



DATE: Thursday - February 17, 2022  
TIME: 5:00 P.M.  
LOCATION: Airport Administration Building | 355 Golden Knights Blvd., Titusville, FL 32780

---

### **MEETING AGENDA**

- A. Call to Order
- B. Pledge of Allegiance
- C. Approval of Agenda
- D. Approval of Meeting Minutes from January 20, 2022
- E. Action Items
  - a. Approval of FDOT Grant for the new Air Traffic Control Tower Siting Study & Associated Resolution at the Space Coast Regional Airport
  - b. Approval of FDOT Grant for the Fuel Farm Replacement Project & Associated Resolution at the Space Coast Regional Airport
  - c. Space Coast Innovation Park, LLC Ground Lease Agreement
  - d. Six Month Performance Review – Director of Airports
- F. Director's Report
  - a. Capital Improvement Projects Update
  - b. Merritt Island Noise Committee Update
  - c. Approval of Invoices for Projects
- G. Attorney's Report
  - a. Investigation Findings of TCAA Counsel – Complaint submitted by TCAA Fire Chief Wooldridge

H. Finance Manager's Report

I. Authority Members Report

J. Public Comments

K. Adjournment

**APPROVAL OF MINUTES**

**JANUARY 20, 2022**

**TITUSVILLE – COCOA AIRPORT AUTHORITY**

The Regular Meeting of the Titusville - Cocoa Airport Authority was held on January 20, 2022 at 5:00 p.m. at the Titusville - Cocoa Airport Authority Office at 355 Golden Knights Boulevard, Titusville, FL. The following members were present: Mr. John Craig, Chairman; Mr. Donn Mount, Vice Chairman/Treasurer; Mr. Roger Molitor, Secretary; Mr. Al Voss; Ms. Jessica Curry; Mr. Brad Whitmore; Mr. Kevin Daugherty, AAE, Director of Airports; Mr. Adam Bird, Attorney. Mr. Mark Grainger was absent.

**Call to Order**

Mr. John Craig called the meeting to order.

**Pledge of Allegiance****Approval of the Agenda**

Mr. Craig asked if there were any proposed changes to the Agenda. Mr. Craig called for a motion to approve the Agenda as presented. Ms. Jessica Curry made a motion to approve the Agenda. Mr. Al Voss seconded the motion. Motion passed.

**Approval of the Titusville-Cocoa Airport Authority Minutes:****1. December 16, 2021 – Regular Meeting**

Mr. Craig called for a motion to approve the minutes. Mr. Voss made the motion and Mr. Molitor seconded the motion. Mr. Craig called the question. All voted aye. Motion passed. Mr. Craig called for a motion to approve the minutes.

**Action Items****a. Approval of a Florida Department of Transportation (FDOT) Grant for the Design and Construction of Automated Weather Observation System (AWOS) at Merritt Island Airport.**

Mr. Craig called for a motion to approve as presented. Ms. Curry made the motion and Mr. Voss seconded. Mr. Craig called the question. All voted aye. Motion passed.

**b. Approval of a Florida Department of Transportation (FDOT) Grant for the Design and Construction of Automated Weather Observation System (AWOS) at Arthur Dunn Air Park.**

Mr. Craig called for a motion to approve as presented. Mr. Voss made the motion and Ms. Curry seconded. Mr. Craig called the question. All voted aye. Motion passed.

**c. Approval of Invoice for Projects**

Mr. Daugherty requested approval of the final pay application for V. A. Paving, Inc. in the amount of \$207,906.23. Mr. Craig called for a motion to approve. Mr. Molitor made a motion to approve, and Ms. Curry seconded the motion. Mr. Craig called the question. All voted aye. Motion passed.

**Director's Report**

**a. Capital Improvement Projects Update**

Mr. Daugherty provided an update on Runway 9-27 Project. Project is ongoing, millings have begun, electrical work is in process and drainage.

Mr. Daugherty requested for Mr. McDaniel to speak in regards to the Hangar 52 Demo and the NASI Project at Merritt Island. Mr. McDaniel stated that the Hangar 52 Project has damage repair work with additional needs. Mr. McDaniel stated that the NASI Project is moving forward.

**b. 6935 Tico Road Parcel Opportunity**

Mr. Daugherty addressed the 6935 Tico Road Property that is for sale. Mr. Daugherty stated the redevelopment of this property would be beneficial towards the increase of revenue.

Mr. McDaniel spoke about the Tree Ordinance relating to the Tico Road Property.

**c. Merritt Island Airport Noise Committee Update**

Mr. Hopman briefed the Board on meetings that were held with the flight schools in regards to noise complaints and a Noise Committee was formed. The Noise Hot Line was an agreed upon remedy during the meetings with Mr. Hopman.

Ms. Sagarra commented via video that Merritt Island is not only a noise concern but also a safety concern.

**Steve Borowski – Director, Valkaria Airport**

See attached presentation.

**Attorney's Report**

Mr. Bird received notification from the Florida Commission Ethics that the hearing in regards to the complaint submitted by TCAA FireChief Wooldridge, would be held on January 21, 2020. As an entity, we would not be permitted to attend. Mr. Bird stated that all of the pertinent information has been provided.

Mr. Craig called for a motion to postpone the complaint issued until after the hearing. Mr. Voss made the motion to approve the postponement. Mr. Whitmore seconded the motion. Motion passed.

Mr. Bird and Mr. Craig discussed airport name change. No resolve currently.

**Finance Manager's Report**

Mr. Daugherty addressed Dr. Flynn's request of change in Wing fees. Dr. Flynn states he is not doing his service for the money so with the additional Wing fees, Dr. Flynn expressed he is losing money. Ms. Kinard explained the breakdown of the fees.

Mr. Mount makes a motion to waive the Wing fees. Mr. Voss seconded the motion. Mr. Craig addressed reasons not to waive the Wing fees. Mr. Whitmore discussed his reasons the Wing fees should be waived. Mr. McDaniel spoke about trying to find an alternative solution to the collection of the Wing fees. Ms. Kinard reiterated the reason for the Wing fees.

Mr. Mount withdrew the motion to waive the Wing fees. The discussion is further postponed.

**Authority Member's Report**

Mr. Voss stated that Mr. White contacted him and requested Mr. Voss mention Young Eagles is the on February 20<sup>th</sup>. The north side of the field will be the only available location. Approximately 100 children will be present.

Mr. Mount stated the accounting software search is in progress.

Mr. Craig stated that Mr. Daugherty is working on a six-month progress report for the Board Members to use for as evaluation.

**Public Comments**

None

**Adjournment**

Mr. Craig adjourned the meeting at 7:08 p.m.

---

JOHN CRAIG, CHAIRMAN

---

DONN MOUNT, VICE CHAIRMAN/TREASURER

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

Financial Project Number(s): <small>(item-segment-phase-sequence)</small> 438494-1-94-01	Fund(s): Work Activity Code/Function: 215 Federal Number/Federal Award Identification Number (FAIN) – Transit only: N/A Federal Award Date: N/A Agency DUNS/UEI Number: 19-460-3577	DDR	FLAIR Category: 088719 Object Code: 751000 Org. Code: 55052000531 Vendor Number: VF591061002001
Contract Number:			
CFDA Number:	N/A		
CFDA Title:	N/A		
CSFA Number:	55.004		
CSFA Title:	Aviation Grant Program		

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into \_\_\_\_\_, by and between the State of Florida, Department of Transportation, ("Department"), and Titusville-Cocoa Airport District, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 332.007, Florida Statutes, to enter into this Agreement.
2. **Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Site Study for new Air Traffic Control Tower (ATCT) at Space Coast Regional Airport, as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.
3. **Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

- ☒ **Aviation**
- ☐ **Seaports**
- ☐ **Transit**
- ☐ **Intermodal**
- ☐ **Rail Crossing Closure**
- ☐ **Match to Direct Federal Funding** (Aviation or Transit)
- ☐ (Note: Section 15 and Exhibit G do not apply to federally matched funding)
- ☐ **Other**

4. **Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

- ☒ Exhibit A: Project Description and Responsibilities
- ☒ Exhibit B: Schedule of Financial Assistance
- ☐ \*Exhibit B1: Deferred Reimbursement Financial Provisions
- ☐ \*Exhibit B2: Advance Payment Financial Provisions
- ☐ \*Exhibit C: Terms and Conditions of Construction
- ☒ Exhibit D: Agency Resolution
- ☒ Exhibit E: Program Specific Terms and Conditions
- ☒ Exhibit F: Contract Payment Requirements
- ☒ \*Exhibit G: Audit Requirements for Awards of State Financial Assistance



**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- ☐ \*Exhibit H: Audit Requirements for Awards of Federal Financial Assistance  
☐ \*Additional Exhibit(s):

\*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

**5. Time.** Unless specified otherwise, all references to “days” within this Agreement refer to calendar days.

**6. Term of Agreement.** This Agreement shall commence upon full execution by both Parties (“Effective Date”) and continue through June 1, 2024. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

a. ☐ If this box is checked the following provision applies:

Unless terminated earlier, work on the Project shall commence no later than the  day of , or within  days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

**7. Amendments, Extensions, and Assignment.** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

**8. Termination or Suspension of Project.** The Department may, by written notice to the Agency, suspend any or all of the Department’s obligations under this Agreement for the Agency’s failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

- a. Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
- c. If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department’s maximum financial assistance. If any portion of the Project is located on the Department’s right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.
- d. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.
- e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

**9. Project Cost:**

- a. The estimated total cost of the Project is \$160,000. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.
- b. The Department agrees to participate in the Project cost up to the maximum amount of \$128,000 and, the Department's participation in the Project shall not exceed 80.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

**10. Compensation and Payment:**

- a. **Eligible Cost.** The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.
- b. **Deliverables.** The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.
- c. **Invoicing.** Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.
- d. **Supporting Documentation.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.
- e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:
  - ☒ Travel expenses are NOT eligible for reimbursement under this Agreement.
  - ☐ Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

f. **Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

g. **Invoice Processing.** An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

h. **Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

i. **Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.

j. **Submission of Other Documents.** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

- k. **Offsets for Claims.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- l. **Final Invoice.** The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- m. **Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.
- n. **Limits on Contracts Exceeding \$25,000 and Term more than 1 Year.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:
- "The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."
- o. **Agency Obligation to Refund Department.** Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- p. **Non-Eligible Costs.** In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A", Project Description and Responsibilities**.

**11. General Requirements.** The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. **Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.
- b. **Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.
- c. **Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than \$250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:
  - i. Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or
  - ii. Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.
- d. ☐ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).
- e. ☐ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):
  - i. ☐ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).
  - ii. ☐ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.
  - iii. ☐ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.
- f. **Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.
- g. **Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

**12. Contracts of the Agency:**

- a. **Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.
- b. **Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.
- c. **Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.
- d. **Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

**13. Maintenance Obligations.** In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

**14. Sale, Transfer, or Disposal of Department-funded Property:**

- a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.
- b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:
  - i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.
  - ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.
  - iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.
  - iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.
- c. The terms of provisions "a" and "b" above shall survive the termination of this Agreement.
  - i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.
  - ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

**15. Single Audit.** The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

**Federal Funded:**

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

- b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:
- i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “H”, Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
  - ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
  - iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency’s audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency’s resources obtained from other than Federal entities).
  - iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
  - v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency’s audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
  2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
  3. Wholly or partly suspend or terminate the Federal award;
  4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
  5. Withhold further Federal awards for the Project or program;
  6. Take other remedies that may be legally available.
- vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0450  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

**State Funded:**

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.
- b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:
  - i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance**, to this Agreement indicates state financial

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

- ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).
- iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation  
Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0405  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

And

State of Florida Auditor General  
Local Government Audits/342  
111 West Madison Street, Room 401  
Tallahassee, FL 32399-1450  
Email: [flaudgen\\_localgovt@aud.state.fl.us](mailto:flaudgen_localgovt@aud.state.fl.us)

- v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
- viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

**16. Notices and Approvals.** Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

**17. Restrictions, Prohibitions, Controls and Labor Provisions:**

- a. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.
- d. **Prohibition on Using Funds for Lobbying.** No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

- e. **Unauthorized Aliens.** The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. **Procurement of Construction Services.** If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.
- g. **E-Verify.** The Agency shall:
  - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and
  - ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- h. **Executive Order 20-44.** Pursuant to Governor's Executive Order 20-44, if the Agency is required by the Internal Revenue Code to file IRS Form 990 and is named in statute with which the Department must form a sole-source, public-private agreement; or through contract or other agreement with the State, annually receives 50% or more of its budget from the State or from a combination of State and Federal funds, Recipient shall submit an Annual Report to the Department, including the most recent IRS Form 990, detailing the total compensation for each member of the Agency executive leadership team. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Agency shall inform the Department of any changes in total executive compensation during the period between the filing of Annual Reports within 60 days of any change taking effect. All compensation reports shall detail the percentage of executive leadership compensation received directly from all State and/or Federal allocations to the Agency. Annual Reports shall be in the form approved by the Department and shall be submitted to the Department at [fdotsingleaudit@dot.state.fl.us](mailto:fdotsingleaudit@dot.state.fl.us) within 180 days following the end of each tax year of the Agency receiving Department funding.
- i. **Design Services and Construction Engineering and Inspection Services.** If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

**18. Indemnification and Insurance:**

- a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, the Agency shall indemnify, defend, and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including,

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify, defend, and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement."

- b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.
- c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.
- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

**19. Miscellaneous:**

- a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.
- b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

- g. Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- h. Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).
- i. Inspector General Cooperation.** The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.
- j. Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

AGENCY Titusville-Cocoa Airport District

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: C. Jack Adkins

Title: \_\_\_\_\_

Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
Legal Review:

Daniel L. McDermott

## EXHIBIT A

### Project Description and Responsibilities

**A. Project Description** (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): Site Study for New Air Traffic Control Tower - The purpose of this Study is to select a recommended site and height of a new Airport Traffic Control Tower (ATCT) to replace the existing FAA Contract Tower (FCT) and coordinate review and approval by the FAA. This will be accomplished by preparing a Safety Risk Management Document (SRMD) for a new ATCT and to acquire FAA signature approvals for the Recommended ATCT Site and Height. The preparation of the SRMD will follow the guidance and requirements set forth in the working draft of FAA Order 6480.4C, Chapter 9, Airport Traffic Control Tower Alternative Siting Process (issued for review July 2021), and the VISTA Siting Process, Chapter 9 for FCTs (authorized November 5, 2021).

**B. Project Location** (limits, city, county, map): Space Coast Regional Airport/Titusville, FL/Brevard

**C. Project Scope** (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): Air Traffic Control Tower (ATCT) Site Study: As required by 215.971, F.S., this scope of work includes but is not limited to consultant fees, survey, geotechnical costs, and data acquisition costs, and all labor and incidentals required to develop Conceptual Plans to relocate existing ATCT. A detailed breakdown of items can be found in the Scope of Services provided by Avcon, Inc dated January 27, 202. The Sponsor will comply with Aviation Program Assurances.

