

RESOLUTION NO. 2021- 38

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS, CONDITIONS, PROVISIONS, AND REQUIREMENTS OF A CONSTRUCTION AND MAINTENANCE AGREEMENT BETWEEN ST. JOHNS COUNTY, FLORIDA AND THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION RELATING TO IMPROVEMENTS TO THE INTERSECTION OF SR 16 AND CR 208; AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE THE AGREEMENT ON BEHALF OF ST. JOHNS COUNTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida, Department of Transportation (“FDOT”) is constructing a transportation project to widen, mill and resurface State Road 16, including at the intersection of County Road 208, (“Project”) to accommodate increased traffic capacity and improve safety and operational efficiency; and

WHEREAS, St. Johns County and FDOT desire to enter into a formal, written Construction and Maintenance Agreement, attached hereto as Exhibit A and incorporate herein, setting forth their respective obligations regarding construction, maintenance, operation, and repair of the improvements constructed via the Project; and

WHEREAS, the County has reviewed the terms, provisions, conditions, and requirements of the Construction and Maintenance Agreement and has determined that entering into the agreement serves the interests of the County and the public.

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

Section 1. The above Recitals are incorporated by reference into the body of this Resolution, and such Recitals are adopted as findings of fact.


Section 2. The Board of County Commissioners hereby approves the terms, conditions, provisions, and requirements of the Construction and Maintenance Agreement between the State of Florida, Department of Transportation and St. Johns County, Florida, and authorizes the County Administrator, or designee, to execute the Agreement on behalf of the County, in substantially the same form and format as attached, as well as any other paperwork associated with, or necessary to accomplish, the overall goal set forth in the Agreement.

Section 3. To the extent that there are typographical and/or administrative errors and/or omissions that do not change the tone, tenor, or content of this Resolution, this Resolution may be revised without subsequent approval of the Board of County Commissioners.

Section 4. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, State of Florida, this 19 day of January, 2021.

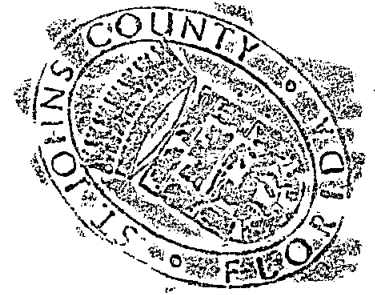
**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

By: 
Henry Dean, Vice Chairman

ATTEST: Brandon J. Patty, Clerk & Comptroller

RENDITION DATE 1/21/21

By: 
Deputy Clerk



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 St. Johns County ("Agency").

-RECITALS-

1. The term "Property" shall collectively refer to certain real property located in St. Johns County, Florida, portions of which are owned by the Department, known as State Road 16 ("SR 16"), and portions of which are owned by the Agency, known as County Road 208 ("CR 208"), SR 16 is highlighted in blue and CR 208 is highlighted in yellow on attached **Exhibit "A"**; and
2. The Department is constructing a transportation project via Financial Project Number 434615-2-52-01 to widen, mill and resurface SR 16 ("Project") for the purposes of accommodating increased traffic capacity, as well as improving safety and operational efficiency on both the Agency Property and Department Property; and
3. In order to facilitate the Project, the Department needs to acquire a small portion of CR 208 from the Agency, as shown in red on attached **Exhibit "B"** and **Exhibit "C" Composite 3 and 4**; and
4. Following the acquisition, the Department shall own the identified portion of CR 208 in fee ("New Department Property"); and
5. The term "Improvements" means and shall refer to all milling, resurfacing, signs and pavement markings, guardrails, driveway turnouts, drainage systems, sidewalks, and curb and gutter constructed on the Property via the Project; and
6. The Department shall fund construction of the Improvements, which is wholly contingent upon appropriation of funds to the Department; and
7. The Department shall construct the Improvements; and
8. The Agency shall own and continue to operate, maintain, and repair those portions of the Improvements located on CR 208, highlighted in orange on **Exhibit "B"**; and
9. The Agency shall operate, maintain, and repair any Improvements, as highlighted in red on **Exhibit "B"**, located on or with the New Department Property, with the exception of matters pertaining to the structural repair or integrity of the drainage system itself, as the Department will be responsible for the same; and
10. The Department shall continue to own, operate, maintain, and repair all Improvements located on SR 16; and
11. By Resolution _____ dated _____, the Agency authorized its representative to execute and enter this Agreement on behalf of the Agency, see **Exhibit "D"**.

