

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**LEASE AGREEMENT**

575-060-33  
RIGHT OF WAY  
OGC - 08/09  
Page 1 of 5

ITEM/SEGMENT NO.: 421888-1

MANAGING DISTRICT: Four

F.A.P. NO.: N/A

STATE ROAD NO.: CSX

COUNTY: Broward

PARCEL NO.: Excess Parcel 5542

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, (hereinafter called the Lessor), and City of Ft. Lauderdale, 100 N. Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter called the LESSEE).

**WITNESSETH:**

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Property and Term.** Lessor does hereby lease unto Lessee the property described in Exhibit "A", attached and made a part hereof, for a term of Ten (10) Years beginning \_\_\_\_\_ and ending \_\_\_\_\_. This Lease may be renewed for an additional Ten (10) Years term at Lessee's option, subject to the rent adjustment as provided in Paragraph 3 below. Lessee shall provide Lessor one hundred eighty (180) days advanced written notice of its exercise of the renewal option.

If Lessee holds over and remains in possession of the property after the expiration of the term specified in this Lease, or any renewals of such term, Lessee's tenancy shall be considered a tenancy at sufferance, subject to the same terms and conditions as herein contained in this Lease.

This Lease is subject to all utilities in place and to the maintenance thereof as well as any other covenants, easements, or restrictions of record.

This Lease shall be construed as a lease of only the interest, if any, of Lessor, and no warranty of title shall be deemed to be given herewith.

2. **Use.** The leased property shall be used solely for the purpose of maintaining the fence and two (2) sump pumps. If the property is used for any other purpose, Lessor shall have the option of immediately terminating this Lease. Lessee shall not permit any use of the property in any manner that would obstruct or interfere with any transportation facilities.

Lessee will further use and occupy the leased property in a careful and proper manner, and not commit any waste thereon. Lessee will not cause, or allow to be caused, any nuisance or objectionable activity of any nature on the property. Lessee will not use or occupy said property for any unlawful purpose and will, at Lessee's sole cost and expense, conform to and obey any present or future ordinances and/or rules, regulations, requirements, and orders of governmental authorities or agencies respecting the use and occupation of the leased property.

Any activities in any way involving hazardous materials or substances of any kind whatsoever, either as those terms may be defined under any state or federal laws or regulations, or as those terms are understood in common usage, are specifically prohibited. The use of petroleum products, pollutants, and other hazardous materials on the leased property is prohibited. Lessee shall be held responsible for the performance of and payment for any environmental remediation that may be necessary, as determined by the Lessor, within the leased property. If any contamination either spread to or was released onto adjoining property as a result of Lessee's use of the leased property, the Lessee shall be held similarly responsible. The Lessee shall indemnify, defend, and hold harmless the Lessor from any claim, loss, damage, costs, charge, or expense arising out of any such contamination.

3. **Rent.** Lessee shall pay to Lessor as rent, on or before the first day of each rent payment period, the sum of N/A plus applicable tax, for each N/A of the term. If this Lease is terminated prior to the end of any rent payment period, the unearned portion of any rent payment, less any other amounts that may be owed to Lessor, shall be refunded to Lessee. Lessee shall pay any and all state, county, city, and local taxes that may be due during the term hereof, including any real property taxes. Rent payments shall be made payable to the Florida Department of Transportation and shall be sent to c/o Right of Way Property Management, 3400 W. Commercial Boulevard, Fort Lauderdale, FL 33309. Lessor reserves the right to review and adjust the rental fee biennially and at renewal to reflect market conditions. Any installment of rent not received within ten (10) days after the date due shall bear interest at the highest rate allowed by law from the due date thereof, per Section 55.03(1), Florida Statutes. This provision shall not obligate Lessor to accept late rent payments or provide Lessee a grace period.

4. **Improvements.** No structures or improvements of any kind shall be placed upon the property without the prior written approval of the District Secretary for District Four (4) \_\_\_\_\_ of Lessor. Any such structures or improvements shall be constructed in a good and workmanlike manner at Lessee's sole cost and expense. Subject to any landlord lien, any structures or improvements constructed by Lessee shall be removed by Lessee, at Lessee's sole cost and expense, by midnight on the day of termination of this

canceled or modified unless Lessor is given at least sixty (60) days prior written notice of such cancellation or modification. Lessee shall provide Lessor certificates showing such insurance to be in place and showing Lessor as additional insured under the policies. If self-insured or under a risk management program, Lessee represents that such minimum coverage for liability will be provided for the leased property.

