

Appendix C: Under-Bridge Parking Agreements



WILLIAM O. COWGER
MAYOR

CITY OF LOUISVILLE
KENTUCKY

OFFICE OF THE MAYOR

March 27
1964

*Jewish hospital
Broadway to Chestnut #1*

Mr. Henry Ward
Highway Commissioner
State of Kentucky
Frankfort, Kentucky

Dear Mr. Ward:

Mr. Bruce Hoblitzell, when Mayor of Louisville, and you, as Highway Commissioner, signed a lease between the State of Kentucky and the City of Louisville on November 29, 1961, by which the State gave the City of Louisville permission to park cars under the North-South Expressway north of Broadway to Chestnut Street.

The City of Louisville on the same date entered into a lease with the University of Louisville under which the University and members of the University of Louisville Medical Center, Inc., of which the University is a part, could use the space for parking provided they met certain conditions, such as paving, lighting, fencing, and policing the area. The Board of Trustees of the Medical Center, after discussion of all needs, agreed and the University of Louisville and the City of Louisville concurred that the area from Broadway to Gray be allocated to the University of Louisville, and the area from Gray to Chestnut be allocated to the Jewish Hospital, a constituent member of the University of Louisville Medical Center, Inc.

By letter, the use of the area was limited to point ninety feet north of Gray to which construction had been completed in late 1961. The City was informed that use of the area all the way to Chestnut was approved but deferred until construction was completed. Since the expressway has now been completed beyond Chestnut Street, the limit on the lease should be removed. Use of the space under the expressway for parking by the University of Louisville and the Jewish Hospital, as members of the Medical Center, is highly desirable and has my full approval. I hope you will help remove the limitations promptly. Negotiations have already covered a substantial period.

Sincerely,

William O. Cowger
WILLIAM O. COWGER

WOC:lo

RECEIVED
MAY 10 1964
COMMISSIONER OF HIGHWAYS
Frankfort, Kentucky

cc: Mr. Charles Henry, Mr. J. B. Kemp, Mr. William M. Flarsheim,
Mr. Edgar . Zingman, and Mr. Otis L. Wheeler

UNIVERSITY OF LOUISVILLE
MEDICAL CENTER, INC.
ROOM 307, ADMINISTRATION BUILDING
2301 SOUTH 3RD STREET
LOUISVILLE 8, KENTUCKY

February 26, 1965

Mr. J. W. Quick
Director of Works
Department of Public Works
City Hall
Louisville, Kentucky

Dear Mr. Quick:

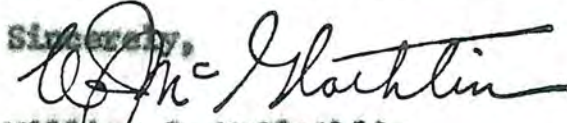
This will confirm our telephone discussion of February 23 about the lease of area underlying the North-South Expressway from Broadway to Chestnut for parking. As you will remember, there are leases in existence between the State and the City of Louisville and the City of Louisville and the University of Louisville covering the area from Broadway north to a point between Gray Street and Chestnut. The University of Louisville plans to sublease to Jewish Hospital, as a constituent member of the Medical Center, the area from Gray to Chestnut for parking purposes, but it cannot do this until the lease is extended north all the way to Chestnut.

When Mr. Wheeler of the Jewish Hospital and I visited you some time ago, we hoped that the State would lease the remaining area to the City so that it, in turn, could sublease it to the University of Louisville. As I told you, we have recently received a copy of a letter from Mr. J. B. Kemp, Division Engineer of the Bureau of Public Roads, to Mr. Henry Ward, stating that the State could make the lease directly with the University of Louisville. I asked whether the City of Louisville would object to the State executing a lease directly with the University of Louisville.

You stated that you saw no objection, from the point of view of the City of Louisville, to the State's making a direct lease with the University of Louisville for this purpose. I explained that I had no desire to establish any kind of relationship which would be difficult for the City of Louisville, but you saw none in this more direct way of handling the situation.

Let me thank you again for your help. We will keep you informed by copies of letters as we proceed. With your concurrence, we will proceed to try to obtain a direct lease from the State.

Sincerely,



William J. McGlothlin
Assistant Secretary, Medical Center Board



HENRY WARD
COMMISSIONER

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF HIGHWAYS
FRANKFORT, KENTUCKY 40601

September 17, 1965

note

Mr. William J. McGlothlin
Vice President
University of Louisville
Louisville, Kentucky

Dear Mr. McGlothlin:

We have just received official word from the Bureau of Public Roads that the proposed leases with the Jewish Hospital and the University of Louisville have been approved. I have this day sent a notice to the City of Louisville terminating the old lease. If you have any further questions, please do not hesitate to call upon this office.

Very truly yours,

Henry Ward
Commissioner

cc: William O. Cowger
Otis L. Wheeler
D. H. Bray
R. C. Aldrich
James Shannon

THIS AGREEMENT, made and entered into by and between the COMMONWEALTH OF KENTUCKY, hereinafter called the "State", party of the first part, and the JEWISH HOSPITAL ASSOCIATION OF LOUISVILLE, KENTUCKY, hereinafter called the "Lessee", party of the second part.

W I T N E S S E T H

WHEREAS, the State has acquired certain property for the North-South Expressway between Gray and Chestnut Streets and the southeast corner of Brook and Walnut Streets in the City of Louisville; and

WHEREAS, the Lessee has need of parking facilities in that area;

NOW THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, it is agreed as follows:

1. The State hereby leases to the Lessee, for an indefinite term until revoked, and without charge or rental, that area under and adjacent to the North-South Expressway, between Gray and Chestnut Streets and the southeast corner of Brook and Walnut Streets.
2. The Lessee agrees to comply with all the standards and requirements of IM 21-3-62 of the United States Bureau of Public Roads which by reference is made a part hereof.
3. The Lessee agrees to use the leased premises as a parking area.
4. The Lessee agrees to improve such parts of the leased premises as it uses for parking by paving and lighting such leased pre-

mises so as to make them suitable for parking and by properly fencing and maintaining said leased premises, all in accordance with certain plans dated February 24, 1961 and April 15, 1964, and revised May, 1965; prepared by Joseph & Joseph, Architects and Engineers, entitled, Proposed Layout for Parking Under North-South Expressway, Gray to Chestnut Streets and Southeast Corner of Brook and Walnut Streets, Louisville, Kentucky, for Jewish Hospital Association of Louisville, and which plans are attached hereto as a part hereof, as fully as if copied at length herein.

5. The Lessee agrees to operate the leased premises for parking purposes as above indicated, without charging any parking fee in excess of that necessary to pay the cost of operation.

6. The Lessee agrees to provide necessary safeguards to protect the public and the Interstate Highway and to save the State harmless from payment for any damages that might result during the construction of the facilities occupying the airspace and thereafter for the term of this agreement.

7. The State reserves the right to revoke this Agreement for any reason it deems in the public interest and in the best interest of the Department of Highways by giving written notice of Thirty (30) days, or upon the failure of the Lessee to perform any of the duties imposed by the terms of this Agreement. That in the event of breach of any of the nondiscrimination covenants in numbered paragraph 8 of this lease, the State shall have the right to terminate the lease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued. Should this Agreement be revoked for any reason whatsoever, the Lessee agrees to restore this area to a

of Public Roads with no expenditure of State or Federal funds.

8. The Lessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person, on the ground of race, color, 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 facilities, (2) that in connection with the construction of any improvements on said lands and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors in the selection and retention of first-tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors (3) that such discrimination shall not be practiced against the public in their access to and use of the facilities and services provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing) constructed or operated on, over, or under the space of the right-of-way, and (4) that the Lessee shall use the premises in compliance with all other requirements imposed pursuant to Title 15, Code of Federal Regulations, Commerce and Foreign Trade, Subtitle A, Office of the Secretary of Commerce, Part 8 (15 C.F.R., Part 8), and as said Regulations may be amended.

9. The Department of Highways of the Commonwealth of Kentucky and the United States Bureau of Public Roads, reserve authority to enter upon the premises herein leased at any time for the purpose of inspecting said areas and to perform necessary maintenance and repairs to the structures on or adjacent thereto.

10. If lease agreement shall not become effective until final termination of an existing lease on the North-South Expressway dated November 29, 1961 between the City of Louisville and the first party herein.

IN TESTIMONY WHEREOF, witness our hands this 6th day of

May, 1965.

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF HIGHWAYS

Henry Ward

BY _____
Commissioner of Highways

JEWISH HOSPITAL ASSOCIATION
OF LOUISVILLE, KENTUCKY

BY *Sarah Stewart*

APPROVED AS TO FORM AND LEGALITY:

This 6th day of May, 1965.

William C. Lambie, Jr.
Assistant Attorney General



Community College
Broadway to Jacob

Office of Legal Counsel

2 Administration Building
University of Kentucky
Lexington, Kentucky 40506-0032
(606) 257-2936; 257-6371
FAX (606) 257-1760

December 7, 1989

Hon. A. Stephen Reeder
General Counsel
Transportation Cabinet
State Office Building
Frankfort, Kentucky 40622

Re: Jefferson County
I-65 at Broadway and Jacob Streets
Proposed Airspace Agreement with University of
Kentucky, Jefferson Community College
Project No. State: MP056-0065-135.3

Dear Mr. Reeder:

Over the past several months Jefferson Community College personnel have been working with the District Permits Engineer, Robert D. Martin, P. E., to obtain an Encroachment Permit to expand existing parking areas under I-65 between Broadway and Jacob Streets in Louisville, Kentucky. Upon receipt of the pre-printed Encroachment Permit, the Jefferson Community College personnel forwarded same to our office for approval prior to execution by the Chancellor for the Community College System, Charles Wethington. Upon receipt of the Permit, I added language to item 7 on the back side of the permit, causing the first sentence to read:

Permittee shall at all times from date when work is first commenced and until such time as all facilities are removed from the right-of-way premise, defend, protect and save harmless the Department from all liability, claims, and demands arising out of work undertaken by the permittee pursuant to this permit, due to any negligent act or omission by the permittee, its servants, agents, employees or contractors. *Subject to the jurisdiction of the Kentucky Board of Claims pursuant to KRS 44.070 through 44.160, which shall not include attorneys fees and is limited to the jurisdictional amount.

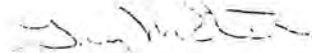
Don. A. Stephen Reeder
December 7, 1989
Page Two

On November 15, 1989 Mr. Martin sent a fairly supercilious letter to Mr. Larry Clardy at Jefferson Community College indicating that the permit needed to be signed "'as is' without the comments the University's lawyer added." He suggested that you be contacted for an explanation of the Department's legal concerns. I attempted to reach you by telephone during the week of December 4, but you were not available and did not return my telephone call. Hence, I am now writing to you.

Contrary to any thoughts Mr. Martin may harbor, I have not lost my mind. The University is an independent agency and instrumentality of the Commonwealth and is precluded from entering into hold harmless and indemnification agreements, just as your agency is so precluded. In the past, the University has worked out arrangements with other state agencies, notably the Cabinets for Human Resources, Labor and others, limiting any form of indemnification to the limits set forth in the Board of Claims Act. That limitation precludes the recovery of attorneys fees.

If the condition quoted above as an addition to item 7 is not acceptable to you, please advise of any other wording which might be acceptable. If your agency insists upon an open ended indemnification and hold harmless agreement, please advise in order that the College can arrange for additional parking elsewhere.

