



DEPARTMENT OF GENERAL SERVICES

Marc Elrich
County Executive

David Dise
Director

M E M O R A N D U M

August 31, 2023

TO: Jake Weissmann
Assistant Chief Administrative Officer
Office of the County Executive

FROM: David E. Dise, Director
Department of General Services *go* for David Dise

SUBJECT: 401 Hungerford Drive Garage – First Amendment to Right of Entry Agreement
Decision Memorandum

BACKGROUND: The Division of Building Design and Construction, Department of General Services is in the construction phase for the 401 Hungerford Drive Garage Improvement project (CIP #509514). We have requested this First Amendment to Right of Entry Agreement dated March 1, 2023, to provide additional staff parking spaces to implement the improvements to the parking garage.

RECOMMENDATION: Execute the First Amendment to Right of Entry Agreement.

ATTACHMENT: First Amendment to Right of Entry Agreement.

DD/mk

cc: Hamid Omidvar, DBDC
Suresh Patel, DBDC
Michael Kay, DBDC

DBDC, Dept of General Services 101 Monroe Street, 11 th Floor Rockville, Maryland 20850	FIRST AMENDMENT TO RIGHT OF ENTRY AGREEMENT MONTGOMERY COUNTY, MARYLAND	401 Hungerford Drive Parking Garage Condition Construction CIP No. 0509514
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THIS FIRST AMENDMENT TO RIGHT OF ENTRY AGREEMENT (“First Amendment”), is made on this 1st day of September, 2023, by and between **PD 451 HUNGERFORD LLC**, a Maryland limited liability company (hereinafter referred to as “PD 451”) and **MONTGOMERY COUNTY, MARYLAND**, a body corporate and political subdivision of the State of Maryland (hereinafter referred to as the “County”).

WITNESSETH:

WHEREAS, PD 451 and the County entered into a certain Right of Entry Agreement dated March 1, 2023 (the “Agreement”), for the use of certain parking facilities located 451 Hungerford Drive, Rockville, Maryland 20850 (the “PD 451 Property”); and

WHEREAS, such Agreement provided the County with the use of sixteen (16) designated parking spaces on the PD 451 Property, specifically parking spaces 1 through 10 for a period of six (6) months and parking spaces 11 through 16 for a period of two (2) months, together with access over and across the PD 451 Property to access the parking spaces (the “Right of Entry”); and

WHEREAS, PD 451 and the County seek to restate and amend certain provisions of the Agreement; and

WHEREAS, the terms of this First Amendment supersede and control any provisions of the Agreement which conflict herewith; and

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties undertake and agree to amend the Agreement, effective as of September 1, 2023 (the “Effective Date”), as follows:

A. Recital D of the Agreement is hereby deleted in its entirety and replaced with the following: "The right of entry will include use of parking spaces 1 through 10 for a period of four (4) months and parking spaces 1 through 16 for a period of one (1) month, together with access over and across the PD 451 Property to access the parking spaces (the "Right of Entry"). The area of the PD 451 Property comprising the Right of Entry is set forth on Exhibit A, attached hereto and incorporated herein."

B. The right of entry will further include use of sixty (60) additional parking spaces, shown on Exhibit B, attached hereto and incorporated herein for a period of two (2) months, together with access over and across the PD 451 Property to access said parking spaces.

C. Except as amended in this herein First Amendment, all other terms and provisions of the Agreement are and remain unchanged and are full force and effect between the parties hereto.

