

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (“MOU”), effective as of the date last signed below (the “Effective Date”), is entered into between the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA (“BOT”), whose mailing address is Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, MS#100, Tallahassee, Florida 32399 and the CITY OF FORT LAUDERDALE (“CITY”), a municipal corporation of the State of Florida, whose mailing address is 100 North Andrews Avenue, Fort Lauderdale, Florida 33301.

RECITALS

WHEREAS, the CITY is currently pursuing its objective to further develop its street infrastructure grid which is in need of an additional roadway as significant development and enhancements have occurred in the general vicinity surrounding the strip of land located east of NW 4th Avenue, west of NW 3rd Avenue, and north of Access Road (formerly NW 1st Street) (“Project Site”) (draft shown in Exhibit “A”); and

WHEREAS, the CITY’s development plans will require crossing state-owned uplands; and

WHEREAS, BOT owns the lands and Florida Department of Management Services manages the state-owned uplands in the Project Site; and

WHEREAS, Florida Department of Management Services as stated in their letter dated August 17, 2017 consents to a perpetual public easement in the Project Site conditioned on the understanding in this MOU; and

WHEREAS, CITY has submitted an Application for the Use of State Owned Uplands (see Exhibit “B”); and

WHEREAS, the CITY must obtain a perpetual public easement from BOT to facilitate transit oriented development; and

WHEREAS, the easement area will be for vehicular transportation and pedestrian purposes open to the public; and

WHEREAS, the CITY and BOT have reviewed the impacts that may be created by the proposed easement and have formulated and agreed to a certain proprietary mitigation project identified below for the impacts to state lands; and

WHEREAS, BOT and the CITY desire to enter into this MOU for the purposes of setting forth the responsibilities of the parties hereto regarding the proposed easement.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the CITY acknowledges and agrees as follows:

1. The Recitals are true and correct and are incorporated herein by reference.
2. In exchange for a perpetual public easement and given that the Project Site will impact state-owned uplands, the CITY shall complete the following proprietary mitigation project:

a. **Alternative Parking**: The CITY agrees to construct and provide BOT with alternative parking on the state-owned lands (draft shown in Exhibits “A” and “C”). The cost incurred by the CITY for work on state-owned uplands outside of the proposed easement is estimated at \$109,500.00. The scope of work for the project will consist of:

- Clearing, Grubbing, Grading
- Storm Drainage System for Expansion Lot
- New Paving, Striping, Wheel Stops
- Fencing and Gate Relocation and Repairs
- Supplemental Lighting at West Lot
- Design Costs
- Landscaping in accordance with City’s code requirements
- Permit Fees

The State will receive the following benefits from the proprietary mitigation project as proposed:

- New roadway and storm drainage system to serve state offices
- Reconfiguration of gated entry to existing main parking lot
- New expansion lot to replace lost spaces
- New lot to include pedestrian scale lighting to match existing lot
- Restriping and reconfiguration of west lot to gain four additional spaces
- Additional pedestrian scale lighting on west lot
- Rehabilitation and update of existing gate and control key pad for west lot

b. **Easement Costs**: The CITY agrees to construct and maintain the perpetual public easement from BOT. The cost incurred by the CITY for roadwork within the proposed easement is estimated at \$115,922.50. Said roadwork will complete the roadway on NW 1st Avenue. The scope of work for the project will consist of:

- Contractor Costs with Fees
- OFCI Roadway Light Fixtures
- Design Costs
- Permit Fees

3. The CITY is obligated to undertake the commitments set forth in this MOU upon execution of this MOU and approval from BOT. The CITY will provide BOT with concept designs and development specifics for final approval prior to commencing work on the same.
4. The CITY will provide BOT with sixteen (16) reconfigured parking spaces in the adjacent existing parking garage on a temporary basis, so that construction of the proposed easement and roadway may commence immediately (draft shown in Exhibit "A").
5. The CITY will complete the Proprietary Mitigation Project in accordance with permitting process timelines.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, BOT acknowledges and agrees as follows:

6. The Recitals are true and correct and are incorporated herein by reference.
7. BOT will grant the CITY with a perpetual public roadway easement which shall authorize the construction of the proposed easement in its entirety.
8. If BOT grants the requested easement and concurs with the Proprietary Mitigation Project, the CITY will provide BOT with sixteen (16) reconfigured parking spaces in the adjacent existing parking garage on a temporary basis, so that construction of the proposed easement and roadway may commence immediately. The CITY will commence and complete the Proprietary Mitigation Project in accordance with permitting timelines. If BOT does not grant the easement, the CITY will not be required to complete the Proprietary Mitigation Project.
9. The easements granted by BOT will comply with all applicable statutory and administrative rule requirements and contain those general and special easement conditions that are approved by the BOT and subject to the approval of the City Commission and the City Attorney.
10. The easement shall be granted in perpetuity providing that the CITY maintains its public use.
11. The CITY and BOT find it in the best interest of the Project Site to permit the contemplated perpetual easement.
12. BOT has reviewed the CITY's request and finds that this proposed easement is consistent with the terms of the CITY's objective for the further development of its street infrastructure grid.
13. This MOU shall be construed and interpreted according to the laws of the State of Florida. The invalidation of one or more of the terms of this MOU shall not affect the validity of the remaining terms.

14. The Parties expressly acknowledge that CITY's maintenance of the perpetual public easement as set forth in this MOU is intended to primarily and directly benefit the Florida Department of Management Services, as lessee of the Project Site pursuant to state land lease 2985, and as such the Florida Department of Management Services shall have the right of enforcement of the maintenance provisions of the MOU as an intended third-party beneficiary, up to and including the right to bring suit in state circuit court for specific performance. The right of enforcement shall not include termination of the easement.

15. All terms and restrictions contained in the Declaration remain in full force and effect.

16. All notices required under this MOU shall be in writing and delivered either by hand delivery or first class, certified mail, return receipt requested to the addresses specified below. Any such notice shall be deemed received on the state of delivery if by personal delivery or upon actual receipt if sent by registered mail.

BOT: Florida Department of Environmental Protection
Division of State Lands
3900 Commonwealth Blvd., MS #100
Tallahassee, Florida 32399

CITY: Lee R. Feldman, City Manager
City of Fort Lauderdale
100 North Andrews Avenue
Ft. Lauderdale, Florida 33301-1016

With a copy to: Cynthia A. Everett, City Attorney
City of Fort Lauderdale
100 North Andrews Avenue,
Ft. Lauderdale, Florida 33301-1016

17. Any proposed modifications to this MOU must be reduced to writing, and signed by both Parties prior to becoming effective.

IN WITNESS WHEREOF, the parties hereto have duly executed this Memorandum of Understanding.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

WITNESSES:

CITY OF FORT LAUDERDALE, a
municipal corporation of the State of
Florida.

Print Name

By _____
JOHN P. "Jack" SEILER, Mayor

Print Name
(SEAL)

By _____
LEE R. FELDMAN, City Manager

ATTEST:

Approved as to form:
CYNTHIA A. EVERETT, City Attorney

JEFFREY A. MODARELLI, City Clerk

TANIA MARIE AMAR
Assistant City Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____ day of _____, 2017,
by JOHN P. "JACK" SEILER, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation
of Florida.
(SEAL)

Signature: Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

Personally Known

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____ day of _____,
2017, by LEE R. FELDMAN, City Manager of the CITY OF FORT LAUDERDALE, a municipal
corporation of Florida.
(SEAL)

Signature: Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

Personally Known

Witnesses:

**BOARD OF TRUSTEES OF THE
INTERNAL IMPROVEMENT TRUST
FUND OF THE STATE OF FLORIDA**

Print Name:_____

Print Name:_____

By:_____
Cheryl C. McCall, Chief, Bureau of Public
Land Administration
Division of State Lands, State of Florida
Department of Environmental Protection, as
agent for and on behalf of the Board of
Trustees of the Internal Improvement Trust
Fund of the State of Florida

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Cheryl C. McCall, Chief, Bureau of Public Land Administration, Division of State Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. She is personally known to me.

