

AIRSPACE AGREEMENTITEM/SEGMENT NO.: 1980051 - Sec/Job# 17010-2526MANAGING DISTRICT: OneF.A.P. NO.: 0423 005 USTATE ROAD NO.: US 41COUNTY: SarasotaPARCEL NO.: 1-Lease Excess Parcel # 6135

THIS AGREEMENT, made this _____ day of _____, 2017, between
City of Venice, Florida at 401 W. Venice Avenue, Venice, FL 34285
(Lessee) and the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (Department), an agency of the State of Florida
(State).

WITNESSETH:

WHEREAS, the Department may convey a leasehold in the name of the State, in any land, buildings, or other property, real or personal, acquired under Section 337.25, Florida Statutes; and

WHEREAS, the United States Department of Transportation, Federal Highway Administration (FHWA), requires any use of airspace above, and/or below the highway's established gradeline, lying within the approved right of way limits on a Federal Aid System, to be accomplished pursuant to an airspace agreement in accordance with 23 CFR, Part 710, and

WHEREAS, the Department has acquired sufficient legal right, title, and interest in the right of way of Hatchett Creek (KMI) Bridge SR 45/US 41 which includes the property described in Exhibit "A" attached hereto and made a part hereof, which right of way is part of a highway on a Federal Aid System; and

WHEREAS, the Department desires to lease to Lessee the airspace above or below the gradeline of the property described in Exhibit "A", attached and made a part hereof for the following purpose: public parking under the Hatchett Creek (KMI) Bridge

WHEREAS, the proposed use will not impair the full use and safety of the highway, require or permit vehicular access to such space directly from the established gradeline of said highway, or interfere with the free flow of traffic on said highway.

NOW, THEREFORE, in consideration of the premises made a part hereof, and the covenants, promises, understandings, and agreements made by each party to the other as set forth herein, the Department and the Lessee do hereby mutually agree as follows:

1. Premises

The premises hereto are true and correct and form an integral part of this Agreement.

2. Term

The Department does hereby lease unto Lessee the airspace above or below gradeline of the property for a period of 50 years beginning with the date of this Agreement. One renewal of this Agreement may be made for 50 years. However, except for a public purpose conveyance, such renewal may not exceed five years. Nothing herein shall be construed to in any way grant an interest in the property lying below said airspace.

3. Rent

a. Lessee shall pay to the Department as rent each ☐ month ☐ quarter ☐ year on or before the first day of each rent payment period, n/a plus applicable sales tax. When this Agreement is terminated, any unearned rent and sales tax payment shall be refunded to Lessee. However, no such refund shall be made where termination is due to Lessee's violation of a term or condition of this Agreement.

b. The Department reserves the right to review and adjust the rental fee biannually and at renewal to reflect market conditions.

c. All rental payments are to be made by check or money order, payable to the State of Florida Department of Transportation and delivered on or before the due date to: n/a - public purpose

City of Venice -Lease contact: Kathleen Weeden, 941-468-2669 cell/941-882-7409

d. Lessee shall be responsible for all state, county, city, and local taxes that may be assessed, including real property taxes and special assessments. In the event that no rent is specified herein, then it has been determined that either the use by Lessee is a nonproprietary use by a governmental agency or an exception from the current fair market rental value requirement (23 U.S.C. Section 156) has been obtained for social, environmental, or economic mitigation (SEE) purposes. In the event that it should be determined at any time that the use is not a nonproprietary use by a governmental agency or that the SEE exception does not apply or has been revoked, Lessee agrees to pay, at that time, rent as determined to be the fair market rental value by an independent appraiser certified by the Department, and Lessee further agrees to pay such rent, under the remaining terms and conditions of this Paragraph 3, for the remaining term (including renewals) of this Agreement.

e. Any installment of rent not received within ten (10) days after the due date 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 the Department to accept late rent payments or provide Lessee a grace period.

4. Use, Occupancy, and Maintenance

a. The Lessee shall be responsible for developing and operating the airspace as set forth herein.

b. The Lessee's proposed use of the airspace is as follows: public parking

c. The general design for the use of the airspace, including any facilities to be constructed, and the maps, plans, and sketches setting out the pertinent features of the use of the airspace in relation to the highway facility are set forth in composite Exhibit "B" attached hereto and by this reference made a part hereof. In addition, said composite Exhibit "B" also contains a three-dimensional description of the space to be used, unless the use is of a surface area beneath an elevated highway structure or adjacent to a highway roadway for recreation, public park, beautification, parking of motor vehicles, public mass transit facilities, or other similar uses, in which case, a metes and bounds description of the surface area, together with appropriate plans or cross sections clearly defining the vertical use limits, may be substituted for said three-dimensional description in said composite Exhibit "B".

d. Any change in the authorized use of the airspace or revision in the design or construction of the facility described in Exhibit "B" shall require prior written approval from the appropriate District Secretary of the Department, subject to concurrence by the FHWA.

e. The Department, through its duly authorized representatives, employees, and contractors, and any authorized FHWA representative, may enter the facility at any time for the purpose of inspection, maintenance, or reconstruction of the highway and adjacent facilities, when necessary; or for the purpose of surveying, drilling, monitoring well installations, sampling, remediation, and any other action which is reasonable and necessary to conduct an environmental assessment or to abate an environmental hazard.

