

## DEVELOPMENT AGREEMENT

**THIS AGREEMENT** ("Agreement") is made and entered into this 3<sup>rd</sup> day of May, 2018 by and between the **CITY OF FORT LAUDERDALE**, a municipal corporation existing under the laws of the State of Florida ("CITY") with an address at 100 North Andrews Avenue, Fort Lauderdale, FL 33301, and **ALL ABOARD FLORIDA - OPERATIONS, LLC**, a Delaware limited liability company with an address at 2855 Le Jeune Road, 4<sup>th</sup> Floor, Coral Gables, FL 33134 ("Developer").

### WITNESSETH:

**WHEREAS**, DEVELOPER and its affiliates are constructing and will operate a privately owned, passenger railway system, with one station being located in the City of Fort Lauderdale, Florida (the "Station").

**WHEREAS**, in connection with the approvals for the Station, DEVELOPER has agreed to construct a vehicular and pedestrian access to be known as N.W. 1<sup>st</sup> Street between N.W. 3<sup>rd</sup> and 4<sup>th</sup> Avenue (the "Roadway")

**WHEREAS**, the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA ("BOT"), is the owner of the property described in Exhibit A.

**WHEREAS**, construction of the Roadway will result in the permanent removal of access to certain parking spaces owned and used by the State of Florida.

**WHEREAS**, CITY has entered into a Memorandum of Understanding ("MOU") with BOT, dated December 13, 2017 and BOT has granted CITY a non-exclusive perpetual easement (the "Easement") across the real property described in Exhibit A (the "BOT Easement Area") to provide access to the public. A copy of the Memorandum of Understanding and Easement are attached hereto as Exhibit B and Exhibit C respectively.

**WHEREAS**, in exchange for the Easement, CITY has agreed to construct and maintain the Roadway and to construct and provide BOT with alternative parking on the state-owned lands as illustrated in Exhibit D and Exhibit E respectively (the "Alternative Parking Spaces").

**WHEREAS**, CITY has agreed to provide BOT with sixteen (16) reconfigured parking spaces in the adjacent existing parking garage located at 300 NW 2<sup>nd</sup> Street, Fort Lauderdale, Florida 33311, owned by the DEVELOPER, until the completion of the Alternative Parking Spaces, so that construction of the Roadway may commence immediately.

**WHEREAS**, Florida Department of Management Services, manages the state-owned lands, and has issued a letter dated August 28, 2017, authorizing DEVELOPER

to act on its behalf to secure approvals, permits and licenses from local and regional agencies to construct the Roadway, right-of-way improvements, Alternative Parking Spaces, and utility infrastructure. A copy of the letter is attached hereto as **Exhibit F**.

**WHEREAS**, in reliance on letters received from the design professional for the Scope of Work (as hereinafter defined) and Developer, the City finds that use of competitive bids for the Scope of Work is not in the best interest of the City and formal or informal bids will not be required.

**WHEREAS**, to require a competitive bid will increase the cost of the Scope of Work and result in unnecessary delays.

**WHEREAS**, the contractor for the Scope of Work is licensed and uniquely qualified to undertake the Scope of Work as it is currently under contract with the Developer performing work on adjacent parcels.

**WHEREAS**, the CITY desires that the DEVELOPER perform such Scope of Work and hereinafter defined in this Agreement and the DEVELOPER has agreed to perform such Scope of Work as part of its requirements with respect to the Station.

**WHEREAS**, the CITY and DEVELOPER desire to set forth their mutual understandings, obligations, rights and terms as it relates to the Scope of Work and the Roadway.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals**. The foregoing recitals are true and correct and are incorporated herein by this reference.
2. **Incorporation**. The MOU is hereby incorporated into this Agreement as if fully set forth herein. Developer agrees to adhere to the terms, conditions and obligations of the MOU as if it was a party to the MOU. To the extent required by BOT, the Developer shall be responsible for and shall comply with BOT's and the State of Florida's procurement rules, laws, ordinances and regulations related to Scope of Work and shall communicate directly with BOT regarding same. The effectiveness of this Agreement is contingent upon execution of the MOU with BOT.
3. **Developer's Obligations**. DEVELOPER shall, at its sole cost and expense:
  - (a) Provide BOT with sixteen (16) reconfigured parking spaces in the adjacent existing parking garage, owned by the DEVELOPER, which shall be available until completion of the Alternative Parking Spaces;
  - (b) Construct the Roadway;
  - (c) Construct the Alternative Parking Spaces; and
  - (d) Provide ongoing maintenance of the Roadway.

Items (a) – (c) above are collectively referred to as the “Scope of Work.” Developer shall cause the Scope of Work to be commenced upon all required approvals being received from the City and the State and will diligently pursue completion of the Scope of Work thereafter until completion.

Developer shall cause the Scope of Work to be performed in a good and workmanlike manner in conformity with all applicable laws by a licensed contractor pursuant to the approved permit for such Scope of Work or portion thereof. Developer shall submit to the jurisdiction of the City and its laws, ordinances, resolutions, and regulations including its unified land development regulations governing the improvements described in the Scope of Work. .

Developer acknowledges that the Alternative Parking Spaces shall be constructed on state owned property in compliance with the MOU. Further, Developer acknowledges that the plans, specifications and construction of the Alternative Parking Spaces are subject to rights of inspection, approval and acceptance by the State. Developer shall coordinate its activities with the State and secure its approval and acknowledgement of completion of the Alternative Parking Spaces.

**4. Conveyance of Access Easement.** As a condition of this Development Agreement, DEVELOPER and its affiliate FLL PROPERTY VENTURES LLC, a Delaware limited liability company (“FLL”), has an obligation to convey to CITY an Access Easement Agreement in the form attached hereto as **Exhibit G** within thirty (30) days of approval of the final inspection for the Roadway improvements with respect to the property described therein (the “FLL Easement Area”). Said Access Easement shall be granted and conveyed to the City, along with an opinion of title, only after the improvements have been completed and accepted by the City.

**5. Maintenance of Exhibit “A” Property and Improvements and Easement Area.** DEVELOPER shall have a continuing and ongoing responsibility to maintain the Roadway, the BOT Easement Area and the FLL Easement Area, including sidewalks, landscaping, storm water utilities and the street lighting in accordance with the quality and standards employed by the City for maintenance of other public right of ways in the City. If the Developer does not maintain the Roadway, the BOT Easement Area and the FLL Easement Area, then CITY shall give written notice of default to the Developer and the Developer shall have one hundred twenty (120) days following the date of receipt of such notice to cure such failure (provided that in the event such cure cannot be completed within such one hundred twenty (120) day period, if the Developer commences to cure within said one hundred twenty (120) day period and thereafter diligently continues to cure, then the one hundred twenty (120) day period shall be extended for a reasonable period thereafter provided the Developer informs the City of the time frame in which the cure will be completed). In the event that the Developer fails to cure within the foregoing time period, then the CITY may cure the default and the Developer shall pay the CITY for the reasonable costs thereof within thirty (30) days following receipt of written demand therefor (including copies of the invoices evidencing

such costs) from the CITY. If the Developer fails to make payment within such timeframe, the City shall have the right to record a Claim of Lien upon the adjacent property described in **Exhibit H** attached hereto (the "Station Parcel"), which Lien shall cover all reasonable and necessary costs and expenses of any cure undertaken by CITY in accordance with this Section and reasonable attorneys' fees and costs associated therewith. The Lien shall be effective upon the recording of a Claim of Lien in the Public Records of Broward County, Florida, which Claim of Lien shall state all amounts due and owing to CITY. The Lien may be foreclosed by CITY in the same manner as provided by law for foreclosure of mortgage liens. The Lien shall continue until payment to CITY of the amounts set forth in the Lien (at which time CITY shall record a satisfaction of such lien). In addition to the Lien, CITY shall have all other rights and remedies granted to it at law or in equity to reimburse CITY for curative actions taken by CITY. Developer shall be entitled to pursue all legal and equitable remedies to contest the amount or existence of any such lien.

**6. Notices.** All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and shall be (as elected by the person giving such notice) hand-delivered by messenger or courier service, sent by facsimile, or mailed (airmail or international) by registered or certified mail (postage prepaid), return receipt requested, addressed to:

Developer: ALL ABOARD FLORIDA OPERATIONS, LLC  
2855 Le Jeune Road, 4<sup>th</sup> Floor,  
Coral Gables, FL 33134  
Attention: Legal Department

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

With a copy to: Alain E. Boileau, Interim City Attorney  
City of Fort Lauderdale  
100 North Andrews Avenue,  
Ft. Lauderdale, Florida 33301-1016

or to such other address as any party may designate by notice complying with the terms of this Section 6 of this Agreement. Each such notice shall be deemed delivered: (a) on the date delivered if by personal delivery; (b) on the date of transmission with confirmed answer back if by facsimile; and (c) on the date upon which the return receipt is signed or delivery is refused or the notice is designated by the postal authorities as not deliverable, as the case may be, if mailed.

**7. Developer Liability.** This Agreement and the obligations of DEVELOPER set forth herein shall only be enforceable against DEVELOPER (or any entity to which DEVELOPER assigns its rights, title and interest in this Agreement and title to the Station).

## **8. Insurance.**

8.1 Until the end of the Required Term of Insurance as defined in Section 7.2 below, DEVELOPER shall cause its contractor, at its sole expense, to provide insurance of such a type and with such terms and limits as noted below. Having the contractor provide and maintain adequate insurance coverage is a material obligation of DEVELOPER. DEVELOPER shall provide the CITY a certificate of insurance evidencing such coverage by its contractor. The contractor's insurance coverage shall be primary insurance with respect to DEVELOPER's obligations to the CITY for all applicable policies. The limits of coverage under each policy maintained by the contractor shall not be interpreted as limiting DEVELOPER's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in Florida and possess an A.M. Best rating of A-, VII or better, subject to the approval of the CITY's Risk Manager.

The coverages, limits and/or endorsements required herein protect the primary interests of the CITY, and these coverages, limits and/or endorsements shall in no way be required to be relied upon when assessing the extent or determining appropriate types and limits of coverage to protect the DEVELOPER against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the CITY's review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the DEVELOPER under this Agreement.

The following insurance policies/coverages are required:

### *i. Commercial General Liability*

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$1,000,000 each occurrence and \$2,000,000 project aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$1,000,000 each occurrence and \$2,000,000 project aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability, and contain no exclusions for explosion, collapse, or underground.

The CITY, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the DEVELOPER. The coverage shall contain no special limitation on the scope of protection afforded to the CITY, its officials, employees, or volunteers.

*ii. Business Automobile Liability*

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 combined single limit each accident.

