

CS-19-100

Financial Project Id. No. 433987-1-58-01
Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
Off System Agency Construct & Maintain

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 Nassau County ("Agency").

1. The term "Property" shall refer to certain real property located in Nassau County, Florida, owned by the Agency and more particularly described in Exhibit "A"; and
2. The term "Multi-Use Trail" is defined as a paved, shared-use path, which is typically approximately 12 feet wide, but may vary from 6 feet to 12 feet wide, or larger, depending upon physical or environmental constraints, or usage; and
3. For purposes of this Agreement, the term Multi-Use Trail shall specifically refer to the construction of an approximately 10-foot-wide bike path/trail, inclusive of and without limitation, asphalt and concrete; drainage; curbing; railing; signage; walls; lighting; and crosswalks; and
4. The Multi-Use Trail will commence at the intersection of Bailey Road and the Ybor Alvarez Sports Complex and extend approximately 1.86 miles north on within the east right-of-way of Bailey Road and then east within the south right-of-way of Simmons Road and South Fletcher Avenue/A1A, as more particularly shown in attached Exhibit "B, Composites 1-15"; and
5. The Department shall fund construction of the Multi-Use Trail subject to the provisions of that certain and separate, written Local Agency Program Agreement ("LAP") entered into by and between the Department and the Agency on April 25, 2018, a copy of which is attached as Exhibit "C"; and
6. The Agency shall construct, own, operate, maintain and repair the Multi-Use Trail; and
7. The Agency shall pay all utility bills for lighting, signals, and irrigation as associated with the Multi-Use Trail; and
8. The Agency shall conduct an annual inspection of the Multi-Use Trail to ensure that any and all safety deficiencies are addressed; and
9. When the Multi-Use Trail is at the end of its useful life, the Agency shall prioritize the Replacement or Reconstruction of the Multi-Use Trail as if it was a new Project; and
10. The Agency by Resolution 2018-54 dated 4/9/18 authorizes its representative to enter into this Agreement, see attached Exhibit "D, Composites 1-10".

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.

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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 Agency entities ("Governmental Law").

7. PERMITS

In the performance of this 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 Multi-Use Trail. 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 by the Department without condition or delay.

9. 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.

10. CONSTRUCTION

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

11. OPERATION, MAINTENANCE & REPAIR

A. The Agency shall own, operate, maintain, and repair the Multi-Use Trail 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 acknowledges and agrees that the Department will require the Agency to maintain the entire Multi-Use Trail Project, according to the Department standards, which include, without limitation, the

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Americans with Disabilities Act, Design Standards, and the Standard Specifications, and as amended from time to time.

C. Maintenance items to be maintained by the Agency shall include, without limitation and as applicable, the following: vegetation management, repair of slopes/erosion, removal of graffiti, gravity walls, traffic barriers, railings, signing, pavement markings, pedestrian/bicycle signals, aesthetic features, and all other features of the Multi-Use Trail constructed pursuant to this Agreement. The Agency shall maintain pavement surfaces free from residue accumulation, algae, vegetation, and other slip or trip hazards. The Agency shall trim landscaping, mow, sweep, edge and provide weed control for the entirety of the Multi-Use Trail as identified in Exhibit B.

D. The Agency shall ensure the safety of the Public by repairing slope erosion and maintaining signs, sign poles, striping, pavement symbols, traffic markings, detectable warning surfaces, pavers, crosswalks, walls, railings, pedestrian/bicycle signals and any other safety features within the Multi-Use Trail corridor in accordance with Department standards. The Agency shall maintain paint on railings, sign poles, and all other structures located within the Multi-Use Trail corridor. Repairs to any Multi-Use Trail Project structural or safety feature shall be, at a minimum, in kind and to Department standards. The Agency shall maintain all landscaping to Department standards.

E. The Agency agrees that it will be solely responsible for the operation, maintenance, and repair of the Multi-Use Trail. Should the Agency fail to operate, maintain, and repair the Multi-Use Trail 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 Multi-Use Trail. 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.

F. The Agency specifically agrees to allow the Department access to the Property and the Multi-Use Trail pursuant to Paragraph 3 above should the events described in Paragraph D occur.

G. If at any time, the Agency has not performed the maintenance responsibility on the Multi-Use Trail in accordance with this Agreement, the Department shall have the option of (a) notifying the Agency of the deficiency with a requirement that it be corrected within a specified time, or (b) the Department may perform the necessary maintenance at the Agency's sole cost and expense, and send an invoice to the Agency, equal to the cost incurred by the Department for such maintenance. Any action taken by the Department will not relieve any obligation of the Agency under the terms and conditions of this Agreement. Failure to perform maintenance of the Multi-Use Trail in accordance with this Agreement may impact Department funding participation in future Agency projects.

H. The Department may require the Agency to remove the Multi-Use Trail in whole or in part and restore the property to the condition that existed immediately prior to the effective date of this Agreement if the Department determines: (a) the Multi-Use Trail is not constructed or maintained in accordance terms and conditions of this Agreement or (b) the Agency breaches a material provision (as determined by the Department) of this Agreement. Removal and restoration shall be completed by the Agency within 30 days of the Department's written notice, or such time as the Department and the Agency mutually agree in writing. Removal and restoration shall be completed by the Agency in accordance with Department standards. Should the Agency fail to complete the removal and restoration work, the Department may complete the removal and restoration at the Agency's sole cost and expense and send an invoice to the Agency, equal to the cost incurred by the Department for such removal and restoration.

12. TERMINATION

This Agreement may be terminated under either of the following conditions: (a) by the Department, if the Agency fails to perform its duties under this Agreement, following ten (10) days written notice; or (b) by the Department, for refusal by the Agency to allow public access to public records subject to the provisions of Chapter 119, Florida Statutes.

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13. EMINENT DOMAIN AND DAMAGES

Under no circumstance 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.

14. 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.

15. 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.

16. 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: Bob Kosoy, P.E.
Jacksonville Maintenance Engineer
838 Ellis Road
Jacksonville, FL 32205

Agency: Attention: Robert Companion
Nassau County
96161 Nassau Place
Yulee, FL 32097

17. GOVERNING LAW

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

18. 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.

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19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. INTERPRETATION

No term or provision of the Agreement shall be interpreted for or against any party because that party or

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that party's legal representative drafted the provision.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

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 Improvement 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 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

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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.

34. 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

35. ANNUAL APPROPRIATION / FUNDING

Pursuant to §339.135(6)(a), Florida Statutes, the Department's obligation to fund construction of the Multi-Use Trail 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:

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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."

IN WITNESS WHEREOF, intending to be legally bound hereby, the parties execute this Agreement, consisting of fifty-six (56) pages.

Florida Department of Transportation

By: [Signature]
Printed Name: Greg Evans
Title: District Secretary
Date: 12/02/19

Attest:

By: [Signature]
Printed Name: Elizabeth Engle
Title: Executive Secretary
Date: 12/02/19

Legal Review:

By: [Signature] 11-22-19
Office of the General Counsel
Florida Department of Transportation



Agency

By: [Signature]
Printed Name: Justin Taylor
Title: Chairman
Date: October 14, 2019

Attest:

By: [Signature]
Printed Name: John A. Crawford
Title: Ex-Officio Clerk
Date: October 14, 2019

Legal Review:

By: [Signature]
Legal Counsel for Agency

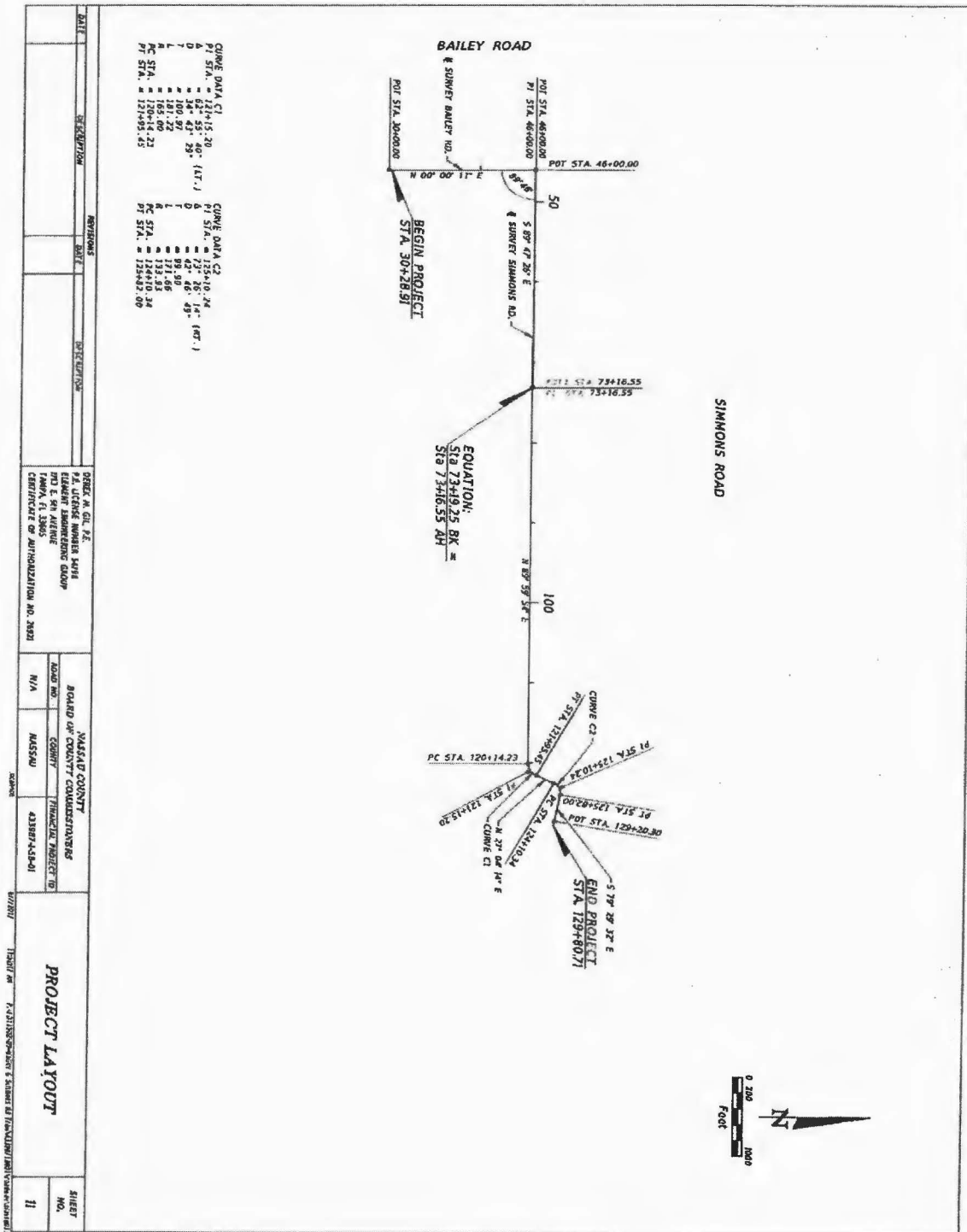
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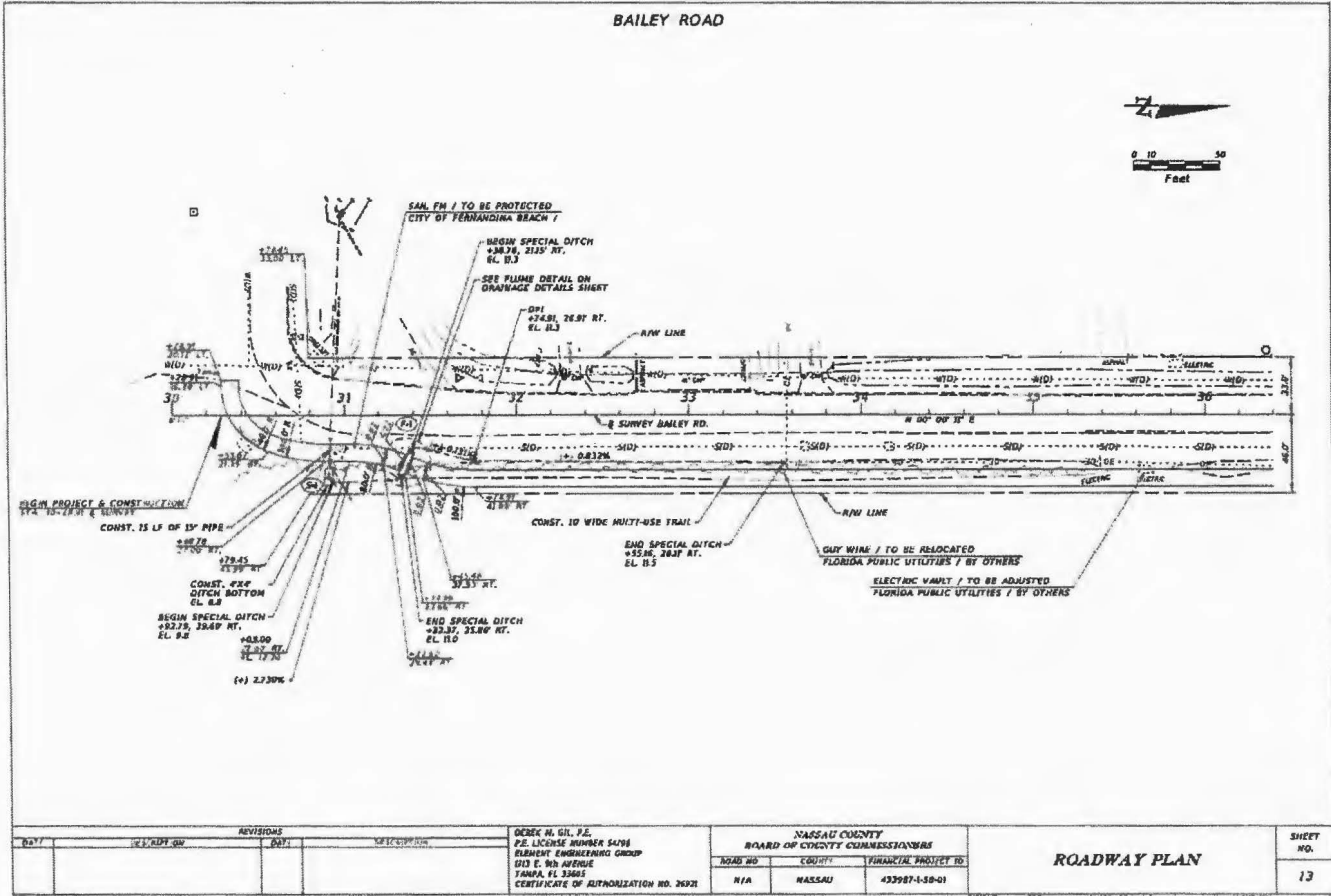
EXHIBIT "A"

This Project is to construct an approximately 10 foot wide asphalt multi-use trail for approximately 1.86 miles within the south right-of-way of Simmons Road and the east right-of-way of Bailey Road. The project begins at the intersection of Bailey Road and the Ybor Alvarez Sports Complex and continues north on Bailey Road then east on Simmons Road until the project terminus at the intersection of Simmons Road and South Fletcher Avenue (A1A).