**D. Deliverable(s)**: Final closeout documents to be uploaded into Jacip.

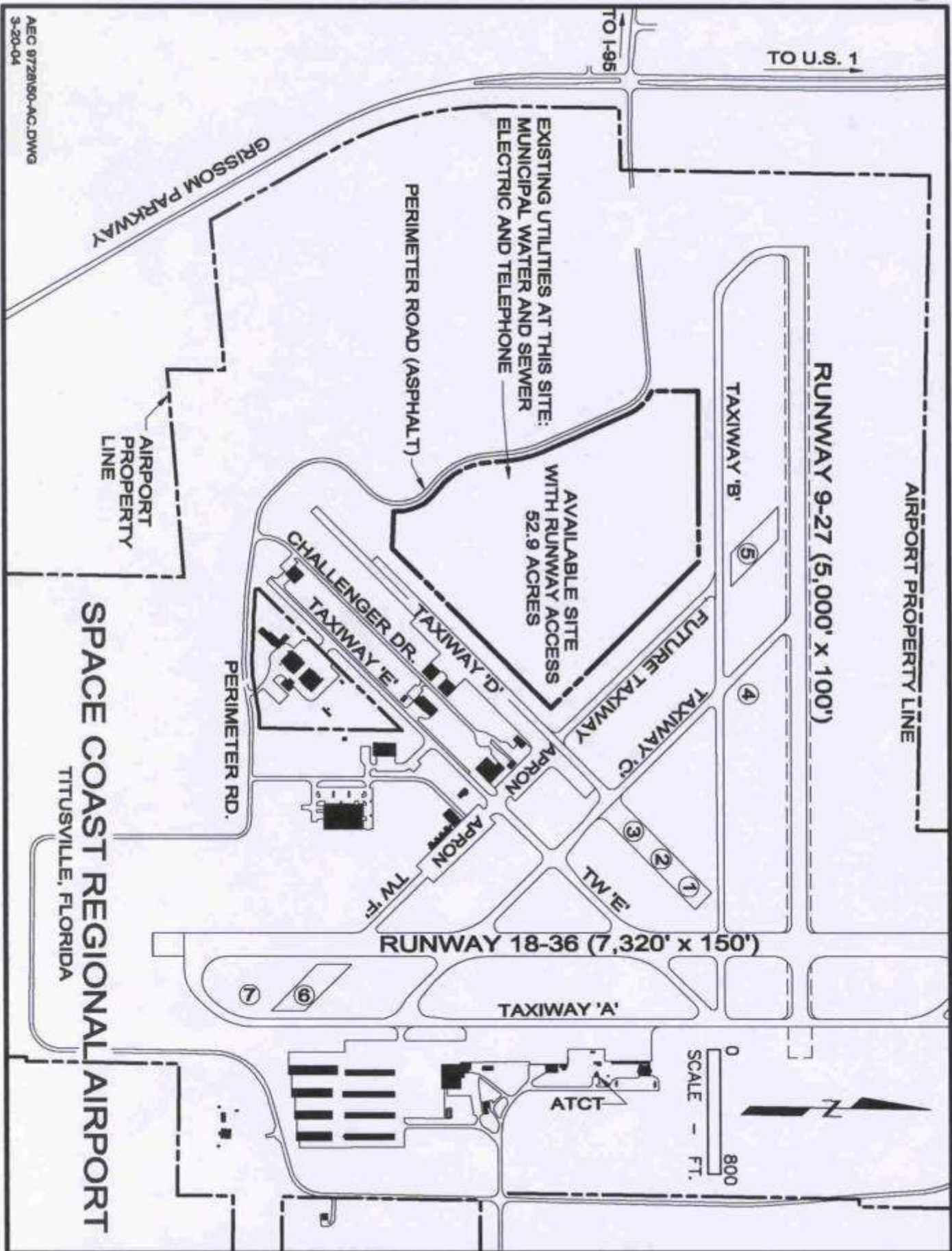
The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

**E. Unallowable Costs** (including but not limited to): Stord Materials.

**F. Transit Operating Grant Requirements (Transit Only):**

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants. Operating grants may be issued for a term not to exceed three years from execution. The original grant agreement will include funding for year one. Funding for years two and three will be added by amendment as long as the grantee has submitted all invoices on schedule and the project deliverables for the year have been met.





STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
 STRATEGIC  
 DEVELOPMENT  
 OGC 02/20

**EXHIBIT B**

**Schedule of Financial Assistance**

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT  
 CONSIST OF THE FOLLOWING:

**A. Fund Type and Fiscal Year:**

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
438494-1-94-01	DDR	088719	2022	751000	55.004	Aviation Grant Program	\$128,000.00
438494-1-94-01	LF	088719	2022	751000	55.004	Aviation Grant Program	\$32,000.00
<b>Total Financial Assistance</b>							<b>\$160,000.00</b>

**B. Estimate of Project Costs by Grant Phase:**

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Planning	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Environmental/Design/Construction	\$128,000.00	\$32,000.00	\$0.00	\$160,000.00	80.00	20.00	0.00
Capital Equipment/ Preventative Maintenance	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Match to Direct Federal Funding	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Mobility Management (Transit Only)	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
<b>Totals</b>	<b>\$128,000.00</b>	<b>\$32,000.00</b>	<b>\$0.00</b>	<b>\$160,000.00</b>			

\*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

**BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:**

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Allison McCuddy

Department Grant Manager Name



Signature

2/2/2022

Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

**EXHIBIT D**

**AGENCY RESOLUTION**

***PLEASE SEE ATTACHED***

**EXHIBIT E**

**PROGRAM SPECIFIC TERMS AND CONDITIONS - AVIATION**  
**AVIATION PROGRAM ASSURANCES**

**A. General.**

1. The assurances herein shall form an integral part of the Agreement between the Department and the Agency.
2. These assurances delineate the obligations of the Parties to this Agreement to ensure their commitment and compliance with specific provisions of **Exhibit "A", Project Description and Responsibilities**, and **Exhibit "B", Schedule of Financial Assistance**, as well as serving to protect public investment in public-use airports and the continued viability of the Florida Aviation System.
3. The Agency shall comply with the assurances as specified in this Agreement.
4. The terms and assurances of this Agreement shall remain in full force and effect throughout the useful life of a facility developed; equipment acquired; or Project items installed within a facility for an airport development or noise compatibility program project, but shall not exceed 20 years from the effective date of this Agreement.
5. There shall be no limit on the duration of the terms and assurances of this Agreement regarding Exclusive Rights and Airport Revenue so long as the property is used as a public airport.
6. There shall be no limit on the duration of the terms and assurances of this Agreement with respect to real property acquired with funds provided by this Agreement.
7. Subject to appropriations, the Department shall continue to comply with its financial commitment to this Project under the terms of this Agreement, until such time as the Department may determine that the Agency has failed to comply with the terms and assurances of this Agreement.
8. An Agency that has been determined by the Department to have failed to comply with either the terms of these Assurances, or the terms of the Agreement, or both, shall be notified, in writing, by the Department, identifying the specifics of the non-compliance and any corrective action by the Agency to remedy the failure.
9. Failure by the Agency to satisfactorily remedy the non-compliance shall absolve the Department's continued financial commitment to this Project and immediately require the Agency to repay the Department the full amount of funds expended by the Department on this Project.
10. Any history of failure to comply with the terms and assurances of an Agreement will jeopardize the Agency's eligibility for further state funding of airport projects by the Department.

**B. Agency Compliance Certification.**

1. **General Certification.** The Agency hereby certifies, with respect to this Project, it will comply, within its authority, with all applicable, current laws and rules of the State of Florida and applicable local governments, as well as Department policies, guidelines, and requirements, including but not limited to, the following (latest version of each document):
  - a. **Florida Statutes (F.S.)**
    - Chapter 163, F.S., Intergovernmental Programs
    - Chapter 329, F.S., Aircraft: Title; Liens; Registration; Liens
    - Chapter 330, F.S., Regulation of Aircraft, Pilots, and Airports
    - Chapter 331, F.S., Aviation and Aerospace Facilities and Commerce
    - Chapter 332, F.S., Airports and Other Air Navigation Facilities
    - Chapter 333, F.S., Airport Zoning

- b. Florida Administrative Code (FAC)**
    - Chapter 73C-41, FAC, Community Planning; Governing the Procedure for the Submittal and Review of Local Government Comprehensive Plans and Amendments
    - Chapter 14-60, FAC, Airport Licensing, Registration, and Airspace Protection
    - Section 62-256.300, FAC, Open Burning, Prohibitions
    - Section 62-701.320(13), FAC, Solid Waste Management Facility Permit Requirements, General, Airport Safety
  - c. Local Government Requirements**
    - Airport Zoning Ordinance
    - Local Comprehensive Plan
  - d. Department Requirements**
    - Eight Steps of Building a New Airport
    - Florida Airport Revenue Use Guide
    - Florida Aviation Project Handbook
    - Guidebook for Airport Master Planning
    - Airport Compatible Land Use Guidebook
- 2. Construction Certification.** The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, as well as Federal Aviation Administration (FAA) Advisory Circulars (AC's) and FAA issued waivers thereto, including but not limited to, the following:
- a. Federal Requirements**
    - FAA AC 70/7460-1, Obstruction Marking and Lighting
    - FAA AC 150/5300-13, Airport Design
    - FAA AC 150/5370-2, Operational Safety on Airports During Construction
    - FAA AC 150/5370-10, Standards for Specifying Construction of Airports
  - b. Local Government Requirements**
    - Local Building Codes
    - Local Zoning Codes
  - c. Department Requirements**
    - Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the "Florida Green Book")
    - Manual on Uniform Traffic Control Devices
    - Section 14-60.007, FAC, Airfield Standards for Licensed Airports
    - Standard Specifications for Construction of General Aviation Airports
    - Design Guidelines & Minimum Standard Requirements for T-Hangar Projects
- 3. Land Acquisition Certification.** The Agency hereby certifies, regarding land acquisition, that it will comply with applicable federal and/or state policies, regulations, and laws, including but not limited to the following:
- a. Federal Requirements**
    - Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
    - National Environmental Policy of 1969
    - FAA Order 5050.4, National Environmental Policy Act Implementing Instructions for Airport Projects
    - FAA Order 5100.37B, Land Acquisition and Relocation Assistance for Airport Projects
  - b. Florida Requirements**
    - Chapter 73, F.S., Eminent Domain (re: Property Acquired Through Condemnation)
    - Chapter 74, F.S., Proceedings Supplemental to Eminent Domain (re: Condemnation)
    - Section 286.23, F.S., Public Business: Miscellaneous Provisions

**C. Agency Authority.**

1. **Legal Authority.** The Agency hereby certifies, with respect to this Agreement, that it has the legal authority to enter into this Agreement and commit to this Project; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the airport sponsor's governing body authorizing this Agreement, including assurances contained therein, and directing and authorizing the person identified as the official representative of the governing body to act on its behalf with respect to this Agreement and to provide any additional information as may be required.
2. **Financial Authority.** The Agency hereby certifies, with respect to this Agreement, that it has sufficient funds available for that portion of the Project costs which are not paid by the U.S. Government or the State of Florida; that it has sufficient funds available to assure future operation and maintenance of items funded by this Project, which it will control; and that authority has been granted by the airport sponsor governing body to commit those funds to this Project.

**D. Agency Responsibilities.** The Agency hereby certifies it currently complies with or will comply with the following responsibilities:

**1. Accounting System.**

- a. The Agency shall create and maintain a separate account to document all of the financial transactions related to the airport as a distinct entity.
- b. The accounting records shall be kept by the Agency or its authorized representative in accordance with Generally Accepted Accounting Principles and in an accounting system that will facilitate an effective audit in accordance with the 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and Section 215.97, F.S., Florida Single Audit Act.
- c. The Department has the right to audit and inspect all financial records of the Agency upon reasonable notice.

**2. Good Title.**

- a. The Agency holds good title, satisfactory to the Department, to the airport or site thereof, or gives assurance, satisfactory to the Department, that good title will be obtained.
- b. For noise compatibility program projects undertaken on the airport sponsor's property, the Agency holds good title, satisfactory to the Department, to that portion of the property upon which state funds will be expended, or gives assurance, satisfactory to the Department, that good title will be obtained.

**3. Preserving Rights and Powers.**

- a. The Agency shall not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms and assurances of this Agreement without the written approval of the Department. Further, the Agency shall act promptly to acquire, extinguish, or modify, in a manner acceptable to the Department, any outstanding rights or claims of right of others which would interfere with such performance by the Agency.
- b. If an arrangement is made for management and operation of the airport by any entity or person other than the Agency or an employee of the Agency, the Agency shall reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with the terms and assurances of this Agreement.

**4. Hazard Removal and Mitigation.**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

- a. For airport hazards located on airport controlled property, the Agency shall clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
- b. For airport hazards not located on airport controlled property, the Agency shall work in conjunction with the governing public authority or private land owner of the property to clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards. The Agency may enter into an agreement with surrounding property owners or pursue available legal remedies to remove potential hazards to air navigation.

**5. Airport Compatible Land Use.**

- a. The Agency assures that appropriate airport zoning ordinances are in place consistent with Section 333.03, F.S., or if not in place, that it will take appropriate action necessary to ensure local government adoption of an airport zoning ordinance or execution of an interlocal agreement with another local government body having an airport zoning ordinance, consistent with the provisions of Section 333.03, F.S.
- b. The Agency assures that it will disapprove or oppose any attempted alteration or creation of objects, natural or man-made, dangerous to navigable airspace or that would adversely affect the current or future levels of airport operations.
- c. The Agency assures that it will disapprove or oppose any attempted change in local land use development regulations that would adversely affect the current or future levels of airport operations by creation or expansion of airport incompatible land use areas.

**6. Consistency with Local Government Plans.**

- a. The Agency assures the Project is consistent with the currently existing and planned future land use development plans approved by the local government having jurisdictional responsibility for the area surrounding the airport.
- b. The Agency assures that it has given fair consideration to the interest of local communities and has had reasonable consultation with those parties affected by the Project.
- c. The Agency shall consider and take appropriate actions, if deemed warranted by the Agency, to adopt the current, approved Airport Master Plan into the local government comprehensive plan.

**7. Consistency with Airport Master Plan and Airport Layout Plan.**

- a. The Agency assures that the project, covered by the terms and assurances of this Agreement, is consistent with the most current Airport Master Plan.
- b. The Agency assures that the Project, covered by the terms and assurances of this Agreement, is consistent with the most current, approved Airport Layout Plan (ALP), which shows:
  - 1) The boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Agency for airport purposes and proposed additions thereto;
  - 2) The location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and
  - 3) The location of all existing and proposed non-aviation areas on airport property and of all existing improvements thereon.

- c. The Agency assures that it will not make or permit any changes or alterations on the airport or any of its facilities that are not consistent with the Airport Master Plan and the Airport Layout Plan, as approved by the Department.
- d. Original Airport Master Plans and Airport Layout Plans and each amendment, revision, or modification thereof, will be subject to the approval of the Department.

**8. Airport Financial Plan.**

- a. The Agency assures that it will develop and maintain a cost-feasible Airport financial plan to accomplish the projects necessary to achieve the proposed airport improvements identified in the Airport Master Plan and depicted in the Airport Layout Plan, and any updates thereto. The Agency's Airport financial plan must comply with the following conditions:
  - 1) The Airport financial plan will be a part of the Airport Master Plan.
  - 2) The Airport financial plan will realistically assess project phasing considering availability of state and local funding and likelihood of federal funding under the FAA's priority system.
  - 3) The Airport financial plan will not include Department funding for projects that are inconsistent with the local government comprehensive plan.
- b. All Project cost estimates contained in the Airport financial plan shall be entered into and kept current in the Florida Aviation Database (FAD) Joint Automated Capital Improvement Program (JACIP) website.

**9. Airport Revenue.** The Agency assures that all revenue generated by the airport will be expended for capital improvement or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the air transportation of passengers or property, or for environmental or noise mitigation purposes on or off the airport.

**10. Fee and Rental Structure.**

- a. The Agency assures that it will maintain a fee and rental structure for facilities and services at the airport that it will make the airport as self-sustaining as possible under the circumstances existing at the particular airport.
- b. If this Agreement results in a facility that will be leased or otherwise produce revenue, the Agency assures that the price charged for that facility will be based on the market value.

**11. Public-Private Partnership for Aeronautical Uses.**

- a. If the airport owner or operator and a person or entity that owns an aircraft or an airport tenant or potential tenant agree that an aircraft hangar or tenant-specific facility, respectively, is to be constructed on airport property for aircraft storage or tenant use at the expense of the aircraft owner or tenant, the airport owner or operator may grant to the aircraft owner or tenant of the facility a lease that is subject to such terms and conditions on the facility as the airport owner or operator may impose, subject to approval by the Department.
- b. The price charged for said lease will be based on market value, unless otherwise approved by the Department.

**12. Economic Nondiscrimination.**

- a. The Agency assures that it will make the airport available as an airport for public use on reasonable terms without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public.
  - 1) The Agency may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

- 2) The Agency may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

- b. The Agency assures that each airport Fixed-Based Operator (FBO) shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other FBOs making the same or similar uses of such airport and utilizing the same or similar facilities.

**13. Air and Water Quality Standards.** The Agency assures that all projects involving airport location, major runway extension, or runway location will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

**14. Operations and Maintenance.**

- a. The Agency assures that the airport and all facilities, which are necessary to serve the aeronautical users of the airport, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable federal and state agencies for maintenance and operation, as well as minimum standards established by the Department for State of Florida licensing as a public-use airport.
  - 1) The Agency assures that it will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.
  - 2) Except in emergency situations, any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Department.
  - 3) The Agency assures that it will have arrangements for promptly notifying airmen of any condition affecting aeronautical use of the airport.
- b. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when adverse weather conditions interfere with safe airport operations.

