

CONSTRUCTION & MAINTENANCE AGREEMENT

THIS CONSTRUCTION & MAINTENANCE AGREEMENT (“Agreement”) is made and entered into by and between the State of Florida Department of Transportation (“Department”) and Clay County (“Agency”).

1. The term “Property” shall refer to certain real property located in Clay County, Florida, owned by the Agency and known as County Road 220 (“CR 220”), as more particularly shown in red on **Exhibit “A”**; and
2. The Agency desires to construct a transportation project under Financial Project Number 445562-1-5801 on the Property that has limits of construction that extend approximately a half mile, beginning east of Habersham Harbor Drive and heading east to just past Arena Road for the purpose of milling and resurfacing CR 220 as shown in blue in **Exhibit “B”**; and
3. For purposes of this Agreement, the term “Improvements” means and shall refer to the milling and resurfacing, construction of curb and gutters, traffic separators, sidewalk and all American with Disability Act improvements, drainage pipes and structures, driveway connections, lane widening and all signing and pavement markings as shown on **Exhibit B, Composite B-1 through B-6**; and
4. The Department is amenable to the Agency’s request to construct the Project pursuant to the terms and conditions of this Agreement; and
5. The Department shall fund construction of the Improvements, which is wholly contingent upon appropriation of funds to the Department, by and through execution of a separate Local Agency Program (“LAP”) Agreement, which was executed on March 2, 2023, attached as **Exhibit “C”**; and
6. The Agency shall construct the Project; and
7. Upon completion of construction, the Agency shall perpetually own, operate and repair and maintain the Improvements; and
8. The Agency by Resolution _____ dated September 9, 2025 authorizes its representative to enter into this Agreement, see attached **Exhibit “D”**.

NOW THEREFORE, with full knowledge and understanding of the laws governing the subject matter of this Agreement, and in consideration of the foregoing recitals and the mutual covenants and conditions contained in this Agreement, the parties, intending to be legally bound, acknowledge and agree as follows:

1. RECITALS AND EXHIBITS

The above recitals and the attached exhibits are specifically incorporated herein by reference and made part of this Agreement.

2. EFFECTIVE DATE

The “Effective Date” of this Agreement shall be the date the last of the parties to be charged executes the Agreement.

3. ACCESS

This Agreement authorizes the Department to access the Property for the limited purpose of performing this Agreement.

4. TERM

The initial term of this Agreement shall be for a period of one (1) year, commencing on the Effective Date and concluding on the anniversary of the Effective Date. This Agreement shall automatically renew for successive and continuing like one (1) year terms unless terminated by the Department in writing.

5. E-VERIFY

The Agency (A) shall 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 during the term of the contract; and (B) shall expressly require any subcontractors 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.

6. COMPLIANCE

The Agency shall perform the Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards, specifications and permits, as the same may be constituted and amended from time to time, including, without limitation, those of the Department, Water Management District with requisite jurisdiction, Florida Department of Environmental Protection, Environmental Protection Agency, Army Corps of Engineers, United States Coast Guard and local governmental entities ("Governmental Law").

7. PERMITS

In the performance of the Agreement the Agency may be required to obtain one or more Department permits which may include copies of the Agreement as an exhibit. Notwithstanding the inclusion or incorporation of the Agreement as part of any such Department permits, the Agreement shall remain separate and apart from such permits and shall not be merged into the same absent the prior written express consent of the Department. Should any term or provision of the Agreement conflict with any term, provision or requirement of any Department permit, the terms and provisions of the Agreement shall control unless specifically noted otherwise in any such Department permit. For purposes of this Agreement, the term "permit" shall also include the Department's Construction Agreement which may be required for permanent improvements installed within the Department's right-of-way.

8. PRECONSTRUCTION ACTIVITIES

The Department is hereby authorized to act on the Agency's behalf and engage in various preconstruction activities related to the Improvements. The Department is under no obligation to engage in preconstruction activities and the decision to do so shall be within the Department's sole discretion. Preconstruction activities include, by way of example and without limitation, the acquisition of right of way or assistance in obtaining various permits. In those instances where the Department acquires right of way or a permit on behalf of the Agency, regardless of whether the Department or the Agency provides the funding, the Agency shall immediately accept the right of way or permit upon delivery or any means of conveyance as allowable by law, as the case may be, by the Department without condition or delay.

9. CONSTRUCTION

The Agency shall construct the Improvements in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and applicable Governmental Law.

10. OPERATION, MAINTENANCE & REPAIR

A. The Agency shall own, operate, maintain, and repair the Improvements, therein, at its sole cost and expense, in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement including applicable Governmental Law.

B. The Agency agrees that it will be solely responsible for the operation, maintenance, and repair of the Improvements. Should the Agency fail to operate, maintain, and repair the Improvements, in accordance with the terms and provisions of this Agreement and applicable Governmental Law, and the Department be required to perform such operation, maintenance, or repair pursuant to *23 CFR 1.27* and under the authority of *Title 23, Section 116, U.S. Code*, the Agency agrees that it shall be fully responsible to the Department for repayment of any funds expended by the Department for the operation, maintenance, or repair of the Improvements. The Department shall invoice the Agency for any operation, maintenance, or repair expenses charged to the Department, and the Agency shall pay such invoices in accordance with the Payment section of this Agreement. Nothing in this Agreement shall relieve the Agency of its financial obligations to the Department should this occur.

C. The Agency further agrees to allow the Department access to the Property and Improvements pursuant to Paragraph 3 above should the events described in Paragraph B occur.

11. FEDERAL NON-PARTICIPATION/FUNDING

A. The parties agree that any Improvements constructed on the Property will be compensable by the Department only if such items are deemed to be federal participating as determined in accordance with the Federal Aid Policy Guide 23, CFR Section 635.120 ("CFR"). Examples of non-participating items may include, without limitation, the following: fishing piers; premium costs due to design or CEI errors/omissions; material or equipment called for in the plans but not used in construction of the Improvements.

B. The example items listed in paragraph A, above, are not intended to be an exhaustive list. A determination of an item as a federal non-participating cost, shall be made in the Department's sole discretion and, without limitation, in accordance with the CFR. Any item or Improvements deemed to be a federal non-participating item shall be funded at the sole expense of the Agency.

- a. Should the Department identify a federal non-participating item, the Agency shall provide a deposit for the amount of the federal non-participating item to the Department within fourteen (14) calendar days of the Department's determination and notification of the same to the Agency.
- b. The Department shall notify the Agency as soon as it is determined that a non-participating federal item exists; however, failure of the Department to so notify the Agency shall not relieve the Agency of its obligation to pay for the entire amount of all federal non-participating costs accrued during the construction of the Improvements and upon final accounting.
- c. In the event the Agency cannot provide the deposit within fourteen (14) calendar days, a letter, prior to expiration of that time, must be submitted to and approved by the Department's contract manager establishing a mutually agreeable date of deposit.
- d. The Agency understands the extension of time, if so approved, may delay construction of the Improvements, and additional federal non-participating costs may be incurred due to the delay.

C. The Department intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty days (360) of final payment to the Contractor. The Department considers the Project complete when the final payment has been made to the Contractor, not when the construction work is complete. All federal non-participating fund cost records and accounts shall be subject to audit by a representative of the Agency for a period of three (3) years after final close out of the Project. The Agency will be notified of the final federal non-participating costs of the Project. Both parties agree that in the event the final accounting of total federal non-participating costs pursuant to the terms of this Agreement is less than the total deposits to date, a refund of the excess will be made by the Department to the Agency. If the final accounting is not performed within three hundred and sixty (360) days, the Agency is not relieved of its obligation to pay. In the event the final accounting of total federal non-participating costs is greater than the total deposits to date, the Agency will pay the additional amount within forty (40) calendar days of the date of the invoice from the Department.

D. The payment of funds pursuant to this Agreement provision will be made directly to the Department for deposit.

12. EMINENT DOMAIN AND DAMAGES

Under no circumstances shall the Department's exercise of any right provided in this Agreement create any right, title, interest or estate entitling the Agency to full and just compensation from the Department either through inverse condemnation or eminent domain laws or any similar laws regarding the taking of property for public purposes. The Agency forever waives and relinquishes all legal rights and monetary claims which it has, or which may arise in the future, for compensation or damages, including, without limitation, special damages, severance damages, removal costs, and loss of business profits resulting in any manner from the Department's exercise of any right provided in this Agreement. This waiver and relinquishment specifically includes all damages flowing from adjacent properties owned, leased or otherwise controlled by the Agency, as a result of the Department's exercise of any right provided in this Agreement.

13. INDEMNIFICATION

A. To the extent permitted by law, the Agency shall promptly defend, indemnify, hold the Department harmless from and pay all demands, claims, judgments, liabilities, damages, fines, fees, taxes,

assessments, costs, losses, penalties, construction delay costs / penalties, expenses, attorneys' fees and suits of any nature or kind whatsoever caused by, arising out of or related to the Agency's performance, or breach, of this Agreement ("Liabilities"). The term "Liabilities" shall also specifically include all civil and criminal environmental liability arising, directly or indirectly under any Governmental Law, including, without limitation, liability under the Resource Conservation and Recovery Act ("RCRA"), the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the Clean Air Act ("CAA") and the Clean Water Act ("CWA"). The Agency's duty to defend, indemnify and hold the Department harmless specifically does not encompass indemnifying the Department for its negligence, intentional or wrongful acts, omissions or breach of contract.

B. The Agency shall notify the Department in writing immediately upon becoming aware of any Liabilities. The Agency's obligation to defend, indemnify and hold the Department harmless from any Liabilities, or at the Department's option to participate and associate with the Department in the defense and trial of any Liabilities, including any related settlement negotiations, shall be triggered by the Department's written notice of claim for indemnification to the Agency. The Agency's inability to evaluate liability, or its evaluation of liability, shall not excuse performance of the provisions of this paragraph.

14. SOVEREIGN IMMUNITY & LIMITATION OF LIABILITY

Nothing in this Agreement shall be deemed or otherwise interpreted as waiving either party's sovereign immunity protections, or as increasing the limits of liability set forth in §768.28, Florida Statutes, as the same may be amended from time to time. Nothing in this Agreement shall be deemed or otherwise interpreted as waiving the Department's limits of liability set forth in sections 376.305 and 337.27(4) Florida Statutes, as the same may be amended from time to time.

15. NOTICE

All notices, communications and determinations between the parties hereto and those required by the Agreement, including, without limitation, changes to the notification addresses set forth below, shall be in writing and shall be sufficient if mailed by regular United States Mail, postage prepaid, to the parties at the following addresses:

Department: Florida Department of Transportation
Attention: St. Augustine Maintenance Engineer
3600 DOT Road
St. Augustine, FL 32084

Agency: Clay County
Attention: Nelson Anderson
477 Houston Street
Green Cove Springs, FL 32043

16. GOVERNING LAW

This Agreement shall be governed in all respect by the laws of the State of Florida.