f. Lessee, at Lessee's sole cost and expense, shall maintain the facility to occupy the airspace so as to assure that the structures and the area within the highway right of way boundaries will be kept in good condition, both as to safety and appearance. Such maintenance will be accomplished in a manner so as to cause no unreasonable interference with the highway use. In the event that Lessee fails to so maintain the facility, the Department, through its duly authorized representatives, employees, and contractors, may enter the facility to perform such work, and the cost thereof shall be chargeable to the Lessee and shall be immediately due and payable to the Department upon the performance of such work.

g. Portable or temporary advertising signs are prohibited.

h. The design, occupancy, and use of the airspace shall not adversely affect the use, safety, appearance, or enjoyment of the highway by smoke, fumes, vapors, odors, droppings, or any other objectionable discharges or emissions, or nuisances of any kind therefrom.

i. When, for the proposed use of the airspace, the highway requires additional highway facilities for the proper operation and maintenance of the highway, such facilities shall be provided by the Lessee without cost to either the Department or the FHWA and subject to both Department and FHWA approval.

j. The proposed use shall not cause or allow any changes in the existing drainage on the property under the airspace.

k. Lessee shall not occupy, use, permit, or suffer the airspace, the property, the facility, or any part thereof to be occupied or used for any illegal business use or purpose, for the manufacture or storage of flammable, explosive, or hazardous material, or any other hazardous activity, or in such manner as to constitute a nuisance of any kind, nor for any purpose or in any way in violation of any present or future federal, state, or local laws, orders, directions, ordinances, or regulations.

l. 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 affecting the 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 Department. Similarly, if any contamination either spread to or was released onto adjoining property as a result of Lessee's use of the airspace under lease, the Lessee shall be held similarly responsible. The Lessee shall indemnify, defend, and hold harmless the Department from any claim, loss, damage, cost, charge, or expense arising out of any such contamination.

m. Existing utilities and all corresponding easements shall remain in place and Lessee shall not disturb or interfere with the same.

5. Indemnification. (select applicable paragraph)

☒ **Lessee is a Governmental Agency**

To the extent provided by law, Lessee shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by Lessee, its officers, agents, or employees, during the performance of the Agreement, except that neither Lessee, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by Lessee in the performance of services required under this Agreement, the Department will immediately forward the claim to Lessee. Lessee and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of Lessee in the defense of the claim or to require that Lessee defend the Department in such claim as described in this section. The Department's failure to promptly notify Lessee of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Lessee. The Department and Lessee will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any.

Note: No longer required for local governments.

☐ **Lessee is not a Governmental Agency**

Lessee shall indemnify, defend, save, and hold harmless the Department, its agents, officers, and employees, from any losses, fines, penalties, costs, damages, claims, demands, suits, and liabilities of any nature, including attorney's fees (including regulatory and appellate fees), arising out of or because of any acts, action, neglect, or omission by Lessee, or due to any accident, happening, or occurrence on the leased property or arising in any manner from the exercise or attempted exercise of Lessee's rights hereunder whether the same regards person or property of any nature whatsoever, regardless of the apportionment of negligence, unless due to the sole negligence of the Department.

Lessee's obligation to indemnify, defend, and pay for the defense or at the Department's option, to participate, and to associate with the Department in the defense and trial of any claim and any related settlement negotiations, shall be triggered by the Lessor's notice of claim for indemnification to Lessee. Lessee's inability to evaluate liability or its evaluation of liability shall not excuse Lessee's duty to defend and indemnify within seven days after such notice by the Department is given by registered mail. Only an adjudication or judgment after the highest appeal is exhausted specifically finding the Department solely negligent shall excuse performance of this provision by Lessee. Lessee shall pay all costs and fees related to this obligation and its enforcement by the Department. The Department's failure to notify Lessee of a claim shall not release Lessee of the above duty to defend.

Note: No longer required for local governments.

6. Insurance. Lessee at its expense, shall maintain at all times during the term of this Agreement, public liability insurance protecting the Department and Lessee against any and all claims for injury and damage to persons and property, and for the loss of life or property occurring in, on, or about the land arising out of the act, negligence, omission, nonfeasance, or malfeasance of Lessee, its employees, agents, contractors, customers, licensees, and invitees. Such insurance shall be carried in a minimum amount of not less than self insured per FS _____ (\$ _____) for bodily injury or death to any one person or any number of persons in any one occurrence and not less than self insured per FS _____ (\$ _____) for property damage, or a combined coverage of not less than self insured per FS _____ (\$ _____). All such policies shall be issued by companies licensed to do business in the State of Florida and all such policies shall contain a provision whereby the same cannot be canceled or modified unless the Department is given at least sixty (60) days prior written notice of such cancellation or modification. Lessee shall provide the Department certificates showing such insurance to be in place and showing the Department 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 property.

