

OFF-SYSTEM CONSTRUCTION AND MAINTENANCE AGREEMENT

Between

**STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
("DEPARTMENT")**

and

**ORANGE COUNTY, FLORIDA,
("LOCAL GOVERNMENT")**

WHEREAS, this Agreement is entered into on _____ by and between the State of Florida, Department of Transportation, an Executive Agency of the State of Florida, herein "DEPARTMENT" and Orange County, herein "LOCAL GOVERNMENT," collectively "the Parties"; and

WHEREAS, the State of Florida Legislature has approved and mandated the DEPARTMENT to complete the various projects included in the DEPARTMENT's Work Program; and

WHEREAS, included in the DEPARTMENT Work Program is Financial Project Number (FPN) 445696-1-52-01, intersection improvements at State Road 438 at Kingsland Avenue, Ashland/Willow Bend Boulevard, and Orlando West Drive located in Orange County, Florida (the "Project"); and

WHEREAS, due to the direct impact of the Project on off-system roadways that are under the jurisdiction of the LOCAL GOVERNMENT it is necessary for the DEPARTMENT to enter onto the LOCAL GOVERNMENT's roadways and to construct certain improvements to said roadways; and

WHEREAS, the Parties hereto agree that it is the best interest of the State of Florida and the LOCAL GOVERNMENT for the DEPARTMENT to undertake and complete the design, acquisition of any real property interests necessary for the Project, through negotiated acquisition or, if necessary, through the use of the power of eminent domain, to complete this project, as authorized by section 336.467, Florida Statutes, construction, construction inspection, utility accommodation, and securing of permits necessary to construct the Project; and

NOW THEREFORE,

- 1) The recitals set forth above are hereby incorporated herein as if restated and set forth herein.
- 2) The Parties agree that the DEPARTMENT shall undertake and complete project number FPN 445696-1-52-01, generally described as intersection improvements at State Road 438 at Kingsland Avenue, Ashland/Willow Bend Boulevard, and Orlando West Drive located in Orange County, Florida. The Project shall include the tasks described in Exhibit "A" Scope of Services attached hereto and all other tasks associated with or arising out of the tasks listed therein. The LOCAL GOVERNMENT shall fully cooperate with and shall support the DEPARTMENT's work efforts in these regards. The LOCAL GOVERNMENT hereby grants to the DEPARTMENT, its Contractors, representatives, employees, and agents the right to enter onto LOCAL GOVERNMENT right of way to

accomplish the tasks required by the Project. This right of entry shall continue in full force and effect throughout the period that the Project is ongoing. The DEPARTMENT shall have final decision-making authority with respect to the design of the project, the design review process, the acquisition of property necessary for this Project and for the construction of the Project.

- 3) The LOCAL GOVERNMENT by virtue of the formal resolution, copy attached hereto as Exhibit "B", approving this agreement, consents to and authorizes the DEPARTMENT to act on behalf of, for the benefit of, and in the name of the LOCAL GOVERNMENT, to further do all acts necessary, specifically the acquisition of real property, construction of improvements for the benefit of the LOCAL GOVERNMENT, providing Construction Engineering Inspection (CEI) Services, and securing all environment and regulatory permits.
- 4) To the extent necessary, the LOCAL GOVERNMENT hereby appoints the DEPARTMENT as its agent for purposes of construction, reconstruction, and relocation of utilities under section 337.403(1), Florida Statutes. The LOCAL GOVERNMENT agrees to fully cooperate with the DEPARTMENT in the construction, reconstruction and relocation of utilities that may be located within the existing or acquired right of way. The Parties agree to meet on a periodic basis, as determined to be necessary by the DEPARTMENT, during the planning, design, construction, and post-construction phase to identify, plan and to relocate utilities. The responsibility for the costs associated with the relocation of utilities shall be based on Florida law as it relates to said matters. The Parties acknowledge and agree that the DEPARTMENT will be utilizing federal highway interstate funds and as such, the cost of utility relocation will be considered a part of the cost of the project to be paid by the DEPARTMENT.
- 5) The LOCAL GOVERNMENT acknowledges that the DEPARTMENT will be utilizing federal funds on the project and as a result thereof, the LOCAL GOVERNMENT agrees to maintain those portions of the Project that are located outside of DEPARTMENT right of way in perpetuity. Nothing herein shall be understood, however, to impose maintenance responsibility on the LOCAL GOVERNMENT of other DEPARTMENT owned property. The LOCAL GOVERNMENT further recognizes and acknowledges that the DEPARTMENT will be utilizing federal funds on the project, which requires the completion of the National Environmental Policy Act (hereafter "NEPA") process by the DEPARTMENT and the DEPARTMENT reserves the right to adjust the plans and or design of the project to meet the needs of the permits. The LOCAL GOVERNMENT agrees to fully cooperate in the provision of any and all studies and or data that may be necessary for the NEPA process and for all other permit matters.
- 6) Except as otherwise provided in this agreement, the Parties acknowledge and agree that the right of way and the improvements and structures located inside DEPARTMENT right of way or on other DEPARTMENT owned property will remain the right of way and the property of the DEPARTMENT and that the right of way and the improvements and structures located inside LOCAL GOVERNMENT right of way or on other LOCAL