17. INITIAL DETERMINATION OF DISPUTES

The Department's District Two Secretary ("District Secretary") shall act as the initial arbiter of all questions, difficulties, and disputes concerning the interpretation, validity, performance or breach of the Agreement.

18. VENUE AND JURISDICTION

A. Venue for any and all actions arising out of or in any way related to the interpretation, validity, performance or breach of the Agreement that are not resolved to the mutual satisfaction of the parties by the Department's District Secretary shall lie exclusively in a state court of appropriate jurisdiction in Leon County, Florida.

B. The Agency and all persons and entities accepting an assignment of this Agreement, in whole or in part, shall be deemed as having consented to personal jurisdiction in the State of Florida and as having forever waived and relinquished all personal jurisdiction defenses with respect to any proceeding related to the interpretation, validity, performance or breach of this Agreement.

19. JURY TRIAL

The parties hereby waive the right to trial by jury of any dispute concerning the interpretation, validity, performance or breach of the Agreement, including, without limitation, damages allegedly flowing therefrom.

20. ASSIGNMENT

The Agency shall not assign, pledge or transfer any of the rights, duties and obligations provided in this Agreement without the prior written consent of the Department's District Secretary or his/her designee. The Department has the sole discretion and authority to grant or deny proposed assignments of this Agreement, with or without cause. Nothing herein shall prevent the Agency from delegating its duties hereunder, but such delegation shall not release the Agency from its obligation to perform the Agreement.

21. THIRD PARTY BENEFICIARIES

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Nothing in this Agreement is intended to confer any rights, privileges, benefits, obligations or remedies upon any other person or entity except as expressly provided for herein.

22. VOLUNTARY EXECUTION OF AGREEMENT

Each party warrants and represents to the other: (i) that it understands all of the rights and obligations set forth in the Agreement and the Agreement accurately reflects the desires of said party; (ii) each provision of the Agreement has been negotiated fairly at arm's length; (iii) it fully understands the advantages and disadvantages of the Agreement and executes the Agreement freely and voluntarily of its own accord and not as a result of any duress, coercion, or undue influence; and (iv) it had the opportunity to have independent legal advice by counsel of its own choosing in the negotiation and execution of the Agreement.

23. ENTIRE AGREEMENT

This instrument, together with any exhibits and documents made part hereof by reference, contains the entire agreement of the parties and no representations or promises have been made except those that are specifically set out in the Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements and representations, covenants, and warranties with respect to the subject matter of the Agreement, and any part hereof, are waived, merged herein and superseded hereby.

24. EXECUTION OF DOCUMENTS

The parties agree that they shall promptly execute and deliver to the other all documents necessary to accomplish the intent and purpose of the Agreement and shall do all other acts to effectuate the Agreement.

25. SUFFICIENCY OF CONSIDERATION

By their signature below, the parties hereby acknowledge the receipt, adequacy and sufficiency of consideration provided in the Agreement and forever waive the right to object to or otherwise challenge the same.

26. WAIVER

The failure of either party to insist on the strict performance or compliance with any term or provision of the Agreement on one or more occasions shall not constitute a waiver or relinquishment thereof and all such terms and provisions shall remain in full force and effect unless waived or relinquished in writing.

27. INTERPRETATION

No term or provision of the Agreement shall be interpreted for or against any party because that party or that party's legal representative drafted the provision.

28. CAPTIONS

Paragraph title or captions contained herein are inserted as a matter of convenience and reference and in no way define, limit, extend or describe the scope of the Agreement, or any provision hereof.

29. SEVERANCE

If any section, paragraph, clause or provision of the Agreement is adjudged by a court, agency or authority of competent jurisdiction to be invalid, illegal or otherwise unenforceable, all remaining parts of the Agreement shall remain in full force and effect and the parties shall be bound thereby so long as principle purposes of the Agreement remain enforceable.

30. COMPUTATION OF TIME

In computing any period of time prescribed in the Agreement, the day of the act, event or default from which the designated period of time begins to run, shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday.

31. MODIFICATION OF AGREEMENT

A modification or waiver of any of the provisions of the Agreement shall be effective only if made in writing and executed with the same formality as the Agreement.

32. PUBLIC RECORDS

The Agency shall comply with Chapter 119, Florida Statutes. Specifically, the Agency shall:

A. Keep and maintain public records that ordinarily and necessarily would be required by the Department to perform this Agreement.

B. Upon request from the Department's custodian of public records, provide the Department with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of the Agreement if Agency does not transfer the records to the Department.

D. Upon completion of this Agreement, transfer, at no cost, to the Department all public records in possession of Applicant or keep and maintain public records required by the Department to perform this Agreement. If the Agency transfers all public records to the public Agency upon completion of this Agreement, the Agency shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Agency keeps and maintain public records upon completion of this Agreement, Agency shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Department, upon request from the Department's custodian of public records, in a format that is compatible with the information technology systems of the Department.

Failure by Agency to act in accordance with Chapter 119 and the foregoing shall be grounds for immediate unilateral cancellation of this Agreement by the Department. Agency shall promptly provide the Department with a copy of any request to inspect or copy public records in possession of Agency and shall promptly provide the Department a copy of Applicant's response to each such request.

IF THE CONSULTANT/CONTRACTOR/VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S/CONTRACTOR'S/VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

District 2
386-758-3727
D2prcustodian@dot.State.FL.us
Florida Department of Transportation
District 2 - Office of General Counsel
1109 South Marion Avenue, MS 2009
Lake City, FL 32025

33. ANNUAL APPROPRIATION / FUNDING

Pursuant to §339.135(6)(a), Florida Statutes, the Department's obligation to fund construction of the Improvements is contingent upon annual appropriation by the Florida Legislature. This Agreement may be terminated by the Department without liability to the Agency if sufficient funds are not appropriated to the Department. The provisions of §339.135(6)(a), Florida Statutes, are set forth herein verbatim and made part of this Agreement, to wit:

"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 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 \$25,000 and which have a term for a period of more than 1 year."

IN WITNESS WHEREOF, intending to be legally bound hereby, the parties execute this Agreement, consisting of forty-five (45) pages.

Florida Department of Transportation

Attest:

By: _____

By: _____

Printed Name: Greg Evans

Printed Name: Elizabeth Engle

Title: District Two Secretary

Title: Office of the District Two Secretary

Date: _____

Date: _____

Legal Review:

By: _____

Office of the General Counsel
Florida Department of Transportation

Clay County

Attest:

By: _____

By: _____

Printed Name: Betsy Condon

Printed Name: Tara S. Green

Title: Chairman

Clay County Clerk of Court and Comptroller
Title: Ex Officio Clerk to the Board

Date: _____

Date: _____

EXHIBIT "A"
Composite A-1

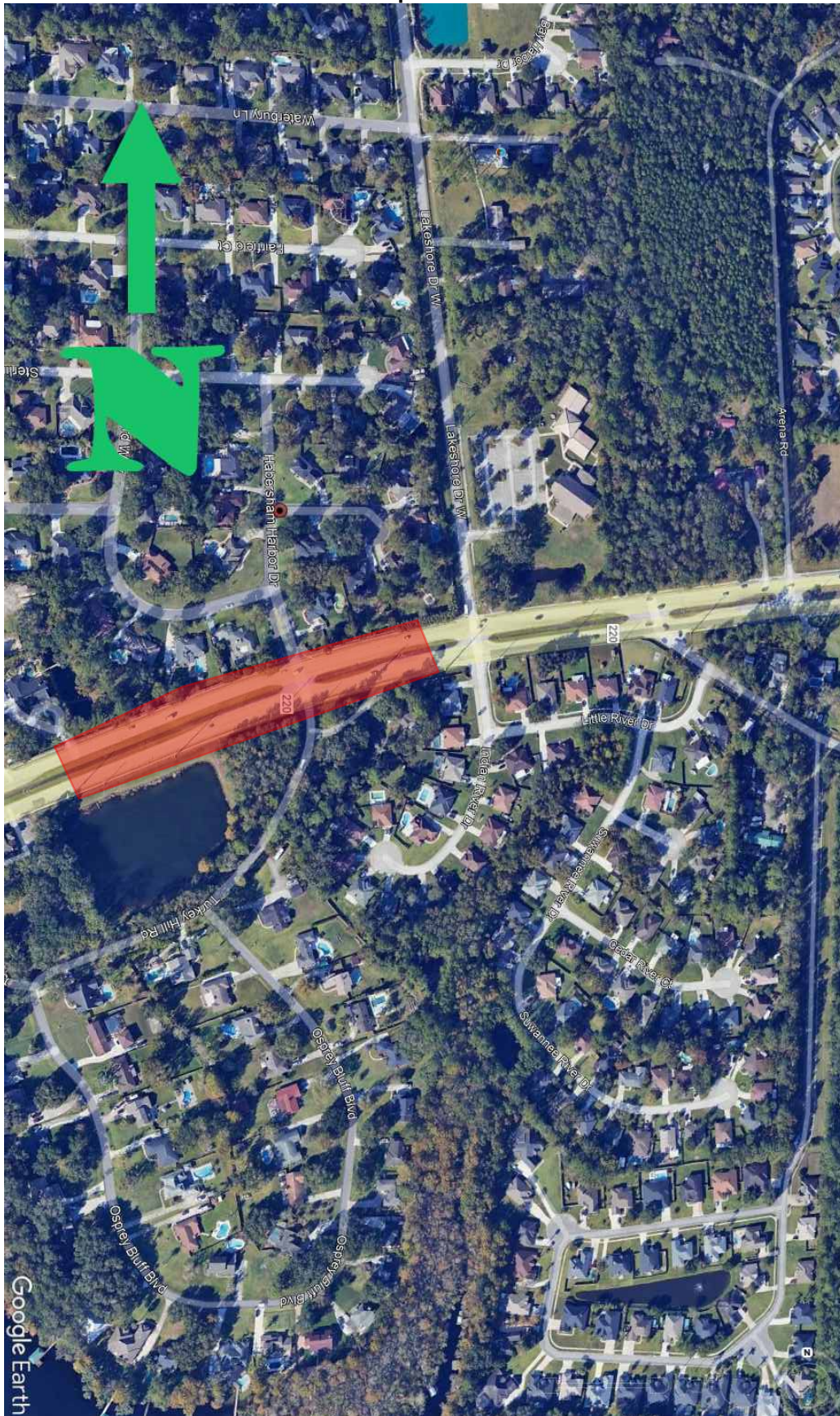
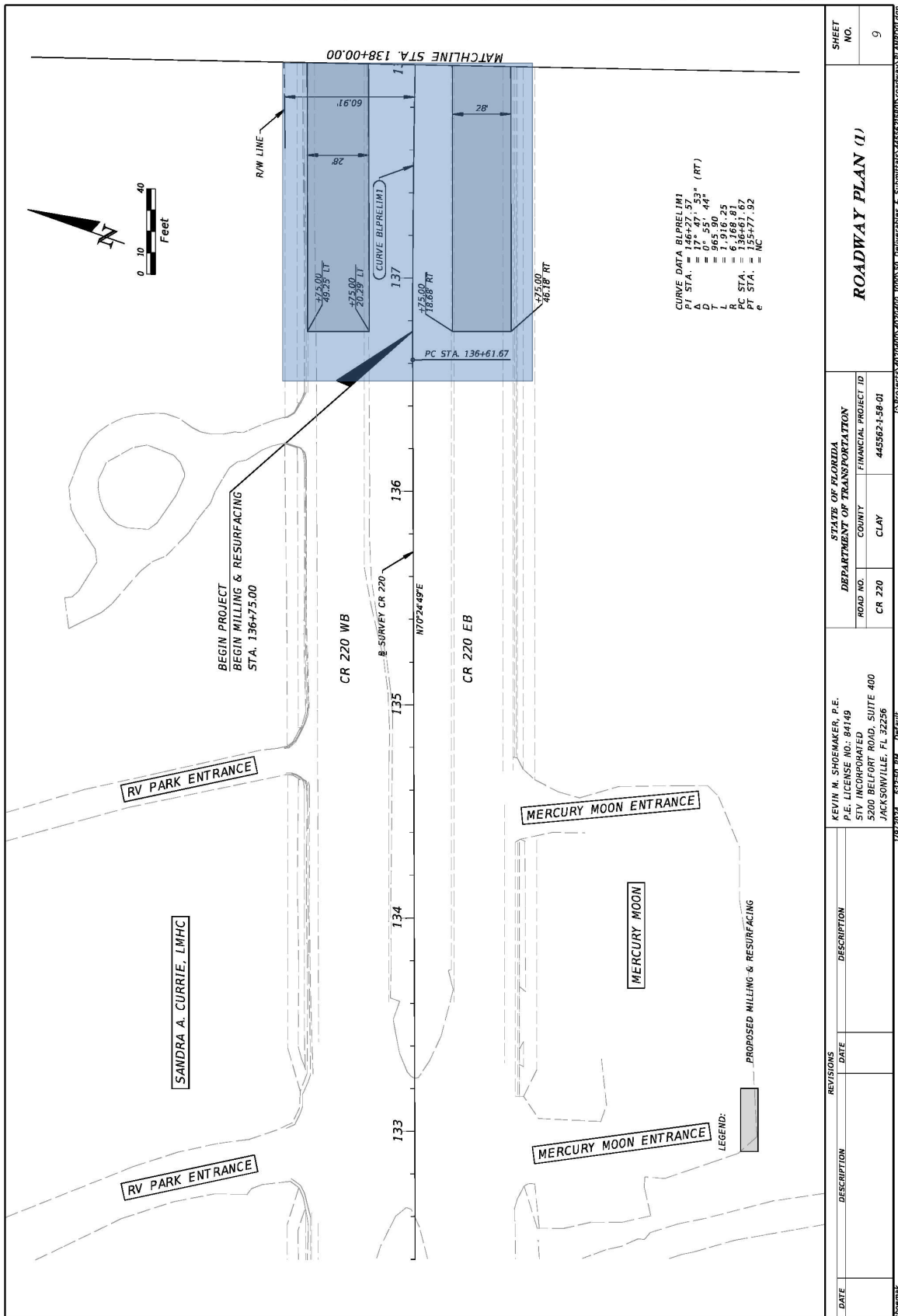