7. Termination

a. This Agreement may be terminated by either party without cause upon ninety (90) days prior written notice to the other party.

b. It is understood and agreed to by the Lessee that the Department reserves the right to terminate this Agreement immediately without prior notice, in the event the Lessee violates any of the conditions of this Agreement and such violation is not corrected within a reasonable time after written notice of noncompliance has been given. In the event the Agreement is terminated and the Department deems it necessary to request the removal of the facility on the property, the removal shall be accomplished by the Lessee in a manner prescribed by the Department at no cost to the Department or the FHWA.

c. The Lessee must notify the Department of its intention to renew this Agreement not later than thirty (30) days prior to the expiration of the original term. Lessee's failure to comply with the foregoing notice provision may result in the Department's refusal to renew the Agreement.

d. Upon termination of this Agreement, Lessee shall deliver the property to the Department, or its agents, in the condition existing at the commencement of this Agreement, normal wear and tear excepted, unless a facility, any improvement, or any part thereof has been constructed on the property.

e. If removal of the facility, improvements, or any part thereof is requested by the Department, any such structures shall be removed by the Lessee at Lessee's expense by midnight of the day of termination of this Agreement and the property restored as nearly as practicable.

f. This Agreement is terminable by the Department in the event that the facility ceases to be used for its intended purpose or is abandoned.

8. Eminent Domain

Lessee acknowledges and agrees that its relationship with the Department under this Agreement is one of landlord and tenant and no other relationship either expressed or implied shall be deemed to apply to the parties under this Agreement. Termination of this Agreement 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 Agreement, including any residual interest in the Agreement or any other facts or circumstances arising out of or in connection with this Agreement.

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 property specified in this Agreement, 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 property specified in this Agreement. 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 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 Agreement is still in existence on the date of taking or sale or has been terminated prior thereto.

9. Miscellaneous

a. The airspace and Lessee's rights under this Agreement shall not be transferred, assigned, or conveyed to another party without the prior written consent of the Department, subject to concurrence by the FHWA.

b. In conformance with the Civil Rights Act of 1964 (Title VI, Appendix "C") and 49 CFR Part 21, Lessee agrees as follows:

1. That as a part of the consideration hereof, Lessee does hereby covenant and agree as a covenant running with the land that (1) no person, on the ground of race, color, sex, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said property and facility; (2) that in connection with the construction of any improvements on said property and facility and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors; and (3) that the Lessee shall use the property and facility in compliance with all other requirements imposed pursuant to 15 CFR Part 8, Subpart A.

2. That in the event of breach of any of the above covenants, the Department shall have the right to terminate this Agreement and to re-enter and repossess said property and the facility thereon, and hold the same as if this Agreement had never been made or issued.

c. During the term of this Agreement Lessee shall, at Lessee's own cost and expense, promptly observe and comply with all present or future laws, requirements, orders, directions, ordinances, and regulations of the United States of America, the State of

Florida, county or local governments, or other lawful authority whatsoever, affecting the land, property, and facility or appurtenances or any part thereof, and of all insurance policies covering the property, land, and facility, or any part thereof.

d. 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.

e. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or negotiations with respect thereto. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.

f. Lessee acknowledges that it has reviewed this Agreement, is familiar with its terms, and has had adequate opportunity to review this Agreement with legal counsel of Lessee's choosing. Lessee has entered into this Agreement freely and voluntarily. This Agreement 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 any previous owner of the property and landlord of Lessee are merged in this Agreement, which alone, fully and completely express the agreement between Lessee and the Department with respect to the subject matter hereof. No modification, waiver, or amendment of this Agreement or any of its conditions or provisions shall be binding upon the Department or Lessee unless in writing and signed by both parties.

g. 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.

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

i. All notices to the Department shall be sent to the address for rent payments and all notices to Lessee shall be sent to the property address provided herein or otherwise provided in writing to the Department.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

City of Venice, FL - John Holic, Mayor
LESSEE (Company Name, if applicable)

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____

By: _____
District Secretary

Name: _____

Name: L.K. Nandam, PE

Title: _____

Attest: _____

Attest: _____ (Seal)

Name/Title: _____

Name: _____

Legal Review:

Title: _____

District Counsel

Name: Don Conway

ADDENDUM

This is an Addendum to that certain Lease Agreement between City of Venice, Florida

and the State of Florida Department of Transportation dated the _____ day of _____, 2017.
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 (d) of said Agreement:

- a) Lessee, at Lessee's sole cost and expense, shall repair any and all damages within the area designated in Exhibit A, to the Hatchett Creek Bridge structure, including damage to the pilings and any and all appurtenances thereof by the public, third parties or Lessee's employees or agents. Such damage will be evaluated at the sole discretion of the Lessor. In the event that Lessee fails to repair such damage, the Department reserves the right, at its' discretion, to perform the repairs and the cost shall be immediately due and payable to the Department.
- b) Any improvements or changes to the leased space by Lessee must be permitted through the Departments' district maintenance office.
- c) Lessee is responsible, in case of emergency determined by the Department to comply with the plan (attached and incorporated by reference as Exhibit B) to evacuate any and all vehicles including third party owned vehicles from the leased space.
- d) Executed agreement between US Army Corp. and City of Venice for use of area over which US Army Corp has an easement.

