

DEVELOPMENT AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2017 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, 4th 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. 1st Street between N.W. 3rd and 4th 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 _____, 2017 and BOT has granted CITY a non-exclusive perpetual easement across the real property described in Exhibit A (the "Easement") 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 2nd 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 Architect of Record a 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 to 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. 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 except that it is exempt from the City’s setback requirements.

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 Access Easement in the form **and substance acceptable to the City within thirty (30) days of the approval of the final inspection for the right-of way for the Roadway.** Said 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 be responsible for maintenance of the Roadway, 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.

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, 4th 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: Cynthia A. Everett, 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, indirect or consequential 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 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]

DRAFT

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

FOR CITY:

WITNESSES:

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

Print Name_____

By _____
JOHN P. "Jack" SEILER, Mayor

Print Name_____

Print Name_____

By _____
LEE R. FELDMAN, CITY Manager

Print Name_____
(SEAL)

ATTEST:

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

JEFFREY A. MODARELLI, CITY Clerk

TANIA MARIE AMAR
Assistant CITY Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

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

Signature: Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

Personally Known

STATE OF FLORIDA:
COUNTY OF BROWARD:

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

Signature: Notary Public, State of Florida

Personally Known
Stamped

Name of Notary Typed, Printed or

DRAFT

FOR DEVELOPER:

WITNESSES:

ALL ABOARD FLORIDA - OPERATIONS, 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 _____, 2017, by KOLLEEN COBB, Vice President of ALL ABOARD FLORIDA - OPERATIONS, LLC, a Delaware limited liability company.

Signature: Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

Personally Known

FOR THE PURPOSES OF AGREEING TO SECTION 3 ONLY:

WITNESSES:

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 _____, 2017, by KOLLEEN COBB, Vice President of FLL PROPERTY VENTURES, LLC, a Delaware limited liability company.