NOW THEREFORE, with full knowledge and understanding of the laws governing the subject matter of this Agreement, and in consideration of the above 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 attached exhibits are specifically incorporated 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. 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.

4. TERM

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

5. 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").

6. 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.

7. PROJECT MANAGEMENT

The Department shall manage the Project for the design and construction of the Improvement and perform such activities as the Department deems necessary and appropriate to complete the Project for the Improvement, including, without limitation, seeking and obtaining approval and participation by one or more federal agencies, design of the Improvement, acquisition of right-of-way, construction of the improvement, and any other activities to facilitate satisfactory completion of the Improvement. The Department shall commence construction of the Improvement at its convenience after the appropriation of sufficient funds.

8. OPERATION, MAINTENANCE & REPAIR (NEW DEPARTMENT PROPERTY)

A. The Agency shall operate, maintain and repair the Improvements located on the New Department Property, with the exception of matters pertaining to the structural repair or integrity of the drainage system itself, 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. Nothing in this Agreement shall obligate the Department to maintain or repair the Improvements on the New Department Property, with the exception of drainage structures/features, said obligations to remain the sole responsibility of the Agency.

B. If the Department determines that the Agency is not maintaining and repairing the Improvements located on the New Department Property in accordance with the terms and provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of the Department's written notice, or such other time as the Department and the Agency mutually agree in writing, to correct the deficiency and provide the Department with written notice of the same.

C. If the deficiency is not corrected timely, or if the Department determines that the deficiency remains after receipt of the Agency's written notice indicating that the deficiency has been corrected, the Department, within its discretion, may: (1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to complete correction of the deficiency; (2) require the Agency to

remove the Improvement and restore the Property pursuant to the "Removal" section of this Agreement; or (3) correct the deficiency at the Agency's sole cost and expense. Should the Department elect to correct the deficiency, the Department shall provide the Agency with an invoice for the costs incurred by the Department to correct the deficiency and the Agency shall pay the invoice in accordance with the "Payment" section of this Agreement.

D. If at any time in the sole determination of the Department, the integrity or safety of the Improvements located on the New Department Property requires immediate maintenance or repair for the benefit of public health, safety or welfare, the Department may perform such maintenance and repairs it deems appropriate under the circumstances. The Department shall provide the Agency with written notice of the emergency maintenance and repairs performed by the Department and an invoice for the same. The Agency shall pay the invoice in accordance with the "Payment" section of this Agreement.

9. OPERATION, MAINTENANCE & REPAIR (CR 208)

A. Following completion of construction, the Agency shall continue to own, operate, maintain, and repair CR 208 and 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 CR 208 Improvements. Should the Agency fail to operate, maintain, and repair the CR 208 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 CR 208 and the Improvements, therein, should the events described in Paragraph B occur.

10. IMPROVEMENTS & MODIFICATIONS

A. The Department may require the Agency to improve or modify the Improvement if the Department determines: (1) improvements or modifications are required by applicable Governmental Law; or (2) improvements or modifications will benefit the Department in the conduct of its business.

B. Required improvements and modifications shall be subject to the terms and provisions of this Agreement, specifically including, without limitation, the "Operation, Maintenance & Repair" section hereof.

C. Improvements and modifications shall be constructed and completed by the Agency within sixty (60) days of the date of the Department's written notice requiring improvements or modifications.

11. UTILITIES

The Agency shall be responsible for locating, removing and relocating utilities, both aerial and underground, if required for the Agency to perform this Agreement. The Agency shall ensure all utility locations are accurately documented on the construction Plans and Specifications, including the final as-built plans. All utility conflicts shall be resolved by the Agency directly with the applicable utility.

12. FEDERAL NON-PARTICIPATION/FUNDING

A. The parties agree that any Improvement 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 Improvement.

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 Improvement deemed to be a federal non-participating item shall be funded at the sole expense of the Agency.

1. 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.
2. 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 Improvement and upon final accounting.
3. 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.
4. The Agency understands the extension of time, if so approved, may delay construction of the Improvement, 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.