GOVERNMENT owned property will remain the right of way and the property of the LOCAL GOVERNMENT.

- 7) Should the need arise to acquire property to modify the Right of Way of the LOCAL GOVERNMENT, LOCAL GOVERNMENT agrees that any such real property interests that the DEPARTMENT may need to acquire to undertake and to complete the Project will be acquired in the name of the DEPARTMENT for the benefit of the LOCAL GOVERNMENT. The LOCAL GOVERNMENT agrees that should such needs arise, the LOCAL GOVERNMENT will pass any additional resolutions needed for such acquisitions. Such real property interests acquired for LOCAL GOVERNMENT purposes or roadways will be conveyed to the LOCAL GOVERNMENT upon completion of the Project and the LOCAL GOVERNMENT agrees to accept said conveyance. Notwithstanding the requirements hereof, maintenance during construction shall be the responsibility of the DEPARTMENT and its contractor.
- 8) The DEPARTMENT and the LOCAL GOVERNMENT shall cooperate with each other and keep each other well informed of the work efforts and progress hereunder. The DEPARTMENT shall have the sole authority with respect to make all decisions relating to, and including the need for, change orders and supplemental agreements associated with construction of the Project.
- 9) All payment and performance bonds shall be issued in favor of the DEPARTMENT. All warranties, if any, for improvements made outside of DEPARTMENT right of way and outside of other DEPARTMENT property shall be made in favor of the LOCAL GOVERNMENT.
- 10) The DEPARTMENT shall require its Contractor to provide insurance as required by the DEPARTMENT construction contract specifications. The LOCAL GOVERNMENT shall be named as an additional insured.
- 11) Upon completion of the Project, the DEPARTMENT shall issue a Notice of Final Acceptance to the contractor with a copy of said notice being provided to the LOCAL GOVERNMENT. Upon issuance of the Notice of Final Acceptance, the LOCAL GOVERNMENT shall be immediately responsible for the perpetual maintenance of those portions of the Project that are located within the right of way limits of Orange County. Notwithstanding the issuance of the Notice of Final Acceptance, the LOCAL GOVERNMENT shall retain final decision-making authority regarding completion of the work, including completion of any punch list items, and the determination of whether the work completed in accordance with the plans within its right-of-way is acceptable; such approval shall not be unreasonably withheld. Additionally, the LOCAL GOVERNMENT understands and agrees that the DEPARTMENT shall transfer all permits for those portions of the Project that are located within the right of way limits of Orange County, if any, to the LOCAL GOVERNMENT as the operational maintenance entity and the LOCAL GOVERNMENT agrees to accept said transfer and to become fully responsible to comply with all operational and maintenance conditions of the permits. The LOCAL

GOVERNMENT agrees to cooperate and to support the DEPARTMENT'S efforts to secure permits necessary for and associated with the Project.

