

Meeting Date
March 15, 2016



AGENDA	
Section	Consent
Item No.	II.A.2

AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Approval Re: Department of The Army Consent to Easement to Use Corps of Engineers Right-of-Way related to the installation of a force main under the Canaveral Port Authority Barge Canal - District 2. (Fiscal Impact: None)
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DEPT/OFFICE:	Public Works Department / Land Acquisition Section / Utility Services Department
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Requested Action:
It is requested that the Board of County Commissioners approve and authorize the Chairman to agree to, accept and sign (**do not date**) the Department of The Army Consent to Easement to Use Corps of Engineers Right-of-Way document related to the construction of a force main under the Barge Canal.

Summary Explanation & Background:
The subject property is located in Section 11, Township 24 South, Range 36 East.
Brevard County Utility Services Department has plans to install a force main under the CPA Barge Canal. The Department of the Army, Jacksonville District, Corps of Engineers, has indicated in a letter the requirement for the Corps to grant permission for the work to be performed related to the installation of the force main under the Barge Canal located east of State Road 3 and in the Canaveral Harbor Project area. Pursuant to the instruction letter, the Board Chairman is to sign two original consents and **do not** date the documents. The two executed consents will be returned to the Corps office where they will be signed and dated on behalf of the Government. A signed and dated copy will be returned to the County.

Fiscal Impact: FY 2015-2016: No impact
FY 2016-2017: No impact

Clerk to the Board Instructions: Forward two (2) executed (and undated) originals of the Department of the Army Consent to Easement to Use Corps of Engineers Right-of-Way documents and Board approval Memo to Department.

Exhibits Attached: Two (2) original Department of the Army Consent to Easement to Use Corps of Engineers Right-of-Way, copy of the letter from the Corps.

Contract /Agreement (If attached): Reviewed by County Attorney	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager	Assistant County Manager	Department Director / Extension
Stockton Whitten	Assistant County Manager	John Denninghoff / 57202
		Jim Helmer / 52091



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

March 16, 2016

MEMORANDUM

TO: John Denninghoff, Public Works Director

RE: Item II.A.2., Department of Army Consent to Easement with United States of America, Department of Army, to Use the Corps of Engineers Right-of-Way Related to the Installation of a Force Main Under the Canaveral Port Authority Barge Canal

The Board of County Commissioners, in regular session on March 15, 2016, executed Department of Army Consent to Easement with United States of America, Department of Army, to use the Corps of Engineers right-of-way related to the construction of a force main under the Canaveral Port Authority Barge Canal. Enclosed are two executed Consent to Easements.

Upon execution by United States of America, Department of Army, please return a fully-executed Consent to Easement to this office for inclusion in the official minutes.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

A handwritten signature in cursive script that reads "Tammy Rowe".

Tammy Rowe, Deputy Clerk

Encls. (2)

cc: Utility Services Director
Contracts Administration
Asset Management

HC

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

Consent No. DACW17-9-16-0098
Project: Canaveral Harbor
Brevard County, Florida
Tract No. 3

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 the **BREVARD COUNTY, FLORIDA** hereinafter referred to as the "Grantee":

WHEREAS, the Government has acquired a right-of-way easement over the above-numbered tracts 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 Canaveral Harbor, Brevard County, Florida; and

WHEREAS, the Grantee has requested permission to install, use, maintain, repair, remove, and replace a 24-inch fusible PVC force main in, on, across, over, and under a portion of the lands identified as Tract No. 3, Section 11, Township 24 South, Range 36 East, Brevard County, Florida. The area comprising 0.90 of an acre, more or less, is shown in red on Exhibit "A" 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 Grantee's 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 the Grantee's officers, agents, servants, or employees, or others who may be on said premises at the invitation of the Grantees 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 to the extent allowed by law.

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 Grantees 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 construction shall be in accordance with the drawings attached hereto and made a part hereof as Exhibit "B" and with Department of the Army Permit No. SAJ-2015-02556, incorporated herein by reference. That no additional structures shall be constructed waterward 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 12th day of April 2016.

