

KMI BRIDGE PARKING LICENSE AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 2022, is entered into by and between the City of Venice, a political subdivision of the State of Florida, whose mailing address is 401 W. Venice Avenue, Venice, Florida 34285 (hereinafter referred to as “City”) and Fisherman’s Wharf of Venice Development Company, LLC, a Florida limited liability company, whose mailing address is 625 Tamiami Trail N., Venice, Florida 34285 (hereinafter referred to as “Developer”) and Fisherman's Wharf Marina Condominium Association, Inc., a Florida not-for-profit, whose mailing address is 625 Tamiami Trail N., Venice, Florida 34285 (hereinafter referred to as “Association”).

WHEREAS, Developer owns land generally located at 501, 503, 507, and 509 N. Tamiami Trail, Venice, Florida 34285 on which Developer is constructing an approximately 40-unit condominium commonly known as Porto Vista (hereinafter referred to as the “Property”); and

WHEREAS, Developer has offered to construct, and Association has offered to maintain, a public parking lot within Florida Department of Transportation (“FDOT”) right-of-way beneath the KMI/Hatchett Creek Bridge adjacent to the Property; and

WHEREAS, the City has agreed to enter into a Use and Occupancy Agreement with FDOT for the use of a portion of the right-of-way beneath the KMI/Hatchett Creek Bridge, as further described on Exhibit “A” attached hereto and incorporated herein by reference, for public parking (hereinafter referred to as the “License Area”).

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, for themselves, their successors and assigns, agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. Developer shall, at its full cost and expense, obtain all necessary permits and approvals for, and thereafter construct, the public parking improvements within the License Area identified and described on Exhibit “B”, attached hereto and incorporated herein by reference (hereinafter referred to as the “Parking Improvements”). The construction of the Parking Improvements shall be completed within six (6) months of the commencement of construction, unless otherwise agreed to by the City.
3. Developer and Association shall have no use or other rights to the License Area beyond those specifically granted herein or available to the general public. Developer and Association shall not charge any fee for use of the Parking Improvements and must allow the general public full access to the Parking Improvements and License Area.
4. Upon completion of the construction of the Parking Improvements, Association shall maintain the Parking Improvements at its sole cost and expense in perpetuity. In recognition of this requirement, language shall be included and maintained in any recorded restrictions

pertaining to the Property that the Association shall maintain at its sole cost and expense the Parking Improvements in the License Area.

5. If Association fails to adequately maintain the Parking Improvements, the City shall provide written notice to the Association describing the deficiency and providing a fifteen (15) day opportunity to correct. If the deficiency is not timely and fully corrected, the City may terminate this Agreement pursuant to Section 7.

6. Developer and Association acknowledge the requirements contained in the KMI/Hatchett Creek Bridge Emergency Response Plan, attached hereto as Exhibit "C" and incorporated herein by reference, and agree to comply with any such requirements upon notification by the City.

7. The term of this Agreement shall commence on the full execution of this Agreement by the parties and shall continue indefinitely until terminated by any party upon sixty (60) days' written notice to the other parties. Within the sixty (60) day notice period, the Developer or Association shall remove at its sole cost and expense all Parking Improvements constructed pursuant to this Agreement and shall restore the License Area to the same or better condition that existed just prior to construction of the Parking Improvements.

8. This Agreement shall run with the land and shall inure to the benefit of the Developer and Association and their successors and assigns in interest until terminated in accordance with Section 7.

9. Developer and/or Association shall procure and maintain during the life of this Agreement commercial general liability insurance in an amount of not less than \$1 million per occurrence. Such insurance policy shall name the City, its officers, agents, and employees as certificate holder and additional insureds. Developer and Association shall also hold the City harmless, defend the City, and indemnify the City and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error or omission by the Developer or Association, their agents or their employees during the performance of this Agreement. However, nothing in the foregoing shall be construed to require the Developer or Association to indemnify the City for any claim, loss, damage, cost, charge or expense that results from the negligence of the City or any of its officers, agents, or employees during the performance of this Agreement.