If the DEVELOPER's contractor does not own vehicles, the DEVELOPER's contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

*iii. Workers' Compensation and Employer's Liability*

Coverage must be afforded per Chapter 440, Florida Statutes. Any firm performing work on behalf of the CITY must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the CITY's Risk Manager, if they are in accordance with Florida Statute.

The DEVELOPER's contractor and its insurance carrier waives all subrogation rights against the CITY, a political subdivision of the State of Florida, its officials, employees, and volunteers for all losses or damages. The CITY requires the policy to be endorsed with WC00 03 13 Waiver of our Right to Recover from others or equivalent.

DEVELOPER's contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore and Harbor Workers' Compensation Act or Jones Act, if applicable.

For any DEVELOPER's contractor who has exempt status as an individual, the CITY requires proof of Workers' Compensation insurance coverage for that DEVELOPER's employees, leased employees, volunteers, and any workers performing work in execution of this Agreement.

If the DEVELOPER's contractor has applied for a workers' compensation exemption, the CITY does not recognize this exemption to extend to the employees of the DEVELOPER's contractor. The DEVELOPER's contractor is required to provide proof of coverage for their employees, leased employees, volunteers and any workers performing work in execution of this Agreement. This applies to all developers including but not limited to the construction industry.

*iv. Professional Liability and/or Errors and Omissions (if architectural or engineering services are provided)*

Coverage must be afforded for Wrongful Acts in an amount not less than \$2,000,000 each claim and \$2,000,000 aggregate.

DEVELOPER must have its contractor keep insurance in force until the third anniversary of expiration of this Agreement or the third anniversary of acceptance of Roadway by the CITY.

## 8.2 Insurance Certificate Requirements

a. The DEVELOPER shall cause its contractor to provide the CITY with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.

b. The DEVELOPER shall cause its contractor to provide a Certificate of Insurance to the CITY with a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.

c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the DEVELOPER to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.

d. In the event the Required Term of Insurance goes beyond the expiration date of the insurance policy, the DEVELOPER shall cause its contractor to provide the CITY with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The CITY reserves the right to suspend the Agreement until this requirement is met.

e. The certificate shall indicate if coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the certificate will show a retroactive date, which should be the same date of the initial contract or prior.

f. The CITY and BOT shall be named as an Additional Insured on all liability policies, with the exception of Professional Liability and/or Errors and Omissions and Workers' Compensation.

g. The CITY shall be granted a Waiver of Subrogation on the DEVELOPER's Workers' Compensation insurance policy.

h. The Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the certificate.

The Certificate Holder should read as follows:

City of Fort Lauderdale  
100 N. Andrews Avenue  
Fort Lauderdale, FL 33301

The DEVELOPER or its contractor has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the CITY as an Additional Insured shall be at the DEVELOPER's expense.

If the DEVELOPER's contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the DEVELOPER may provide an Umbrella/Excess insurance policy to comply with this requirement.

The DEVELOPER's contractor's insurance coverage shall be primary insurance as

respects to the CITY, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, its officials, employees, or volunteers shall be excess of DEVELOPER's contractor's insurance and shall be non-contributory.

Any exclusions or provisions in the insurance maintained by the DEVELOPER's contractor that excludes coverage for the Scope of Work contemplated in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the Scope of Work has been accepted by the CITY and BOT, and/or this Agreement is terminated (the "Required Term of Insurance"). Any lapse in coverage shall be considered breach of contract. In addition, DEVELOPER must cause its contractor to provide confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of the Required Term of Insurance. The CITY reserves the right to review, at any time, coverage forms and limits of DEVELOPER's or its contractor's insurance policies.

All notices of any claim/accident (occurrences) associated with this Agreement, shall be provided to the DEVELOPER's or its contractor's insurance company and the CITY's Risk Management office as soon as practical.

It is the DEVELOPER's responsibility to ensure that all independent and subdevelopers comply with these insurance requirements. All coverages for independent and subdevelopers shall be subject to all of the requirements stated herein. Any and all deficiencies are the responsibility of the DEVELOPER.

### **8.3 Bond Requirements**

This Scope or Work is required to be bonded pursuant to Section 255.05, Florida Statutes, and the DEVELOPER or its contractor shall furnish Payment and Performance bonds on the CITY's standard form covering the full and faithful performance of the Agreement for construction and the payment of obligations arising hereunder.

All bonds must be underwritten by a surety company authorized to issue bonds in the State of Florida. The DEVELOPER shall deliver required bonds to the CITY no later than thirty (30) days prior to the start of work contemplated in this Agreement.

If the Surety on any bond furnished by the DEVELOPER or its contractor is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements of Section 255.05, Florida Statutes, the DEVELOPER shall within five (5) days thereafter substitute Surety, both of which shall be acceptable to the CITY.

### **8.4 Loss Control/Safety**

Precaution shall be exercised at all times by the DEVELOPER for the protection of all persons, including employees, and property. The DEVELOPER shall comply with all laws, regulations, or ordinances relating to safety and health, and shall make special



effort to detect hazardous conditions and shall take prompt action where loss control/safety measures should reasonably be expected.

The CITY may order work to be stopped if conditions exist that present immediate danger to persons or property. The DEVELOPER acknowledges that such stoppage will not shift responsibility for any loss or damages from the DEVELOPER to the CITY.

## **9. Indemnification.**

9.1 Disclaimer of Liability: The CITY and BOT shall not at any time, be liable for injury or damage occurring to any person or property arising out of DEVELOPER's construction and fulfillment of this Agreement.

9.2 For other, additional good valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

9.2.1 DEVELOPER shall, at its sole cost and expense, indemnify and hold harmless the CITY and BOT, its representatives, employees and elected and appointed officials from or on account of all claims, damages, losses, liabilities and expenses, direct or indirect, including but not limited to reasonable fees and charges of engineers, architects, attorneys, consultants and other professionals and court costs arising out of or in consequence of the performance of this Agreement at all trial and appellate levels. Indemnification shall specifically include but not be limited to claims, damages, losses, liabilities and expenses arising out of or from the following with respect to the performance of the Scope of Work: (a) the negligent or defective design of the Scope of Work; (b) any act, omission or default of the DEVELOPER, its sub-developers, agents, suppliers, employees, or laborers (the "Developer Parties"); (c) any and all bodily injuries, sickness, disease or death; (d) injury to or destruction of tangible property, including any resulting loss of use; (e) other such damages, liabilities, or losses received or sustained by any person or persons during or on account of any operations connected with the construction of the Scope of Work including any construction activities during the warranty period; (f) the use of any improper materials; (g) any construction defect in the Scope of Work, including both patent and latent defects; (h) failure to timely complete the Scope of Work; (i) the violation of any federal, state, county or CITY laws, ordinances or regulations by DEVELOPER, its subdevelopers, agents, servants, independent developers or employees; and (j) the breach or alleged breach by DEVELOPER of any term of the Agreement, including the breach or alleged breach of any warranty or guarantee.

9.2.2 DEVELOPER agrees to indemnify, defend, save and hold harmless the CITY and BOT, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every name and description that may be brought against CITY, its officers, agents and employees, on account of any claims, fees, royalties, or costs for any invention or patent and/or for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation, due to a violation by DEVELOPER Parties.

9.2.3 DEVELOPER shall pay all claims, losses, liens, settlements or judgments of any nature in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees and costs for trials and appeals.

9.2.4 If any subdeveloper, supplier, laborer, or materialmen of DEVELOPER or any other person directly or indirectly acting for or through DEVELOPER files or attempts to file a mechanic's or construction lien against any part of the real property on which the Scope of Work is performed or against any personal property or improvements thereon or make a claim against any monies due or to become due from the CITY to DEVELOPER or from DEVELOPER to a subdeveloper, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Scope of Work or any change order to the Scope of Work, DEVELOPER agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within thirty (30) days of the filing or from receipt of written notice from the CITY.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by DEVELOPER, all monies due to DEVELOPER, or that become due to DEVELOPER before the lien or claim is satisfied, removed or otherwise discharged, shall be held by CITY as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining the discharge. If DEVELOPER shall fail to do so, CITY shall have the right, in addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means CITY chooses at the entire and sole cost and expense of DEVELOPER which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments, and which shall be deducted from any amount owing to DEVELOPER. In the event the amount due DEVELOPER is less than the amount required to satisfy DEVELOPER's obligation under this, or any other article, paragraph or section of this Agreement, the DEVELOPER shall be liable for the deficiency due the CITY.

9.2.5 The Developer and the City agree that Section 725.06(2), Florida Statutes controls the extent and limits of this indemnification and hold harmless provision of this Agreement and that the parties waive any defects in the wording of this Article that conflict with said statutory section such that the wording of the Statute controls any conflict with the terms of this indemnification and hold harmless provision by Developer.

9.2.6 This indemnity shall survive termination of this Agreement and is not limited by the amount of insurance coverage.

**10. Terms Generally.** The defined terms in this Agreement shall apply equally to both the singular and the plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words *include*, *includes*, and *including* shall be deemed to be followed by the phrase *without limitation*. The words *approval*, *consent* and *notice* shall be deemed to be preceded by the word *written*.

11. **Severability.** If any provision of this Agreement or application to any party or circumstances shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Agreement or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereto shall be valid and shall be enforced to the fullest extent permitted by law.

12. **Waiver.** Any party's failure to enforce any covenant, condition, or obligation of this Agreement shall not in any way be construed as a waiver of any such provision, or prevent that party thereafter from enforcing each and every other provision of this Agreement. No waiver of any covenant, condition or obligation of this Agreement shall be effective unless in writing, signed by DEVELOPER or CITY, as the case may be.

13. **Entire Agreement.** This Agreement sets forth the entire agreement of the parties with respect to the subject matter hereof and superseded all prior discussions, negotiations, understandings or agreements relating thereto. It is mutually understood and agreed that no alteration or variation of this Agreement shall be valid or binding unless made in writing and signed by both of the parties hereto.

14. **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns. The Developer shall not assign this Agreement without the written consent of the City which consent shall not be unreasonably withheld, conditioned or delayed.

15. **Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue of any action shall be in Broward County, Florida.

16. **Counterparts; Facsimile.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original but all of which together shall constitute one and the same instrument. A facsimile copy of this Agreement and any signatures thereon shall be considered for all purposes as originals.

17. **Relationship of Parties.** This Agreement does not create the relationship of principal and agent or of mortgagee and mortgagor or of partnership or of joint venturer or of any association between the Parties, the sole relationship between the Parties being that of Parties to this Agreement.

