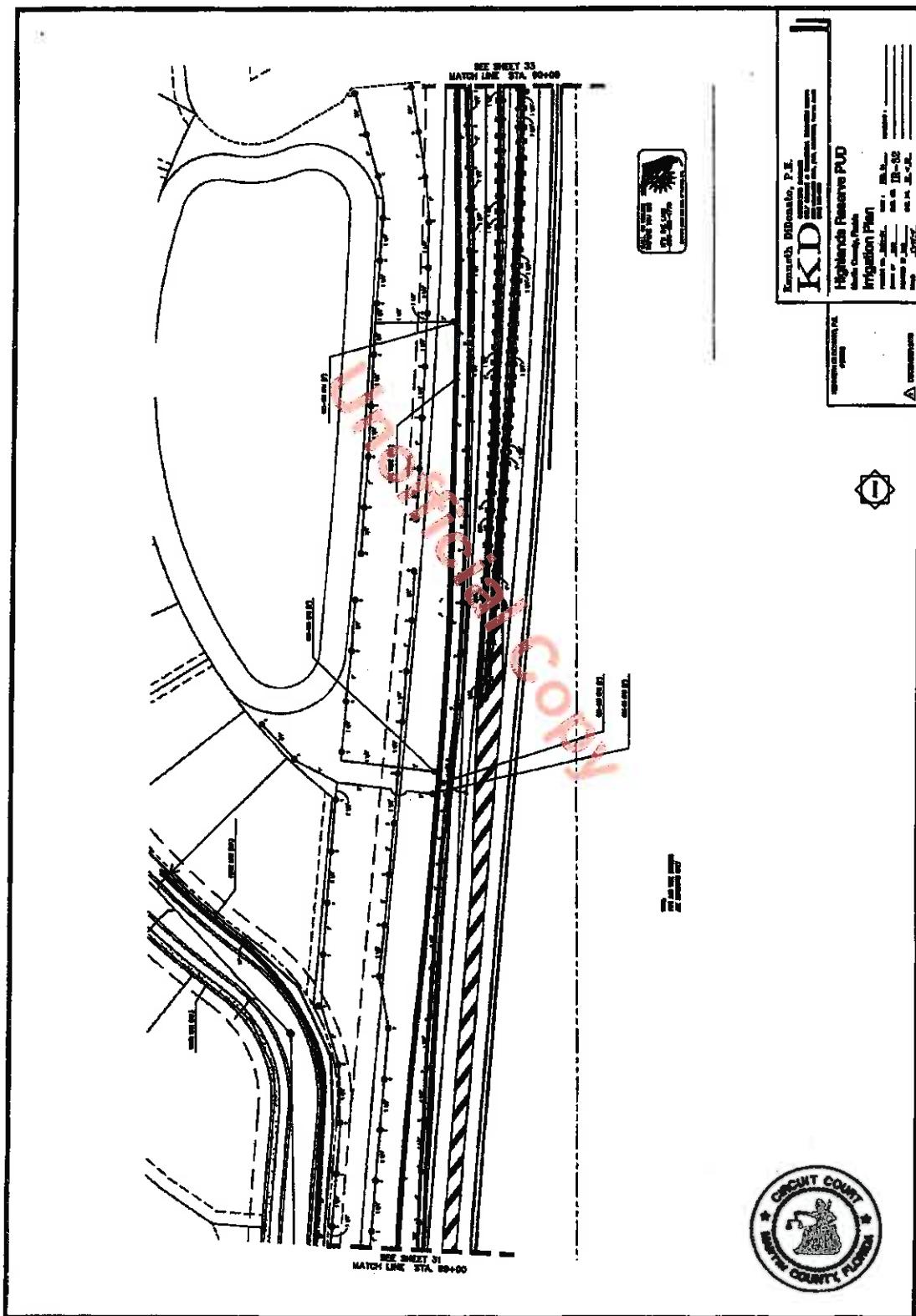
## **HOURS OF MAINTENANCE**

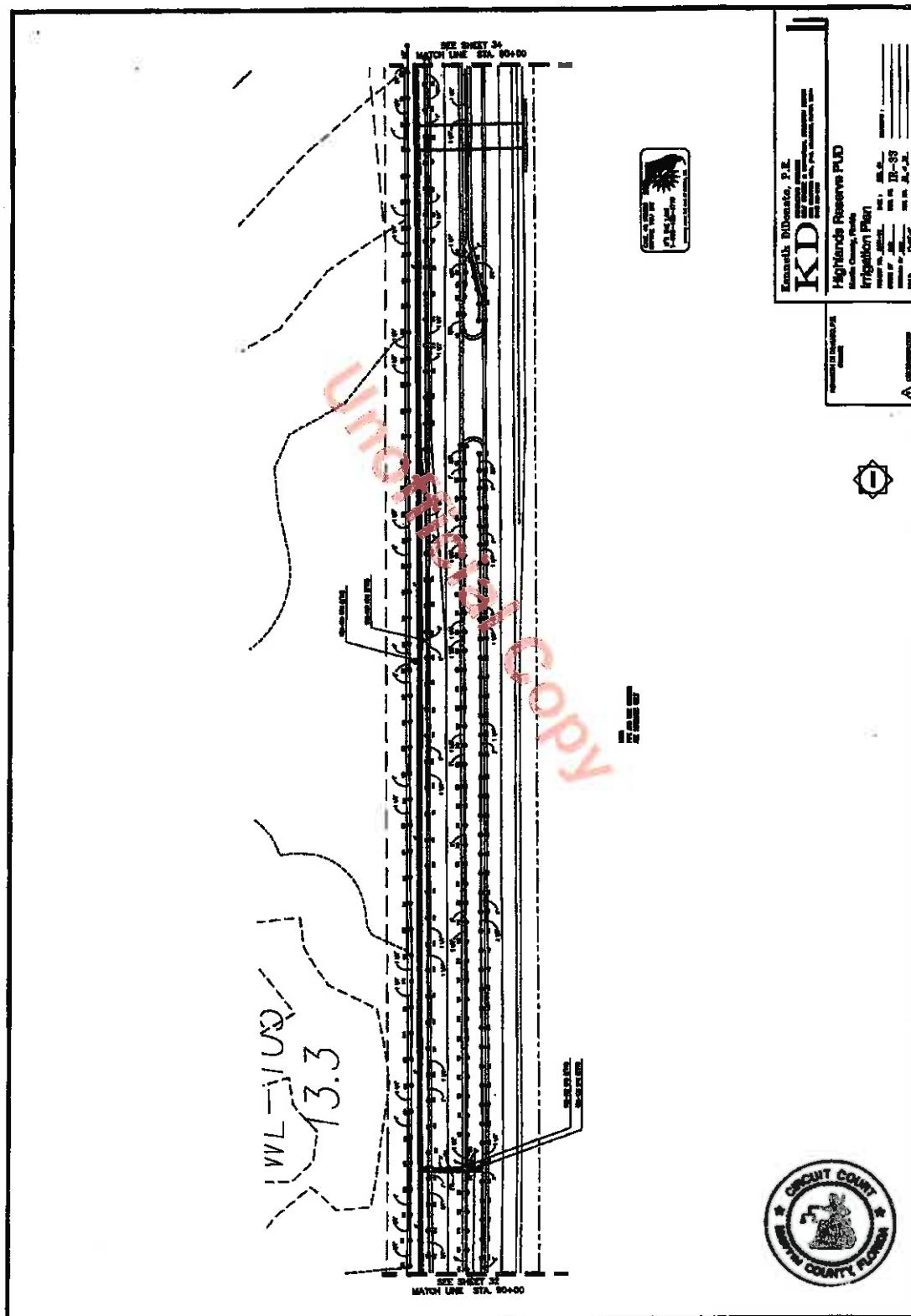
Maintenance shall be performed Monday through Saturday, between one (1) hour after sunrise and one (1) hour before sunset, unless agreed upon by the County.