UNITED STATES OF AMERICA

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

AGREED TO AND ACCEPTED

**BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA**

By: J. Bell

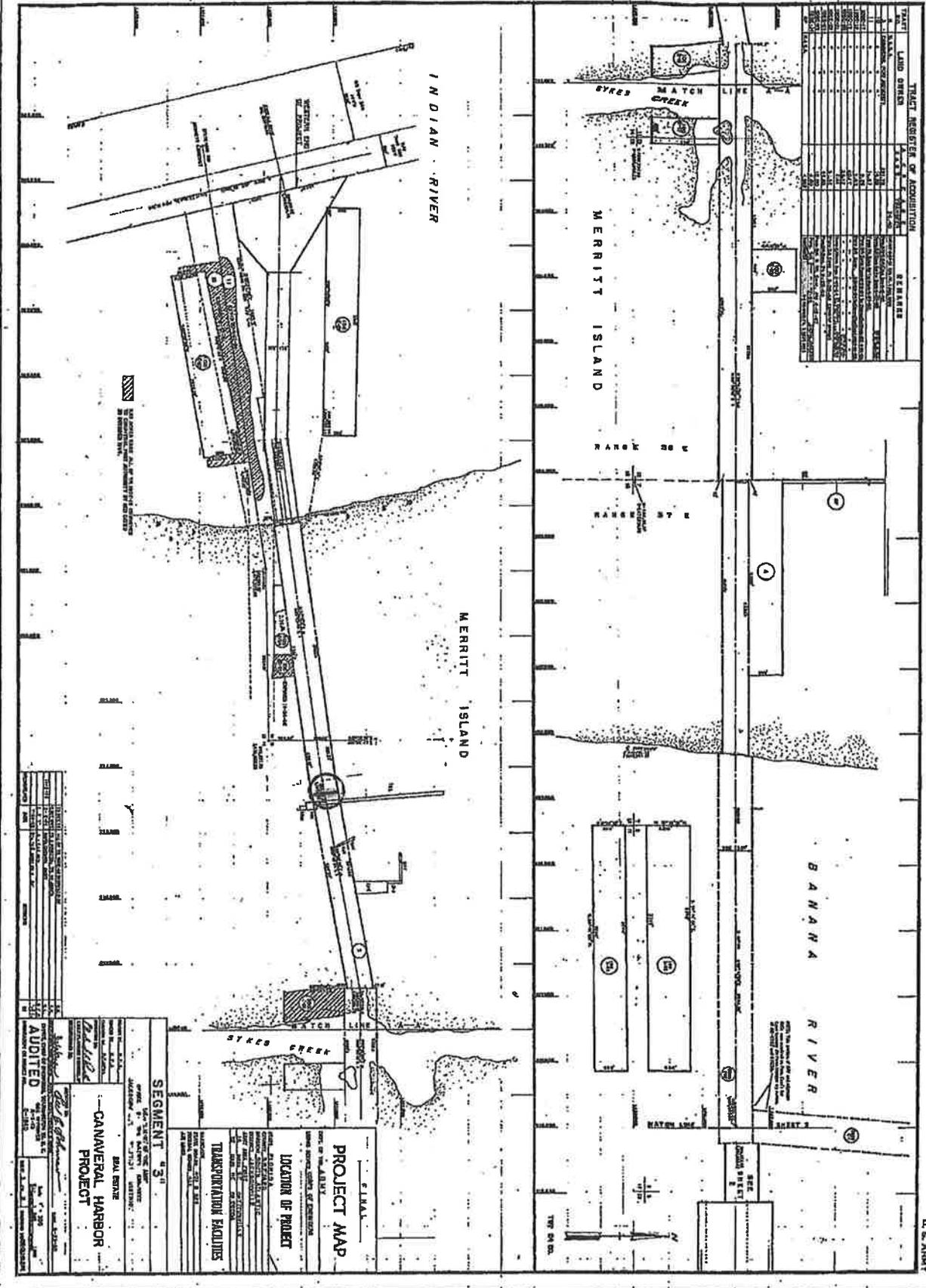
ATTEST:
By: [Signature]