- 12) This agreement shall become effective as of the date both Parties hereto have executed the agreement and shall continue in full force and effect until the project is completed by the DEPARTMENT and the improvements have been turned over to the LOCAL GOVERNMENT by the DEPARTMENT by formal notice from the DEPARTMENT. The DEPARTMENT reserves the right to unilaterally cancel its performance hereunder if it determines that it is in the best interest of the public to do so. This discretion shall include, but shall not be limited to, budgetary and bid cost considerations.
- 13) Pursuant to section 287.058, Florida Statutes, the DEPARTMENT may unilaterally cancel this agreement for refusal by the LOCAL GOVERNMENT to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes and made or received by the LOCAL GOVERNMENT in conjunction with this agreement except for the obligation of the LOCAL GOVERNMENT to maintain the project and said agreement shall be perpetual as to that obligation.
- 14) In the event that any election, referendum, approval or permit, notice or other proceeding or authorization is required to be undertaken by the LOCAL GOVERNMENT to enter into this agreement or to undertake the project, the LOCAL GOVERNMENT will expeditiously initiate and consummate, as provided by law, all actions necessary with respect to any such matters with time being of the essence.
- 15) It is understood that the DEPARTMENT's participation in said Project is subject to:
 - a) Legislative approval of the DEPARTMENT's appropriation request in the work program year that the project is scheduled.
 - b) Availability of funds based on the following limitations:
 - i. The DEPARTMENT's performance and obligations to pay under this agreement is contingent upon an annual appropriation by the Florida Legislature. If the DEPARTMENT's funding for this project is in multiple years, funds approved from the DEPARTMENT's Comptroller must be received every year prior to costs being incurred.
 - ii. In the event this agreement is in excess of \$25,000.00 and has a term of a period of more than one year, the provisions of section 339.135(6)(a), Florida Statutes, are hereby incorporated. The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executed only for the value of the services

to be rendered or agreed to be paid 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 \$25,000.00 and which have term for a period of more than one (1) year.”

- 16) This Agreement shall be governed by the laws of the State of Florida. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.
- 17) The LOCAL GOVERNMENT shall utilize the U.S. Department of Homeland Security’s E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of:
 - a) All persons employed by the LOCAL GOVERNMENT during the term of the Contract to perform employment duties within Florida; and
 - b) All persons, including, subcontractors, assigned by the LOCAL GOVERNMENT to perform work pursuant to the contract with the DEPARTMENT.
- 18) No modification of this Agreement shall be binding on the Parties unless reduced to writing and signed by a duly authorized representative of the Parties.
- 19) In the event of any legal action to enforce the terms of this Agreement each Party shall bear its own attorney’s fees and costs.
- 20) All notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, hand delivery or express mail and shall be deemed to have been received by the end of five business days from the proper sending thereof unless proof of prior actual receipt is provided. Each Party hereto shall have the continuing obligation to notify each other of the appropriate persons for notices to be sent to pursuant to the terms of this agreement. Unless otherwise notified in writing, notices shall be sent to the following:

To the Local Government:

Adriana Trujillo Villa
Assistant Manager
Transportation Planning Division
Orange County
4200 South John Young Parkway
Orlando, Florida 32839
(407) 836-0231
Adriana.TrujilloVilla@ocfl.net

with copy to:

Orange County
Public Works Director
4200 South John Young Parkway
Orlando, FL 32839
(407) 836-7900

To the Department:

James S. Stroz, Jr., P.E.
Director of Transportation Development
State of Florida, Department of Transportation
719 South Woodland Boulevard, M.S. 4-520
DeLand, Florida 32720-6834
(386) 943-5623
D5-LGA@dot.state.fl.us

- 21) The individual identified as the person to receive notice hereunder shall have the authority to act on behalf of and to bind the LOCAL GOVERNMENT and the DEPARTMENT, respectively, as to all determinations required to be made under the terms of this agreement.

To the Local Government:

Adriana Trujillo Villa
Assistant Manager
Transportation Planning Division
Orange County
4200 South John Young Parkway
Orlando, Florida 32839
(407) 836-0231
Adriana.TrujilloVilla@ocfl.net

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DeLand, Florida 32720-6834
(386) 943-5623
D5-LGA@dot.state.fl.us

The remainder of this page intentionally left blank.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates exhibited, by the signatures below.