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

ROAD EASEMENT

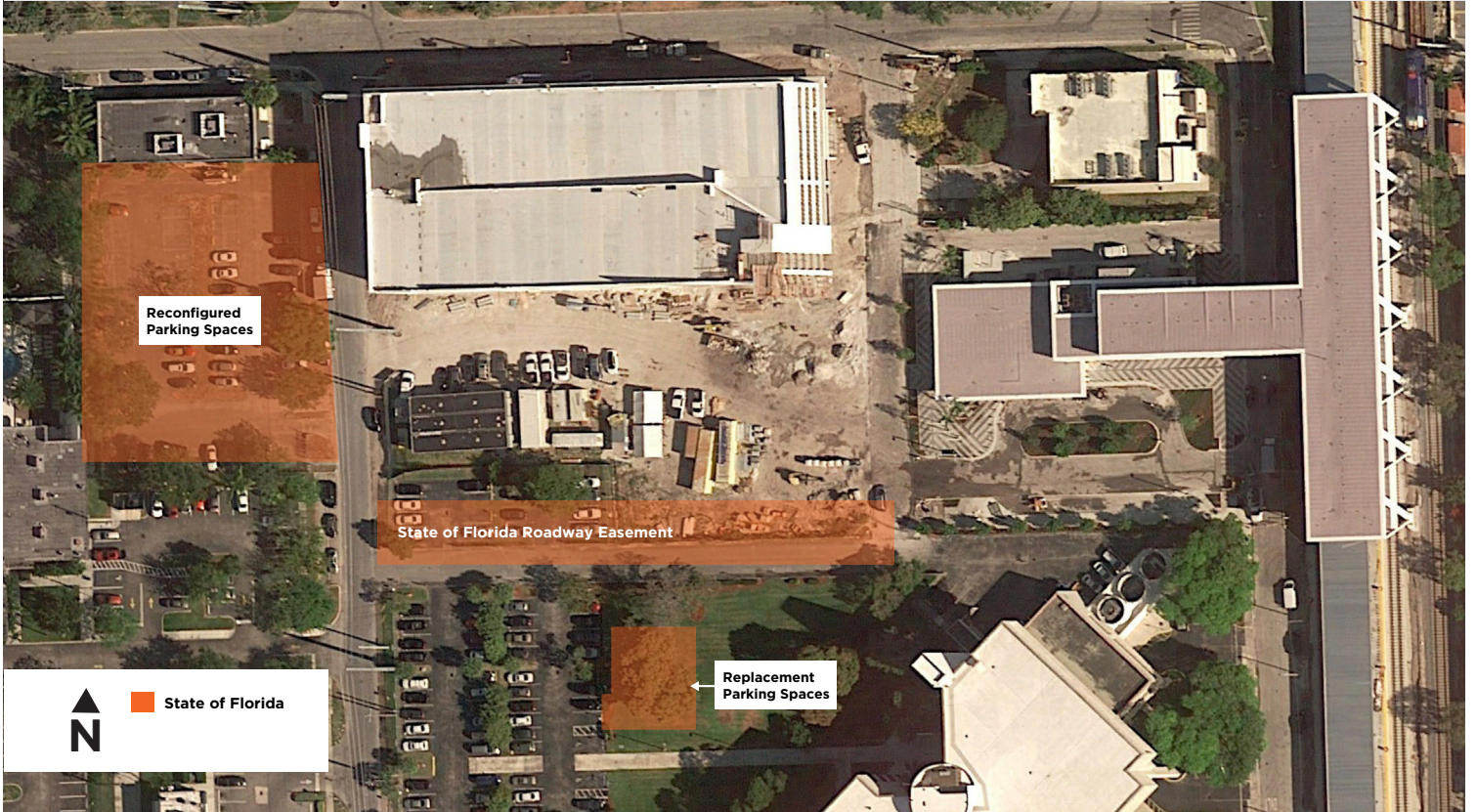


EXHIBIT "B"

MEMORANDUM OF UNDERSTANDING

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

RECITALS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

WITNESSES:

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

Print Name

By _____
JOHN P. "Jack" SEILER, Mayor

Print Name
(SEAL)

By _____
LEE R. FELDMAN, City Manager

ATTEST:

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

JEFFREY A. MODARELLI, City Clerk

TANIA MARIE AMAR
Assistant City Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

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

Signature: Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

Personally Known

STATE OF FLORIDA:
COUNTY OF BROWARD:

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

Signature: Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

Personally Known

Witnesses:

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

Print Name:_____

Print Name:_____

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

STATE OF FLORIDA
COUNTY OF LEON

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

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

EXHIBIT "A"

LEGAL DESCRIPTION:

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

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

CONTAINS 10023 SQUARE FEET, 0.230 ACRES MORE OR LESS.