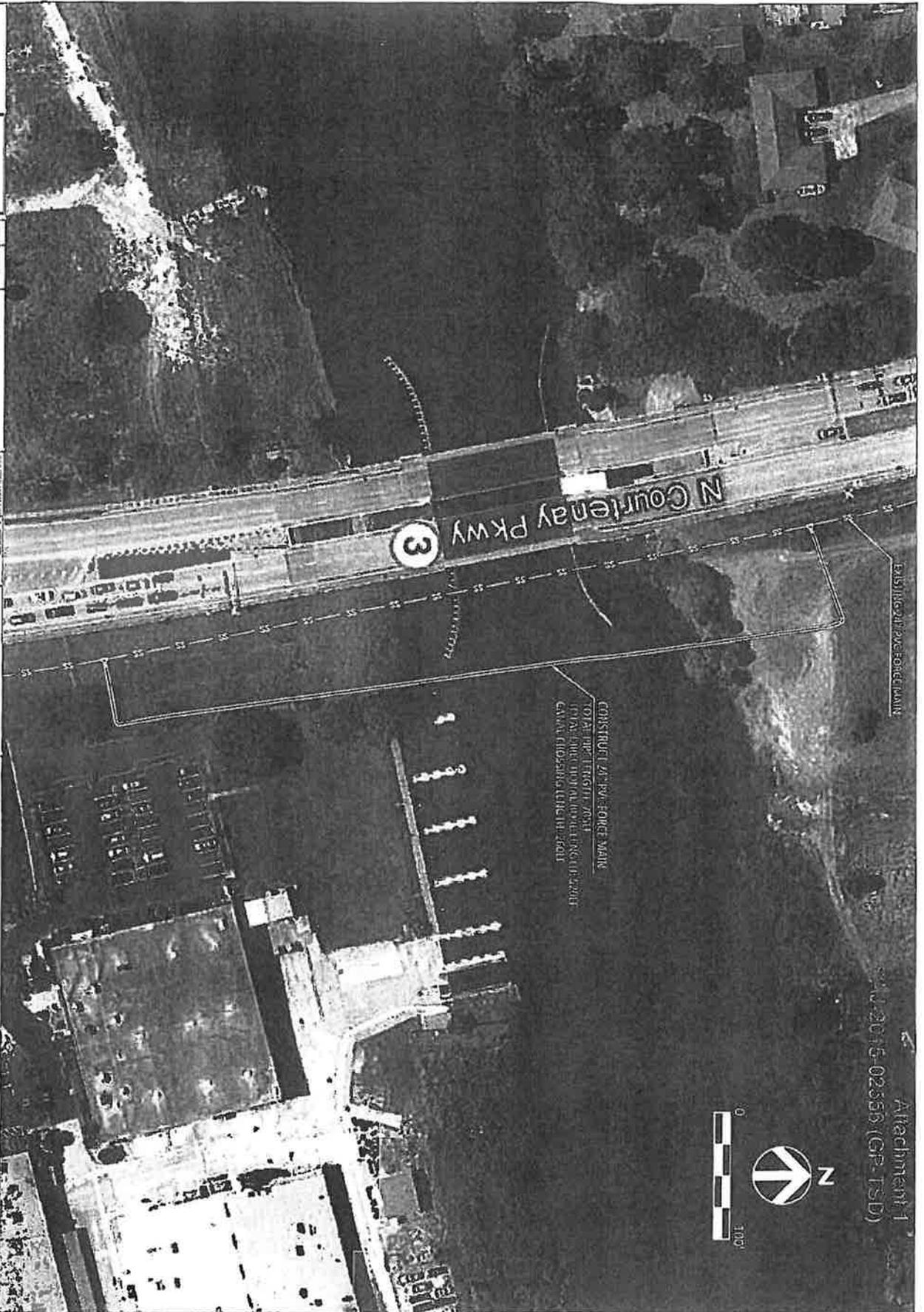


CERTIFICATE OF AUTHORITY

I, TAMMY ROWE, certify that I am the CLERK TO BOARD of the Board of County Commissioners, Brevard County, Florida; that JIM BARFIELD who signed the foregoing instrument on behalf of the Grantee was then the CHAIRMAN of the Board of County Commissioners of Brevard County, Florida. I further certify that the said officer was acting within the scope of powers delegated to this officer by the governing board of the Grantee in executing said instrument.

