

RESOLUTION 2017-02-02

A RESOLUTION OF THE DOWNTOWN INVESTMENT AUTHORITY (“DIA”) BOARD OF DIRECTORS INSTRUCTING THE DIA CHIEF EXECUTIVE OFFICER, THROUGH THE OFFICE OF PUBLIC PARKING, TO TAKE EXECUTE THE PUBLIC PARKING LEASE AGREEMENT, INCLUDED AS EXHIBIT ‘A, WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION (“FDOT”) FOR USE, OPERATION AND MANAGEMENT OF CERTAIN SURFACE PARKING FACILITIES WITHIN FDOT RIGHT-OF-WAY AS ILLUSTRATED BY EXHIBIT ‘B’; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the DIA is the economic development agency for Downtown Jacksonville;
and

WHEREAS, the Office of Public Parking is within the DIA; and

WHEREAS, additional public parking is necessary to promote further private investment and redevelopment within the Southbank of Downtown; and

WHEREAS, additional public parking is necessary to promote use of the Southbank Riverwalk and other public facilities; and

WHEREAS, in order to use the surface parking facilities identified in Exhibit ‘B’ there may be necessary improvements requiring the expenditure of funds from the Southside TID (e.g. striping, lighting, payment kiosks, etc.); and

WHEREAS, through their adoption of Resolution 2017-01-01, the DIA Board of Directors instructed their CEO to take all necessary action to effectuate a public parking agreement with FDOT with the understanding that the agreement or functional equivalent would be brought before the DIA Board of Directors prior to execution by the CEO, NOW THEREFORE

BE IT RESOLVED, by the Downtown Investment Authority:

Section 1. The DIA finds that the recitals set forth above are true and correct and are incorporated herein by this reference.

Section 2. The DIA Board of Directors instructs its CEO to execute the Public Parking Lease Agreement with FDOT included as Exhibit ‘A’.

Section 3. This Resolution, 2017-02-02, shall become effective on the date it is signed by the Chair of the DIA Board.

For a copy of Exhibit A, please contact the DIA at RMezini@coj.net.

Note: The City of Jacksonville and the Downtown Investment Authority are committed to making its website compliant with all state and federal laws, as well as accessible to as many people as possible. The City is currently developing a procedure to make all documents posted on the City's website readable via screen reader. In the meantime, public records that are not currently accessible via screen reader will not be posted to the City's website but remain available pursuant to a public records request. To submit a public records request online visit MyJax or call (904) 630-CITY and provide a description of the documents being requested. For documents requiring screen reader compatibility requests will be directed to the originator of the correspondence.

Pursuant to the American with Disabilities Act, accommodations for persons with disabilities are available upon request. Please allow 1-2 business days' notification to process; last minute requests will be accepted, but may not be possible to fulfill. Please contact Disabled Services Division at: (904) 255-5466, TTY-(904) 255-5476, or email your request to KaraT@coj.net.

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EXHIBIT A
ADDENDUM

EXHIBIT "C" - AIRSPACE AGREEMENT ADDENDUM

Item/Segment Number: 72160-2528
District: Two
F. A. P. No.: BRM-2665-(1)
State Road Number: 13
County: Duval

This Airspace Agreement Addendum ("Addendum") is made and entered into by and between the Downtown Investment Authority ("DIA"), a Community Redevelopment Agency created by the City of Jacksonville, Florida ("Lessee"), and the State of Florida Department of Transportation ("Lessor") this ___ day of _____, 2017. The terms of this Addendum are made part of and merged into that certain Airspace Agreement ("Agreement") entered into by and between Lessor and Lessee of even date herewith.

1. In the performance of this Addendum and the Agreement, the parties shall comply with all applicable federal, state, local, administrative, regulatory, safety, and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards, and permits, as the same may be constituted and amended from time to time, including, without limitation, those of the Federal Highway Administration ("Governmental Law").

2. Lessee shall not make improvements to the real property described in Exhibit "A" of the Agreement ("Property"), or to existing or previously approved improvements, absent Lessor's prior written consent.

3. Lessee shall not alter, modify or attach anything to the Acosta Bridge Structure, including the bridge supports, absent Lessor's prior written consent. Nothing may be kept, stored, constructed or improved within six (6) feet of any bridge support.