**15. Federal Funding Eligibility.**

- a. The Agency assures it will take appropriate actions to maintain federal funding eligibility for the airport and it will avoid any action that renders the airport ineligible for federal funding.
- b. If the Agency becomes ineligible for federal funding of airport projects, such determination will render the Agency ineligible for state funding of airport projects.

**16. Project Implementation.**

- a. The Agency assures that it will begin making expenditures or incurring obligations pertaining to this Project within one year after the effective date of this Agreement.
- b. The Agency may request a one-year extension of this one-year time period, subject to approval by the Department District Secretary or designee.
- c. Failure of the Agency to make expenditures, incur obligations or receive an approved extension may allow the Department to terminate this Agreement.

**17. Exclusive Rights.** The Agency assures that it will not permit any exclusive right for use of the airport by any person providing, or intending to provide, aeronautical services to the public.

**18. Airfield Access.**

- a. The Agency assures that it will not grant or allow general easement or public access that opens onto or crosses the airport runways, taxiways, flight line, passenger facilities, or any area used for emergency

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

equipment, fuel, supplies, passengers, mail and freight, radar, communications, utilities, and landing systems, including but not limited to flight operations, ground services, emergency services, terminal facilities, maintenance, repair, or storage, except for those normal airport providers responsible for standard airport daily services or during special events at the airport open to the public with limited and controlled access.

- b. The Agency assures that it will not grant or allow general easement or public access to any portion of the airfield from adjacent real property which is not owned, operated, or otherwise controlled by the Agency without prior Department approval.

**19. Retention of Rights and Interests.** The Agency will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the real property shown as airport owned or controlled on the current airport layout plan without prior written approval by the Department. It will not sell, lease, encumber, terminate, waive, or otherwise transfer or dispose of any part of its title, rights, or other interest in existing noise easements or aviation easements on any property, airport or non-airport, without prior written approval by the Department. These assurances shall not limit the Agency's right to lease airport property for airport-compatible purposes.

**20. Consultant, Contractor, Scope, and Costs.**

- a. The Department has the right to disapprove the Agency's employment of consultants, contractors, and subcontractors for all or any part of this Project if the specific consultants, contractors, or subcontractors have a record of poor project performance with the Department.
- b. Further, the Department maintains the right to disapprove the proposed Project scope and cost of professional services.

**21. Planning Projects.** For all planning projects or other aviation studies, the Agency assures that it will:

- a. Execute the project per the approved project narrative or with approved modifications.
- b. Furnish the Department with such periodic project and work activity reports as indicated in the approved scope of services.
- c. Make such project materials available for public review, unless exempt from public disclosure.
  - 1) Information related to airport security is considered restricted information and is exempt from public dissemination per Sections 119.071(3) and 331.22 F.S.
  - 2) No materials prepared under this Agreement shall be subject to copyright in the United States or any other country.
- d. Grant the Department unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this Agreement.
- e. If the Project involves developing an Airport Master Plan or an Airport Layout Plan, and any updates thereto, it will be consistent with provisions of the Florida Aviation System Plan, will identify reasonable future growth of the airport and the Agency will comply with the Department airport master planning guidebook, including:
  - 1) Provide copies, in electronic and editable format, of final Project materials to the Department, including computer-aided drafting (CAD) files of the Airport Layout Plan.
  - 2) Develop a cost-feasible financial plan, approved by the Department, to accomplish the projects described in the Airport Master Plan or depicted in the Airport Layout Plan, and any updates thereto. The cost-feasible financial plan shall realistically assess Project phasing considering availability of state and local funding and federal funding under the FAA's priority system.
  - 3) Enter all projects contained in the cost-feasible plan in the Joint Automated Capital Improvement Program (JACIP).

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

- f. The Agency understands and agrees that Department approval of this Agreement or any planning material developed as part of this Agreement does not constitute or imply any assurance or commitment on the part of the Department to approve any pending or future application for state aviation funding.
- g. The Agency will submit master planning draft and final deliverables for Department and, if required, FAA approval prior to submitting any invoices to the Department for payment.

**22. Land Acquisition Projects.** For the purchase of real property, the Agency assures that it will:

- a. **Laws.** Acquire the land in accordance with federal and/or state laws governing such action.
- b. **Administration.** Maintain direct control of Project administration, including:
  - 1) Maintain responsibility for all related contract letting and administrative procedures related to the purchase of real property.
  - 2) Secure written Department approval to execute each agreement for the purchase of real property with any third party.
  - 3) Ensure a qualified, State-certified general appraiser provides all necessary services and documentation.
  - 4) Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
  - 5) Establish a Project account for the purchase of the land.
  - 6) Collect and disburse federal, state, and local project funds.
- c. **Reimbursable Funds.** If funding conveyed by this Agreement is reimbursable for land purchase in accordance with Chapter 332, F.S., the Agency shall comply with the following requirements:
  - 1) The Agency shall apply for a FAA Airport Improvement Program grant for the land purchase within 60 days of executing this Agreement.
  - 2) If federal funds are received for the land purchase, the Agency shall notify the Department, in writing, within 14 calendar days of receiving the federal funds and is responsible for reimbursing the Department within 30 calendar days to achieve normal project federal, state, and local funding shares per Chapter 332, F.S.
  - 3) If federal funds are not received for the land purchase, the Agency shall reimburse the Department within 30 calendar days after the reimbursable funds are due in order to achieve normal project state and local funding shares as described in Chapter 332, F.S.
  - 4) If federal funds are not received for the land purchase and the state share of the purchase is less than or equal to normal state and local funding shares per Chapter 332, F.S., when reimbursable funds are due, no reimbursement to the Department shall be required.
- d. **New Airport.** If this Project involves the purchase of real property for the development of a new airport, the Agency assures that it will:
  - 1) Apply for federal and state funding to construct a paved runway, associated aircraft parking apron, and connecting taxiway within one year of the date of land purchase.
  - 2) Complete an Airport Master Plan within two years of land purchase.
  - 3) Complete airport construction for basic operation within 10 years of land purchase.
- e. **Use of Land.** The Agency assures that it shall use the land for aviation purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.
- f. **Disposal of Land.** For the disposal of real property the Agency assures that it will comply with the following:
  - 1) For land purchased for airport development or noise compatibility purposes, the Agency shall, when the land is no longer needed for such purposes, dispose of such land at fair market value and/or make available to the Department an amount equal to the state's proportionate share of its market value.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

- 2) Land will be considered to be needed for airport purposes under this assurance if:
  - a) It serves aeronautical purposes such as a runway protection zone or as a noise buffer.
  - b) Revenue from uses of such land contributes to airport financial self-sufficiency.
- 3) Disposition of land under Sections D.22.f.1. or D.22.f.2. of this Exhibit, above, shall be subject to retention or reservation of any interest or right therein needed to ensure such land will only be used for purposes compatible with noise levels related to airport operations.
- 4) Revenues from the sale of such land must be accounted for as outlined in Section D.1. of this Exhibit, and expended as outlined in Section D.9. of this Exhibit.

**23. Construction Projects.** The Agency assures that it will:

**a. Project Certifications.** Certify Project compliances, including:

- 1) Consultant and contractor selection comply with all applicable federal, state and local laws, rules, regulations, and policies.
- 2) All design plans and specifications comply with federal, state, and professional standards and applicable FAA advisory circulars, as well as the minimum standards established by the Department for State of Florida licensing as a public-use airport.
- 3) Completed construction complies with all applicable local building codes.
- 4) Completed construction complies with the Project plans and specifications with certification of that fact by the Project Engineer.

**b. Design Development.** For the plans, specifications, construction contract documents, and any and all other engineering, construction, and contractual documents produced by the Engineer, which are hereinafter collectively referred to as "plans", the Engineer will certify that:

- 1) The plans shall be developed in accordance with sound engineering and design principles, and with generally accepted professional standards.
- 2) The plans shall be consistent with the intent of the Project as defined in Exhibit A and Exhibit B of this Agreement.
- 3) The Project Engineer shall perform a review of the certification requirements listed in Section B.2. of this Exhibit, Construction Certification, and make a determination as to their applicability to this Project.
- 4) Development of the plans shall comply with all applicable laws, ordinances, zoning and permitting requirements, public notice requirements, and other similar regulations.

**c. Inspection and Approval.** The Agency assures that:

- 1) The Agency will provide and maintain competent technical supervision at the construction site throughout the Project to assure that the work conforms to the plans, specifications, and schedules approved by the Department, as applicable, for the Project.
- 2) The Agency assures that it will allow the Department to inspect the work and that it will provide any cost and progress reporting, as may be required by the Department.
- 3) The Agency assures that it will take the appropriate corrective action necessary, as required by the Department, for work which does not conform to the Department standards.

**d. Pavement Preventive Maintenance.** The Agency assures that for a project involving replacement or reconstruction of runway or taxiway pavement it has implemented an airport pavement maintenance management program and that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with state financial assistance at the airport.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

**24. Noise Mitigation Projects.** The Agency assures that it will:

- a. Government Agreements.** For all noise compatibility projects that are carried out by another unit of local government or are on property owned by a unit of local government other than the Agency, the Agency shall enter into an agreement with that government body.
  - 1) The local agreement, satisfactory to the Department, shall obligate the unit of local government to the same terms and assurances that apply to the Agency.
  - 2) The Agency assures that it will take steps to enforce the local agreement if there is substantial non-compliance with the terms of the local agreement.
- b. Private Agreements.** For noise compatibility projects on privately owned property:
  - 1) The Agency shall enter into an agreement with the owner of that property to exclude future actions against the airport.
  - 2) The Agency assures that it will take steps to enforce such agreement if there is substantial non-compliance with the terms of the agreement.

**- End of Exhibit E -**

**EXHIBIT F**

**Contract Payment Requirements**  
**Florida Department of Financial Services, Reference Guide for State Expenditures**  
***Cost Reimbursement Contracts***

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

**EXHIBIT G**

**AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE**

**THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

**SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~**

**Awarding Agency:** Florida Department of Transportation

**State Project Title:** Aviation Grant Program

**CSFA Number:** 55.004

**\*Award Amount:** \$128,000

\*The award amount may change with amendments

Specific project information for CSFA Number 55.004 is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

**COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:**

State Project Compliance Requirements for CSFA Number 55.004 are provided at:  
<https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

Financial Project Number(s): <small>(item-segment-phase-sequence)</small> 446673-1-94-01	Fund(s): Work Activity Code/Function: 215 Federal Number/Federal Award Identification Number (FAIN) – Transit only: N/A	DDR	FLAIR Category: 088719 Object Code: 751000 Org. Code: 55052000531 Vendor Number: VF591061002001
Contract Number:	Federal Award Date: N/A		
CFDA Number: N/A	Agency DUNS/UEI Number: 19-460-3577		
CFDA Title: N/A			
CSFA Number: 55.004			
CSFA Title: Aviation Grant Program			

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into \_\_\_\_\_, by and between the State of Florida, Department of Transportation, ("Department"), and Titusville-Cocoa Airport District, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 332.007, Florida Statutes, to enter into this Agreement.
2. **Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Design of Fuel Farm Replace/Repair at Space Coast Regional Airport, as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.
3. **Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

- ☒ **Aviation**
- ☐ **Seaports**
- ☐ **Transit**
- ☐ **Intermodal**
- ☐ **Rail Crossing Closure**
- ☐ **Match to Direct Federal Funding** (Aviation or Transit)
- ☐ (Note: Section 15 and Exhibit G do not apply to federally matched funding)
- ☐ **Other**

4. **Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

- ☒ Exhibit A: Project Description and Responsibilities
- ☒ Exhibit B: Schedule of Financial Assistance
- ☐ \*Exhibit B1: Deferred Reimbursement Financial Provisions
- ☐ \*Exhibit B2: Advance Payment Financial Provisions
- ☒ \*Exhibit C: Terms and Conditions of Construction
- ☒ Exhibit D: Agency Resolution
- ☒ Exhibit E: Program Specific Terms and Conditions
- ☒ Exhibit F: Contract Payment Requirements
- ☒ \*Exhibit G: Audit Requirements for Awards of State Financial Assistance



**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- ☐ \*Exhibit H: Audit Requirements for Awards of Federal Financial Assistance  
☐ \*Additional Exhibit(s):

\*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

**5. Time.** Unless specified otherwise, all references to “days” within this Agreement refer to calendar days.

**6. Term of Agreement.** This Agreement shall commence upon full execution by both Parties (“Effective Date”) and continue through June 1, 2024. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

a. ☐ If this box is checked the following provision applies:

Unless terminated earlier, work on the Project shall commence no later than the  day of , or within  days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

**7. Amendments, Extensions, and Assignment.** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

**8. Termination or Suspension of Project.** The Department may, by written notice to the Agency, suspend any or all of the Department’s obligations under this Agreement for the Agency’s failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

- a. Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
- c. If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department’s maximum financial assistance. If any portion of the Project is located on the Department’s right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.
- d. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.
- e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

**9. Project Cost:**

- a. The estimated total cost of the Project is \$170,000. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.
- b. The Department agrees to participate in the Project cost up to the maximum amount of \$136,000 and, the Department's participation in the Project shall not exceed 80.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

**10. Compensation and Payment:**

- a. **Eligible Cost.** The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.
- b. **Deliverables.** The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.
- c. **Invoicing.** Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.
- d. **Supporting Documentation.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.
- e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:  
  
☒ Travel expenses are NOT eligible for reimbursement under this Agreement.  
  
☐ Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

f. **Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

g. **Invoice Processing.** An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

h. **Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

i. **Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.

j. **Submission of Other Documents.** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

- k. **Offsets for Claims.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- l. **Final Invoice.** The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- m. **Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.
- n. **Limits on Contracts Exceeding \$25,000 and Term more than 1 Year.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:
- "The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."
- o. **Agency Obligation to Refund Department.** Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- p. **Non-Eligible Costs.** In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

in writing by the Department. Specific unallowable costs may be listed in **Exhibit “A”, Project Description and Responsibilities**.

**11. General Requirements.** The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. **Necessary Permits Certification.** The Agency shall certify to the Department that the Agency’s design consultant and/or construction contractor has secured the necessary permits.
- b. **Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.
- c. **Notification Requirements When Performing Construction on Department’s Right-of-Way.** In the event the cost of the Project is greater than \$250,000.00, and the Project involves construction on the Department’s right-of-way, the Agency shall provide the Department with written notification of either its intent to:
  - i. Require the construction work of the Project that is on the Department’s right-of-way to be performed by a Department prequalified contractor, or
  - ii. Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.
- d. ☐ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).
- e. ☐ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):
  - i. ☐ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).
  - ii. ☐ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.
  - iii. ☐ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.
- f. **Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.
- g. **Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

**12. Contracts of the Agency:**

- a. **Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.
- b. **Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.
- c. **Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.
- d. **Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

**13. Maintenance Obligations.** In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

**14. Sale, Transfer, or Disposal of Department-funded Property:**

- a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.
- b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:
  - i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.
  - ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.
  - iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.
  - iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.
- c. The terms of provisions "a" and "b" above shall survive the termination of this Agreement.
  - i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.
  - ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

**15. Single Audit.** The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

**Federal Funded:**

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

- b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:
- i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “H”, Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
  - ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
  - iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency’s audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency’s resources obtained from other than Federal entities).
  - iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
  - v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency’s audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
  2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
  3. Wholly or partly suspend or terminate the Federal award;
  4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
  5. Withhold further Federal awards for the Project or program;
  6. Take other remedies that may be legally available.
- vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0450  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

**State Funded:**

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.
- b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:
  - i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance**, to this Agreement indicates state financial

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

- ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).
- iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation  
Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0405  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

And

State of Florida Auditor General  
Local Government Audits/342  
111 West Madison Street, Room 401  
Tallahassee, FL 32399-1450  
Email: [flaudgen\\_localgovt@aud.state.fl.us](mailto:flaudgen_localgovt@aud.state.fl.us)

- v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
- viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

**16. Notices and Approvals.** Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

**17. Restrictions, Prohibitions, Controls and Labor Provisions:**

- a. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.
- d. **Prohibition on Using Funds for Lobbying.** No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- e. **Unauthorized Aliens.** The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. **Procurement of Construction Services.** If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.
- g. **E-Verify.** The Agency shall:
  - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and
  - ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- h. **Executive Order 20-44.** Pursuant to Governor's Executive Order 20-44, if the Agency is required by the Internal Revenue Code to file IRS Form 990 and is named in statute with which the Department must form a sole-source, public-private agreement; or through contract or other agreement with the State, annually receives 50% or more of its budget from the State or from a combination of State and Federal funds, Recipient shall submit an Annual Report to the Department, including the most recent IRS Form 990, detailing the total compensation for each member of the Agency executive leadership team. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Agency shall inform the Department of any changes in total executive compensation during the period between the filing of Annual Reports within 60 days of any change taking effect. All compensation reports shall detail the percentage of executive leadership compensation received directly from all State and/or Federal allocations to the Agency. Annual Reports shall be in the form approved by the Department and shall be submitted to the Department at [fdotsingleaudit@dot.state.fl.us](mailto:fdotsingleaudit@dot.state.fl.us) within 180 days following the end of each tax year of the Agency receiving Department funding.
- i. **Design Services and Construction Engineering and Inspection Services.** If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

**18. Indemnification and Insurance:**

- a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, the Agency shall indemnify, defend, and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including,

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 01/22

but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify, defend, and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement."