EXHIBIT "B"
Composite B-1

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61B15-23.004, F.A.C.



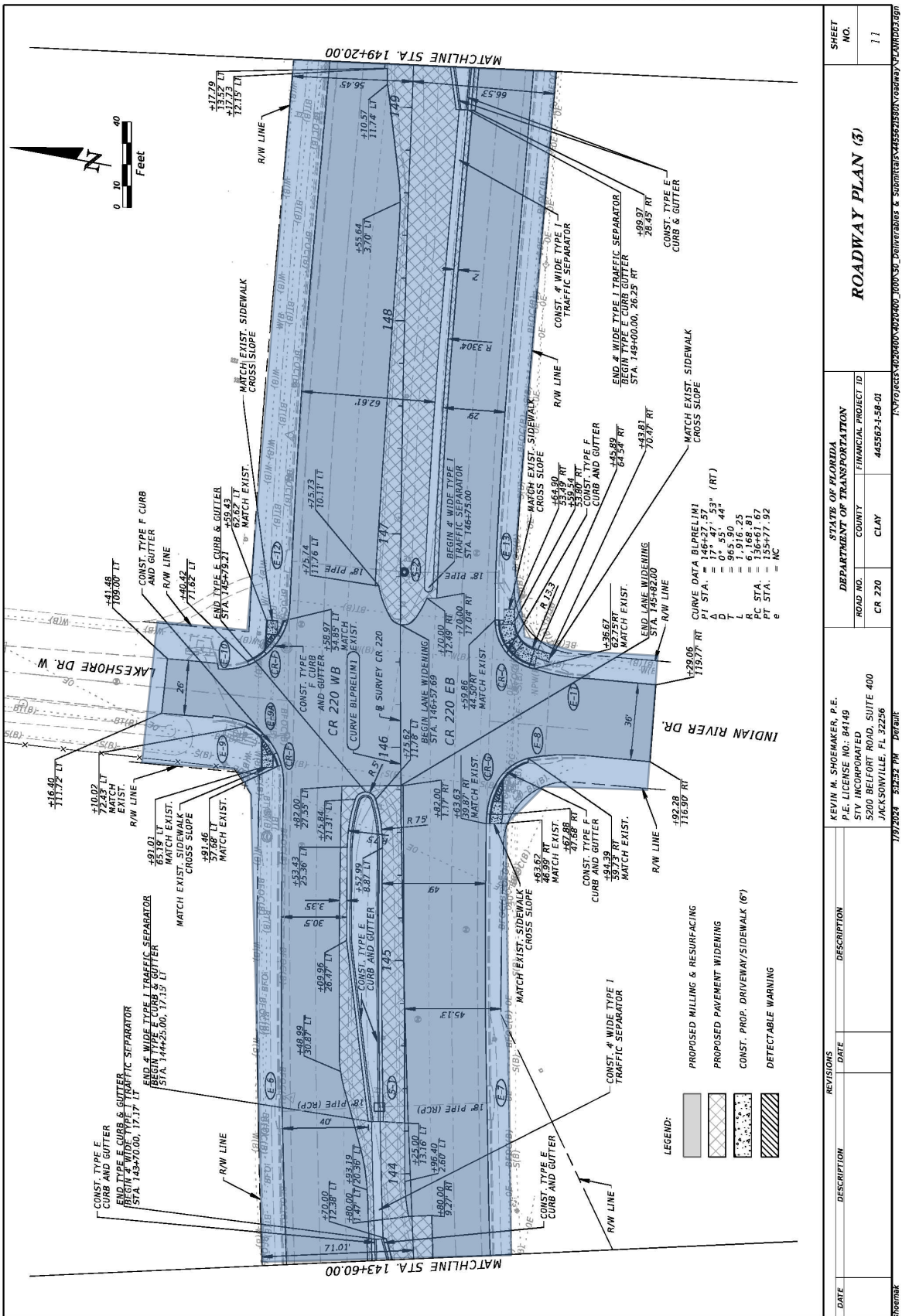
DATE	DESCRIPTION	REVISIONS	DATE	DESCRIPTION

KEVIN W. SHOEMAKER, P.E. P.E. LICENSE NO.: 84149 STV, INCORPORATED 5200 BELFORT ROAD, SUITE 400 JACKSONVILLE, FL 32256 1/9/2024 3:25:59 PM - Default		STATES OF FLORIDA DEPARTMENT OF TRANSPORTATION ROAD NO. CR 220 COUNTY CLAY FINANCIAL PROJECT ID 445562-1-58-01	SHEET NO. 9
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ROADWAY PLAN (1)

I:\Projects\445562-1-58-01\0800-00\Deliverables & Submittals\445562-1-58-01\ROADWAY PLAN\080021.dwg

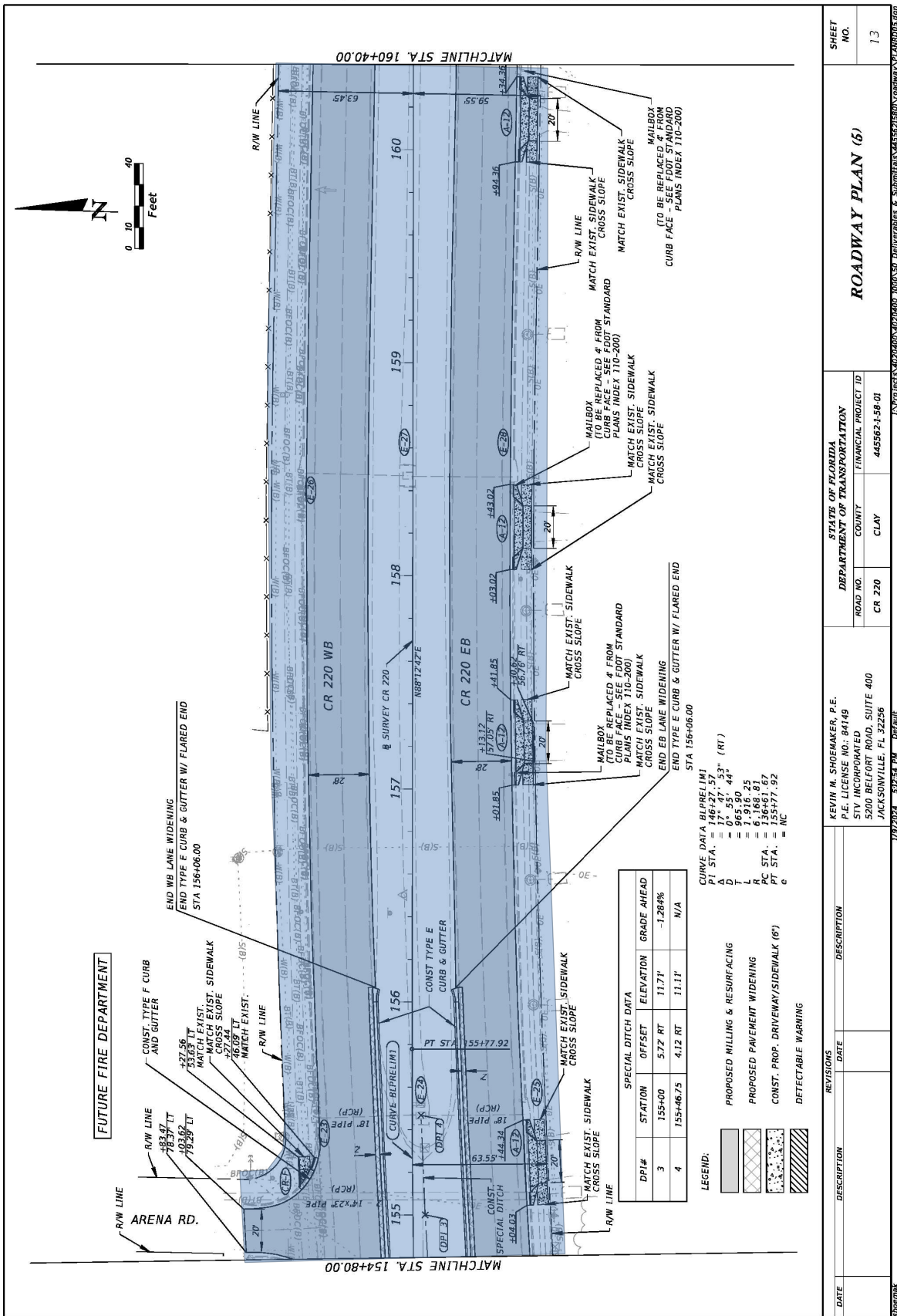
**EXHIBIT "B" Cont'd
Composite B-3**



THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G5-23.004, F.A.C.