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EXHIBIT "B"
COMPOSITE B-1



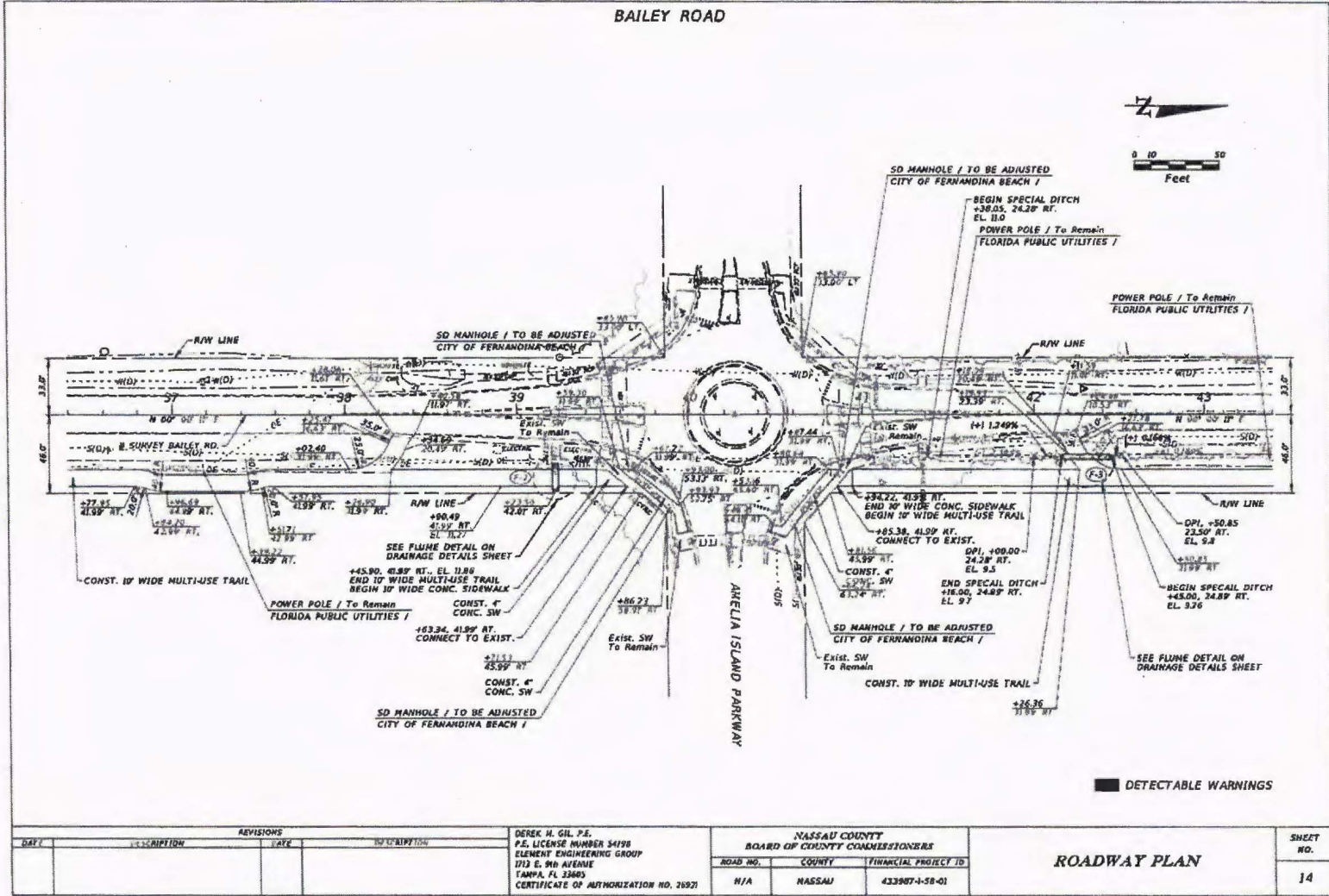
REVISIONS		DATE	DESCRIPTION	DEREK H. GIL, P.E. P.E. LICENSE NUMBER 54788 DEWIGHT ENGINEERING GROUP 612 E. 9th AVENUE TAMPA, FL 33605 CERTIFICATE OF AUTHORIZATION NO. 26921	NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS			SHEET NO. 13
NO.	DATE				ROAD NO.	COUNTY	FINANCIAL PROJECT ID	
					N/A	NASSAU	433987-1-58-01	

ROADWAY PLAN

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61B12-20.001, F.A.C.

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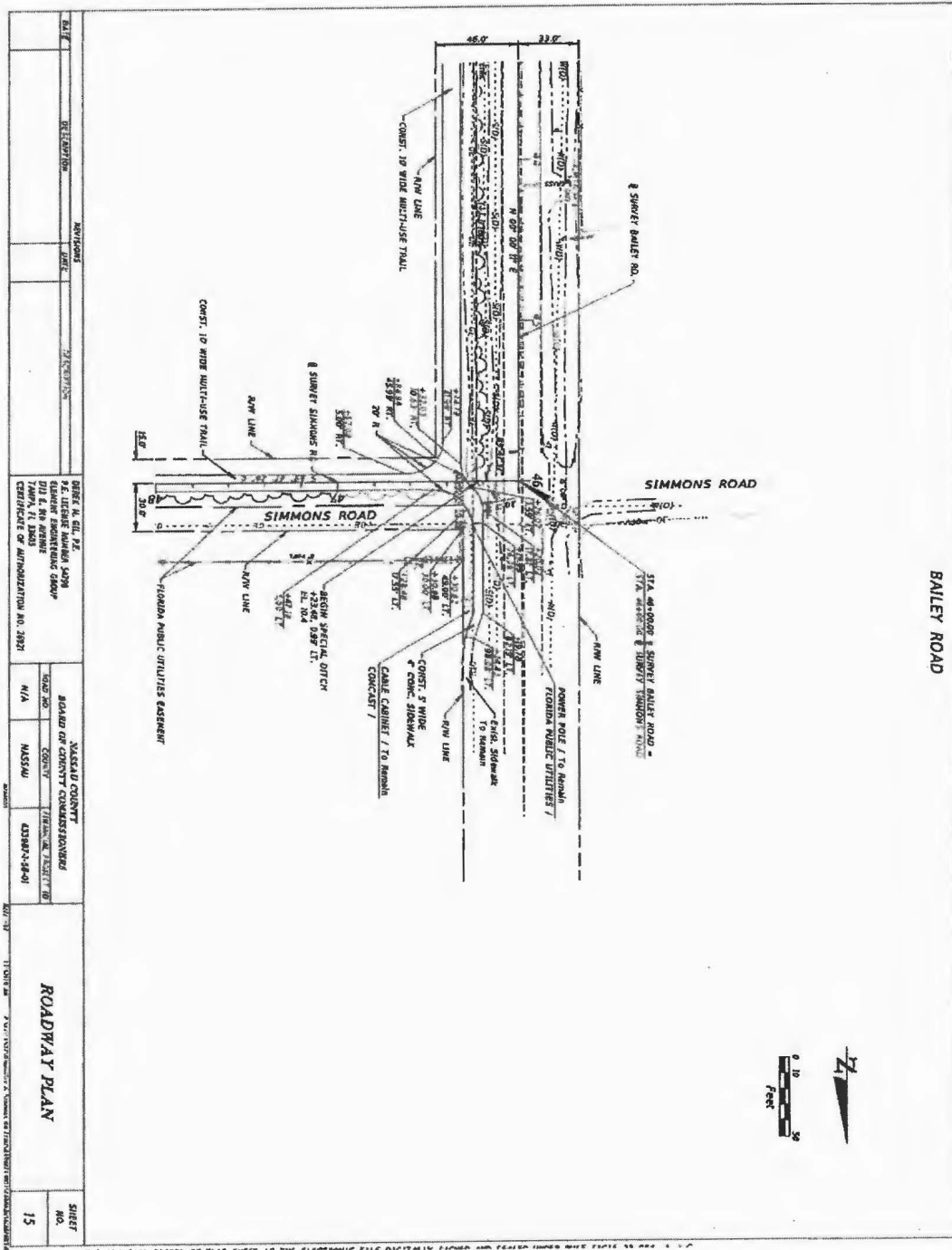
EXHIBIT "B"
COMPISITE B-2



REVISIONS			DEREK H. GIL, P.E. P.E. LICENSE NUMBER 54198 ELEMENT ENGINEERING GROUP 1713 E. 9th AVENUE TAMPA, FL 33605 CERTIFICATE OF AUTHORIZATION NO. 26921	NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS			ROADWAY PLAN	SHEET NO. 14
DATE	DESCRIPTION	BY		ROAD NO.	COUNTY	FINANCIAL PROJECT ID		
			N/A	NASSAU	433987-1-58-01			

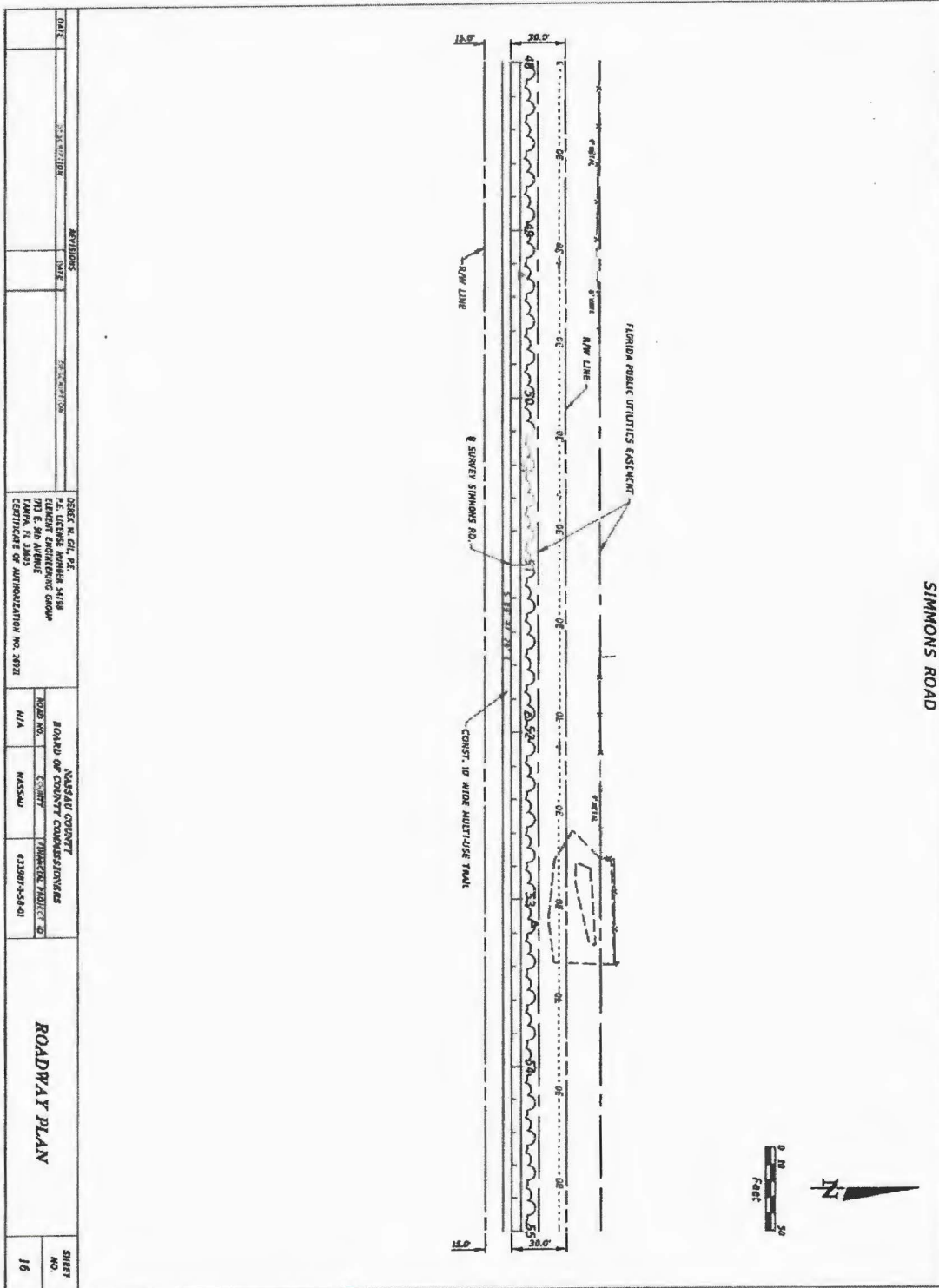
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EXHIBIT "B"
COMPOSITE B-3