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

BSM APPROVED

By: SK

Date: August 25, 2017

ROAD EASEMENT

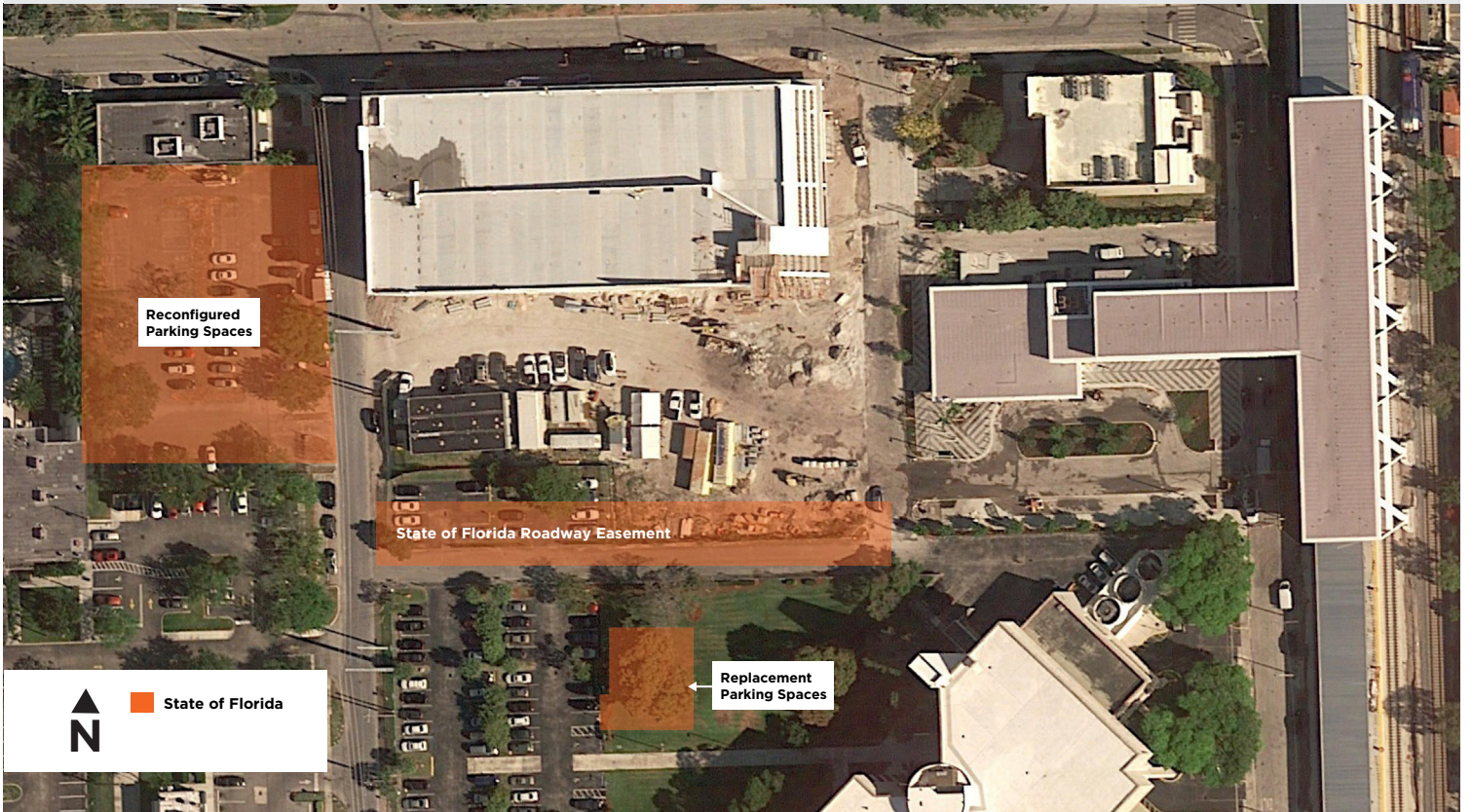
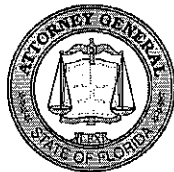


EXHIBIT "B"

APPLICATION FOR THE USE OF STATE OWNED UPLANDS

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

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Instructions and general guidance for completing this application:

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

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

Section 1 – General Information

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

Section 2 – Other Specific Information

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

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

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

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

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

PRIOR TO COMPLETING THIS APPLICATION, PLEASE BE ADVISED THAT:

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

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

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

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

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



Section 1 – General Information

REQUESTED ACTION

- New Release Assignment/Assumption
 Amendment Partial Release

AUTHORIZATION REQUESTED

- Lease Easement Conveyance
 Sublease Use Agreement Other: _____

TYPE OF ENTITY REQUESTING AUTHORIZATION

- State Agency
 Federal, Regional or Local Agency
 Private – Please indicate if commercial: YES NO