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HR HARRIS CONSULTANTS, INC. 10000 W. BOULEVARD SUITE 100 DENVER, CO 80231 303.751.1000	PROJECT	
	DESCRIPTION	
DATE: 05/02/2016	PROJECT NUMBER	
	CONTRACT NUMBER	

JEFF CHAPMAN, P.E.
 FLORIDA P.E. # 88884
 Page 4 of 13



AERIAL SITE PLAN
 FILENAME: G-04 SHEET
 SCALE: 1" = 100' 4



Attachment 1
 JUL 2016-023558 (GP-TSD)

EXHIBIT "B"
 1 of 3



BOARD OF COUNTY COMMISSIONERS

Public Works Department
Land Acquisition Section
2725 Judge Fran Jamieson Way
Building A, Room 204
Viera, Florida 32940

Inter-Office Memo

TO: Tammy Rowe, Deputy Clerk

FROM: Debbie Cruz, Land Acquisition Special Projects Coordinator I

SUBJECT: Department of the Army Consent to Easement

DATE: April 21, 2016

Pursuant to your request in the memorandum dated March 16, 2016, please find enclosed a copy of the fully executed Department of the Army Consent to Easement to Use Corps of Engineers Right-of-Way.

Please contact me if you should have any questions.

Thank you.

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

Consent No. DACW17-9-16-0098
Project: Canaveral Harbor
Brevard County, Florida
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WHEREAS, the Grantee has requested permission to install, use, maintain, repair, remove, and replace a 24-inch fusible PVC force main in, on, across, over, and under a portion of the lands identified as Tract No. 3, Section 11, Township 24 South, Range 36 East, Brevard County, Florida. The area comprising 0.90 of an acre, more or less, is shown in red on Exhibit "A" attached hereto and made a part hereof.

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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 12th day of April 2016.