DATE	DESCRIPTION	REVISIONS	DATE	DESCRIPTION
KEVIN M. SHOENMAKER, P.E. P.E. LICENSE NO.: 84149 5700 BELMONT RD, SUITE 400 JACKSONVILLE, FL 32256 1/19/2024 5:32:32 PM - DRAFT				
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		ROADWAY PLAN (3)		
ROAD NO.	COUNTY	FINANCIAL PROJECT ID	SHEET NO.	
CR 220	CLAY	445562-1-58-01	11	
PROJECT: 402000\402000\402000_100\SC_Deliverables & Submittals\445562\58\Roadway\11\100\RD220.dgn				

**EXHIBIT "B" Cont'd
Composite B-5**



THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

DATE	DESCRIPTION	REVISIONS	DATE	DESCRIPTION

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION	ROAD NO. CR 220	COUNTY CLAY	FINANCIAL PROJECT ID 445562-1-58-01
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KEVIN M. SHOEMAKER, P.E. P.E. LICENSE NO. 84149 STV, INCORPORATED 5200 BELFORT ROAD, SUITE 400 JACKSONVILLE, FL 32256 1/19/2024 3:25:4 PM D560E	ROADWAY PLAN (5)	SHEET NO. 13
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DF#	STATION	OFFSET	ELEVATION	GRADE AHEAD
3	155+40	5.72 RT	11.71'	-1.284%
4	155+46.75	4.12 RT	11.11'	N/A

SPECIAL DITCH DATA	
PT STA.	55+77.92
CONST. TYPE	E
CURB & GUTTER	

LEGEND:

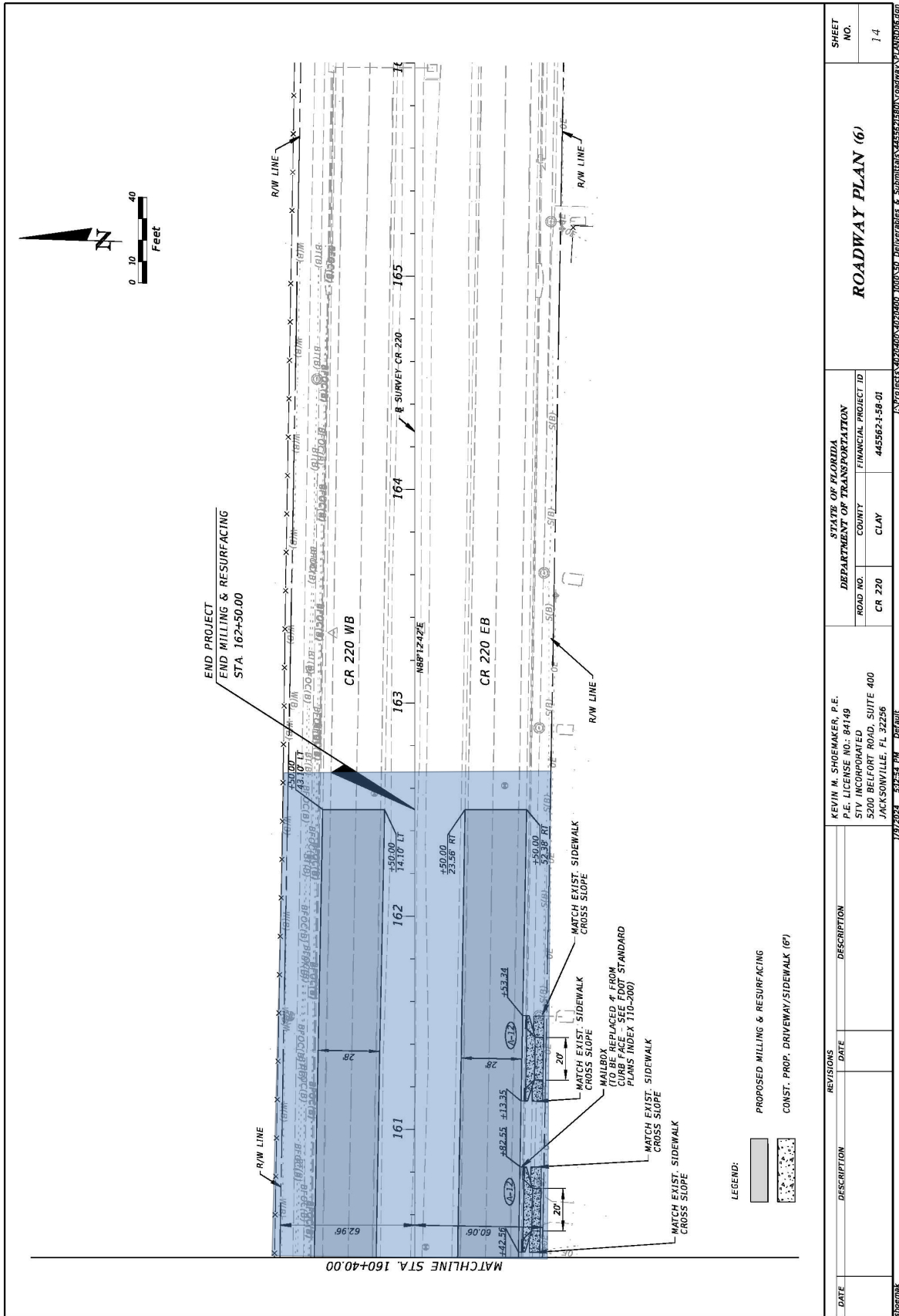
- PROPOSED MILLING & RESURFACING
- PROPOSED PAVEMENT WIDENING
- CONST. PROP. DRIVEWAY/SIDEWALK (6')
- DETECTABLE WARNING

CURVE DATA (PRELIM)

- A1 STA. = 176+47.53" (RT)
- D = 0' - 55' - 44"
- L = 9' - 0' - 25"
- R = 6' - 168' - 81"
- PC STA. = 156+61.67
- P STA. = 153+77.52
- E = NC

**EXHIBIT "B" Cont'd
Composite B-6**

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.



DATE	DESCRIPTION	REVISIONS	DATE	DESCRIPTION

KEVIN M. SHOEMAKER, P.E. P.E. LICENSE NO. 84149 STV INCORPORATED 5200 BELFORT ROAD, SUITE 400 JACKSONVILLE, FL 32256 1/19/2024 8:25:4 PM Defant		STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION ROAD NO. CR 220 COUNTY CLAY FINANCIAL PROJECT ID 445562-1-58-01	ROADWAY PLAN (6) SHEET NO. 14
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EXHIBIT "C"
Executed LAP Agreement

DocuSign Envelope ID: 6DCB899F-2388-4346-951F-9012CA8DEBA2

Clay County Agreement/Contract No.: 2022/2023- 69

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-40
PROGRAM MANAGEMENT
OGC/OOC - 09/22
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FPN: <u>445562-1-58-01</u>	FPN: <u>445562-1-68-02</u>	FPN: _____
Federal No (FAIN): <u>D222-080-B</u>	Federal No (FAIN): <u>D220-080-B</u>	Federal No (FAIN): _____
Federal Award Date: <u>2/17/23</u>	Federal Award Date: <u>2/17/23</u>	Federal Award Date: _____
Fund: <u>ACSS</u>	Fund: <u>ACSS</u>	Fund: _____
Org Code: _____	Org Code: _____	Org Code: _____
FLAIR Approp: _____	FLAIR Approp: _____	FLAIR Approp: _____
FLAIR Obj: _____	FLAIR Obj: _____	FLAIR Obj: _____
County No: <u>71</u>	Contract No: <u>G2452</u>	
Recipient Vendor No: <u>F596000553004</u>	Recipient Unique Entity ID SAM No: <u>HE97WJAYNQ69</u>	

Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction

THIS LOCAL AGENCY PROGRAM AGREEMENT ("Agreement"), is entered into on 03/02/2023 | 11:36 AM EST, by and between the State of Florida Department of Transportation, an agency (This date to be entered by DOT only) of the State of Florida ("Department"), and Clay County ("Recipient").

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority:** The Department is authorized to enter into this Agreement pursuant to Section 339.12, Florida Statutes. The Recipient by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D"** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf.
2. **Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in the construction and CEI project management of intersection improvements on CR-220 from West of Lakeshore Drive West to East of Old Hard Road, as further described in **Exhibit "A"**, Project Description and Responsibilities attached to and incorporated in this Agreement ("Project"), to provide Department financial assistance to the Recipient; state the terms and conditions upon which Department funds will be provided; and to set forth the manner in which the Project will be undertaken and completed.
3. **Term of Agreement:** The Recipient agrees to complete the Project on or before 6/30/2026. If the Recipient does not complete the Project within this time period, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the Recipient and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed after the term of this Agreement will not be reimbursed by the Department.
4. **Project Cost:**
 - a. The estimated cost of the Project is \$ 1,783,983.00. This amount is based upon the Schedule of Financial Assistance in **Exhibit "B"**, attached to and incorporated in this Agreement. **Exhibit "B"** may be modified by mutual execution of an amendment as provided for in paragraph 5.i.
 - b. The Department agrees to participate in the Project cost up to the maximum amount of \$ 1,783,983.00 and as more fully described in **Exhibit "B"**. This amount includes Federal-aid funds which are limited to the actual amount of Federal-aid participation. The Department's participation may be increased or reduced upon determination of the actual bid amounts of the Project by the mutual execution of an amendment. The Recipient agrees to bear all expenses in excess of the total cost of the Project and any deficits incurred in connection with the completion of the Project.
 - c. Project costs eligible for Department participation will be allowed only from the date of this Agreement. It is understood that Department participation in eligible Project costs is subject to:

EXHIBIT "C" Cont'd Executed LAP Agreement

DocuSign Envelope ID: 6DCB899F-2388-4346-951F-9012CA8DEBA2

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-40
PROGRAM MANAGEMENT
GGC/COC-09/22
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- i. Legislative approval of the Department's appropriation request in the work program year that the Project is scheduled to be committed;
- ii. Availability of funds as stated in paragraphs 5.l. and 5.m. of this Agreement;
- iii. Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement; and
- iv. Department approval of the Project scope and budget at the time appropriation authority becomes available.