18. **Attorneys' Fee.** In the event a dispute arises concerning the performance, meaning or interpretation of any provision of this Agreement, the prevailing party in such dispute shall be awarded any and all costs and expenses incurred by the prevailing party in enforcing, defending or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees. This provision shall any termination of this Agreement

19. **WAIVER OF TRIAL BY JURY.** CITY AND DEVELOPER EACH HEREBY

KNOWINGLY, INTENTIONALLY AND VOLUNTARILY WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER ON ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.

**20. Audit Right and Retention of Records.** City shall have the right to audit the books, records, and accounts of Developer that are related to this Agreement. Developer shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. All books, records, and accounts of Developer shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Developer shall make same available at no cost to City in written form.

Developer shall preserve and make available, at reasonable times for examination and audit by City in Broward County, Florida, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida public records law, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings.

The Developer shall maintain during the term of the Agreement all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this Agreement.

**21. Public Records.** Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Chapter 119, Florida Statutes, as same may be amended from time to time and any resultant award of attorney's fees for non-compliance with that law. Developer and all contractors or subcontractors (the "**Contractor**") engaging in services in connection with construction and/or maintenance of the Scope of Work shall:

(a) Keep and maintain public records that ordinarily and necessarily would be required by City in order to perform the services rendered.

(b) Upon request from City's custodian of public records, provide City 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 (2017), as may be amended or revised, 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 and as to Developer for the duration of the Agreement and as to Contractor for the duration of the contract term and following completion of said contract if Contractor does not transfer the records to City.

(d) Upon completion of said construction or maintenance of the Scope of Work transfer, at no cost, to City all public records in possession of Developer or Contractor or keep and maintain public records required by City to perform the service. If Contractor transfers all public records to City upon completion of the Scope of Work, Developer and Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Developer or Contractor keeps and maintains public records upon completion of the Scope of Work, Developer and Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to City, upon request from City's custodian of public records, in a format that is compatible with the information technology systems of City.

(e) If Developer or any Contractor has questions regarding the application of Chapter 119, Florida Statutes, to Developer or Contractor's duty to provide public records relating to its contract, contact the City's custodian of public records by telephone at 954-828-5002 or by e-mail at PRRCONTRACT@FORTLAUDERDALE.GOV or by mail at 100 North Andrews Avenue, Fort Lauderdale, FL 33301 Attention: Custodian of Public Records.

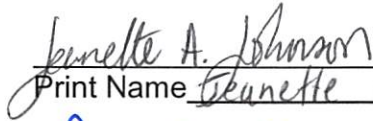
**22. Authorized Representative.** The authorized representative for the City is the City Manager or his designee. The authorized representative for the Developer is Eric Claussen. The individuals executing this Agreement have the power and authority to enter into a binding agreement on behalf of the respective parties.

**[Signatures begin on next page]**

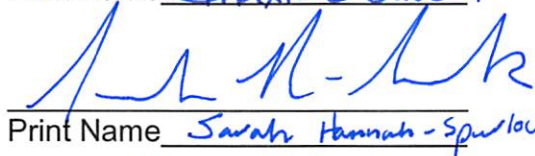
**IN WITNESS OF THE FOREGOING**, the parties have set their hands and seals the day and year first above written.

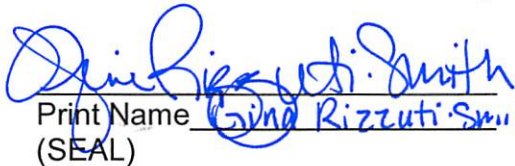
**FOR CITY:**

WITNESSES:

  
Print Name Jeannette A. Johnson

  
Print Name MAXINE SINGH

  
Print Name Sarah Hannah-Spurlock

  
Print Name Gina Rizzuti-Smith  
(SEAL)

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


By:   
DEAN J. TRANTALIS, Mayor

By:   
LEE R. FELDMAN, City Manager

ATTEST:

  
  
JEFFREY A. MODARELLI, City Clerk

Approved as to form:  
ALAIN E. BOILEAU, Interim City Attorney

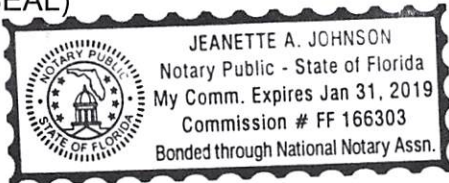
  
LYNN SOLOMON, Assistant City Attorney



STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of May, 2018, by DEAN J. TRANTALIS, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida.

(SEAL)



Jeanette A. Johnson  
Signature: Notary Public, State of Florida

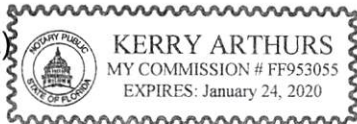
Jeanette A. Johnson  
Name of Notary Typed, Printed or Stamped

Personally Known

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of May, 2018, by LEE R. FELDMAN, CITY Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida.

(SEAL)

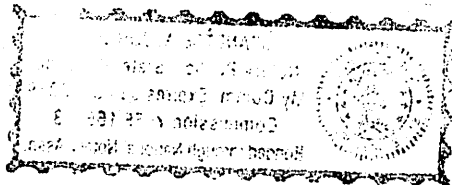


[Signature]  
Signature: Notary Public, State of Florida

KERRY ARTHURS  
Name of Notary Typed, Printed or Stamped

Personally Known





COMMUNICATIONS SECTION  
U.S. DEPARTMENT OF JUSTICE

**FOR DEVELOPER:**

WITNESSES:

*Brianna Hernandez*  
Print Name: Brianna Hernandez

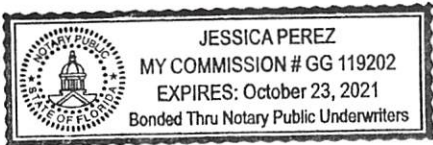
*Maria V. Rincon*  
Print Name: Maria V. Rincon

**ALL ABOARD FLORIDA - OPERATIONS, LLC**, a Delaware limited liability company

By: *Kolleen Cobb*  
KOLLEEN COBB, Vice President

STATE OF FLORIDA:  
COUNTY OF MIAMI DADE:

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of April, 2018, by KOLLEEN COBB, Vice President of ALL ABOARD FLORIDA - OPERATIONS, LLC, a Delaware limited liability company.



*Jessica Perez*  
Signature: Notary Public, State of Florida

\_\_\_\_\_  
Name of Notary Typed, Printed or Stamped

Personally Known

**FOR THE PURPOSES OF AGREEING TO SECTION 4 ONLY:**

WITNESSES:

*Brianna Hernandez*  
Print Name: Brianna Hernandez

*Maria V. Rincon*  
Print Name: Maria V. Rincon

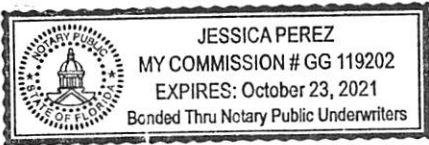
**FLL PROPERTY VENTURES, LLC**, a Delaware limited liability company

By: *Kolleen Cobb*  
KOLLEEN COBB, Vice President

[Notaries continue on the next page]

STATE OF FLORIDA:  
COUNTY OF MIAMI DADE:

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of April, 2018, by KOLLEEN COBB, Vice President of FLL PROPERTY VENTURES, LLC, a Delaware limited liability company.



Jessica Perez  
Signature: Notary Public, State of Florida

\_\_\_\_\_  
Name of Notary Typed, Printed or Stamped

Personally Known

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

**Exhibit B**

**Memorandum of Understanding**

## 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 4<sup>th</sup> Avenue, west of NW 3<sup>rd</sup> Avenue, and north of Access Road (formerly NW 1<sup>st</sup> 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 1<sup>st</sup> 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:

[Signature]  
maxine. A. SINGH  
Print Name

[Signature]  
Gina Kizeluti Smith  
Print Name  
(SEAL)

ATTEST:  
[Signature]  
JEFFREY A. MODARELLI, City Clerk

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

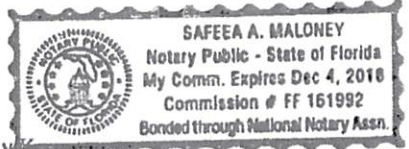
By [Signature]  
JOHN P. "Jack" SEILER, Mayor

By [Signature]  
LEE R. FELDMAN, City Manager  
FOR

Approved as to form:  
CYNTHIA A. EVERETT, City Attorney  
[Signature]  
TANJA MARIE AMAR  
Assistant City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of November, 2017, by JOHN P. "JACK" SEILER, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida.  
(SEAL)



Personally Known

[Signature]  
Signature: Notary Public, State of Florida  
Safeya A. Maloney  
Name of Notary Typed, Printed or Stamped

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of November, 2017, by LEE R. FELDMAN City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida.  
(SEAL)



Personally Known

[Signature]  
Signature: Notary Public, State of Florida

[Signature]  
Name of Notary Typed, Printed or Stamped

Witnesses:

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

David Lee Fewell  
Print Name: DAVE FEWELL

Terri D. Gross  
Print Name: TERRI D. GROSS

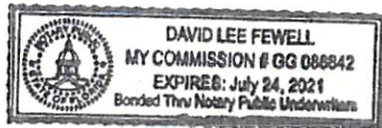
By: Cheryl C. McCall  
Cheryl C. McCall, Chief, Bureau of Public  
Land Administration  
Division of State Lands, State of Florida  
Department of Environmental Protection, as  
agent for and on behalf of the Board of  
Trustees of the Internal Improvement Trust  
Fund of the State of Florida

STATE OF FLORIDA  
COUNTY OF LEON

APPROVED AS TO  
FORM AND LEGALITY  
[Signature]  
DEPARTMENT ATTORNEY

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of  
DECEMBER, 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.