PD 451 Hungerford LLC

Witness

By: _____
Robert L. Eisinger
Manager

MONTGOMERY COUNTY, MARYLAND

Lindsay Bolt

Witness

By: 
Yaakov Weissmann,
Assistant Chief Administrative Officer

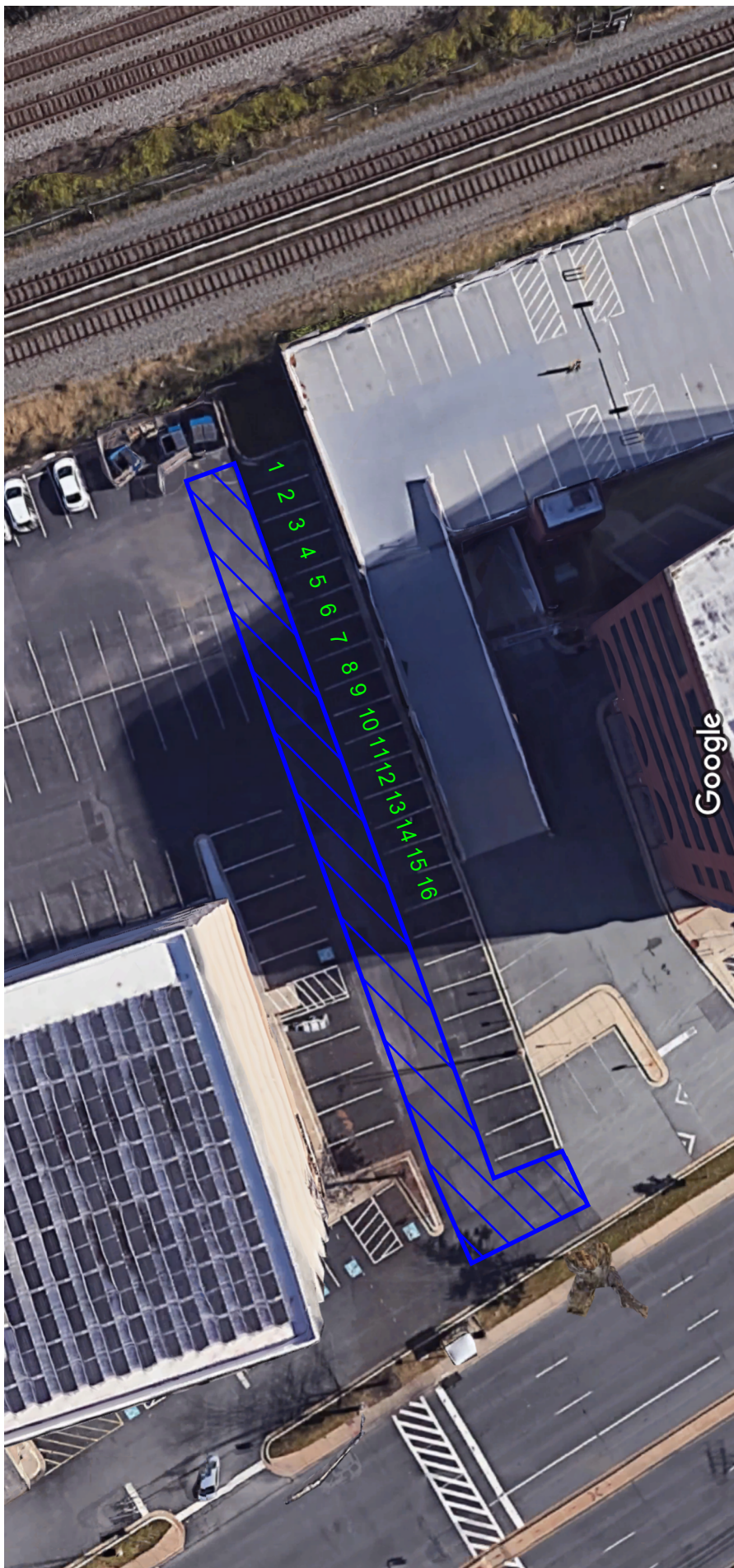
**APPROVED AS TO FORM & LEGALITY
OFFICE OF THE COUNTY ATTORNEY**

Neal Anker

Neal Anker
Assistant County Attorney

Exhibit A - Parking Spaces To Used During Construction

Google Maps 451 Hungerford Dr

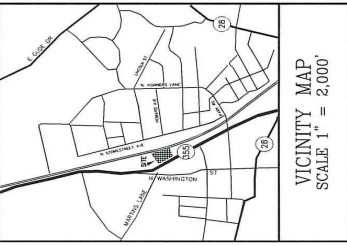


Imagery ©2023 Google, Map data ©2023 20 ft

The **GREEN** numbered parking spaces indicated on this Exhibit designate the Parking Spaces subject to this Right Of Entry Agreement.

The **BLUE** hatched area designates access to the rented parking spaces.