Yours very truly,



Gay M. Elste
Associate Counsel

GME:bh:0491

cc: Dr. Charles Wethington
Dr. Ronald Horvath

COMMONWEALTH OF KENTUCKY
Transportation Cabinet
Department of Highways
Division of Traffic
ENCROACHMENT PERMIT

Jung TC 99-1
 Rev. 10/88

PERMIT NO. 5-091-90

<p>APPLICANT IDENTIFICATION NAME: <u>University of Ky., / Jefferson Comm. College</u> ADDRESS: <u>109 E. Broadway</u> CITY: <u>Louisville</u> STATE: <u>Kentucky</u> ZIP CODE: <u>40202</u> PHONE: A.C. () _____</p>	<p>PROJECT IDENTIFICATION Access Control <input type="checkbox"/> By Permit <input type="checkbox"/> Partial <input checked="" type="checkbox"/> Full COUNTY: <u>JEFFERSON</u> PRIORITY ROUTE NO: <u>I-65</u> MILEPOINT: _____ <input type="checkbox"/> LEFT <input type="checkbox"/> RIGHT <input type="checkbox"/> X-ing PROJECT STATUS: <input checked="" type="checkbox"/> MAINTENANCE <input type="checkbox"/> CONST. <input type="checkbox"/> DESIGN PROJECT NO. STATE: <u>MP056-0065-135.3</u> PROJECT NO. FEDERAL: _____ ROAD/STREET NAME: <u>I-65 at Broadway & Jacob Sts.</u></p>
<p>TYPE OF ENCROACHMENT: <input type="checkbox"/> COMMERCIAL ENTRANCE - BUSINESS _____ <input type="checkbox"/> PRIVATE ENTRANCE: <input type="checkbox"/> SINGLE FAMILY <input type="checkbox"/> FARM <input type="checkbox"/> UTILITY: <input type="checkbox"/> OVERHEAD <input type="checkbox"/> UNDERGROUND <input type="checkbox"/> GRADE: <input type="checkbox"/> FILL <input type="checkbox"/> LANDSCAPE ON R/W <input checked="" type="checkbox"/> AIRSPACE: <input type="checkbox"/> AGREEMENT <input type="checkbox"/> LEASE <input type="checkbox"/> OTHER (SPECIFY) _____</p>	<p>ATTACHMENTS: <input type="checkbox"/> STANDARD DRAWINGS (LIST ON TC 99-21 UNDER MISC.) <input checked="" type="checkbox"/> APPLICANT'S PLANS <input checked="" type="checkbox"/> HIGHWAY PLAN AND PROFILE SHEETS <input type="checkbox"/> TC 99-3 (PONDING ENCROACHMENT SPECS. & CONDITIONS) <input type="checkbox"/> TC 99-4 (REST AREA USAGE SPECS. & CONDITIONS) <input type="checkbox"/> TC 99-5 (TREE CUTTING/TRIMMING SPECS. & CONDITIONS) <input type="checkbox"/> TC 99-6 (CHEMICAL USE OF SPECS. & CONDITIONS) <input type="checkbox"/> TC 99-10 (TYPICAL HIGHWAY BORING CROSSING DETAIL) <input type="checkbox"/> TC 99-12 (OVERHEAD UTILITY ENCROACHMENT DIAGRAM) <input type="checkbox"/> TC 99-13 (SURFACE RESTORATION METHODS) <input checked="" type="checkbox"/> TC99-21(ENCROACHMENT PERMIT GENERAL NOTES AND SPECIFICATIONS) <input type="checkbox"/> TC 99-22 (AGREEMENT FOR SERVICES TO BE PERFORMED) <input type="checkbox"/> TC 99-23 (MASS TRANSIT SHELTER SPECS. & CONDITIONS) <input checked="" type="checkbox"/> OTHER ATTACHMENTS: (Specify) <u>Federal Highway Administration Policy on management of airspace</u></p>
<p>TYPE OF INDEMNITY: <input type="checkbox"/> BOND <input type="checkbox"/> CASH <input type="checkbox"/> SELF-INSURED AMOUNT ENCUMBERED \$ _____ <input type="checkbox"/> OTHER _____</p>	
<p>NAME AND ADDRESS OF LOCAL INSURANCE AGENCY OR SELF-INSURED REPRESENTATIVE: _____</p>	

INDEMNITY: The applicant, in order to secure this obligation, has deposited with the Transportation Cabinet as a guarantee of conformance with the Department's Encroachment Permit requirements an indemnity in the amount of \$ _____ as determined by the Department. It shall be the responsibility of the applicant or permittee, his heirs and assignees to keep all indemnities in full force until construction or reconstruction has been completed and duly accepted by an authorized agent of the Transportation Cabinet, Department of Highways.

BRIEF DESCRIPTION OF WORK TO BE DONE: (If private entrance, show sketch with pipe location. Separate attached drawings required for encroachments other than private entrances.)

Expand existing parking under I-65 between Broadway and Jacob Streets. All work shall be done in accordance with attached plans and general notes.

Return this

IMPORTANT: (PLEASE READ) (Applicant does does not intend to apply for excess R/W)
 WHEN THE WORK IS COMPLETED IN ACCORDANCE WITH THE TERMS OF THIS ENCROACHMENT PERMIT YOUR INDEMNITY WILL BE RELEASED. HOWEVER, THE PERMIT IS EFFECTIVE UNTIL REVOKED BY THE TRANSPORTATION CABINET AND THE TERMS ON THE PERMIT AND ACCOMPANYING PERMIT DOCUMENTS AND DRAWINGS REMAIN IN EFFECT AS LONG AS THE ENCROACHMENT EXISTS. FUTURE MAINTENANCE OF THE ENCROACHMENT IS THE RESPONSIBILITY OF THE PERMITTEE. IT IS IMPORTANT THAT YOU UNDERSTAND THE REQUIREMENTS ON THIS ENCROACHMENT PERMIT APPLICATION AND ACCOMPANYING DOCUMENTS. IF YOU HAVE NOT DONE SO, IT IS SUGGESTED THAT YOU REVIEW THESE DOCUMENTS AND PLACE THE PERMIT PACKAGE IN A SAFE PLACE FOR FUTURE REFERENCE.

A COPY OF THIS PERMIT AND ALL DOCUMENTS SHALL BE GIVEN TO YOUR CONTRACTOR AND SHALL BE READILY AVAILABLE AT THE WORK SITE FOR THE ENCROACHMENT PERMIT INSPECTOR TO REVIEW AT ALL TIMES. FAILURE TO MEET THIS REQUIREMENT MAY RESULT IN CANCELLATION OF THIS PERMIT.

IN THE EVENT THIS APPLICATION IS APPROVED, THIS DOCUMENT SHALL CONSTITUTE A PERMIT FOR THE APPLICANT TO USE THE RIGHT-OF-WAY, BUT ONLY IN THE MANNER AUTHORIZED BY THIS DOCUMENT AND REGULATIONS OF THE DEPARTMENT AND THE DRAWINGS, PLANS, ATTACHMENTS AND OTHER PERTINENT DATA ATTACHED HERETO AND MADE A PART HEREOF.

- 1.00 #2

COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET
DEPARTMENT OF HIGHWAYS
ENCROACHMENT PERMIT GENERAL NOTES AND SPECIFICATIONS

Broadway and Jacob Streets

TC 99-21
Rev. 6/87
Page 1 of 4

PERMIT NO. 5-091-90

SAFETY

A. General Requirements

- All signs and control of traffic shall be in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways, latest edition, Part VI and safety requirements shall comply with the Permits Manual.
- All Work necessary in shoulder or ditchline areas of a state highway is to be scheduled to be promptly completed so that hazards adjacent to the traveled-way are kept to an absolute minimum.
- No more than one(1) traveled-lane is to be blocked or obstructed during normal working hours. All signs and flagmen during lane closure shall conform to the Manual on Uniform Traffic Control Devices.
- When it is necessary to block one (1) traveled-lane of a state highway the normal working hours shall be as directed by the Department. No lanes are to be blocked or obstructed during adverse weather conditions (i.e. rain, snow, fog, etc.) without specific permission from the Department. Working hours shall be between _____ and _____.
- The traveled-way and shoulders shall be kept clear of mud and other construction debris at all times during construction of the permitted facility.
- No nonconstruction equipment or vehicles or office trailers will be allowed on the right-of-way during working hours
- The right-of-way shall be left free and clear of equipment, material and vehicles during nonworking hours.

B. Explosives

- No explosive devices or explosive material shall be used within State right-of-way without proper license and approval of Kentucky Department of Mines and Minerals, Explosive Division.

C. Other Safety Requirements

- Extreme caution must be taken around the bridge and bridge pylons during construction. No flammabel materials, dumpsters or other fire hazards shall be allowed on the right of way at any time. Any on-premise lighting to be installed must be reviewed and approved by the Department prior to any construction.

II UTILITIES

- * All work necessary within the right-of-way shall be behind a temporary fence erected prior to a boring operation.
- *The temporary woven wire fence shall be removed immediately upon completion of work on the right-of-way and control of access immediately restored to original condition, in accordance with applicable Kentucky Department of Highways Standard Drawings.
- * All vents, valves, manholes, etc. are to be located outside the right-of-way.
- * Encasement pipe shall extend from right-of-way line to right-of-way line and shall be one continuous run of pipe. The encasement pipe shall be welded at all joints.
- The boring pit and tail ditch shall not extend past the existing toe of slope or bottom of ditch line (from the right-of-way) and shall be a minimum of 30" deep.
- Encasement pipe shall conform to current standards for highway crossings in accordance with the Permits Manual
- Parallel lines shall be constructed between back slope of ditch line and right-of-way line and shall have a minimum of _____" cover above top of pipe or conduit. (30" preferred)
- All pavement cuts shall be restored per Kentucky Transportation Cabinet Form No. TC 99-13.
- Aerial crossing of this utility line shall have a minimum vertical clearance of _____ feet from the high point of the roadway to the low point of the line (calculated at the coefficient for expansion of 120 degrees Fahrenheit).
- The 30' clear zone requirement will be met to the extent possible in accordance with Chapter 99-01.0521 of the Permits Manual.
- Special Requirements

Permit No. 5-091-90

- All gutter lines at the base of new curbs are to be on continuous grades, and pockets of water along curbs, or in entrance areas, or other paved areas within the right-of-way are not to be acceptable.
- All drainage structures and appurtenances (manholes, catch basins, curbing, inlet basins, etc.) shall conform to department specifications and shall be constructed in accordance with Department standard drawings. Type required _____

VI PAVING

- No bituminous pavement is to be installed within the right-of-way between November 15 and April 1, nor when the temperature is below 49°F., without the express consent of the Department. No bituminous pavement is to be installed when the underlying course is wet.
- Paving within the right-of-way shall be as follows:
 - Base (Type) Dense Grade Aggregate (Thickness) 6" compacted
 - Surface Base (Type) Bituminous Concrete Base Class I (Thickness) 3" compacted
 - Finished Surface (Type) Bituminous Concrete Surface Class I (Thickness) 1" compacted
- Existing pavement and shoulder material shall be removed to accommodate the above paving specifications.
- The finished surface of all new pavement within the right-of-way shall be true to the required slope and grade, uniform in density and texture, free of irregularities and equivalent in riding qualities to the adjacent highway pavement or as determined by the Department of Highways.
- All materials and methods of construction, including base and subgrade preparation shall be in accordance with Kentucky Department of Highways Specifications for Road and Bridge Construction, latest edition.
- 24 hours notice to the Department is required prior to beginning paving operations:
 - Phone _____ Name _____
- To insure proper surface drainage the new pavement is to be flush with the edge of existing highway pavement and is to slope away from the existing edge of pavement as specified on drawings.

SIDEWALKS SPECIFICATIONS

A. New Sidewalks

- Sidewalks are to be constructed of Class A concrete (3,500 p.s.i. test), are to be _____ feet width, are to be 6" in thickness across the bituminous entrance and 4" in thickness across the remaining sections.
- Sidewalks are to have tooled joints, not less than 1" in depth at *four (4) foot intervals, and 1/2" premolded expansion joints extending entirely through the sidewalk at intervals not to exceed fifty (50) feet.
 - *This dimension should be equal to the width of the sidewalk.
- All materials and methods of construction, including curing, is to be in accordance with Kentucky Department of Highways Standard Specifications for Road and Bridge Construction, latest edition.

B. Existing Sidewalks

- (Applicable if existing sidewalks are being relocated) Use of the sidewalk is not to be blocked or obstructed and a usable walkway is to be maintained across the construction area at all times.
- All damaged sections of the sidewalks are to be entirely replaced to match existing sections.