UNITED STATES OF AMERICA

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

AGREED TO AND ACCEPTED

**BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA**

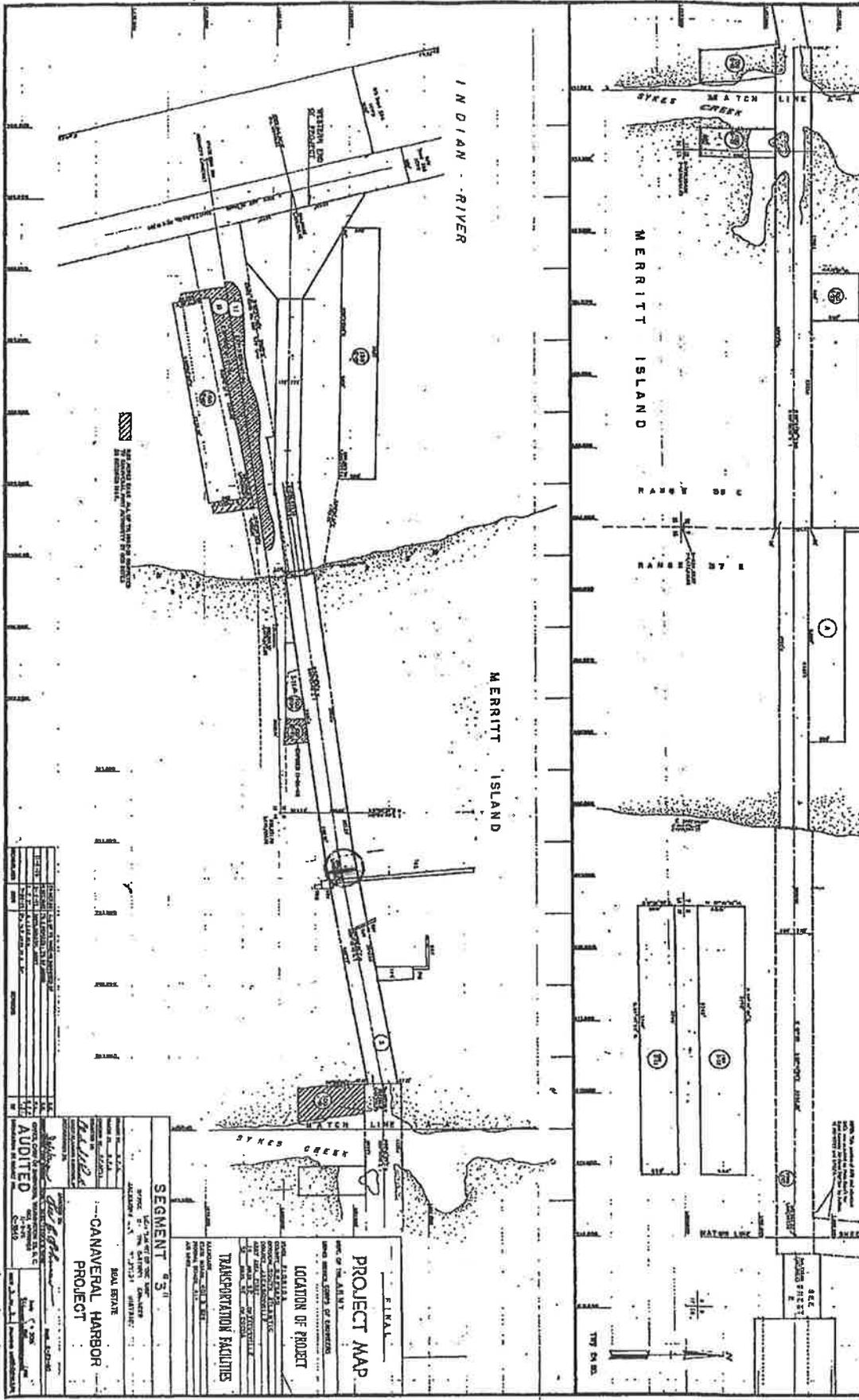
By: J. Bell

ATTEST: [Signature]
By: [Signature]

CERTIFICATE OF AUTHORITY

I, TAMMY ROWE, certify that I am the CLERK TO BOARD of the Board of County Commissioners, Brevard County, Florida; that JIM BARFIELD who signed the foregoing instrument on behalf of the Grantee was then the CHAIRMAN of the Board of County Commissioners of Brevard County, Florida. I further certify that the said officer was acting within the scope of powers delegated to this officer by the governing board of the Grantee in executing said instrument.

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TRACT NO.	LAND OWNER	DATE	REMARKS
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PROJECT MAP

NO. OF THE SHEET

NO. OF SHEETS

LOCATION OF PROJECT

TRANSPORTATION FACILITIES

SEGMENT 5/11

CANAVERAL HARBOR PROJECT

AUDITED

File

Deborah Thomas

From: Tammy Rowe
Sent: Thursday, April 21, 2016 10:53 AM
To: Deborah Thomas
Cc: Donna Scott
Subject: FW: Agenda Item II.A.2. Dated March 15, 2016 - Department of the Army Consent to Easement
Attachments: Department of the Army Consent to Easement w Board memo.pdf

Deborah:

Please file in the appropriate minutes folder.

Thank you,
Tammy

From: Cruz, Debbie [<mailto:debbie.cruz@brevardcounty.us>]
Sent: Thursday, April 21, 2016 10:50 AM
To: Tammy Rowe
Cc: Jones, Daniel
Subject: Agenda Item II.A.2. Dated March 15, 2016 - Department of the Army Consent to Easement

Tammy,

I am sending the attached pursuant to your request in the Board approval memo dated 03/16/2016.