- b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.
- c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.
- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

**19. Miscellaneous:**

- a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.
- b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

- g. Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- h. Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).
- i. Inspector General Cooperation.** The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.
- j. Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

AGENCY Titusville-Cocoa Airport District

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: C. Jack Adkins

Title: \_\_\_\_\_

Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
Legal Review:

Daniel L. McDermott

## EXHIBIT A

### Project Description and Responsibilities

**A. Project Description** (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): The project includes technical planning, survey and base drawings, engineering design criteria, airspace analysis, geotechnical studies, cost estimating, bidding, wildlife survey / relocation and construction phase services in connection with the removal of the current fuel farm and the construction of a new fuel farm and support facilities at the Space Coast Regional Airport (TIX). The current tanks have outlived their useful life and do not meet current code or standards.

**B. Project Location** (limits, city, county, map): Space Coast Regional Airport/Titusville, FL/Brevard

**C. Project Scope** (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): Fuel Farms (Design/Construct/Expand/Relocate/Modify/Improve/Rehabilitate): As required by 215.971, F.S., this scope of work includes but is not limited to consultant and design fees, survey and geotechnical costs, permitting, construction phase services and material testing costs, mobilization and demobilization, maintenance of traffic, erosion control, demolition, pavement (access roadways, parking lots, and sidewalks), drainage, utilities, primary power and back-up power supplies, pavement marking, lighting and signage, fencing and gates, landscaping; fuel tanks, dispensers, piping, fuel spill prevention and contamination systems, decommissioning of existing fuel farms (tank removal or capping); and security system, including all materials, equipment, labor, and incidentals required to complete the fuel farm project.

Further breakdown can be found in the Scope of Services provided by Avcon, Inc. dated January 10, 2022. The Sponsor will comply with Aviation Program Assurances.

**D. Deliverable(s)**: Final documents to be uploaded into Jacip.

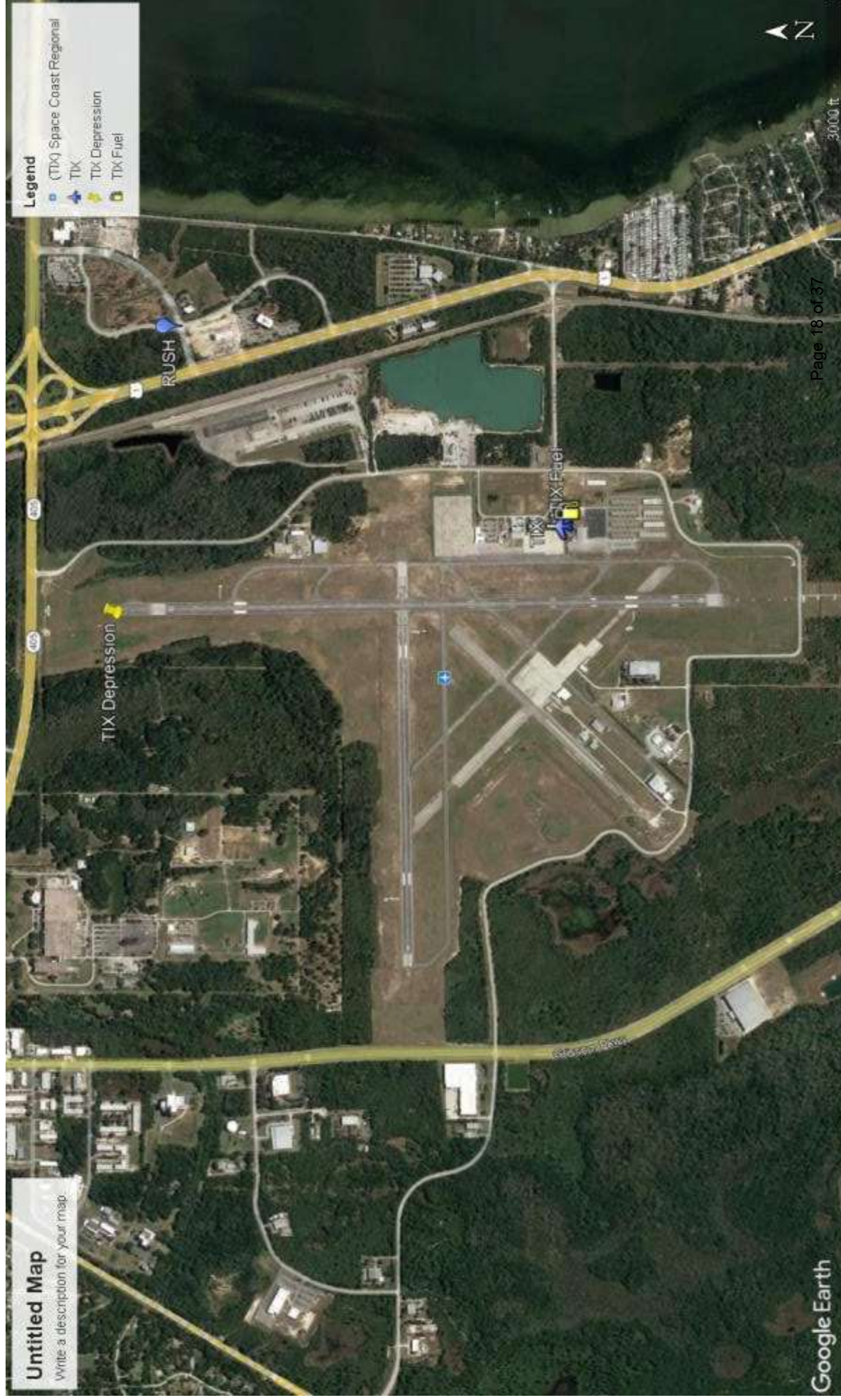
The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

**E. Unallowable Costs** (including but not limited to): Stored Materials

**F. Transit Operating Grant Requirements (Transit Only):**

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants. Operating grants may be issued for a term not to exceed three years from execution. The original grant agreement will include funding for year one. Funding for years two and three will be added by amendment as long as the grantee has submitted all invoices on schedule and the project deliverables for the year have been met.





STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
 STRATEGIC  
 DEVELOPMENT  
 OGC 02/20

**EXHIBIT B**

**Schedule of Financial Assistance**

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT  
 CONSIST OF THE FOLLOWING:

**A. Fund Type and Fiscal Year:**

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
446673-1-94-01	DDR	088719	2022	751000	55.004	Aviation Grant Program	\$136,000.00
446673-1-94-01	LF	088719	2022	751000	55.004	Aviation Grant Program	\$34,000.00
<b>Total Financial Assistance</b>							<b>\$170,000.00</b>

**B. Estimate of Project Costs by Grant Phase:**

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Planning	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Environmental/Design/Construction	\$136,000.00	\$34,000.00	\$0.00	\$170,000.00	80.00	20.00	0.00
Capital Equipment/ Preventative Maintenance	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Match to Direct Federal Funding	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Mobility Management (Transit Only)	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
<b>Totals</b>	<b>\$136,000.00</b>	<b>\$34,000.00</b>	<b>\$0.00</b>	<b>\$170,000.00</b>			

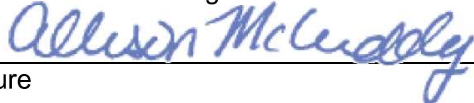
\*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

**BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:**

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Allison McCuddy

Department Grant Manager Name



Signature

2/2/2022

Date

**EXHIBIT C**

**TERMS AND CONDITIONS OF CONSTRUCTION**

**1. Design and Construction Standards and Required Approvals.**

- a. The Agency understands that it is responsible for the preparation and certification of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project or, if applicable, the Agency shall require their design-build contractor or construction management contractor to hire a qualified consultant for the design phase of the Project.
- b. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Agency shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Project Manager, Allison McCuddy (email: Allison.mccuddy @dot.state.fl.us) or from an appointed designee. Any construction phase work performed prior to the execution of this required Notice to Proceed is not subject to reimbursement.
- c. The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Project Manager prior to bidding or commencing construction of the Project.
- d. The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with applicable law(s).
- e. The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that the construction work will meet all applicable Agency and Department standards.
- f. Upon completion of the work authorized by this Agreement, the Agency shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineer's Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Exhibit. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans or specifications, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

**2. Construction on the Department's Right of Way.** If the Project involves construction on the Department's right-of-way, then the following provisions apply to any and all portions of the Project that are constructed on the Department's right-of-way:

- a. The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project. The Agency must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or the Contractor exhibits past project experience in the last five years that are comparable in scale, composition, and overall quality to the site characterized within the scope of services of this Project.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

- b. Construction Engineering Inspection (CEI) services will be provided by the Agency by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Notwithstanding the foregoing, the Department may issue a written waiver of the CEI requirement for portions of Projects involving the construction of bus shelters, stops, or pads.
- c. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction, the Department Design Standards, and the Manual of Uniform Traffic Control Devices (MUTCD). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, Florida Design Manual, Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), and the Department Traffic Engineering Manual. The Agency will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Agency shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Agency shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.
- d. The Agency shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Agency shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is Allison McCuddy.
- e. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic (MOT) throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- f. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
- g. The Agency will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
- h. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Agency, except as may otherwise be provided in separate agreements. The Agency shall not acquire any right, title, interest or

estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Agency's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, F.S.

- i. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.
- j. The Agency shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.
- k. The Agency shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Coast Guard and local governmental entities.
- l. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. The Agency shall bear all construction delay costs incurred by the Department.
- m. The Agency shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
- n. The Agency will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
- o. The acceptance procedure will include a final "walk-through" by Agency and Department personnel. Upon completion of construction, the Agency will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Agency shall remove its presence, including, but not limited to, all of the Agency's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
- p. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Agency and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense,



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

without Department liability to the Agency for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice within thirty (30) days of the date of the invoice.

- q. The Agency shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Agency shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.
- r. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Agency to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.
- s. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
- t. Restricted hours of operation will be as follows, unless otherwise approved by the Department's District Construction Engineer or designee (insert hours and days of the week for restricted operation): N/A
- u. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contact info:

800-780-7102

**Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)**

- 3. **Engineer's Certification of Compliance.** The Agency shall complete and submit and if applicable Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

**ENGINEER'S CERTIFICATION OF COMPLIANCE**

PUBLIC TRANSPORTATION GRANT AGREEMENT  
BETWEEN  
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
and \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_

DEPARTMENT CONTRACT NO.: \_\_\_\_\_

FINANCIAL MANAGEMENT NO.: \_\_\_\_\_

In accordance with the Terms and Conditions of the Public Transportation Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish the Department a set of "as-built" plans for construction on the Department's Right of Way certified by the Engineer of Record/CEI.

By: \_\_\_\_\_, P.E.

SEAL:

Name: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

**EXHIBIT D**

**AGENCY RESOLUTION**

***PLEASE SEE ATTACHED***



**EXHIBIT E**

**PROGRAM SPECIFIC TERMS AND CONDITIONS - AVIATION**  
**AVIATION PROGRAM ASSURANCES**

**A. General.**

1. The assurances herein shall form an integral part of the Agreement between the Department and the Agency.
2. These assurances delineate the obligations of the Parties to this Agreement to ensure their commitment and compliance with specific provisions of **Exhibit "A", Project Description and Responsibilities**, and **Exhibit "B", Schedule of Financial Assistance**, as well as serving to protect public investment in public-use airports and the continued viability of the Florida Aviation System.
3. The Agency shall comply with the assurances as specified in this Agreement.
4. The terms and assurances of this Agreement shall remain in full force and effect throughout the useful life of a facility developed; equipment acquired; or Project items installed within a facility for an airport development or noise compatibility program project, but shall not exceed 20 years from the effective date of this Agreement.
5. There shall be no limit on the duration of the terms and assurances of this Agreement regarding Exclusive Rights and Airport Revenue so long as the property is used as a public airport.
6. There shall be no limit on the duration of the terms and assurances of this Agreement with respect to real property acquired with funds provided by this Agreement.
7. Subject to appropriations, the Department shall continue to comply with its financial commitment to this Project under the terms of this Agreement, until such time as the Department may determine that the Agency has failed to comply with the terms and assurances of this Agreement.
8. An Agency that has been determined by the Department to have failed to comply with either the terms of these Assurances, or the terms of the Agreement, or both, shall be notified, in writing, by the Department, identifying the specifics of the non-compliance and any corrective action by the Agency to remedy the failure.
9. Failure by the Agency to satisfactorily remedy the non-compliance shall absolve the Department's continued financial commitment to this Project and immediately require the Agency to repay the Department the full amount of funds expended by the Department on this Project.
10. Any history of failure to comply with the terms and assurances of an Agreement will jeopardize the Agency's eligibility for further state funding of airport projects by the Department.

**B. Agency Compliance Certification.**

1. **General Certification.** The Agency hereby certifies, with respect to this Project, it will comply, within its authority, with all applicable, current laws and rules of the State of Florida and applicable local governments, as well as Department policies, guidelines, and requirements, including but not limited to, the following (latest version of each document):
  - a. **Florida Statutes (F.S.)**
    - Chapter 163, F.S., Intergovernmental Programs
    - Chapter 329, F.S., Aircraft: Title; Liens; Registration; Liens
    - Chapter 330, F.S., Regulation of Aircraft, Pilots, and Airports
    - Chapter 331, F.S., Aviation and Aerospace Facilities and Commerce
    - Chapter 332, F.S., Airports and Other Air Navigation Facilities
    - Chapter 333, F.S., Airport Zoning

- b. Florida Administrative Code (FAC)**
- Chapter 73C-41, FAC, Community Planning; Governing the Procedure for the Submittal and Review of Local Government Comprehensive Plans and Amendments
  - Chapter 14-60, FAC, Airport Licensing, Registration, and Airspace Protection
  - Section 62-256.300, FAC, Open Burning, Prohibitions
  - Section 62-701.320(13), FAC, Solid Waste Management Facility Permit Requirements, General, Airport Safety
- c. Local Government Requirements**
- Airport Zoning Ordinance
  - Local Comprehensive Plan
- d. Department Requirements**
- Eight Steps of Building a New Airport
  - Florida Airport Revenue Use Guide
  - Florida Aviation Project Handbook
  - Guidebook for Airport Master Planning
  - Airport Compatible Land Use Guidebook
- 2. Construction Certification.** The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, as well as Federal Aviation Administration (FAA) Advisory Circulars (AC's) and FAA issued waivers thereto, including but not limited to, the following:
- a. Federal Requirements**
- FAA AC 70/7460-1, Obstruction Marking and Lighting
  - FAA AC 150/5300-13, Airport Design
  - FAA AC 150/5370-2, Operational Safety on Airports During Construction
  - FAA AC 150/5370-10, Standards for Specifying Construction of Airports
- b. Local Government Requirements**
- Local Building Codes
  - Local Zoning Codes
- c. Department Requirements**
- Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the "Florida Green Book")
  - Manual on Uniform Traffic Control Devices
  - Section 14-60.007, FAC, Airfield Standards for Licensed Airports
  - Standard Specifications for Construction of General Aviation Airports
  - Design Guidelines & Minimum Standard Requirements for T-Hangar Projects
- 3. Land Acquisition Certification.** The Agency hereby certifies, regarding land acquisition, that it will comply with applicable federal and/or state policies, regulations, and laws, including but not limited to the following:
- a. Federal Requirements**
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
  - National Environmental Policy of 1969
  - FAA Order 5050.4, National Environmental Policy Act Implementing Instructions for Airport Projects
  - FAA Order 5100.37B, Land Acquisition and Relocation Assistance for Airport Projects
- b. Florida Requirements**
- Chapter 73, F.S., Eminent Domain (re: Property Acquired Through Condemnation)
  - Chapter 74, F.S., Proceedings Supplemental to Eminent Domain (re: Condemnation)
  - Section 286.23, F.S., Public Business: Miscellaneous Provisions

**C. Agency Authority.**

1. **Legal Authority.** The Agency hereby certifies, with respect to this Agreement, that it has the legal authority to enter into this Agreement and commit to this Project; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the airport sponsor's governing body authorizing this Agreement, including assurances contained therein, and directing and authorizing the person identified as the official representative of the governing body to act on its behalf with respect to this Agreement and to provide any additional information as may be required.
2. **Financial Authority.** The Agency hereby certifies, with respect to this Agreement, that it has sufficient funds available for that portion of the Project costs which are not paid by the U.S. Government or the State of Florida; that it has sufficient funds available to assure future operation and maintenance of items funded by this Project, which it will control; and that authority has been granted by the airport sponsor governing body to commit those funds to this Project.