VIII DENSE GRADED SHOULDERS

- Any existing dense graded aggregate shoulders on the entire frontage within the construction area, which have been disturbed, damaged or on which dirt has been placed or mud is deposited or tracked, are to be restored to original condition by removal of all contaminated material and replaced to proper grade with new dense graded aggregate.
- All new graded aggregate shoulders as specified on the plan are to consist of: 5" compacted dense graded aggregate / 2 1/2 pounds per square yard calcium chloride.
- All dense graded aggregate shoulders are to slope away from the new edge of pavement at the rate of 1/4" per foot.

CURBING

A. Bituminous Curbs

- Bituminous Concrete curbs shall be given a paint coat of asphalt emulsion.
- The surface under the bituminous concrete curb shall be tacked with asphalt emulsion.
- All bituminous concrete curbs shall be constructed of a Class I Bituminous concrete mixture as specified by official Department of Highways specifications.



U. S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAY PROGRAM MANUAL

VOLUME	7	RIGHT-OF-WAY AND ENVIRONMENT
CHAPTER	4	THE PROPERTY MANAGEMENT FUNCTION
SECTION	3	MANAGEMENT OF AIRSPACE

Transmittal 74
October 4, 1974
HRW-10

- Par. 1. Purpose
2. Applicability
3. Authority
4. Definition
5. Policies
6. Inventory

1. PURPOSE

- * *To prescribe Federal Highway Administration (FHWA) policies relating to the management of airspace on Federal-aid highway systems for nonhighway purposes.*

2. APPLICABILITY

- a. *The provisions of this directive apply to the use of airspace on the Federal-aid highway systems, except as provided in paragraph 2b below.*
- b. *This directive does not apply to railroads and public utilities which cross or otherwise occupy Federal-aid highway rights-of-way, nor to relocations of railroads or utilities for which reimbursement is claimed under Volume 1, Chapter 4, Sections 3 and 4; joint development and multiple use of highway rights-of-way as covered in Volume 7, Chapter 7, Section 8; and bikeways and pedestrian walkways as covered in Volume 6, Chapter 1, Section 1, Subsection 1, of the Federal-Aid Highway Program Manual.*

3. AUTHORITY

- a. 23 U.S.C. 142(g)
b. 23 U.S.C. 315

* Regulatory material is italicized.

related public use, or for any other public or quasi-public use which would assist in integrating the highway into the local environment and enhancing other publicly supported programs. Normally, the SHD should retain supervision and jurisdiction over such lands but could enter into agreements with local political subdivisions relative thereto.

- e. An individual, company, organization, or public agency desiring to use airspace as defined herein shall submit an application therefor to the SHD in a manner and form deemed appropriate by the SHD. Applications, including a proposed airspace agreement, shall be forwarded to the FHWA together with SHD recommendations for approval and any necessary supplemental information. The submission shall affirmatively provide for adherence to all policy requirements contained in this directive where such are appropriate to the intended use.
- f. All nonhighway use of airspace shall be covered by a properly executed airspace agreement. The agreement shall contain the following:
 - (1) The party responsible for developing and operating the airspace.
 - (2) A general statement of the proposed use.
 - (3) The general design for the use of the space, including any facilities to be constructed, and such maps, plans, or sketches as are necessary to set out pertinent features in relation to the highway facility.
 - (4) A detailed three-dimensional description of the space to be used, except when the surface area beneath an elevated highway structure or adjacent to a highway roadway is to be used for recreation, public park, beautification, parking of motor vehicles, public mass transit facilities, and other similar uses. In such cases, a metes and bounds description of the surface area, together with appropriate plans or cross sections clearly defining the vertical use limits, may be furnished in lieu of a three-dimensional description.

- (12) Provision that the facility to occupy the airspace will be maintained 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, and that such maintenance will be accomplished in a manner so as to cause no unreasonable interference with highway use. In the event the responsible party fails in its maintenance obligations, there will be provision for the SHD to enter the premises to perform such work.
- (13) Appropriate provisions of Appendix "C" of the State's Civil Rights Assurances with respect to Title VI of the Civil Rights Act of 1964 and 49 CFR 21.
- g. Use of airspace beneath the established gradeline of the highway shall provide sufficient vertical and horizontal clearances for the construction, operation, maintenance, ventilation, and safety of the highway facility.
 - h. The proposed use of airspace above the established grade-line of the highway shall not, at any point between two points established 15 feet beyond the two outer edges of the geometric section (highway prism) of the highway, extend below a horizontal plane which is at least 16 feet 4 inches above the gradeline of the highway, or the minimum vertical clearance plus 4 inches as approved by the State, except as necessary for columns, foundations or other support structures. Where control and directional signs needed for the highway are to be installed beneath an overhead structure, vertical clearance will be at least 20 feet from the gradeline of the highway to the lowest point of the soffit of the overhead structure. Exceptions to the lateral limits set forth above, when justified by the SHD, may be considered on an individual basis by the FHWA.
 - i. Piers, columns, or any other portion of the airspace structure shall not be erected in a location which will interfere with visibility or reduce sight distance or in any other way interfere materially with the safety and free flow of traffic on the highway facility.
 - j. The structural supports for the airspace facility shall be located to clear all horizontal and vertical dimensions established by the SHD. Supports shall be clear of the shoulder or safety walks of the outer roadways. However,

the SHD or the FHWA questions the acceptability of the existing code, conformance with a nationally accepted model building code will be required.

- n. No structure or structures built over a highway facility shall occupy more length of the highway than will permit adequate natural ventilation of the enclosed section of the highway for the conditions at the location, assuming a volume of traffic equal to capacity. Each such covered length shall be preceded and followed by uncovered lengths of highway that will safely effect natural ventilation. The SHD shall determine such lengths for each particular case, subject to FHWA concurrence. Exceptions may be considered when complete tunnel ventilation is provided. Unless tunnel ventilation is provided, structures over highways shall be so designed and constructed as to facilitate natural ventilation of the highway. To this end, the underside and any supports for such structures shall have smooth and easily cleanable surfaces. Supports for such structures shall leave as much open space on the sides of the highway as feasible. Such space shall be appropriately graded where deemed necessary or desirable by the SHD.
- o. The design, occupancy, and use of any structure over or under a highway facility shall be such that neither the use, safety, appearance, nor the enjoyment of the highway will be adversely affected by fumes, vapors, odors, drippings, droppings, or discharges of any kind therefrom.
- p. On-premise signs, displays, or devices may be erected on structures occupying highway airspace, but shall be restricted to those indicating ownership and type of on-premise activities and shall be subject to regulation by the SHD and the FHWA with respect to number, size, location and design.
- q. Construction of any structure above or below a highway facility shall not require any temporary or permanent change in alignment or profile of an existing highway without prior approval by the SHD and the FHWA.
- r. Where either the SHD or the FHWA is of the opinion that the proposed use of airspace requires changes in or additions to existing highway facilities for the proper operation and maintenance of the highway, such facilities shall be provided without cost to Federal funds. There may be

- a. *Location by project, survey station, or other appropriate method.*
- b. *Identification of the authorized user of the airspace.*
- c. *A three-dimensional description or a metes and bounds description.*
- d. *As-built construction plans of the highway facility at the location where the use of airspace was authorized.*
- e. *Pertinent construction plans of the facility authorized to occupy the airspace.*
- f. *A copy of the executed airspace agreement.*

PERMIT AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 1967, by and between the COMMONWEALTH OF KENTUCKY, DEPARTMENT OF HIGHWAYS, hereinafter referred to as the Department and the UNIVERSITY OF KENTUCKY, hereinafter referred to as the University.

WITNESSETH:

WHEREAS, the Department has acquired certain property for the North-South Expressway between Broadway and Jacob Streets in the City of Louisville, which expressway is designated as Interstate I-65, and

WHEREAS, the University desires to obtain parking facilities in the area for the use of the University's Jefferson College, and

WHEREAS, under the Provisions of Section 111, Title 23 of the U. S. Code as amended by Section 104 of the Federal-Aid Highway Act of 1961 and also under the Provisions of Policy and Procedure Memorandum 80-5 dated April 20, 1967 from the U. S. Department of Transportation, Federal Highway Administration, Bureau of Public Roads, the Department is authorized to permit a political subdivision of the State to use the air space below the established grade line of the Interstate Highways.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, it is agreed as follows:

1. The Department hereby agrees to issue a permit to the University, to use for parking purposes, for an indefinite term, until revoked, and without charge of rental, that area under and adjacent to the North-South Expressway, between Broadway and Jacob Streets, in the City of Louisville, as set forth on the plans entitled "Parking Study-Jefferson Community College" dated April 13, 1967, prepared by Louis and Henry Architects & Associates, which plans are attached hereto and made a part hereof by reference as fully as if copied at length herein.

2. The University agrees to comply with all of the standards and requirements set forth in the Policy and Procedure Memorandum 80-5 dated April 20, 1967 from the U. S. Department of Transportation, Federal Highway Administration, Bureau of Public Roads, and the provisions of said memorandum in regard to air space requirements are attached hereto and made a part hereof by reference as fully as if copied at length herein.

3. The University agrees to improve such parts of the aforesaid premises as it uses for parking, by paving and lighting such premises, so as to make them suitable for parking and by properly fencing and maintaining said premises, all in accordance with the aforesaid plans of Louis and Henry Architects and Associates, entitled "Parking Study-Jefferson Community College".

4. The University agrees that the area set forth in the permit shall be used for parking purposes only.

5. The University agrees to provide necessary safeguards to protect the public and the interstate highway and to save the Department harmless from payment of any damages that might result during the construction of the facilities occupying the aforesaid premises and thereafter so long as the permit to use said premises remains in affect.

6. The Department reserves the right to revoke the aforesaid permit for any reason it deems in the public interest and in the best interest of the Department by giving written notice of thirty (30) days, or upon the failure of the University to perform any of the duties imposed by the terms of this agreement. Should the permit be revoked for any reason whatsoever, the University agrees to restore the premises to a condition satisfactory to the Department and the Bureau of Public Roads with no expenditure of State or Federal Funds.

7. The Department and the United States Bureau of Public Roads reserves the right and authority to enter upon the premises set forth in the permit for the purpose of inspecting said areas and to perform necessary maintenance and repairs to the structures on or adjacent thereto.

IN TESTIMONY WHEREOF, witness the signatures of the parties hereto this ____ day of _____, 1967.

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF HIGHWAYS

By: Mitchell W. Tinder, Commissioner

UNIVERSITY OF KENTUCKY

By: John W. Oswald
John W. Oswald, President

Approved as to form and
Legality.

H. C. Smith, Assistant Attorney
General

Examined For Legality and Form
John C. Darsie, Jr.
John C. Darsie, Jr.
University Counsel



COMMONWEALTH OF KENTUCKY
 DEPARTMENT OF HIGHWAYS
 DISTRICT OFFICE 5
 LOUISVILLE, KENTUCKY
 P. O. Box 1978

Oct. 3, 1967

President's Office
 Received 10-4
 Forward to _____
 Date filed _____
 Return by _____
 Action:
 Handle _____
 cc to _____
 Draft ready _____
 Advise _____
 File _____
 Information _____
 Return _____
 Keep _____
 See me _____

Mr. John C. Darsie
 Department of Legal Affairs
 University of Kentucky
 Lexington, Kentucky 40506

RE: Permit Agreement for Jefferson Community College

Dear Mr. Darsie:

Enclosed please find the original and three copies of the permit agreement for the parking lot of the Jefferson Community College under the North-South Expressway between Broadway and Jacob Streets in Louisville, Kentucky.

Would you please have Dr. Oswald execute these copies and return the original and two copies to me. Thank you for your cooperation in this matter.

Very truly yours,

Robert A. Becht
 Robert A. Becht
 District Attorney

mb
 enc.