10. Notice. Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of (i) the date and time the same are personally delivered at the address set forth below, (ii) on the same day if sent between 8:00 A.M. and 6:00 P.M. on Monday through Friday via e-mail to the respective e-mail addresses set forth below, (iii) within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or (iv) within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt or written confirmation may be obtained, and addressed as follows:

To the City at the following address:

Kathleen Weeden, City Engineer
City of Venice
401 W. Venice Ave.
Venice, Florida 34285
Phone: (941) 486-2626
Email: kweeden@venicegov.com

and

Kelly M. Fernandez, Esq., City Attorney
Persson, Cohen, Mooney, Fernandez & Jackson, P.A.
236 Pedro St.
Venice, Florida 34285
Phone: (941) 306-4730
E-mail: kfernandez@flgovlaw.com

To the Developer at the following address:

Fisherman's Wharf of Venice Development Company, LLC
625 Tamiami Trail N.
Venice, Florida 34285
Phone: (941) 809-7693
Email: mmillerlrgf@gmail.com

To the Association at the following address:

Fisherman's Wharf Marina Condominium Association, Inc.
625 Tamiami Trail N.
Venice, Florida 34285
Phone: (941) 486-0500 or (941) 441-1441
Email: fwvoffice@gmail.com

or to such other address as either party hereto shall from time to time designate to the other party by notice in writing as herein provided.

11. Attorney's Fees. If any litigation occurs between the parties as a result of this Agreement or any other document or act required by this Agreement, the prevailing party shall be entitled to recover attorney's fees and all court costs, including attorney's fees and court costs incurred in any appellate proceedings.

12. Assignment. No assignment by any party to this Agreement of any rights under or interests in this Agreement will be binding on the other parties hereto without the written consent of the parties sought to be bound.

13. Governing Law; Venue. The laws of the State of Florida shall govern all provisions of this Agreement. Venue for any dispute shall be Sarasota County, Florida.

14. Entire Agreement; Amendments to Agreement. This Agreement contains the entire agreement of the parties and there are no binding promises or conditions in any other agreements whether oral or written. This Agreement shall not be modified or amended except in writing with the same degree of formality with which this Agreement is executed.

15. Construction of Agreement. All parties to this Agreement are deemed to have participated in its drafting. In the event of any ambiguity in the terms of this Agreement, the parties agree that such ambiguity shall be construed without regard to which of the parties drafted the provision in question.

16. Severability. Any provision or part of this Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the parties, who agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

17. Counterpart Signature Pages. This Agreement may be executed in counterparts. The original of each, when taken together, will constitute one original document.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first above written.

Fisherman's Wharf of Venice
Development Company, LLC

By: [Signature]
Print Name: Michael W Miller
Its: member

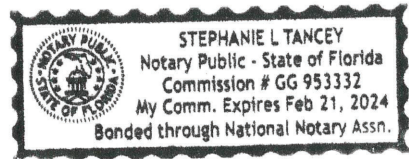
STATE OF Florida
COUNTY OF Sarasota

The foregoing instrument was acknowledged before me this 20 day of June, 2022, by Michael W Miller, by means of • physical presence or • online notarization, who is personally known to me or who has produced _____ as personal identification.

My Commission Expires:

[Signature]
Notary Public

Printed Name _____



**Fisherman's Wharf Marina
Condominium Association, Inc.**

By: [Signature]
Print Name: Jayne E. Parrish
Its: Director

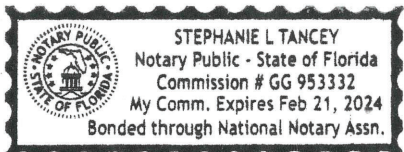
STATE OF Florida
COUNTY OF Manatee

The foregoing instrument was acknowledged before me this 20 day of June, 2022, by JAYNE E PARRISH, by means of physical presence or online notarization, who is personally known to me or who has produced _____ as personal identification.

My Commission Expires:

[Signature]
Notary Public

Printed Name _____



CITY OF VENICE, FLORIDA

ATTEST:

Ron Feinsod, Mayor

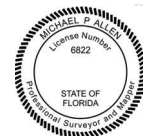
APPROVED AS TO FORM:

City Attorney

SKETCH AND DESCRIPTION
THIS IS NOT A BOUNDARY SURVEY
EXHIBIT A
PAGE 1 OF 2

A Parcel of land located in the NW 1/4 of Section 7, T39S, R19E, City of Venice, Sarasota County Florida more particularly described as follows;
Commence at the Southwest corner of the Northwest Quarter (1/4) of said Section 7; Thence South 89°46'59" East along the South line of the Northwest Quarter (1/4) of said Section 7 a distance of 1864.61 feet to the intersection with the Survey Baseline of State Road 45, U.S. 41 Business (Section 17010-2526) according to the Florida Department of Transportation Right-of-Way Map; thence North 00°28'55" East along said Survey Baseline for a distance of 1395.94 feet; thence North 89°31'05" East a distance of 10.38 feet to the true point of beginning being station 24+369.39 at +10.36 right of the Survey Baseline; thence North 85°07'13" East, a distance of 102.47 feet; thence South 04°05'23" East, a distance of 35.91 feet; thence South 04°26'43" East, a distance of 40.66 feet; thence South 03°42'38" East, a distance of 40.11 feet; thence South 01°33'02" West, a distance of 69.54 feet; thence South 05°17'24" West, a distance of 17.08 feet; thence South 16°18'50" West, a distance of 5.59 feet to the beginning of a curve concave to the northwest having a radius of 42.86 feet and a central angle of 50°19'31" and being subtended by a chord which bears