Notary Public
Print Name:_____
Commission No._____
My Commission Expires:_____

EXHIBIT "A"

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING WITHIN BLOCK 10, TOWN OF FORT LAUDERDALE, AS RECORDED IN PLAT BOOK B, PAGE 40, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 10;
THENCE SOUTH 02°08'22" EAST, ALONG THE WEST LINE OF BLOCK 10, A DISTANCE OF 262.29 FEET TO THE POINT OF BEGINNING;
THENCE NORTH 87°57'13" EAST, A DISTANCE OF 152.15 FEET;
THENCE SOUTH 02°06'44" EAST, A DISTANCE OF 37.97 FEET;
THENCE NORTH 87°57'13" EAST, A DISTANCE OF 201.80 FEET, TO A POINT ON THE WEST LINE OF BLOCK 11;
THENCE SOUTH 02°06'18" EAST, ALONG THE WEST LINE OF BLOCK 11, A DISTANCE OF 12.00 FEET;
THENCE SOUTH 87°57'13" WEST, A DISTANCE OF 353.93 FEET, TO A POINT ON THE WEST LINE OF BLOCK 10;
THENCE NORTH 02°08'22" WEST, ALONG THE WEST LINE OF BLOCK 10, A DISTANCE OF 49.97 FEET, TO THE POINT OF BEGINNING

CONTAINS 10023 SQUARE FEET, 0.230 ACRES MORE OR LESS.

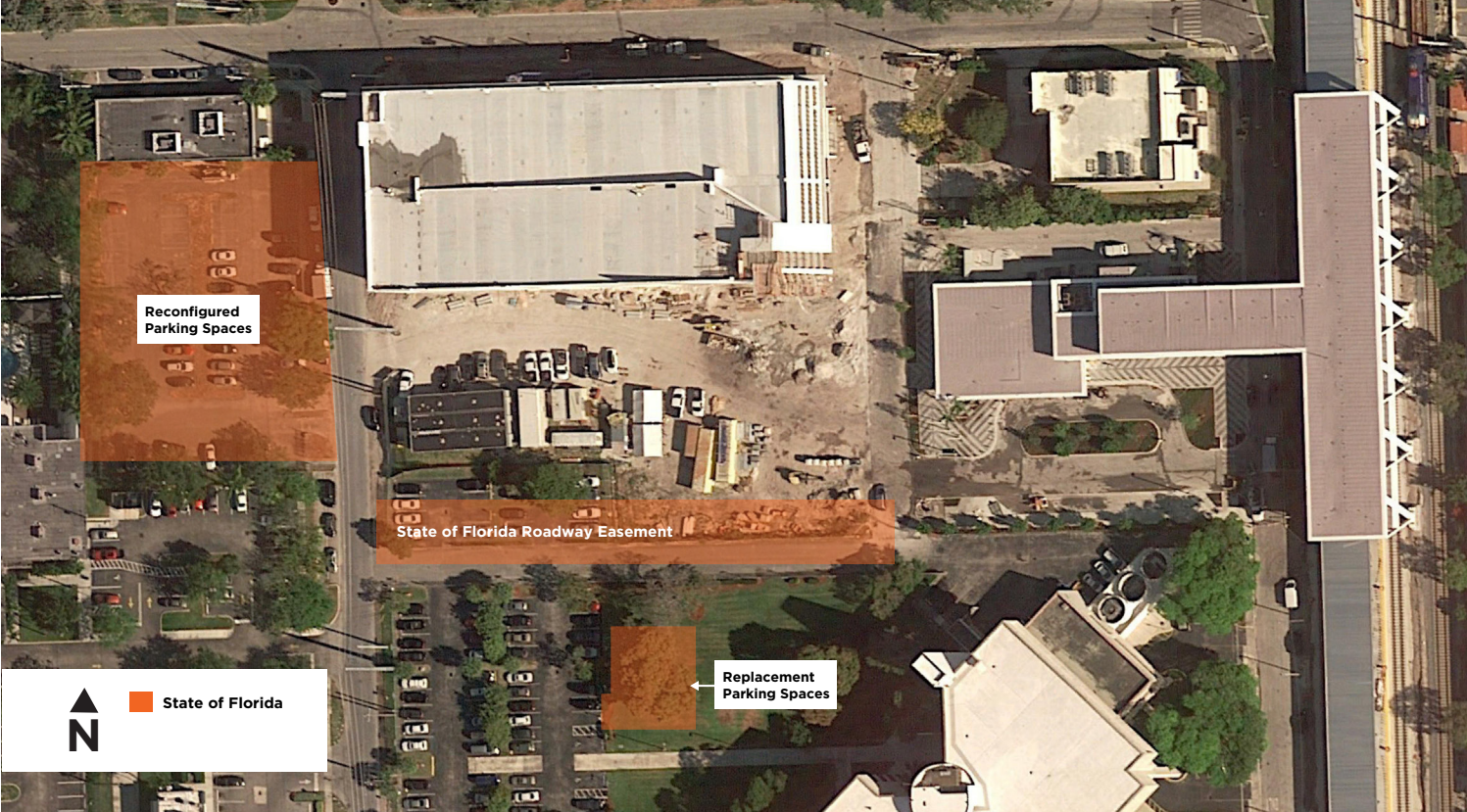
SAID LANDS LYING AND SITUATE IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