Anne Wilson :

*Please have Dr. Oswald
 sign all copies + return to
 me.*

Rel to → John Darsie

AIRSPACE REQUIREMENTS

In any case where it is proposed to allow the use of airspace within the right-of-way for other than highway purposes or to acquire a right-of-way of limited dimension, the State must establish to the satisfaction of the Bureau of Public Roads that the proposal will not:

- (a) impair the full use and safety of the highway;
- (b) require or permit vehicular access to such space directly from the established grade line of any controlled access highway;
- (c) otherwise interfere with the free flow of traffic on the Federal-aid highway; or
- (d) result in violation of Part 626 of the Regulations of the Administrator, Federal Aviation Agency, as amended.

Where a proposal meets the foregoing criteria, it may be approved subject to the following conditions to protect the public interest:

1. Federal funds will not participate in any added costs whatsoever of construction of the highway project required by such proposal; i. e., for additional right-of-way, increased clearance for depressed highways, structural columns, ventilation, lighting, signing, etc.; or other changes in design, construction methods, or materials, unless such costs are offset by reduction in right-of-way costs.
2. That the State and Public Roads shall approve prior to commencement of construction:
 - (a) the nature and term of the proposed use;
 - (b) the general design of the proposed facilities and such plans as the State highway department and Public Roads deem necessary to review; and
 - (c) the proposed manner of constructing and maintaining the facilities including advance arrangements for emergency maintenance procedures.
3. The proposed use of airspace below the grade line of the highway will not, at any point within the boundaries of the right-of-way, extend above a horizontal plane which is at least eight feet below the underside of an elevated structure, and the proposed use of airspace above the grade line of the highway will not, at any point within the boundaries of the right-of-way, extend below a horizontal plane which is at least 16 feet 4 inches above the grade line of the highway, except as necessary for columns, foundations, or other support structures, and except that use of airspace by vehicles may be permitted within the eight-foot clearance area below viaducts where appropriate. Where control and directional signs needed for the highway are to be installed beneath an overhead structure, vertical clearance will be at least 20 feet from the grade line of the highway to the lowest point of the overhead structure.
4. No use will be permitted of airspace ramps and the roadways with which they connect as will require piers, columns, or any other facilities to be placed so as to interfere with necessary visibility or reduce sight distances of drivers or in any other way interfere with the safety and freedom of traffic on such ramps and roadways.
5. All structure supports will be placed so as to clear the shoulders and safety walks of the highway and so as to conform to any other horizontal dimensions established by the highway department and the Bureau, provided that where the State highway department, with Bureau approval, determines there is sufficient width of median or outer separation and that location thereof within the median or outer separation will not interfere with the highway, supports may be located in the median or outer separation. All supports will be back of or flush with the face of any wall at such location. No supports will be located in the vicinity of the approaches to ramps or to the signing necessary to the use of such ramps in such position as will obstruct the view of approaching drivers.

6. No structure or structures over any highway which would be enclosed thereby shall occupy more linear feet of the right-of-way than can safely be occupied and permit adequate natural ventilation of the tunnel section for the conditions at the location, assuming a volume of traffic equal to capacity. Furthermore, each such covered length shall be preceded and followed by uncovered lengths of highway as will safely effect natural ventilation. The State highway department shall determine such lengths for each particular case subject to Bureau approval. Exceptions may be considered when complete tunnel ventilation is provided.

7. Unless tunnel ventilation is provided, structures over highways shall be so designed and constructed as to facilitate natural ventilation of the highway. To this end, the underside and any supports for such structures shall have smooth and easily cleanable surfaces. Supports for such structures shall leave as much open space on the sides of the highway as feasible, which space shall be appropriately grated where deemed necessary by the State highway department.

8. Structures authorized to occupy the airspace will be of fireproof construction as defined by the provisions of applicable building codes, and will not be used for the manufacture of inflammable material, or for any storage of materials or other purpose deemed by the State highway department or Public Roads to be a potential fire or other hazard to the highway, and the operation and maintenance of the space will be subject to regulation by the State highway department to protect against fire or other hazard impairing the use, safety and appearance of the highway.

9. The occupancy and use of the airspace above or below the highway shall not be such as will permit hazardous or unreasonably objectionable smoke, fumes, vapor, or odors to rise above the grade line of the highway, or such as will subject the highway to hazardous or unreasonably objectionable drippings, droppings, or discharge of any kind, including rain or snow.

10. On-premise signs, displays, or devices may be authorized by the State highway department, but shall be restricted to those indicating ownership and type of activity, being conducted in the facility to occupy the airspace, and shall be subject to reasonable restrictions with respect to number, size, location, and design by regulation of the State highway department, subject to Bureau approval.

11. Construction above or below highway shall not require any temporary or permanent change in alignment or profile of the highway.

12. Provision is to be made for the proper maintenance of the facility to occupy the airspace in such manner as to cause no interference with traffic and to assure that the structures and the area within the right-of-way boundaries will be kept in good condition both as to safety and appearance, for emergency maintenance procedures, approved pursuant to paragraph 2 of this heading.

13. Where the proposed use of the airspace above or below highway requires additional highway facilities for the proper operation and maintenance of the highway, they shall be provided without cost to the Federal Government, except where offset by a reduction in right-of-way costs. These might take the form of fixed-source lighting, ventilation, additional signing and marking, special warning and communication devices, or other facilities.

14. Any agreement authorizing the use of such airspace for nonhighway purposes shall include a three-dimensional description of the airspace authorized to be so utilized.

15. The design and construction of the facility permitted in the airspace shall be such that access to the highway for maintenance and reconstruction is not impaired, and the agreement shall retain for the State the authority to enter upon the right-of-way and perform such maintenance and reconstruction. The agreement shall also enable the State to have full access to inspect the facility permitted in the airspace.

16. The agreement for the use of airspace shall require the authorized user to provide necessary safeguards to protect the public and the highway, including adequate insurance for the payment of any damages which might result during the construction of the facility occupying such airspace or thereafter.

17. In proposals for the use of airspace for nonhighway purposes, consideration will be given by the State, highway department and Public Roads to all future needs for such airspace for public highway purposes.

18. The instructions contained herein with respect to the use of airspace above or below the grade line of the highway do not apply to installations of public utility facilities occupying the rights-of-way of the Interstate Highway System pursuant to the AASHO Policy on Accommodations of Utilities on the Interstate System, 1959, accepted by the Bureau of Public Roads. (PPM 40-2, 3a(2)(g), October 26, 1961).

19. Where authorization is given by the Director to occupy the airspace for nonhighway purposes involving the construction or alteration of structures the nature of which is such that notice to the Administrator, Federal Aviation Agency, is required by Part 626 of the Regulations of the Administrator, Federal Aviation Agency, as amended, such authorization will be subject to the conditions:

(a) that such notice will be given as required and Public Roads be advised thereof;

(b) that the design and construction of the proposed facility will conform to the proper applicable criteria established by Part 626 of the Regulations of the Administrator, Federal Aviation Agency, to assure the safety both of the authorized nonhighway use of airspace within the right-of-way and of air navigation.

20. Each case will be considered upon an individual basis by the State highway department and Public Roads.

21. Disposition of income received from the authorized use of airspace will be the responsibility of the State.

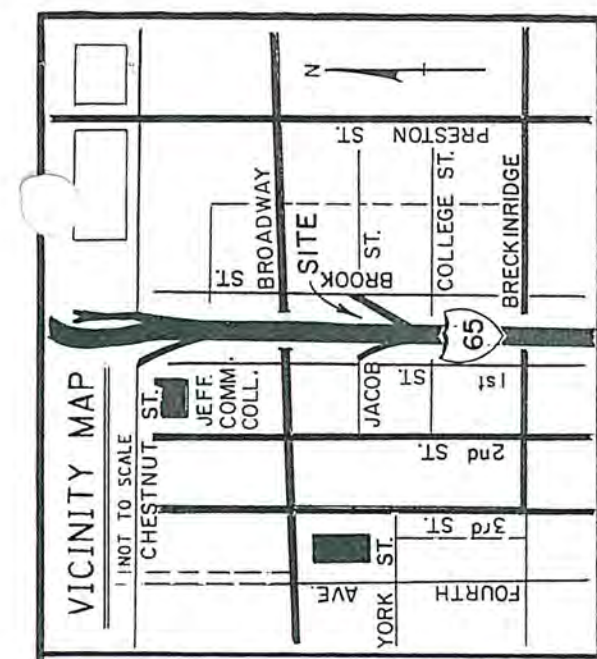
22. Each proposal by a State for the use of airspace will be submitted to the Director for approval. Proposals for incorporation of authorization in a project agreement, may be made at any time prior to execution of the project agreement. Applications for revision of a project agreement thereunder may be made at any time. The State's application will show:

- a. A general statement of the proposed use;
- b. the State's legal authority to use or permit such use of airspace;
- c. how and by whom the space is to be developed and operated;
- d. the general design for use of the space, including the construction of facilities; and
- e. any other information available to assist in evaluating the State's proposal.

A certain tract of land located in Louisville, Jefferson County, Kentucky, at the intersection of Jacob Street and Brook Street and further described as follows:

Beginning at the back edge of the sidewalk on the west side of Brook Street at the intersection of the chain length fence if extended on the north side of Jacob Street; with the line of the chain length fence if extended on the north side of Jacob Street South 89 deg. 58 min. 10 sec. West 34.95 feet to the chain length fence corner; leaving the north line of Jacob Street and with the line of the chain length fence North 01 deg. 15 min. 26 sec. West 201.23 feet to the chain length fence corner in the south line of the Alley; with the south line of the Alley if the chain length fence was extended North 89 deg. 30 min. 15 sec. East 55.83 feet to the back edge of the sidewalk on the west side of Brook Street; with the back edge of the sidewalk South 04 deg. 39 min. 58 sec. West 202.32 feet to the point of beginning containing 0.2098 acre according to a survey and plat by R.B. Batts RLS # 2119 a Ky DOT employee and being subject to all right of ways, easements and passways of record and in existence.

Being a part of the same property conveyed to the Commonwealth of Kentucky and recorded in Deed Book 3539 page 431 in the Office of the Jefferson County Court Clerk.



I HEREBY CERTIFY THAT THIS PLAT AND SURVEY WERE MADE UNDER MY SUPERVISION, AND THAT THE ANGULAR AND LINEAR MEASUREMENTS AS WITNESSED BY MONUMENTS SHOWN HEREON, ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THIS SURVEY AND PLAT MEETS OR EXCEEDS THE MINIMUM STANDARDS OF GOVERNING AUTHORITIES.