Sincerely,

Debbie Cruz
Special Projects Coordinator I
Brevard County Public Works Department
Land Acquisition Section
2725 Judge Fran Jamieson Way, A204
Viera, FL 32940
321-690-6847

"Under Florida Law, email addresses are Public Records. If you do not want your e-mail address released in response to public record requests, do not send electronic mail to this entity. Instead, contact this office by phone or in writing."

BOARD OF COUNTY COMMISSIONERS

AGENDA: DEPARTMENT OF THE ARMY CONSENT TO EASEMENT TO USE
CORPS OF ENGINEERS RIGHT OF WAY FORM RELATED TO THE
INSTALLATION OF A FORCE MAIN UNDER THE CANAVERAL PORT
AUTHORITY BARGE CANAL – DISTRICT 2

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION /
UTILITY SERVICES DEPARTMENT

AGENCY CONTACT: DAN JONES LAND ACQUISITION SUPERVISOR

CONTACT PHONE: 321-690-6847 (5-2726)

REVIEW

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Dan Jones, Supervisor	<u>APS</u>	_____	<u>2/23/16</u>
COUNTY ATTORNEY Cristina Berrios Assistant County Attorney	<u>see attached</u>	_____	<u>2/24/16</u>
PUBLIC WORKS John Denninghoff, Director	<u>JDS</u>	_____	<u>2/29/16</u>
UTILITY SERVICES Jim Helmer, Director	<u>JHS</u>	_____	<u>2/23/16</u>

AGENDA DUE DATE: March 1, 2016 for the March 15, 2016 Board meeting

IF ANY REVIEWING OFFICE HAS QUESTIONS OR CONCERNS REGARDING THIS PACKAGE, PLEASE ADVISE AGENCY CONTACT IMMEDIATELY.

PLEASE CALL DEBBIE CRUZ AT 690-6847 (5-6847) WHEN READY TO BE PICKED UP.

THANK YOU.

BOARD OF COUNTY COMMISSIONERS

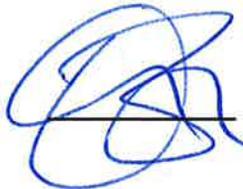
AGENDA: DEPARTMENT OF THE ARMY CONSENT TO EASEMENT TO USE
CORPS OF ENGINEERS RIGHT OF WAY FORM RELATED TO THE
INSTALLATION OF A FORCE MAIN UNDER THE CANAVERAL PORT
AUTHORITY BARGE CANAL – DISTRICT 2

AGENCY: PUBLIC WORKS DEPARTMENT / LAND ACQUISITION SECTION /
UTILITY SERVICES DEPARTMENT

AGENCY CONTACT: DAN JONES LAND ACQUISITION SUPERVISOR

CONTACT PHONE: 321-690-6847 (5-2726)

REVIEW

	APPROVE	DISAPPROVE	DATE
LAND ACQUISITION Dan Jones, Supervisor		_____	<u>2/23/16</u>
COUNTY ATTORNEY Cristina Berrios Assistant County Attorney		_____	<u>2/24/16</u>
PUBLIC WORKS John Denninghoff, Director	_____	_____	_____
UTILITY SERVICES Jim Helmer, Director	_____	_____	_____

AGENDA DUE DATE: March 1, 2016 for the March 15, 2016 Board meeting

IF ANY REVIEWING OFFICE HAS QUESTIONS OR CONCERNS REGARDING THIS PACKAGE, PLEASE ADVISE AGENCY CONTACT IMMEDIATELY.

PLEASE CALL DEBBIE CRUZ AT 690-6847 (5-6847) WHEN READY TO BE PICKED UP.

THANK YOU.