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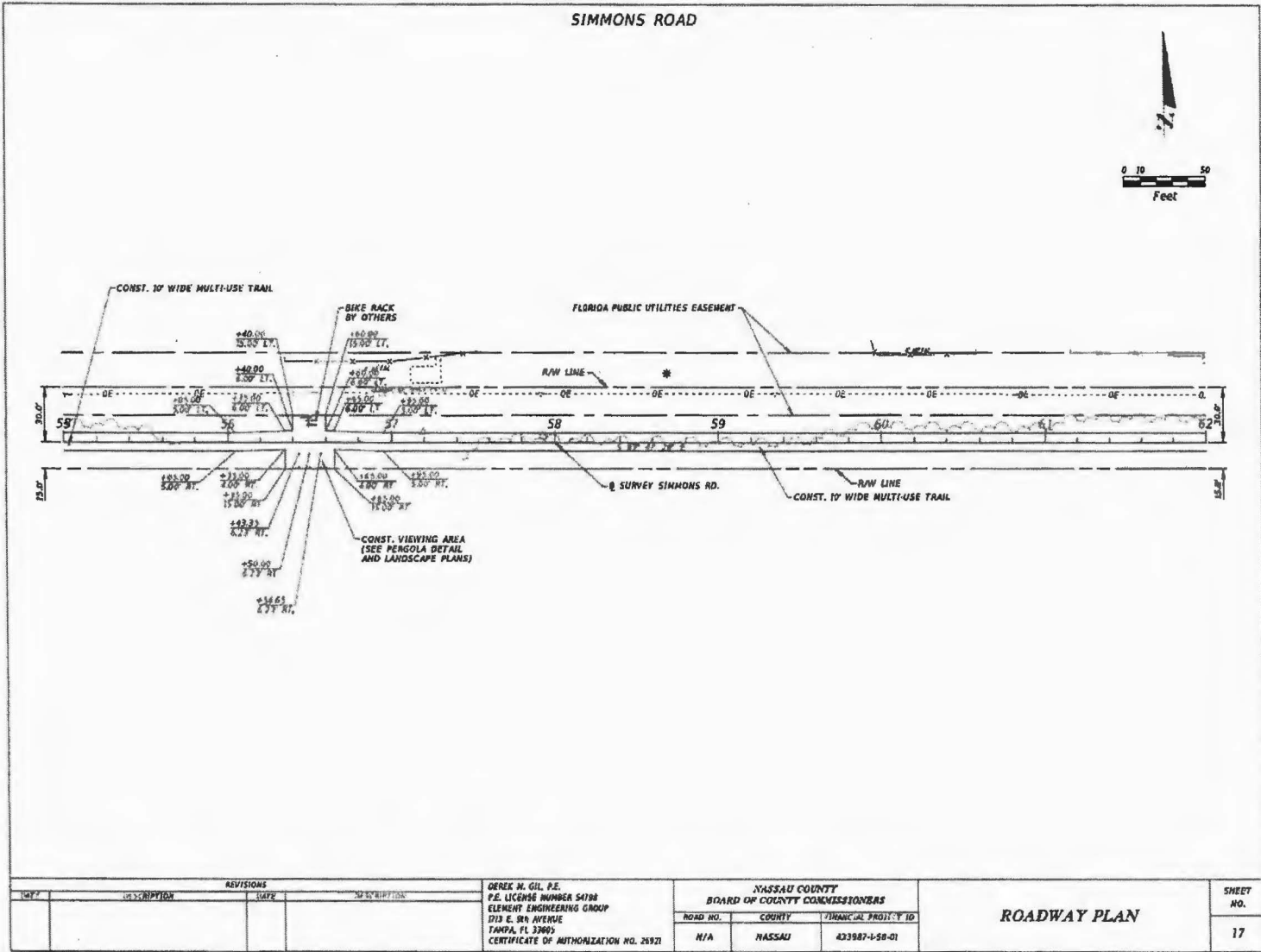
EXHIBIT "B"
COMPOSITE B-4



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

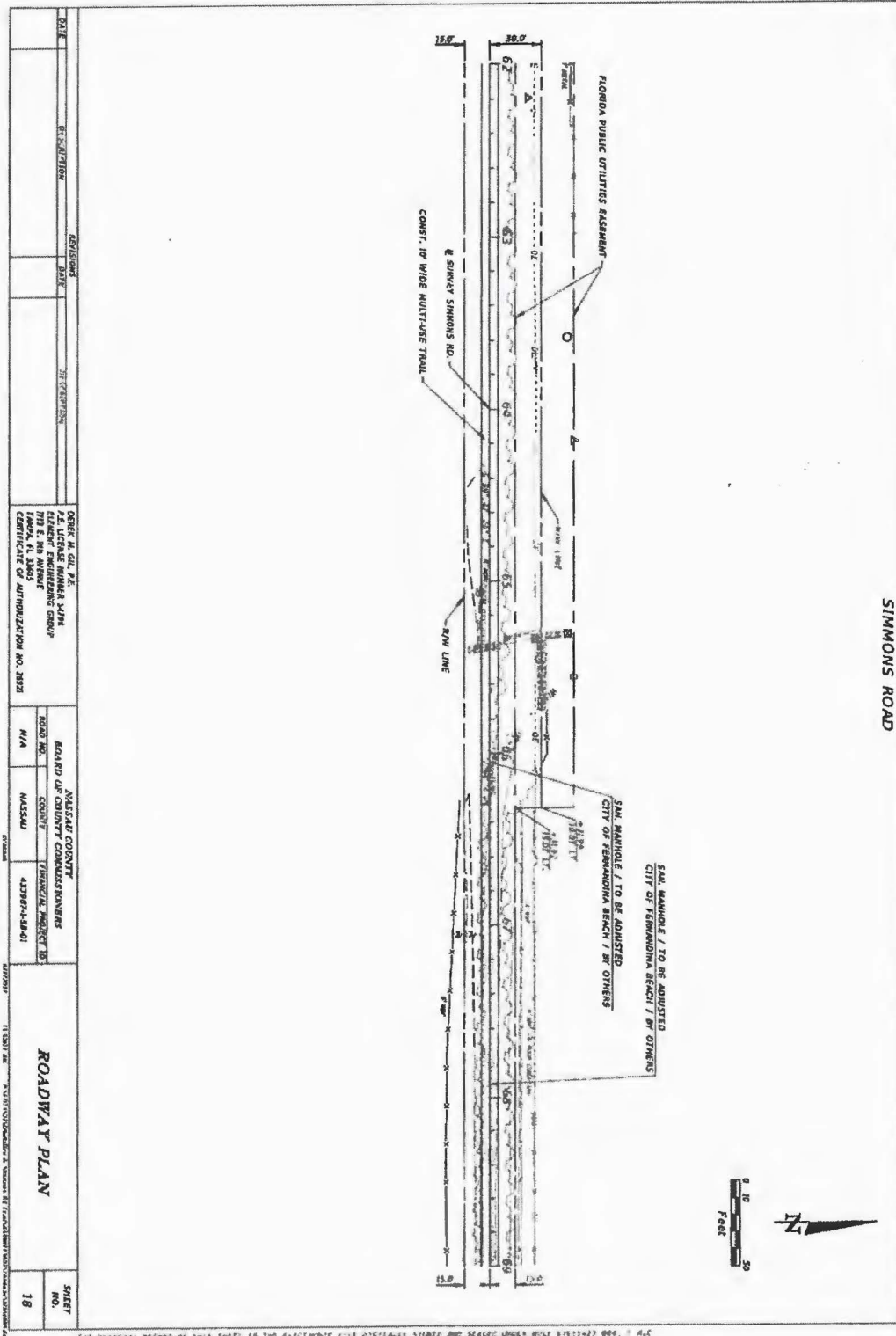
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**EXHIBIT "B"
 COMPOSITE B-5**



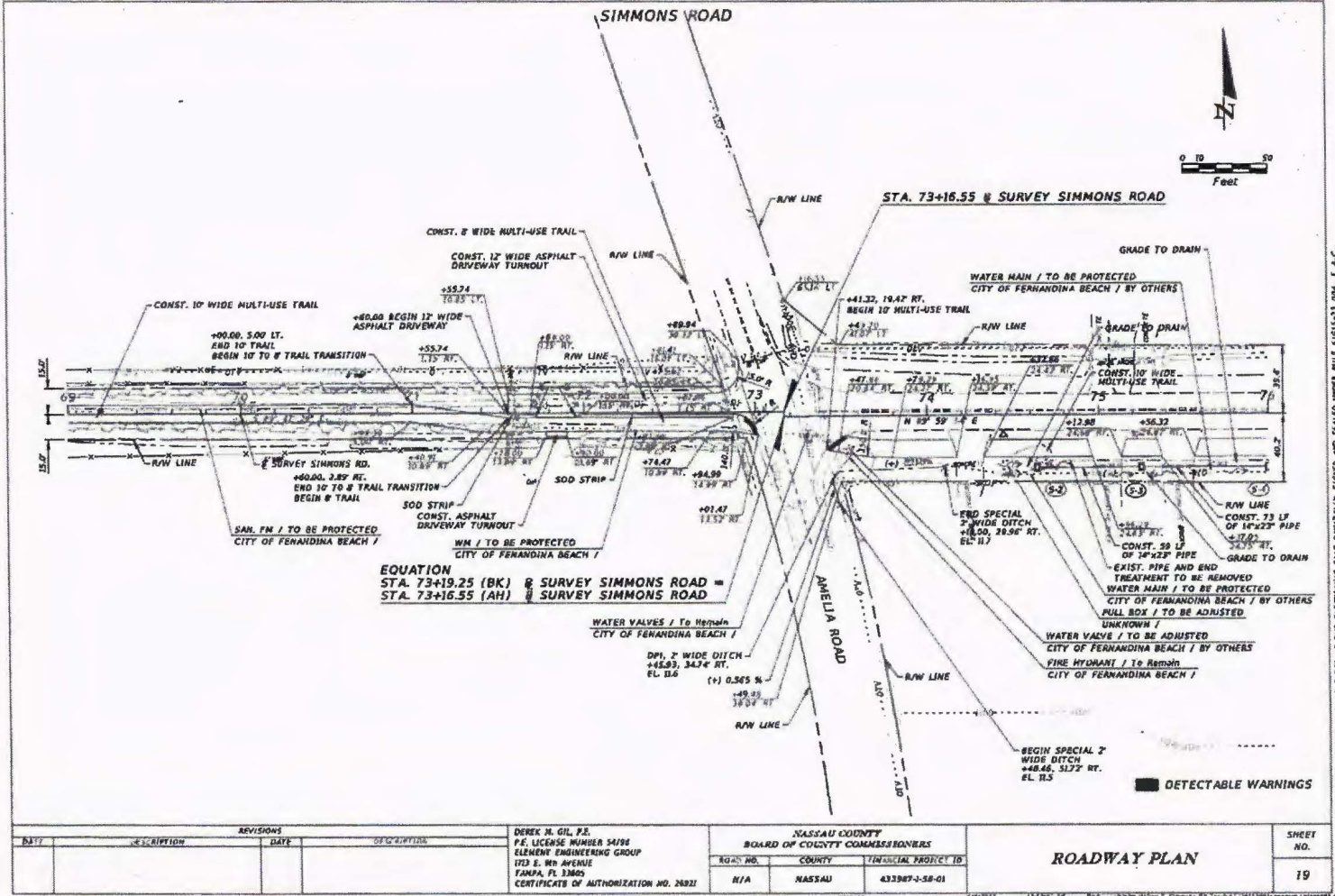
Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

EXHIBIT "B"
COMPOSITE B-6



Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

**EXHIBIT "B"
 COMPISITE B-7**



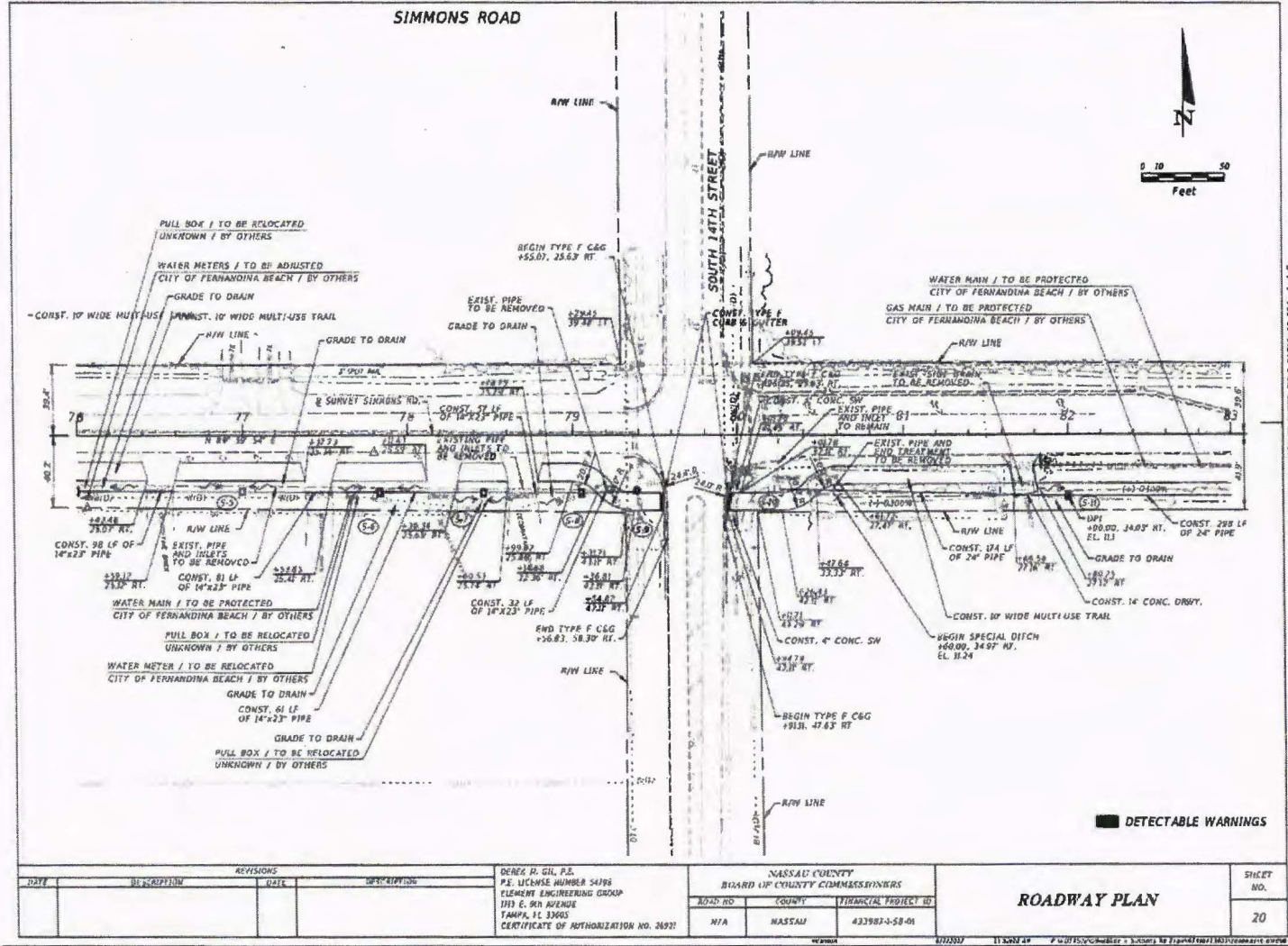
REVISIONS				DEREK N. GIL, P.E. P.E. LICENSE NUMBER 54708 ELEMENT ENGINEERING GROUP 1703 E. 9th AVENUE PANAMA, FL 32660 CERTIFICATE OF AUTHORIZATION NO. 28921	NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS			SHEET NO. 19
NO.	DESCRIPTION	DATE	BY		ROAD NO.	COUNTY	FINANCIAL PROJECT ID	
					N/A	NASSAU	433987-1-58-01	