BSM APPROVED

By: SK

Date: August 25, 2017

ROAD EASEMENT



Reconfigured
Parking Spaces

State of Florida Roadway Easement

Replacement
Parking Spaces



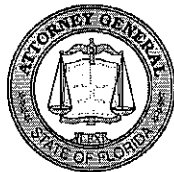
State of Florida

EXHIBIT "B"

APPLICATION FOR THE USE OF STATE OWNED UPLANDS

BOARD OF TRUSTEES
OF THE INTERNAL IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Instructions and general guidance for completing this application:

**Please be advised that the information requested herein, is to provide DEP the necessary information to complete the requested authorization.*

This application is comprised of two (2) separate sections that are outlined and described as follows:

Section 1 – General Information

This section is used to indicate what type of upland authorization is requested. It is also used for contact information relative to the applicant and/or their representative. In addition, some general property information should be entered.

Section 2 – Other Specific Information

This part requests specific information relative to the type of upland authorization requested.

What Section(s) or Part(s) must be completed?

The table below depicts the applicable section(s) or part(s) that must be completed before submitting the application:

Type of Authorization Requested	Section(s) or Part(s) to be completed					
	Section 1	Section 2				
		Part A	Part B	Part C	Part D	Part E
Lease	✓	✓				
Sublease	✓		✓			
Easement	✓			✓		
Use Agreement	✓				✓	
Conveyance	✓					✓
Other*	✓					

**This includes types such as Letter of Consent, Estoppel, Affidavit, etc.*

PRIOR TO COMPLETING THIS APPLICATION, PLEASE BE ADVISED THAT:

Any application to use state land which would result in significant adverse impact to state land or associated resources shall not be approved unless the applicant demonstrates there is no other alternative and proposes compensation or mitigation acceptable to the Board of Trustees pursuant to paragraph 18-2.018(2)(i), Florida Administrative Code. Any requested use of state land which has been acquired for a specific purpose, such as conservation and recreation lands, shall be consistent with the original specified purpose for acquiring such land pursuant to paragraph 18-2.018(2)(c), Florida Administrative Code.

SPECIAL NOTE TO ALL APPLICANTS: SUBMITTAL OF A COMPLETE APPLICATION SHALL NOT OPERATE TO CREATE ANY RIGHTS OR CONSTITUTE ANY GROUNDS FOR THE DEPARTMENT TO RECOMMEND APPROVAL OF ANY REQUESTED USE OF STATE LAND. THE BOARD OF TRUSTEES HAS THE AUTHORITY AND RESERVES THE RIGHT TO DENY ANY APPLICATION. ALL COSTS INCURRED BY APPLICANTS COMPLYING WITH THE REQUIREMENTS OF THIS APPLICATION SHALL BE AT THEIR OWN RISK. COSTS ASSOCIATED WITH OBTAINING AN AUTHORIZATION ARE NON-REFUNDABLE AND SHALL BE ASSUMED BY THE APPLICANT INCLUDING, BUT NOT LIMITED TO, ALL APPRAISALS, ALL SURVEYS, ALL TITLE SEARCHES, AND ALL RECORDING FEES.

Completed Applications with any and all required attachments shall be electronically submitted to Upland.Applications@dep.state.fl.us. Please be advised that applications deemed incomplete will be immediately returned to the Applicant with a request to provide any outstanding items.

If unable to send electronically, mail (1) one hard copy to the address below:

Department of Environmental Protection
 Division of State Lands
 Bureau of Public Land Administration
 3800 Commonwealth Boulevard, MS 130
 Tallahassee, Florida 32399-3000



Section 1 – General Information (cont'd)

Estimated construction commencement date (if applicable): September 2016

Property Information		
County: Broward	Property Appraiser's Parcel ID Number:	
Section: 3	Township: 50	Range: 42 East
Approximate Acres: .23 acres		
Zoning Designation: RAC - WMU		
Location Address: Strip of land located east of NW 4th Ave, west of NW 3rd Ave, north of Access Rd (former 1st Street)		
City: Fort Lauderdale	State: Florida	Zip: 33311