City of Venice, FL - John Holic, Mayor
LESSEE (Company Name, if applicable)

By: _____

Name: _____

Title: _____

Attest: _____ (Seal)

Name: _____

Title: _____

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
District Secretary

Name: L.K. Nandam, PE

Attest: _____

Name/Title: _____

Legal Review:

District Counsel

Name: Don Conway

That part of the Northwest Quarter (1/4) of Section 7, Township 39 South, Range 19 East, Sarasota County, Florida, being more particularly described as follows:

Commence at the Southwest corner of the Northwest Quarter (1/4) of said Section 7; thence run South 89°46'59"East along the South line of the Northwest Quarter (1/4) of said Section 7 for 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 run North 00°28'55"East along said Survey Baseline for a distance of 332.17 feet to the POINT OF BEGINNING; thence run S.89°26'02"W. for a distance of 68.85 feet to the intersection with the Westerly Right-of-Way line of State Road 45, U.S. 41 Business (Section 17010-2526), said point being on a curve to the right, having a radius of 1909.85 feet, a central angle of 08°45'07" a chord bearing and distance of North 04°02'17"East 291.45 feet, thence run Northerly along the arc of said curve for a distance of 291.73 feet to a point on said curve; thence run S.56°52'33"E. for a distance of 1.16 feet to the Westerly Right-of-Way line of State Road 45, U.S. 41 Business (Section 17020-2207); thence run N.00°26'12"E. along said Westerly Right-of-Way line for a distance of 22.23 feet; thence run S.89°33'48"E. for a distance of 15.71 feet; thence run N.45°45'50"E. for a distance of 26.88 feet; thence run N.36°08'27"E. for a distance of 29.86 feet; thence run S.83°24'32"E. for a distance of 11.77 feet; thence run S.11°09'28"W. for a distance of 17.19 feet; thence run S.79°05'39"E. for a distance of 49.64 feet; thence run S.26°00'11"E. for a distance of 39.81 feet; thence run S.31°55'46"E. for a distance of 39.03 feet; thence run S.27°57'44"E. for a distance of 10.30 feet to the intersection with the Easterly Right-of-Way line of State Road 45, U.S. 41 (Section 17020-2506), said point being on a curve to the left, having a radius of 1482.61 feet, a central angle of 05°20'03" a chord bearing and distance of South 07°56'21"West 137.98 feet, thence run Southerly along the arc of said curve for a distance of 138.03 feet to a point on said curve; thence run N.89°47'29"W. for a distance of 34.32 feet; thence run S.00°33'45"W. along the Easterly Right-of-Way of State Road 45, U.S. 41 Business according to the plat of Venice Gulf View Section recorded in Plat Book 2, Page 77 of the Public Records of Sarasota County, Florida for a distance of 111.75 feet; thence run S.89°26'02"W. for a distance of 50.97 feet to the Point of Beginning.

Containing 1.04 acres, more or less.

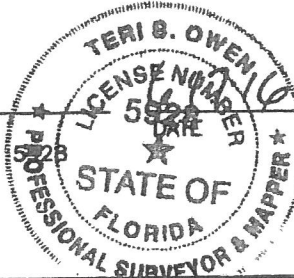
SURVEYOR'S NOTES

1. BEARINGS SHOWN ARE BASED ON THE SURVEY BASELINE OF STATE ROAD 45 U.S. 41 BUSINESS (SEC. 17010-2526) ACCORDING TO THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP. SURVEY BASELINE BEARING BEING N.00°28'55"E.

2. THIS MAP WAS PREPARED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE OR AN ATTORNEY'S OPINION OF TITLE, THEREOF, ANY DEED OVERLAP OR HIATUS OR ANY RECORDED OR UNRECORDED RIGHTS-OF-WAY AND OR EASEMENTS MAY NOT BE SHOWN.

3. THIS DRAWING IS A DESCRIPTION SKETCH ONLY AND DOES NOT REPRESENT A FIELD SURVEY OF THE PARCEL DESCRIBED.

TERI S. OWEN, COUNTY SURVEYOR
PROFESSIONAL SURVEYOR AND MAPPER NO. 5828
SARASOTA COUNTY PUBLIC WORKS
REAL ESTATE SERVICES, SURVEY-MAPPING
1001 SARASOTA CENTER BLVD.
SARASOTA, FLORIDA 34240



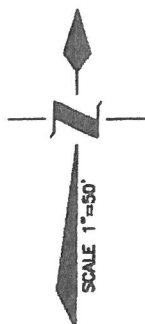
STATE ROAD 45 U.S. 41 BUSINESS

	DRAWN	T.OWEN	DATE	3-7-16	SCALE
	CHECKED	J.M.	DATE	3-7-16	N.T. N.S.
PARCEL = 1.04 Acres ±					JOB NO.

REVISIONS:
CORRECTED SEC. NO. 170101-2526 T.S.O. 3-15-16

CURVE TABLE

NO.	RADIUS	DELTA	ARC	CHORD	CHORD BEARING
C-1	1909.85'	08°45'07"	291.73'	291.45'	N.04°02'17"E.
C-2	1482.61'	05°20'03"	138.03'	137.98'	S.07°56'21"W.



LINE TABLE

L1	S.89°26'02"W.	68.85'
L2	S.56°52'33"E.	1.16'
L3	N.00°26'12"E.	22.23'
L4	S.89°33'48"E.	15.71'
L5	N.45°45'50"E.	26.88'
L6	N.36°08'27"E.	29.86'
L7	S.83°24'32"E.	11.77'
L8	S.11°09'28"W.	17.19'
L9	S.79°05'39"E.	49.64'
L10	S.26°00'11"E.	39.81'
L11	S.31°55'46"E.	39.03'
L12	S.27°57'44"E.	10.30'
L13	N.89°47'29"W.	34.32'
L14	S.00°33'45"W.	111.75'
L15	S.89°26'02"W.	50.97'

ABBREVIATION LEGEND

R/W = RIGHT-OF-WAY
 R.P.B. = ROAD PLAT BOOK
 P.B. = PLAT BOOK
 PG. = PAGE
 SEC. = SECTION
 TWP. = TOWNSHIP
 RNG. = RANGE
 N.T. N.S. = NOT TO SCALE
 NO. = NUMBER
 P.T. = POINT OF TANGENCY
 C = CENTERLINE
 O.R.B. = OFFICIAL RECORDS BOOK
 EXIST. = EXISTING
 STA. = STATION
 O.R.I. = OFFICIAL RECORDS INSTRUMENT

POINT OF COMMENCEMENT

SW CORNER NW 1/4 SEC. 7,
TWP. 39 N.S., RNG. 19 E.