Exhibit B - 60 Additional Parking Spaces



VICINITY MAP
SCALE 1" = 2,000'

CHICAGO TITLE INSURANCE COMPANY
CHICAGO, ILLINOIS 60601
Effective Date: 12/29/2018

The items in Schedule B (Special Exceptions) with respect to the ALTA/NSPS Land Title Survey are addressed as follows:

1. Easements, Rights of Way, Restrictions and Notes shown on the Survey are subject to this exception. Shown on Survey.
2. Easements, Rights of Way, Restrictions and Notes shown on the Survey are subject to this exception. Shown on Survey.
3. Easements, Rights of Way, Restrictions and Notes shown on the Survey are subject to this exception. Shown on Survey.
4. Easements, Rights of Way, Restrictions and Notes shown on the Survey are subject to this exception. Shown on Survey.

SURVEYOR'S CERTIFICATE

I, **Mr. Barry E. Hays**, Surveyor, do hereby certify that this is a true and correct copy of the original survey as filed in the office of the Recorder of Deeds for Montgomery County, Maryland, and that the same is a true and correct copy of the original survey as filed in the office of the Recorder of Deeds for Montgomery County, Maryland, and that the same is a true and correct copy of the original survey as filed in the office of the Recorder of Deeds for Montgomery County, Maryland.

Date of Plot or Map: January 15, 2017
By: Barry E. Hays, Surveyor
Montgomery Reg. No. 21135
Expiration Date: June 21, 2018