ROADWAY PLAN

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER FILE #1851-23,094, F.A.C.

Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

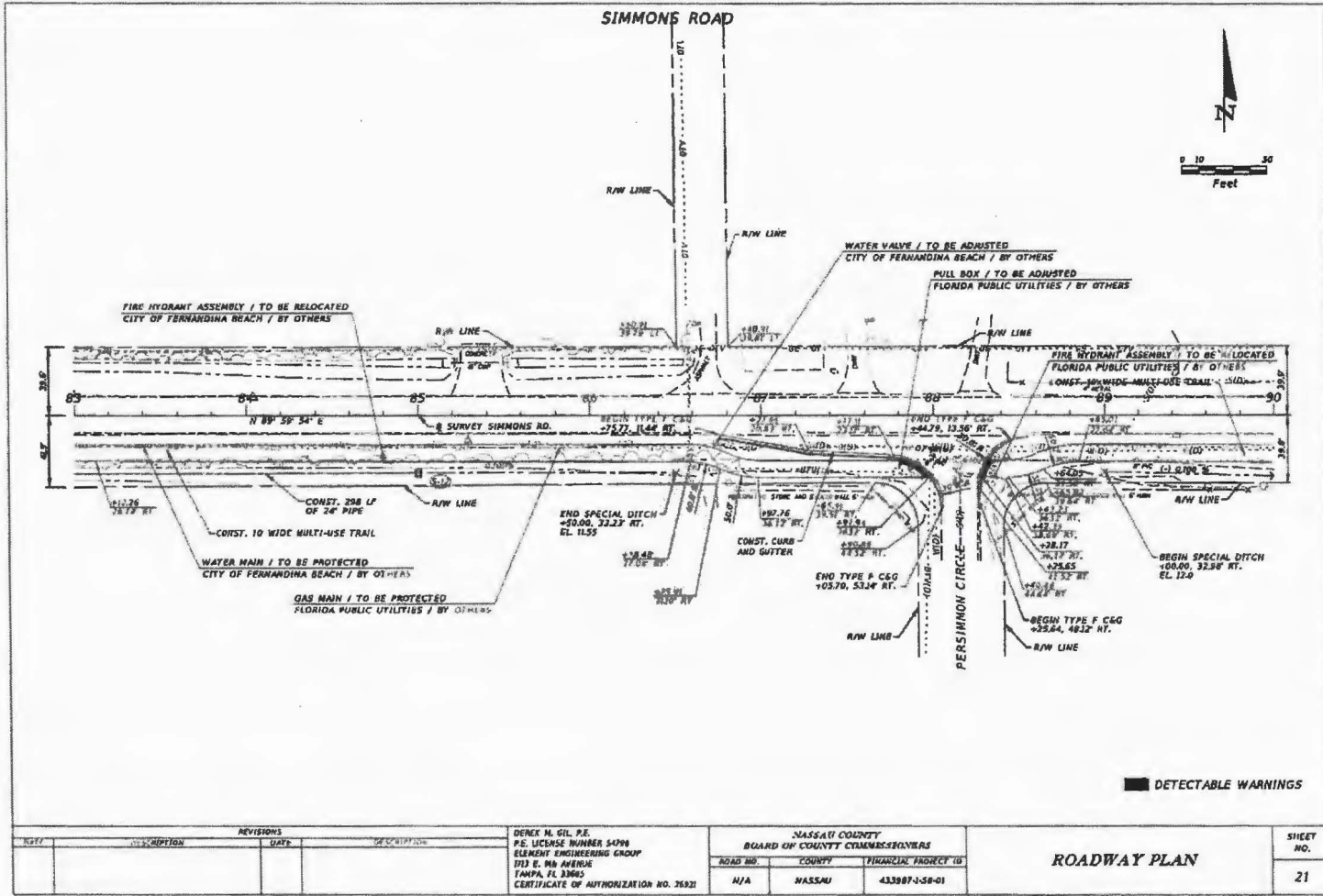
**EXHIBIT "B"
 COMPOSITE B-8**



THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER FILE #1616-22,004, J.A.C.

Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

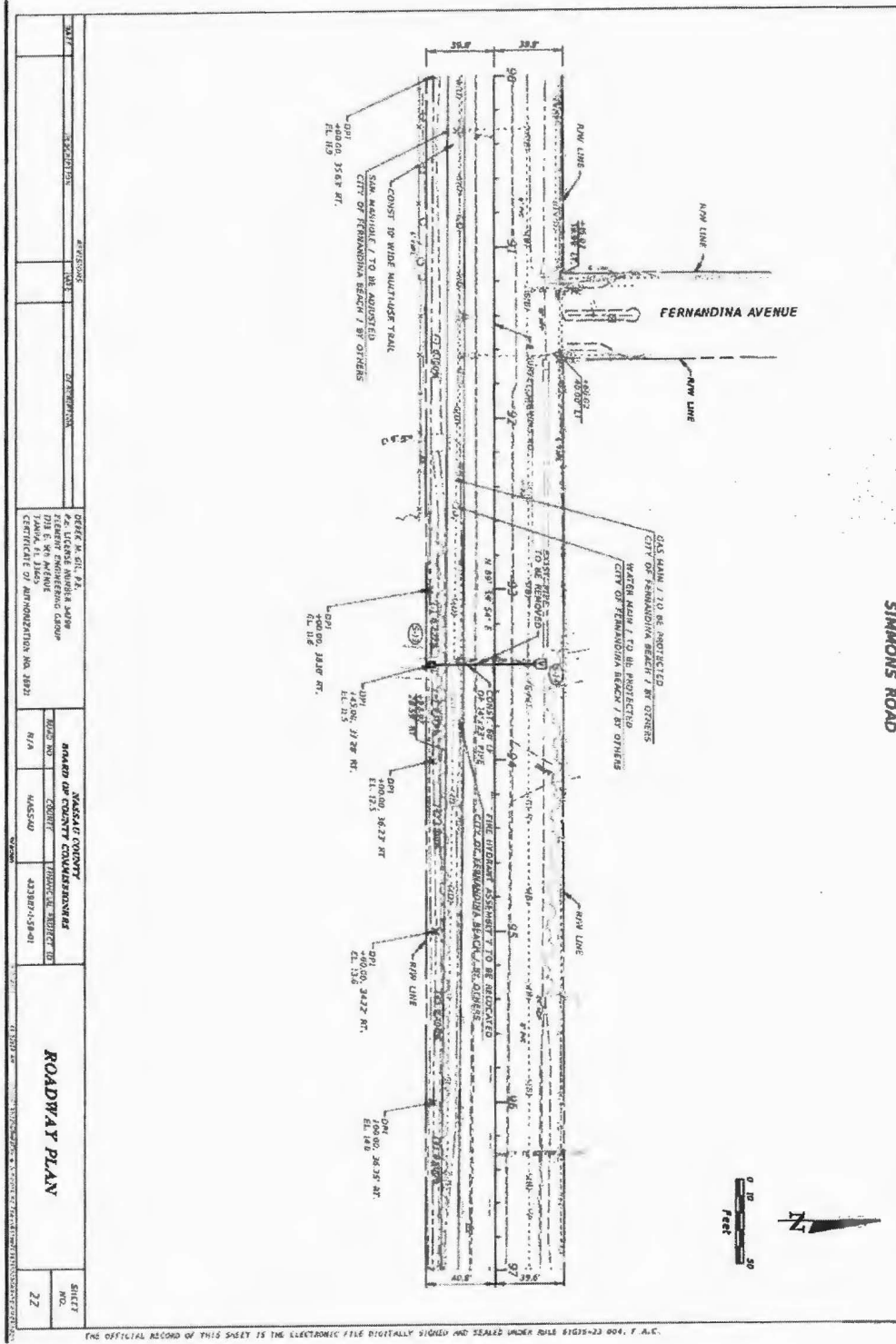
**EXHIBIT "B"
 COMPOSITE B-9**



THIS IS THE OFFICIAL RECORD OF THIS SHEET. IF THE ELECTRONIC FILE IS DIGITALLY SIGNED AND SEALED UNDER RULE 1819-23.004, F.A.C.

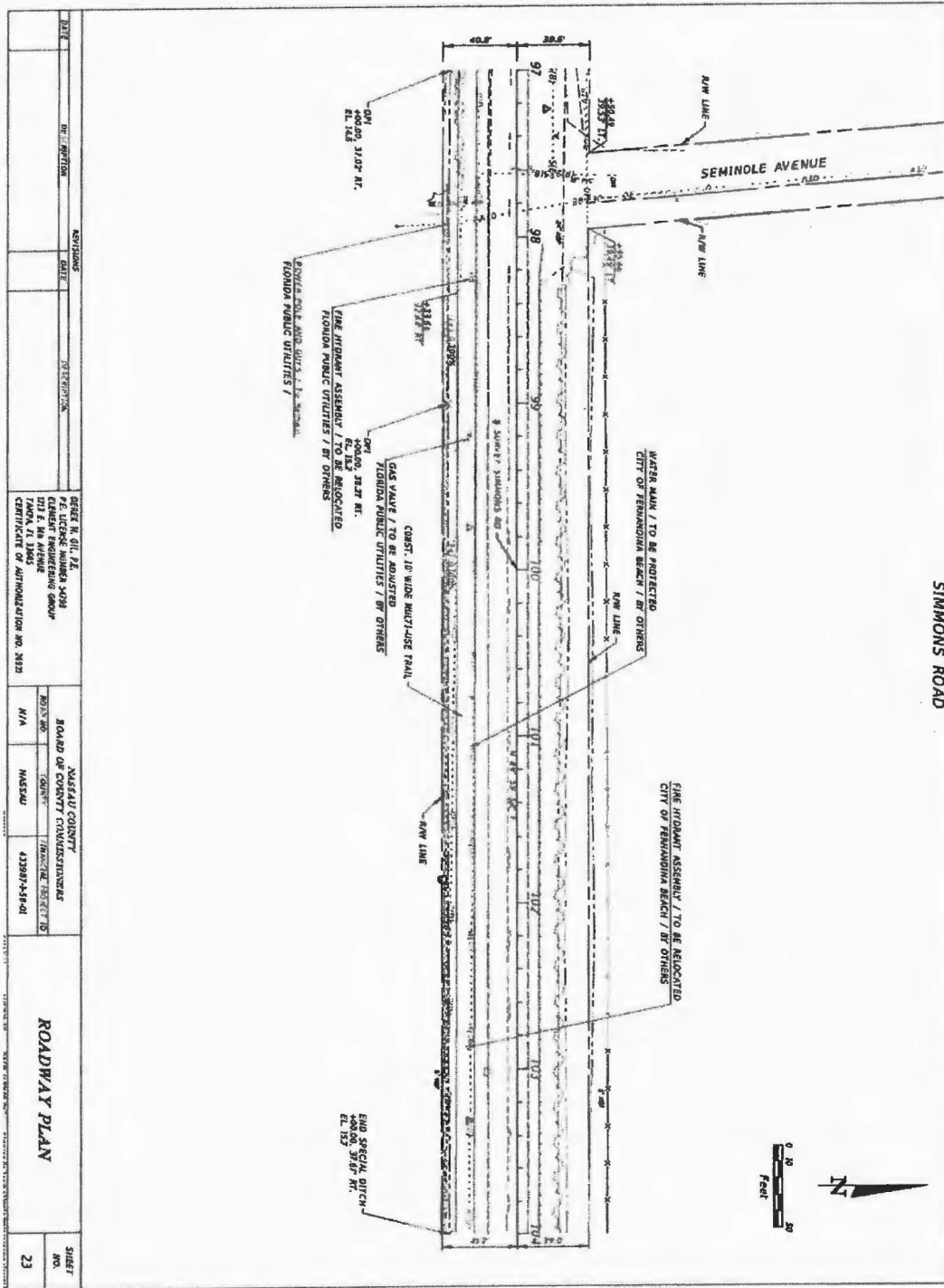
Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