S.89°46'59"E. 1864.61'

S. LINE NW 1/4 SEC. 7

STATE ROAD 45 U.S. 41 BUSINESS

PARCEL = 1.04 Acres ±

DRAWN

T.OWEN

DATE

3-7-16

SCALE

N.T. N.S.

CHECKED

J.M.

DATE

3-7-16

JOB NO.

Exhibit B



KMI/Hatchett Creek Bridge Emergency Response Plan

As a condition of the Florida Department of Transportation (FDOT), Army Corps of Engineer (ACOE) and West Coast Inland Navigation District (WCIND) consents to use the area under 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 of the Venice Library, Venice Area Beautification and Venice Theatre staff and patrons 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, ACOE or WCIND 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
941-882-7419 office
941-468-2669 cell
kweeden@venicegov.com

Chuck Speake
Parks and Maintenance Superintendent
City of Venice Public Works Dept.
221 S. Seaboard Ave.
Venice, FL 34285
941-882-7360 office
941-650-6953
CSpeake@Venicegov.com

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

Prepared by: City Engineer and City Clerk's Office

RESOLUTION NO. 2016-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VENICE, SARASOTA COUNTY, FLORIDA, REQUESTING THE FLORIDA DEPARTMENT OF TRANSPORTATION PREPARE AND ENTER INTO A LEASE AGREEMENT WITH THE CITY OF VENICE TO PROVIDE PARKING BENEATH THE KMI BRIDGE; DIRECTING THE CITY MANAGER TO ENTER INTO NEGOTIATIONS WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION REGARDING SAID LEASE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council for the City of Venice, Florida (the "City") has determined that it is in the best interests of the citizens of the City to enter into a lease agreement with the State of Florida, Department of Transportation ("FDOT") for certain property to provide additional public parking spaces beneath the KMI Bridge (formerly known as the Hatchett Creek Bridge) located on US 41 Business on the south side of the Intracoastal Waterway; and

WHEREAS, the parking area described above is in the state right-of-way and is further identified as "Parcel 1 – Lease" in Exhibit A attached hereto; and

WHEREAS, the City desires to construct improvements within the area described as "Parcel 1 – Lease" to provide for more efficient and accessible public parking.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, as follows:

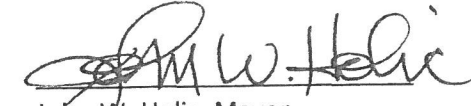
SECTION 1. It is hereby requested that the FDOT prepare and enter into a lease agreement with the City regarding the property previously described and identified herein as "Parcel 1 – Lease."

SECTION 2. The subject property shall be used only for public purposes including the construction of parking facilities and the parking of motor vehicles, as well as other City activities.

SECTION 3. The City Manager is hereby directed to enter into negotiations for a lease agreement with the FDOT as provided for herein.

SECTION 4. This Resolution shall take effect immediately upon its approval and adoption as required by law.

APPROVED AND ADOPTED AT A REGULAR MEETING OF THE VENICE CITY COUNCIL HELD ON
THE 13th DAY OF SEPTEMBER, 2016.


John W. Holic, Mayor

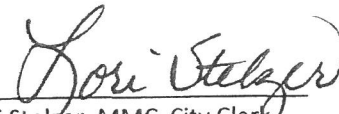
ATTEST:


Lori Stelzer, MMC, City Clerk

I, **LORI STELZER**, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of a Resolution duly adopted by the City Council of said city at a meeting thereof duly convened and held on the 13th day of September 2016, a quorum being present.