David Lee Fewell  
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

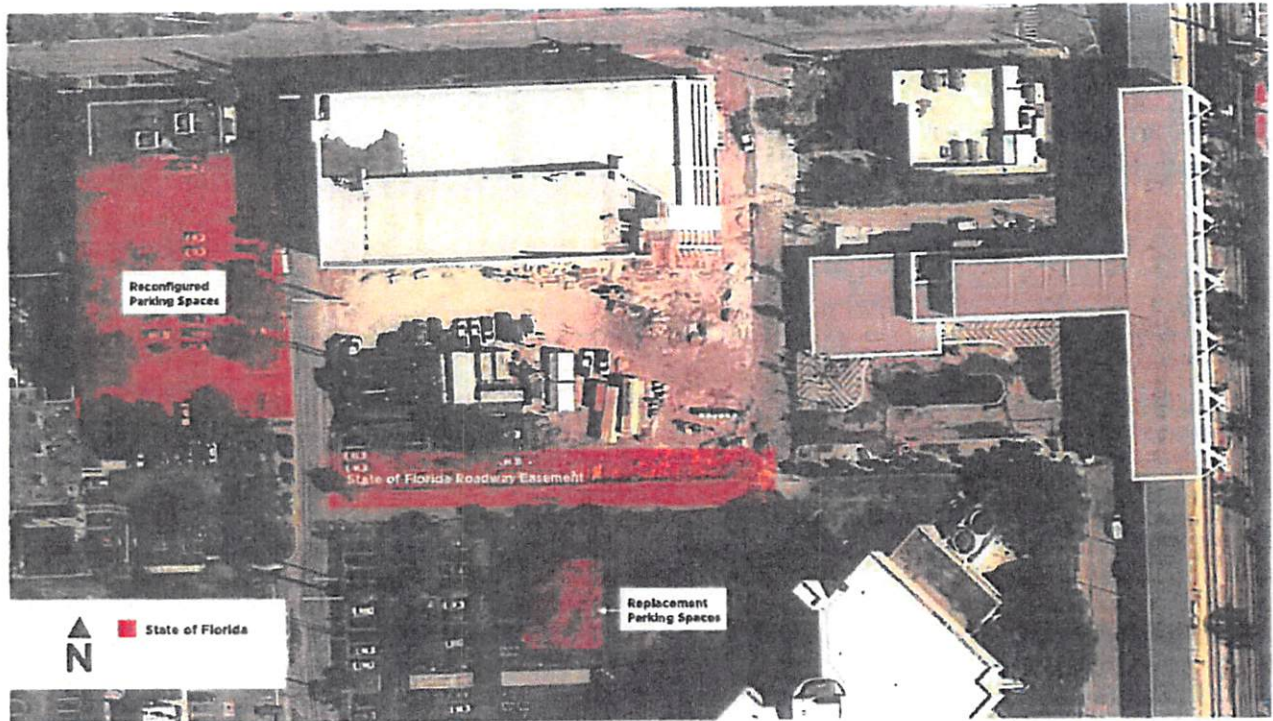


EXHIBIT "B"

---

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	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](mailto: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<sup>o</sup> or sketch of description<sup>\*\*</sup>, which contains the boundaries, legal description(s), and acreage of the property.  
*<sup>o</sup>The Department, at its discretion and if deemed necessary, can require a boundary survey for the action requested.*  
*<sup>\*\*</sup>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 Trustees.

**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 Trustees.



**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

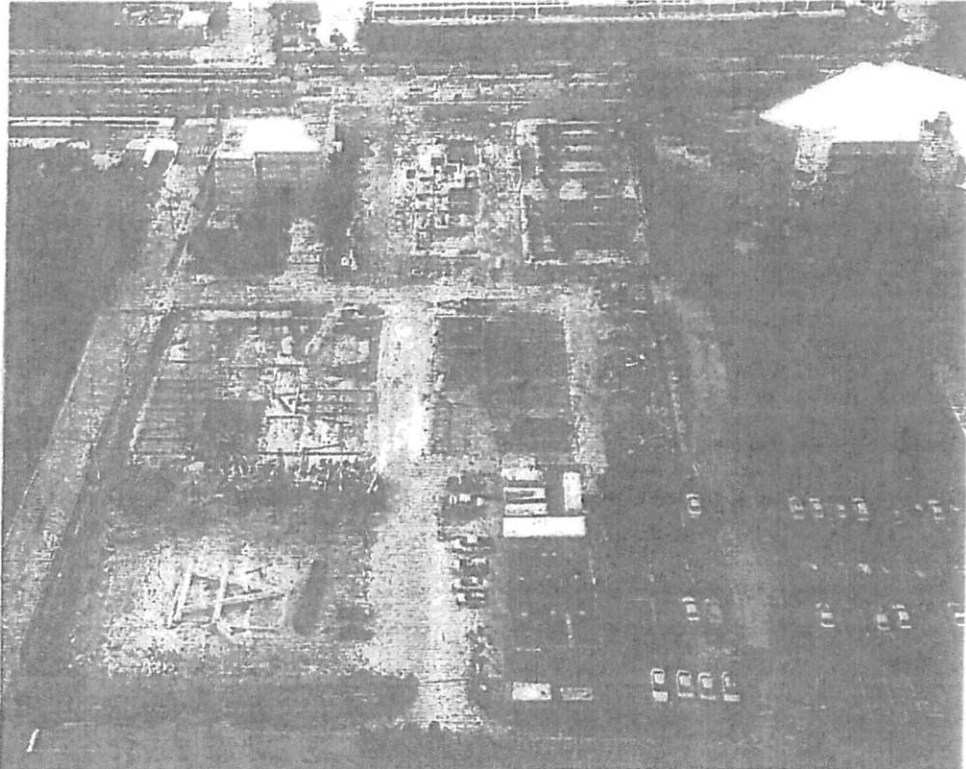
DACS Conveyance (DSL-5) Pursuant to s. 253.025(13)(a), F.S.



Applicant: City of Fort Lauderdale

Exhibits

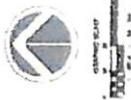
- Recent aerial photograph with the boundaries of the proposed project. Aerial below from March 25, 2016 (view facing East)



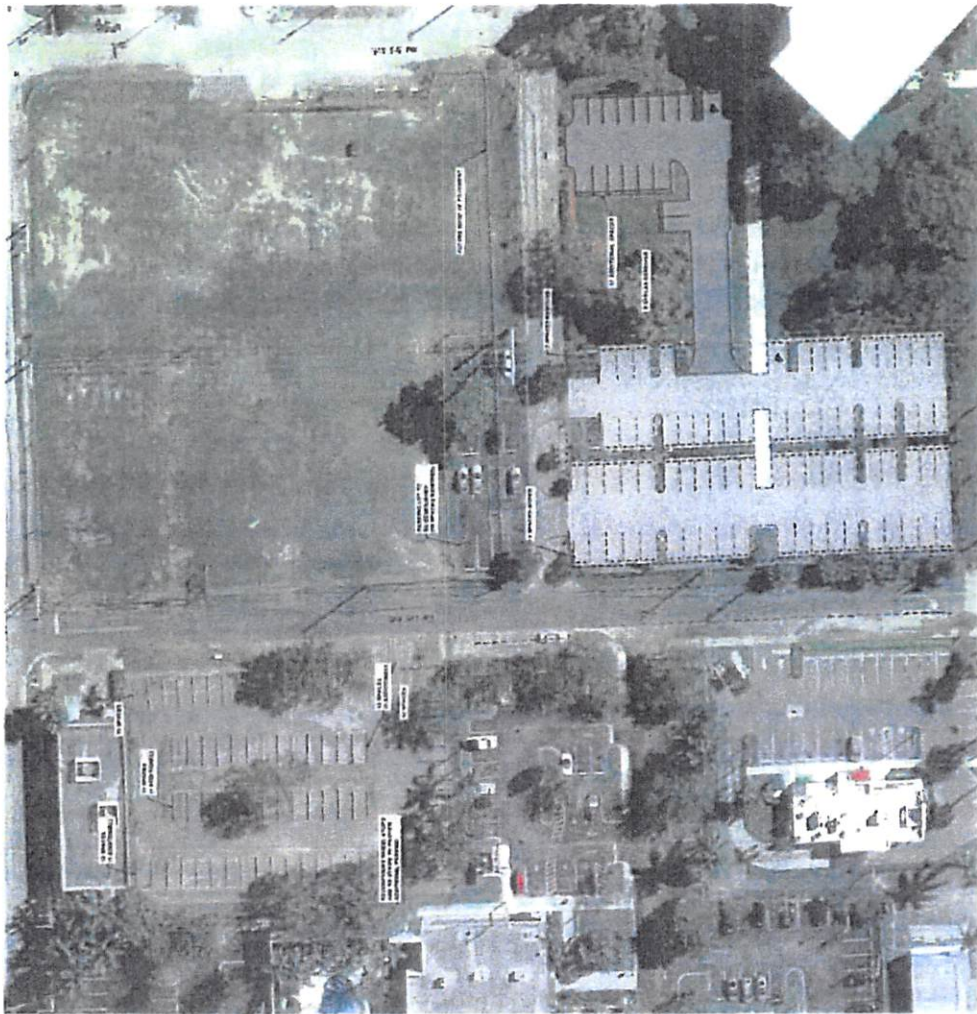
- Letter from applicable local planning agency stating that the proposed use of state lands is consistent with the local government comprehensive plan.....



EXHIBIT "C"



DATE	07/24/2017
TIME	10:00 AM
LOCATION	10000 W. BOULEVARD
PROJECT	RELOCATION
CLIENT	ALPHA



CLIENT  
 ALL ABOARD FLORIDA  
 PROJECT INFORMATION  
 PARKING RELOCATION EXHIBIT  
 FT. LAUDERDALE FL  
 PROJECT NUMBER 100.006  
 CLIENT PROJECT NUMBER 100.006  
 CITY ZONING  
 PROJECT NUMBER  
 PROJECT NUMBER

DATE OF DRAW 07/24/2017  
 DRAWING NUMBER PDK  
 DRAWING BY  
 CHECKED BY  
 DRAWING TITLE  
 EXHIBIT

EX-1

EXHIBIT (NOT FOR CONSTRUCTION)

**Exhibit C**

**Easement**

This Easement was prepared by:  
Scott E. Woolam,  
Bureau of Public Land Administration  
Division of State Lands  
Department of Environmental Protection, MS 130  
3900 Commonwealth Boulevard,  
Tallahassee, Florida 32399-3000  
AID# 34742

OAE1  
[ 0.231 acres +/-]

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

---

**EASEMENT**

**Easement Number 33086**

THIS EASEMENT, made and entered into this 7<sup>th</sup> day of November 2017, between the **BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA**, acting pursuant to its authority set forth in Section 253.03, Florida Statutes, hereinafter referred to as "GRANTOR", and **CITY OF FORT LAUDERDALE**, a municipal corporation of the State of Florida, hereinafter referred to as "GRANTEE".

**WHEREAS**, GRANTOR is the owner of the hereinafter described real property, which is managed by the Department of Management Services under Lease Number 2985 ("managing agency"); and

**WHEREAS**, GRANTEE desires an easement across the hereinafter described real property for public ingress and egress; and

**WHEREAS**, the managing agency has agreed to the proposed use of the land subject to this easement.

**NOW THEREFORE**, GRANTOR, for and in consideration of mutual covenants and agreements hereinafter contained, has granted, and by these presents does grant unto GRANTEE, a non-exclusive easement across the following described real property in Broward County, Florida, to-wit:

(See EXHIBIT "A" Attached)(the "Easement Area")

subject to the following terms and conditions:

1. **DELEGATIONS OF AUTHORITY**: GRANTOR'S responsibilities and obligations herein shall be exercised by the Division of State Lands, State of Florida Department of Environmental Protection.