Descriptive Narrative describing the intended use of the property. Narrative shall include the following:

**Narrative can be attached as a separate page(s).*

- a) *The requested term, which shall not be greater than is necessary to provide for the reasonable use of the state land and shall not be greater than the parent lease term.*
- b) *The need for the proposed use of state lands and written evidence that all other alternatives to the use of state lands have been denied.*
- c) *Projected revenue to be generated from the use of state lands.*
- d) *Whether the intended use is public or private and the extent of public access for such use.*
- e) *A statement describing the public benefits that will occur as a result of the proposed use of state lands.*

a) The City of Fort Lauderdale is requesting a perpetual easement from the State so long as the property serves a public interest. The proposed use of the easement area will be for transportation and pedestrian purposes open to the public.

b) The City of Fort Lauderdale's street infrastructure grid is in need of an additional roadway as significant development and advancements have occurred in this general vicinity. The City has evaluated other east west roadway alternatives however this easement provides the correct alignment for a replacement for NW 1st Street.

c) The easement area is to be used for transportation and pedestrian purposes and will not generate any revenue.

d) As stated above, the use of the land will be used for roadway purposes and therefore open to the public for both pedestrian and vehicular traffic.

e) There are several benefits that will occur as a result of this transaction. The City of Fort Lauderdale will improve their roadway network and the establishment of this new roadway, open to the public, will facilitate the City of Fort Lauderdale's objective for a transit oriented development (TOD) district. A robust street grid is essential to the success of a TOD district.

Section 1 – General Information (cont'd)

Required Attachments

The following must be completed and attached for all types of authorization requests:

- A recent aerial photograph with the boundaries of the proposed project.
- A county tax map identifying the parcel(s).
- A letter from the applicable local planning agency stating that the proposed use of state lands is consistent with the local government comprehensive plan.
- Non-refundable \$300 application fee per 18-2.019(6), F.A.C. *(does not apply to State/Federal agencies)*
- A certified survey* or sketch of description**, which contains the boundaries, legal description(s), and acreage of the property.
**The Department, at its discretion and if deemed necessary, can require a boundary survey for the action requested.*
***If the applicant chooses to submit a sketch of description it must include a note of what field methods were used to complete the sketch.*



Section 2 - Other Specific Information

A) Leases:

Parent Lease number (if existing): _____

- A statement describing the public benefits that will occur as a result of the proposed lease; how the lease will impact local resources and the general public; and how the proposed lease of state land will not be contrary to the public interest.
- A written statement from the managing agency agreeing to lease the state-owned parcel(s).
- For Leases subject to Section 253.034(13), F.S., provide a business plan with the pertinent information required by Statute.

Any **Private entity** applying for a lease, must also include:

- A written commitment to pay a lease fee based on the appraised market value of the proposed lease.
- Names and addresses, as shown on the latest county tax assessment roll, of all property owners lying within a 500-foot radius of the state land proposed for lease, certified by the county property appraiser.

Any **Local Governments** applying for a lease, must also include:

- A formal resolution adopted by the Board of County/City Commissioners requesting the proposed lease.

If applying for a **Full Release** or **Partial Release** of Lease, please complete the items below:

Are there any subleases, sub-sub leases, etc. within the area requesting to be released? YES NO
If so, has notification of the intent to release been provided? YES NO

- A written statement confirming that Lessee understands the release will not be executed until the property is leased or sold to another entity. Lessee will remain under lease and will continue to be responsible for the maintenance and upkeep of the property until the release is executed by the Board of Trustee.

B) Subleases:

Sublease number of existing sublease (if applicable): _____

Parent Lease number (if applicable): _____

- A written statement from the managing agency approving the proposed action, along with a statement describing how the sublease conforms to the management plan or land use plan when the sublease application involves state land that is under lease.

Any **Private entity** applying for a sublease, must also include:

- A written commitment to pay a sublease fee based on one of the following: (1) appraised market value, (2) negotiated value or (3) competitive bid.

Any **Local Governments** applying for a sublease, must also include:

- A formal resolution adopted by the Board of County/City Commissioners requesting the proposed sublease.

If applying for a **Full Release** or **Partial Release** of Sublease, please complete the items below:

Are there any sub-sub leases, etc. within the area requesting to be released? YES NO
If so, has notification of the intent to release been provided? YES NO

- A written statement confirming that Lessee understands the release will not be executed until the property is leased or sold to another entity. Lessee will remain under lease and will continue to be responsible for the maintenance and upkeep of the property until the release is executed by the Board of Trustee.