**D. Agency Responsibilities.** The Agency hereby certifies it currently complies with or will comply with the following responsibilities:

**1. Accounting System.**

- a. The Agency shall create and maintain a separate account to document all of the financial transactions related to the airport as a distinct entity.
- b. The accounting records shall be kept by the Agency or its authorized representative in accordance with Generally Accepted Accounting Principles and in an accounting system that will facilitate an effective audit in accordance with the 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and Section 215.97, F.S., Florida Single Audit Act.
- c. The Department has the right to audit and inspect all financial records of the Agency upon reasonable notice.

**2. Good Title.**

- a. The Agency holds good title, satisfactory to the Department, to the airport or site thereof, or gives assurance, satisfactory to the Department, that good title will be obtained.
- b. For noise compatibility program projects undertaken on the airport sponsor's property, the Agency holds good title, satisfactory to the Department, to that portion of the property upon which state funds will be expended, or gives assurance, satisfactory to the Department, that good title will be obtained.

**3. Preserving Rights and Powers.**

- a. The Agency shall not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms and assurances of this Agreement without the written approval of the Department. Further, the Agency shall act promptly to acquire, extinguish, or modify, in a manner acceptable to the Department, any outstanding rights or claims of right of others which would interfere with such performance by the Agency.
- b. If an arrangement is made for management and operation of the airport by any entity or person other than the Agency or an employee of the Agency, the Agency shall reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with the terms and assurances of this Agreement.

**4. Hazard Removal and Mitigation.**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

- a. For airport hazards located on airport controlled property, the Agency shall clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
- b. For airport hazards not located on airport controlled property, the Agency shall work in conjunction with the governing public authority or private land owner of the property to clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards. The Agency may enter into an agreement with surrounding property owners or pursue available legal remedies to remove potential hazards to air navigation.

**5. Airport Compatible Land Use.**

- a. The Agency assures that appropriate airport zoning ordinances are in place consistent with Section 333.03, F.S., or if not in place, that it will take appropriate action necessary to ensure local government adoption of an airport zoning ordinance or execution of an interlocal agreement with another local government body having an airport zoning ordinance, consistent with the provisions of Section 333.03, F.S.
- b. The Agency assures that it will disapprove or oppose any attempted alteration or creation of objects, natural or man-made, dangerous to navigable airspace or that would adversely affect the current or future levels of airport operations.
- c. The Agency assures that it will disapprove or oppose any attempted change in local land use development regulations that would adversely affect the current or future levels of airport operations by creation or expansion of airport incompatible land use areas.

**6. Consistency with Local Government Plans.**

- a. The Agency assures the Project is consistent with the currently existing and planned future land use development plans approved by the local government having jurisdictional responsibility for the area surrounding the airport.
- b. The Agency assures that it has given fair consideration to the interest of local communities and has had reasonable consultation with those parties affected by the Project.
- c. The Agency shall consider and take appropriate actions, if deemed warranted by the Agency, to adopt the current, approved Airport Master Plan into the local government comprehensive plan.

**7. Consistency with Airport Master Plan and Airport Layout Plan.**

- a. The Agency assures that the project, covered by the terms and assurances of this Agreement, is consistent with the most current Airport Master Plan.
- b. The Agency assures that the Project, covered by the terms and assurances of this Agreement, is consistent with the most current, approved Airport Layout Plan (ALP), which shows:
  - 1) The boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Agency for airport purposes and proposed additions thereto;
  - 2) The location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and
  - 3) The location of all existing and proposed non-aviation areas on airport property and of all existing improvements thereon.

- c. The Agency assures that it will not make or permit any changes or alterations on the airport or any of its facilities that are not consistent with the Airport Master Plan and the Airport Layout Plan, as approved by the Department.
- d. Original Airport Master Plans and Airport Layout Plans and each amendment, revision, or modification thereof, will be subject to the approval of the Department.

**8. Airport Financial Plan.**

- a. The Agency assures that it will develop and maintain a cost-feasible Airport financial plan to accomplish the projects necessary to achieve the proposed airport improvements identified in the Airport Master Plan and depicted in the Airport Layout Plan, and any updates thereto. The Agency's Airport financial plan must comply with the following conditions:
  - 1) The Airport financial plan will be a part of the Airport Master Plan.
  - 2) The Airport financial plan will realistically assess project phasing considering availability of state and local funding and likelihood of federal funding under the FAA's priority system.
  - 3) The Airport financial plan will not include Department funding for projects that are inconsistent with the local government comprehensive plan.
- b. All Project cost estimates contained in the Airport financial plan shall be entered into and kept current in the Florida Aviation Database (FAD) Joint Automated Capital Improvement Program (JACIP) website.

**9. Airport Revenue.** The Agency assures that all revenue generated by the airport will be expended for capital improvement or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the air transportation of passengers or property, or for environmental or noise mitigation purposes on or off the airport.

**10. Fee and Rental Structure.**

- a. The Agency assures that it will maintain a fee and rental structure for facilities and services at the airport that it will make the airport as self-sustaining as possible under the circumstances existing at the particular airport.
- b. If this Agreement results in a facility that will be leased or otherwise produce revenue, the Agency assures that the price charged for that facility will be based on the market value.

**11. Public-Private Partnership for Aeronautical Uses.**

- a. If the airport owner or operator and a person or entity that owns an aircraft or an airport tenant or potential tenant agree that an aircraft hangar or tenant-specific facility, respectively, is to be constructed on airport property for aircraft storage or tenant use at the expense of the aircraft owner or tenant, the airport owner or operator may grant to the aircraft owner or tenant of the facility a lease that is subject to such terms and conditions on the facility as the airport owner or operator may impose, subject to approval by the Department.
- b. The price charged for said lease will be based on market value, unless otherwise approved by the Department.

**12. Economic Nondiscrimination.**

- a. The Agency assures that it will make the airport available as an airport for public use on reasonable terms without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public.
  - 1) The Agency may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

- 2) The Agency may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

- b. The Agency assures that each airport Fixed-Based Operator (FBO) shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other FBOs making the same or similar uses of such airport and utilizing the same or similar facilities.

**13. Air and Water Quality Standards.** The Agency assures that all projects involving airport location, major runway extension, or runway location will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

**14. Operations and Maintenance.**

- a. The Agency assures that the airport and all facilities, which are necessary to serve the aeronautical users of the airport, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable federal and state agencies for maintenance and operation, as well as minimum standards established by the Department for State of Florida licensing as a public-use airport.
  - 1) The Agency assures that it will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.
  - 2) Except in emergency situations, any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Department.
  - 3) The Agency assures that it will have arrangements for promptly notifying airmen of any condition affecting aeronautical use of the airport.
- b. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when adverse weather conditions interfere with safe airport operations.

**15. Federal Funding Eligibility.**

- a. The Agency assures it will take appropriate actions to maintain federal funding eligibility for the airport and it will avoid any action that renders the airport ineligible for federal funding.
- b. If the Agency becomes ineligible for federal funding of airport projects, such determination will render the Agency ineligible for state funding of airport projects.

**16. Project Implementation.**

- a. The Agency assures that it will begin making expenditures or incurring obligations pertaining to this Project within one year after the effective date of this Agreement.
- b. The Agency may request a one-year extension of this one-year time period, subject to approval by the Department District Secretary or designee.
- c. Failure of the Agency to make expenditures, incur obligations or receive an approved extension may allow the Department to terminate this Agreement.

**17. Exclusive Rights.** The Agency assures that it will not permit any exclusive right for use of the airport by any person providing, or intending to provide, aeronautical services to the public.

**18. Airfield Access.**

- a. The Agency assures that it will not grant or allow general easement or public access that opens onto or crosses the airport runways, taxiways, flight line, passenger facilities, or any area used for emergency

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

equipment, fuel, supplies, passengers, mail and freight, radar, communications, utilities, and landing systems, including but not limited to flight operations, ground services, emergency services, terminal facilities, maintenance, repair, or storage, except for those normal airport providers responsible for standard airport daily services or during special events at the airport open to the public with limited and controlled access.

- b. The Agency assures that it will not grant or allow general easement or public access to any portion of the airfield from adjacent real property which is not owned, operated, or otherwise controlled by the Agency without prior Department approval.

**19. Retention of Rights and Interests.** The Agency will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the real property shown as airport owned or controlled on the current airport layout plan without prior written approval by the Department. It will not sell, lease, encumber, terminate, waive, or otherwise transfer or dispose of any part of its title, rights, or other interest in existing noise easements or aviation easements on any property, airport or non-airport, without prior written approval by the Department. These assurances shall not limit the Agency's right to lease airport property for airport-compatible purposes.

**20. Consultant, Contractor, Scope, and Costs.**

- a. The Department has the right to disapprove the Agency's employment of consultants, contractors, and subcontractors for all or any part of this Project if the specific consultants, contractors, or subcontractors have a record of poor project performance with the Department.
- b. Further, the Department maintains the right to disapprove the proposed Project scope and cost of professional services.

**21. Planning Projects.** For all planning projects or other aviation studies, the Agency assures that it will:

- a. Execute the project per the approved project narrative or with approved modifications.
- b. Furnish the Department with such periodic project and work activity reports as indicated in the approved scope of services.
- c. Make such project materials available for public review, unless exempt from public disclosure.
  - 1) Information related to airport security is considered restricted information and is exempt from public dissemination per Sections 119.071(3) and 331.22 F.S.
  - 2) No materials prepared under this Agreement shall be subject to copyright in the United States or any other country.
- d. Grant the Department unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this Agreement.
- e. If the Project involves developing an Airport Master Plan or an Airport Layout Plan, and any updates thereto, it will be consistent with provisions of the Florida Aviation System Plan, will identify reasonable future growth of the airport and the Agency will comply with the Department airport master planning guidebook, including:
  - 1) Provide copies, in electronic and editable format, of final Project materials to the Department, including computer-aided drafting (CAD) files of the Airport Layout Plan.
  - 2) Develop a cost-feasible financial plan, approved by the Department, to accomplish the projects described in the Airport Master Plan or depicted in the Airport Layout Plan, and any updates thereto. The cost-feasible financial plan shall realistically assess Project phasing considering availability of state and local funding and federal funding under the FAA's priority system.
  - 3) Enter all projects contained in the cost-feasible plan in the Joint Automated Capital Improvement Program (JACIP).

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

- f. The Agency understands and agrees that Department approval of this Agreement or any planning material developed as part of this Agreement does not constitute or imply any assurance or commitment on the part of the Department to approve any pending or future application for state aviation funding.
- g. The Agency will submit master planning draft and final deliverables for Department and, if required, FAA approval prior to submitting any invoices to the Department for payment.

**22. Land Acquisition Projects.** For the purchase of real property, the Agency assures that it will:

- a. **Laws.** Acquire the land in accordance with federal and/or state laws governing such action.
- b. **Administration.** Maintain direct control of Project administration, including:
  - 1) Maintain responsibility for all related contract letting and administrative procedures related to the purchase of real property.
  - 2) Secure written Department approval to execute each agreement for the purchase of real property with any third party.
  - 3) Ensure a qualified, State-certified general appraiser provides all necessary services and documentation.
  - 4) Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
  - 5) Establish a Project account for the purchase of the land.
  - 6) Collect and disburse federal, state, and local project funds.
- c. **Reimbursable Funds.** If funding conveyed by this Agreement is reimbursable for land purchase in accordance with Chapter 332, F.S., the Agency shall comply with the following requirements:
  - 1) The Agency shall apply for a FAA Airport Improvement Program grant for the land purchase within 60 days of executing this Agreement.
  - 2) If federal funds are received for the land purchase, the Agency shall notify the Department, in writing, within 14 calendar days of receiving the federal funds and is responsible for reimbursing the Department within 30 calendar days to achieve normal project federal, state, and local funding shares per Chapter 332, F.S.
  - 3) If federal funds are not received for the land purchase, the Agency shall reimburse the Department within 30 calendar days after the reimbursable funds are due in order to achieve normal project state and local funding shares as described in Chapter 332, F.S.
  - 4) If federal funds are not received for the land purchase and the state share of the purchase is less than or equal to normal state and local funding shares per Chapter 332, F.S., when reimbursable funds are due, no reimbursement to the Department shall be required.
- d. **New Airport.** If this Project involves the purchase of real property for the development of a new airport, the Agency assures that it will:
  - 1) Apply for federal and state funding to construct a paved runway, associated aircraft parking apron, and connecting taxiway within one year of the date of land purchase.
  - 2) Complete an Airport Master Plan within two years of land purchase.
  - 3) Complete airport construction for basic operation within 10 years of land purchase.
- e. **Use of Land.** The Agency assures that it shall use the land for aviation purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.
- f. **Disposal of Land.** For the disposal of real property the Agency assures that it will comply with the following:
  - 1) For land purchased for airport development or noise compatibility purposes, the Agency shall, when the land is no longer needed for such purposes, dispose of such land at fair market value and/or make available to the Department an amount equal to the state's proportionate share of its market value.



- 2) Land will be considered to be needed for airport purposes under this assurance if:
  - a) It serves aeronautical purposes such as a runway protection zone or as a noise buffer.
  - b) Revenue from uses of such land contributes to airport financial self-sufficiency.
- 3) Disposition of land under Sections D.22.f.1. or D.22.f.2. of this Exhibit, above, shall be subject to retention or reservation of any interest or right therein needed to ensure such land will only be used for purposes compatible with noise levels related to airport operations.
- 4) Revenues from the sale of such land must be accounted for as outlined in Section D.1. of this Exhibit, and expended as outlined in Section D.9. of this Exhibit.

**23. Construction Projects.** The Agency assures that it will:

**a. Project Certifications.** Certify Project compliances, including:

- 1) Consultant and contractor selection comply with all applicable federal, state and local laws, rules, regulations, and policies.
- 2) All design plans and specifications comply with federal, state, and professional standards and applicable FAA advisory circulars, as well as the minimum standards established by the Department for State of Florida licensing as a public-use airport.
- 3) Completed construction complies with all applicable local building codes.
- 4) Completed construction complies with the Project plans and specifications with certification of that fact by the Project Engineer.

**b. Design Development.** For the plans, specifications, construction contract documents, and any and all other engineering, construction, and contractual documents produced by the Engineer, which are hereinafter collectively referred to as "plans", the Engineer will certify that:

- 1) The plans shall be developed in accordance with sound engineering and design principles, and with generally accepted professional standards.
- 2) The plans shall be consistent with the intent of the Project as defined in Exhibit A and Exhibit B of this Agreement.
- 3) The Project Engineer shall perform a review of the certification requirements listed in Section B.2. of this Exhibit, Construction Certification, and make a determination as to their applicability to this Project.
- 4) Development of the plans shall comply with all applicable laws, ordinances, zoning and permitting requirements, public notice requirements, and other similar regulations.