ORANGE COUNTY, FLORIDA

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

By: _____
Name: Jerry L. Demings
Title: Orange County Mayor

By: _____
Name: James S. Stroz, Jr., P.E.
Title: Director of Transportation Development

Date: _____

Date: _____

Attest: _____
By:
Title:

Approved as to form and legality:

Department Legal Review:

By: Local Government Attorney

Exhibit “A”

Scope of Services

The DEPARTMENT has committed to performing the Right of Way acquisition phase for the LOCAL GOVERNMENT using federal funding for Financial Project Number (FPN) 445696-1-52-01 (SR 438 at Kingsland Avenue, Ashland/Willow Bend Boulevard, Orlando West Drive) located in Orange County, Florida, a project on the State Highway System.

The DEPARTMENT will acquire those parcels that are not located on the State Highway System and are identified in the Right of Way Maps, Section 75250, FPN 445696-2, SR 438 in Orange County. The DEPARTMENT will acquire real estate interest in the name of the DEPARTMENT for the benefit of the LOCAL GOVERNMENT or in the name of the LOCAL GOVERNMENT for the off-system local roadways that include Kingsland Avenue and Ashland Boulevard that will be constructed as a part of the SR 40 project.

Additionally, with respect to the State Road “SR” 438 project, the DEPARTMENT will construct the improvements including:

Within the State’s right of way:

Construct median islands/traffic separators at the intersections of SR 438 and Kingsland Avenue, SR 438 and Ashland Boulevard, and SR 438 and Orlando West Drive. Mill and resurface the roadway within the limits of these intersections. Reconstruct existing curb returns, sidewalks, and curb cut ramps at these intersections as well.

Kingsland Avenue - Orange County

The work to be performed includes reconstruction of the existing sidewalks, curb returns, and curb ramps, along with milling and resurfacing the existing roadway. New detectable warning surfaces will be placed on the curb ramps, and new pedestrian signals/pedestrian detectors will be provided. The crosswalk across Kingsland Avenue will be restriped.

Ashland Boulevard - Orange County

The work to be performed includes reconstruction of the existing sidewalks, curb returns, and curb ramps, along with milling and resurfacing the existing roadway. New detectable warning surfaces will be placed on the curb ramps, and new pedestrian signals/pedestrian detectors will be provided along with a new signal mast arm in the southeast quadrant. The crosswalk across Ashland Boulevard will be restriped.

The DEPARTMENT will undertake and complete the construction of the off-system components of the Project for the benefit of the LOCAL GOVERNMENT including CEI and post design services that may be necessary for the Project.

The DEPARTMENT’S plans for the above-described Project include Roadway Plans prepared by Stanley Consultants, Inc., dated October 15, 2025, a copy of the coversheet is attached hereto as Exhibit “A-1,” and the Signing and Pavement Marking Plans prepared by Stanley Consultants, Inc., dated October 15, 2025, a copy of the coversheet is attached hereto as Exhibit “A-2,” both of which are incorporated herein and anticipated to be updated prior to construction of the Project.