5. Requisitions and Payments

- a. The Recipient shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A"**.
- b. Invoices shall be submitted by the Recipient in detail sufficient for a proper pre-audit and post-audit based on the quantifiable, measurable and verifiable units of deliverables as established in **Exhibit "A"**. Deliverables must be received and accepted in writing by the Department's Project Manager prior to payments. Requests for reimbursement by the Recipient shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the Department. The Recipient shall use the format for the invoice and progress report that is approved by the Department.
- c. The Recipient shall charge to the Project account all eligible costs of the Project except costs agreed to be borne by the Recipient or its contractors and subcontractors. Costs in excess of the programmed funding or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs. All costs charged to the Project, including any approved services contributed by the Recipient or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of the charges.
- d. Supporting documentation must establish that the deliverables were received and accepted in writing by the Recipient and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A"** was met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F"**, Contract Payment Requirements.
- e. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes and the most current version of the Disbursement Handbook for Employees and Managers.
- f. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes or the Department's Comptroller under Section 334.044(29), Florida Statutes.

- If this box is selected, advance payment is authorized for this Agreement and **Exhibit "H"**, Alternative Advance Payment Financial Provisions is attached and incorporated into this Agreement.

If the Department determines that the performance of the Recipient is unsatisfactory, the Department shall notify the Recipient of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Recipient shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Recipient will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the

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Department, the Recipient will not be reimbursed to the extent of the non-performance. The Recipient will not be reimbursed until the Recipient resolves the deficiency. If the deficiency is subsequently resolved, the Recipient may bill the Department for the unpaid reimbursement request(s) during the next billing period. If the Recipient is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

- g. Agencies providing goods and services to the Department should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to **Section 55.03(1), F.S.**, will be due and payable, in addition to the invoice amount, to the Recipient. Interest penalties of less than one (1) dollar will not be enforced unless the Recipient requests payment. Invoices that have to be returned to a Recipient because of Recipient preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- h. The Recipient shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Recipient's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- i. Prior to the execution of this Agreement, a Project schedule of funding shall be prepared by the Recipient and approved by the Department. The Recipient shall maintain said schedule of funding, carry out the Project, and shall incur obligations against and make disbursements of Project funds only in conformity with the latest approved schedule of funding for the Project. The schedule of funding may be revised by execution of a Local Agency Program ("LAP") Supplemental Agreement between the Department and the Recipient. The Recipient acknowledges and agrees that funding for this project may be reduced upon determination of the Recipient's contract award amount.
- j. If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement which it has with the Recipient owing such amount if, upon demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- k. The Recipient must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- l. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, funds approval from the Department's Comptroller must be received each fiscal year prior to costs being incurred. See **Exhibit "B"** for funding levels by fiscal year. Project costs utilizing these fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Recipient, in writing, when funds are available.
- m. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

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"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 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 \$25,000 and which have a term for a period of more than 1 year."

6. Department Payment Obligations:

Subject to other provisions of this Agreement, the Department will honor requests for reimbursement to the Recipient pursuant to this Agreement. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment if:

- a. The Recipient shall have made misrepresentation of a material nature in its application, or any supplement or amendment to its application, or with respect to any document or data furnished with its application or pursuant to this Agreement;
- b. There is any pending litigation with respect to the performance by the Recipient of any of its duties or obligations which may jeopardize or adversely affect the Project, the Agreement or payments to the Project;
- c. The Recipient shall have taken any action pertaining to the Project which, under this Agreement, requires the approval of the Department or has made a related expenditure or incurred related obligations without having been advised by the Department that same are approved;
- d. There has been any violation of the conflict of interest provisions contained in paragraph 14.f.; or
- e. The Recipient has been determined by the Department to be in default under any of the provisions of the Agreement.

The Department may suspend or terminate payment for that portion of the Project which the Federal Highway Administration ("FHWA"), or the Department acting in lieu of FHWA, may designate as ineligible for Federal-aid.

In determining the amount of the payment, the Department will exclude all Project costs incurred by the Recipient prior to the Department's issuance of a Notice to Proceed ("NTP"), costs incurred after the expiration of the Agreement, costs which are not provided for in the latest approved schedule of funding in **Exhibit "B"** for the Project, costs agreed to be borne by the Recipient or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department.

7. General Requirements:

The Recipient shall complete the Project with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement, and all applicable laws. The Project will be performed in accordance with all applicable Department procedures, guidelines, manuals, standards, and directives as described in the Department's **Local Agency Program Manual** (FDOT Topic No. 525-010-300), which by this reference is made a part of this Agreement. Time is of the essence as to each and every obligation under this Agreement.

- a. A full time employee of the Recipient, qualified to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of this Agreement shall be in responsible charge of the Project, which employee should be able to perform the following duties and functions:
 - i. Administers inherently governmental project activities, including those dealing with cost, time,

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- adherence to contract requirements, construction quality and scope of Federal-aid projects;
- ii. Maintains familiarity of day to day Project operations, including Project safety issues;
 - iii. Makes or participates in decisions about changed conditions or scope changes that require change orders or supplemental agreements;
 - iv. Visits and reviews the Project on a frequency that is commensurate with the magnitude and complexity of the Project;
 - v. Reviews financial processes, transactions and documentation to ensure that safeguards are in place to minimize fraud, waste, and abuse;
 - vi. Directs Project staff, agency or consultant, to carry out Project administration and contract oversight, including proper documentation;
 - vii. Is aware of the qualifications, assignments and on-the-job performance of the Recipient and consultant staff at all stages of the Project.
- b. Once the Department issues the NTP for the Project, the Recipient shall be obligated to submit an invoice or other request for reimbursement to the Department no less than once every 90 days (quarterly), beginning from the day the NTP is issued. If the Recipient fails to submit quarterly invoices to the Department, and in the event the failure to timely submit invoices to the Department results in the FHWA removing any unbilled funding or the loss of state appropriation authority (which may include the loss of state and federal funds, if there are state funds programmed to the Project), then the Recipient will be solely responsible to provide all funds necessary to complete the Project and the Department will not be obligated to provide any additional funding for the Project. The Recipient waives the right to contest such removal of funds by the Department, if the removal is related to FHWA's withdrawal of funds or if the removal is related to the loss of state appropriation authority. In addition to the loss of funding for the Project, the Department will also consider the de-certification of the Recipient for future LAP Projects. No cost may be incurred under this Agreement until after the Recipient has received a written NTP from the Department. The Recipient agrees to advertise or put the Project out to bid thirty (30) days from the date the Department issues the NTP to advertise the Project. If the Recipient is not able to meet the scheduled advertisement, the Department District LAP Administrator should be notified as soon as possible.
- c. If all funds are removed from the Project, including amounts previously billed to the Department and reimbursed to the Recipient, and the Project is off the State Highway System, then the Department will have to request repayment for the previously billed amounts from the Recipient. No state funds can be used on off-system projects, unless authorized pursuant to **Exhibit "I"**, State Funds Addendum, which will be attached to and incorporated in this Agreement in the event state funds are used on the Project.
- d. In the event that any election, referendum, approval, permit, notice or other proceeding or authorization is required under applicable law to enable the Recipient to enter into this Agreement or to undertake the Project or to observe, assume or carry out any of the provisions of the Agreement, the Recipient will initiate and consummate, as provided by law, all actions necessary with respect to any such matters.
- e. The Recipient shall initiate and prosecute to completion all proceedings necessary, including Federal-aid requirements, to enable the Recipient to provide the necessary funds for completion of the Project.
- f. The Recipient shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department and FHWA may require. The Recipient shall make such submissions using Department-designated information systems.
- g. Federal-aid funds shall not participate in any cost which is not incurred in conformity with applicable federal and state laws, the regulations in 23 Code of Federal Regulations (C.F.R.) and 49 C.F.R., and policies and procedures prescribed by the Division Administrator of FHWA. Federal funds shall not be paid on account of any cost incurred prior to authorization by FHWA to the Department to proceed with the Project or part thereof involving such cost (23 C.F.R. 1.9 (a)). If FHWA or the Department determines that any amount

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claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Recipient in writing citing the reasons why items and amounts are not eligible for federal participation. Where correctable non-compliance with provisions of law or FHWA requirements exists federal funds may be withheld until compliance is obtained. Where non-compliance is not correctable, FHWA or the Department may deny participation in parcel or Project costs in part or in total. For any amounts determined to be ineligible for federal reimbursement for which the Department has advanced payment, the Recipient shall promptly reimburse the Department for all such amounts within 90 days of written notice.

- h. For any project requiring additional right-of-way, the Recipient must submit to the Department an annual report of its real property acquisition and relocation assistance activities on the project. Activities shall be reported on a federal fiscal year basis, from October 1 through September 30. The report must be prepared using the format prescribed in 49 C.F.R. Part 24, Appendix B, and be submitted to the Department no later than October 15 of each year.

8. Audit Reports:

The administration of resources awarded through the Department to the Recipient by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of federal awards or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Recipient shall comply with all audit and audit reporting requirements as specified below.

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include, but not be limited to, on-site visits by Department staff and/or other procedures including, reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to federal awards provided through the Department by this Agreement. By entering into this Agreement, the Recipient agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer ("CFO"), or State of Florida Auditor General.
- b. The Recipient, a non-federal entity as defined by 2 CFR Part 200, as a subrecipient of a federal award awarded by the Department through this Agreement is subject to the following requirements:
 - i. In the event the Recipient expends a total amount of federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Recipient must have a federal single or program-specific audit for such fiscal year conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. Exhibit "E" to this Agreement provides the required federal award identification information needed by the Recipient to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining federal awards expended in a fiscal year, the Recipient must consider all sources of federal awards based on when the activity related to the federal award occurs, including the federal award provided through the Department by this Agreement. The determination of amounts of federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
 - ii. In connection with the audit requirements, the Recipient shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.