**c. Inspection and Approval.** The Agency assures that:

- 1) The Agency will provide and maintain competent technical supervision at the construction site throughout the Project to assure that the work conforms to the plans, specifications, and schedules approved by the Department, as applicable, for the Project.
- 2) The Agency assures that it will allow the Department to inspect the work and that it will provide any cost and progress reporting, as may be required by the Department.
- 3) The Agency assures that it will take the appropriate corrective action necessary, as required by the Department, for work which does not conform to the Department standards.

**d. Pavement Preventive Maintenance.** The Agency assures that for a project involving replacement or reconstruction of runway or taxiway pavement it has implemented an airport pavement maintenance management program and that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with state financial assistance at the airport.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

**24. Noise Mitigation Projects.** The Agency assures that it will:

- a. Government Agreements.** For all noise compatibility projects that are carried out by another unit of local government or are on property owned by a unit of local government other than the Agency, the Agency shall enter into an agreement with that government body.
  - 1) The local agreement, satisfactory to the Department, shall obligate the unit of local government to the same terms and assurances that apply to the Agency.
  - 2) The Agency assures that it will take steps to enforce the local agreement if there is substantial non-compliance with the terms of the local agreement.
- b. Private Agreements.** For noise compatibility projects on privately owned property:
  - 1) The Agency shall enter into an agreement with the owner of that property to exclude future actions against the airport.
  - 2) The Agency assures that it will take steps to enforce such agreement if there is substantial non-compliance with the terms of the agreement.

**- End of Exhibit E -**

**EXHIBIT F**

**Contract Payment Requirements**  
**Florida Department of Financial Services, Reference Guide for State Expenditures**  
***Cost Reimbursement Contracts***

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

**EXHIBIT G**

**AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE**

**THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

**SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~**

**Awarding Agency:** Florida Department of Transportation  
**State Project Title:** Aviation Grant Program  
**CSFA Number:** 55.004  
**\*Award Amount:** \$136,000

\*The award amount may change with amendments

Specific project information for CSFA Number 55.004 is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

**COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:**

State Project Compliance Requirements for CSFA Number 55.004 are provided at:  
<https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>

**ABSTRACT OF NON-AERONAUTICAL GROUND LEASE  
AND DEVELOPMENT AGREEMENT**

**AIRPORT:** Space Coast Regional Airport (TIX)

**TENANT:** Space Coast Innovation Park, LLC

**LANDLORD:** Titusville-Cocoa Airport Authority

**LEASED PREMISES:** Phase 1- approx. 50 acres of non-aeronautical land  
(exact size subject to final site plan)

**LEASE TERM  
(PHASE 1):** Fifty (50) years with two (2) renewal options of ten (10) years each

**LEASE RENT- PHASE 1:** 12% of FMV, subject to CPI annual adjustments with a floor of 2.5% and a ceiling of 3.5% commencing as follows, and a FMV adjustment on renewal option if exercised:  
Twenty (20%) percent on the earlier of the date Tenant receives a Certificate of Occupancy for approximately 20% of the Phase 1 Property or August 1, 2024;  
Additional twenty (20%) percent on the earlier of the date Tenant receives a Certificate of Occupancy for approximately forty (40%) percent of Phase 1 or August 1, 2024;  
Additional twenty (20%) percent on the earlier of the date Tenant receives Certificates of Occupancy for approximately sixty (60%) percent of Phase 1 or August 1, 2025;  
Additional twenty (20%) percent of Tenant's total obligation to pay base rent on the earlier of the date Tenant receives Certificates of Occupancy for approximately eighty (80%) percent of the Phase 1 Property or August 1, 2025;  
Additional twenty (20%) percent on the earlier of the date Tenant receives Certificates of Occupancy allowing lawful use for approximately one hundred (100%) percent of the Phase 1 Property or no later than August 1, 2025

**ESTIMATED  
IMPROVMENTS TO BE  
CONSTRUCTED  
BY TENANT PHASE 1:** Over 600,000 sq. ft. of new construction buildings and related Infrastructure (see attached preliminary site plan)

**OPTION PREMISES:** Phase 2- approx. 50 acres of non-aeronautical land  
(exact size subject to final site plan)

**OPTION TERM:** Three (3) years

<b>OPTION FEE:</b>	30% of FMV of Phase 2
<b>ROFR PREMISES:</b>	Phase 3- approx. 350 acres of non-aeronautical land (exact size subject to final site plan)
<b>ROFR TERM:</b>	Six (6) years, but if Phase 2 Option exercised, Tenant has the right to convert ROFR on Phase 3 to a 3 year Option on the Phase 3 area
<b>ROFR CONSIDERATION:</b>	While still a ROFR, consideration for ROFR shall be the studies/reports for the site conducted by Tenant on Phase 3 which shall be assignable to Authority. If and upon conversion to an Option, Option Fee would be calculate din the same manner as Phase 2 Option Fee (i.e. 30% of FMV of involved Phase 3 Premises)
<b>RENT FOR PHASE 2 &amp; PHASE 3:</b>	12% of FMV and commenced in a staggered fashion similar to Phase 1 above
<b>LEASE TERM FOR PHASE 2 &amp; 3 (IF EXERCISED):</b>	<p>Phase 2 would run concurrently with Phase 1- i.e. Fifty (50) years with two (2) renewal options of ten (10) years each</p> <p>Phase 3 would be fifty (50) years with two (2) renewal options of ten (10) years each, under a stand alone lease commencing on exercise</p>
<b>MAJOR DEVELOPMENT MILESTONES FOR <u>PHASE 1:</u></b>	<p>Pre-development studies to commence by June 2, 2022 and be completed by June 30, 2023;</p> <p>Master infrastructure design and construction to commence by June 2, 2022 and be completed by June 1, 2024;</p> <p>Phase 1 Property mass grading, clearing, development and permitting to commence by April 27, 2023 and be completed by May 8, 2024;</p> <p>Construction and issuance of the first Certificates of Occupancy to be completed by June 30, 2024 and the final CO to be received by October 21, 2025.</p> <p>Tenant may request from Authority in writing a reasonable extension of time to complete any of the foregoing tasks as long as any such extension was necessitated or otherwise related to delays beyond Tenant’s reasonable control.</p>
<b>PRELIMINARY SITE PLAN AND DEVELOPMENT</b>	

**SCHEDULE:**

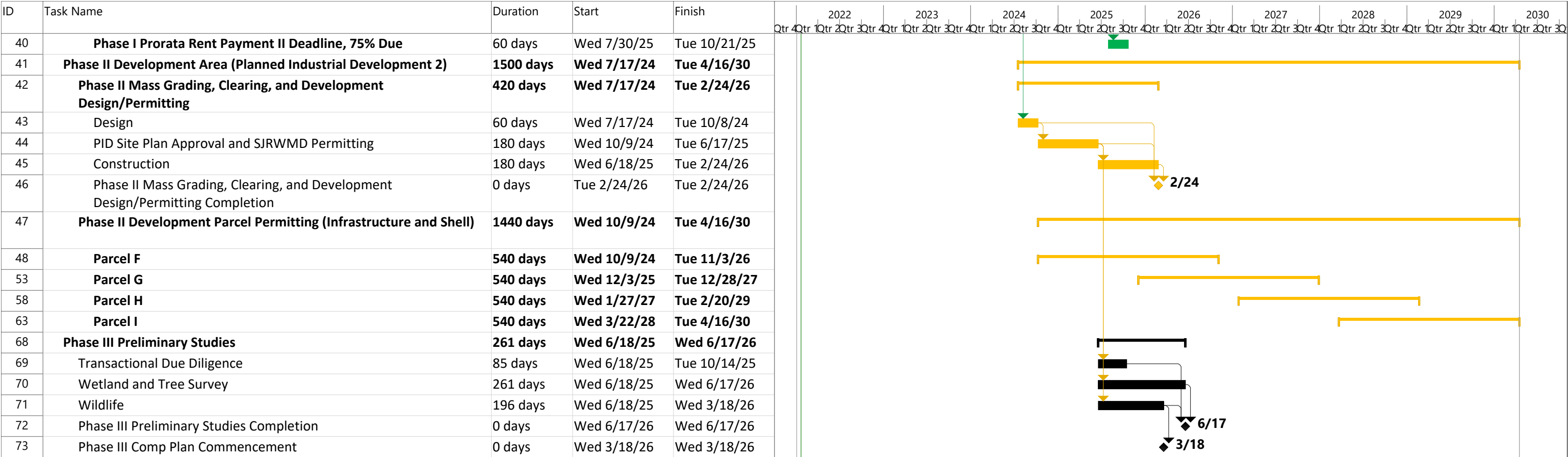
Attached as Appendix “2” to the draft Lease, and attached hereto

**AUTHORITY  
IMPROVEMENT  
OBLIGATIONS:**

Attached as Appendix “1” to the draft Lease







**TITUSVILLE-COCOA AIRPORT AUTHORITY**  
***AND***  
**SPACE COAST INNOVATION PARK, LLC**

**NON-AERONAUTICAL GROUND LEASE AND DEVELOPMENT AGREEMENT**

***AT THE***  
**SPACE COAST REGIONAL AIRPORT (TIX)**

## TABLE OF CONTENTS

<b>ARTICLE 1 - LEASE AGREEMENT, TERM, OPTIONS AND RENTAL</b>	<b>8</b>
<b>SECTION 101. PROPERTY</b>	<b>8</b>
<b>SECTION 102. TERM AND OPTIONS</b>	<b>13</b>
Subsection 102.1. Term of Lease	13
Subsection 102.2. Options to Extend	13
<b>SECTION 103. USE OF PROPERTY</b>	<b>16</b>
Subsection 103.1. Improvements to the Property	16
Subsection 103.2. Delivery and Acceptance of the Property	17
Subsection 103.3. Compliance with Section 255.05, Florida Statutes/No Lien	18
Subsection 103.4. Condition of Property	Error! Bookmark not defined.
<b>SECTION 104. BASE RENT AND ADJUSTMENTS</b>	<b>18</b>
Subsection 104.1. Base Rent	18
Subsection 104.2. Service Fee For Off-Site Drainage Service	20
Subsection 104.3. Rent Adjustment	20
Subsection 104.4. Additional Rent	21
Subsection 104.5. Rent Abatement	21
<b>SECTION 105. FUEL FACILITY AND FUEL FLOWAGE FEES</b>	Error! Bookmark not defined.
<b>SECTION 106. LANDING FEES</b>	Error! Bookmark not defined.
<b>ARTICLE 2 - AUTHORITY AND TENANT OBLIGATIONS</b>	<b>22</b>
<b>SECTION 201. COMPLIANCE WITH ALL LAWS</b>	<b>22</b>
<b>SECTION 202. REPAIRS AND ALTERATIONS</b>	<b>22</b>
<b>SECTION 203. UTILITIES AND SITE ACCESS</b>	<b>23</b>
<b>SECTION 204. UTILITY CHARGES</b>	<b>23</b>
<b>SECTION 205. ADDITIONAL TENANT OBLIGATIONS</b>	<b>24</b>
<b>SECTION 206. FAILURE OF TENANT TO COMMENCE OR COMPLETE CONSTRUCTION</b>	<b>24</b>
<b>SECTION 207. ADDITIONAL COVENANTS, WARRANTIES AND REPRESENTATIONS OF AUTHORITY</b>	<b>25</b>
<b>SECTION 208. SIGNS</b>	<b>25</b>
<b>SECTION 209. USE OF GROUND RUNUP ENCLOSURE</b>	Error! Bookmark not defined.

SECTION 210. COMPASS ROSE .....	Error! Bookmark not defined.
<b>ARTICLE 3 - TAXES.....</b>	<b>25</b>
SECTION 301. AD VALOREM TAXES.....	25
SECTION 302. SOLID WASTE FEES.....	26
SECTION 303. STORM WATER FEES .....	26
SECTION 304. EMERGENCY AMBULANCE FEES AND AIRPORT RESCUE AND FIREFIGHTING (ARFF) SERVICES .....	26
SECTION 305. OTHER TAXES AND FEES.....	26
SECTION 306. BILL RECEIVED BY AUTHORITY.....	26
<b>ARTICLE 4 - INSURANCE AND INDEMNITY .....</b>	<b>26</b>
SECTION 401. LIABILITY INSURANCE.....	26
SECTION 402. PROPERTY INSURANCE.....	27
SECTION 403. INSURANCE CERTIFICATES.....	29
SECTION 404. ADDITIONAL INSURANCE.....	29
SECTION 405. COMPLIANCE.....	29
SECTION 406. RIGHT TO EXAMINE .....	29
SECTION 407. PERSONAL PROPERTY .....	29
SECTION 408. INDEMNITY .....	30
SECTION 409. SELF INSURANCE .....	Error! Bookmark not defined.
<b>ARTICLE 5 - CERTIFICATION OF NON-PREVENTION OF USE OF THE PROPERTY .....</b>	<b>30</b>
<b>ARTICLE 6 - DEFAULT BY TENANT .....</b>	<b>31</b>
SECTION 601. EVENT OF DEFAULT .....	31
SECTION 602. DELINQUENT PAYMENTS.....	31
SECTION 603. AUTHORITY’S REMEDY UPON DEFAULT .....	31

<b>ARTICLE 7 - DEFAULT BY AUTHORITY.....</b>	<b>32</b>
<b>ARTICLE 8 - REAL ESTATE COMMISSION.....</b>	<b>32</b>
<b>ARTICLE 9 - IDENTITY OF INTEREST .....</b>	<b>33</b>
<b>ARTICLE 10 - NOTICES AND REPORTS .....</b>	<b>33</b>
<b>ARTICLE 11 - MEMORANDUM OF LEASE .....</b>	<b>34</b>
<b>ARTICLE 12 - ENTRY OF AUTHORITY .....</b>	<b>34</b>
<b>ARTICLE 13 - LEASE EXPIRATION .....</b>	<b>34</b>
<b>ARTICLE 14 - QUIET ENJOYMENT.....</b>	<b>35</b>
<b>ARTICLE 15 - GOPHER TORTOISE AND OTHER PROTECTED SPECIES RELOCATION .....</b>	<b>35</b>
<b>ARTICLE 16 - AIRPORT SECURITY .....</b>	<b>36</b>
<b>ARTICLE 17 - RULES AND REGULATIONS .....</b>	<b>36</b>
<b>ARTICLE 18 - MINIMUM STANDARDS.....</b>	<b>37</b>
<b>ARTICLE 19 - HEIGHT RESTRICTIONS .....</b>	<b>37</b>
<b>ARTICLE 20 – NONDISCRIMINATION .....</b>	<b>38</b>
<b>ARTICLE 21 - WARRANTIES.....</b>	<b>39</b>
<b>ARTICLE 22 - ASSIGNMENT AND SUBLETTING .....</b>	<b>39</b>
<b>ARTICLE 23 – ENVIRONMENTAL REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATION .....</b>	<b>40</b>
<b>SECTION 2301. ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES BY TENANT .</b>	<b>40</b>
<b>SECTION 2302. ENVIRONMENTAL INDEMNIFICATION BY TENANT.....</b>	<b>40</b>
<b>SECTION 2303. ENVIRONMENTAL REPRESENTATIONS BY AUTHORITY .....</b>	<b>41</b>
<b>ARTICLE 24 - OPTION TO LEASE .....</b>	<b>41</b>