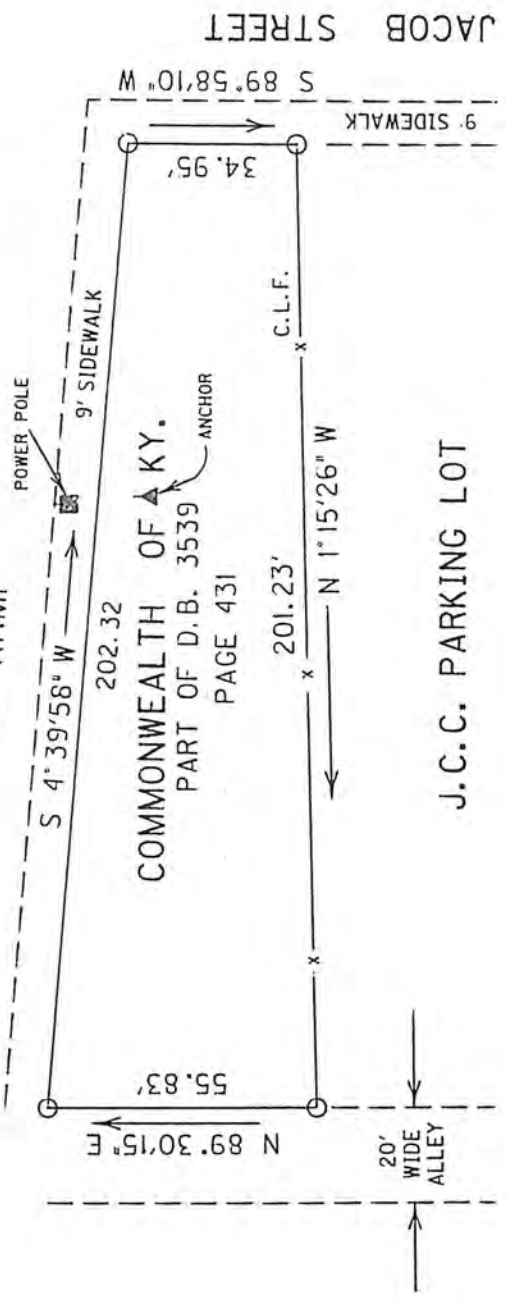
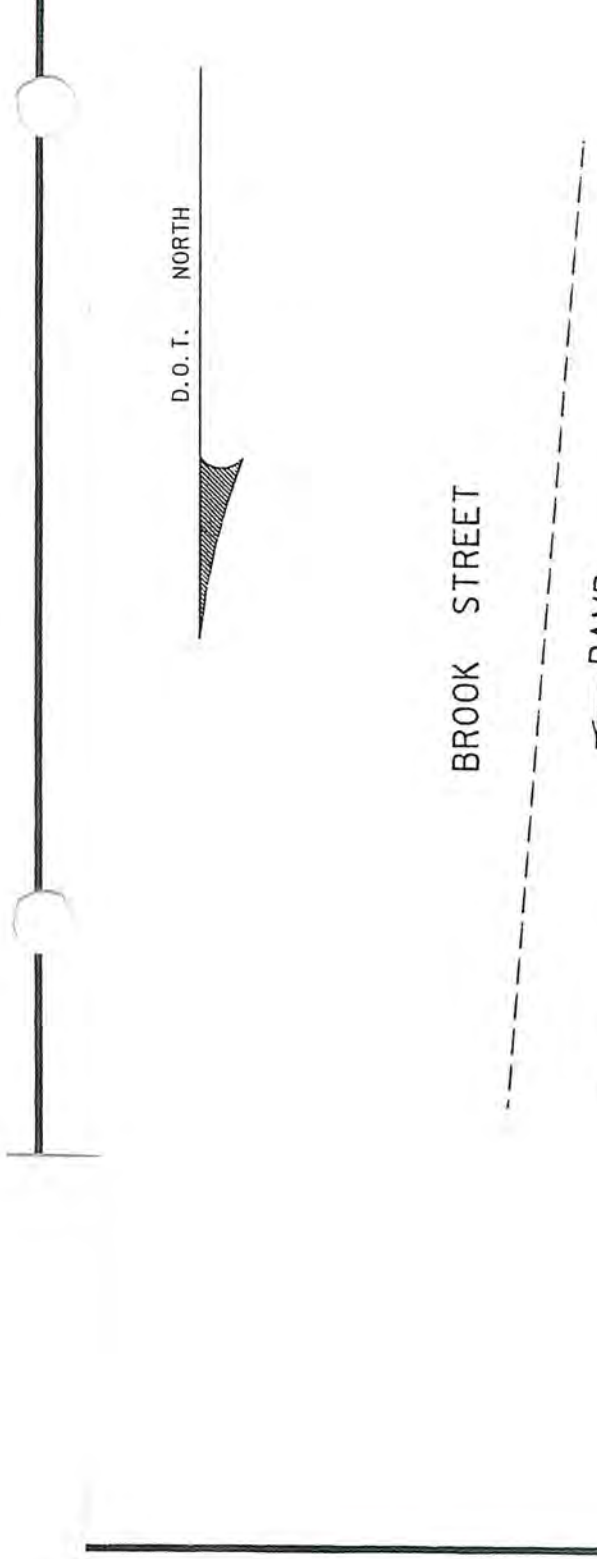
R.B. Batts 2119 3 Nov 82
 (SIGNATURE) PLS# DATE

NOTE: SUBJECT TO ALL EASEMENT AND RIGHT OF WAY WHETHER SHOWN OR NOT.

AREA= 0.2098 ACRES

KENTUCKY
 DEPARTMENT OF TRANSPORTATION

R.B. BATT'S
 KY. R.L.S. NO. 2119



SCALE: 1" = 40'



CATEGORICAL EXCLUSION CHECKLIST

Adjacent to
 Bridge

For Encroachment Permits; Joint or Limited Use of Right-of-Way; Changes in Access Control
 23 CFR 771.117(d)(6) & (7)

I. PROJECT IDENTIFICATION

A. Route: I-65	B. Milepoint:	C. Reviewed by:	D. Date: Nov 4, 2005
E. County: Jefferson	F. Encroachment Type: Airspace Permit		
G. Description:		H. Permit No.	
a. Existing Conditions: Parcel is adjacent to elevated section of Interstate 65 to the west and a building used by the University of Louisville to the east. Parking lot encroaches.			
b. Proposed Use: Build an elevator shaft for the three story building. ↳ fire escape ACL			

II. IMPACT EVALUATION

	*SIG	MIN.	NONE	COMMENTS
A. Traffic/Travel Pattern Changes			X	
B. Planned Growth Changes			X	
C. Land Use Changes		X		Encroachment of 5.3' x 2.1'
D. Relocations/Displacements			X	
E. 4(f) Lands			X	
1. Historic Site/District Effects			X	
2. Archaeological Site Effects			X	
3. Public Recreation Effects			X	
4. Wildlife-Waterfowl Refuge Effects			X	
F. Wetlands Effects			X	
G. Floodplain Effects			X	
H. Prime-Unique Farmland Effects			X	
I. Endangered Species/Habitat Effects			X	No habitat for listed ES in Jefferson Co.
J. Air Quality Effects			X	
K. Noise Impacts			X	
L. Water Quality Impacts			X	
M. 401/404 Permits			X	
N. Hazmat/UST Issues			X	
O. Other Issues (discuss):				

III. RECOMMENDATIONS / CONDITIONS / COMMENTS

No environmental issues or concerns.

* If any item is checked in this column, a request for Categorical Exclusion Review by the Division of Environmental Analysis must be made

APPROVED: Kevin Dast	TITLE: Env. Coordinator	DATE: 11/07/05
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cc: Director, Division of Environmental Analysis

REQUEST FOR EXISTING ROADWAY PLANS

Please Print

Name of Person Requesting Plans: Gary Dabney Date of Request: 6/01/05

Phone Number: 493-2722

Owner of Property of Interest: Yes No

Utility Company: Yes No

Other (Land Surveyor, Consultant, Realtor, etc.): Surveyor

Company Name: Classsickle

Company Address: 4501 Bardstown Rd Louisville 40218-401

Location of Property of Interest: (Attach a drawing or sketch if possible, showing the location)

property at the southwest corner of E. Gray Street & Brook street

Address of Property of Interest: 132 E Gray

Type of Information Needed (Right of Way, R/W Summary Sheet, Profile, Drainage, etc.):

R/W

Which Side of Road (North, South, East or West): E of I-65, S side of Gray
W side of Brook

This request can be dropped off at the receptionists' desk, mailed or faxed.
Your request will be processed usually within 5 to 7 working days.

Phone Number: 502-367-6411

Fax Number: 502-368-4255

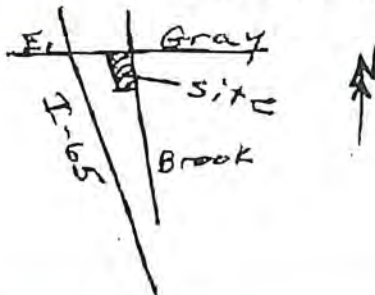
Mailing Address:

Kentucky Transportation Cabinet
Department of Highways
District 5
P.O. Box 37090
Louisville, KY 40233
Attention: Design

Cost of Prints: \$2.00 each sheet

Checks Required

Checks to be made out to "Kentucky State Treasurer"



Form Date: 5-01-05

N

502 JWA 1/6 F 6786 59-1

APPLICANT IDENTIFICATION
Name James Graham Brown Foundation, Inc. 304 West
Phone 589-4440 Louisville
Permanent Address c/o Charles

TYPE OF PERMIT
 Entrance Grade on R-O-W
 Utility Air Space
 Other (specify) _____

PROJECT IDENTIFICATION
County Jefferson Priority Route No. I-65 Project S
Milepoint _____ Left Right _____ Project No. State _____ Fed
Road/Street Name and Location North-South Expressway near Brook & Gray Sts

DESCRIPTION OF WORK TO BE DONE
Construct and maintain elevator shaft, air conditions
and retaining wall within State right of way.

ATTACHMENTS Std. Dwg. RDI-020 TD 99-7 TD 99-12 TD 99-13

INDEMNITY
The applicant in order to secure this obligation, has deposited with the Department of Transportation restoration in accordance with Department requirements, an indemnity in the amount of \$ NONE Department. It shall be the responsibility of the applicant or permittee, his heirs and assignees to keep al construction or reconstruction has been completed and duly accepted by an authorized agent of the Depar

TYPE OF INDEMNITY Bond Self Insured Cash Encur This f

Name & address of Bonding Company Agent _____
If self insured, Business Office & Process Agent _____

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF TRANSPORTATION
ENCROACHMENT PERMIT

APPLICANT IDENTIFICATION
Name James Graham Brown Foundation, Inc. 304 West
Permanent Address Louisville
Phone 599-4440 c/o Charles

TYPE OF PERMIT
 Entrance Grade on R-O-W
 Utility Air Space
 Other (specify) _____

PROJECT IDENTIFICATION
County Jefferson Priority Route No. I-65 Project No. _____
Milepoint _____ Left Right Project No. State _____
Road/Street Name and Location North-South Expressway near Brook & Gray St.

DESCRIPTION OF WORK TO BE DONE
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The applicant in order to secure this obligation, has deposited with the Department of Transportation restoration in accordance with Department requirements, an indemnity in the amount of \$ NONE Department. It shall be the responsibility of the applicant or permittee, his heirs and assignees to keep a construction or reconstruction has been completed and duly accepted by an authorized agent of the Department.

TYPE OF INDEMNITY Bond Self Insured Cash Encumbrance

Name & address of Bonding Company Agent _____
If self insured, Business Office & Process Agent _____

3. The said encroachment will not infringe on the frontage rights of an abutting owner, as set forth in the hereto stated: "I (we) consent to the granting of attached permit." _____
Date _____ (This does not apply to utilities which serve the general public.)
4. Any permit granted hereunder shall be with the full understanding that it shall not interfere with heretofore granted to any other party.
5. A plan prepared by _____ and dated _____
part hereof, which plan describes the facilities to be constructed by the Permittee for which facilities Permittee agrees as a condition to the issuance of the permit to construct and maintain such facilities and the Permittee shall not use the facilities authorized herein in any manner contrary to that provided in Normal usage and routine maintenance only are authorized under this permit.
6. Permittee shall comply with the Department's Manual on Uniform Traffic Control Devices Maintenance Projects as revised to and in effect on the date of the issuance of this permit which is _____
7. Permittee shall at all times from the date when work is first commenced and until such time as the right-of-way premises, defend, protect and save harmless the Department from all liability, claims, undertakings by the Permittee pursuant to this permit, due to any negligent act or omission by the employees or contractors. This provision shall not inure to the benefit of any third party or other Department beyond that existing at common law if this right to indemnity did not exist.
8. Upon a violation of any of the provisions of this permit the Department may revoke the permit by written notice to remove from the right-of-way, any facilities placed thereon within a reasonable time as event said facilities are not so removed, and the right-of-way restored the Department may cause therefor, shall be charged to the Permittee.
9. The Permittee, his successors and assigns shall use the encroached premises in compliance with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000 d-1) and regulations of the Department of Transportation as set forth in Title 49 C.F.R., Part 21, and as said regulations may be amended.
10. Permittee agrees that in the event it should become necessary, as may be reasonably determined by the Department, covered by this permit to be removed or relocated in connection with the reconstruction, relocation or widening of a highway, the Department may revoke this permit and require removal or relocation by the Permittee and pursuant to the procedures, provided in Paragraph 8 above, except in those cases where the Permittee shall pay any or all the same.
11. The Permittee understands and agrees that this permit is personal to the Permittee and shall not be valid without the written approval of the Department and that he is bound by the provisions of this permit which exist unless a written release has been obtained from the Department. (Does not apply to utilities which serve the general public.)