Deborah Thomas

From: Jones, Daniel <dan.jones@brevardcounty.us>
Sent: Tuesday, March 22, 2016 1:40 PM
To: Deborah Thomas; Toro, Deanna
Cc: Denninghoff, John P; Tammy Rowe; Donna Scott
Subject: RE: ITEM II.A.2 DEPARTMENT OF ARMY CONSENT TO EASEMENT

That looks great, that should satisfy what they are looking for.

Thank you,
Dan Jones, Supervisor
Land Acquisition Section
Brevard County Public Works
Tel: 321-690-6847
daniel.jones@brevardcounty.us

From: Deborah Thomas [<mailto:deborah.thomas@brevardclerk.us>]
Sent: Tuesday, March 22, 2016 1:34 PM
To: Toro, Deanna
Cc: Denninghoff, John P; Jones, Daniel; Tammy Rowe; Donna Scott
Subject: RE: ITEM II.A.2 DEPARTMENT OF ARMY CONSENT TO EASEMENT

Hi Deanna,

Ok, let me clarify, the Certificate of Authority should read as follows

I, **TAMMY ROWE**, certify that I am the **CLERK TO THE BOARD**, of the
Florida: and that **JIM BARFIELD**, who signed the foregoing instrumen
of the Board of County Commissioners of Brevard County, Florida. I f
the scope of powers delegated to this officer by the governing board

Is that correct?

Thanks for verifying.

Deborah Thomas
Administrative Assistant
Clerk to the Board
(321)637-2001 ext. 49433
Deborah.thomas@brevardclerk.us



Ladies,
This is for II A 2. The Army Corps of
Engineers explicitly requested that
the consent to easement document
be clean with no dates stamped on
them. P.W. stamped the pages
before they knew. These are the
pages to have signed. They are
clean w/ no stamps. Thx.

AN
hin

From: Toro, Deanna [<mailto:Deanna.Toro@brevardcounty.us>]
Sent: Tuesday, March 22, 2016 12:53 PM
To: Deborah Thomas

Cc: Denninghoff, John P; Jones, Daniel

Subject: RE: ITEM II.A.2 DEPARTMENT OF ARMY CONSENT TO EASEMENT

Good afternoon Deborah,

I am sorry for the delay. I spoke to Dan again after you and I spoke by phone today. Please enter Tammy Rowe as Clerk to the Board (of BOCC) ... certifying that Jim Barfield was then the Chairman of the BOCC.

Thanks,

Deanna Toro
Administrative Assistant to John P. Denninghoff, Director
Brevard County Public Works Department
2725 Judge Fran Jamieson Way, A201
Viera, Florida 32940
321-617-7202

From: Deborah Thomas [<mailto:deborah.thomas@brevardclerk.us>]
Sent: Tuesday, March 22, 2016 11:51 AM
To: Toro, Deanna
Subject: FW: ITEM II.A.2 DEPARTMENT OF ARMY CONSENT TO EASEMENT

Hi Deanna:

Did you received my email from Friday?

Did you respond and I just missed it?

Thanks so much.

Deborah Thomas
Administrative Assistant
Clerk to the Board
(321)637-2001 ext. 49433
Deborah.thomas@brevardclerk.us



From: Deborah Thomas
Sent: Friday, March 18, 2016 3:30 PM
To: 'Deanna.Toro@brevardcounty.us'
Cc: Tammy Rowe
Subject: ITEM II.A.2 DEPARTMENT OF ARMY CONSENT TO EASEMENT

Good afternoon:

Per the attached Item, there is a Certificate of Authority on page five that needs to be completed.

It appears that Jim Barfield's name and title would suffice for the first two lines.

However, we are unsure what should be inserted in the last two spaces.

Please advise.

Thanks in advance.

Deborah Thomas

Administrative Assistant

Clerk to the Board

(321)637-2001 ext. 49433

Deborah.thomas@brevardclerk.us



Under Florida law, all correspondence sent to the Clerk's Office, which is not exempt or confidential pursuant to Chapter 119 of the Florida Statutes, is public record. If you do not want the public record contents of your e-mail address to be provided to the public in response to a public records request, please do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

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