EXHIBIT "B"
COMPOSITE B-10



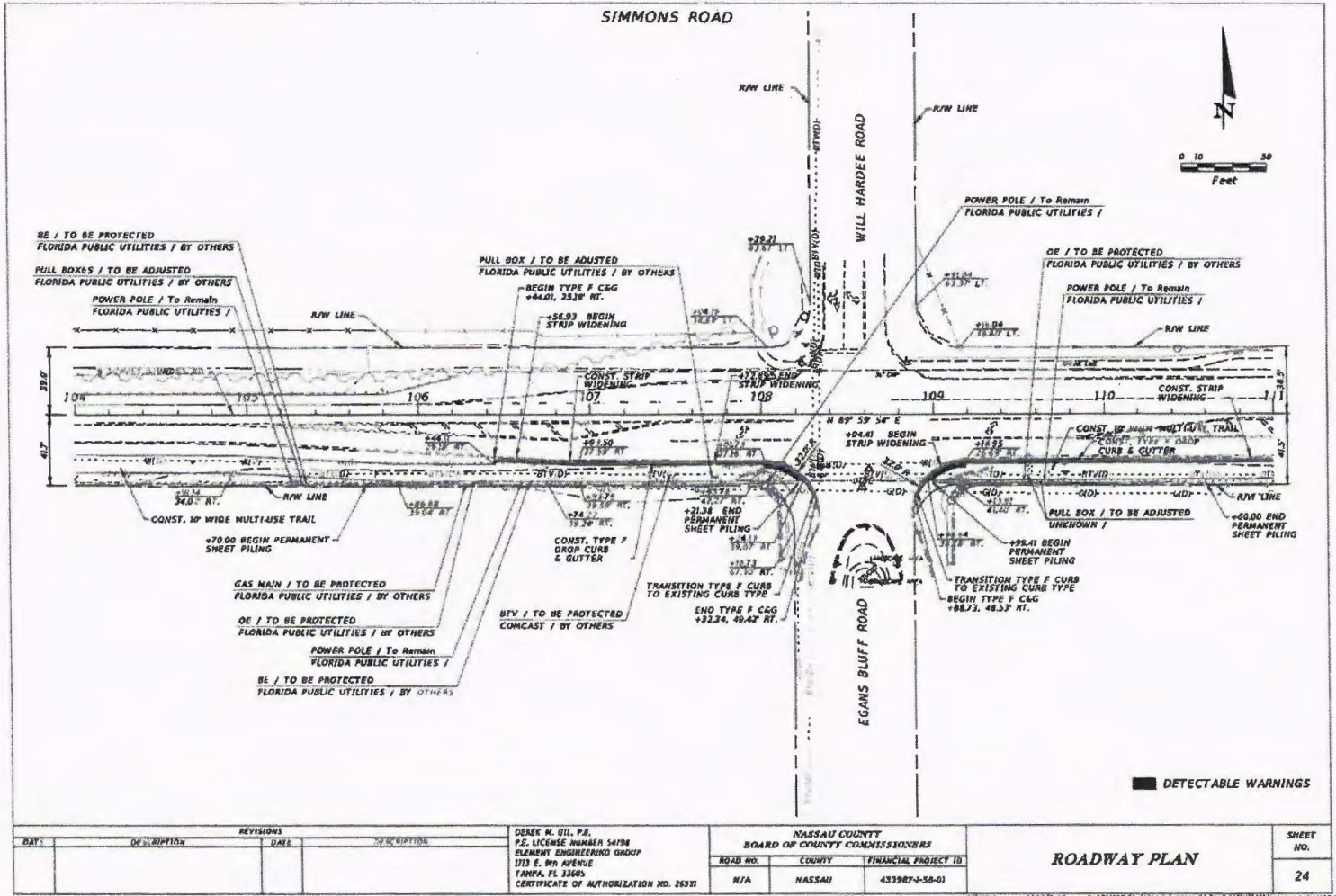
Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

EXHIBIT "B"
COMPOSITE B-11



Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
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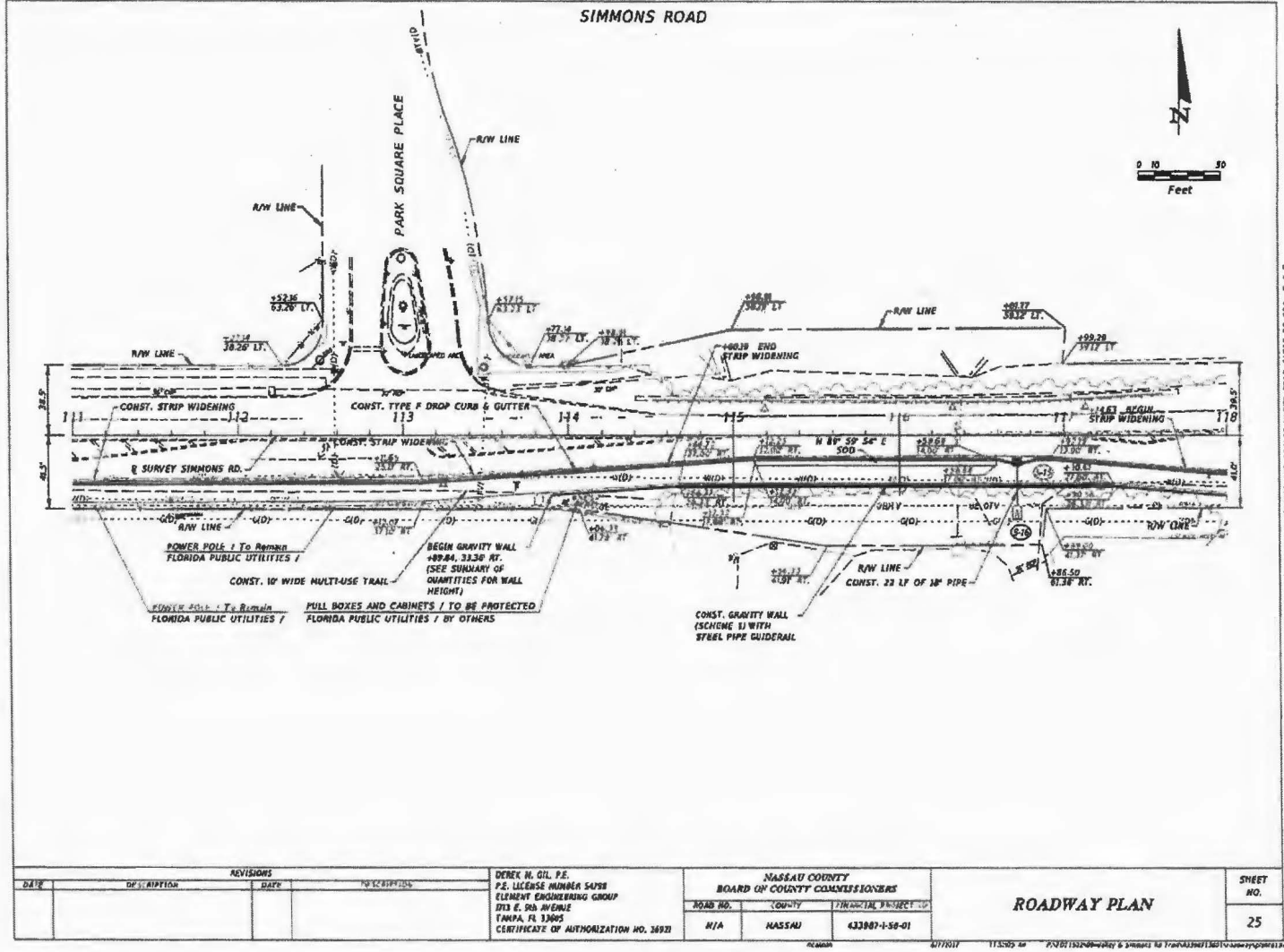
EXHIBIT "B"
COMPOSITE B-12



REVISIONS				DEREK H. OIL, P.E. P.E. LICENSE NUMBER 54798 ELEMENT ENGINEERING GROUP 1713 E. 8th AVENUE TAMPA, FL 33605 CERTIFICATE OF AUTHORIZATION NO. 26321	NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS			SHEET NO. 24
DATE	DESCRIPTION	DATE	DESCRIPTION		ROAD NO.	COUNTY	FINANCIAL PROJECT ID	
					N/A	NASSAU	433987-1-58-01	

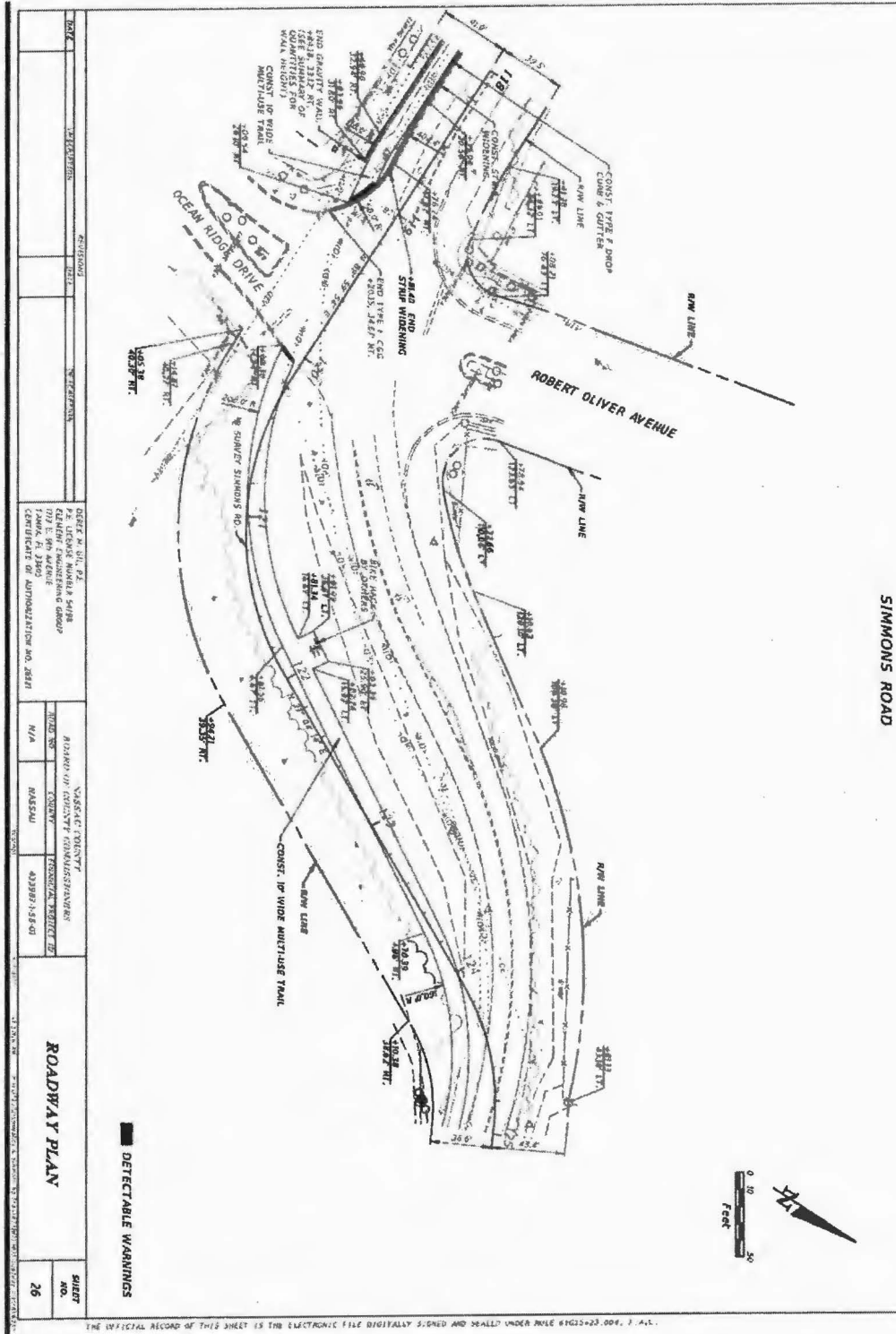
Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

**EXHIBIT "B"
 COMPISITE B-13**



Financial Project Id. No. 433987-1-58-01
Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
Off System Agency Construct & Maintain