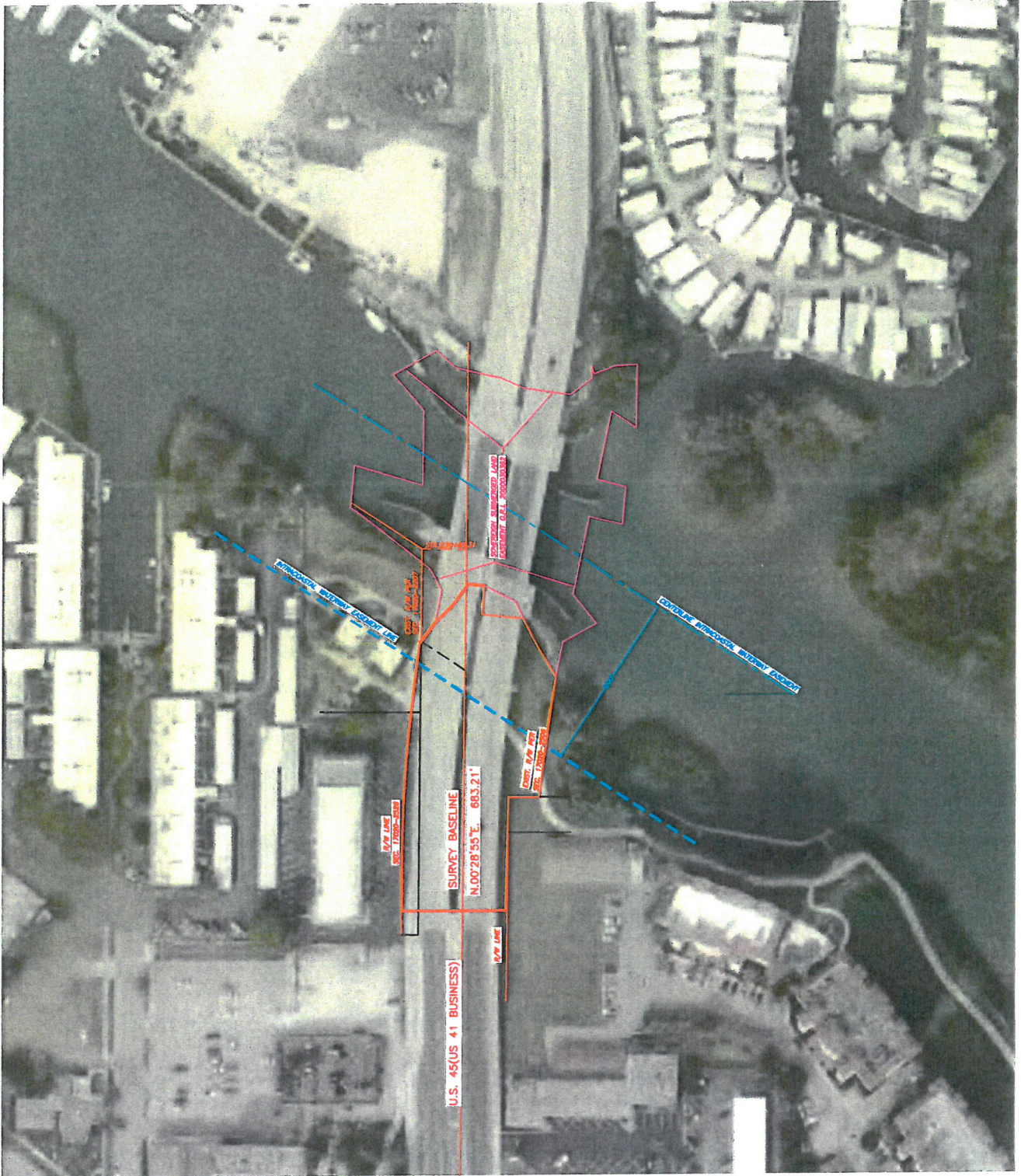
WITNESS my hand and the official seal of said City this 13th day of September 2016.

(SEAL)


Lori Stelzer, MMC, City Clerk

Approved as to form:


David Persson, City Attorney



**DEPARTMENT OF THE ARMY
CONSENT TO EASEMENT
TO USE CORPS OF ENGINEERS RIGHT-OF-WAY**

Consent No. DACW17-9-17-0005
Project: Intracoastal Waterway,
Caloosahatchee River to Anclote River
Sarasota County, Florida
Tract No. 2700E

THIS CONSENT TO EASEMENT AGREEMENT, made by and between the **UNITED STATES OF AMERICA, DEPARTMENT OF THE ARMY**, hereinafter referred to as the "Government", acting by and through the District Chief of Real Estate, Real Estate Contracting Officer, U.S. Army Corps of Engineers, Jacksonville District, hereinafter referred to as "said officer," and **City of Venice**, hereinafter referred to as the "Grantee":

WHEREAS, the Government has acquired a right-of-way easement over the above-numbered tract of land, which easement, by its terms, reserves to the Government, in perpetuity, the right to use said easement for the construction, improvement, and maintenance of the Intracoastal Waterway, Caloosahatchee River to Anclote River, Sarasota County, Florida; and

WHEREAS, the Grantee has requested permission to use, maintain, repair, remove, and occupy a parking lot (limited to gravel or crushed concrete) on a portion of the Government right-of-way under the Hatchett Creek Bridge of the Intracoastal Waterway. The lands are identified as Tract No. 2700 E, Section 07, Township 39 South, Range 19 East, Sarasota County, Florida. The area comprising .36 of an acre, more or less, is shown in red on Exhibit "A" and in accordance with Exhibit "B" attached hereto and made a part hereof.

NOW THEREFORE, this consent is granted and accepted under the following conditions:

1. That it is understood that this consent is effective only insofar as the property rights of the Government in the land to be occupied are concerned, and that it does not relieve the Grantee from the necessity of obtaining grants from the owners of the fee and/or other interests, therein, nor does it obviate the requirement that the Grantee obtain State or local assent required by law for the activity authorized herein.
2. That any proposed improvements or use authorized herein shall not be commenced until appropriate rights have been obtained by the Grantee from the record owners and encumbrancers of the fee title to the lands involved, or until the Grantee has obtained all Federal, State, or local permits required by law.

3. That the proposed improvements or use authorized herein shall be consistent with the terms and conditions of this consent; and that any improvements or use not specifically identified and authorized shall constitute a violation of the terms and conditions of this consent which may result in a revocation of this consent and in the institution of such legal proceedings as the Government may consider appropriate, whether or not this consent has been revoked or modified.