South 64°24'07" West 36.45 feet; thence southwesterly and westerly along said curve, a distance of 37.64 feet; thence North 89°20'26" West, a distance of 19.78 feet to the beginning of a curve concave to the northeast having a radius of 42.53 feet and a central angle of 49°03'21" and being subtended by a chord which bears North 65°03'59" West 35.32 feet; thence westerly and northwesterly along said curve, a distance of 36.42 feet; thence North 10°02'27" West, a distance of 56.69 feet; thence North 03°46'10" West, a distance of 36.67 feet; thence North 04°26'35" West, a distance of 35.41 feet; thence North 04°27'24" West, a distance of 72.69 feet to the Point of Beginning. Containing 0.4887 Acres, more or less.

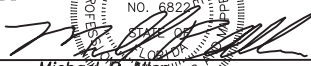
Basis of Bearing is the survey baseline of State Road 45, U.S. 41 Business (Section 17010-2526) according to the Florida Department of Transportation Right-of-Way Map being N0 28'55"E.



Digitally signed
by Michael P
Allen:
Date:
2021.09.24
13:28:36 -04'00'

BRIGHAM/ALLEN LAND SURVEYING
LB 7898
303. S. TAMiami TRAIL
SUITE E
Nokomis, Florida 34275
ph. (941) 493-4430
brighamallensurveying@gmail.com

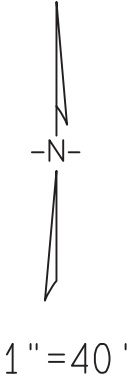
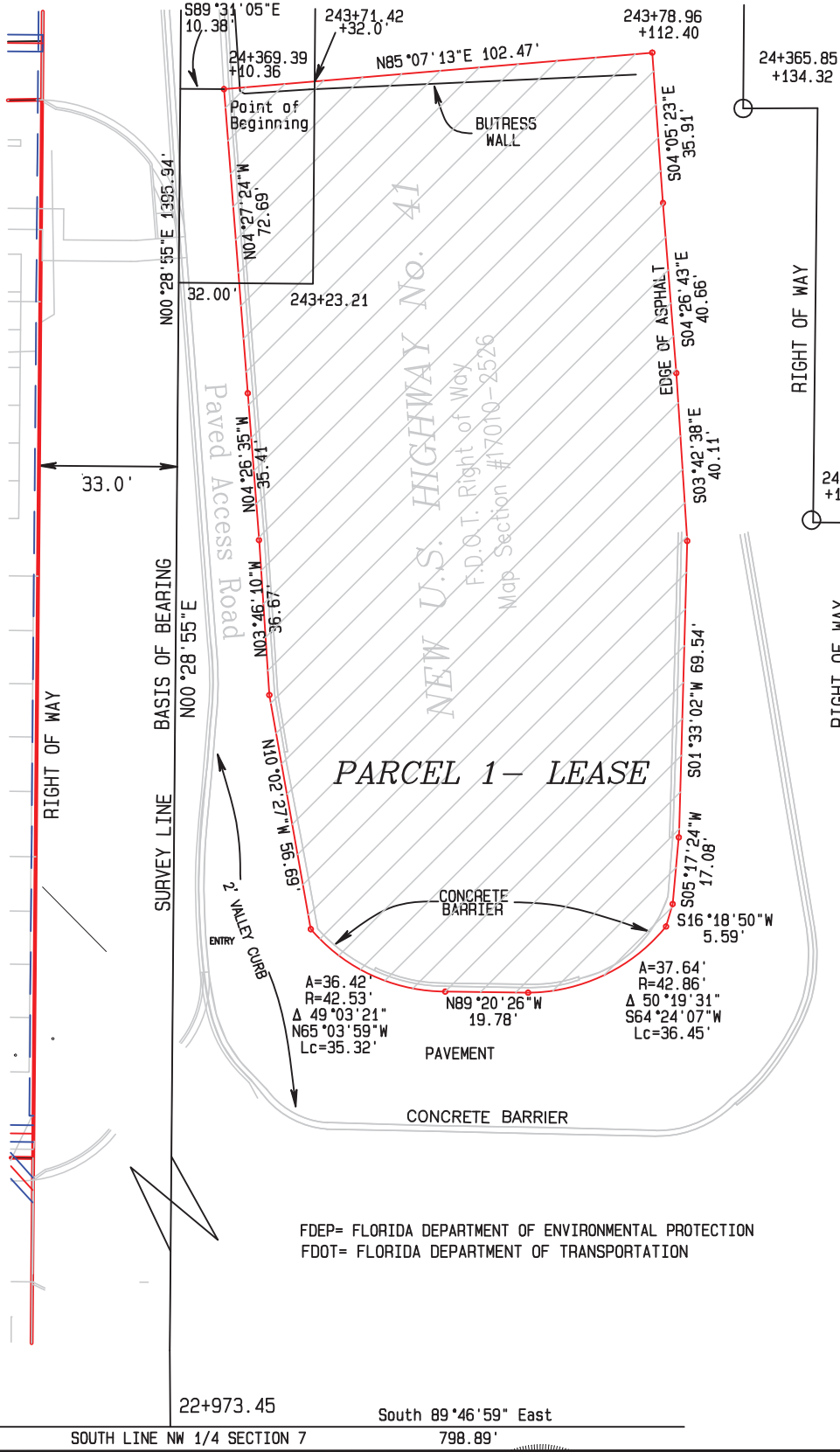
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BY: 
Michael P. Allen
Professional Surveyor and Mapper PSM 6822 State of Florida
DATE 07-27-21