Exhibit “A-1”
Roadway Plans

CONTRACT PLANS COMPONENTS

ROADWAY
SIGNING AND PAVEMENT MARKING
SIGNALIZATION

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

ROADWAY PLANS

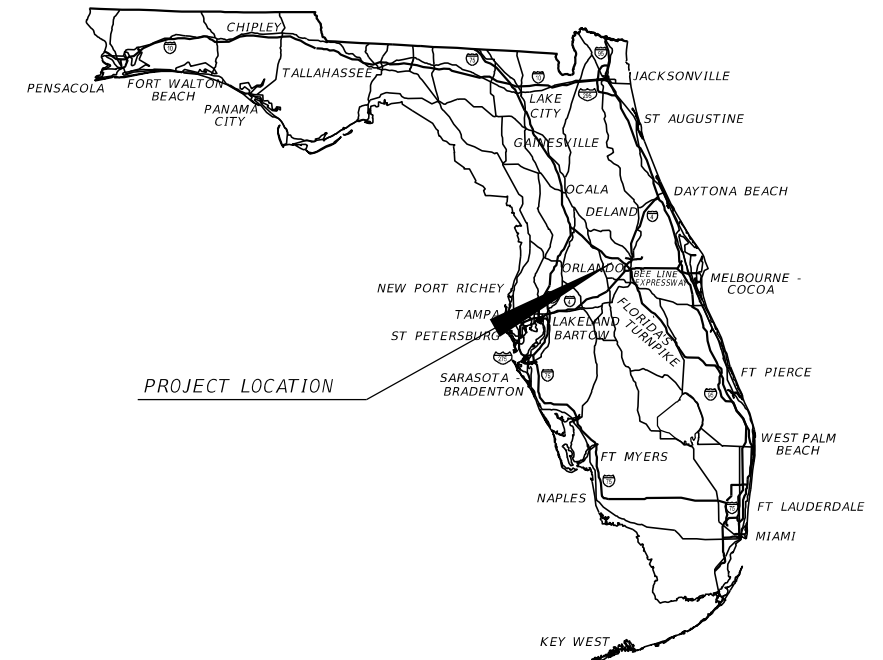
FINANCIAL PROJECT ID 445696-1-52-01

(FEDERAL FUNDS)

ORANGE COUNTY (75250000)

STATE ROAD NO. 438 (SILVER STAR ROAD)

SR 438 INTERSECTION IMPROVEMENTS AT KINGSLAND AVE



INDEX OF ROADWAY PLANS

SHEET NO.	SHEET DESCRIPTION
1	KEY SHEET
2	SIGNATURE SHEET
3 - 6	TYPICAL SECTION
7 - 9	MODEL MANAGEMENT
10	GENERAL NOTES
11 - 13	ROADWAY PLAN
14 - 18	INTERSECTION DETAIL
19 - 32	TEMPORARY TRAFFIC CONTROL
33 - 35	UTILITY ADJUSTMENTS
36	SUMMARY OF VERIFIED UTILITIES

PROJECT LOCATION URL:	http://tinyurl.com/exp9n92u
PROJECT LIMITS:	BEGIN MP 6.512 - END MP 6.532
EXCEPTIONS:	NONE
BRIDGE LIMITS:	NONE
RAILROAD CROSSING:	NONE

GOVERNING STANDARD PLANS:

Florida Department of Transportation, FY2025-26 Standard Plans for Road and Bridge Construction and applicable Interim Revisions (IRs).

Standard Plans for Road Construction and associated IRs are available at the following website: <http://www.fdot.gov/design/standardplans>

GOVERNING STANDARD SPECIFICATIONS:

Florida Department of Transportation, FY2025-26 Standard Specifications for Road and Bridge Construction at the following website: <http://www.fdot.gov/programmanagement/Implemented/SpecBooks>

**ROADWAY PLANS
ENGINEER OF RECORD:**

MERLYNN O. ANDERSON, P.E., P.E.
P.E. LICENSE NUMBER 83096
STANLEY CONSULTANTS, INC.
80 SPRING VISTA DR.
DEBARY, FL 32713
PHONE: (386) 753-7036
CONTRACT NO.: CAL49
VENDOR NO.: 42-1320758

FDOT PROJECT MANAGER:

SHAUNE L. CLARK II

CONSTRUCTION CONTRACT NO.	FISCAL YEAR	SHEET NO.
	27	1

Exhibit “A-2”
Signing and Pavement Marking Plans

CONTRACT PLANS COMPONENTS

ROADWAY
SIGNING AND PAVEMENT MARKING
SIGNALIZATION

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION
SIGNING AND PAVEMENT MARKING PLANS