13. MAINTENANCE OF TRAFFIC

A. The Agency shall be responsible for the maintenance of traffic ("MOT") at all times during its performance of this Agreement. MOT shall be performed in accordance with applicable Governmental Law and the most current edition of each of the following, as the same may be constituted and amended from time to time, all of which are incorporated herein and made part of the Agreement by reference: (1) Section 102 of the Department's Standard Specifications for Road and Bridge Construction; (2) the Manual on Uniform Traffic Control Devices; and (3) the Department's Roadway Design Standards Index 600 Series.

B. If the Agency fails to perform MOT as required herein, the Department, within its discretion, may elect to perform MOT at the Agency's sole cost and expense. Should the Department perform MOT, the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice in accordance with the "Payment" section of this Agreement.

14. REMOVAL

A. The Department may require the Agency to remove the Improvement and restore the Department Property to such condition as required by the Department if the Department determines: (1) the Improvement is not maintained in accordance with Governmental Law; (2) removal of the Improvement is required by applicable Governmental Law; (3) the Agency breaches a material provision (as determined by the Department) of this Agreement, or (4) removal of the Improvement will benefit the Department in the conduct of its business. Removal and restoration shall be completed by the Agency within sixty (60) days of the date of the Department's written notice requiring removal of the Improvement, or such other time as the Department and the Agency mutually agree in writing.

B. Removal and restoration shall be completed by the Agency in accordance with all applicable Governmental Law.

C. Should the Agency fail to complete the removal and restoration work as required herein, the Department may: (1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to complete removal and restoration; or (2) complete the removal and restoration at the Agency's sole cost and expense. Should the Department elect to complete the removal and restoration, the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice in accordance with the "Payment" section of this Agreement.

15. PERMISSIVE USE

This Agreement creates a permissive use only and neither the granting of permission to use the Department Property or the Improvement on or within the Department Property shall operate to create or vest any property right to or in the Agency. The Agency shall not acquire any right, title, interest or estate in the Department Property by virtue of the execution, operation, effect or performance of this Agreement.

16. 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.

17. DUE DILIGENCE & WARRANTIES

A. All due diligence requirements related to the Agency's negotiation, execution and performance of this Agreement are the sole responsibility of the Agency.

B. The Department makes no representations or warranties of any kind, express or implied, concerning the Department Property, including, without limitation, representations and warranties concerning: (1) the physical condition of the Department Property; and (2) merchantability or fitness for a particular purpose.

18. PAYMENT

All Department invoices submitted to the Agency for payment pursuant to the terms and provisions of this Agreement are due and payable within thirty (30) days of the date of the invoice ("Due Date"). Any portion of an invoice not received by the Department by the Due Date shall immediately thereafter begin accruing interest at a rate of interest established pursuant to §55.03, Florida Statutes, until paid in full.

19. INDEMNIFICATION

A. 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.

20. 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.

21. NOTICE

All notices, communications and determinations between the parties hereto and those required to be given under this Agreement, including, without limitation, any change to the notification address set forth below, shall be in writing and shall be sufficient if mailed by registered or certified mail to the parties at the following addresses:

Department: Florida Department of Transportation
Attention: St. Augustine Maintenance Engineer
3600 DOT Road
St. Augustine, Florida 32284

Agency: St. Johns County Public Works
Attention: Nick Perpich, P.E.
2740 Industry Center Road
St. Augustine, FL 32084

Agency agrees that if it fails to notify Department by certified mail of any changes to its notification address, Agency shall have waived any defense based on Department's failure to notify Agency.

22. GOVERNING LAW

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

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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.

35. 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.

36. 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.

37. 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.

38. PUBLIC RECORDS

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 Agency transfers all public records to the public Agency upon completion of this Agreement, Agency shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Agency keep 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

39. ANNUAL APPROPRIATION / FUNDING

Pursuant to §339.135(6)(a), Florida Statutes, the Department's obligation to fund construction of the Improvement 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 eighteen (18) 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 Secretary

Date: _____

Date: _____

Legal Review:

By: _____
Office of the General Counsel
Florida Department of Transportation

Agency: St. Johns County

Attest:

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Legal Review:

By: _____
Legal Counsel for Agency

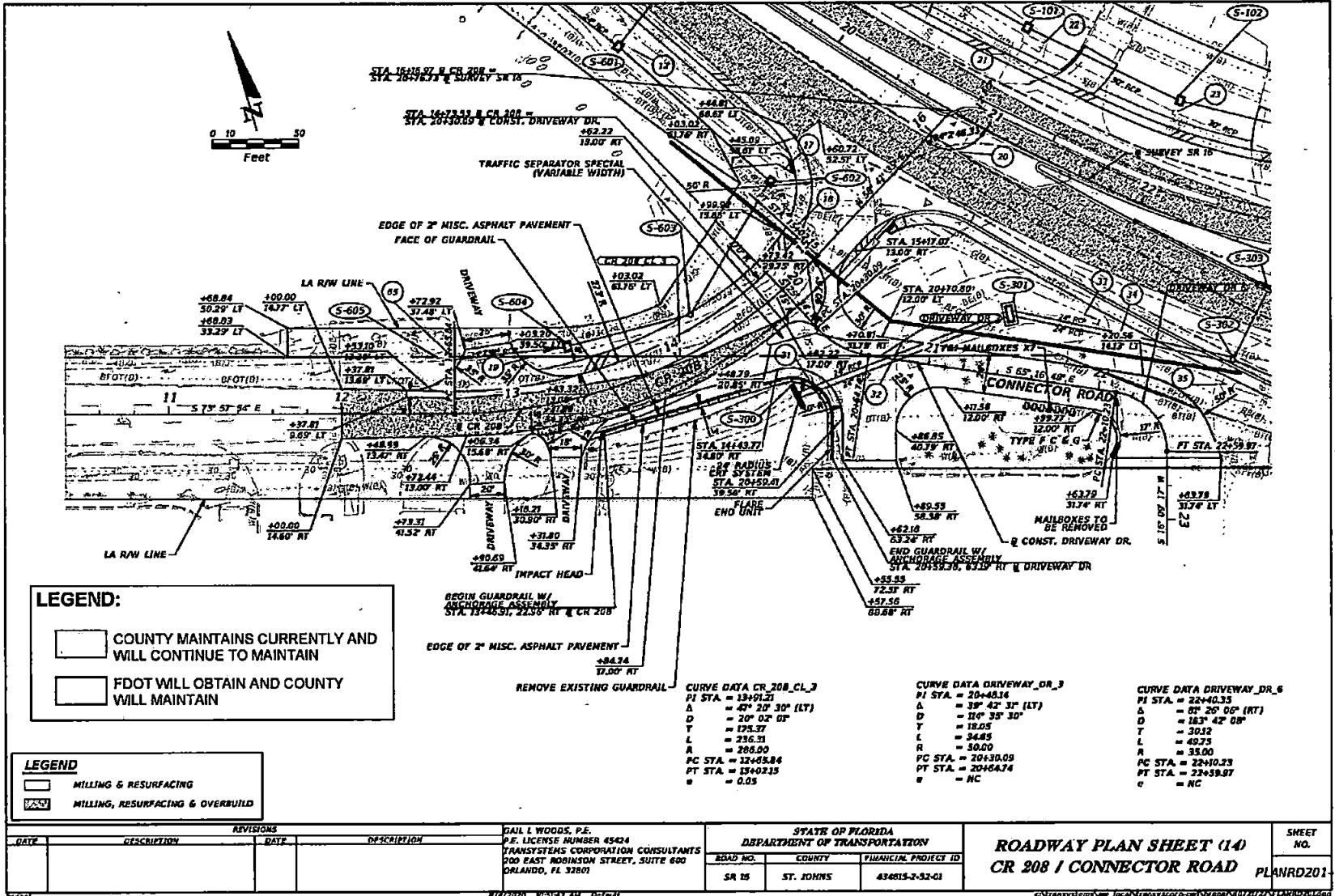
INTENTIONALLY LEFT BLANK

EXHIBIT "A"
Project Location



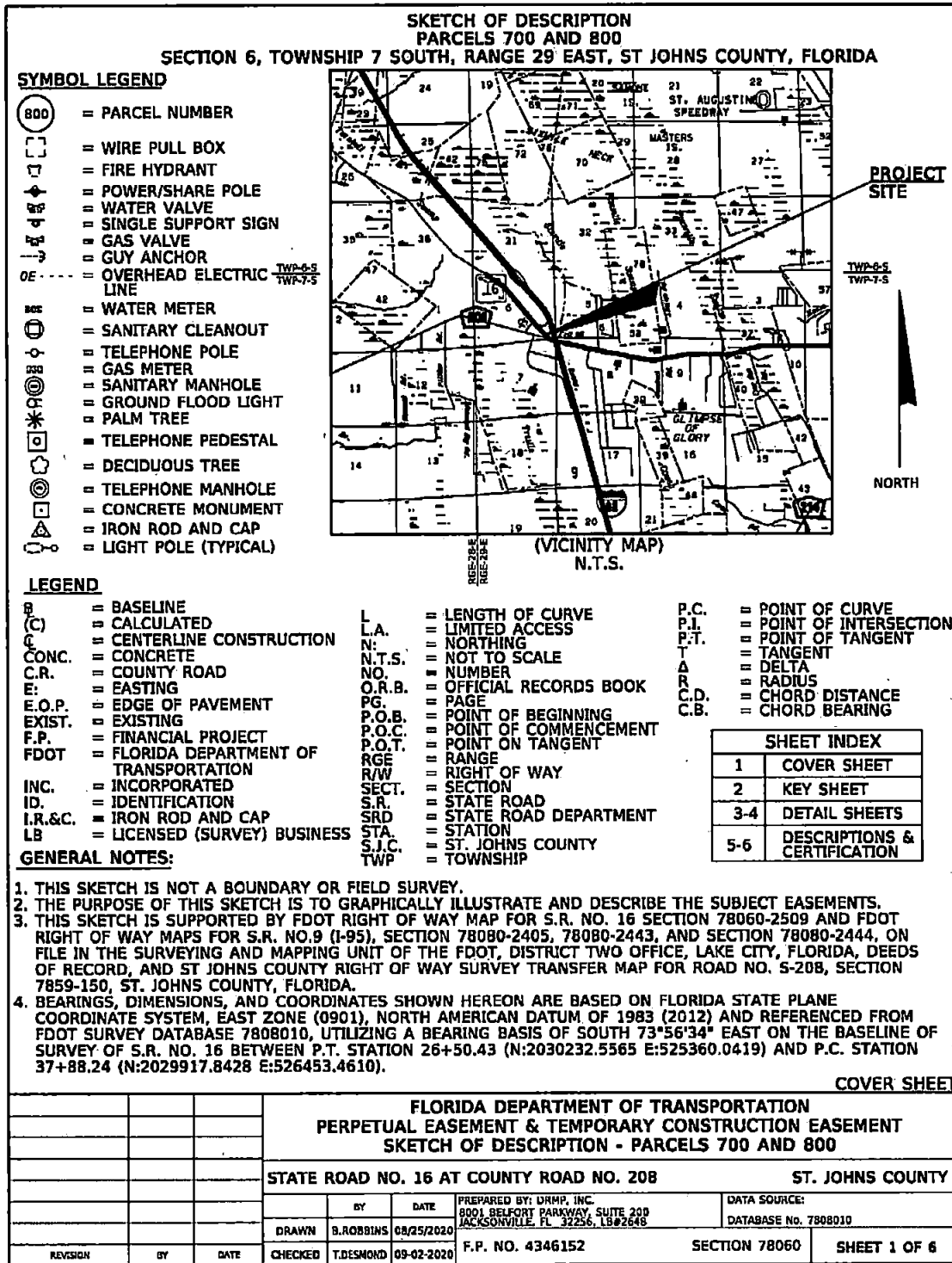
Financial Project Id. No.: 434615-2-52-01
 Federal Id. No.: D219-131-B
 Project Description: SR 16 at I-95/SR 9 Interchange
 On System Department Construct Agency Maintain

EXHIBIT "B"



THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY STORED AND SEALED UNDER FILE #1679-23,004, P.A.C.