In the event this application is approved by the District Engineer for the Kentucky Department of Transportation, the Permittee shall constitute a permit for the applicant to use the right-of-way, BUT ONLY IN THE MANNER and in accordance with the regulations of the Department and the sketch, plan, drawing and other data attached hereto and made a part hereof. The undersigned applicant does agree to all the terms and conditions set forth herein.

July 1, 1979



Completion date for this work

Signature of Applicant

AIRSPACE USAGE
PERMIT AGREEMENT

This Permit Agreement made and entered into this 28th day of August, 1978, by and between the Commonwealth of Kentucky, Department of Transportation, Bureau of Highways, hereinafter referred to as the Department, and the James Graham Brown Foundation, Inc., hereinafter referred to as the Foundation;

WITNESSETH:

WHEREAS, the Department during the acquisition of right of way for a highway project known as Interstate Sixty-five (I-65) in the City of Louisville, Kentucky, purchased and designated as permanent right of way land near Brook and Gray Streets.

WHEREAS, this tract lies outside of the control of access fence and joins the property of the Foundation along the East side of I-65, and

WHEREAS, the Foundation desires to obtain the right to use the airspace above the aforesaid right of way for the purpose of maintaining an elevator shaft, air conditioner, parking lot and retaining wall, and water line, and

WHEREAS, under the provision of the Federal-Aid Highway Program Manual, Volume 7, Chapter 4, Section 3, of the Department of Transportation, Federal Highway Administration, the Department is authorized to permit any individual, company, organization, or public agency to use the airspace within the right of way for other than highway purposes.

NOW, THEREFORE, in consideration of the premises, and upon the terms, conditions, and mutual promises hereinafter set forth, it is agreed between the parties hereto as follows;

1. The Department agrees to and does hereby permit and allow the Foundation to use, under the terms and conditions and for the purpose of constructing and maintaining an elevator shaft, air conditions, retaining wall, water line and parking lot for a period of one year from date hereof or until terminated or revoked as hereinafter set forth, the property set forth on plans

attached hereto and made a part hereof by reference as if copied at length herein, which plans are marked Exhibit "A", and which property is described as follows, to wit:

PARCEL NO. 306

Beginning at a nail in the South line of Gray Street, said nail being North $82^{\circ} 13' 36''$ West, 40.00 feet from the Southwest corner of Brook and Gray Streets; thence with the South line of Gray Street North $82^{\circ} 13' 36''$ West, 3.78 feet to a point in the I-65 right of way line; thence with the right of way line South $7^{\circ} 52' 57''$ West, 10.53 feet to a point; thence continuing with the right of way line South $10^{\circ} 33' 04''$ West, 199.71 feet to a point in the South property line; thence with the South property line South $82^{\circ} 13' 36''$ East, 13.48 feet to a nail in the East property line; thence with the East property line North $7^{\circ} 46' 24''$ East, 210 feet to the point of beginning, containing 0.041 acres, or 1763 square feet.

2. To have and to hold said property for the term of one (1) year commencing on the 28th day of August, 1978, and ending on the 28th day of August, 1979.

3. The Foundation shall have the right and option to extend this Permit and Lease for further terms of one (1) year each commencing on the expiration of the preceeding term, subject to all the terms, conditions, covenants, and provision of this Permit. The Department shall have the right, at any time during the term of the Permit or any renewal thereof, to cancel same upon ninety (90) days written notice to the Foundation, which shall be deemed to have exercised said yearly option of renewal unless it gives the Department thirty (30) days written notification of its intention not to renew.

4. The Foundation agrees to comply with all the standards and requirements set forth in the Federal-Aid Highway Program Manual, Volume 7, Chapter 4, Section 3, dated October 4, 1974, from the U. S. Department of Transportation, Federal Highway Administration, and the provisions of said memorandum in regard to airspace requirements are attached hereto and made a part hereof by reference as if fully copied at length herein, which memorandum is marked Exhibit "B".

5. The leased premises shall have adequate clearance from all highway facilities to provide room for inspection and maintenance. The Foundation specifically authorizes the Depart-

ment of Transportation, Bureau of Highways, to enter the described premises for the purpose of maintenance, inspection, or reconstruction when necessary or for any other purpose deemed necessary by the Department, its officials or representatives, and the Foundation agrees not to impair access of the Department.

6. The facility to occupy the airspace shall be properly maintained in such a manner as to cause no unreasonable interference with traffic and 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. In the event the Foundation fails its maintenance obligations, the Department may enter the premises to perform neglected maintenance, costs of such maintenance to be paid by the Foundation. The required maintenance herein shall include, but shall not be limited to, all mowing and any grass seeding necessary for the portion of the above described premises not cultivated. The Foundation herein agrees not to cut any trees upon said premises without the written approval of the Bureau of Highways.

7. The Foundation shall not, during the life of this Permit commit any waste on the premises, nor do any unlawful act in regard to same, and during the duration of said Permit shall comply with all laws, ordinances, and regulations with regard to real property, which affect the property herein concerned.

8. The facility shall not be used for maintenance or storage of any flammable, toxic, explosive, or other materials deemed to be potential fire or other hazard to the highway and highway users.

9. All on premise signs and display devices to motorists are subject to approval by the Department. The lighting of the facility shall not produce glare or distraction to highway users.

10. The Foundation agrees to secure and maintain in full force and effect sufficient and adequate insurance to cover damages and liability which might result from construction or

maintenance upon the described premises and such insurance shall be sufficient and adequate to protect not only the public but also to protect the Department from any damages and also to hold harmless the Department from payment of any claims or damages.

11. The Foundation shall indemnify and hold harmless the Department from any and all claims, causes of action, and demands of any kind or nature arising out of or in connection with the construction, maintenance, and use of the property by the Foundation or anyone else who may use the property, pursuant to the terms of this Agreement.

12. The Foundation does further agree to provide the necessary safeguards to protect the property of the Department from damages during the Foundation's use of the hereinabove described property and does further agree to assume full responsibility for any and all damages to the property of the Department which occurs as the result of the Foundation's use of the premises described herein.

13. All plans developed by the Foundation after the approval hereof shall be submitted to the State Highway District Engineer for necessary approval action. Any subsequent changes in the use, design, or ownership of the facility shall be subject to the written approval by the Department subject to concurrence by the Federal Highway Administration.

14. The Foundation agrees that no permanent structures or attachments shall be constructed upon said described premises without the written approval of the Department. Any structures or attachments placed upon the premises must be easily removable and must be removed at the expense of the Foundation upon the expiration of this Agreement.

15. Any city, county, metropolitan or other sewer district or company shall have the right to enter upon said property for the purpose of construction, operation and maintenance to any existing sewers, and for the construction, operation and maintenance of any new sewers deemed necessary.

16. The Foundation agrees and understands that if and in the event the airspace facility referred to herein ceases to

be used or is abandoned, this Agreement is terminated and revoked. The Foundation agrees that this Agreement shall not be assigned, transferred, or in any way alienated without the prior written approval of the Department and the Federal Highway Administration, but it is agreed between the parties hereto that said consent to assignment and transfer shall in no way release the Foundation from its obligations to the Department with respect to the construction and maintenance of said facility. The Foundation shall notify the Department in writing, within fifteen (15) days from the date of the execution of said assignment and shall promptly forward the Department a fully executed copy thereof.

17. It is expressly understood and agreed between the parties hereto that no State or Federal funds shall participate in any costs or expenses occasioned by any construction or maintenance of said facility.

18. It is hereby agreed between the parties hereto that any construction and maintenance of said facility shall be in conformity with and in compliance with Title VI of the 1964 Civil Rights Act (Title 42 of the U. S. Code, Section 2.000 D-1) and in conformity with and in compliance with all nondiscrimination regulations adopted pursuant to said Title VI of the 1964 Civil Rights Act.

19. The Foundation agrees that the Department may, in its discretion, terminate and revoke this Agreement by giving the Foundation written notice of such cancellation ninety (90) days prior to the effective date of such termination and revocation. The Foundation agrees that in the event this Permit Agreement is terminated and cancelled for any reason whatsoever, the Foundation will restore the premises involved in this Permit Agreement to a condition satisfactory to the Department at the sole cost and expense of the Foundation.

20. The Department and the Foundation do understand and agree that this Agreement is without validity and effect until and at such time as the Federal Highway Administration has given its unequivocal approval of this agreement and all terms, condi-

tions and provisions contained herein.

Given under our hands this 28th day of August,
1978.

Calvin Grayson

SECRETARY OF TRANSPORTATION
COMMONWEALTH OF KENTUCKY

JAMES GRAHAM BROWN FOUNDATION, INC.

BY:

Charles H. Ford

APPROVED AS TO FORM AND LEGALITY:

BY:

Ed Witherspoon

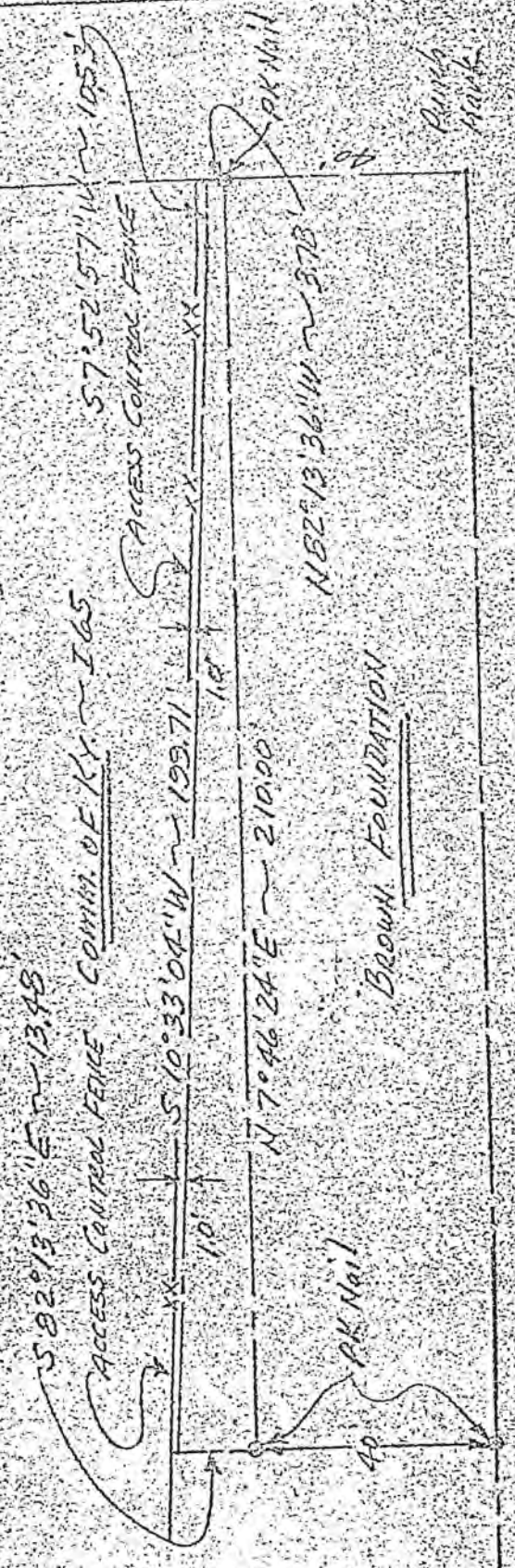
THIS INSTRUMENT PREPARED BY:

Wm H. Wallace

WILLIAM H. WALLACE, ATTORNEY AT LAW
P. O. BOX 21178
LOUISVILLE, KENTUCKY 40221
367-6411

E GAY STREET 60' R/W

Scale: 1" = 30'
MAY 15, 1978
RTE



E BROOK STREET 60' R/W

May 22, 1969

Jewish #2
Hospital

Brooke &
Walnut

Mr. Norman C. Holladay
Director of Purchases
Jewish Hospital
217 East Chestnut Street
Louisville, Kentucky 40202

Dear Mr. Holladay:

Reference is made to our meeting of last week relative to the hospital erecting a temporary structure on highway right of way.