Lessor may require the amount of any public liability insurance to be maintained by Lessee be increased so that the amount thereof adequately protects Lessor's interest. Lessee further agrees that it shall during the full term of this Lease and at its own expense keep the leased property and any improvements thereon fully insured against loss or damage by fire and other casualty. Lessee also agrees that it shall during the full term of this Lease and at its own expense keep the contents and personal property located on the leased property fully insured against loss or damage by fire or other casualty and does hereby release and waive on behalf of itself and its insurer, by subrogation or otherwise, all claims against Lessor arising out of any fire or other casualty whether or not such fire or other casualty shall have resulted in whole or in part from the negligence of the Lessor.

8. Eminent Domain. Lessee acknowledges and agrees that its relationship with Lessor under this Lease is one of landlord and tenant and no other relationship either expressed or implied shall be deemed to apply to the parties under this Lease. Termination of this Lease for any cause shall not be deemed a taking under any eminent domain or other law so as to entitle Lessee to compensation for any interest suffered or lost as a result of termination of this Lease, including any residual interest in the Lease, or any other facts or circumstances arising out of or in connection with this Lease.

Lessee hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort, including special damages, severance damages, removal costs, or loss of business profits, resulting from Lessee's loss of occupancy of the leased property, or any such rights, claims, or damages flowing from adjacent properties owned or leased by Lessee as a result of Lessee's loss of occupancy of the leased property. Lessee also hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort as set out above, as a result of Lessee's loss of occupancy of the leased property, when any or all adjacent properties owned or leased by Lessee are taken by eminent domain proceedings or sold under the threat thereof. This waiver and relinquishment applies whether this Lease is still in existence on the date of taking or sale; or has been terminated prior thereto.

9. Miscellaneous.

a. This Lease may be terminated by Lessor immediately, without prior notice, upon default by Lessee hereunder, and may be terminated by either party, without cause upon thirty (30) days prior written notice to the other party.

b. In addition to, or in lieu of, the terms and conditions contained herein, the provisions of any Addendum of even date herewith which is identified to be a part hereof is hereby incorporated herein and made a part hereof by this reference. In the event of any conflict between the terms and conditions hereof and the provisions of the Addendum(s), the provisions of the Addendum(s) shall control, unless the provisions thereof are prohibited by law.

c. Lessee acknowledges that it has reviewed this Lease, is familiar with its terms, and has had adequate opportunity to review this Lease with legal counsel of Lessee's choosing. Lessee has entered into this Lease freely and voluntarily. This Lease contains the complete understanding of the parties with respect to the subject matter hereof. All prior understandings and agreements, oral or written, heretofore made between the parties and/or between Lessee and the previous owner of the leased property and landlord of Lessee are merged in this Lease, which alone, fully and completely expresses the agreement between Lessee and Lessor with respect to the subject matter hereof. No modification, waiver, or amendment of this Lease or any of its conditions or provisions shall be binding upon Lessor or Lessee unless in writing and signed by both parties.

d. Lessee shall not sublet the property or any part thereof, nor assign this Lease, without the prior consent in writing of the Lessor; this Lease is being executed by Lessor upon the credit and reputation of Lessee. Acceptance by Lessor of rental from a third party shall not be considered as an assignment or sublease, nor shall it be deemed as constituting consent of Lessor to such an assignment or sublease.

e. Lessee shall be solely responsible for all bills for electricity, lighting, power, gas, water, telephone, and telegraph services, or any other utility or service used on the property.

f. This Lease shall be governed by the laws of the State of Florida, and any applicable laws of the United States of America.

g. All notices to Lessor shall be sent to the address for rent payments and all notices to Lessee shall be sent to: City of Fort Lauderdale, 100 N. Andrews Avenue, Fort Lauderdale, FL. 33301

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### ADDENDUM

This is an Addendum to that certain Lease Agreement between CITY OF FORT LAUDERDALE, a Florida municipal corporation, 100 North Andrews Avenue, Fort Lauderdale, FL 33301 (Hereinafter, "LESSEE") and the STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION (hereinafter, "LESSOR", dated this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

In addition to the provisions contained in said Agreement, the following terms and conditions shall be deemed to be a part thereof pursuant to Paragraph 9 (b) of said Agreement:

1. Lease is subject to all utilities remaining in place and in use or relocated at the expense of the Lessee.
2. Notwithstanding the provision in Paragraph 1, any renewal shall be at the sole discretion of Lessor.
3. Notwithstanding the language in Paragraph 2, "Use," limiting the use of the Leased Premises to "maintaining the fence near water treatment plat" LESSEE maintains and operates two (2) sump pumps on the Leased Premises. To the extent the terms and conditions of Paragraph 3 of this Addendum conflict with the terms and conditions set forth in Lease Agreement Paragraph 2, "Use," then the terms and conditions of this Paragraph 3 shall supersede and prevail over any conflicting terms and conditions set forth in that first paragraph of Lease Agreement, Paragraph 2, "Use."
4. LESSEE is a Florida municipal corporation and is subject to § 768.28, Florida Statutes, as same may be amended from time to time and agrees to be fully responsible injury or loss of property, personal injury or death caused by the negligent or wrongful acts or omissions of any its agents or employees while acting within the scope of the employee's office or employment, subject to the limitations of liability as set forth in Sec. 768.28 (5), Florida Statutes. Nothing herein is intended to serve as a waiver of sovereign immunity to any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Lease or any other contract. To the extent the terms and conditions of Paragraph 3 of this Addendum conflict with the terms and conditions set forth in Lease Agreement Paragraph 6, Indemnification, "Lessee is a Governmental Agency", first paragraph thereof, then the terms and conditions of this Paragraph 3, shall supersede and prevail over any conflicting terms and conditions set forth in that first paragraph of Lease Agreement, Paragraph 6, "Indemnification," "Lessee is a Governmental Agency."
5. LESSEE is a Florida municipal corporation and is subject to § 768.28, Florida Statutes, as same may be amended from time to time and LESSEE is self-insured under the provisions of § 768.28, Florida Statutes and LESSEE shall furnish to LESSOR with written verification of liability protection in accordance with state law prior to final execution of the Lease Agreement and Addendum. To the extent the terms and conditions of Addendum Paragraph 4 conflict with the terms and conditions set forth in Lease Agreement Paragraph 7, "Insurance", then the terms and conditions of this Addendum Paragraph 4 shall supersede and prevail over any conflicting terms and conditions set forth in that Lease Agreement, Paragraph 7, "Insurance."

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION**

CITY OF FORT LAUDERDALE  
Lessee

By: \_\_\_\_\_  
District Four Secretary

BY: \_\_\_\_\_  
John P. "Jack" Seiler, Mayor

Gerry O'Reilly, P.E.  
Print Name

BY: \_\_\_\_\_  
Lee R. Feldman, City Manager

Attest: \_\_\_\_\_  
Alia Chanel, Executive Secretary

Attest: \_\_\_\_\_ (SEAL)  
Jeffrey A. Modarelli, City Clerk

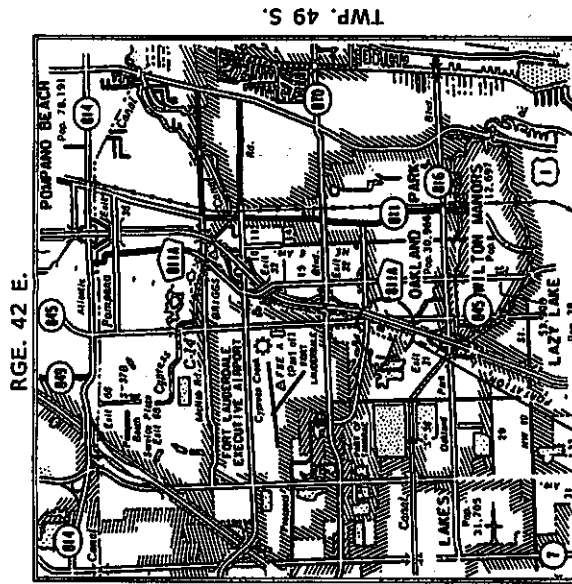
LEGAL REVIEW: \_\_\_\_\_  
Laurice Mayes, District Counsel

Approved as to form:

\_\_\_\_\_  
Robert B. Dunckel, Assistant City Attorney

# EXHIBIT "A"

LOCATION MAP  
N. T. S.