SKETCH AND DESCRIPTION

THIS IS NOT A BOUNDARY SURVEY

EXHIBIT A
PAGE 2 OF 2



Digitally signed
by Michael P
Allen:
Date:
2021.09.24
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POINT OF COMMENCEMENT
SW CORNER OF THE NW1/4
SECTION 7, T39S, R19E

FDEP= FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
FDOT= FLORIDA DEPARTMENT OF TRANSPORTATION

South 89°46'59" East 1864.61' SOUTH LINE NW 1/4 SECTION 7 22+973.45 South 89°46'59" East 798.89'

BRIGHAM/ALLEN LAND SURVEYING
LB 7898
807 U.S. HIGHWAY 41 BYPASS SOUTH
SUITE E
Venice, Florida 34285
ph. (941) 493-4430
brighamallensurveying@gmail.com

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OR A DIGITAL SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.

NO. 6822

BY: Michael P. Allen DATE 07-27-21
Professional Surveyor and Mapper PSM 6822, State of Florida

VENICE BAY ADULT PARK
A CONDOMINIUM
CONDO BOOK 20, PAGE 2

EXHIBIT B

FDOT Proposed Parking Area

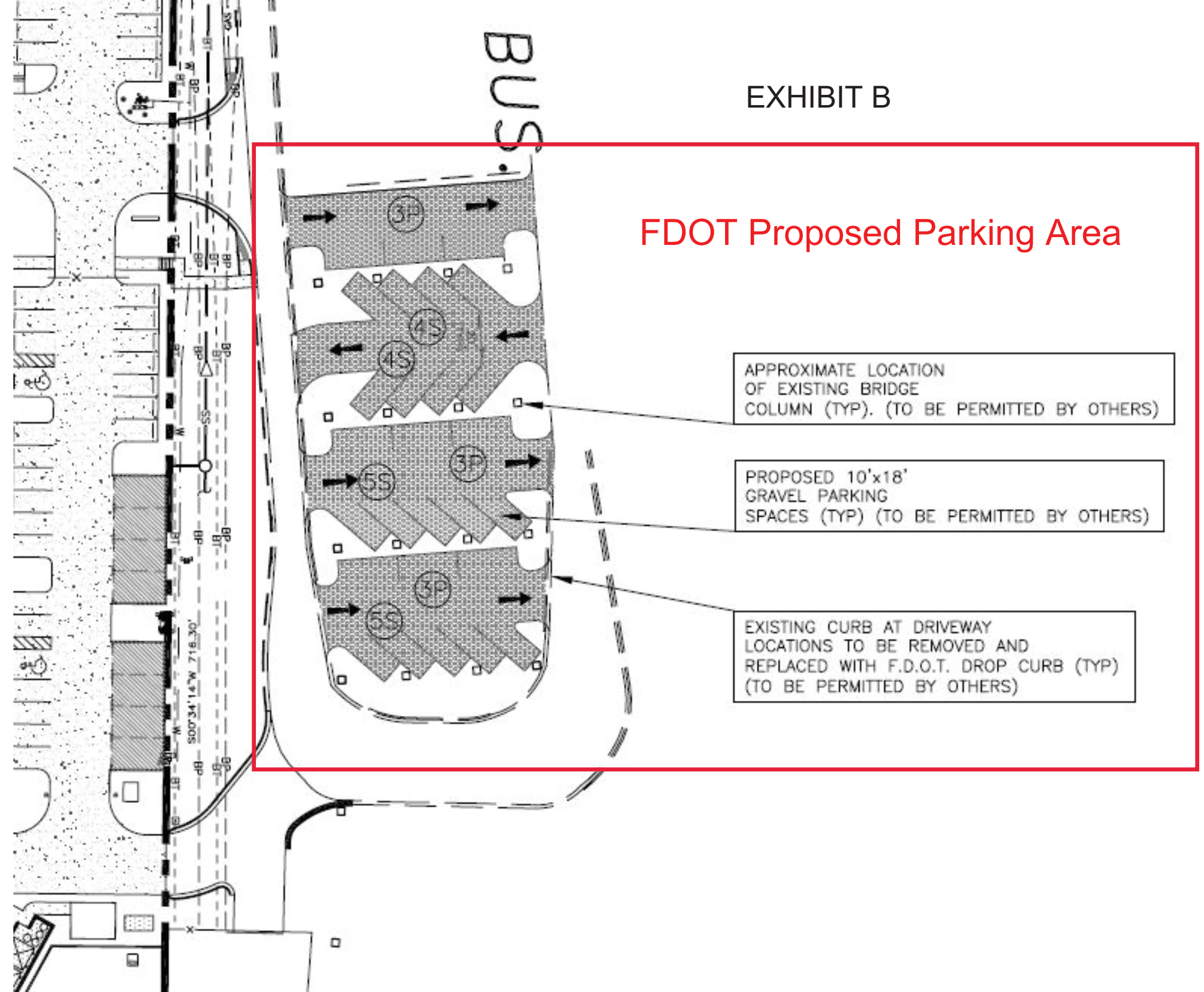




EXHIBIT C

KMI/Hatchett Creek Bridge Emergency Response Plan

As a condition of the Florida Department of Transportation (FDOT) consent to use the area under the north side of the KMI/Hatchett Creek Bridge for public parking, the City of Venice establishes the following procedures during an emergency event:

Prior to Emergency Event:

Signs will be placed under the bridge in the parking area to notify public that vehicles will be towed in the event of an emergency that requires evacuation or immediate evacuation of the area under the bridge.

Upon Notification of Emergency Event:

- Notification to the adjacent businesses will be conducted requesting that cars be moved immediately.
- Any car not moved within one hour will be researched by Venice Police Department in an attempt to locate the owners.
- Any car not moved within 6 hours or immediately in a severe emergency event, will be towed and placed in adjacent public parking area for the owner to claim their vehicle.

During Scheduled or Routine Maintenance Activities:

The City of Venice will barricade and close the parking area when requested by FDOT as requested to conduct maintenance or construction activities.

Please send notification of required closures to:

Kathleen Weeden, PE
City Engineer
City of Venice
401 W. Venice Avenue
Venice, FL 34285
941-882-7409 office
941-441-7285 cell
kweeden@venicefl.gov

Rick Simpson
Asst. Director of Public Works
City of Venice Public Works Dept.
221 S. Seaboard Ave.
Venice, FL 34285
941-882-7365 office
941-650-6966
RSimpson@Venicefl.gov

In emergency situations, please contact Venice Police Department non-emergency number 941-486-2444 or 911 as appropriate if you are not able to reach Ms. Weeden or Mr. Simpson.