2. **TERM:** GRANTOR does hereby grant to the GRANTEE a perpetual non-exclusive easement for as long as the easement is used and maintained for public ingress and egress. If this easement is ever abandoned for said use, all right title and interest conveyed under this easement shall automatically and immediately terminate and revert to GRANTOR.
3. **USE OF PROPERTY AND UNDUE WASTE:** This easement shall be limited to a perpetual non-exclusive easement for as long as the easement is used and maintained for public ingress and egress upon and across the Easement Area. This easement shall be non-exclusive. GRANTOR retains the right to engage in any activities on, over, below or across the Easement Area which do not unreasonably interfere or conflict with GRANTEE'S exercise of this easement.
4. **ASSIGNMENT:** This easement shall not be assigned in whole or in part without the prior written consent of GRANTOR. Any assignment made either in whole or in part without the prior written consent of GRANTOR shall be void and without legal effect.
5. **RIGHT OF INSPECTION:** GRANTOR or its duly authorized agents, representatives or employees shall have the right at any and all times to inspect this easement and the works of GRANTEE in any matter pertaining to this easement.
6. **NON-DISCRIMINATION:** GRANTEE shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicaps, or marital status with respect to any activity occurring within this easement or upon lands adjacent to and used as an adjunct of this easement.
7. **LIABILITY:** GRANTOR does not warrant or represent that Easement Area is safe or suitable for the purpose for which GRANTEE is permitted to use it, and GRANTEE and its agents, representatives, employees, and independent contractors assume all risks in its use. GRANTEE hereby covenants and agrees to investigate all claims of every nature at its own expense and subject to the limitations and conditions as prescribed by Section 768.28, F.S. to indemnify, protect, defend, save and hold harmless GRANTOR and the State of Florida, its officers, agents and employees from any and all damages, claims, costs, expense, including attorney's fees, demands, lawsuits, causes of action or liability of any kind or nature arising out of all personal injury or damages attributable to the negligent acts or omissions of GRANTEE and its agents, officers, and employees. GRANTEE shall contact GRANTOR regarding the legal action deemed appropriate to remedy such damage or claims. The GRANTEE shall maintain a program of insurance covering its liabilities as prescribed by Section 768.28, F.S. Nothing herein shall be construed as a waiver of sovereign immunity enjoyed by any party hereto, as provided in Section 768.28, Florida Statutes, as amended from time to time, or any other law providing limitations on claims. In the event GRANTEE subcontracts any part or all of the work performed in the Easement Area, the GRANTEE shall require each and every subcontractor to identify the GRANTOR as an additional insured on all insurance policies required by the GRANTEE.

Any contract awarded by GRANTEE for work in the Easement Area shall include a provision whereby the GRANTEE's subcontractor agrees to indemnify, pay on behalf, and hold the GRANTOR harmless for all injuries and damages arising in connection with the GRANTEE's subcontract.

8. **COMPLIANCE WITH LAWS:** GRANTEE agrees that this easement is contingent upon and subject to GRANTEE obtaining all applicable permits and complying with all applicable permits, regulations, ordinances, rules, and laws of the State of Florida or the United States or of any political subdivision or agency of either.

9. **PROHIBITIONS AGAINST LIENS OR OTHER ENCUMBRANCES:** Fee title to the lands underlying this easement is held by GRANTOR. GRANTEE shall not do or permit anything to be done which purports to create a lien or encumbrance of any nature against the real property of GRANTOR including, but not limited to, mortgages or construction liens against the real property described in Exhibit "A" or against any interest of GRANTOR therein.

10. **PARTIAL INVALIDITY:** If any term, covenant, condition or provision of this easement shall be ruled by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

11. **SOVEREIGNTY SUBMERGED LANDS:** This easement does not authorize the use of any lands located waterward of the mean or ordinary high water line of any lake, river, stream, creek, bay, estuary, or other water body or the waters or the air space there above.

12. **ENTIRE UNDERSTANDING:** This easement sets forth the entire understanding between the parties and shall only be amended with the prior written approval of GRANTOR.

13. **TIME:** Time is expressly declared to be of the essence of this easement.

14. **RIGHT OF AUDIT:** GRANTEE shall make available to GRANTOR all financial and other records relating to this easement and GRANTOR shall have the right to audit such records at any reasonable time during the term of this easement. This right shall be continuous until this easement expires or is terminated.

15. **PAYMENT OF TAXES AND ASSESSMENTS:** GRANTEE shall assume full responsibility for and shall pay all liabilities that accrue to the Easement Area or to the improvements thereon including any and all drainage and special assessments or taxes of every kind and all mechanic's or materialman's liens which may be hereafter lawfully assessed and levied against this easement.

16. **RECORDING OF EASEMENT:** GRANTEE, at its own expense, shall record this fully executed easement in its entirety in the public records of the county within which the easement site is located within fourteen days after receipt, and

shall provide to the GRANTOR within ten days following the recordation a copy of the recorded easement in its entirety which contains the Instrument Number at which the easement is recorded.

17. **GOVERNING LAW:** This easement shall be governed by and interpreted according to the laws of the State of Florida.

18. **SECTION CAPTIONS:** Articles, subsections and other captions contained in this easement are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this easement or any provisions thereof.

*[Remainder of page intentionally left blank. Signature page follows]*

WITNESSES:

[Signature]

Maxine - A. SWGH  
Print Name

[Signature]

Gina Rizzuto-Smith  
Print Name

(SEAL)

ATTEST:

[Signature]

JEFFREY A. MODARELLI, City Clerk

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

By [Signature]  
JOHN P. "Jack" SEILER, Mayor

By [Signature]  
LEE R. FELDMAN, City Manager

FOR

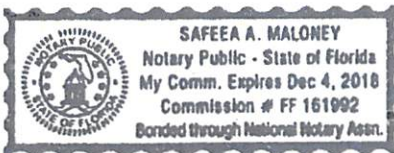
Approved as to form:  
CYNTHIA A. EVERETT, City Attorney

[Signature]  
TANIA MARIE AMAR  
Assistant City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of November, 2017, by JOHN P. "JACK" SEILER, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida.

(SEAL)



[Signature]  
Signature: Notary Public, State of Florida

SAFEENA A. MALONEY  
Name of Notary Typed, Printed or Stamped

Personally Known

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of November, 2017, by ~~LEE R. FELDMAN~~ [Signature] City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida.

(SEAL)

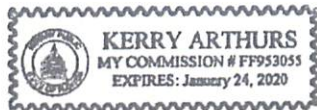
CHRISTOPHER LAGERBLOOM

Signature: Notary Public, State of Florida

Personally Known



Name of Notary Typed, Printed or Stamped



Witnesses:

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

David Fewell  
Print Name: DAVE FEWELL

By: Cheryl C. McCall  
Cheryl C. McCall, Chief, Bureau of Public Land Administration  
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

TERRI D. GROSS  
Print Name: TERRI D. GROSS

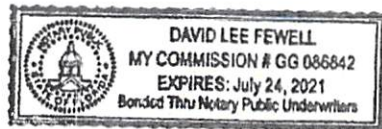
Approved as to Form and Legality:  
By: Gary L. Ballard  
Print Name: Gary L. Ballard

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of DECEMBER, 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.

APPROVED SUBJECT TO PROPER EXECUTION:  
Notary Public, State of Florida

DEP Attorney \_\_\_\_\_ Date \_\_\_\_\_  
DAVID FEWELL  
Printed, Typed or Stamped Name  
My Commission Expires:  
David Lee Fewell



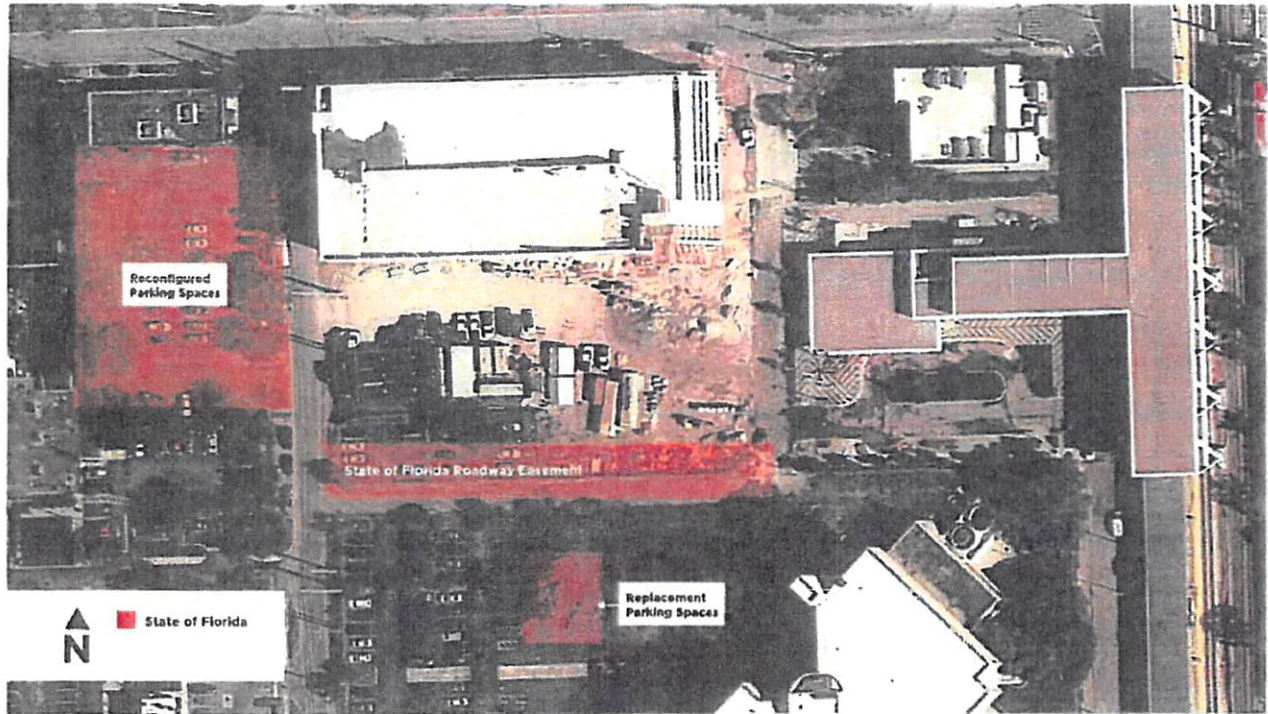
**EXHIBIT "A"**

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 553.93 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