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- iii. In the event the Recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in federal awards, the Recipient is exempt from federal audit requirements for that fiscal year. However, the Recipient must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Recipient's audit period for each applicable audit year. In the event the Recipient expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-federal resources (*i.e.*, the cost of such an audit must be paid from the Recipient's resources obtained from other than federal entities).
- iv. The Recipient must electronically submit to the Federal Audit Clearinghouse ("FAC") at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements, and this Agreement. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
- v. Within six months of acceptance of the audit report by the FAC, the Department will review the Recipient's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the federal award provided through the Department by this Agreement. If the Recipient fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:
 1. Temporarily withhold cash payments pending correction of the deficiency by the Recipient or more severe enforcement action by the Department;
 2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
 3. Wholly or partly suspend or terminate the federal award;
 4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the federal awarding agency);
 5. Withhold further federal awards for the Project or program;
 6. Take other remedies that may be legally available.
- vi. As a condition of receiving this federal award, the Recipient shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Recipient's records including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us
- c. The Recipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, the CFO, or State of Florida Auditor General access to such records upon request. The Recipient shall ensure that the audit working papers are made available to the Department or its designee, the CFO, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

9. Termination or Suspension of Project:

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The Department may, by written notice to the Recipient, suspend any or all of the Department's obligations under this Agreement for the Recipient's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

- a. If the Department intends to terminate the Agreement, the Department shall notify the Recipient of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
- c. If the Agreement is terminated before performance is completed, the Recipient shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department's maximum financial assistance. If any portion of the Project is located on the Department's right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Recipient.
- d. In the event the Recipient fails to perform or honor the requirements and provisions of this Agreement, the Recipient shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.
- e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Recipient to comply with the Public Records provisions of Chapter 119, Florida Statutes.

10. Contracts of the Recipient:

- a. Except as otherwise authorized in writing by the Department, the Recipient shall not execute any contract or obligate itself in any manner requiring the disbursement of Department funds, including consultant or construction contracts or amendments thereto, with any third party with respect to the Project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department. The Department specifically reserves the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.
- b. It is understood and agreed by the parties to this Agreement that participation by the Department in a project with the Recipient, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Recipient's complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act, the federal Brooks Act, 23 C.F.R. 172, and 23 U.S.C. 112. At the discretion of the Department, the Recipient will involve the Department in the consultant selection process for all projects funded under this Agreement. In all cases, the Recipient shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act and the federal Brooks Act.
- c. The Recipient shall comply with, and require its consultants and contractors to comply with applicable federal law pertaining to the use of Federal-aid funds. The Recipient shall comply with the provisions in the FHWA-1273 form as set forth in **Exhibit "G"**, FHWA 1273 attached to and incorporated in this Agreement. The Recipient shall include FHWA-1273 in all contracts with contractors performing work on the Project.
- d. The Recipient shall require its consultants and contractors to take emergency steps to close any public road whenever there is a risk to life, health and safety of the travelling public. The safety of the travelling public is the Department's first priority for the Recipient. If lane or road closures are required by the LA to ensure the life, health, and safety of the travelling public, the LA must notify the District Construction Engineer and District Traffic Operations Engineer immediately once the travelling public are not at imminent risk. The Department expects professional engineering judgment be applied in all aspects of locally delivered projects. Defect management and supervision of LAP project structures components must be

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proactively managed, monitored, and inspected by department prequalified structures engineer(s). The District Construction Engineer must be notified immediately of defect monitoring that occurs in LAP project construction, whether or not the defects are considered an imminent risk to life, health, or safety of the travelling public. When defects, including but not limited to, structural cracks, are initially detected during bridge construction, the engineer of record, construction engineering inspector, design-build firm, or local agency that owns or is responsible for the bridge construction has the authority to immediately close the bridge to construction personnel and close the road underneath. The LA shall also ensure compliance with the CPAM, Section 9.1.8 regarding actions for maintenance of traffic and safety concerns.

11. Disadvantaged Business Enterprise (DBE) Policy and Obligation:

It is the policy of the Department that DBE's, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement.

The Recipient and its contractors agree to ensure that DBE's have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBE's have the opportunity to compete for and perform contracts. The Recipient and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

12. Compliance with Conditions and Laws:

The Recipient shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project. Execution of this Agreement constitutes a certification that the Recipient is in compliance with, and will require its contractors and subcontractors to comply with, all requirements imposed by applicable federal, state, and local laws and regulations, including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions," in 49 C.F.R. Part 29, and 2 C.F.R. Part 200 when applicable.

13. Performance Evaluations:

Recipients are evaluated on a project-by-project basis. The evaluations provide information about oversight needs and provide input for the recertification process. Evaluations are submitted to the Recipient's person in responsible charge or designee as part of the Project closeout process. The Department provides the evaluation to the Recipient no more than 30 days after final acceptance.

- a. Each evaluation will result in one of three ratings. A rating of Unsatisfactory Performance means the Recipient failed to develop the Project in accordance with applicable federal and state regulations, standards and procedures, required excessive District involvement/oversight, or the Project was brought in-house by the Department. A rating of Satisfactory Performance means the Recipient developed the Project in accordance with applicable federal and state regulations, standards and procedures, with minimal District involvement/oversight. A rating of Above Satisfactory Performance means the Recipient developed the Project in accordance with applicable federal and state regulations, standards and procedures, and the Department did not have to exceed the minimum oversight and monitoring requirements identified for the project.
- b. The District will determine which functions can be further delegated to Recipients that continuously earn Satisfactory and Above Satisfactory evaluations.

14. Restrictions, Prohibitions, Controls, and Labor Provisions:

During the performance of this Agreement, the Recipient agrees as follows, and agrees to require its contractors and subcontractors to include in each subcontract the following provisions:

- a. The Recipient will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964, the regulations of the U.S. Department of Transportation issued thereunder, and the assurance by the Recipient pursuant thereto. The Recipient shall include the attached **Exhibit "C"**, Title VI Assurances in all contracts

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with consultants and contractors performing work on the Project that ensure compliance with Title VI of the Civil Rights Act of 1964, 49 C.F.R. Part 21, and related statutes and regulations.

- b. The Recipient will comply with all the requirements as imposed by the ADA, the regulations of the Federal Government issued thereunder, and assurance by the Recipient pursuant thereto.
- c. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- d. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.
- e. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the Department to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Recipient.
- f. Neither the Recipient nor any of its contractors or their subcontractors shall enter into any contract, subcontract or arrangement in connection with the Project or any property included or planned to be included in the Project in which any member, officer or employee of the Recipient or the locality during tenure or for 2 years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the Recipient, the Recipient, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the Recipient or the locality relating to such contract, subcontract or arrangement. The Recipient shall insert in all contracts entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its contractors to insert in each of their subcontracts, the following provision:

"No member, officer or employee of the Recipient or of the locality during his tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the Recipient and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

- g. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

15. Indemnification and Insurance:

- a. It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third-party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Recipient guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Recipient or any subcontractor, in connection with this Agreement.

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b. To the extent provided by law, Recipient shall indemnify, defend, and hold harmless the Department against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of Recipient, or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by Recipient hereunder, to the extent and within the limitations of Section 768.28, Florida Statutes. The foregoing indemnification shall not constitute a waiver of the Department's or Recipient's sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28, nor shall the same be construed to constitute agreement by Recipient to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or for the acts of third parties. Nothing herein shall be construed as consent by Recipient to be sued by third parties in any manner arising out of this Agreement. This indemnification shall survive the termination of this Agreement.

c. Recipient agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, or subconsultants (each referred to as "Entity" for the purposes of the below indemnification) who perform work in connection with this Agreement:

"To the extent provided by law, [ENTITY] shall indemnify, defend, and hold harmless the [RECIPIENT] and the State of Florida, Department of Transportation, including the Department's officers, agents, and employees, against any actions, claims, or damages arising out of, relating to, or resulting from negligent or wrongful act(s) of [ENTITY], or any of its officers, agents, or employees, acting within the scope of their office or employment, in connection with the rights granted to or exercised by [ENTITY].

The foregoing indemnification shall not constitute a waiver of the Department's or [RECIPIENT]'s sovereign immunity beyond the limits set forth in Florida Statutes, Section 768.28. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify [RECIPIENT] for the negligent acts or omissions of [RECIPIENT], its officers, agents, or employees, or third parties. Nor shall the same be construed to constitute agreement by [ENTITY] to indemnify the Department for the negligent acts or omissions of the Department, its officers, agents, or employees, or third parties. This indemnification shall survive the termination of this Agreement."

d. The Recipient shall, or cause its contractor or consultant to carry and keep in force, during the term of this Agreement, a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined bodily injury limits of at least \$200,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$200,000 each occurrence, for the services to be rendered in accordance with this Agreement. The Recipient shall also, or cause its contractor or consultant to carry and keep in force Workers' Compensation Insurance as required by the State of Florida under the Workers' Compensation Law. With respect to any general liability insurance policy required pursuant to this Agreement, all such policies shall be issued by companies licensed to do business in the State of Florida. The Recipient shall provide to the Department certificates showing the required coverage to be in effect with endorsements showing the Department to be an additional insured prior to commencing any work under this Agreement. Policies that include Self Insured Retention will not be accepted. The certificates and policies shall provide that in the event of any material change in or cancellation of the policies reflecting the required coverage, thirty days advance notice shall be given to the Department or as provided in accordance with Florida law.

16. **Maintenance Obligations:** In the event the Project includes construction then the following provisions are incorporated into this Agreement:

a. The Recipient agrees to maintain any portion of the Project not located on the State Highway System constructed under this Agreement for its useful life. If the Recipient constructs any improvement on Department right-of-way, the Recipient

- shall
- shall not

maintain the improvements located on the Department right-of-way for their useful life. If the Recipient is required to maintain Project improvements located on the Department right-of-way beyond final acceptance, then Recipient shall, prior to any disbursement of the state funding provided under this

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Agreement, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the Department. The Recipient has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this Agreement as **Exhibit "D"**. This provision will survive termination of this Agreement.

17. Miscellaneous Provisions:

- a. The Recipient will be solely responsible for compliance with all applicable environmental regulations, for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith. The Recipient will be responsible for securing any applicable permits. The Recipient shall include in all contracts and subcontracts for amounts in excess of \$150,000, a provision requiring compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).
- b. The Department shall not be obligated or liable hereunder to any individual or entity not a party to this Agreement.
- c. In no event shall the making by the Department of any payment to the Recipient constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Recipient and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- d. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- e. By execution of the Agreement, the Recipient represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. Nothing in the Agreement shall require the Recipient to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Recipient will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Recipient to the end that the Recipient may proceed as soon as possible with the Project.
- g. In the event that this Agreement involves constructing and equipping of facilities, the Recipient shall submit to the Department for approval all appropriate plans and specifications covering the Project. The Department will review all plans and specifications and will issue to the Recipient a written approval with any approved portions of the Project and comments or recommendations covering any remainder of the Project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Recipient a written approval with said remainder of the Project. Failure to obtain this written approval shall be sufficient cause of nonpayment by the Department.
- h. Upon completion of right-of-way activities on the Project, the Recipient must certify compliance with all applicable federal and state requirements. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, including if no right-of-way is required.
- i. The Recipient will certify in writing, prior to Project closeout that the Project was completed in accordance with applicable plans and specifications, is in place on the Recipient's facility, adequate title is in the Recipient's name, and the Project is accepted by the Recipient as suitable for the intended purpose.
- j. The Recipient agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Recipient, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the

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making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement. If any funds other than federally-appropriated funds have been paid by the Recipient to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. The Recipient shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. No funds received pursuant to this contract may be expended for lobbying the Legislature, the judicial branch or a state agency.