Table 1 – Contact and Property Information

Applicant Information			
Legal Name of Lessee/Grantee: City of Fort Lauderdale			
Contact Name: Ryan Henderson		Title:	
Address: 100 N. Andrews			
City: Fort Lauderdale	State: Florida	Zip: 33301	
Phone (1): 954-828-5213	Phone (2):	Fax: 954-828-5074	
Email Address: rhenderson@fortlauderdale.gov			
Billing Information <i>(if same as above check here x)</i>			
Name:			
Title:		Company:	
Address:			
City:	State:	Zip:	
Phone (1):	Phone (2):	Fax:	
Email:			
Representative Information: <i>(Only complete if someone will be handling this transaction on your behalf)</i>			
Name:			
Title:		Company:	
Address:			
City:	State:	Zip:	
Phone (1):	Phone (2):	Fax:	
Email Address:			
Management Plan or Land Use Plan Contact Information <i>(for Leases/Subleases only)</i>			
Name:		Title:	
Phone (1):	Phone (2):	Fax:	
Email Address:			



Section I – 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 I – General Information (cont'd)

Required Attachments

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

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



Section 2 - Other Specific Information

A) Leases:

Parent Lease number (if existing): _____

A statement describing the public benefits that will occur as a result of the proposed lease; how the lease will impact local resources and the general public; and how the proposed lease of state land will not be contrary to the public interest.

A written statement from the managing agency agreeing to lease the state-owned parcel(s).

For Leases subject to Section 253.034(13), F.S., provide a business plan with the pertinent information required by Statute.

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

A written commitment to pay a lease fee based on the appraised market value of the proposed lease.

Names and addresses, as shown on the latest county tax assessment roll, of all property owners lying within a 500-foot radius of the state land proposed for lease, certified by the county property appraiser.

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

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

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

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

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

B) Subleases:

Sublease number of existing sublease (if applicable): _____

Parent Lease number (if applicable): _____

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

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

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

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

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

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

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

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



C) Easements

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

Parent Lease number (if applicable): _____

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

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

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

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

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

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

D) Use Agreements

Parent Lease number (if applicable): _____

Please indicate what type of use agreement is requested:

Well-Monitoring
 Geophysical

Beach (Re)Nourishment
 Other: _____

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

E) Conveyances

Release of Deed Restriction(s)

Modification of Deed Restriction(s)

Reverter Deeds

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



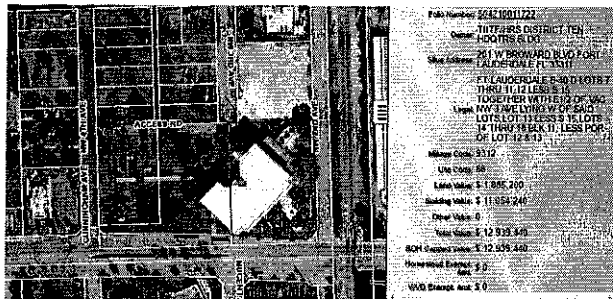
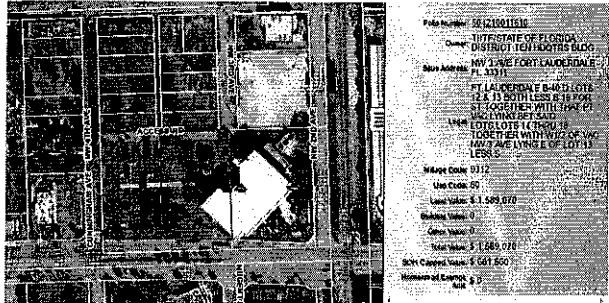
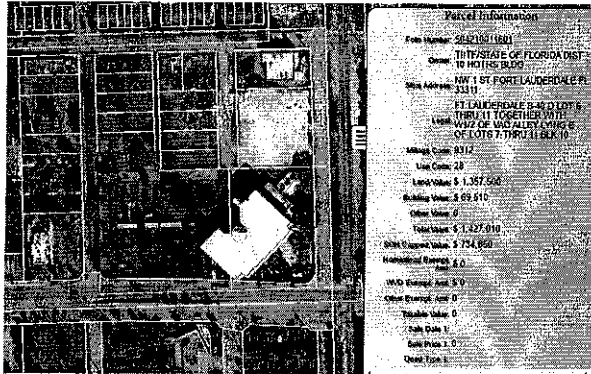
Applicant: City of Fort Lauderdale