EXHIBIT "C"
Composite 1

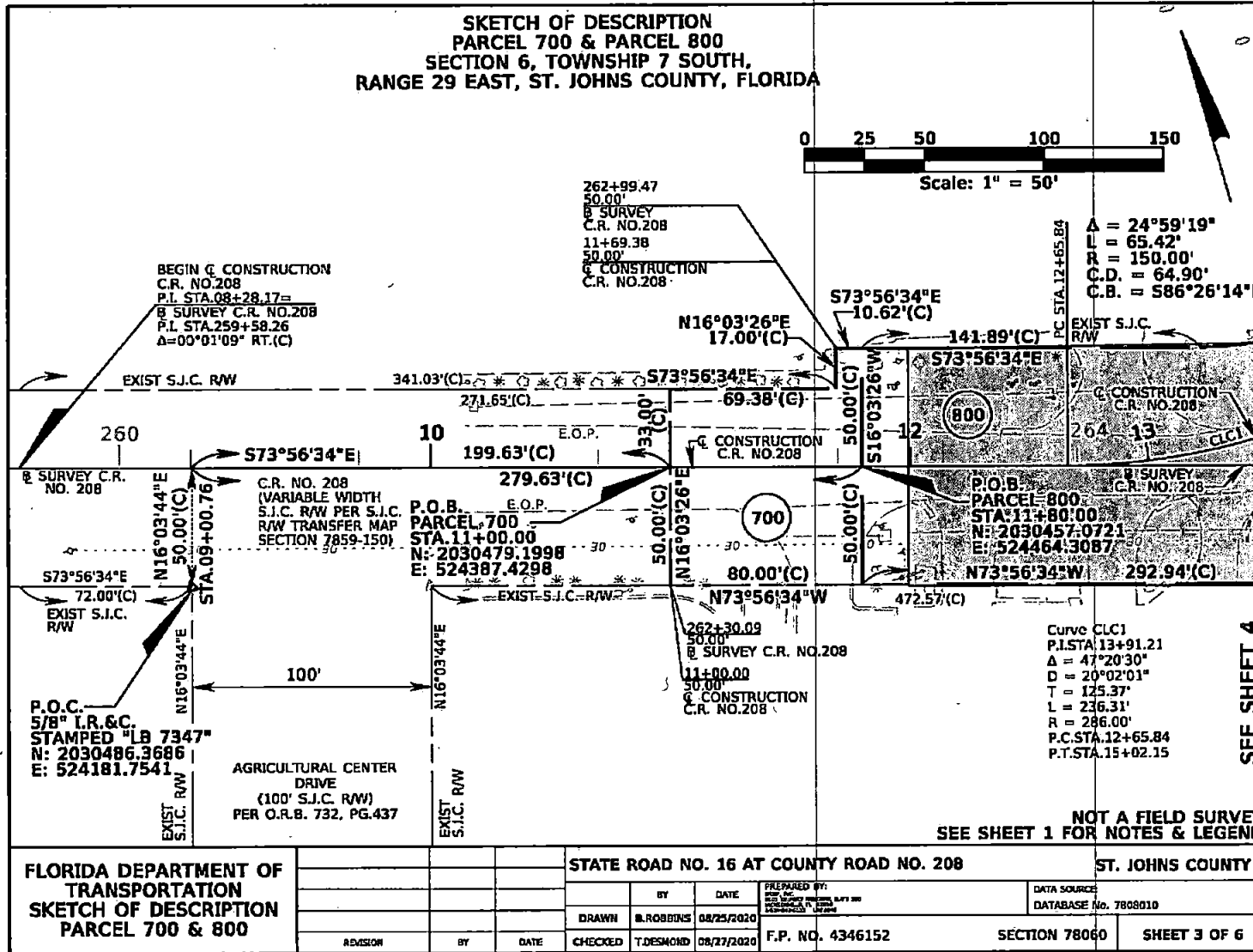


COVER SHEET

FLORIDA DEPARTMENT OF TRANSPORTATION			
PERPETUAL EASEMENT & TEMPORARY CONSTRUCTION EASEMENT			
SKETCH OF DESCRIPTION - PARCELS 700 AND 800			
STATE ROAD NO. 16 AT COUNTY ROAD NO. 208		ST. JOHNS COUNTY	
	BY	DATE	PREPARED BY: DRMP, INC. 9001 BELFORT PARKWAY, SUITE 200 JACKSONVILLE, FL 32256, LB#2648
	DRAWN	DATE	DATA SOURCE: DATABASE No. 7808010
REVISION	BY	DATE	F.P. NO. 4346152 SECTION 78060 SHEET 1 OF 6
	CHECKED	DATE	

Financial Project Id. No.: 434615-2-52-01
 Federal Id. No.: D219-131-B
 Project Description: SR 16 at I-95/SR 9 Interchange
 On System Department Construct Agency Maintain