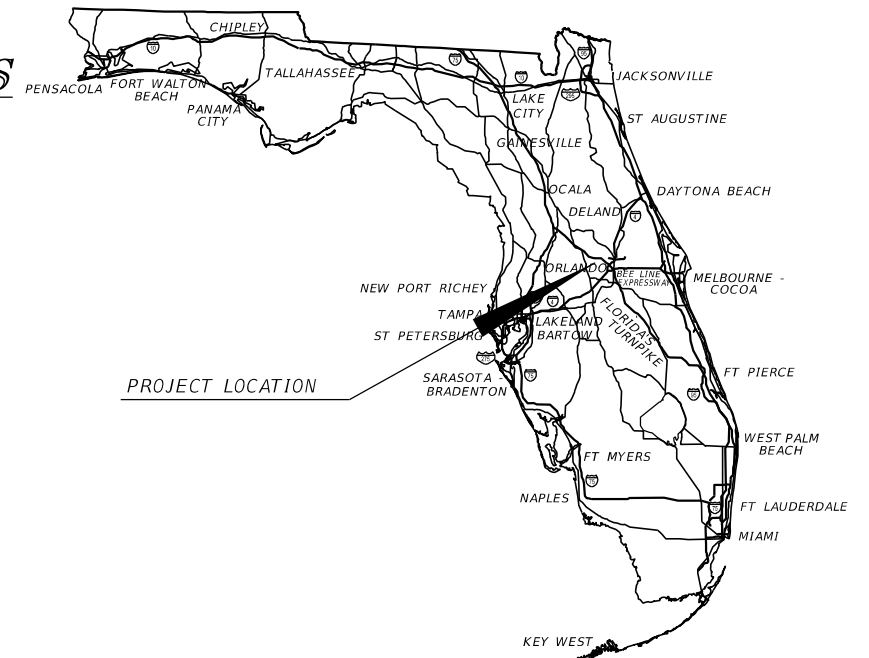
FINANCIAL PROJECT ID 445696-1-52-01

(FEDERAL FUNDS)

ORANGE COUNTY (75250000)

STATE ROAD NO. 438 (SILVER STAR ROAD)

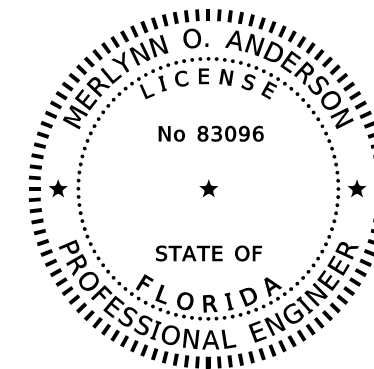
SR 438 INTERSECTION IMPROVEMENTS AT KINGSLAND AVE



INDEX OF SIGNING AND PAVEMENT MARKING PLANS

SHEET NO.	SHEET DESCRIPTION
S-1	KEY SHEET
S-2	GENERAL NOTES
S-3 - S-5	SIGNING AND PAVEMENT MARKING PLAN

PROJECT LOCATION URL:	http://tinyurl.com/exp9n92u
PROJECT LIMITS:	BEGIN MP 6.512 - END MP 6.532
EXCEPTIONS:	NONE
BRIDGE LIMITS:	NONE
RAILROAD CROSSING:	NONE



THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY

ON THE DATE ADJACENT TO THE SEAL.
PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED. THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

SIGNING AND PAVEMENT MARKING PLANS ENGINEER OF RECORD:

MERLYNN O. ANDERSON, P.E.
P.E. LICENSE NUMBER 83096
STANLEY CONSULTANTS, INC.
80 SPRING VISTA DR.
DEBARY, FL 32713
PHONE (386) 753-7036
CONTRACT NO.: CAL49
VENDOR NO.: 42-1320758

FDOT PROJECT MANAGER:

SHAUNE L. CLARK II

GOVERNING STANDARD PLANS:

Florida Department of Transportation, FY 2025-26 Standard Plans for Road and Bridge Construction and applicable Interim Revisions (IRs).

Standard Plans for Road Construction and associated IRs are available at the following website: <http://www.fdot.gov/design/standardplans>

GOVERNING STANDARD SPECIFICATIONS:

Florida Department of Transportation, FY 2025-26 Standard Specifications for Road and Bridge Construction at the following website: <http://www.fdot.gov/programmanagement/Implemented/SpecBooks>

CONSTRUCTION CONTRACT NO.	FISCAL YEAR	SHEET NO.
	27	S-1

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

Exhibit “B”
Resolution