Exhibits

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



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



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

Plot Date: 7/26/2017 1:46:28 PM Username: RJimenez Layout Name: EX-1
 Folder Path: V:\Projects\2016\16-306.006 - Full State Office Parking Improvement\Design\CAD\Misc\Parking Modifications File Name: 306.006 - Off-Site Parking Exhibit.dwg

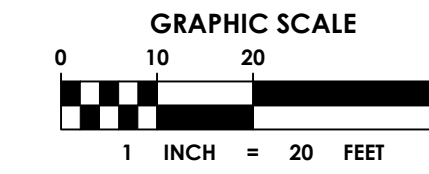
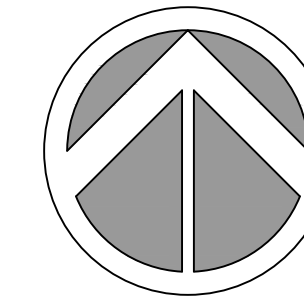
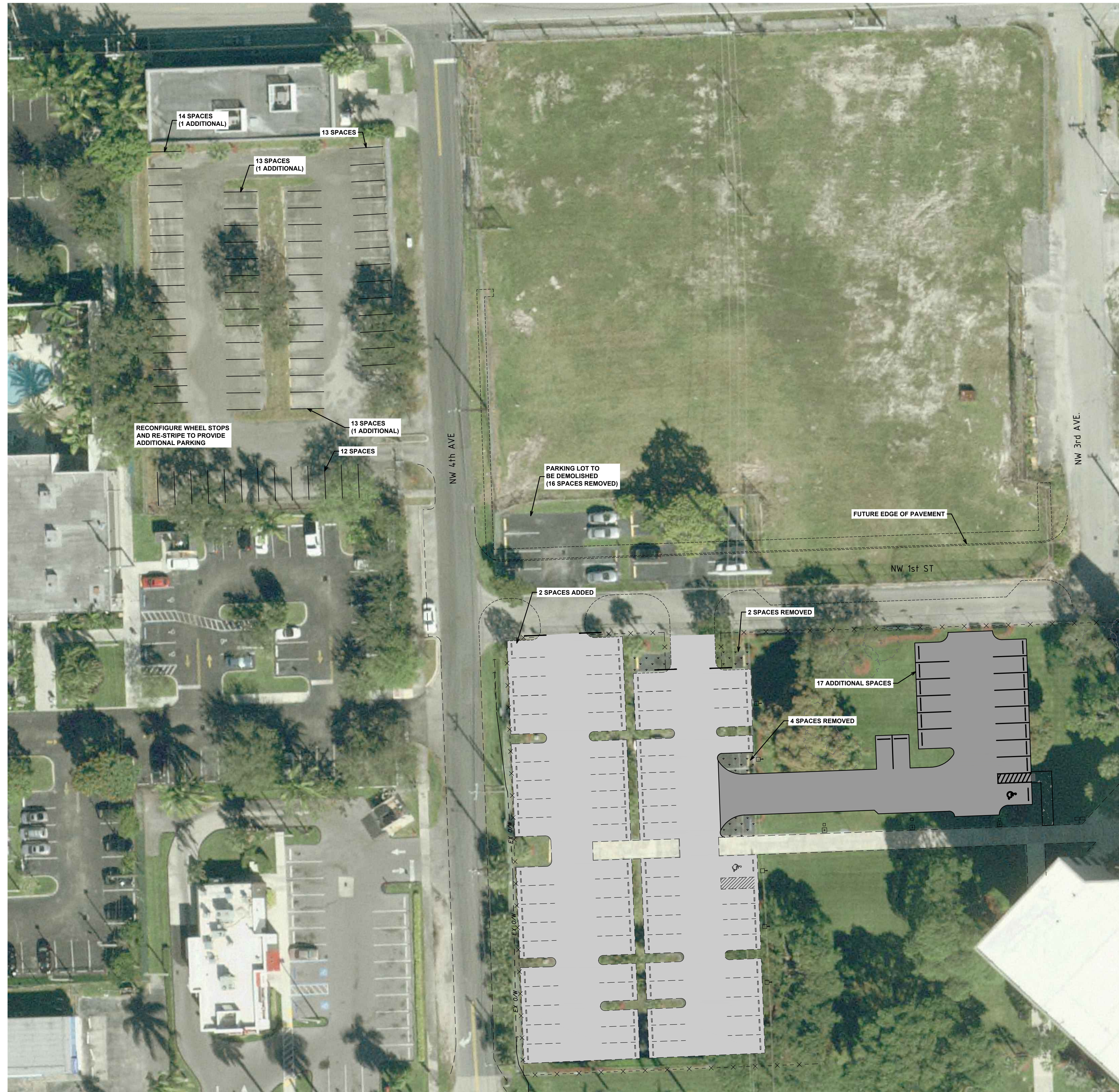