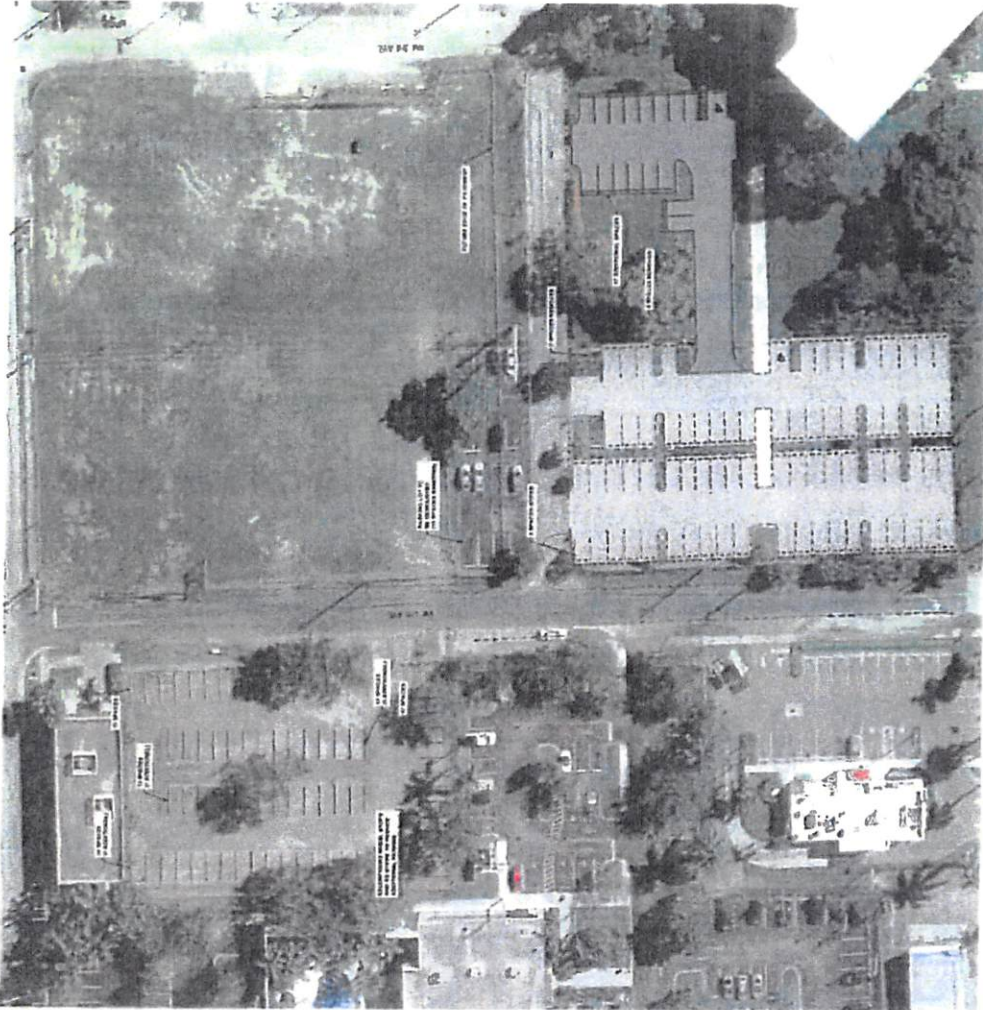
# ROAD EASEMENT



**Exhibit D**

**Alternative Parking Spaces**





MARKING AREA  
 EXISTING BUILDING  
 NEW BUILDING  
 EXISTING PARKING LOT  
 NEW PARKING LOT



**CHEM-MOORE**  
 LABORATORIES  
 1001 East Main Street, Suite 100  
 Miami, FL 33132  
 Phone: 305.375.1100  
 Fax: 305.375.1101  
 www.chem-moore.com  
 DIVISION OF ADMINISTRATION  
 UNIT 11 (11/2017)

PROJECT NUMBER

CITY

ALL ABOARD  
 FLORIDA

PROJECT INFORMATION  
**PARKING  
 RELOCATION  
 EXHIBIT**

FT. LAUDERDALE, FL  
 PROJECT NUMBER  
 506.005  
 CLIENT PROJECT NUMBER  
 8888  
 VISIT SCALE  
 1" = 40' (FOR REFERENCE ONLY)  
 AS OF 11/14/2017 (DATE OF PHOTO)  
 BY: [unreadable]

DATE OF REVISION  
 07/26/2017  
 REVISION BY  
 PDK  
 DRAWING BY  
 RAJ  
 CHECKED BY  
 PDK  
 DRAWING TITLE

EXHIBIT

SCALE: AS SHOWN  
**EX-1**

EXHIBIT (NOT FOR CONSTRUCTION)

FOR OFFICIAL USE ONLY - NOT FOR CONSTRUCTION

**Exhibit E**

Intentionally Deleted  
Please refer to Exhibit D

**Exhibit F.**

..... Florida Department of Management Services Authorization Letter.....



FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

**real estate development  
and management**

*We serve those who serve Florida*

4050 Esplanade Way  
Tallahassee, FL 32399-0950  
Tel: 850-488-2074 | Fax: 850-922-6149

Rick Scott, Governor

Erin Rock, Secretary

August 28, 2017

Husein Cumber, Executive Vice President  
Florida East Coast Industries  
7411 Fullerton Street  
Suite 110  
Jacksonville, FL 32256

Dear Mr. Cumber,

The Florida Department of Management Services authorizes All Aboard Florida Operations, LLC ("AAF") to act on our behalf to secure approvals, permits and licenses from local and regional agencies to construct the roadway, right-of-way improvements, new parking, and necessary utility infrastructure at this location on the site of the Robert Hayes Gore building at 201 West Broward Boulevard. AAF is authorized to sign any required development review or permit applications on our behalf. They are also the authorized agent for purposes of obtaining any variances required to secure approvals needed to construct these improvements. This letter does not provide authorization to begin construction and requires AAF's activities to be consistent with the easement agreement and memorandum of understanding between the City of Ft. Lauderdale and the Florida Department of Environmental Protection.

Sincerely,

Tom Berger, Director  
Real Estate Development and Management

Attached: Site Sketch  
Easement Legal Description

**Exhibit G**

**Access Easement Agreement for FLL Easement Area**

PREPARED BY AND RETURN  
TO:

Kolleen Cobb  
Florida East Coast Industries, LLC  
2855 S. LeJeune Road, 4<sup>th</sup> Floor  
Coral Gables Florida 33134

Folio No: 504210011650

(Space Reserved for Recording Information)

**PUBLIC ACCESS EASEMENT AGREEMENT**

THIS Public Access Easement Agreement (the "Easement") is made this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between:

FLL PROPERTY VENTURES, LLC, a Delaware limited liability company with an address at 2855 Le Jeune Road, 4<sup>th</sup> Floor, Coral Gables, FL 33134, hereinafter "Grantor",

and

**CITY OF FORT LAUDERDALE**, a municipal corporation existing under the laws of the State of Florida, whose Post Office is 100 North Andrews Avenue, Fort Lauderdale, FL 33301, Federal Tax ID No. 59-6000319, hereinafter the "Grantee", its successors and assigns.

WITNESSETH:

**WHEREAS**, Grantor is the owner of the parcel of land lying and being in Fort Lauderdale, Broward County, Florida, described as follows:

SEE SKETCH & LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "A"  
(hereinafter, the "Easement Area");

**WHEREAS**, Grantee desires an easement across the hereinafter described real property for public ingress and egress; and

**WHEREAS**, the Grantor has agreed to provide public pedestrian and vehicular access under the Easement Area.

**NOW THEREFORE**, That said Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable considerations to said Grantor in hand paid by

said Grantee, the receipt of which is hereby acknowledged, has granted, bargained and sold unto the said Grantee, its successors and assigns a non-exclusive easement for public ingress and egress over and along the Easement Area.

Grantee shall not make any improvements within the Easement Area.

All Aboard Florida – Operations LLC, its successors or assigns, have the responsibility for maintaining the Easement Area in good condition and repair in accordance with the quality and standards employed by the City of Fort Lauderdale for maintenance of other public right of ways in the City, including sidewalks, landscaping, storm water utilities and the street lighting within the Easement Area. Grantee and Grantor shall have the right to enforce this maintenance obligation as set forth in that Development Agreement by and between the All Aboard Florida – Operations LLC and Grantee dated \_\_\_\_\_, 2018 and joined by Grantor.

Grantor hereby covenants that Grantor is lawfully seized of fee simple title to the Easement Area and that Grantor hereby fully warrants and defends the rights of Grantee to the Easement Area hereby conveyed against the lawful claims of all persons whomsoever, subject to those certain restrictions, reservations, covenants, conditions, limitations and easements of record listed on Schedule 1 attached hereto and made apart hereof, without reimposition of the same to the extent any of the foregoing have been released, expired, or are in anyway or wise no longer legally enforceable.

\*("Grantor" and "Grantee" are used for singular or plural, as context requires.)

IN WITNESS WHEREOF, the Grantor has hereunto set Grantor's hand and seal the day and year first above written.

FLL Property Ventures, LLC, a Delaware limited liability company

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Kolleen Cobb, Vice President

\_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE:

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2018 by Kolleen Cobb, as Vice President of FLL Property Ventures, LLC, a Delaware limited liability company, and is authorized to sign this instrument on behalf of said company.

She is personally known to me or has produced \_\_\_\_\_ as identification and did not (did) take an oath.

\_\_\_\_\_  
Notary Public, State of Florida

\_\_\_\_\_  
Name of Notary Typed, Printed or Stamped

My Commission Expires:

\_\_\_\_\_  
**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Lynn Solomon, Esq.**  
**Assistant City Attorney**



**EXHIBIT A**  
**EASEMENT AREA**

CHECKED	ERM	SHEET 1 OF 2	DWG 138902.ROADWAY.E3M
OFFICE	DAD	DATE 03.31.16	JOB 31311389.02
PROFESSIONAL SURVEYOR AND MAPPER FLORIDA LICENSE NO. 6717			

DATE: \_\_\_\_\_ REVISION: \_\_\_\_\_ BY: \_\_\_\_\_  
 BY: *[Signature]* DATE: 4/2/16  
 ERIC MATTHEWS,  
 PROFESSIONAL SURVEYOR AND MAPPER FLORIDA LICENSE NO. 6717


For The Firm  
 Wantman Group, Inc.  
 2. BEARINGS SHOWN HEREON ARE BASED ON GRID NORTH, AND ARE REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NORTH AMERICAN DATUM OF 1983, 2007 ADJUSTMENT. THE BEARING BASE FOR THIS SKETCH IS THE WEST LINE OF BLOCK 10, PLAT OF FORT LAUDERDALE, AS RECORDED IN PLAT BOOK B, PAGE 40, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, SAID EAST LINE BEARS S 02°08'22" E AND ALL OTHER BEARINGS ARE RELATIVE THERETO.