After reviewing the air space requirements, I am of the opinion that there is a good possibility that a satisfactory lease could be entered into permitting the erection of this structure. The hospital will be required to comply with all conditions set forth in ppm 80-5, Attachment 3, a copy of which I am enclosing herewith.

Since the property you desire to erect the building upon is included in the lease agreement dated May 6, 1965, between the Jewish Hospital Association and the Commonwealth of Kentucky, this agreement will have to be amended. Furthermore, since the use of the property in the agreement is presently used by vehicular parking, I am of the opinion that the hospital should pay an economical rate of rent for the land supporting the structure and some vehicle space.

Should you have any questions concerning this matter feel free to call me.

Yours very truly,

Julius G. Moore
District Right of Way Manager
DIVISION OF RIGHT OF WAY

JGM/rm
Enclosures

MEMO TO: K. B. Johns, Operations Management Engineer

FROM: L. E. Richardson, District
Maintenance Operations Engineer

DATE: September 13, 1968

SUBJECT: Mr. F. C. Turner's Circular Memorandum
dated August 7, 1968, entitled "Use of Air
Rights for Parking on Federal-Aid Highways".

In response to your memorandum of August 26, 1968, Mr. Fred Brooks and I have checked the condition and appearance of the three parking areas under the North-South Expressway, (I-65), in Louisville and found all three to be in excellent condition. The appearance of these areas is better than other areas under structures where no parking is permitted. All three lots are very clean and fences and gates are in very good condition. In short, we could find nothing to complain of.

For your information the three areas referred to are:

1. From Jacob Street to Broadway. This area is used by the Jefferson Community College.
2. From Broadway to Gray Street. This area is used by the U of L Dental School.
3. From Gray Street to Chestnut Street. This area is used by the Jewish Hospital.

If anymore information is required let me know.

LER:tm

cc: A. R. Romine ✓

THIS AGREEMENT, made and entered into by and between the COMMONWEALTH OF KENTUCKY, hereinafter called the "State", party of the first part, and the JEWISH HOSPITAL ASSOCIATION OF LOUISVILLE, KENTUCKY, hereinafter called the "Lessee", party of the second part.

W I T N E S S E T H

WHEREAS, the State has acquired certain property for the North-South Expressway between Gray and Chestnut Streets and the southeast corner of Brook and Walnut Streets in the City of Louisville; and

WHEREAS, the Lessee has need of parking facilities in that area;

NOW THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, it is agreed as follows:

1. The State hereby leases to the Lessee, for an indefinite term until revoked, and without charge or rental, that area under and adjacent to the North-South Expressway, between Gray and Chestnut Streets and the southeast corner of Brook and Walnut Streets.
2. The Lessee agrees to comply with all the standards and requirements of IM 21-3-62 of the United States Bureau of Public Roads which by reference is made a part hereof.
3. The Lessee agrees to use the leased premises as a parking area.
4. The Lessee agrees to improve such parts of the leased premises as it uses for parking by paving and lighting such leased pre-

mises so as to make them suitable for parking and by properly fencing and maintaining said leased premises, all in accordance with certain plans dated February 24, 1961 and April 15, 1964, and revised May, 1965; prepared by Joseph & Joseph, Architects and Engineers, entitled, Proposed Layout for Parking Under North-South Expressway, Gray to Chestnut Streets and Southeast Corner of Brook and Walnut Streets, Louisville, Kentucky, for Jewish Hospital Association of Louisville, and which plans are attached hereto as a part hereof, as fully as if copied at length herein.

5. The Lessee agrees to operate the leased premises for parking purposes as above indicated, without charging any parking fee in excess of that necessary to pay the cost of operation.

6. The Lessee agrees to provide necessary safeguards to protect the public and the Interstate Highway and to save the State harmless from payment for any damages that might result during the construction of the facilities occupying the airspace and thereafter for the term of this agreement.

7. The State reserves the right to revoke this Agreement for any reason it deems in the public interest and in the best interest of the Department of Highways by giving written notice of Thirty (30) days, or upon the failure of the Lessee to perform any of the duties imposed by the terms of this Agreement. That in the event of breach of any of the nondiscrimination covenants in numbered paragraph 8 of this lease, the State shall have the right to terminate the lease and to re-enter and repossess said land and the facilities thereon, and hold the same as if said lease had never been made or issued. Should this Agreement be revoked for any reason whatsoever, the Lessee agrees to restore this area to a

of Public Roads with no expenditure of State or Federal funds.

8. The Lessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person, on the ground of race, color, 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 facilities, (2) that in connection with the construction of any improvements on said lands and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors in the selection and retention of first-tier subcontractors, and by first-tier subcontractors in the selection and retention of second-tier subcontractors (3) that such discrimination shall not be practiced against the public in their access to and use of the facilities and services provided for public accommodations (such as eating, sleeping, rest, recreation, and vehicle servicing) constructed or operated on, over, or under the space of the right-of-way, and (4) that the Lessee shall use the premises in compliance with all other requirements imposed pursuant to Title 15, Code of Federal Regulations, Commerce and Foreign Trade, Subtitle A, Office of the Secretary of Commerce, Part 8 (15 C.F.R., Part 8), and as said Regulations may be amended.

9. The Department of Highways of the Commonwealth of Kentucky and the United States Bureau of Public Roads, reserve authority to enter upon the premises herein leased at any time for the purpose of inspecting said areas and to perform necessary maintenance and repairs to the structures on or adjacent thereto.

10. This lease agreement shall not become effective until final termination of an existing lease on the North-South Expressway dated November 29, 1961 between the City of Louisville and the first party herein.

IN TESTIMONY WHEREOF, witness our hands this 6th day of May, 1965.

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF HIGHWAYS

Henry Ward

BY _____
Commissioner of Highways

JEWISH HOSPITAL ASSOCIATION
OF LOUISVILLE, KENTUCKY

BY *Sarah [unclear]*

APPROVED AS TO FORM AND LEGALITY:

This 6th day of May, 1965.

William C. Laney, Jr.
Assistant Attorney General

RECEIVED

OCT 14 1983

Bureau of Hwys.
Dist. 5

University of Louisville
Prestant Jefferson

MEMO TO: Terry Willis
Highway General Manager
District 5

ATTENTION: Bob Flener

FROM: Harrison Evans, P. E.
Engineering Branch Manager
Division of Maintenance

DATE: October 12, 1983

SUBJECT: Jefferson County; I-65 at Preston and
Jefferson Streets
University of Louisville
Airspace Permit

Harrison Evans

The attached Airspace Agreement was relayed to this office from the Office of General Counsel by Bob Becht.

The agreement would authorize the use of a portion of right of way beneath the North-South Expressway (I-65) for free parking.

It is necessary that this request be submitted in accordance with the provisions in the Permit Manual which calls for three sets of documentation including the following:

1. Permit application form with an assigned permit number and all information the form calls for.
2. A metes and bounds description of the area to be used.
3. Drawings reflecting the area to be paved and fence enclosure (if proposed) and pier protection structures (if necessary).
4. Form No. TD 99-21 (notes and specifications) with all pertinent information called for.
5. FHPM Volume 7, Chapter 4, Section 3 (copy attached).

The attached agreement has been approved as to form and legality and, therefore, the three sets of the package may be sent directly to this office for final processing. Please call Don Mann if clarification is needed.

HE/DRM/mja

Attachments

ENCROACHMENT PERMIT

PERMIT NO. 5-521-84

APPLICANT IDENTIFICATION

NAME University of Louisville
Attn: William R. Davidson
ADDRESS: Belknap Campus
CITY Louisville,
STATE Kentucky ZIP CODE 40292
PHONE: A.C (502) 588-6151

PROJECT IDENTIFICATION

Access Control By Permit Partial Full
COUNTY: Jefferson PRIORITY ROUTE NO: n/a
MILEPOINT: n/a LEFT RIGHT
PROJECT STATUS MAINTENANCE CONST. DESIGN
PROJECT NO. STATE _____
PROJECT NO. FEDERAL _____
ROAD/STREET NAME: Preston Street and Jefferson St.

TYPE OF ENCROACHMENT

- COMMERCIAL ENTRANCE: TYPE _____
- PRIVATE ENTRANCE: SINGLE FAMILY, FARM
- UTILITY: OVERHEAD, UNDERGROUND
- GRADE: FILL: LANDSCAPE ON R-O-W
- AIRSPACE: AGREEMENT: LEASE
- OTHER (SPECIFY) _____

TYPE OF INDEMNITY: BOND CASH
 SELF-INSURED AMOUNT ENCUMBERED \$ _____

NAME AND ADDRESS OF LOCAL INSURANCE AGENCY OR SELF-INSURED REPRESENTATIVE: _____

ATTACHMENTS:

- Beneath I-65
- STANDARD DRAWINGS: (LIST ON TD 99-21 UNDER MISC.)
 - APPLICANTS PLANS
 - HIGHWAY PLAN AND PROFILE SHEETS
 - TD 99-3 (PONDING ENCROACHMENT SPECS & CONDITIONS)
 - TD 99-4 (REST AREA SPECS. & CONDITIONS)
 - TD 99-5 (TREE CUTTING/TRIMMING SPECS & CONDIT.)
 - TD 99-6 (CHEMICAL USAGE SPECS & CONDITIONS)
 - TD 99-12 (OVERHEAD UTILITY ENCROACHMENT DIAGRAM)
 - TD 99-13 (OPEN TRENCH, PAVEMENT RESTORATION)
 - TD 99-21 (GENERAL NOTES AND SPECIFICATIONS)
 - TD 99-23 (MTS SPECS. & CONDITIONS)
 - OTHER ATTACHMENTS: (Specify) Airspace Usage Permit; Federal - Aid Highway Program Manual Vol. 7, Chapter 4, Section 3.

INDEMNITY: The applicant in order to secure this obligation, has deposited with the Transportation Cabinet, as a guarantee of conformance with the Department of Encroachment Permit requirements as indemnity in the amount of \$ None as determined by the Department. It shall be the responsibility of the applicant or permittee, his heirs and assignees to keep all indemnities in full force until construction or reconstruction has been completed and duly accepted by an authorized agent of the Transportation Cabinet, Department of Highways.

BRIEF DESCRIPTION OF WORK TO BE DONE: (If private entrance show sketch with pipe location)

Construct and maintain parking lot (at ground level) within right of way beneath I-65 at Preston Street and Jefferson Street in accordance with the attached plan and Airspace Usage Permit.

17

IMPORTANT: (PLEASE READ)

WHEN THE WORK IS COMPLETED IN ACCORDANCE WITH THE TERMS OF THIS ENCROACHMENT PERMIT YOUR INDEMNITY WILL BE RELEASED, HOWEVER THE PERMIT IS EFFECTIVE UNTIL REVOKED BY THE TRANSPORTATION CABINET AND THE TERMS ON THE PERMIT AND ACCOMPANYING PERMIT DOCUMENTS AND DRAWINGS REMAIN IN EFFECT AS LONG AS THE ENCROACHMENT EXISTS. FUTURE MAINTENANCE OF THE ENCROACHMENT IS THE RESPONSIBILITY OF THE PERMITTEE. IT IS IMPORTANT THAT YOU UNDERSTAND THE REQUIREMENTS ON THIS ENCROACHMENT PERMIT APPLICATION AND ACCOMPANYING DOCUMENTS. IF YOU HAVE NOT DONE SO IT IS SUGGESTED THAT YOU REVIEW THESE DOCUMENTS AND PLACE THE PERMIT PACKAGE IN A SAFE PLACE FOR FUTURE REFERENCE.

A COPY OF THIS PERMIT AND ALL DOCUMENTS SHALL BE GIVEN YOUR CONTRACTOR AND SHALL BE READILY AVAILABLE AT THE WORK SITE FOR THE ENCROACHMENT PERMIT INSPECTOR TO REVIEW AT ALL TIMES. FAILURE TO MEET THIS REQUIREMENT MAY RESULT IN CANCELLATION OF THIS PERMIT.