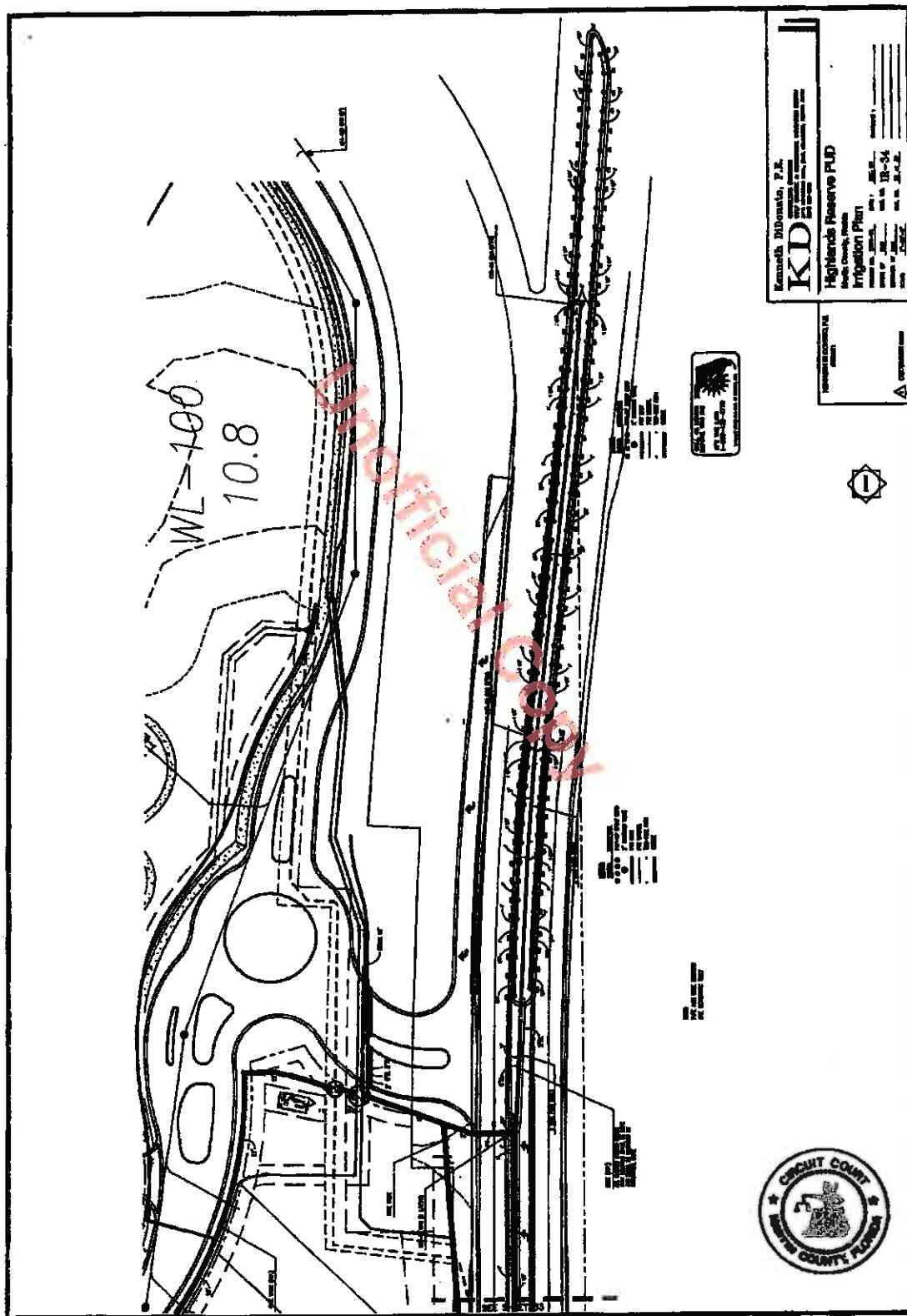


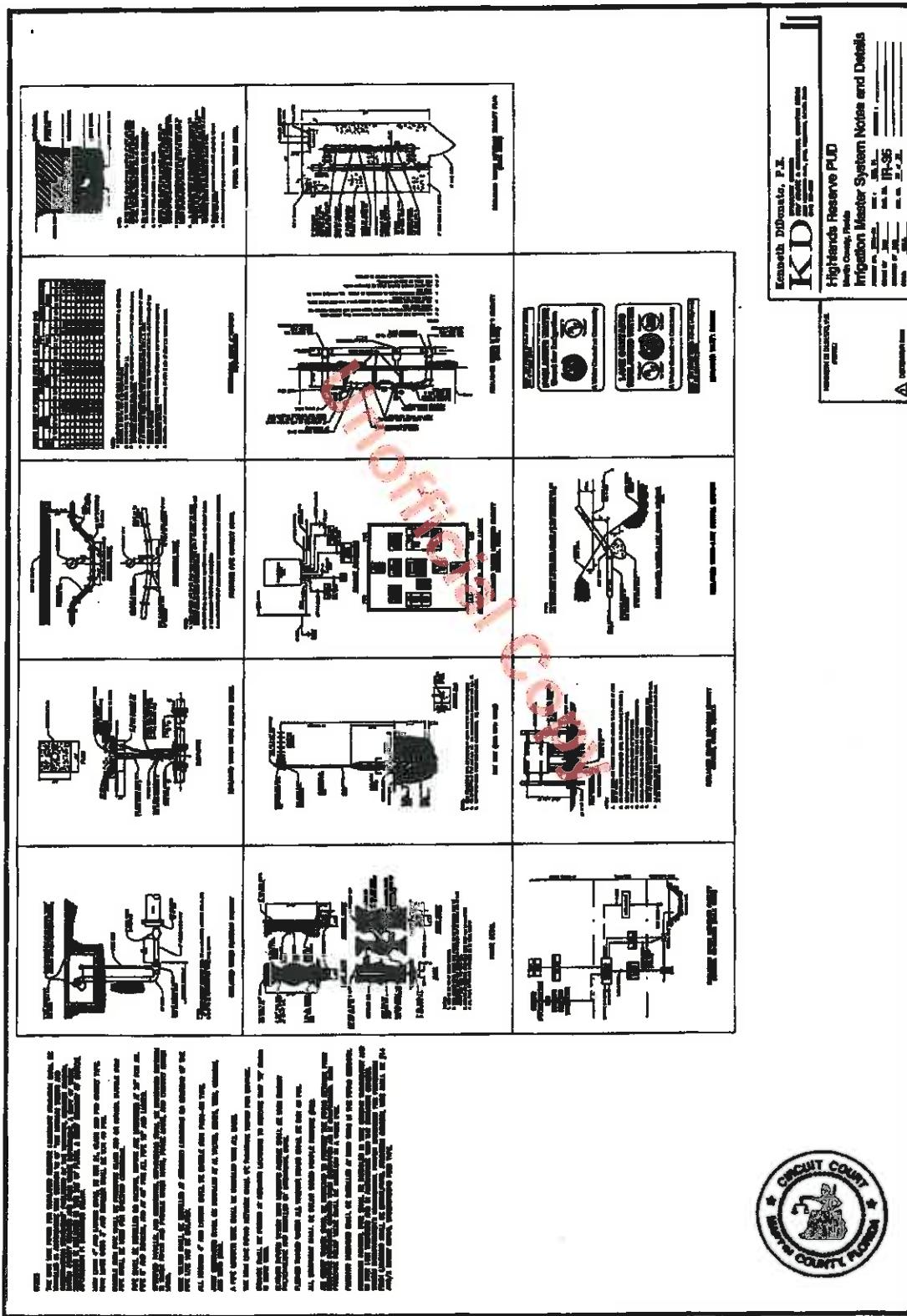