1. SUBJECT TO EXISTING EASEMENTS, RIGHTS-OF-WAY, COVENANTS, RESERVATIONS AND RESTRICTIONS OF RECORD, IF ANY.

**SURVEYOR'S NOTES:**

SAID LANDS LYING AND SITUATE IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA,  
 CONTAINS 5769 SQUARE FEET, 0.132 ACRES MORE OR LESS.  
 BEGINNING,  
 THENCE NORTH 02°06'44" WEST, A DISTANCE OF 37.97 FEET, TO THE POINT OF 151.80 FEET;  
 THENCE SOUTH 87°57'13" WEST, ALONG THE SOUTH LINE OF LOT 19, A DISTANCE OF 37.97 FEET TO THE SOUTHEAST CORNER OF LOT 19;  
 THENCE SOUTH 02°06'18" EAST, ALONG THE EAST LINE OF BLOCK 10, A DISTANCE OF EAST LINE OF BLOCK 10;  
 THENCE NORTH 87°57'13" EAST, A DISTANCE OF 151.81 FEET TO A POINT ON THE BEGINNING;  
 THENCE NORTH 87°57'13" EAST, A DISTANCE OF 152.15 FEET TO THE POINT OF 262.29 FEET;  
 THENCE SOUTH 02°08'22" EAST, ALONG THE WEST LINE OF BLOCK 10, A DISTANCE OF COMMENCING AT THE NORTHWEST CORNER OF LOT 1 BLOCK 10;  
 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 PARTICULARLY DESCRIBED AS FOLLOWS:

**LEGAL DESCRIPTION:**



**Wantman Group, Inc.**  
 Engineering ♦ Planning ♦ Surveying ♦ Environmental  
 2035 VISTA PARKWAY, SUITE 100, WEST PALM BEACH, FL 33411  
 (866) 909-2220 phone (561) 687-1110 fax  
 CERTIFICATE OF AUTHORIZATION No. LB 7055  
 JACKSONVILLE - ORLANDO - TALLAHASSEE - TAMPA  
 www.wantmangroup.com

ALL ABOARD FLORIDA  
 N.W. 1st STREET  
 DESCRIPTION & SKETCH  
 PREPARED FOR:  
 FLL PROPERTY VENTURES, LLC

\31311389.02 All Aboard Florida Ft. Lauderdale Station\dwg\Legals\138902.ROADWAY.E3M.FTL\_BALANCE\_3-31-16.(C).dwg COVER SHEET Apr. 06, 2016:

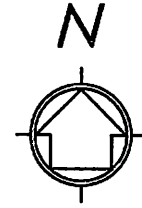


**WGI**  
Wantman Group, Inc.

Engineering ♦ Planning ♦ Surveying ♦ Environmental  
2035 VISTA PARKWAY, SUITE 100, WEST PALM BEACH, FL 33411  
(866) 909-2220 phone (561) 687-1110 fax  
CERTIFICATE OF AUTHORIZATION No. LB 7055  
JACKSONVILLE - ORLANDO - TALLAHASSEE - TAMPA  
www.wantmangroup.com

**LEGEND:**

- C/L = Center line
- BCR = Broward County Records
- DCR = Dade County Records
- ORB = Official Records Book
- PB = Plat Book
- PG. = Page
- R/W = Right-of-Way
- UE = Utility Easement
- P.O.C. = Point Of Commencement
- P.O.B. = Point Of Beginning



SCALE: 1" = 50'  
(Intended Display Scale)

**DESCRIPTION & SKETCH**

PREPARED FOR:

**FLL PROPERTY VENTURES, LLC**

NW 2ND STREET  
(PLATTED N FIFTH STREET)  
50' PUBLIC R/W

50.00'

25.00'

25.00'

50.00'

P.O.C.

N.W. COR. LOT 1,  
BLOCK 10

R/W LINE

LOT 24

LOT 1

LOT 2

LOT 23

WEST LINE  
BLOCK 10

14' VACATED ALLEY & TEMPORARY UE  
(ORB 41207, PG. 1719, BCR)

EAST LINE  
BLOCK 10

N.W. 3RD AVENUE  
(PLATTED NUGENT AVENUE)  
50' PUBLIC R/W

S02°08'22"E  
P62.29'  
(BEARING BASIS)

LOT 3

LOT 22

BLOCK 10

LOT 4 TOWN OF FORT LAUDERDALE  
(PB B PG. 40 DCR)

LOT 21

R/W LINE

N.W. 4TH AVENUE  
(PLATTED CUNNINGHAM AVE.)  
40' PUBLIC R/W

R/W LINE

LOT 5

LOT 20

S.W. COR. LOT 5,  
BLOCK 10

P.O.B.

N87°57'13"E 152.15'

N87°57'13"E 151.81'

LOT 6

N02°06'44"W 37.97'

LOT 19

S02°06'18"E 37.97'

LOT 7

S87°57'13"W 151.80'

S.E. COR. LOT 19, BLOCK 10

LOT 18

DATE:

REVISION:

BY:

			OFFICE	DAD	DATE	03.31.16	JOB	31311389.02
			CHECKED	ERM	SHEET	2 OF 2	DWG	138902_ROADWAY_EASM

\\31311389.02 All Aboard Florida Ft Lauderdale Station\dwg\Legals\138902\_ROADWAY\_EASM\FLL\_BALANCE\_3-31-16\_(C).dwg SKETCH SURVEY Apr 06, 2016;

SCHEDULE 1  
PERMITTED EXCEPTIONS

1. Plat of Town of Fort Lauderdale, recorded in Plat Book B, Page 40, of the Public Records of Dade County, Florida and as affected by Ordinance recorded in Official Records Book 41207, Page 1719, of the Public Records of Broward County, Florida, which vacates the alley as a public right- of-way and retains a temporary utilities easement over said vacated right-of-way.
2. Declaration of Restrictions in favor of the City of Fort Lauderdale, recorded in Official Records Book 41209, Page 1598, as affected by that certain Amended and Restated Declaration of Restrictions recorded in Official Records Book 44621, Page 1038, of the Public Records of Broward County, Florida.
3. Property Owner's Encroachment Easement and Restrictive Covenant Agreement by and between DTS FLL Parking LLC, a Delaware limited liability company and FLL Property Ventures LLC, recorded July 25, 2016 as Instrument Number 113830391 of the Public Records of Broward County, Florida.
4. Interlocal Agreement for the Monitoring of Development Activity and Enforcement of Permitted Land Uses in Downtown Fort Lauderdale Regional Activity Center by and between Broward County, a political subdivision of the State of Florida, and the City of Fort Lauderdale, a Florida municipal corporation, recorded as Instrument No. 114050934, Public Records of Broward County, Florida.
5. Development Agreement for Streetscape Enhancement Program [Garage Final] by and between the Fort Lauderdale Community Redevelopment Agency, a community redevelopment agency created pursuant to Part III, Chapter 163, Florida Statutes, and DTS FLL Parking LLC, a Delaware limited liability company authorized to transact business in the State of Florida, and joined in by FLL Property Ventures, LLC, a Delaware limited liability company authorized to transact business in the State of Florida, recorded as Instrument No. 114676897, Public Records of Broward County, Florida.
6. Development Agreement for Streetscape Enhancement Program [Station Final] by and between the Fort Lauderdale Community Redevelopment Agency, a community redevelopment agency created pursuant to Part III, Chapter 163, Florida Statutes, and All Aboard Florida - Operations, LLC, a Delaware limited liability company authorized to transact business in the State of Florida, recorded as Instrument No. 114676896, Public Records of Broward County, Florida.
7. First Amendment to Educational Mitigation Agreement recorded as Instrument No. 114295268, Public Records of Broward County, Florida.
8. Certificate re: Ordinance No. C-05-27 recorded under Instrument No. 114174770

9. Easement in favor of Florida Power & Light Company recorded in Official Records Book 45079, Page 1075, of the Public Records of Broward County, Florida.
10. Survey prepared by Wantman Group, Inc., dated July 15, 2016, under Job No. 31311389.02, shows the following: (a) overhead utility lines vary westerly and northerly property lines; (b) chain link fence located inside northerly property line; and (c) overhead utility line traverses through the center of the property.



**ATTORNEY'S OPINION OF TITLE**

**Re:** Property described on Exhibit A attached hereto.

To Whom It May Concern:

STATE OF FLORIDA            )  
COUNTY OF MIAMI-DADE    )

COMES NOW, your Affiant, Kolleen Cobb, in her capacity as General Counsel of Florida East Coast Industries, LLC, a Delaware limited liability company, and not personally, who after first being duly sworn, states:

1. Affiant is an attorney authorized to practice law in the State of Florida, Florida Bar No. 798754.
2. Affiant has conducted a search of the Public Records of Broward County, Florida, to determine the fee simple owner of the real property described on Exhibit A attached hereto and made a part hereof (the "Property").
3. That based upon that certain First American Owner's Policy No. 5011412-590013, with an effective date of February 13, 2013 at 7:19 a.m. and an update search effective through \_\_\_\_\_, fee simple title to the Property is currently in the name of FLL Property Ventures, LLC, a Delaware limited liability company.
4. There are no mortgages, liens or monetary encumbrances on the Property.
5. Based on document listed below to be recorded in the public records of Broward County, no lien, mortgage, or encumbrance has priority over nor does any restriction or easement of record conflict or interfere with the deed or easement being conveyed as described herein to the City of Fort Lauderdale in connection with this Attorney's Opinion of Title. The document to be recorded is as follows:

This Opinion of Title is being furnished to the City of Fort Lauderdale for use by said party in the recording of an easement document to be executed by FLL Property Ventures LLC, a Delaware limited liability company, relating to the Property and for no other purpose.

6. The individual signing the instrument is an authorized officer of FLL Property Ventures LLC and has the power and authority to enter into a binding agreement on behalf of FLL Property Ventures LLC. No other parties signatures are needed to make this agreement valid and enforceable.

FURTHER AFFIANT SAYETH NAUGHT.