4. To the maximum extent provided by applicable law, Lessee shall promptly defend, indemnify, hold the Department harmless from and pay all demands, claims, judgments, liabilities, damages, fines, fees, taxes, assessments, costs, losses, penalties, construction delay costs / penalties, expenses, attorneys' fees and suits of any nature or kind whatsoever caused by or resulting, directly or indirectly, in whole or in part, from Lessee's negligence, intentional or wrongful acts, omissions or the performance or breach of this Addendum or the Agreement ("Liabilities"). Lessee shall immediately notify the Department in writing upon becoming aware of any Liabilities. Lessee shall, upon the Department's written demand, participate and associate with the Department in the defense and trial of any Liabilities, including related settlement negotiations. The inability of Lessee to evaluate liability, or its evaluation of liability, shall not excuse performance of the provisions of this paragraph.

The term "Liabilities" shall also specifically include all civil and criminal environmental liability arising, directly or indirectly under any Governmental Law, including, without limitation, liability under the Resource Conservation and Recovery Act ("RCRA"), the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), the Clean Air Act ("CAA"), and the Clean Water Act ("CWA").

The indemnification requirements set forth in this section specifically do not encompass indemnifying the Department for its negligence, intentional or wrongful acts, omissions, or breach of contract.

5. Nothing in this Addendum or the Agreement shall be deemed or otherwise interpreted as waiving the Department's sovereign immunity protections, or as increasing the limits of liability set forth in §768.28, Florida Statutes (2016).

6. Owner shall operate, maintain and repair the Property and improvements thereon, specifically excluding the Acosta Bridge Structure and bridge supports, at its sole cost and expense, in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Addendum, the Agreement and applicable Governmental Law.

7. The rights and benefits acquired by Lessee by virtue of this Addendum and the Agreement are subordinate and inferior to the rights of Lessor.

8. Lessor's rights to terminate the Agreement as set forth in section seven (7) of the Agreement are expressly without liability to Lessee. Lessee waives and shall not assert any claims, in whole or in part, against Lessor as a result of Lessor's termination of the Agreement.

9. All notices, communications and determinations between the parties and those required by this Addendum and the Agreement, including, without limitation, changes to the notification addresses set forth below, shall be in writing and shall be sufficient if mailed by regular United States Mail, postage prepaid, to the parties at the following addresses:

Lessor:

Lessee:

10. The parties shall comply with Chapter 119, Florida Statutes.

11. This Addendum and the Agreement shall be governed in all respect by the laws of the State of Florida.

12. Venue for any and all actions arising out of or in any way related to the interpretation, validity, negotiation, performance, or breach of this Addendum or the Agreement shall lie exclusively in a state court of appropriate jurisdiction in Leon County, Florida.

13. All persons and entities accepting an assignment of this Addendum or the Agreement, in whole or in part, shall be deemed as having consented to personal jurisdiction in the State of Florida and as having forever waived and relinquished all personal jurisdiction defenses with respect to any proceeding related to the interpretation, validity, negotiation, performance, or breach of this Agreement.

14. The parties waive the right to trial by jury of all disputes concerning the interpretation, validity, negotiation, performance, or breach of this Addendum or the Agreement.

15. This Addendum and the Agreement are not assignable absent the prior written consent of Lessor. Nothing in this section prevents Lessee from delegating its contractual duties, but such delegation shall not release Lessee from its obligation to perform this Addendum and the Agreement.

16. Nothing in this Addendum or the Agreement is intended to confer any rights, privileges, benefits, obligations, or remedies upon any other person or entity.

17. With the exception of any Department Permits which may issue, this Addendum and the Agreement contain the entire understanding of the parties and no representations or promises have been made except those that are specifically set out in this Addendum and the Agreement. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants, and warranties with respect to the subject matter of this Addendum and the Agreement are waived, merged in, and superseded by this Addendum and the Agreement.

18. The parties agree that they shall promptly execute and deliver to the other all documents necessary to accomplish the intent and purpose of this Addendum and the Agreement and shall do all other acts to effectuate the same.

19. By their signatures below, the parties acknowledge the receipt, adequacy and sufficiency of consideration provided in this Addendum and the Agreement and forever waive the right to object to or otherwise challenge the same.

20. The failure of either party to insist on the performance / compliance with any term or provision of this Addendum or of the Agreement on one or more occasions shall not constitute a waiver or relinquishment of the same and all such terms and provisions shall remain in full force and effect unless specifically waived or relinquished in writing.

21. No term or provision of this Addendum or the Agreement shall be interpreted for or against either party because that party or that party's legal representative drafted the provision.

22. A modification or waiver of any of the provisions of this Addendum or the Agreement shall be effective only if made in writing and executed with the same formalities as this Addendum and the Agreement.