PROPERTY LOCATION

DEPARTMENT OF TRANSPORTATION  
DISTRICT 4 SURVEYING AND MAPPING  
3400 WEST COMMERCIAL BLVD.  
FT. LAUDERDALE, FL 33309  
(954) 777 - 4551

## LEGEND:

- = BASELINE
- = CORNER
- = EXISTING
- = FLORIDA DEPARTMENT OF TRANSPORTATION
- = NOT TO SCALE
- = PLAT BOOK
- = PAGE
- = POINT OF BEGINNING
- = POINT OF COMMENCEMENT
- = RANGE
- = RAILROAD
- = RIGHT OF WAY
- = SECTION
- = TOWNSHIP

## GENERAL NOTES:

1. BEARINGS AND COORDINATES HEREON ARE BASED ON THE RIGHT OF WAY MAP FOR C.S.X. R.R., STATE PROJECT NO. 86070-2453 SHEET 50 OF 71.
2. THIS SKETCH EXISTS SOLELY FOR THE PURPOSE OF ILLUSTRATING THE LEGAL DESCRIPTION TO WHICH IT IS ATTACHED.
3. ALL DIMENSIONS ARE CALCULATED UNLESS OTHERWISE NOTED.

4.  HATCHED AREA TO BE LEASED  
SITE 74, PARCEL L-37(PART)

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FLORIDA DEPARTMENT OF TRANSPORTATION  
PARCEL SKETCH - NOT A SURVEY

STATE ROAD NO. N/A

BROWARD COUNTY

REVISION	BY	DATE	DRAWN	BY	DATE	PREPARED BY:	DATA SOURCE:
			SEELEY		03-10-14	F.D.O.T. DISTRICT 4	N/A
ITEM/SEGM. NO. 2299222 SECTION 86070-2453							SHEET 1 OF 3

# EXHIBIT "A"

CITY OF OAKLAND PARK

TWIN LAKES SECTION 2

P.B. 30, PG. 1

SECTION LINE  
S 88°16'32" W

RAILROAD SPUR EASEMENT

EXIST. R/W LINE

776

780

N 21°21'40" E

B SURVEY C.S.X. R.R.

279.16' N 21°29'05" E

280.51'

EXIST. R/W LINE  
568.60' S 21°21'40" W

(L-37) PART

CITY OF FT. LAUDERDALE

NOT PLATTED

P.O.C.  
NE COR.  
SEC. 21  
(N) 672,390.719  
(E) 933,309.756

P.O.B.

LINE	DISTANCE	BEARING
L1	18.60'	N 68°02'42" W
L2	18.04'	S 72°19'10" E

TWP. 49 S., RGE. 42 E.  
SCALE: 1" = 50'

timprofwmapping\csx\_broward\trwps\l-37.dgn

FLORIDA DEPARTMENT OF TRANSPORTATION  
PARCEL SKETCH - NOT A SURVEY

STATE ROAD NO. N/A

BROWARD COUNTY

PREPARED BY: F.D.O.T. DISTRICT 4

DATA SOURCE: N/A

ITEM/SEGM. NO. 2299222 SECTION 86070-2453

SHEET 2 OF 3

CAM 16-0082

Exhibit 1

Page 5 of 6

Parcel No. L-37 (PART)  
Temporary Surplus (Lea

ITEM/SEGMENT NO. 2299222  
(SECTION NO. 86070-2453)

A portion of northeast quarter (NE 1/4) of Section 21, Township 49 South, Range 42 East, Broward County, Florida, being more particularly described as follows:

Commence at the northeast corner of Section 21; thence South 88°16'32" West, 51.52 feet along the north line of said Section to the easterly existing right of way line for C.S.X. Railroad; thence South 21°21'40" West, 568.60 feet along said existing right of way line to the POINT OF BEGINNING; thence Continue South 21°21'40" West, 280.51 feet along said right of way line; thence North 68°02'42" West, 18.60 feet; thence North 21°29'05" East, 279.16 feet; thence South 72°19'10" East, 18.04 feet to the POINT OF BEGINNING.

Containing 5,121 square feet, more or less.

I hereby certify that to the best of my knowledge and belief the attached legal description of Parcel No. L-37 (PART), as shown on the Right of Way Parcel Sketch for the C.S.X. Railroad, Item/Segment No. 2299222, Section 86070-2453 is true, accurate and was prepared under my direction. I further certify that said legal description is in compliance with the Minimum Technical Standards as set forth by the Florida Board of Professional Surveyors & Mappers pursuant to Section 472.027 Florida Statutes.

03/11/14

Date:

Jeffrey D. Smith

Florida Surveyor and Mapper No. 4805

Florida Department of Transportation

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FLORIDA DEPARTMENT OF TRANSPORTATION  
PARCEL SKETCH - NOT A SURVEY

[illegible]