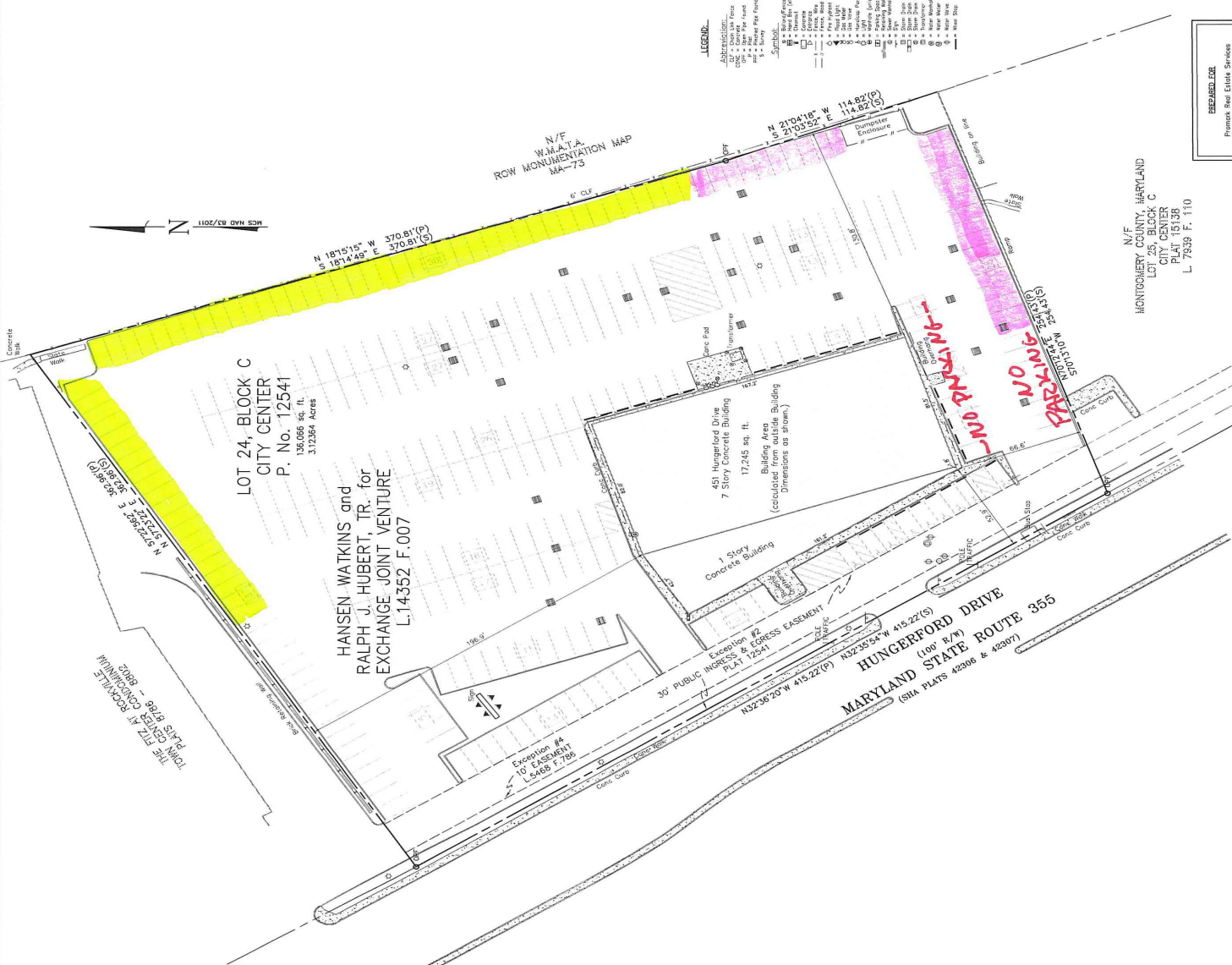
TYA MAP GR33 WSSC 219NW07

ALTA/NSPS LAND TITLE SURVEY
LOT 24, BLOCK C
CITY CENTER
P. No. 12541

4TH ELECTION DISTRICT - MONTGOMERY COUNTY - MARYLAND

MHG Macris, Hendricks & Glascock, P.A.
Engineers, Planners, Surveyors
Landscape Architects • Surveyors
9220 Nightman Road, Suite 120
Montgomery Village, Maryland 20886-1278
Phone: 301.670.0840
Fax: 301.548.8953
www.mhga.com

Proj. Mgr. DC
Scale 1"=30'
Date JAN, 2017
Project No. 16.240.11
Sheet 1 of 1



LEGEND

Abbreviations:
C = Concrete
D = Driveway
E = Easement
F = Fence
G = Gas Line
H = Highway
L = Lot
M = Masonry
P = Pavement
R = Road
S = Survey
T = Trench
W = Water

Notes:
1. All dimensions are in feet and inches.
2. All bearings are in degrees, minutes, and seconds.
3. All distances are in feet and inches.
4. All areas are in square feet and acres.
5. All volumes are in cubic feet and cubic yards.

GENERAL NOTES

1. Horizontal Datum is based on the Maryland Coordinate System NAD 83(2011) and the vertical datum is based on the Maryland Mean Sea Level Datum of 1984.
2. The property is located in Flood Hazard Zone X (areas determined to be at a moderate risk of flooding). The Flood Hazard Zone X is shown on the Flood Hazard Map for Montgomery County, Maryland, and is subject to the Flood Insurance Program Act for Montgomery County, Maryland.
3. Acceptable field practices and methods were used in the completion of this survey. The survey was conducted in accordance with the standards and practices of the American Land Title Association (ALTA) and the National Society of Professional Surveyors (NSPS).
4. This map or plot and the survey on which it is based were prepared under the supervision and control of the Surveyor, and are in compliance with COMAR Regulations 09.13.06.03 and 09.13.06.12.
5. The locations of existing underground utilities are shown in their approximate locations as per available records. The exact locations of all underground utilities are not shown, and the Surveyor does not warrant or imply any guarantee or warranty as to the location or existence of any underground utility.
6. Certification defined - The use of the word certify or certification by a Surveyor is a statement of fact, and it is not a statement of opinion. The Surveyor's expression of professional opinion regarding these facts of findings which are generally either expressed or implied.
7. Subsurface and environmental conditions were not examined or considered as a part of this survey. The statement is made concerning the existence of these conditions or factors that may affect the use or development of this site.
8. No observable evidence of earth moving work, building construction or building additions within recent months.
9. No observable evidence of the site being used as a solid waste dump, sump or sanitary landfill.
10. Proposed changes in street right of way line provided by controlling authority are shown in dashed lines. The Surveyor does not warrant or imply any guarantee or warranty as to the location or existence of any underground utility.
11. There is no observable evidence of easements or build grounds on the subject property.
12. The location of all improvements on the subject property is in accord with the records of the Montgomery County, Maryland, and the Surveyor does not warrant or imply any guarantee or warranty as to the location or existence of any underground utility.
13. The Property does have direct access to and from a publicly used and controlled street or highway.
14. There are no easements or build grounds on the subject property.
15. Macris, Hendricks and Glascock, P.A. is not responsible for title interest beyond what was transferred by the Company.

PARKING TABULATION
Regular Parking Spaces = 322
Visitor Parking Spaces = 378
Total Parking Spaces = 700