- k. The Recipient may not permit the Engineer of Record to perform Construction, Engineering and Inspection services on the Project.
- l. The Recipient shall comply with all applicable federal guidelines, procedures, and regulations. If at any time a review conducted by Department and or FHWA reveals that the applicable federal guidelines, procedures, and regulations were not followed by the Recipient and FHWA requires reimbursement of the funds, the Recipient will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement.
- m. The Recipient shall:
 - i. utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Recipient during the term of the contract; and
 - ii. expressly require any contractor and subcontractors 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.
- n. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- o. The Parties agree to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes.
- p. If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and the cost of the Project is to be paid from state-appropriated funds, then the Recipient must comply with the requirements of Section 255.0991, Florida Statutes.

18. Exhibits:

- a. Exhibits "A", "B", "C", "D", "E" and "F" are attached to and incorporated into this Agreement.
- b. If this Project includes Phase 58 (construction) activities, then Exhibit "G", FHWA FORM 1273, is attached and incorporated into this Agreement.
- c. Alternative Advance Payment Financial Provisions are used on this Project. If an Alternative Pay Method is used on this Project, then Exhibit "H", Alternative Advance Payment Financial Provisions, is attached and incorporated into this Agreement.
- d. State funds are used on this Project. If state funds are used on this Project, then Exhibit "I", State Funds Addendum, is attached and incorporated into this Agreement. Exhibit "J", State Financial Assistance (Florida Single Audit Act), is attached and incorporated into this Agreement.
- e. This Project utilizes Advance Project Reimbursement. If this Project utilizes Advance Project Reimbursement, then Exhibit "K", Advance Project Reimbursement is attached and incorporated into this Agreement.

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- f. This Project includes funding for landscaping. If this Project includes funding for landscaping, then **Exhibit "L"**, Landscape Maintenance, is attached and incorporated into this Agreement.
- g. This Project includes funding for a roadway lighting system. If the Project includes funding for roadway lighting system, **Exhibit "M"**, Roadway Lighting Maintenance is attached and incorporated into this Agreement.
- h. This Project includes funding for traffic signals and/or traffic signal systems. If this Project includes funding for traffic signals and/or traffic signals systems, **Exhibit "N"**, Traffic Signal Maintenance is attached and incorporated into this Agreement.
- i. A portion or all of the Project will utilize Department right-of-way and, therefore, **Exhibit "O"**, Terms and Conditions of Construction in Department Right-of-Way, is attached and incorporated into this Agreement.
- j. The following Exhibit(s) are attached and incorporated into this Agreement: _____

k. Exhibit and Attachment List

- Exhibit A: Project Description and Responsibilities
- Exhibit B: Schedule of Financial Assistance
- Exhibit C: Title VI Assurances
- Exhibit D: Recipient Resolution
- Exhibit E: Federal Financial Assistance (Single Audit Act)
- Exhibit F: Contract Payment Requirements
- * Exhibit G: FHWA Form 1273
- * Exhibit H: Alternative Advance Payment Financial Provisions
- * Exhibit I: State Funds Addendum
- * Exhibit J: State Financial Assistance (Florida Single Audit Act)
- * Exhibit K: Advance Project Reimbursement
- * Exhibit L: Landscape Maintenance
- * Exhibit M: Roadway Lighting Maintenance
- * Exhibit N: Traffic Signal Maintenance
- * Exhibit O: Terms and Conditions of Construction in Department Right-of-Way

* Additional Exhibit(s):

*** Indicates that the Exhibit is only attached and incorporated if applicable box is selected.**

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

RECIPIENT Clay County

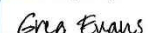
STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

By:



Betsy Condon (Dec 15, 2022 14:20 EST)
Name: Betsy Condon
Title: Chairman



By:


Name: Greg Evans
Title: District Two Secretary

ATTEST:


Tara S. Green
Clay County Clerk of Court and Comptroller
Ex Officio Clerk to the Board

Legal Review:

DocuSigned by:

03/02/2023 | 10:45 AM
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EXHIBIT A

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 445562-1-58-01, 68-02

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and
Clay County (the Recipient)

PROJECT LOCATION:

- The project is on the National Highway System.
 The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS: From MP 2.113 to MP 2.63, total length 0.517 miles.

PROJECT DESCRIPTION: Construction and CEI project management of intersection improvements on CR-220 from West of Lakeshore Drive West to East of Old Hard Road.

SPECIAL CONSIDERATIONS BY RECIPIENT:

The Recipient is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

Construction contract to be let by 12/31/2023.
Construction to be completed by 6/30/2026.

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:

Clay County will provide project management of the Construction, Engineering, and Inspection (CEI) contract which has been procured by the Department.

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**EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE**

RECIPIENT NAME & BILLING ADDRESS: Clay County 477 Houston Street Green Cove Springs, FL 32043	FINANCIAL PROJECT NUMBER: 445562-1-58-01, 68-02
--	--

PHASE OF WORK By Fiscal Year	MAXIMUM PARTICIPATION			
	(1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	(4) FEDERAL FUNDS
Design- Phase 38				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Design Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Right-of-Way- Phase 48				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Right-of-Way Cost	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
Construction- Phase 58				
FY: 2022-2023 (ACSS)	\$ 1,779,978.00	\$ _____	\$ _____	\$ 1,779,978.00
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total-Construction Cost	\$ 1,779,978.00	\$ 0.00	\$ 0.00	\$ 1,779,978.00
Construction Engineering and Inspection (CEI)- Phase 68				
FY: 2022-2023 (ACSS)	\$ 4,005.00	\$ _____	\$ _____	\$ 4,005.00
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total CEI Cost	\$ 4,005.00	\$ 0.00	\$ 0.00	\$ 4,005.00
(Insert Phase)				
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
FY: (Insert Program Name)	\$ _____	\$ _____	\$ _____	\$ _____
Total Phase Costs	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
TOTAL COST OF THE PROJECT	\$ 1,783,983.00	\$ 0.00	\$ 0.00	\$ 1,783,983.00

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:
I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Cheryl McGauley-Steinberg
District Grant Manager Name

DocuSigned by:

 03/01/2023 | 4:51 PM EST
 Signature Date

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EXHIBIT C

TITLE VI ASSURANCES

During the performance of this contract, the consultant or contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as the "contractor") agrees as follows:

- (1.) **Compliance with REGULATIONS:** The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") *Title 49, Code of Federal Regulations, Part 21*, as they may be amended from time to time, (hereinafter referred to as the **REGULATIONS**), which are herein incorporated by reference and made a part of this contract.
- (2.) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the basis of race, color, national origin, or sex in the selection and retention of sub-contractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by **Section 21.5** of the **REGULATIONS**, including employment practices when the contract covers a program set forth in **Appendix B** of the **REGULATIONS**.
- (3.) **Solicitations for Sub-contractors, including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under sub-contract, including procurements of materials or leases of equipment, each potential sub-contractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the **REGULATIONS** relative to nondiscrimination on the basis of race, color, national origin, or sex.
- (4.) **Information and Reports:** The contractor shall provide all information and reports required by the **REGULATIONS** or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the *Florida Department of Transportation* or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and Federal Motor Carrier Safety Administration* to be pertinent to ascertain compliance with such **REGULATIONS**, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the *Florida Department of Transportation*, or the *Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or Federal Motor Carrier Safety Administration* as appropriate, and shall set forth what efforts it has made to obtain the information.
- (5.) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, or

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Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:

- a. withholding of payments to the contractor under the contract until the contractor complies, and/or
- b. cancellation, termination or suspension of the contract, in whole or in part.

(6.) Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (7) in every sub-contract, including procurements of materials and leases of equipment, unless exempt by the **REGULATIONS**, or directives issued pursuant thereto. The contractor shall take such action with respect to any sub-contract or procurement as the *Florida Department of Transportation* or the *Federal Highway Administration*, *Federal Transit Administration*, *Federal Aviation Administration*, or *Federal Motor Carrier Safety Administration* may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the contractor may request the *Florida Department of Transportation* to enter into such litigation to protect the interests of the *Florida Department of Transportation*, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(7.) Compliance with Nondiscrimination Statutes and Authorities: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

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EXHIBIT D

RECIPIENT RESOLUTION

The Recipient's Resolution authorizing entry into this Agreement is attached and incorporated into this Agreement.

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Executed LAP Agreement**

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Financial Project Nos: 445562-1-58-01; 445562-1-68-02

RESOLUTION NO. 2022/2023- 21

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY, FLORIDA, AUTHORIZING THE EXECUTION AND ENTRY INTO A LOCAL AGENCY PROGRAM AGREEMENT AND ANY FUTURE SUPPLEMENTAL AGREEMENTS AND/OR AMENDMENTS TO THE LOCAL AGENCY PROGRAM AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND CLAY COUNTY PERTAINING TO THE CONSTRUCTION AND OVERSIGHT OF CONSTRUCTION ENGINEERING AND INSPECTION (CEI) OF INTERSECTION IMPROVEMENTS ON CR-220 FROM WEST OF LAKESHORE DRIVE WEST TO EAST OF OLD HARD ROAD.

Recitals

WHEREAS, the State of Florida Department of Transportation ("DEPARTMENT") has awarded a grant to Clay County ("RECIPIENT") for Financial Project Numbers 445562-1-58-01 and 445562-1-68-02 related to the construction and oversight of Construction Engineering and Inspection ("CEI") project management of Intersection Improvements on CR-220 from West of Lakeshore Drive West to East of Old Hard Road (the "Project"); and

WHEREAS, the DEPARTMENT and the RECIPIENT previously entered into a Local Agency Program Agreement for the design phase of the Project related to Financial Project Number 445562-1-38-02; and

WHEREAS, the RECIPIENT agrees to deliver the Project within the time period set forth in the Local Agency Program ("LAP") Agreement related to the construction and CEI phase of the Project; and

WHEREAS, the DEPARTMENT agrees to reimburse the RECIPIENT for the cost to deliver the Project in accordance with the LAP Agreement; and

WHEREAS, the DEPARTMENT has the authority, under Section 339.12, Florida Statutes, to enter into the LAP Agreement and any future supplemental agreements and/or amendments to the LAP Agreement with the RECIPIENT.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY, FLORIDA, AS FOLLOWS:

Section 1. On behalf of the RECIPIENT, the Board of County Commissioners of Clay County, Florida (the "BOARD"), does hereby approve this Resolution by the RECIPIENT to enter into and execute the LAP Agreement and any future supplemental agreements and/or amendments to the LAP Agreement.