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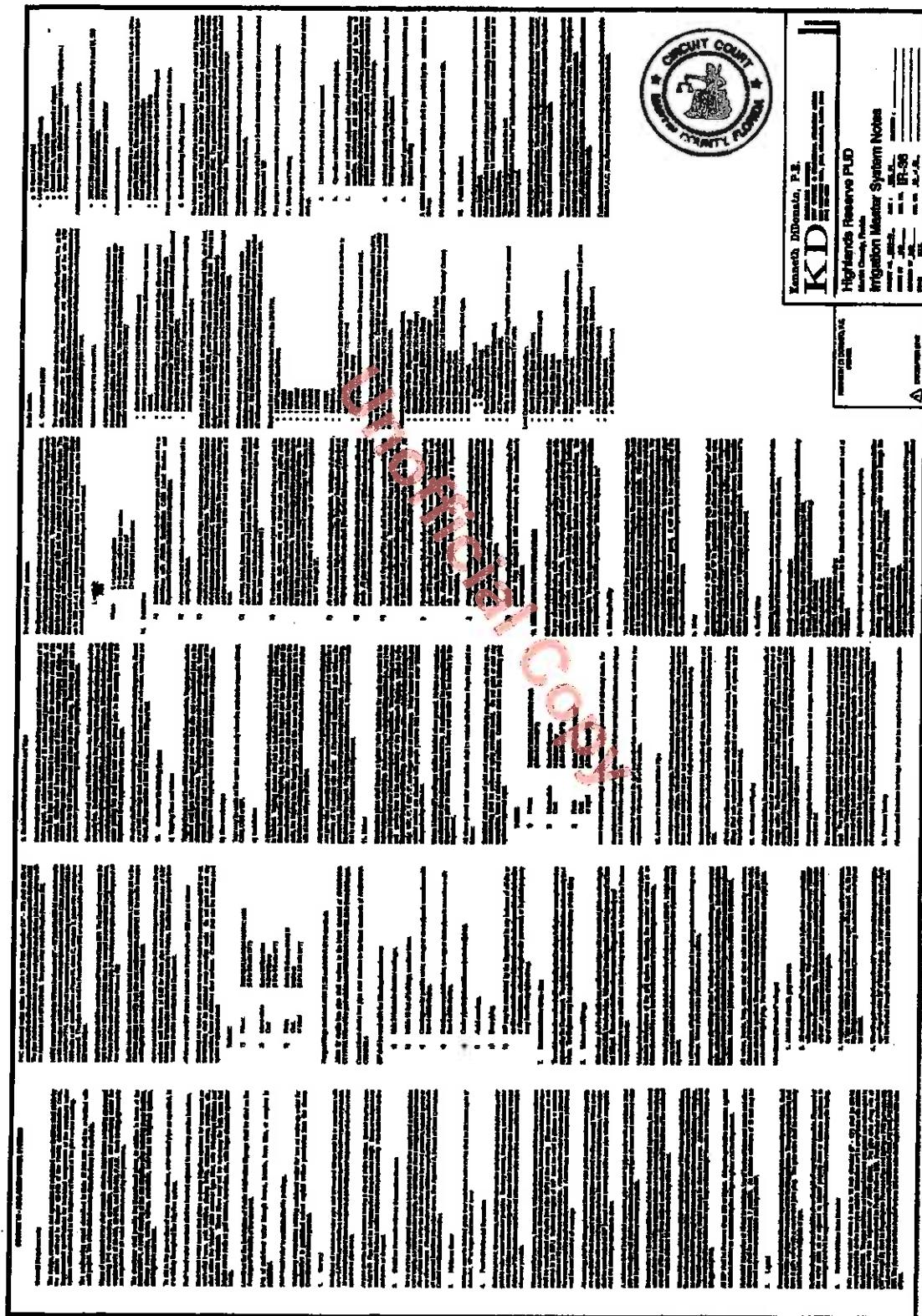
EXHIBIT "C"