C) Easements

** Applicants applying for an easement across state land which is managed for the conservation and protection of natural resources shall be required to provide net positive benefit as defined in subsection 18-2.017(38), Florida Administrative Code, if the proposed easement is approved.*

Parent Lease number (if applicable): _____

A written statement from the managing agency approving the proposed action, along with a statement describing how the proposed easement conforms to the management plan or land use plan (when the easement application involves state land which is under lease or sublease.

Any Private entity applying for a private Easement, must also include:

The applicable application fee per 18-2.019(6), F.A.C.

A written commitment to pay an easement fee based on the appraised market value of the proposed easement.

Any Local Governments applying for an Easement, must also include:

A formal resolution adopted by the Board of County/City Commissioners requesting the proposed easement.

D) Use Agreements

Parent Lease number (if applicable): _____

Please indicate what type of use agreement is requested:

Well-Monitoring
 Geophysical

Beach (Re)Nourishment
 Other: _____

A written statement from the managing agency approving the proposed action, along with a statement describing how the proposed use agreement conforms with the management plan or land use plan when the use agreement application involves state land which is under lease or sublease.

E) Conveyances

Release of Deed Restriction(s)

Modification of Deed Restriction(s)

Reverter Deeds

DACS Conveyance (DSL-5) Pursuant to s. 253.025(13)(a), F.S.



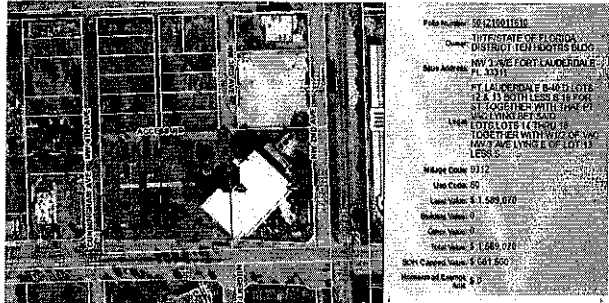
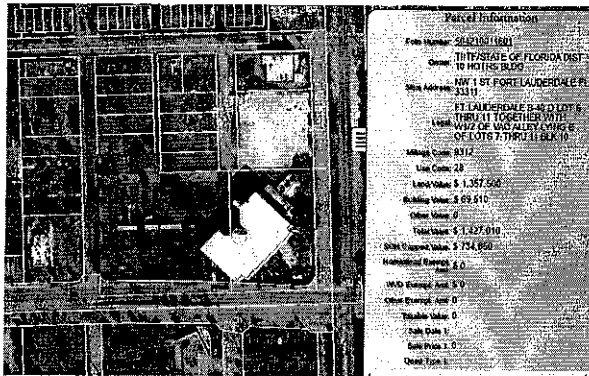
Applicant: City of Fort Lauderdale

Exhibits

- Recent aerial photograph with the boundaries of the proposed project. Aerial below from March 25, 2016 (view facing East)



- County tax map identifying the properties
(Subject property is a portion and within the below referenced parcels)



- **Letter from applicable local planning agency stating that the proposed use of state lands is consistent with the local government comprehensive plan**