Section 2. The BOARD'S Chairman and the Clay County Clerk of Court and

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Comptroller as Ex Officio Clerk to the Board are hereby authorized and directed to execute this Resolution and the LAP Agreement along with any future supplemental agreements, contracts, amendments, or other documents to the LAP Agreement. A copy of the executed Resolution shall be attached to the LAP Agreement and delivered to the Department forthwith.

Section 3. This Resolution shall become effective immediately upon its adoption.

DULY ADOPTED by the Board of County Commissioners of Clay County, Florida this 13 day of December, 2022.

BOARD OF COUNTY COMMISSIONERS
CLAY COUNTY, FLORIDA



By: 
Betsy Condon (Dec 13, 2022 14:20 EST)
Betsy Condon, Its Chairman

ATTEST:

Tara S. Green
Clay County Clerk of Court and Comptroller
Ex Officio Clerk to the Board

F:\Contract\FDOT\G1R36 CR 220 and Lakeshore\Resolution - FPN 445562-1-58-01, 68-02.docx

**EXHIBIT "C" Cont'd
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Alt Form 525-010-40E

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EXHIBIT E

FEDERAL FINANCIAL ASSISTANCE (SINGLE AUDIT ACT)

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

CFDA No.: 20.205
CFDA Title: Highway Planning and Construction
Federal-Aid Highway Program, Federal Lands Highway Program
CFDA Program Site: https://beta.sam.gov/fal/1093726316c3409a8e50f4c75f5ef2c6/view?keywords=20.205&sort=-relevance&index=cfd&is_active=true&page=1
Award Amount: \$1,783,983.00
Awarding Agency: Florida Department of Transportation
Award is for: No
R&D: No
Indirect Cost Rate: N/A

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE SUBJECT TO THE FOLLOWING:

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles & Audit Requirements for Federal Awards
<http://www.ecfr.gov/cgi-bin/text-idx?node=2:1.1.2.2.1>

FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT MAY ALSO BE SUBJECT TO THE FOLLOWING:

Title 23 – Highways, United States Code
<http://uscode.house.gov/browse/prelim@title23&edition=prelim>

Title 49 – Transportation, United States Code
<http://uscode.house.gov/browse/prelim@title49&edition=prelim>

Infrastructure Investment and Jobs Act (IIJA) (Public Law 117-58, also known as the "Bipartisan Infrastructure Law")
<https://www.congress.gov/117/bills/hr3684/BILLS-117hr3684enr.pdf>

Federal Highway Administration – Florida Division
<http://www.fhwa.dot.gov/fldiv/>

Federal Funding Accountability and Transparency Act (FFATA) Sub-award Reporting System (FSRS)
<https://www.fsrs.gov/>

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EXHIBIT F

CONTRACT PAYMENT REQUIREMENTS

**Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts**

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

Fringe benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

Indirect costs: If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

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Contracts between state agencies may submit alternative documentation to substantiate the reimbursement request, which may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

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EXHIBIT G

**FHWA FORM 1273
FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:**

**LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC – COMPLIANCE
WITH FHWA 1273.**

The FHWA-1273 version dated May 1, 2012 is appended in its entirety to this Exhibit. FHWA-1273 may also be referenced on the Department's website at the following URL address:
<http://www.fhwa.dot.gov/programadmin/contracts/1273/1273.pdf>

Sub-recipients of federal grants awards for Federal-Aid Highway construction shall take responsibility to obtain this information and comply with all provisions contained in FHWA-1273.

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**EXHIBIT "M"
ROADWAY LIGHTING MAINTENANCE**

Paragraph 16 is modified to include the following provisions:

1. **Maintenance**

a) The Recipient shall, at its sole cost and expense, maintain the existing or to-be-installed roadway lighting system throughout its expected useful life unless and until this exhibit is superseded by a State Highway Maintenance and Compensation Agreement.

b) In maintaining the roadway lighting system, the Recipient shall perform all activities necessary to keep the roadway lighting system fully and properly functioning, with a minimum of 90% lights fully functioning for any lighting type (e.g., high mast, standard, under deck, sign) or roadway system at all times for their normal expected useful life in accordance with the original design thereof, whether necessitated by normal wear and tear, accidental or intentional damage or acts of nature. Said maintenance shall include, but not limited to, providing electrical power and paying all charges associated therewith, routine inspection and testing, preventative maintenance, emergency maintenance, replacement of any component parts of the facilities (including the poles and any and all other component parts installed as part of the facilities), and the locating (both vertically and horizontally) of the facilities as may be necessary.

c) All maintenance shall be in accordance with the provisions of the following:

(1) Manual of Uniform Traffic Control Devices (MUTCD); and

(2) All other applicable local, state, or federal laws, rules, resolutions, or ordinances and Department procedures.

d) This Exhibit shall remain in force during the life of the originally installed roadway lighting system and/or the life of any replacement roadway lighting system installed with the mutual consent of the parties hereto until superseded by a Roadway Lighting System Maintenance Agreement between the Department and the Recipient.

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EXHIBIT "N"

TRAFFIC SIGNAL MAINTENANCE

Paragraph 16. is modified to include the following provisions:

1. When the District Traffic Operations Engineer of the Department has served a request order on the Recipient, and the designated officer of the Recipient has favorably acknowledged the request order, the Recipient shall undertake the responsibilities to maintain and operate existing or new traffic signals and signal systems mentioned in the request order.
2. The proposed functional design and operation of new traffic signals and signal systems shall be reviewed by the Recipient in conjunction with the Department prior to installation. Such design and operation will be as energy efficient as possible.
3. The installation of signals or signal systems shall not endanger highway travel and shall be conducted in accordance with Part VI of the Manual on Uniform Traffic Control Devices (MUTCD), as amended, and with all applicable Department standards, specifications and plans governing traffic control for street and highway construction and maintenance.
4. The Recipient shall be responsible for the maintenance and continuous operation of the traffic signals and signal systems (central computer, cameras, message signs, and communications interconnect), school zone traffic control devices, intersection flashing beacons, illuminated street sign names, and the payment of electricity and electrical charges incurred in connection with the operation of such traffic signals and signal systems upon completion of their installation. In the case of construction contracts, the Recipient shall be responsible for the payment of electricity and electrical charges incurred in connection with the operation of the traffic signals and signal systems, and shall undertake the maintenance and continuous operation of said traffic signals and signal systems upon final acceptance of the installation by the Department. Repair or replacement and other responsibilities of the installation contractor and the Department, during the burn-in period between conditional and final acceptance, are contained in the most recent Department's Standard Specifications for Road and Bridge Construction.
5. The Recipient shall maintain and operate the traffic signals and signal systems in a manner that will ensure safe and efficient movement of highway traffic and that agree with maintenance practices prescribed by the International Municipal Signal Association (IMSA) and operational requirements of the MUTCD, as amended. The Recipient's maintenance responsibilities shall include, but not be limited to, preventive maintenance (periodic inspection, service, and routine repairs), and emergency maintenance (troubleshooting in the event of equipment malfunction, failure or damage). The Recipient shall record its maintenance activities in a traffic signal maintenance log which shall contain, as a minimum, traffic signal log details recommended by the IMSA.
6. The Recipient may remove any component of the installed equipment for repair; however, it shall not make any permanent modifications and/or equipment replacements unless the equipment provided is the same age or newer and is capable of performing the same functions. The Department shall not make any modifications and/or equipment replacements without prior written notice to the Recipient.
7. The Recipient shall set and maintain the timing and phasing of the traffic signals in accordance with the Department's timing and phasing plans, specifications or special provisions. The Recipient may make modifications in phasing of traffic signals and signal systems to accommodate changing needs of traffic provided prior written approval is obtained from the Department. Department approval shall be contingent upon an engineering report prepared by or for the Recipient in accordance with Section 1A.09, "Engineering Study and Engineering Judgment", of the MUTCD recommending such changes and signed and sealed by a qualified Professional Engineer licensed in the State of Florida. The Recipient may make changes in the signal timing provided these changes are made under the direction of a qualified Professional Engineer. The Recipient shall send a signed and sealed copy of the timings to the Department immediately after installation. The Department reserves the right to examine equipment, timing, and phasing at any time and, after consultation with the Recipient, may specify modifications. If the Department specifies modification in timing and/or phasing, implementation of such modifications shall be coordinated with, or made by the Recipient.

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8. The Recipient shall note in the maintenance log any timing and/or phasing changes and keep a copy of the timings and any approval documentation in a file.
9. The Recipient may enter into agreements with other parties pertaining to traffic signals and signal systems including, but not limited to, agreements relating to costs and expenses incurred in connection with the operation of traffic signals and signal systems on the State Highway System provided that such agreements are consistent with the mutual covenants contained in this Exhibit. The Recipient shall furnish a copy of such agreements to the Department.
10. This Exhibit shall remain in force during the life of the originally installed equipment and/or the life of any replacement equipment installed with the mutual consent of the parties hereto until superseded by a Traffic Signal Maintenance and Compensation Agreement between the Department and the Recipient.

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To: Cheryl.McGauley-Steinberg@dot.state.fl.us

**FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL**

G2H52

2/28/2023

CONTRACT INFORMATION

Contract:	G2H52
Contract Type:	GD - GRANT DISBURSEMENT (GRANT)
Method of Procurement:	G - GOVERNMENTAL AGENCY (287.057,F.S.)
Vendor Name:	CLAY COUNTY BOCC
Vendor ID:	F596000553004
Beginning Date of This Agreement:	02/27/2023
Ending Date of This Agreement:	06/30/2026
Contract Total/Budgetary Ceiling:	ct = \$1,783,983.00
Description:	Oversee the construction and CEI of intersection improvements on CR220 from West of Lakeshore Drive to East of Old Hard

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 2/28/2023

Action:	Original	Original
Reviewed or Approved:	APPROVED	APPROVED
Organization Code:	55024010206	55024010206
Expansion Option:	A1	A8
Object Code:	780000	780000
Amount:	\$1,779,978.00	\$4,005.00
Financial Project:	44556215801	44556216802
Work Activity (FCT):	215	215
CFDA:	20.205	20.205
Fiscal Year:	2023	2023
Budget Entity:	55150200	55150200
Category/Category Year:	088796/23	088718/23
Amendment ID:	O001	O001
Sequence:	00	01
User Assigned ID:		
Enc Line (6s)/Status:	0001/04	0002/04

Total Amount: \$1,783,983.00

Financial Project Id. No.: 445562-1-58-01

Federal Id. No.: D222-080-B

Project Description: CR 220 From West of Lakeshore Drive West to East of Old Hard Road
Off System Agency Construct & Maintain

EXHIBIT "D"
(RESOLUTION)