<b>SECTION 2401. L1/L2 PARCEL.....</b>	<b>42</b>
<b>SECTION 2402. E1 AND E2 PARCELS .....</b>	<b>Error! Bookmark not defined.</b>
<b>SECTION 2403. A-4 PARCEL .....</b>	<b>Error! Bookmark not defined.</b>
<b>SECTION 2404. CALCULATION OF RENT FOR OPTION PROPERTIES.....</b>	<b>Error! Bookmark not defined.</b>
<b>SECTION 2405. PARTIAL LEASE OF OPTION PROPERTY .....</b>	<b>44</b>
<b>SECTION 2406. RIGHT OF FIRST REFUSAL .....</b>	<b>Error! Bookmark not defined.</b>
<b>ARTICLE 25 - MORTGAGE INTEREST .....</b>	<b>44</b>
<b>SECTION 2501. MORTGAGE INTEREST.....</b>	<b>44</b>
<b>SECTION 2502. ALTERNATIVE FINANCING.....</b>	<b>49</b>
<b>ARTICLE 26 – ATTORNEY’S FEES .....</b>	<b>49</b>
<b>ARTICLE 27 - OTHER PROVISIONS.....</b>	<b>50</b>
<b>SECTION 2701. REASONABLENESS AND GOOD FAITH .....</b>	<b>50</b>
<b>SECTION 2702. FORCE MAJEURE.....</b>	<b>50</b>
<b>SECTION 2703. HEADINGS .....</b>	<b>50</b>
<b>SECTION 2704. BINDING EFFECT .....</b>	<b>50</b>
<b>SECTION 2705. FEDERAL SUBORDINATION .....</b>	<b>50</b>
<b>SECTION 2706. RIGHTS RESERVED .....</b>	<b>50</b>
<b>SECTION 2707. NO WAIVER.....</b>	<b>50</b>
<b>SECTION 2708. SEVERABILITY .....</b>	<b>51</b>
<b>SECTION 2709. PAYMENT OF TAXES .....</b>	<b>51</b>
<b>SECTION 2710. INTERPRETATION OF LEASE .....</b>	<b>51</b>
<b>SECTION 2711. NO AGENCY .....</b>	<b>51</b>
<b>SECTION 2712. RIGHTS NON-EXCLUSIVE .....</b>	<b>51</b>
<b>SECTION 2713. JURISDICTION AND VENUE.....</b>	<b>52</b>

<b>SECTION 2714. ENTIRETY OF AGREEMENT.....</b>	<b>52</b>
<b>ARTICLE 28 - REQUIRED FEDERAL PROVISIONS .....</b>	<b>52</b>
<b>SECTION 2801. ADDITIONAL CIVIL RIGHTS PROVISION.....</b>	<b>52</b>
<b>SECTION 2802. REQUIRED CLAUSE FOR TRANSFER OF REAL PROPERTY .....</b>	<b>53</b>
<b>SECTION 2803. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES .....</b>	<b>53</b>
<b>ARTICLE 29 - FLORIDA SPECIFIC PROVISIONS.....</b>	<b>54</b>
<b>ARTICLE 30 - FOREIGN TRADE ZONE.....</b>	<b>55</b>
<b>ARTICLE 31 - BOND FINANCING .....</b>	<b>55</b>
<b>SIGNATURES.....</b>	<b>56</b>
<b>JOINDER OF THE CITY OF MELBOURNE.....</b>	<b>ERROR! BOOKMARK NOT DEFINED.</b>
<b>EXHIBIT A.....</b>	<b>57</b>
<b>DESCRIPTION OF LEASED PROPERTY.....</b>	<b>57</b>
<b>EXHIBIT B .....</b>	<b>60</b>
<b>TENANT SITE PLAN.....</b>	<b>60</b>
<b>EXHIBIT C .....</b>	<b>61</b>
<b>ORLANDO MELBOURNE INTERNATIONAL AIRPORT INDUSTRIAL PARK COVENANTS, DESIGN AND DEVELOPMENT STANDARDS .....</b>	<b>Error! Bookmark not defined.</b>
<b>EXHIBIT D .....</b>	<b>62</b>
<b>RENT COMMENCEMENT CERTIFICATE .....</b>	<b>62</b>
<b>EXHIBIT E.....</b>	<b>63</b>
<b>CPI CALCULATION.....</b>	<b>Error! Bookmark not defined.</b>
<b>EXHIBIT F .....</b>	<b>64</b>

<b>RULES AND REGULATIONS AND MINIMUM STANDARDS.....</b>	<b>64</b>
<b>EXHIBIT G .....</b>	<b>65</b>
<b>AUTHORITY INFRASTRUCTURE IMPROVEMENTS.....</b>	<b>Error! Bookmark not defined.</b>
<b>EXHIBIT H .....</b>	<b>66</b>
<b>ENVIRONMENTAL SITE ASSESSMENT REPORT.....</b>	<b>66</b>
<b>EXHIBIT I.....</b>	<b>67</b>
<b>OPTION TO LEASE.....</b>	<b>68</b>
<b>EXHIBIT J .....</b>	<b>69</b>
<b>ROFR PROPERTY .....</b>	<b>71</b>



## **NON-AERONAUTICAL GROUND LEASE AND DEVELOPMENT AGREEMENT**

THIS NON-AERONAUTICAL GROUND LEASE AND DEVELOPMENT AGREEMENT (hereinafter referred to as the “Lease” or “Agreement”), made and entered into on the Commencement Date (defined below), by and between the TITUSVILLE-COCOA AIRPORT AUTHORITY, having an office and place of business at Space Coast Regional Airport (TIX) (the “Airport”), 355 Golden Knights Blvd., Titusville, FL 32780 (the “Authority”), and SPACE COAST INNOVATION PARK, LLC, a Florida limited liability company with its principal place of business located at 355 Golden Knights Blvd., Suite #3, Titusville, Florida 32780 (the “Tenant” and together with the Authority, the “Parties”).

### **WITNESSETH THAT:**

WHEREAS, Authority has the exclusive right, power and authority to lease certain Property (as herein defined) located in the County of Brevard, State of Florida; and,

WHEREAS, Authority desires to lease to Tenant, and Tenant desires to lease from Authority, the Property upon the terms and conditions hereinafter set forth; and

WHEREAS, in addition to the payment of rent and other consideration by Tenant to Authority for said lease, Tenant also intends to construct certain improvements on and to the Property as set forth herein, which Authority recognizes provides a substantial benefit to Authority and further material consideration for the Authority to enter into this Agreement.

NOW, THEREFORE, in consideration of the promises, covenants, terms and conditions herein set forth, the Parties have agreed and do agree as follows:

### **ARTICLE 1** **LEASE AGREEMENT, TERM, OPTIONS AND RENTAL**

#### **SECTION 101. PROPERTY.**

A. Subject to the terms and conditions set forth hereinafter, Authority leases hereby to Tenant and Tenant rents hereby from Authority the property described on [Exhibit A-1](#) attached hereto (the "Phase 1 Property"), consisting of approximately fifty (50.00) acres, subject to a final survey and legal description, together with any and all rights of way necessary to permit ingress to and egress from the Phase 1 Property as required by Tenant’s site plan (preliminary version attached as [Exhibit B-1](#)) for construction of the Improvements (as provided herein) and development of the Property. The Authority represents that the Phase 1 Property does not currently have access to all utilities (including, without limitation, water, sewer, telecommunications, natural gas, and electricity) but Authority represents that Authority shall at its sole cost and expense, bring such necessary, adequate and

customary utilities to the Phase 1 Property according to the proposed schedule set forth as Appendix “1” so that Tenant can develop and use the Phase 1 Property for the purposes stated in this Agreement. Tenant’s preliminary site plan for the Phase 1 Property is attached as [Exhibit B-1](#) and by or before February 1, 2023, or such additional time as agreed by the parties in writing, a copy of Tenant's as submitted for building permit approval site plan for the Phase 1 Property will be substituted for the preliminary site plan as [Exhibit B-1](#) hereto without the need for further amendment ("Phase 1 Site Plan") and shall thereafter be incorporated herein by reference.

B. Subject to the provisions of [Subsection 101.1](#) and [Article 24](#), below, Authority grants a 3-year exclusive option to Tenant to lease the property described on [Exhibit A-2](#) attached hereto (the "Phase 2 Property," and the 3-year option to lease the Phase 2 Property, the “Phase 2 Property Option”), consisting of approximately fifty (50.00) acres, subject to a final survey and legal description of the final developable acreage, together with any and all rights of way necessary to permit ingress to and egress from the Phase 2 Property as required by Tenant’s site plan for construction of the Improvements (as provided herein) and development of the Phase 2 Property, said preliminary site plan attached hereto as [Exhibit B-1](#) as set forth below.

C. The Authority represents that the Phase 2 Property does not currently have access to all utilities (including, without limitation, water, sewer, telecommunications, natural gas, and electricity) but Authority represents that Authority shall at its sole cost and expense, bring such necessary and adequate utilities to the Phase 2 Property according to the proposed schedule set forth as Appendix “1” so that Tenant can develop and use the Phase 2 Property for the purpose stated in this Agreement. Tenant’s preliminary site plan for the Phase 2 Property is attached as [Exhibit B-1](#). As soon as reasonably possible after Tenant provides the Phase 2 Property Option Notice, a copy of Tenant's as submitted for building permit approval site plan will be substituted for the preliminary site plan as a revised [Exhibit B-1](#) hereto without the need for further amendment ("Phase 2 Site Plan") and shall thereafter be incorporated herein by reference.

D. Subject to the provisions of [Subsection 101.2](#) and [Article 24](#), below, Authority grants to Tenant a six (6) year right of first refusal for the property described on [Exhibit A-3](#) attached hereto (the "Phase 3 Property" and the 6-year right of first refusal on the Phase 3 Property, the “Phase 3 Property ROFR”), consisting of approximately three hundred fifty (350) acres, subject to a final survey and legal description to determine the final developable acreage, together with any and all rights of way necessary to permit ingress to and egress from the Phase 3 Property as required by Tenant’s site plan for construction of the Improvements (as submitted for permits to construct) and development of the Phase 3 Property.

E. For any property leased by Tenant pursuant to this Lease (the “Leased Property(ies)”), including the Phase 1 Property, Tenant together with its officers, directors, employees, agents, assigns, subtenants, guests, invitees, customers, suppliers, contractors, and subcontractors, shall have the right of ingress to and egress from the Leased Property(ies) over Airport roadways, including without limitation the use of the public access and non-licensed vehicular roadways, expressly subject to the Rules and Regulations as may be established by Authority, a current copy of which is attached as [Exhibit F](#), with respect to such use and subject to law (provided that Tenant will not be deemed to have violated any new rule or regulation unless the Authority has at least thirty (30) days prior written notice of such change to Tenant).

G. The Parties however acknowledge that the Leased Property(ies) are non-aeronautical in nature and outside the perimeter of TIX and therefore any Rules and Regulations or Minimum Standards, as defined herein, that reasonably apply only to aeronautical properties and/or areas shall not apply to the Leased Property(ies).

**Subsection 101.1 Exclusive Option – Phase 2 Property.** For a period of three (3) consecutive years beginning on the Commencement Date of this Agreement and terminating upon (the “Phase 2 Property Option Period”): (i) an exercise of the Phase 2 Property Option in accordance with the terms of this Lease; (ii) the expiration of the Phase 2 Property Option Period; (iii) a written termination of the Phase 2 Option issued by Tenant in Tenant’s sole discretion to the Authority; or (iv) the termination of this Lease, whichever first occurs, Tenant shall have a sole and exclusive option to lease the Phase 2 Property as depicted on [Exhibit A-2](#).

In consideration for the Phase 2 Property Option, Tenant shall pay Authority a non-refundable option fee equal to thirty percent (30%) of the Phase 2 Property annual base rent for each year of the Phase 2 Property Option Period (the “Phase 2 Property Option Fee”) for the privilege of the Phase 2 Property Option, which shall be fully earned by Authority when due. The Phase 2 Property Option Fee shall be due as follows: (a) within ninety (90) days of the Commencement Date of this Lease, Tenant shall owe the Authority the Phase 2 Property Option Fee for the first year of the Phase 2 Property Option Period, payment of which however shall be deferred and to be paid in full by Tenant along with the second year Phase 2 Property Option Period payment as set forth in subsection (b) subject to the application of any Phase 2 Option Credits as defined below, if any; (b) within ninety (90) days of the first anniversary of the Commencement Date of this Lease, Tenant shall pay to Authority the Phase 2 Property Option Fee for the second year of the Phase 2 Property Option Period in full (conditioned on Tenant not having previously terminated the Phase 2 Property Option), along with and in addition to the first year Phase 2 Property Option Period payment less any Phase 2 Option Credits as defined below (which first year Phase 2 Property Option Fee shall be due regardless of whether Tenant previously terminated the Phase 2 Property Option); (c) conditioned on Tenant not having previously terminated the Phase 2 Property Option, within ninety

(90) days of the second anniversary of the Commencement Date of this Lease, Tenant shall pay to Authority the Phase 2 Property Option Fee for the third year of the Phase 2 Property Option Period in full. Should Tenant exercise the Phase 2 Property Option in accordance with the requirements of this Lease, Tenant shall not be responsible for payment of any future payments of the Phase 2 Property Option Fee which would otherwise be due under this subsection. In the event Tenant exercises the Phase 2 Property Option during an Option Year for which Tenant has already paid the annual payment for that Phase 2 Option Property Option year, then in that event the Phase 2 Property Option Fee for the Option year in question shall be pro-rated on a per diem annualized basis and any portion attributable to the remainder of the Option Year (i.e. after Option exercise) shall be applied as a credit to the Rent otherwise due for the Phase 2 Property when due. The parties agree said Phase 2 Property Option Fee shall constitute sufficient consideration for the Phase 2 Property Option and shall be in addition to the other consideration for the Option otherwise provided in this Lease in terms of the Lease obligations of the Tenant hereunder generally.

Furthermore, the Parties acknowledge that in the event Tenant terminates the Phase 2 Property Option during the first year of the Phase 2 Property Option, the Tenant shall be entitled to an offsetting credit against the first year Phase 2 Option Fee otherwise owed by Tenant hereunder equal to the amount of fees and costs directly expended by Tenant in payment to third parties (as proven by Tenant to the Authority's reasonable satisfaction), for the commencement, of, work in progress on and/or completion of any site plan, engineering, architectural or other site related professional work related to the Phase 2 Property but only to the extent such work is actually assigned to the Authority by the Tenant ("Phase 2 Option Credits").

**Subsection 101.2 Right of First Refusal – Phase 3 Property.** For a period of six (6) consecutive years beginning on the Commencement Date of this Agreement (the "Phase 3 Property ROFR Period"), unless earlier terminated pursuant to [Article 24](#) hereof or by written and mutual agreement of the parties, Authority hereby grants to Tenant the right of first refusal to lease the Phase 3 Property identified on [Exhibit A-3](#) attached hereto (the "Phase 3 Property ROFR"). Authority acknowledges that Tenant's obligations as set forth in this Lease, including without limitation Tenant's obligations to develop improvements to the Leased Property(ies), constitute sufficient consideration for the Phase 3 Property ROFR such that no additional consideration for the Phase 3 Property ROFR is required. As further consideration, Tenant agrees that Tenant will commence its initial site due diligence, assessments, environmental studies and/or reports for the Phase 3 Property as determined by Tenant no later than sixty (60) days after the third anniversary of the Commencement Date of this Lease and to the extent reasonably possible will assign same to the Authority in the event Tenant for any or no reason decides not to lease the Phase 3

Property hereunder. Tenant shall have the right to market its interests in the Phase 3 Property in accord with the terms of this Lease and as set forth herein, including without limitation Article 22, below

During the Phase 3 Property ROFR Period, and so long as the Authority has not issued a pending Phase 3 Property ROFR Notice as defined below, Tenant shall have the non-exclusive right in Tenant's discretion to lease all of the Phase 3 Property upon written notice to the Authority as set forth herein. Tenant shall then provide the Authority written notice of its potential desire to lease the Phase 3 Property and include a written Fair Market Value Request as to the Phase 3 Property, as set forth in **Section 102.2**. Once such notice has been issued by the Tenant, the provisions of this Section shall apply and the provisions set forth below as to a third party offer shall not apply during the pendency of the FMV process. Within thirty (30) days of the final FMV being determined, the Tenant must either issue a notice of its intent to lease the Phase 3 Property or decline to lease the Phase 3 Property, in which event the ROFR as to the Phase 3 Property shall remain but Tenant will be deemed to have thereafter waived any right to trigger on Tenant's own accord the leasing of the Phase 3 Property outside of a ROFR. In the event Tenant issues a notice of its intent to lease the Phase 3 Property, the parties shall execute a lease upon the same or similar terms and conditions as set forth in this Lease as to the Phase 3 Property only, including an initial term of fifty (50) years commencing on execution of the Phase 3 lease and two (2) twenty (20) year options to extend the initial term thereafter. The Phase 3 lease shall also include, inter alia, the same method as to the calculation of Rent as set forth in this Lease including the rate of 12% of FMV and subsequent escalations as set forth below.