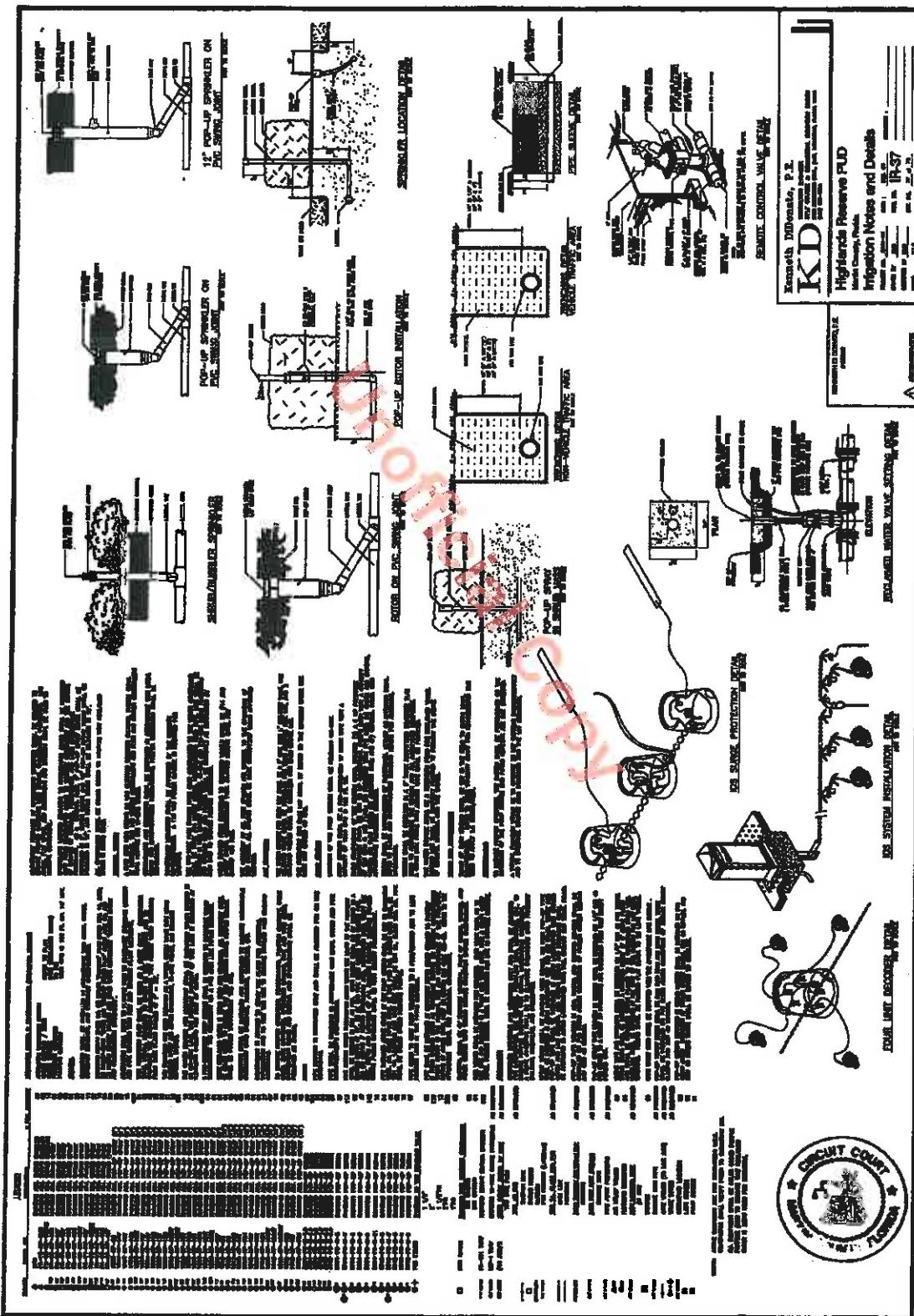












Highlands Reserve PUD  
K.D.  
Irrigation Zone Summary Chart  
Map Scale: 1:12,500  
IR-38  
A

STATE OF FLORIDA  
MARTIN COUNTY