EXHIBIT "C"

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

SUB-CONSULTANT

CLIENT

**ALL ABOARD
 FLORIDA**

PROJECT INFORMATION

**PARKING
 RELOCATION
 EXHIBIT**

FT. LAUDERDALE, FL

PROJECT NUMBER
 306.006

CLIENT PROJECT NUMBER
 #####

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

REVISIONS

DATE OF ISSUE
 07/26/2017

DESIGNED BY
 PDK

DRAWN BY
 RAJ

CHECKED BY
 PDK

DRAWING TITLE

EXHIBIT

DRAWING NUMBER
EX-1
 1 OF 1

EXHIBIT (NOT FOR CONSTRUCTION)

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 _____ day of _____ 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:

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

By _____
JOHN P. "Jack" SEILER, Mayor

Print Name

By _____
LEE R. FELDMAN, City Manager

Print Name
(SEAL)

ATTEST:

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

JEFFREY A. MODARELLI, City Clerk

TANIA MARIE AMAR
Assistant City Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

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

Signature: Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

Personally Known

STATE OF FLORIDA:
COUNTY OF BROWARD:

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

Signature: Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

Personally Known

Witnesses:

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

Print Name: _____

By: _____
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

Print Name: _____

Approved as to Form and Legality:
By: _____
Print Name: _____

STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me this ____ day of _____, 201____, 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

Printed, Typed or Stamped Name
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.