EXHIBIT "C" Cont'd
 Composite 3



**EXHIBIT "C" Cont'd
 Composite 5**

SECTION 78060 F.P. No. 4346152	STATE ROAD NO. 16 AT C.R. NO.208	ST. JOHNS COUNTY
DESCRIPTION PARCEL 700	TEMPORARY CONSTRUCTION EASEMENT	
<p>A Parcel Of Land Lying In Section 6, Township 7 South, Range 29 East, St. Johns County, Florida, Being A Part Of The Existing Right Of Way Of County Road Number 208 (A Variable Width Right Of Way Per Florida Department Of Transportation And St. Johns County Transfer Map Section 7859-150 As Recorded In The Public Records Of St. Johns County, Florida), Being More Particularly Described As Follows:</p> <p>Commence At A 5/8" Iron Rod And Cap Stamped "LB 7347", Marking The Intersection Of The Southerly Existing Right Of Way Line Of County Road Number 208 (A Variable Width Right Of Way Per Florida Department Of Transportation And St. Johns County Transfer Right Of Way Map Section 7859-150 As Recorded In The Public Records Of St. Johns County, Florida) With The Westerly Existing Right Of Way Line Of Agricultural Center Drive, (A 100 Foot Right Of Way Per Official Records Book 732, Page 437 Of The Current Public Records Of St. Johns County, Florida) In Section 6, Township 7 South, Range 29 East, St. Johns County, Florida; Thence North 16°03'44" East, A Distance Of 50.00 Feet To The Centerline Of Construction Of Said County Road Number 208; Thence South 73°56'34" East, Along Said Centerline Of Construction Of County Road Number 208, A Distance Of 199.63 Feet To The Point Of Beginning; Thence North 16°03'26" East, A Distance Of 33.00 Feet To The Northerly Existing Right Of Way Line Of Said County Road Number 208; Thence Along Said Northerly Existing Right Of Way Line The Following Three (3) Courses; South 73°56'34" East, 69.38 Feet; North 16°03'26" East, 17.00 Feet; South 73°56'34" East, 10.62 Feet; Thence South 16°03'26" West, A Distance Of 100.00 Feet To The Southerly Existing Right Of Way Line Of County Road Number 208; Thence North 73°56'34" West, Along Said Southerly Existing Right Of Way Line, A Distance Of 80.00 Feet; Thence North 16°03'26" East, A Distance Of 50.00 Feet To The Point Of Beginning.</p> <p>Containing 6,821 Square Feet, More Or Less.</p>		
NOT A FIELD SURVEY		
FLORIDA DEPARTMENT OF TRANSPORTATION PERPETUAL EASEMENT & TEMPORARY CONSTRUCTION EASEMENT SKETCH OF DESCRIPTION - PARCELS 700 AND 800		
STATE ROAD NO. 16 AT COUNTY ROAD NO. 208		ST. JOHNS COUNTY
	BY	DATE
DRAWN	B.ROBBINS	08/25/2020
PREPARED BY: DRMP, INC. 8001 BELFORT PARKWAY, SUITE 200 JACKSONVILLE, FLORIDA 32256 LB#2648		
DATA SOURCE:		DATABASE No. 7808010
REVISION	BY	DATE
CHECKED	T.DESMOND	09/02/2020
F.P. NO. 4346152		SECTION 78060
		SHEET 5 OF 6