EXHIBIT "B"
COMPISITE B-14

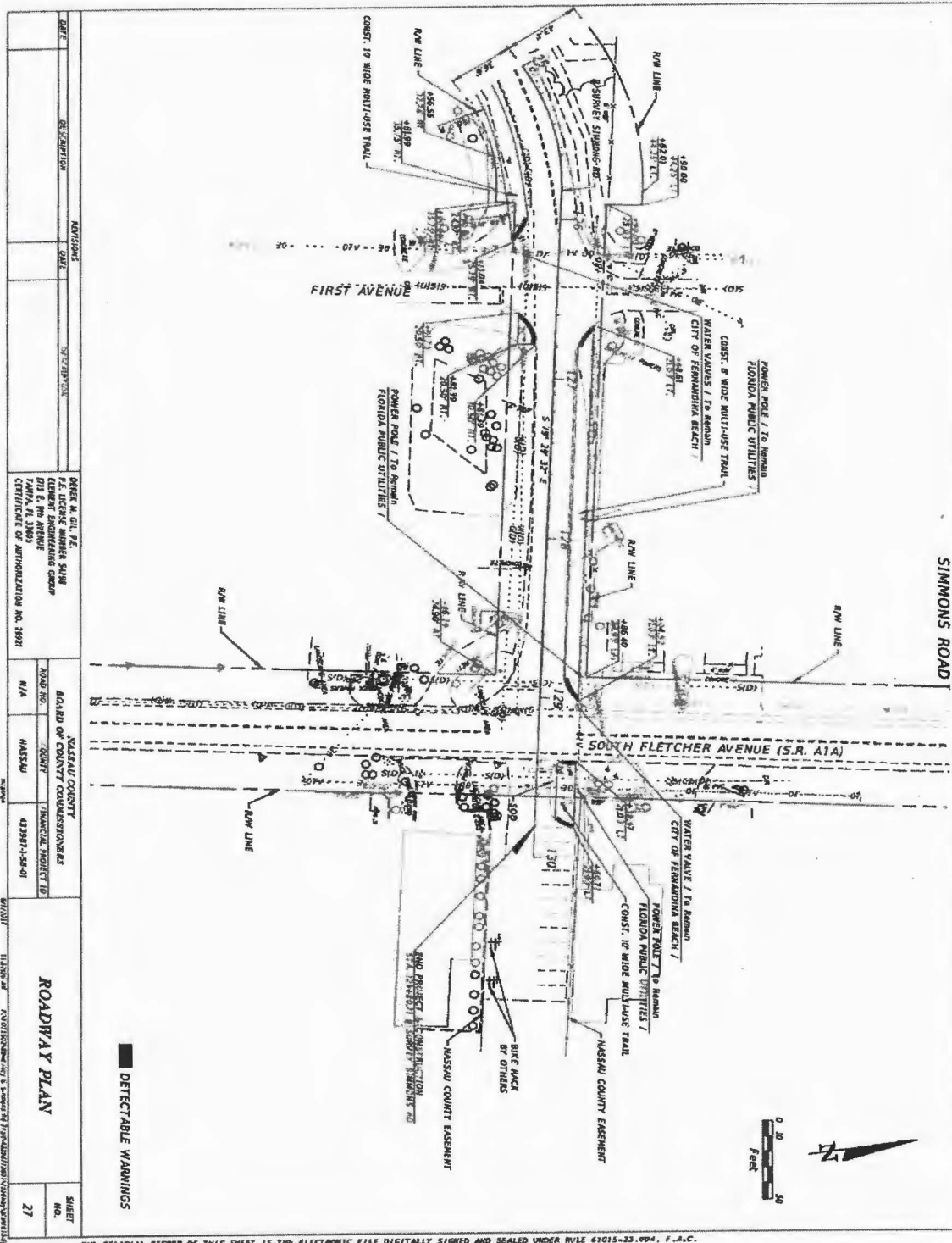


DATE	REVISIONS		
	DATE	DESCRIPTION	BY
DESIGNED BY: [Name] CHECKED BY: [Name] DRAWN BY: [Name] DATE: [Date]			
PROJECT NO.	433987-1-58-01	PROJECT NAME	BAILEY & SIMMONS RD
PROJECT LOCATION	[Location Description]		
PROJECT DESCRIPTION	[Project Description]		
PROJECT STATUS	[Project Status]		
PROJECT OWNER	[Project Owner]		
PROJECT CONTRACTOR	[Project Contractor]		
PROJECT ARCHITECT	[Project Architect]		
PROJECT ENGINEER	[Project Engineer]		
PROJECT SURVEYOR	[Project Surveyor]		
PROJECT DRAFTER	[Project Drafter]		
PROJECT CHECKER	[Project Checker]		
PROJECT APPROVER	[Project Approver]		
PROJECT REVIEWER	[Project Reviewer]		
PROJECT DATE	[Project Date]		
PROJECT SHEET NO.	26		
PROJECT SHEET TOTAL	[Total Sheets]		

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 69025-23.004, 3. ALL.

Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

EXHIBIT "B"
COMPOSITE B-15



DATE	DESCRIPTION	REVISIONS	DATE

DEREK N. GIL, P.E. P.E. LICENSE NUMBER 5218 ENGINEERING GROUP TAMPA, FL 33603 CERTIFICATE OF AUTHORIZATION NO. 18971	NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS COUNTY PROJECT ID 433987-1-58-01
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ROADWAY PLAN	SHEET NO. 27
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THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

EXHIBIT "C"
COMPOSITE - C-1

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FPN: <u>433987-1-58-01</u>	FPN: <u>433987-1-68-02</u>	FPN: _____
Federal No (FAIN): <u>D217-074-B</u>	Federal No (FAIN): <u>D217-074-B</u>	Federal No (FAIN): _____
Federal Award Date: _____	Federal Award Date: _____	Federal Award Date: _____
Fund: <u>TALU</u>	Fund: <u>TALU</u>	Fund: _____
Org Code: <u>55024010206</u>	Org Code: <u>55024010206</u>	Org Code: _____
FLAIR Approp: _____	FLAIR Approp: _____	FLAIR Approp: _____
County No: <u>74</u>	Contract No: <u>GOV74</u>	
Local Agency Vendor No: <u>F691863042053</u>	Local Agency DUNS No: <u>829978514</u>	
Catalog of Federal Domestic Assistance (CFDA): 20.205 Highway Planning and Construction		

April 2018 THIS LOCAL AGENCY PROGRAM AGREEMENT ("Agreement"), is made and entered into this 25th day of _____ between the State of Florida, Department of Transportation, an agency of the State of Florida ("Department"), and Nassau County ("Agency").

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Agreement, the parties agree as follows:

1. **Authority:** The Agency, by Resolution No. 2017-121 dated the 28th day of August, 2017, a copy of which is attached as Exhibit "F" and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section 339.12, Florida Statutes, to enter into this Agreement.

2. **Purpose of Agreement:** The purpose of this Agreement is to provide for the Department's participation in construction and project management of bike path/trail on Bailey & Simmons Road from Sports Complex to Fletcher Avenue, 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 Agency, 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 Agency agrees to complete the Project on or before 12/31/2019. If the Agency 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 Agency 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 expiration date of this Agreement will not be reimbursed by the Department.

4. **Project Cost:**

- A. The total cost of the Project is \$ 1,151,085.00. This amount is based upon the schedule of funding in Exhibit "B", Schedule of Funding attached to and incorporated in this Agreement. The Agency agrees to bear all expenses in excess of the total cost of the Project and any deficits invoiced. The schedule of funding may be modified by mutual agreement as provided for in paragraph 5.I.
- B. The Department agrees to participate in the Project cost up to the maximum amount of \$1,151,085.00 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.
- 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:
 - 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 subparagraphs 5.L and 5.M. of this Agreement;

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EXHIBIT "C"

COMPOSITE - C-2

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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 Agency 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 Agency 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.

C. The Agency shall charge to the Project account all eligible costs of the Project except costs agreed to be borne by the Agency 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 Agency 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 Agency 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.

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. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within five days after notice from the Department, provide the Department with a corrective action plan describing how the Agency 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 Department, the Agency shall be assessed a non-performance retainage equivalent to 10% of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the Agency resolves the deficiency. If the deficiency is subsequently resolved, the Agency may bill the Department for the retained amount during the next billing period. If the Agency is unable to resolve the deficiency, the funds retained may 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 Agency.

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 Off System Agency Construct & Maintain

EXHIBIT "C"
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Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency 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) 413-6516.

- H. 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 Agency'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 Agency and approved by the Department. The Agency 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 Agency. The Agency acknowledges and agrees that funding for this project may be reduced upon determination of the agency's contract award amount. If revised, a copy of the Supplemental Agreement shall be forwarded to the Department's Comptroller. No increase or decrease shall be effective unless it complies with fund participation requirements of this Agreement and is approved by the Department's Comptroller.
- 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 Agency 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 Agency 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 Agency, 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:

"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

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EXHIBIT "C"

COMPOSITE - C-4

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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 Agency 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 Agency 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 Agency of any of its duties or obligations which may jeopardize or adversely affect the Project, the Agreement or payments to the Project;
- C. The Agency 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 16.J.; or
- E. The Agency 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 Agency 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 Agency 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 Agency 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, 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 Agency, 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, 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;

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EXHIBIT "C"

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- 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 Agency and consultant staff at all stages of the Project.
- B.** Once the Department issues the NTP for the Project, the Agency 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 Agency 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 Agency 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 Agency 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 Agency for future LAP Projects. No cost may be incurred under this Agreement until after the Agency has received a written NTP from the Department. The Agency 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 Agency is not able to meet the scheduled advertisement, the 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 Agency, and the Project is off the state highway system, then the Department will have to request repayment for the previously billed amounts from the Agency. No state funds can be used on off-system projects, unless authorized pursuant to Exhibit "G", 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 Agency 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 Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters.
- E.** The Agency shall initiate and prosecute to completion all proceedings necessary, including Federal-aid requirements, to enable the Agency to provide the necessary funds for completion of the Project.
- F.** The Agency 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 Agency shall use the Department's Local Agency Program Information Tool and applicable information systems as required.
- 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 claimed is not eligible, federal participation may be approved in the amount determined to be adequately supported and the Department shall notify the Agency 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 Agency shall promptly reimburse the Department for all such amounts within 90 days of written notice.

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EXHIBIT "C"

COMPOSITE – C-6

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H. For any project requiring additional right-of-way, the Agency 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.

B. **Audit Reports:** The administration of resources awarded through the Department to the Agency 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 Agency shall comply with all audit and audit reporting requirements as specified below.

A. In addition to reviews of audits conducted in accordance with OMB Circular A-133, for fiscal years beginning before December 26, 2014, and in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, 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 Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency 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 Agency, a non-federal entity as defined by OMB Circular A-133, for fiscal years beginning before December 26, 2014, and as defined by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, 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 Agency expends a total amount of federal awards equal to or in excess of the threshold established by OMB Circular A-133, for fiscal years beginning before December 26, 2014, and established by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, the Agency must have a federal single or program-specific audit for such fiscal year conducted in accordance with the provisions of OMB Circular A-133, for fiscal years beginning before December 26, 2014, and in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014. Exhibit "1", Federal Financial Assistance (Single Audit Act) to this Agreement provides the required federal award identification information needed by the Agency to further comply with the requirements of OMB Circular A-133, for fiscal years beginning before December 26, 2014, and the requirements of 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014. In determining federal awards expended in a fiscal year, the Agency 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 OMB Circular A-133, for fiscal years beginning before December 26, 2014, and established by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014. An audit conducted by the State of Florida Auditor General in accordance with the provisions of OMB Circular A-133, for fiscal years beginning before December 26, 2014, and in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, will meet the requirements of this part.

ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in OMB Circular A-133, for fiscal years beginning before December 26, 2014, and as provided in 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014.

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- iii. In the event the Agency expends less than the threshold established by OMB Circular A-133, for fiscal years beginning before December 26, 2014, and established by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, in federal awards, the Agency is exempt from federal audit requirements for that fiscal year. However, the Agency 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 Agency's audit period for each applicable audit year. In the event the Agency expends less than the threshold established by OMB Circular A-133, for fiscal years beginning before December 26, 2014, and established by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, in federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of OMB Circular A-133, for fiscal years beginning before December 26, 2014, and in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, 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 Agency's resources obtained from other than federal entities).
- iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by OMB Circular A-133, for fiscal years beginning before December 26, 2014, and as required by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, 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 OMB Circular A-133, for fiscal years beginning before December 26, 2014, and for audits required by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, 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 OMB Circular A-133, for fiscal years beginning before December 26, 2014, and as required by 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014.
- v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency'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 Agency fails to have an audit conducted in accordance with OMB Circular A-133, for fiscal years beginning before December 26, 2014, and in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, for fiscal years beginning on or after December 26, 2014, 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 Agency 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 Agency shall permit the Department, or its designee, the CFO or State of Florida Auditor General access to Agency's records including financial statements, the independent auditor's working papers and project records as necessary.

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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 Agency 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 Agency 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:** The Department may, by written notice to the Agency, suspend any or all of the Agency's obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected or the Department may terminate this Agreement in whole or in part at any time the interest of the Department requires such termination.

- A. If the Department determines that the performance of the Agency is not satisfactory, the Department shall notify the Agency of the deficiency in writing with a requirement that the deficiency be corrected within thirty (30) days of such notice. Such notice shall provide reasonable specificity to the Agency of the deficiency that requires correction. If the deficiency is not corrected within such time period, the Department may either (1) immediately terminate the Agreement as set forth in paragraph 9.B. below, or (2) take whatever action is deemed appropriate by the Department to correct the deficiency. In the event the Department chooses to take action and not terminate the Agreement, the Agency shall, upon demand, promptly reimburse the Department for any and all costs and expenses incurred by the Department in correcting the deficiency.
- B. If the Department terminates the Agreement, the Department shall notify the Agency of such termination in writing, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- C. If the Agreement is terminated before the Project is completed, the Agency shall be paid only for the percentage of the Project satisfactorily performed for which costs can be substantiated. Such payment, however, shall not exceed the equivalent percentage of the contract price. All work in progress on Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.
- D. The Department reserves the right to unilaterally cancel this Agreement for refusal by the Agency or any contractor, sub-contractor or materials vendor 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 in conjunction with this Agreement unless the records are exempt.
- E. Upon receipt of any final termination or suspension notice under this paragraph 9., the Agency shall proceed promptly to carry out the actions required in such notice, which may include any or all of the following: (a) necessary action to terminate or suspend, as the case may be, Project activities and contracts and such other action as may be required or desirable to keep to a minimum the costs upon the basis of which the financing is to be computed; or (b) furnish a statement of the Project activities and contracts and other undertakings the cost of which are otherwise includable as Project costs. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and cost as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and estimate within a reasonable time. The

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closing out of federal financial participation in the Project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

10. Contracts of the Agency:

- A.** Except as otherwise authorized in writing by the Department, the Agency 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 Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency'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 Agency will involve the Department in the consultant selection process for all projects funded under this Agreement. In all cases, the Agency 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 Agency shall comply with, and require its consultants and contractors to comply with applicable federal law pertaining to the use of Federal-aid funds. The Agency shall comply with the provisions in the FHWA-1273 form as set forth in Exhibit "C", FHWA 1273 attached to and incorporated in this Agreement. The Agency shall include FHWA-1273 in all contracts with consultants and contractors performing work on the Project.