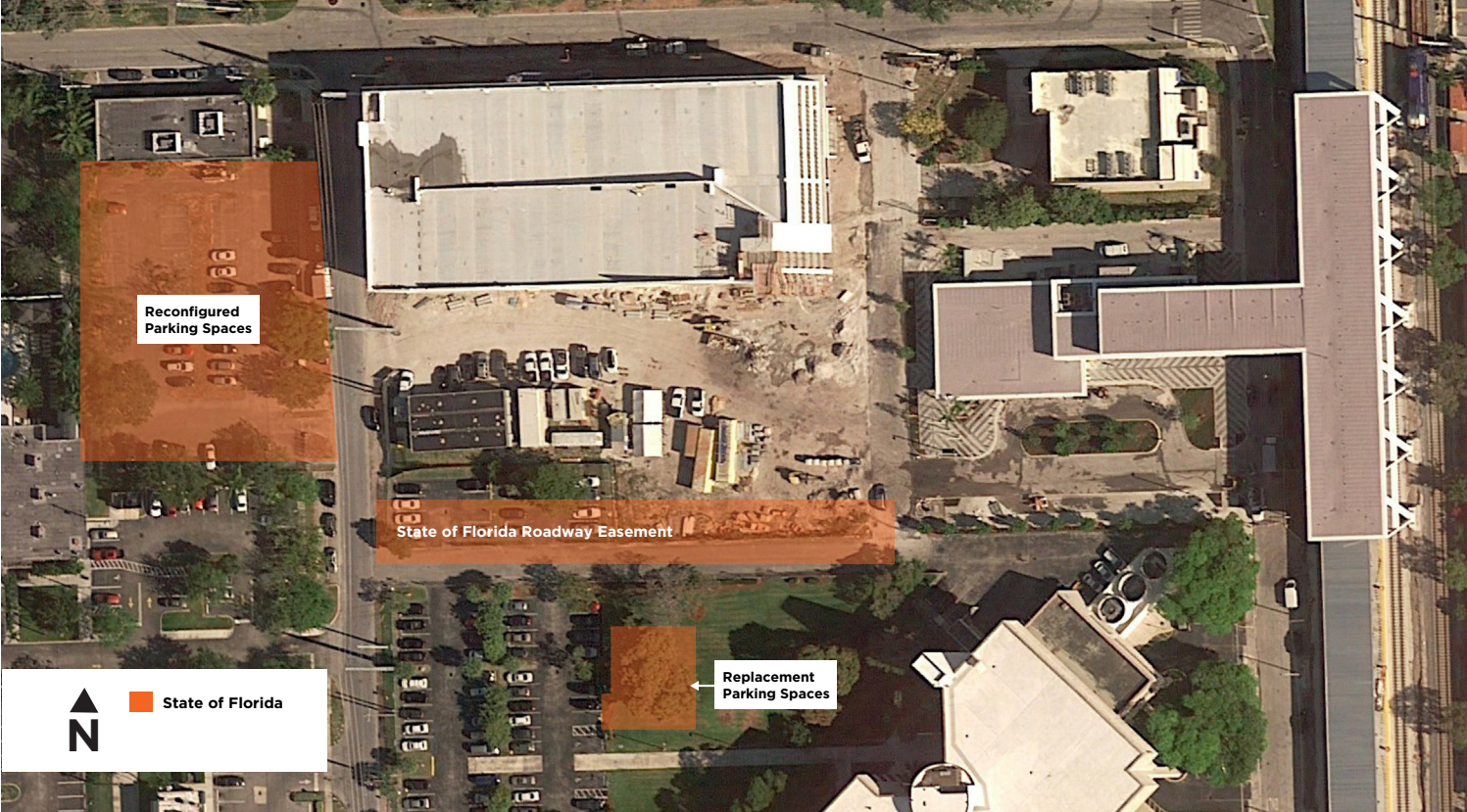
SAID LANDS LYING AND SITUATE IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA.

BSM APPROVED

By: SK

Date: August 25, 2017

ROAD EASEMENT



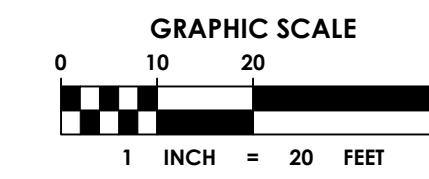
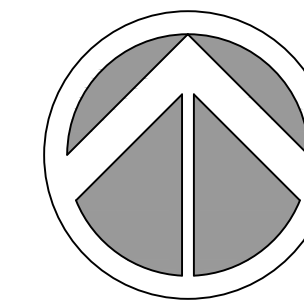


EXHIBIT "D"

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

SUB-CONSULTANT

CLIENT

**ALL ABOARD
 FLORIDA**

PROJECT INFORMATION

**PARKING
 RELOCATION
 EXHIBIT**

FT. LAUDERDALE, FL

PROJECT NUMBER
 306.006

CLIENT PROJECT NUMBER
 #####

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

REVISIONS

DATE OF ISSUE
 07/26/2017

DESIGNED BY
 PDK

DRAWN BY
 RAJ

CHECKED BY
 PDK

DRAWING TITLE

EXHIBIT

DRAWING NUMBER
EX-1
 1 OF 1

EXHIBIT (NOT FOR CONSTRUCTION)