**EXHIBIT "C" Cont'd
 Composite 6**

SECTION 78060 F.P. No. 4346152	STATE ROAD NO. 16 AT C.R. NO.208	ST. JOHNS COUNTY
DESCRIPTION PARCEL 800	PERPETUAL EASEMENT	
<p>A Parcel Of Land Lying In Section 6, Township 7 South, Range 29 East, St. Johns County, Florida, Being A Part Of The Existing Right Of Way Of County Road Number 208 (A Variable Width Right Of Way Per Florida Department Of Transportation And St. Johns County Transfer Map Section 7859-150 As Recorded In The Public Records Of St. Johns County, Florida), Being More Particularly Described As Follows:</p> <p>Commence At A 5/8" Iron Rod And Cap Stamped "LB 7347", Marking The Intersection Of The Southerly Existing Right Of Way Line Of County Road Number 208 (A Variable Width Right Of Way Per Florida Department Of Transportation And St. Johns County Transfer Right Of Way Map Section 7859-150 As Recorded In The Public Records Of St. Johns County, Florida) With The Westerly Existing Right Of Way Line Of Agricultural Center Drive, (A 100 Foot Right Of Way Per Official Records Book 732, Page 437 Of The Current Public Records Of St. Johns County, Florida) In Section 6, Township 7 South, Range 29 East, St. Johns County, Florida; Thence North 16°03'44"East, A Distance Of 50.00 Feet To The Centerline Of Construction Of Said County Road Number 208; Thence South 73°56'34" East, Along Said Centerline Of Construction Of County Road Number 208, A Distance Of 279.63 Feet To The Point Of Beginning; Thence North 16°03'26"East, A Distance Of 50.00 Feet To The Northerly Existing Right Of Way Line Of County Road Number 208, Thence South 73°56'34" East, Along Said Northerly Existing Right Of Way Line, A Distance Of 141.89 Feet To A Point Of Curvature To The Left, Having A Radius Of 150.00 Feet; Thence Easterly Along Said Curve And Northerly Existing Right Of Way Line Through An Angle Of 24°59'19", An Arc Distance Of 65.42 Feet, And A Chord Bearing And Distance Of South 86°26'14" East, 64.90 Feet; Thence North 49°23'43"East, A Distance Of 84.33 Feet To The Southwesterly Existing Right Of Way Line Of State Road Number 16 (A Variable Width Right Of Way Per Florida Department Of Transportation Right Of Way Map, Section 78060-2509, And Section 78080-2405), And To A Curve To The Left, Having A Radius Of 1,213.92 Feet; Thence Southeasterly Along Said Curve And Southerly Right Of Way Line Of Said State Road Number 16, Through An Angle Of 19°46'49", An Arc Length Of 419.08 Feet, And A Chord Bearing And Distance Of South 50°15'39" East, 417.00 Feet To The Intersection With The Southerly Existing Limited Access Right Of Way Line Of Said County Road Number 208; Thence North 73°56'34"West Along Said Southerly Existing Limited Access Right Of Way Line, A Distance Of 94.52 Feet To The End Of Said Limited Access Right Of Way Line And Beginning The Southerly Existing Right Of Way Line Of Said County Road Number 208; Thence North 73°56'34"West, Along The Southerly Existing Right Of Way Line, A Distance Of 246.03 Feet; Thence South 16°03'26"West, A Distance Of 17.00 Feet; Thence North 73°56'34"West, Along Said Southerly Existing Right Of Way Line, A Distance Of 292.94 Feet; Thence North 16°03'26"East, A Distance Of 50.00 Feet To The Point Of Beginning.</p> <p>Containing 1.272 Acres, More Or Less.</p> <p>I Hereby Certify That To The Best Of My Knowledge And Belief This Sketch And Description Consisting Of Sheets 1 Through 6 Is True, Accurate, And Was Prepared Under My Direction. I Further Certify That Said Legal Description Is In Compliance With The Standards Of Practice As Set Forth By The Florida Board Of Professional Surveyors And Mappers, In Chapter 5J-17 Florida Administrative Code, Pursuant To Section 472.027, Florida Statutes.</p> <p style="text-align: center;"><i>Brandon M. Robbins</i> 09/10/20 Brandon M. Robbins Date</p> <p>Florida Professional Surveyor And Mapper No. 6741 8001 Belfort Parkway, Suite 200 Jacksonville, Florida, 32256 (904) 641-0123</p> <p>This Sketch And Description And Copies Thereof Are Not Valid Without The Surveyor's Signature And Original Seal:</p>		
FLORIDA DEPARTMENT OF TRANSPORTATION PERPETUAL EASEMENT & TEMPORARY CONSTRUCTION EASEMENT SKETCH AND DESCRIPTION - PARCELS 700 AND 800		
STATE ROAD NO. 16 AT COUNTY ROAD NO. 208		ST. JOHNS COUNTY
	BY	DATE
	DRAWN	DATE
	CHECKED	DATE
	REVISION	DATE
PREPARED BY: DRMP, INC. 8001 BELFORT PARKWAY, SUITE 200 JACKSONVILLE, FLORIDA 32256 LB#2648		
DATA SOURCE: DATABASE No. 7806010		
F.P. NO. 4346152		SECTION 78060
SHEET 6 OF 6		

Financial Project Id. No.: 434615-2-52-01
Federal Id. No.: D219-131-B
Project Description: SR 16 at I-95/SR 9 Interchange
On System Department Construct Agency Maintain

EXHIBIT "D"
(RESOLUTION)