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 Agency 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 Agency 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 Agency 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 Agency 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: Agencies 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 Agency's person in responsible charge or designee as part of the Project closeout process. The Department provides the evaluation to the Agency 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 Agency 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 Agency developed the Project in accordance with applicable federal and state regulations, standards and procedures, with

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minimal District involvement/oversight. A rating of Above Satisfactory Performance means the Agency developed the Project in accordance with applicable federal and state regulations, standards and procedures, without District involvement/oversight.

- B. The District will determine which functions can be further delegated to Agencies that continuously earn Satisfactory and Above Satisfactory evaluations.

14. **Restrictions, Prohibitions, Controls, and Labor Provisions:** During the performance of this Agreement, the Agency agrees as follows, and agrees to require its contractors and subcontractors to include in each subcontract the following provisions:

- A. The Agency 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 Agency pursuant thereto. The Agency shall include the attached Exhibit "E", Title VI Assurances in all contracts 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 Agency will comply with all the requirements as imposed by the ADA, the regulations of the Federal government issued thereunder, and assurance by the Agency 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 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 Agency.
- F. Neither the Agency 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 Agency 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 Agency, the Agency, 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 Agency or the locality relating to such contract, subcontract or arrangement. The Agency 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 Agency 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."

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The provisions of this paragraph shall not be applicable to any agreement between the Agency 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 Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors, or consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor shall indemnify and hold harmless the Agency, the State of Florida, Department of Transportation, and its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor and persons employed or utilized by the contractor in the performance of this Contract."

This indemnification shall survive the termination of this Contract. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Agency's sovereign immunity.

To the fullest extent permitted by law, the Agency's consultant shall indemnify and hold harmless the Agency, the State of Florida, Department of Transportation, and its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the consultant and persons employed or utilized by the consultant in the performance of this Contract.

This indemnification shall survive the termination of this Contract. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Agency's sovereign immunity."

- B. The Agency 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 Agency 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 Agency 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. Miscellaneous Provisions:

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- A. The Agency 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 Agency will be responsible for securing any applicable permits. The Agency 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. 1261-1387).
- 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 Agency 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 Agency 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 Agency 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 Agency 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 Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.
- G. In the event that this Agreement involves constructing and equipping of facilities, the Agency 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 Agency 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 Agency 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 Agency 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 Agency 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 Agency's facility, adequate title is in the Agency's name, and the Project is accepted by the Agency as suitable for the intended purpose.
- J. The Agency agrees that no federally-appropriated funds have been paid, or will be paid by or on behalf of the Agency, 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 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

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agreement. If any funds other than federally-appropriated funds have been paid by the Agency 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 Agency 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 Agency may not permit the Engineer of Record to perform Construction, Engineering and Inspection services on the Project.
- L. The Agency agrees to maintain any project not on the State Highway System constructed under this Agreement. If the Agency constructs any improvement on Department right-of-way, the Agency will will not maintain the improvements made for their useful life.
- M. The Agency 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 Agency and FHWA requires reimbursement of the funds, the Agency will be responsible for repayment to the Department of all funds awarded under the terms of this Agreement.
- N. The Agency:
- i. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by Agency during the term of the contract; and
 - ii. shall 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.
- O. 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.
- P. 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.
- Q. If the Project is procured pursuant to Chapter 255 for construction services and at the time of the competitive solicitation for the Project 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.
- R. Exhibits
- i. Exhibit "A", Project Description and Responsibilities, is attached and incorporated into this Agreement.
 - ii. Exhibit "B", Schedule of Funding, is attached and incorporated into this Agreement.
 - iii. If this Project includes Phase 58 (construction) activities, then Exhibit "C", FHWA FORM 1273, is attached and incorporated into this Agreement.

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EXHIBIT "C"**COMPOSITE – C-14**

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- iv. An Alternative Pay Method is used on this Project. If an alternative Pay Method is used on this Project, then Exhibit "D", Alternative Pay Method, is attached and incorporated into this Agreement.
- v. Exhibit "E", Title VI Assurances is attached and incorporated into this Agreement.
- vi. Exhibit "F", the Agency Resolution authorizing entry into this Agreement, is attached and incorporated into this Agreement.
- vii. State Funds are used on this Project. If State Funds are used on this Project, then Exhibit "G", State Funds Addendum, is attached and incorporated into this Agreement.
- viii. This Project is located off the State Highway System and includes funding for landscaping. If this Project is located off the State Highway System and includes funding for landscaping, then Exhibit "L" is attached and incorporated into this Agreement.
- ix. This Project utilizes Advance Project Reimbursement. If this Project utilizes Advance Project Reimbursement, then Exhibit "R" is attached and incorporated into this Agreement.
- x. This Project includes funding for a roadway lighting system. If the Project includes funding for roadway lighting system, Exhibit "RL" is attached and incorporated into this Agreement.
- xi. 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 "T" is attached and incorporated into this Agreement.
- xii. Exhibit "1", Federal Financial Assistance (Single Audit Act) is attached and incorporated into this Agreement.
- xiii. State Funds are used on this Project. If State Funds are used on this Project, then Exhibit "2", State Financial Assistance (Florida Single Audit Act), is attached and incorporated into this Agreement.

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EXHIBIT "C"

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

685-016-40
PROGRAM MANAGEMENT
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IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written above.

AGENCY Nassau County

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: [Signature]
Name: Daniel A. Creeper
Title: Chairman

By: [Signature]
Name: Greg Evans
Title: District 2 Secretary

Attest: [Signature]
Title: John A. Crawford
Ex Officio Clerk

Legal Review:

[Signature] 4-24-18

MBS
08-30-17

Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

EXHIBIT "C"

COMPOSITE – C-16

CM 2455

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
 LOCAL AGENCY PROGRAM AGREEMENT

528-018-40
 PROGRAM MANAGEMENT
 1/18
 Page 1 of 1

EXHIBIT 1

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://www.cfda.gov/>
 Award Amount: \$4,151,088.00
 Awarding Agency: Florida Department of Transportation
 Award is for R&D: No
 Indirect Cost Rate: N/A

FEDERAL RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles & Audit Requirements for Federal Awards
<http://www.ecfr.gov/>

OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*
http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf

OMB Circular A-133 Compliance Supplement 2014
http://www.whitehouse.gov/omb/circulars/a133_compliance_supplement_2014

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

OMB Circular A-87 (Revised), *Cost Principles for State, Local and Indian Tribal Governments*
http://www.whitehouse.gov/omb/circulars_a087_2004/

OMB Circular A-102, *Grants and Cooperative Agreements with State and Local Governments*
http://www.whitehouse.gov/omb/circulars_a102/

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>

Map-21 – Moving Ahead for Progress in the 21st Century, Public Law 112-141
<http://www.gpo.gov/fdsys/pkg/PLAW-112pub141/pdf/PLAW-112pub141.pdf>

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

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

Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

EXHIBIT "C"

COMPOSITE – C-17

CM 2455

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

325-910-80
 PROGRAM MANAGEMENT
 OGC - 18115
 Page 1 of 1

EXHIBIT "A"

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 433987-1-58-01 & 433987-1-88-02

This exhibit forms an integral part of the Local Agency Program Agreement between the State of Florida, Department of Transportation and

Nassau County

PROJECT LOCATION:

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

PROJECT LENGTH AND MILE POST LIMITS: .928 Miles

PROJECT DESCRIPTION: This project consist of construction and project management of construction inspection of bike path/trail on Bailey & Simons Road from Sports Complex to Fletcher Avenue.

SPECIAL CONSIDERATIONS BY AGENCY:

The audit report(s) required in the Agreement shall include a Schedule of Project Assistance that will reflect the Department's contract number, the Financial Project Number (FPN), the Federal Authorization Number (FAN), where applicable, the amount of state funding action (receipt and disbursement of funds), any federal or local funding action, and the funding action from any other source with respect to the project.

The Agency 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 Agency is required to use the latest version of the FDOT specification for road and bridge available at the time of final RFP. The Agency and the Department will determine the appropriate level of design reviews and construction inspections to be provided by Department based upon the complexity of the project and the risk of non-compliance. The Agency will work closely with the Department to ensure that the applicable federal and state requirements are met.

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

- a) Study to be completed by N/A
- b) Design to be completed by N/A
- c) Right-of-Way requirements identified and provided to the Department by N/A
- d) Right-of-Way to be certified by N/A
- e) Construction contract to be let by 4/1/2018
- f) Construction to be completed by 6/30/2019

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

SPECIAL CONSIDERATIONS BY DEPARTMENT: Nassau County will provide project management of a Consultant Contract for construction inspection services that has been procured by the Department.

Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

EXHIBIT "C"

COMPOSITE - C-18

CM 2455

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

525-010-406
 PROGRAM MANAGEMENT
 QDC - 08/15
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EXHIBIT "B"

SCHEDULE OF FUNDING

AGENCY NAME & BILLING ADDRESS Nassau County 96181 Nassau Place Yulee, FL 32097	FPN: 433987-1-58-01 & 433987-1-68-02
--	---

TYPE OF WORK By Fiscal Year	FUNDING			
	(1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	(4) FEDERAL FUNDS
Planning-18 FY: FY: FY:	_____ _____ _____	_____ _____ _____	_____ _____ _____	_____ _____ _____
Total Planning Cost				
Project Development & Environment (PD&E) - 28 FY: FY: FY:	_____ _____ _____	_____ _____ _____	_____ _____ _____	_____ _____ _____
Total PD&E Cost				
Design - 38 FY: FY: FY:	_____ _____ _____	_____ _____ _____	_____ _____ _____	_____ _____ _____
Total Design Cost				
Right-of-Way - 48 FY: FY: FY:	_____ _____ _____	_____ _____ _____	_____ _____ _____	_____ _____ _____
Total Right-of-Way Cost				
Construction-58 FY: 2017-2018 FY: FY:	<u>\$1,127,351.00</u> _____ _____	_____ _____ _____	_____ _____ _____	<u>\$1,127,351.00</u> _____ _____
Total Construction Cost				
Construction Engineering and Inspection (CEI) - 68 FY: 2017-2018 FY: FY:	<u>\$23,734.00</u> _____ _____	_____ _____ _____	_____ _____ _____	<u>\$23,734.00</u> _____ _____
Total CEI Cost				
Operations - 88 FY: FY: FY:	_____ _____ _____	_____ _____ _____	_____ _____ _____	_____ _____ _____
Total Operations Costs				
TOTAL COST OF THE PROJECT	\$1,151,085.00			\$1,151,085.00

The Department's fiscal year begins on July 1. For this project, funds are not projected to be available until after the 1st of July of each fiscal year. The Department will notify the Agency, in writing, when funds are available.

Financial Project Id. No. 433987-1-58-01
Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
Off System Agency Construct & Maintain

EXHIBIT "C"

COMPOSITE – C-19

CM 2455

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
LOCAL AGENCY PROGRAM AGREEMENT

595-010-400
PROGRAM MANAGEMENT
OGC- 08/16
Page 1 of 1

EXHIBIT "C"

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.

Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

EXHIBIT "C"

COMPOSITE - C-20

CM 2455

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
 LOCAL AGENCY PROGRAM AGREEMENT

525-010-40E
 PROGRAM MANAGEMENT
 OGC-04/15
 Page 1 of 2

Exhibit "E"

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*

Financial Project Id. No. 433987-1-58-01
 Federal Id. No. D217-074-B
 Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
 Off System Agency Construct & Maintain

EXHIBIT "C" COMPOSITE - C-21

CM 2455

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
 LOCAL AGENCY PROGRAM AGREEMENT

525-018-406
 PROGRAM MANAGEMENT
 DGG-CR16
 Page 2 of 2

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. § 4801), (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 13186, 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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Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
Off System Agency Construct & Maintain

EXHIBIT "D"

COMPOSITE - D-1

RESOLUTION NO. 2017- 121

**A RESOLUTION AUTHORIZING THE EXECUTION OF THE AGREEMENT
BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND
THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA**

WHEREAS, the Public Works Director has recommended that the Board of County Commissioners of Nassau County, Florida, execute a Local Agency Program Agreement between the State of Florida Department of Transportation and Nassau County, Florida regarding the construction and management of the bike path/trail on Bailey and Simmons Trail from the Sports Complex to Fletcher Avenue in Nassau County, Florida (Financial Project ID No. 433987-1-58-01 & 433987-1-68-02).

NOW, THEREFORE, BE IT RESOLVED, this 28th day of August, 2017, by the Board of County Commissioners of Nassau County, Florida as follows:



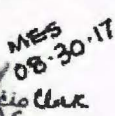
1. The Local Agency Program Agreement between the State of Florida Department of Transportation and Nassau County is hereby approved and the Chairman is authorized to execute said agreement.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA


Daniel B. Leeper, Chairman

Attest as to Chairman's signature:

Approved as to form by the
Nassau County Attorney:


Crawford
Officio Clerk

CERTIFIED TRUE COPY
MES 08-30-17
By: 
Officio Clerk
of the Board of County Commissioners


Michael S. Mullin

Financial Project Id. No. 433987-1-58-01
Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
Off System Agency Construct & Maintain

EXHIBIT "D"
COMPOSITE - D-2

Exhibit C

Resolution 2018-49
Exhibit "A"
Contract No. CM2535

**INTERLOCAL AGREEMENT
BETWEEN
NASSAU COUNTY, FLORIDA
AND THE
CITY OF FERNANDINA BEACH, FLORIDA
FOR THE SIMMONS ROAD MULTI-USE TRAIL**

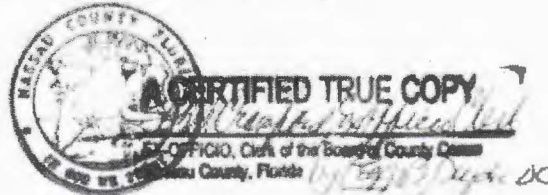
THIS INTERLOCAL AGREEMENT entered into this 9th day of April, 2018 by and between Nassau County, Florida, a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter the "COUNTY", and the City of Fernandina Beach, a municipal corporation organized under the laws of the State of Florida, hereinafter the "CITY", for the responsibilities for management of the Simmons Road Multi-Use Trail, hereinafter the "Project".