EXHIBIT "E"

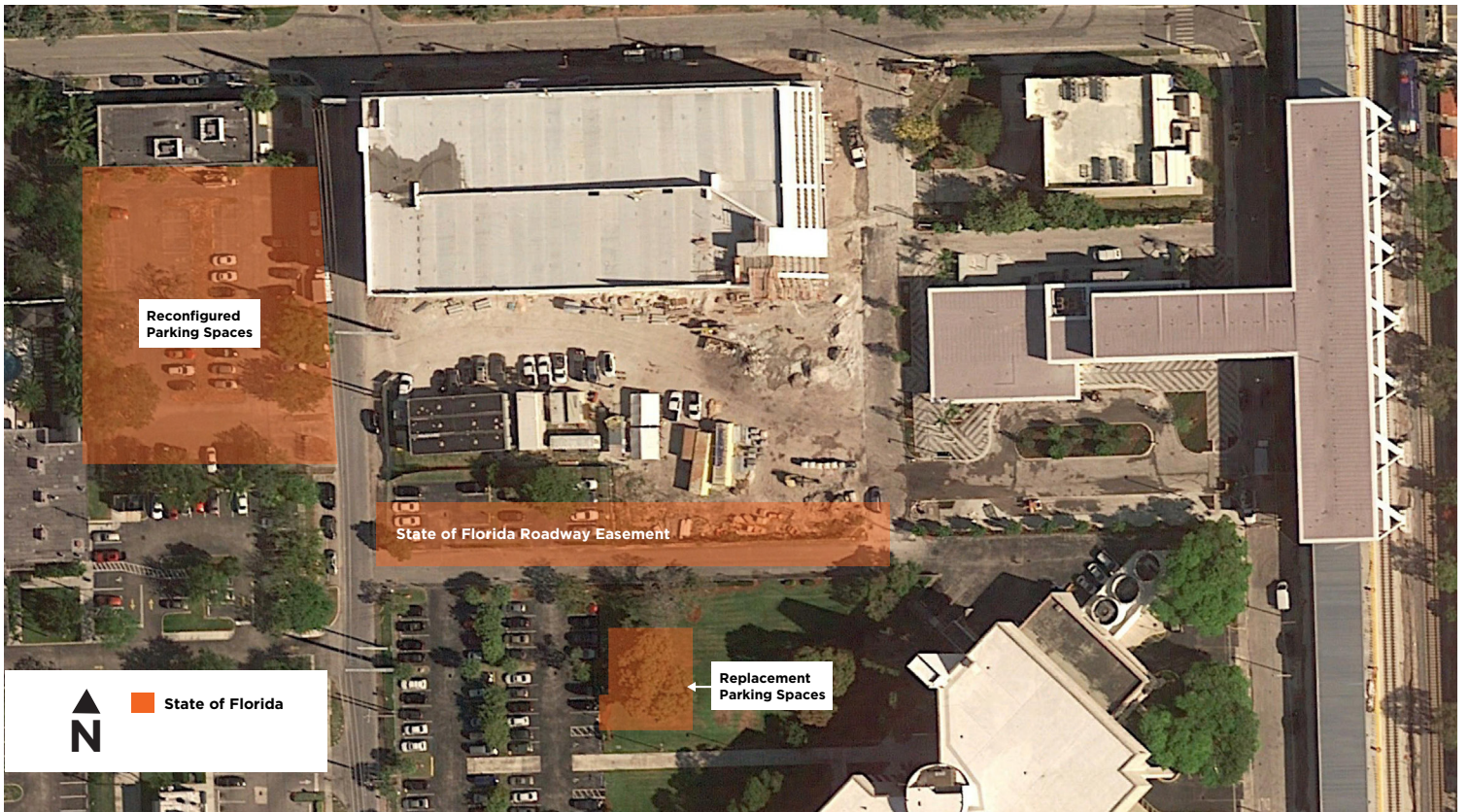


EXHIBIT "F"



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