The permittee agrees to the following terms and conditions:

1. The permittee shall comply with and is bound by the requirements of the Department's Manual as revised to and in effect on the date of the issuance of this permit which is made reference.
2. Permittee agrees that if the Department determines that vehicular capacity deficiencies or over capacity conditions develop as a result of the installation and use of this facility the permittee shall adjust, relocate or reconstruct the facilities and/or provide and bear the expense for signs, storage lanes or other corrective measures reasonably deemed necessary by the Department and as set forth in the Department's Permit Manual within a reasonable length of time after receipt of written notice regarding such adjustments, relocation, additions, modifications and/or corrective measures, such time to be specified in the notice. In cases where traffic signals are permitted or required, as determined by the Department, the controller, signal heads, detector amplifiers, and any necessary control equipment will be furnished by the Department, at the Permittee's expense. Any modifications to the Permittee's entrance necessary to accommodate signalization shall be the responsibility of the Permittee, at no expense to the Department. (This applies only to Entrance Permits) messenger, any modifications to the Permittee's entrance necessary to accommodate signalization shall be the responsibility of the Permittee, at no expense to the Department. (This applies only to Entrance Permits)
3. The said encroachment will not infringe on the frontage rights of an abutting owner, without written consent of the said owner as hereto: "I (we) consent to the granting of attached permit." (This does not apply to utilities which serve the general public.)
4. Any permit granted hereunder shall be with the full understanding that it shall not interfere with any similar rights or permits heretofore granted to any other party except as otherwise provided by law.
5. A plan prepared by _____ and dated _____ is attached hereto and made a part hereof, which plan describes the facilities to be constructed by the Permittee for which facilities this permit is granted, and the Permittee agrees as a condition to the issuance of the permit to construct and maintain such facilities in accordance with said plan, and the Permittee shall not use the facilities authorized herein in any manner contrary to that prescribed by this permit and plan. Normal usage and routine maintenance only are authorized under this permit.
6. Permittee shall comply with the Department's Manual on Uniform Traffic Control Devices for Highway Construction and Maintenance Projects as revised to and in effect on the date of the issuance of this permit which is made a part hereof by reference.
7. Permittee shall at all times from the date when work is first commenced and until such time as all facilities are removed from the right-of-way premises, defend, protect and save harmless the Department from all liability, claims, and demands arising out of work undertaken by the Permittee pursuant to this permit, due to any negligent act or omission by the Permittee, its servants, agents, employees or contractors. This provision shall not inure to the benefit of any third party or operate to enlarge any liability of the Department beyond that existing at common law if this right of indemnity did not exist.
8. Upon a violation of any of the provisions of this permit the Department may revoke the permit by giving notice to the Permittee in writing to remove from the right-of-way, any facilities placed thereon within a reasonable time as set forth in the notice, and in the event said facilities are not so removed, and the right-of-way restored the Department may cause same to be removed, and the cost thereof, shall be charged to the Permittee.
9. The Permittee, his successors and assigns shall use the encroached premises in compliance with all Federal requirements imposed pursuant to the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2004-1) and regulations of the U.S. Department of Transportation as set forth in Title 49 C.F.R., Part 21, and as said regulations may be amended.
10. Permittee agrees that in the event it should become necessary, as may be reasonably determined by the Department, for the facilities covered by this permit to be removed or relocated in connection with the reconstruction, relocation or improvement of the abutting highway, the Department may revoke this permit and require removal or relocation by the Permittee at his own expense according and pursuant to the procedures, provided in Paragraph 8 above, except in those cases where the Department is required by law to pay any or all the same.
11. The Permittee understands and agrees that this permit is personal to the Permittee and shall not inure to his successors and assigns without the written approval of the Department and that he is bound by the provisions of this permit as long as the encroachment exists unless a written release has been obtained from the Department. (Does not apply to utilities serving the general public.)

THE UNDERSIGNED APPLICANT (BEING DULY AUTHORIZED REPRESENTATIVE/OWNER) DOES AGREE TO ALL TERMS AND CONDITIONS SET FORTH HEREIN.

JANUARY 1st. JULY 1st. 19 _____ 19 _____

Completion Date Date

RECOMMENDED FOR APPROVAL

APPROVED _____

Signature Signature

DISTRICT PERMIT ENGINEER

General Manager

OCT 12 1984

Date Date

PRIVATE ENTRANCE: TO BE COMPLETED BY PERSONNEL INSTALLING FACILITY.

INSTALLED BY: _____ DATE _____ 19 _____

Title Signature Date

AIRSPACE USE PERMIT

This Permit made and entered into this 1st day of June, 1983, by and between the Commonwealth of Kentucky, Department of Highways, hereinafter referred to as the "Department", and the University of Louisville, hereinafter referred to as "Permittee",

WITNESSETH:

WHEREAS, the Department during the acquisition of right of way for a highway project known as North-South Expressway and also called I-65, in the City of Louisville, Kentucky, purchased and designated as permanent right of way land in the southeast corner of Jefferson and Preston Streets, and

WHEREAS, this tract lies inside the access control fence and joins the Permittee's property along the east boundary lines of the I-65 right of way, and

WHEREAS, the Permittee desires to obtain the right of way for the purpose of maintaining a parking lot, and

WHEREAS, under the provisions of the Federal Aid Highway Program Manual, Volume 7, Chapter 4, Section 3, of the Department of Transportation, Federal Highway Administration, the Department is authorized to permit any individual, company, organization, or public agency to use the airspace within the right of way for other than highway purposes.

NOW, THEREFORE, in consideration of the premises, and upon the terms, conditions, and mutual promises hereinafter set forth, it is agreed between the parties hereto as follows:

1. The Department hereby permits the Permittee to use the property shown on the attached plan marked Exhibit "A"

Beginning at the point in the southeast corner of Jefferson Street and Preston Street; thence following the south line of Jefferson Street South 82° 10' 11" East, 275.00 feet to a point in the existing access-control fence of the North-South Expressway; thence following the access-control fence South 08° 01' 19" West, 15.20 feet to a corner; thence continuing with the access control fence South 66° 02' 47.5" West, 208.57 feet to a corner; thence continuing with the access-control fence South 08° 01' 54" West, 78.94 feet to a corner; thence continuing with the access-control fence North 82° 10' 11" West, 100 feet to a corner in the east line of Preston Street; thence continuing with the access-control fence and the east line of Preston Street North 08° 01' 54" East, 209.97 feet to the point of beginning.

2. To have and to hold said property for the term of one (1) year commencing on the 1st day of June, 1983, and ending on the 31st day of May, 1984.

3. Payment shall remain as set out above unless at some point Permittee should exact a fee for public (non-permit) parking upon the above described property. Upon the commencement of any such charge, Permittee agrees to a monthly payment to the Department equal to ten percent (10%) of any such fees collected in that month, payment to be made within ninety (90) days of the receipt of such fees by Permittee.

4. Permittee shall have the right and option to extend this permit for further terms of one (1) year each commencing on the expiration of the preceeding term, subject to all the terms, conditions, covenants, and provision of this permit. The Department shall have the right, at any time during the term of the permit or any renewal thereof, to cancel same upon ninety (90) days written notice to said Permittee. Permittee shall be

unable to use said property due to the cancellation.

6. The Permittee agrees to provide any information requested by the Department and to allow inspection of records and entry upon the premises as needed to enable the Department to comply with all requirements set forth in the Federal-Aid Program Manual, Volume 7, Chapter 4, Section 3, dated October 4, 1974, and marked Exhibit "B".

7. The permitted facility shall have adequate clearance from all highway facilities to provide room for inspection and maintenance. The Permittee specifically authorizes the Department of Highways, its agents and employees, to enter the permitted premises for the purpose of maintenance, inspection, or reconstruction when necessary or for any other purpose deemed necessary by the Department, its officials or representatives, and Permittee agrees not to impair access of the Department.

8. The facility to occupy the airspace shall be properly maintained in such a manner as to cause no unreasonable interference with traffic and 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. In the event the Permittee of the facility occupying the airspace fails its maintenance obligations, the Department of Highways, its agents and employees, may enter the premises to perform neglected maintenance. Costs of such maintenance to be paid by the Permittee. The required maintenance herein shall include, but shall not be limited to, all mowing and any grass seeding necessary for the portion of the above described premises not within the

permit shall comply with all laws, ordinances, and regulations with regard to real property, which affect the property herein concerned.

10. The facility shall not be used for maintenance or storage of any flammable, toxic, explosive, or other materials deemed to be potential fire or other hazard to the highway and highway users.

11. All on premise signs and display devices to motorists are subject to approval by the Department of Highways, Transportation Cabinet. The lighting of the facility shall not produce glare or distraction to highway users.

12. The Permittee shall indemnify and hold harmless the Department from any and all claims, causes of action, and demands of any kind or nature arising out of or in connection with the construction, maintenance, and use of the property by Permittee or anyone else who may use the property, pursuant to the terms of this Permit Agreement.

13. The Permittee does further agree to provide the necessary safeguards to protect the property of the Department from damages during the Permittee's use of the hereinabove described property and the Permittee does further agree to assume full responsibility for any and all damages to the property of the Department which occurs as the result of the Permittee's use of the premises described in this Permit.

14. All plans developed by the Permittee after the approval of this permit shall be submitted through channels

15. The Permittee agrees that no permanent structures or attachments shall be constructed upon said permitted premises without the written approval of the Department. Any structures or attachments placed upon the premises must be easily removable and must be removed at the expense of the Permittee upon the expiration of this permit.

16. Any city, county, metropolitan or other sewer district or company shall have the right to enter upon said property for the purpose of construction, operation and maintenance to any existing sewers, and for the construction, operation and maintenance of any new sewers deemed necessary.

17. The Permittee agrees and understands that if and in the event the airspace facility referred to herein ceases to be used or is abandoned, this permit is to terminate and be revoked. The Permittee agrees that this Permit Agreement shall not be assigned, transferred, or in anyway alienated without the prior written approval of the Department and the Federal Highway Administration, but it is agreed between the parties hereto that said consent to assignment and transfer shall in no way release the Permittee from its obligations to the Department with respect to the construction and maintenance of said facility. The Permittee shall notify the Department in writing, within fifteen (15) days from the date of the execution of said assignment and shall promptly forward the Department a fully executed copy thereof.

18. It is expressly understood and agreed between the parties hereto that Department funds shall not participate in any

Rights Act.

20. The Permittee agrees that this Permit Agreement may be terminated and cancelled by the Department upon the failure of the Permittee to perform any of the conditions, promises and duties imposed by the terms of this Permit Agreement. Such termination and cancellation of this Permit Agreement shall be made by the Department giving written notice to the Permittee of the conditions, promises or duties of this Permit Agreement which the Permittee violated or failed to perform and such written notice shall set forth the date said termination of this Permit Agreement shall become effective, which termination date shall be within the discretion of the Department so long as it is within the remaining term of this Permit Agreement. The Permittee agrees that in the event this Permit Agreement is terminated and cancelled for any reason whatsoever, the Permittee will restore the premises involved in this Permit Agreement to a condition satisfactory to the Department at the sole cost and expense of the Permittee.

21. The Department and the Permittee do understand and agree that this Permit Agreement is without validity and effect until and at such time as the Federal Highway Administration has given its unequivocal approval of this Agreement and all terms, conditions and provisions contained herein.

Given under our hands this 17 day of September, 1984.

COMMONWEALTH OF KENTUCKY
TRANSPORTATION CABINET

UNIVERSITY OF LOUISVILLE

20. 11 11 11

11

11 11

APPROVED AS TO FORM AND LEGALITY:

By: Robert A. Becht

Transportation Cabinet
Department of Highways
Frankfort, Kentucky 40622

August 29, 1983

THIS INSTRUMENT PREPARED BY:

William H. Wallace

William H. Wallace
Attorney at Law
Transportation Cabinet
Department of Highways
P. O. Box 37090
Louisville, Kentucky 40233