WHEREAS, Section 163.01, Florida Statutes, provides that local governments may enter into interlocal agreements to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage; and

WHEREAS, the State Comprehensive Plan requires local governments to protect the substantial investment in public facilities that already exist and to plan for and finance new facilities in a timely, orderly, and efficient manner; and

WHEREAS, the Project is consistent with and further implements certain Goals, Objectives and Policies as established in the Nassau County 2030 Comprehensive Plan, specifically Objective T.04; Policies T.04.01, T.04.02, T.04.03; Policy ROS.01.13; Objective ROS.02; Policies ROS.02.01 and ROS.02.02; and

WHEREAS, the Project is consistent with and further implements certain Goals, Objectives and Policies as established in the City of Fernandina Beach Comprehensive Plan, specifically Objective 2.10; Policies 2.10.14, 2.10.17, 2.10.18; and Policy 1.06.09; and



Financial Project Id. No. 433987-1-58-01
Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
Off System Agency Construct & Maintain

EXHIBIT "D"
COMPOSITE – D-3

Contract No. CM2335

WHEREAS, the intent of the Project is to construct a shared-use path which will benefit the residents of the CITY and the COUNTY; and

WHEREAS, the Project will commence at the western extent of the travel lanes of South Fletcher Avenue (A1A) at the intersection with Simmons Road and continue west within the right of way of Simmons Road to its intersection with Bailey Road; the trail will continue south from the intersection of Simmons Road and Bailey Road within the right of way of Bailey Road to the Ybor Alvarez Sports Complex and the entrance to Crane Island; and

WHEREAS, the Project is currently scheduled for funding in Fiscal Year 2019 by Federal Alternative Transportation Project funds through the Florida Department of Transportation in the amount of \$1,151,085.00; and

WHEREAS, the COUNTY and CITY have entered into this Agreement to further define responsibilities of ownership and maintenance of the Project.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants and other good and valuable considerations contained herein to be kept, the parties do hereby agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and incorporated herein by reference.
2. **CITY Obligations.**
 - a. The City shall cooperate with the County throughout the length of the Project for the Project Scope, Project Plans Review, meetings with City Council, officials, board, and citizens; and any other issues which may arise within the City limits.
 - b. The City will designate a City Project Manager to be the liaison to the County throughout the construction, engineering and inspection process of the Project.

Financial Project Id. No. 433987-1-58-01
Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
Off System Agency Construct & Maintain

EXHIBIT "D"
COMPOSITE – D-4

Contract No. CM2535

- c. The City Project Manager will provide support to the County during the Project, including assisting the County to ensure that all City requirements are encompassed in the contract between the County and the selected Engineering Consultant.
- d. The City shall abide by all terms applicable to the City which are contained within the LAP Agreement and shall assist the County with complying with the terms of the LAP Agreement.
- e. The City hereby irrevocably covenants to budget and appropriate from non-ad valorem funds the funding necessary to appropriately maintain those portions of the Project within the City's jurisdiction, which is that area from Beach Access No. 30 west along the Simmons Road corridor, to the center line of Egan's Creek and the segment within the Simmons Road right-of-way between the western boundary of the 14th Street right-of-way and the eastern boundary of the Bailey Road right-of-way. This provision includes the maintenance of any trail amenities established along the trail within the stipulated segments including, but not limited to, benches, kiosks, viewing platforms, boardwalks, bicycle racks, pergolas, landscaping or other similar items and those facilities within the Ybor Alvarez Sports Complex and public Beach Access No. 30.
- f. For the trail segment laying within the unopened ROW of Simmons Road between Bailey Road and Amelia Road, the City's maintenance responsibility is limited to the width of the trail (paved area) plus two feet on either side of the trail and any related trail amenities and related infrastructure, i.e cross drains, boardwalks, etc.

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Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
Off System Agency Construct & Maintain

EXHIBIT "D"

COMPOSITE – D-5

Contract No. CM2535

3. COUNTY Obligations.

a. The County agrees to enter into a Local Agency Program Agreement with the Florida Department of Transportation (FDOT) to obtain funding for this Project. If FDOT elects not to enter into a Local Agency Program Agreement with the County for this Project, this Interlocal Agreement will be considered terminated. In such event, the parties agree that the County will not be considered in breach of this Agreement.

b. The County hereby irrevocably covenants to budget and appropriate from non-ad valorem funds the funding necessary to appropriately maintain those portions of the Project within the County's jurisdiction, which is that area from the center line of Egan's Creek to the western boundary of the 14th Street right-of-way and the segment located within the right-of-way of Bailey Road from the northern boundary of the Simmons Road right-of-way to the terminus of the Bailey Road right-of-way at the entrance to the Ybor Alvarez Sports Complex including any trail amenities located within the stipulated segments including, but not limited to, benches, kiosks, viewing platforms, boardwalks, bicycle racks, pergolas, landscaping or other similar items.

c. The County shall be responsible for mowing, debris removal, ditch maintenance of the trail.

4. Severability. If any section, clause, or provision of this Agreement is held invalid, the remainder of this Agreement shall be construed as not having contained said section, clause, or provision, and shall not be affected by said holding.

5. Modification. Unless otherwise specified herein, no modification, amendment, or alteration of the terms or conditions contained herein shall be effective unless contained

Financial Project Id. No. 433987-1-58-01
Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
Off System Agency Construct & Maintain

EXHIBIT "D"
COMPOSITE - D-6

Contract No. CM2535

in a written document executed by the parties hereto, with the same formality and of equal dignity herewith.

6. Notices.

a. All notices, demands or other writings required to be given or made or sent in this Agreement, or which may be given or made or sent, by either party to the other, shall be deemed to have been fully given or made or sent when in writing and addressed as follows:

COUNTY
County Manager
96135 Nassau Place, Suite 1
Yulee, Florida 32097

CITY
City Manager
204 Ash Street
Fernandina Beach, Florida 32034

CC to:

Public Works Director
96161 Nassau Place
Yulee, Florida 32097

Planning & Economic Opportunity Director
96161 Nassau Place
Yulee, Florida 32097

- 7. No Agency. Nothing contained herein shall be construed to constitute either of the parties, nor any of its agents or employees, as the agent of the other.
- 8. Authority. Each of the parties represents to the other that the execution of this agreement has been duly and properly authorized by the governing bodies of each of the parties, and each has full authority to execute the same through its representative whose signatures appear below.
- 9. Entire Agreement. This document embodies the entire agreement between the parties. It may not be modified or terminated except as provided herein. This Agreement may not be assigned except with the written consent of the other party. This Agreement is made

Financial Project Id. No. 433987-1-58-01
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EXHIBIT "D"

COMPOSITE - D-7

Contract No. CM2535


under, and in all respects shall be interpreted, construed and governed by and in accordance with, the laws of the State of Florida. Venue for any legal action resulting from this Agreement shall lie in Nassau County, Florida.

10. Effective Date. This Agreement shall become effective on the date on which this Agreement is executed by the last party hereto.

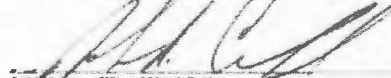
11. Filing. This Interlocal Agreement shall be filed with the Clerk of the Circuit Court of Nassau County, Florida, prior to its effective date, in accordance with Florida Statutes, 163.01(11).

IN WITNESS WHEREOF, the parties hereto have made and executed this Interlocal Agreement on the respective dates under each signature: The County, through its Board of County Commissioners, signing by and through its Chairman, and by the City of Fernandina Beach, through its City Commission.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA


Pat Edwards
Its: Chairman

ATTEST AS TO CHAIRMAN'S SIGNATURE:


JOHN A. CRAWFORD
Its: Ex-Officio Clerk

MES
04-10-18

APPROVED AS TO FORM BY THE NASSAU COUNTY ATTORNEY:


MICHAEL S. MULLIN

(SIGNATURES CONTINUE ON THE NEXT PAGE)

Financial Project Id. No. 433987-1-58-01
Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
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EXHIBIT "D"
COMPOSITE - D-8

Contract No. CM2535

CITY OF FERNANDINA BEACH


JOHN A. MILLER
Its: Commissioner-Mayor

ATTEST:


CAROLINE BEST
Its: City Clerk

APPROVED AS TO FORM AND LEGALITY:



TAMMI E. BACH
Its: City Attorney

Financial Project Id. No. 433987-1-58-01
Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
Off System Agency Construct & Maintain

EXHIBIT "D"

COMPOSITE - D-9

RESOLUTION 2013-46

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA ENDORSING THE INSTALLATION OF AN UP TO 12 FOOT WIDE AND 2.2 MILE LONG MULTI-USE PATH ALONG SIMMONS ROAD STARTING ON SOUTH FLETCHER AVENUE AND EXTENDING WEST TO BAILEY ROAD AND THEN CONTINUING SOUTH TO THE YBOR ALVAREZ SOFTBALL COMPLEX; PROVIDING FOR EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the State of Florida Department of Transportation (FDOT) proposes to fund and install an up to 12-foot wide multi-use path along Simmons Road starting on South Fletcher Avenue and extending west to Bailey Road and then continuing south to the Ybor Alvarez softball complex using Transportation Enhancement dollars in fiscal year 2019; and

WHEREAS, the City would permit the use of City owned properties located at the south side of 1st Avenue and Simmons Road for use as a trailhead and allow construction of the trail to take place on these properties and permit installation of signage and necessary trail components on adjoining City owned properties along the proposed multi-use trail; and

WHEREAS, the FDOT has requested the City commit to entering into a Memorandum of Agreement to formalize the obligations of both parties to accomplish the project's installation and ongoing maintenance; and

WHEREAS, the City of Fernandina Beach finds that the multi-use path project is in the best interest of the City as an alternative east to west cross island route to the benefit of residents and visitors alike; and

WHEREAS, the multi-use path is consistent with the League of American Bicyclists recommendations as received in the City's 2011 honorable mention as a Bicycle Friendly Community and would enhance the City's attempt to seek an upgraded status in its 2013 application; and

WHEREAS, the multi-use path is consistent with the City's Comprehensive Plan Objective 2.10 which supports bicycle, pedestrian and multi-use paths network, specifically Policies 2.10.14, 2.10.17, and 2.10.18.


NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA that:

SECTION 1. The City Commission hereby endorses the proposed project identified on "Exhibit A" and will partner with Nassau County on construction and maintenance of the trail sections located on City property.

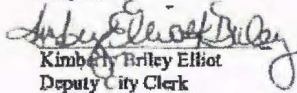
SECTION 2. This Resolution shall become effective immediately upon adoption.

SECTION 3. Adopted this 2nd day of April, 2013.

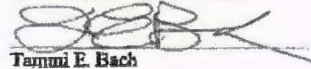
CITY OF FERNANDINA BEACH


Sarah L. Pelican
Commissioner - Mayor

ATTEST:


Kimberly Briley Elliot
Deputy City Clerk

APPROVED AS TO FORM:


Tammi E. Bach
City Attorney

Financial Project Id. No. 433987-1-58-01
Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
Off System Agency Construct & Maintain

EXHIBIT "D"
COMPOSITE – D-10

RESOLUTION 2018-49

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS AND THE CITY OF FERNANDINA BEACH FOR SIMMONS ROAD (RIVER-TO-SEA) MULTI-USE TRAIL MAINTENANCE; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in April, 2013, the Nassau County Board of County Commissioners and the City submitted a joint application to fund the Simmons Road (River-to-Sea) Multi-use Trail via Resolution 2013-46; and

WHEREAS, the trail project was selected by the North Florida Transportation Planning Organization and funded by the Florida Department of Transportation at an estimated cost of \$1,720,000 with funds allocated by the Federal Highway Administration; and

WHEREAS, the trail consists of an up to 10-foot wide multi-use path along Simmons Road starting on South Fletcher Avenue and extending west to Bailey Road then continuing south to Ybor Alvarez softball complex within public right-of-way; and

WHEREAS, the project design began in early 2017 and construction is scheduled for the Spring/Summer of 2018; and

WHEREAS, a condition for receiving funds is that the local jurisdiction agrees to maintain improvements upon completion; and

WHEREAS, Resolution 2013-46 states that the City commits to entering into an agreement to accomplish the project installation and on-going maintenance; and

WHEREAS, the multiuse path is consistent with the City's Comprehensive Plan Objective 2.10 which supports bicycle and pedestrian, and multi-use path networks, specifically as referenced in policies 2.10.14, 2.10.17, and 2.10.18.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, THAT:

SECTION 1. INTERLOCAL AGREEMENT– The City Commission hereby directs the City Manager to execute an Interlocal Agreement with the Nassau County Board of County Commissioners committing to the ongoing maintenance of the Simmons Road (River-to-Sea) Trail.

SECTION 2. FILING – This Interlocal Agreement, attached hereto as Exhibit "A", shall be filed with the Clerk of the Circuit Court of Nassau City, Florida, prior to its effective date in accordance with Florida Statutes, 163.01 Florida Interlocal Cooperation Act of 1969.

ADOPTED this 3rd day of April, 2018.

Financial Project Id. No. 433987-1-58-01
Federal Id. No. D217-074-B
Project Description Bailey & Simmons Rd from Sports Complex to Fletcher Avenue
Off System Agency Construct & Maintain

EXHIBIT "D"
COMPOSITE - D-11

CITY OF FERNANDINA BEACH

137

JOHN A. MILLER
Commissioner - Mayor

ATTEST:

APPROVED AS TO FORM AND
LEGALITY:

Caroline Best

CAROLINE BEST
City Clerk

T.E.B.

TAMMI E. BACH
City Attorney