Plot Date: 7/26/2017 1:46:28 PM Username: RJimenez Layout Name: EX-1
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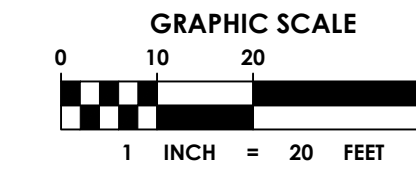
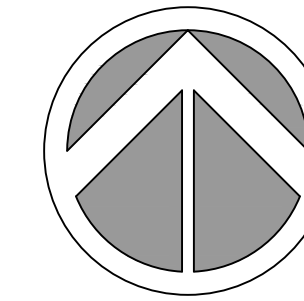
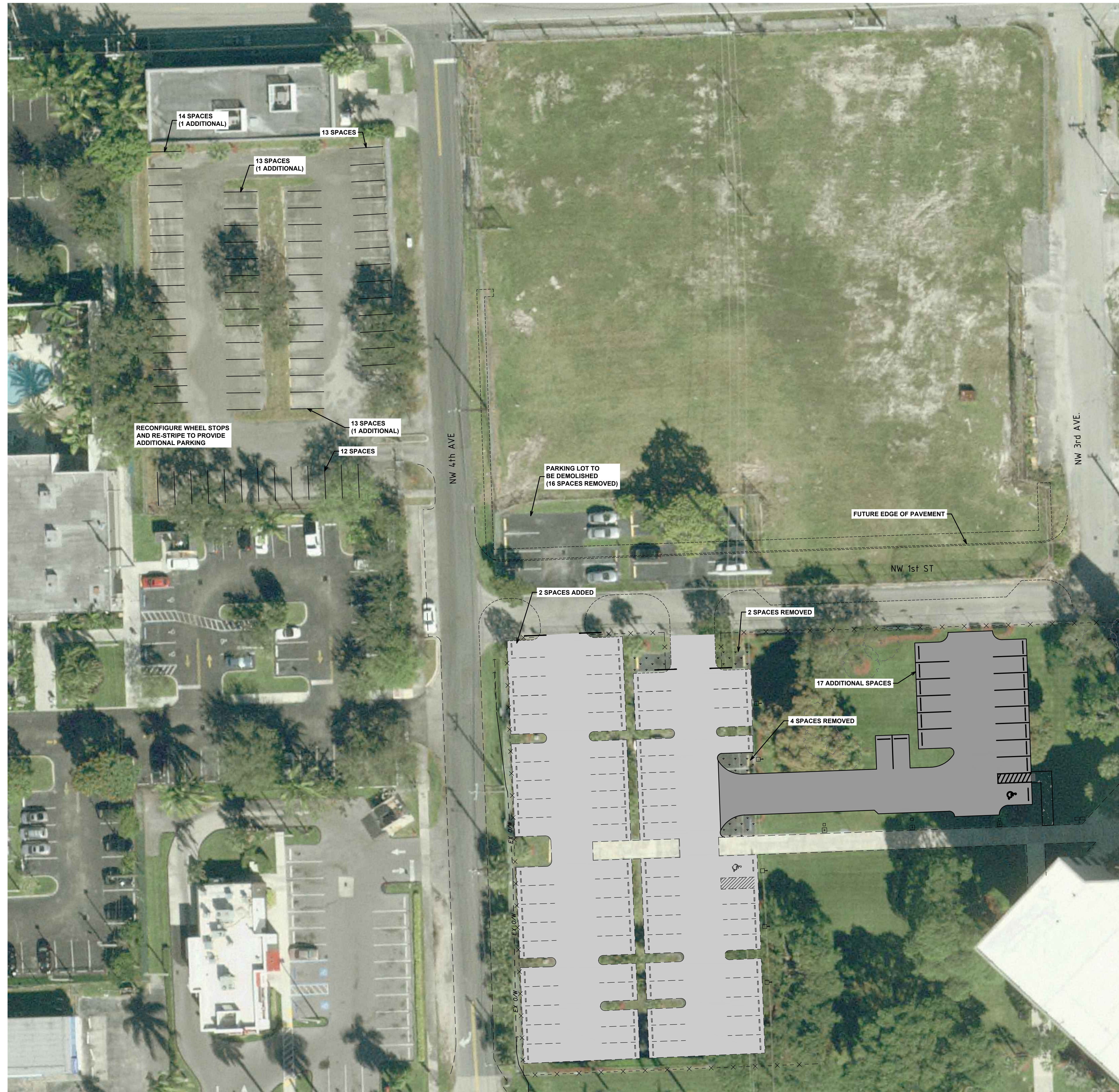


EXHIBIT "C"

PARKING SPACES	
EXIST. SPACES	156
SPACES REMOVED	22
SPACES ADDED	22

SUB-CONSULTANT

CLIENT

**ALL ABOARD
 FLORIDA**

PROJECT INFORMATION

**PARKING
 RELOCATION
 EXHIBIT**

FT. LAUDERDALE, FL

PROJECT NUMBER
 306.006

CLIENT PROJECT NUMBER
 #####

VERIFY SCALES
 0 1"
 IF NOT ONE INCH ON THIS SHEET,
 ADJUST SCALES ACCORDINGLY

REVISIONS

DATE OF ISSUE
 07/26/2017

DESIGNED BY
 PDK

DRAWN BY
 RAJ

CHECKED BY
 PDK

DRAWING TITLE

EXHIBIT

DRAWING NUMBER

EX-1
 1 OF 1

EXHIBIT (NOT FOR CONSTRUCTION)