4. That the exercise of the privileges hereby consented to shall be without cost or expense to the Government and under the supervision of and subject to the approval of the said officer having immediate jurisdiction over the property and subject to such regulations as he may from time to time prescribe, including, but not limited to, the specific conditions, requirements, and specifications set forth in paragraph 14 below.

5. That the Grantee shall supervise and maintain the said improvements and cause it to be inspected at reasonable intervals, and shall immediately repair any damage found therein as a result of such inspection, or when requested by said officer to repair any defects. Upon completion of the installation of said improvements or the making of any repairs thereto, the premises shall be restored immediately by the Grantee, at the Grantees' own expense, to the same condition as that in which they existed prior to the commencement of such work, to the satisfaction of said officer.

6. That any property of the Government damaged or destroyed by the Grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Grantee to the satisfaction of the said officer, or in lieu of such repair or replacement, the Grantee shall, if so required by said officer and at his option, pay to the Government an amount sufficient to compensate for the loss sustained by the Government by reason of damage to or destruction of Government property.

7. That the Government shall not be responsible for damages to the property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Grantee, or for damages to the property or injuries to the person of the Grantee, or the persons of Grantee' officers, agents, servants, or employees, or others who may be on said premises at the invitation of the Grantee or the invitation of one of them, arising from Governmental activities on or in the vicinity of the said premises, and the Grantee shall hold the Government harmless from any and all claims.

8. That the Government shall in no case be liable for any damage, either hidden or known, to any improvements herein authorized which may be caused by any action of the Government, under the rights obtained in its easements, or that may result from the future operations undertaken by the Government, and no claim or right to compensation shall accrue from such damage, and if further operations of the Government require the alteration or removal of any improvements herein authorized, the Grantee shall, upon

due notice, from said officer, alter or remove said improvements without expense to the Government and subject to the supervision and approval of the said officer and no claim for damages shall be made against the Government on account of such alterations or removal.

9. That construction and/or operation, maintenance, and use of any improvements incident to the exercise of the privileges herein granted shall be in such a manner as not to conflict with the rights of the Government, nor to interfere with the operations by the Government under such rights nor to endanger lives and safety of the public.

10. That this consent may be terminated by the Government or said officer upon reasonable notice to the Grantee if the Government or said officer shall determine that any improvements or use to which consent is herein granted interferes with the use of said land or any part thereof by the Government, and this consent may be annulled and forfeited by the declaration of the Government or said officer for failure to comply with any or all of the provisions and conditions of this consent, or for nonuse for a period of two (2) years, or for abandonment.

11. That upon relinquishment, termination, revocation, forfeiture, or annulment of this consent, the Grantee shall vacate the premises, remove all property of the Grantee therefrom, and restore the premises to a condition satisfactory to the said officer. If the Grantee shall fail or neglect to remove the said property and so restore the premises, then at the option of the Government or said officer, the said property shall either become the property of the Government without compensation therefor, or the Government or said officer, may cause it to be removed, and the premises to be so restored at the expense of the Grantee, and no claim for damages against the Government, or its officer or agents, shall be created by or made on account of such removal and restoration.

12. That the Grantee within the limits of its respective legal powers shall comply with all Federal, interstate, State, and/or local governmental regulations, conditions, or instructions for the protection of the environment and all other matters as they relate to real property interests granted herein.

13. That the Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural, or other cultural artifacts, relics, vestiges, remains, or objects of antiquity. In the event such items are discovered on the premises, the Grantee shall immediately notify the District Engineer, Jacksonville District, Post Office Box 4970, Jacksonville, Florida 32232-0019, and the site and the material shall be protected by the Grantee from further disturbance until a professional examination of them can be made or until a clearance to proceed is authorized by the District Engineer.

14. That no additional structures shall be constructed water ward of the Government's right-of-way line and that any structures currently within the right-of-way must be removed by the Grantee, at Grantee's expense, if future needs of the Government so require.

15. That this consent may not be transferred to a third party without the prior written notice to the Chief, Real Estate Division, U.S. Army Corps of Engineers, Jacksonville District, Post Office Box 4970, Jacksonville, Florida 32232-0019, and by the transferee's written agreement to comply with and be bound by all the terms and conditions of this consent. In addition, if the Grantee transfers the improvements authorized herein by conveyance of realty, the deed shall reference this consent and the terms and conditions herein and the consent shall be recorded along with the deed in the Registrar of Deeds or with other appropriate official.

This consent is not subject to Title 10, United States Code, Section 2662.

IN WITNESS WHEREOF, I have hereunto set my hand, by authority of the Secretary of the Army, this 21st day of March 2017.