IN WITNESS WHEREOF, the parties execute this Addendum consisting of five (5) pages.

Florida Department of Transportation

Attest:

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Date: _____

Legal Review:

By: _____

Office of the General Counsel
Florida Department of Transportation

Downtown Investment Authority

Attest:

By: _____

By: _____

Printed Name: _____

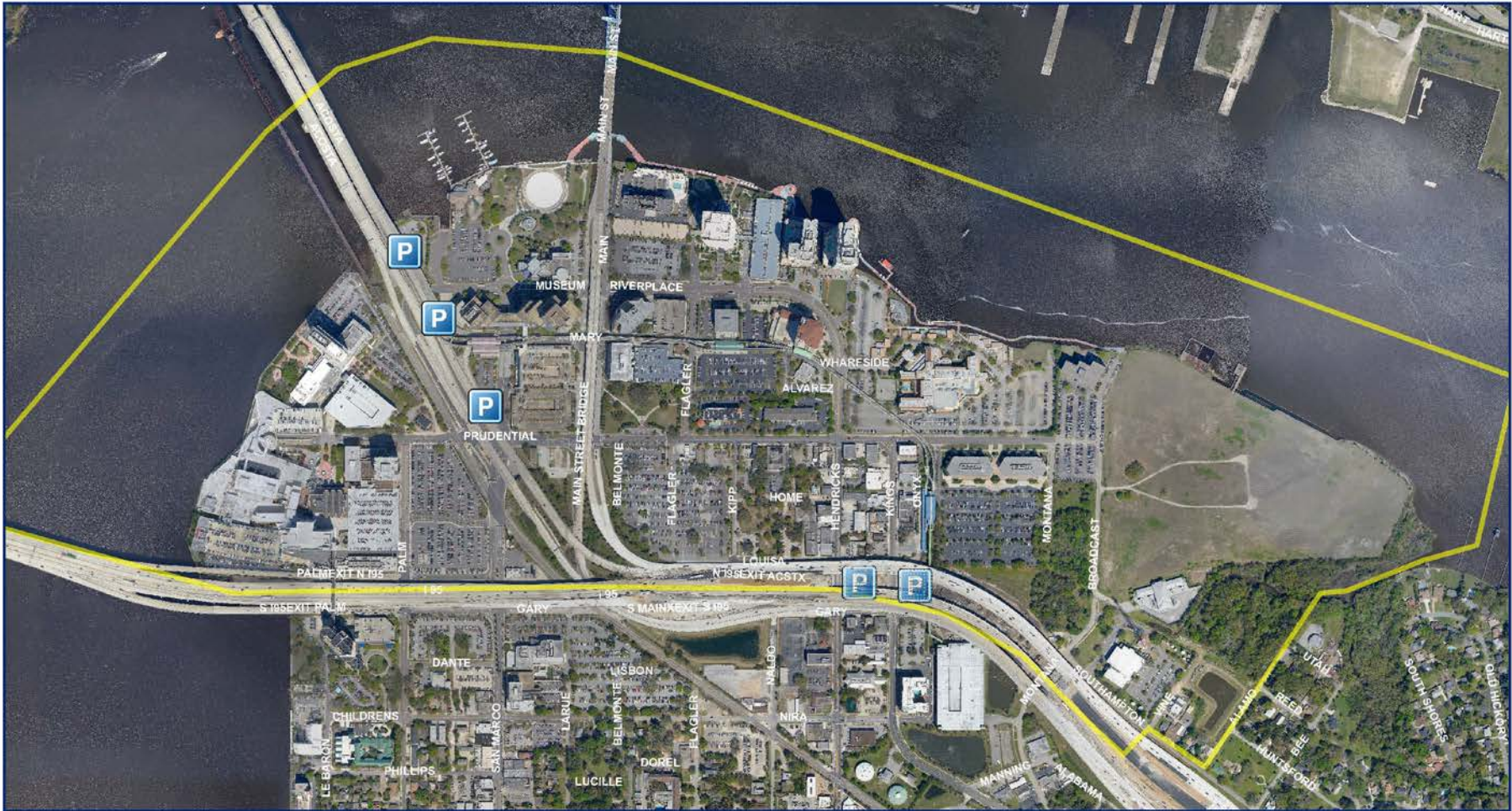
Printed Name: _____

Title: _____

Date: _____

Legal Review:

By: _____



RESOLUTION 2017-02-02 EXHIBIT B