Florida East Coast Industries, LLC, a Delaware limited liability company

By: \_\_\_\_\_  
Kolleen Cobb, General Counsel

SWORN TO AND SUBSCRIBED before me this  
\_\_\_\_\_ day of January, 2018

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

Exhibit A

ROADWAY LEGAL DESCRIPTION

|



31311389.02 All Aboard Florida Ft Lauderdale Station \dwg\Legals\138902\_ROADWAY\_EASM\_FTL\_BALANCE\_3-31-16\_(C).dwg COVER SHEET Apr 06, 2016:

CHECKED	ERM	SHEET 1 OF 2	DWG 138902_ROADWAY_EASM
OFFICE	DAD	DATE 03.31.16	JOB 31311389.02
PROFESSIONAL SURVEYOR AND MAPPER FLORIDA LICENSE NO. 6717			

DATE:

REVISION:

BY: *[Signature]*

DATE: 4/2/16

For The Firm  
Wantman Group, Inc.

1. SUBJECT TO EXISTING EASEMENTS, RIGHTS-OF-WAY, COVENANTS, RESERVATIONS AND RESTRICTIONS OF RECORD, IF ANY.  
2. BEARINGS SHOWN HEREON ARE BASED ON GRID NORTH, AND ARE REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM, EAST ZONE, NORTH AMERICAN DATUM OF 1983, 2007 ADJUSTMENT. THE BEARING BASE FOR THIS SKETCH IS THE WEST LINE OF BLOCK 10, PLAT OF TOWN OF FORT LAUDERDALE, AS RECORDED IN PLAT BOOK B, PAGE 40, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, SAID EAST LINE BEARS S 02°08'22" E AND ALL OTHER BEARINGS ARE RELATIVE THERETO.

**SURVEYOR'S NOTES:**

SAID LANDS LYING AND SITUATE IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA  
CONTAINS 5769 SQUARE FEET, 0.132 ACRES MORE OR LESS.  
BEGINNING  
THENCE NORTH 02°06'44" WEST, A DISTANCE OF 37.97 FEET, TO THE POINT OF 151.80 FEET;  
THENCE SOUTH 87°57'13" WEST, ALONG THE SOUTH LINE OF LOT 19, A DISTANCE OF 37.97 FEET TO THE SOUTHEAST CORNER OF LOT 19;  
THENCE SOUTH 02°06'18" EAST, ALONG THE EAST LINE OF BLOCK 10, A DISTANCE OF EAST LINE OF BLOCK 10;  
THENCE NORTH 87°57'13" EAST, A DISTANCE OF 151.81 FEET TO A POINT ON THE BEGINNING;  
THENCE NORTH 87°57'13" EAST, A DISTANCE OF 152.15 FEET TO THE POINT OF 262.29 FEET;  
THENCE SOUTH 02°08'22" EAST, ALONG THE WEST LINE OF BLOCK 10, A DISTANCE OF COMMENCING AT THE NORTHWEST CORNER OF LOT 1 BLOCK 10;  
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:

**LEGAL DESCRIPTION:**

DESCRIPTION & SKETCH  
PREPARED FOR:  
FTL PROPERTY VENTURES, LLC

ALL ABOARD FLORIDA  
N.W. 1st STREET



**Wantman Group, Inc.**  
Engineering ♦ Planning ♦ Surveying ♦ Environmental  
2035 VISTA PARKWAY, SUITE 100, WEST PALM BEACH, FL 33411  
(866) 909-2220 phone (561) 687-1110 fax  
CERTIFICATE OF AUTHORIZATION NO. LB 7055  
JACKSONVILLE - ORLANDO - TALLAHASSEE - TAMPA  
www.wantmangroup.com

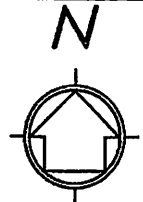


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LEGEND:

- C/L = Center line
- BCR = Broward County Records
- DCR = Dade County Records
- ORB = Official Records Book
- PB = Plat Book
- PG. = Page
- R/W = Right-of-Way
- UE = Utility Easement
- P.O.C. = Point Of Commencement
- P.O.B. = Point Of Beginning

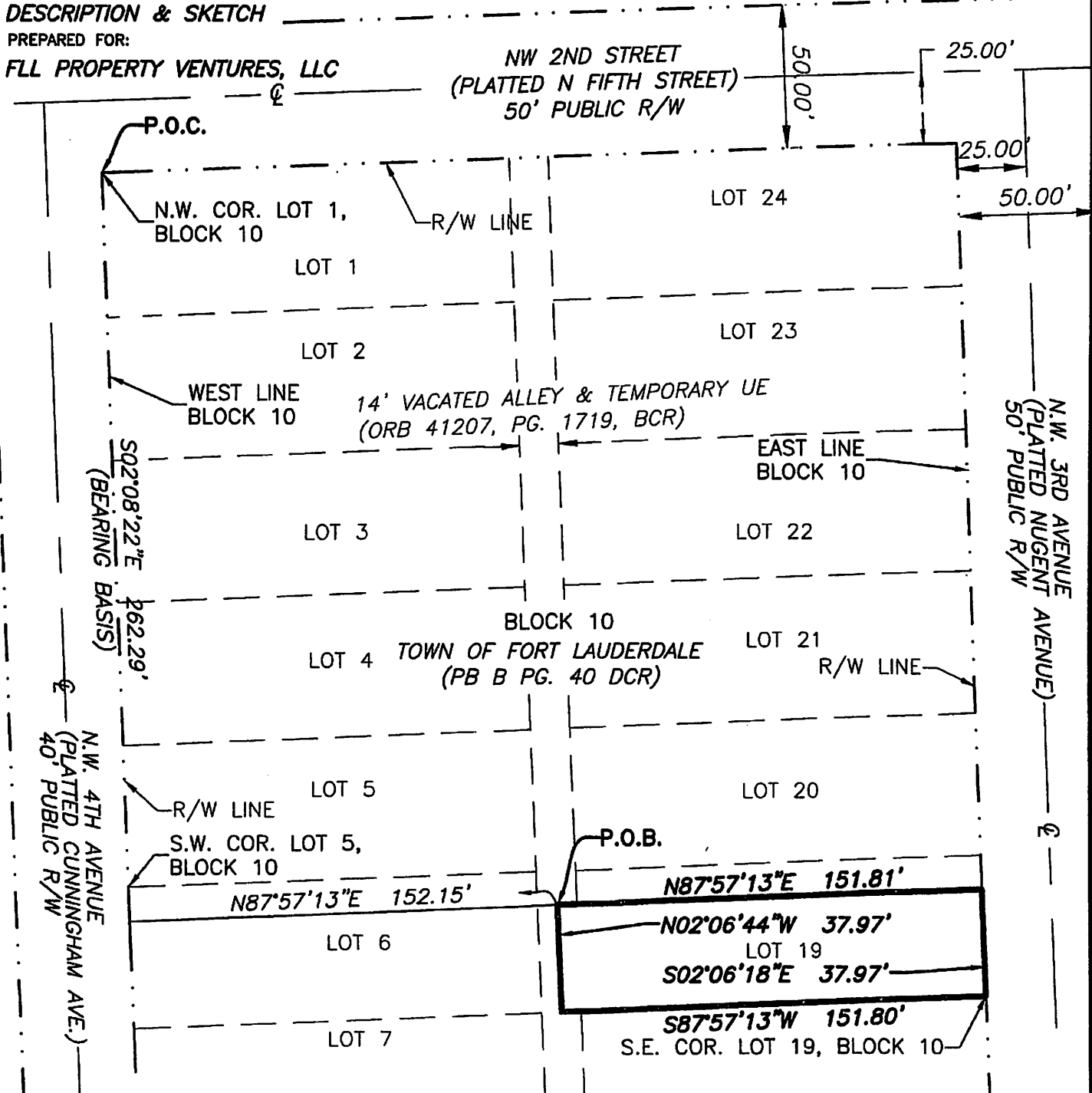


SCALE: 1" = 50'  
(Intended Display Scale)

DESCRIPTION & SKETCH

PREPARED FOR:

FLL PROPERTY VENTURES, LLC



DATE: REVISION: BY:

			OFFICE	DAD	DATE	03.31.16	JOB	31311389.02
			CHECKED	ERM	SHEET	2 OF 2	DWG	138902_ROADWAY_EAS

I:\31311389.02 All Aboard Florida Ft Lauderdale Station\dwg\Legals\138902\_ROADWAY\_EASM\_FFL\_BALANCE\_3-31-16\_(C).dwg SKETCH SURVEY Apr 06, 2016;

**Exhibit H**

**Station Parcel**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF BROWARD, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

LOTS 3, 4, 5 AND 6 AND LOTS 19, 20, 21 AND 22, BLOCK 11, TOWN OF FORT LAUDERDALE, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN PLAT BOOK "B", PAGE 40, PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA.



COMMISSION AGENDA ITEM  
DOCUMENT ROUTING FORM

2LG  
5/8/18

Today's Date: 4/25/18

DOCUMENT TITLE: Development Agreement – All Aboard Florida – Operations, LLC

COMM. MTG. DATE: 11/7/17 CAM #: 17-1262 ITEM #: CM-8 CAM attached:  YES  NO

Routing Origin: CAO Router Name/Ext: Shaniece Louis / Ext. 5036

CIP FUNDED:  YES  NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

2) City Attorney's Office # of originals attached: 2 Approved as to Form:  YES  NO

Date to CCO: 5/3/18 LS  
Initials

3) City Clerk's Office: # of originals: 2 Routed to: Gina Ri/CMO/X5013 Date: 5/3/18

4) City Manager's Office: CMO LOG #: mqv-27 Date received from CCO: 5/3/18

Assigned to: L. FELDMAN  S. HAWTHORNE  C. LAGERBLOOM   
L. FELDMAN as CRA Executive Director

APPROVED FOR LEE FELDMAN'S SIGNATURE  N/A FOR L. FELDMAN TO SIGN

PER ACM: S. HAWTHORNE (Initial/Date) C. LAGERBLOOM (Initial/Date)  PENDING APPROVAL (See comments below)

Comments/Questions: \_\_\_\_\_

Forward 2 originals to  Mayor  CCO Date: 5/4/18

5) Mayor/CRA Chairman: Please sign as indicated. Forward \_\_\_\_\_ originals to CCO for attestation/City seal (as applicable) Date: \_\_\_\_\_

**INSTRUCTIONS TO CLERK'S OFFICE**

City Clerk: Retains 1 original and forwards 1 original(s) to: Shaniece Louis / CAO / Ext. 5036 (Name/Dept/Ext)

Attach \_\_\_\_\_ certified Reso # \_\_\_\_\_  YES  NO Original Route form to CAO

**\*\*please email an executed copy to Shaniece Louis\*\***