UNITED STATES OF AMERICA

BY: Audrey C. Ormerod
AUDREY C. ORMEROD
District Chief of Real Estate
Real Estate Contracting Officer
U. S. Army Engineer District
Jacksonville, Florida

AGREED TO AND ACCEPTED

CITY OF VENICE

Gori Stelzer
ATTEST BY

Deanne Taylor
ATTEST BY

BY: John W. Holic
Name: John W. Holic
Title: Mayor

TRACT REGISTER OF ACQUISITION AFTER 1 JAN. 1943 (CIVIL)		
TRACT NO.	LAND OWNER	REMARKS
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

PROJECT MAP

DEPT. OF THE ARMY

LAND SERVICE

LOCATION OF PROJECT

STATE: FLORIDA
COUNTY: SARASOTA
DISTRICT: SOUTH ATLANTIC
JACKSONVILLE
ARMY AREA

TRANSPORTATION FACILITIES

RAILROADS
STATE ROADS
FEDERAL ROADS
AIR FIELDS

ACQUISITION

TOTAL ACRES ACQUIRED

PERMIT

LEASE

LESSOR INTEREST

OTHER

DISPOSAL

TOTAL ACRES DISPOSED OF

SALE

EXCHANGE

USE PERMIT

TRANSFER

LEASE TERMINATED

LESSOR INTEREST TERM

REASSIGNED

OTHER

LEGEND

EXPLAIN THE SYMBOLS SHOWN ON THE MAP
SYMBOLS FOR TANGIBLE AND INTANGIBLE
PROPERTY RIGHTS NO. 31
RESERVATION LINE
PRIMA FIDE LINE (not shown)
TRACT BOUNDARY LINE
TRACT NUMBER
CONTOUR LINE
DITCH

SARASOTA COUNTY, FLORIDA

DEPT. OF THE ARMY
SOUTH ATLANTIC DISTRICT

REAL ESTATE

INTRACOASTAL WATERWAY
CALOOSAHATCHEE RIVER
ANCHOTE RIVER

ANCHOTE RIVER

ANCHOTE RIVER

AUDITED

DATE OF AUDIT

BY

...

...

...

...

...

...

...

...

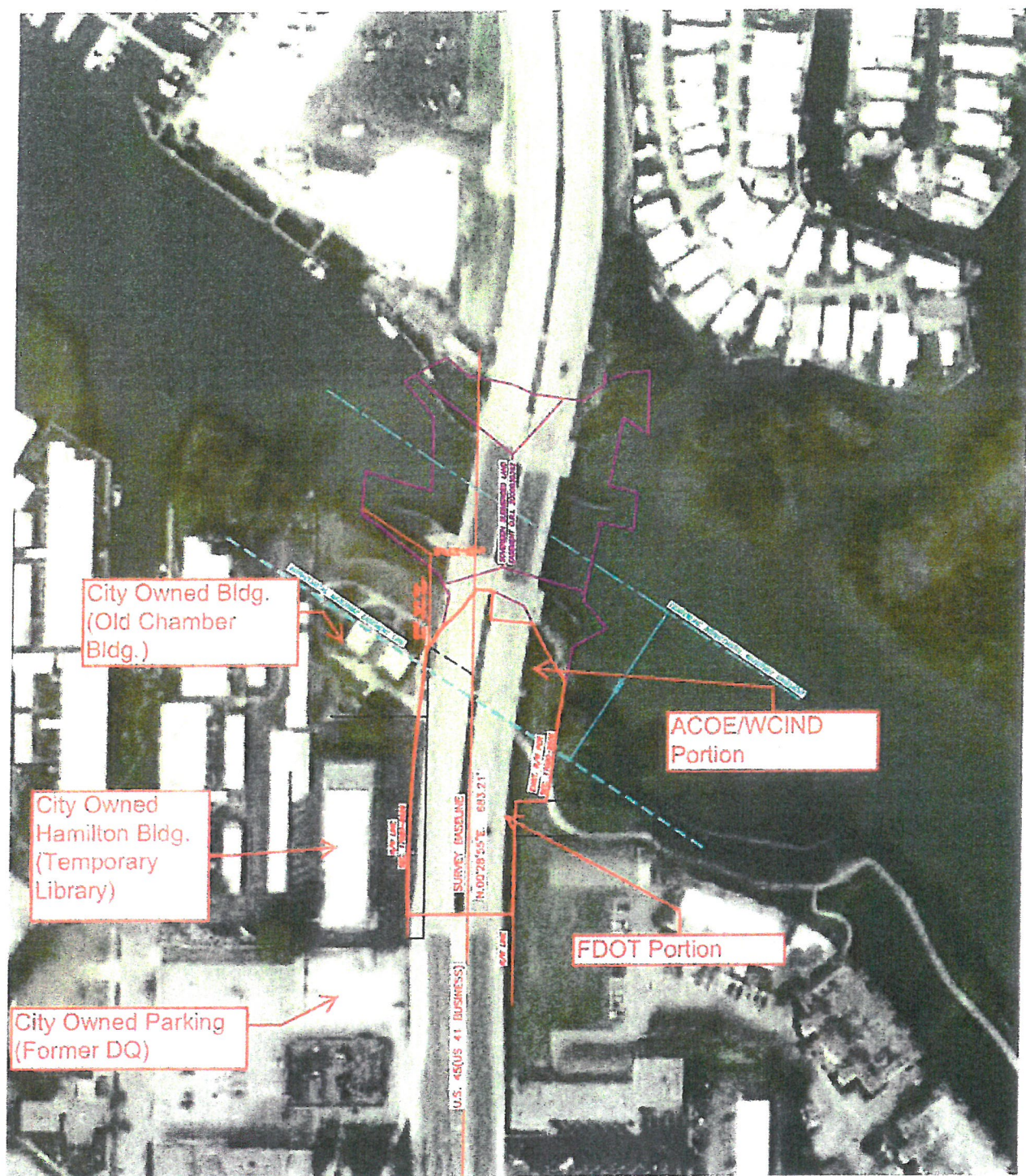


Exhibit "B"