As to the ROFR for the Phase 3 Property otherwise, Authority shall provide written notice to Tenant of its intent to lease any of the Phase 3 Property and afford Tenant the opportunity to lease the same portion of the Phase 3 Property on the same substantive terms and conditions, including without limitation extent of monetary investment in developing improvements on the subject portion of the Phase 3 Property, as any third party that may be interested in leasing some or all of the Phase 3 Property based on a bona fide letter of intent (the "Phase 3 Property ROFR Notice"). Notwithstanding the foregoing, the parties agree that to the extent any third party expressing an interest in leasing the Phase 3 Property has been made aware of the Phase 3 Property through the marketing efforts of the Tenant ("Marketed Third Party"), the Tenant shall have the right to still exercise Tenant's right to lease the Phase 3 Property as set forth above on the terms set forth above and the provisions of this ROFR section shall in that event not apply to such offer unless Tenant declines to exercise its right to lease at that time.

For any offers outside of a Marketed Third Party, Tenant shall have forty-five (45) days after receipt of the Phase 3 Property ROFR Notice (the "Phase 3 Property ROFR Offer Period") to determine whether to accept those terms, exercise the Phase 3 Property ROFR as to that portion of the Phase 3 Property identified in the subject Phase 3 Property ROFR Notice and lease that portion of the Phase 3 Property identified in the subject Phase 3 Property

ROFR Notice under a separate lease as to the Phase 3 Property. Should Tenant elect to do so, Tenant must deliver clear, written notice to Authority during the Phase 3 Property ROFR Offer Period of its exercise of its Phase 3 Property ROFR as to the portion of the Phase 3 Property, including its entirety as applicable, identified in the Authority's Phase 3 Property ROFR Notice. Should Tenant elect not to do so and the Phase 3 Property ROFR Offer Period expires without Tenant providing written notice of exercise or should Tenant notify Authority in writing that it is not exercising its Phase 3 Property ROFR for that portion of the Phase 3 Property identified in the Phase 3 Property ROFR Notice, then Authority may lease that portion of the Phase 3 Property identified in the Phase 3 Property ROFR Notice to the offering third party without recourse by Tenant. In that event, Tenant shall retain the Phase 3 Property ROFR for the remainder of the Phase 3 Property, if any, not leased to the offering third party pursuant to the terms hereof for the remainder of the Phase 3 Property ROFR Period.

Additionally, should Authority be unable to lease a portion of the Phase 3 Property identified in a Phase 3 Property ROFR Notice to the offering third party (where Tenant has not exercised its Phase 3 Property ROFR as to such portion of the Phase 3 Property), then Tenant shall retain the Phase 3 Property ROFR over said portion of the Phase 3 Property as if no offer had been made until such time as the next offer is made to Authority, at which time the above process shall be repeated. This paragraph shall not apply if Tenant's wrongful acts cause the inability of Authority to lease property to third parties pursuant to the terms hereof.

## **SECTION 102. TERM AND RENEWAL OPTIONS.**

**Subsection 102.1. Term of Lease.** The date this Agreement is signed by all parties hereto is the "Commencement Date". The initial term of this Agreement shall be for a period of fifty (50) years from the Commencement Date, plus any partial month in which the Commencement Date occurs if the Commencement Date is not the first day of a month, unless earlier terminated or unless extended as set forth herein.

**Subsection 102.2. Renewal Options to Extend Term.** Authority does hereby grant to Tenant the right, privilege and option to extend the term of this Lease for two (2) additional terms of twenty (20) years each (each an "Option to Extend" or "Option Period"), upon the terms and conditions as herein contained; provided (i) written notice to Authority of Tenant's intention to exercise said option is given by Tenant at least one-hundred twenty (120) days prior to the expiration of the then-current term ("Tenant's Option Deadline") but not more than one (1) year prior to the expiration of the then-current term, (ii) Tenant shall not be in material default under the terms of this Lease beyond any applicable cure period at the time of such notice, and (iii) that this Lease is then in effect. Whenever reference is made herein to the "term" or "Term" of this Lease, it shall include the initial term described in **Subsection 102.1** above and the renewal terms described in this **Subsection 102.2**, if validly exercised.

No earlier than eighteen (18) months prior to each of Tenant's Option Deadlines, Tenant shall, in its sole discretion, deliver to Authority written notice that it wishes to evaluate its Option to Extend and requesting Authority's estimate of the FMV (as defined below) of the Leased Property(ies) to be used to establish rent for the Leased Property(ies) for the upcoming Option Period (the "Written FMV Request"). Within sixty (60) days of Authority's receipt of the Written FMV Request from Tenant, Authority shall provide to Tenant Authority's estimate of the fair market value ("FMV") of the Leased Property(ies) for the upcoming Option Period (the "Notice of Fair Market Value Rent") to enable Tenant to determine whether or not to elect its Option to Extend by the Tenant's Option Deadline. The FMV shall be obtained by a non-employee appraiser who is a member of the American Institute of Real Estate Appraiser ("M.A.I.") with reasonable experience (i.e., not less than ten years) appraising non-aeronautical use of real property at public-use airports (the "Appraiser"). For each of the Leased Property(ies), the initial annual base rent for the upcoming Option Period shall be equal to twelve percent (12%) of the FMV of that/those Leased Property(ies) (the "Updated Rent"), with the FMV to be determined as set forth below.

In the event Authority fails to provide the Notice of Fair Market Value Rent for the Property within the sixty (60) day period provided above, then Tenant may at its sole cost and expense obtain its own appraisal of FMV for the Leased Property(ies) performed by an Appraiser and within sixty (60) days after the deadline for the Authority to have provided the Notice of Fair Market Value Rent for the Leased Property(ies) shall provide a Notice of Fair Market Value Rent to Authority.

Upon receipt of the Notice of Fair Market Value Rent, if the receiving party accepts the FMV contained within the Notice of Fair Market Value Rent or fails to object to the FMV contained within the Notice of Fair Market Value Rent within sixty (60) days of receipt of the Notice of Fair Market Value Rent, the FMV identified in the Notice of Fair Market Value Rent shall conclusively establish the FMV for the Leased Property(ies) for the upcoming Option Period. However, nothing in this paragraph shall operate as Tenant's exercise of one or both of its Options to Extend, and Tenant must still validly and timely exercise such Option(s) to Extend in its sole discretion in order for the Lease to be extended thereby.

Upon receipt of the Notice of Fair Market Value Rent, if the receiving party disagrees with the Notice of Fair Market Value Rent, the receiving party shall provide written notice of each objection, within sixty (60) days of receipt of the Notice of Fair Market Value, including a statement of what the receiving party believes the FMV should be for the Leased Property(ies) for the upcoming Option Period and an appraisal from a non-employee appraiser who is an M.A.I. member with reasonable experience (i.e., not less than ten years) appraising non-aeronautical use of



real property at public-use airports supporting that statement. If the receiving party delivers a timely objection, then upon the other party's receipt of the objection, the parties shall, for a period of thirty (30) days (the "Negotiation Period"), negotiate in good faith to agree on the FMV of the Leased Property(ies) for the upcoming Option Period. If the parties agree, said agreed-upon FMV for the Leased Property(ies) shall establish the rental value of the Leased Property(ies) for the upcoming Option Period. However, nothing in this paragraph shall operate as Tenant's exercise of one or both of its Option to Extend, and Tenant must still validly and timely exercise such Option(s) to Extend in its sole discretion in order for the Lease to be extended thereby.

If the parties are unable to agree on the FMV of the Leased Property(ies) for the upcoming Option Period prior to the end of the Negotiation Period, then the parties' respective appraisers shall cooperate to mutually select a third appraiser ("Deciding Appraiser"), and each party shall submit its respective proposed FMV and appraisal(s) to the Deciding Appraiser, who will conclusively determine the FMV of the Leased Property(ies) using "baseball style arbitration." Once the Deciding Appraiser has been selected, then, as soon thereafter as practical but in any case within ten (10) days, each party will submit a proposed FMV for the Leased Property(ies) to the Deciding Appraiser for a determination as to the FMV thereof, and the Deciding Appraiser must select one of the FMV allocations proposed by the parties and may not choose or determine his/her own allocation of FMV. All costs and/or fees of the Deciding Appraiser shall be borne equally by the parties. The determination by the Deciding Appraiser shall be rendered in writing to both Authority and Tenant and shall be final and binding on them. The FMV for the Leased Property(ies) established through "baseball style arbitration" shall establish the rental value of the Leased Property(ies) for the upcoming Option Period, subject to Tenant's exercise of one or both of its Option to Extend, and Tenant must still validly and timely exercise such Option(s) to Extend in its sole discretion in order for the Lease to be extended thereby.

If Tenant exercises its Option to Extend and the Option Period commences before the FMV for the Leased Property(ies) can be established, Tenant shall continue to pay to Authority monthly the same monthly rent and amounts due under the Lease for the last full month immediately preceding commencement of the Option Period. Once the FMV and, thus, the rent due Authority from Tenant for the Leased Property(ies) during the Option Period is determined as set forth herein, Authority shall provide a "true up" calculation to Tenant going back to the commencement of the Option Period through the date FMV is established (the "True Up Period"). If Tenant paid more than monthly FMV for the Leased Property(ies) during the True Up Period, then Tenant shall receive a credit toward its next monthly rent payment(s) and continue receiving a credit until the credit is used up. If Tenant paid less than monthly FMV for the Leased Property(ies) during the True Up Period, then Tenant shall pay to Authority the difference between what it actually paid and the FMV for the Leased Property(ies) for the entire True Up Period.



within thirty (30) days of Authority providing written notice of the amount due or within some other time as agreed to by the parties in writing.

### **SECTION 103. USE OF PROPERTY.**

**Subsection 103.1. Improvements to the Property.** Authority acknowledges hereby that Tenant is leasing the Phase 1 Property and, if applicable, the Phase 2 Property and/or Phase 3 Property (Phase 3 Property under a separate lease if exercised as set forth above) generally for the purpose of constructing and maintaining improvements on the Leased Property(ies) to sublease said improvements to one or more third parties subject to the terms of this Agreement, and that in order to utilize the Leased Property(ies) for this purpose, it will be necessary to construct at a minimum buildings and other improvements (collectively, “Improvements”) upon the Leased Property(ies) and to make alterations and renovations thereto at Tenant's sole cost and expense, unless otherwise addressed in this Lease. As it pertains to the Phase 1 Property, the Improvements are preliminarily as set forth on [Appendix “2”](#) and [Exhibit B-1](#), subject to the final site plan. Tenant agrees that its construction of the Improvements is an integral and material part of this Agreement and Authority’s assent to lease the Leased Property(ies) to Tenant. Tenant agrees to comply with all applicable rules, laws, regulations and requirements pertaining to its construction of the Improvements and the use of the Leased Property(ies) which were provided in advance to Tenant, including, but not limited to, applicable building codes and zoning ordinances of state and local governments. Other improvements to be constructed on the Leased Property(ies) of structural or exterior nature, including landscaping design, shall be subject to additional approval by Authority, provided, however, Authority's approval shall not be unreasonably withheld, delayed or conditioned. Tenant hereby agrees to indemnify and to save Authority harmless from any and all costs and/or expenses of any kind relating to construction of the Improvements to the extent arising by, through, or under Tenant, except to the extent arising from the obligations that are the responsibility of Authority at law or under this Agreement or within Authority’s control, and, further, except to the extent such costs and/or expenses arise from Authority’s, or its agents’, tenants’ or contractors’ acts or omissions, interference, negligence or willful misconduct.

For purposes of this Lease, the term “Construction Period” shall mean the period from the Commencement Date (as defined in [Subsection 102.1](#) above) until the Rent Commencement Date (as defined in [Subsection 104.1](#) below). Tenant, subject to approval by Authority, which approval shall not be unreasonably withheld, delayed or conditioned, shall upon obtaining any and all necessary government permits and/or approvals have the right to change, alter, raze or add to any Improvements, or any part thereof, now existing or change, alter or add to any Improvements, or any part thereof hereafter erected, constructed or installed on the Leased Property(ies) and remove the personal property (the “Personalty”) installed or placed by Tenant in, on, or about the Improvements on the Leased

Property(ies), assuming Tenant is not in monetary default of this Agreement. Authority acknowledges and agrees that title to all future Improvements and Personalty shall not be in Authority but is and shall remain in Tenant during the term of this Agreement.

**Subsection 103.2. Delivery and Acceptance of the Property.** Tenant will use all reasonable efforts to submit for the appropriate building permits, licenses, and other approvals necessary to construct the Improvements from all appropriate governmental authorities having or asserting jurisdiction over the Property. In the event that (a) Tenant is unable to or does not obtain within the time allotted by **Subsection 103.3**, below, such building permits, licenses, and other approvals necessary to construct and maintain the Improvements on the Phase 1 Property from all appropriate governmental authorities having or asserting jurisdiction over the Property, or (b) Tenant is unable to or does not obtain within the time allotted by **Subsection 103.3**, below, Authority's approval of the plans and specifications for the Improvements and landscaping design therefore on terms and conditions acceptable to Tenant, then at the sole option of Tenant, Tenant shall have the right to terminate this Lease within thirty (30) days of the expiration of the allotted time periods, in which event neither party shall have any further obligation to the other hereunder, and payments previously made by Tenant to Authority, if any, shall be refunded to the extent they were not to reimburse Authority for out-of-pocket expenses. Tenant may request approval from Authority to extend any of the time periods allotted in **Subsection 103.3**, below, and Authority agrees that it will not unreasonably withhold, condition or delay its consent to extend said periods, and further, Authority shall provide such support and assistance as Tenant reasonably requests in connection with obtaining any license, permit or other approval necessary to construct the Improvements and use and occupy the Leased Property(ies) as contemplated by Tenant, provided that Authority shall not be required to expend any money or incur any costs and/or expenses in assisting Tenant unless the expenditures and costs were contemplated or required by Authority to be incurred or paid under other provisions of this Lease, under **Appendix "1"** or such costs are de minimis. Authority does not and cannot guarantee the successful or timely issuance of said approvals, grants, permits, or authorizations.

**Subsection 103.3. Phasing Construction of Improvements and Time Periods.** As it pertains to the Phase 1 Property, Authority and Tenant agree that it is in the parties' best interest that the development of Improvements and attendant milestones related thereto be phased for the Phase 1 Property. As reflected on Tenant's preliminary site plan for the Phase 1 Property (**Exhibit B-1**), and as set forth on **Appendix "2"**, Tenant shall complete the following tasks as to the Phase 1 Property pursuant to the identified, corresponding timeframe: (i) Pre-development studies to commence by June 2, 2022 and be completed by June 30, 2023; (ii) Master infrastructure design and construction to commence by June 2, 2022 and be completed by June 1, 2024; (iii) Phase

1 Property mass grading, clearing, development and permitting to commence by April 27, 2023 and be completed by May 8, 2024; (iv) construction and issuance of the first Certificates of Occupancy to be completed by June 30, 2024. Tenant may request from Authority in writing a reasonable extension of time to complete any of the foregoing tasks as long as any such extension was necessitated or otherwise related to delays beyond Tenant's reasonable control, and Authority's consent to any such reasonable extension request shall not be unreasonably withheld, conditioned or delayed. Furthermore, the parties agree that the foregoing deadlines are a material part of this Lease.

Without regard to any other provisions of this Lease, any property improvement that is the responsibility of Authority in relation to the Phase 1 Property as set forth on [Appendix "1,"](#) including without limitation extension of utilities to the boundary thereof, shall be timely completed to permit Tenant to meet the task deadlines set forth above for the Phase 1 Property without causing delay to Tenant.

Additionally, should Tenant lease the Phase 2 Property and/or Phase 3 Property pursuant to the terms of this Lease, the parties agree development of Improvements by Tenant on those properties shall be subject sub-phasing and deadlines similar to the terms set forth in this [Subsection 103.3](#) but reasonably applied to the Improvements to be constructed by Tenant on each property. Likewise, Authority's completion of those property improvements to the Phase 2 Property and/or the Phase 3 Property that are its responsibility under this Lease shall be phased such that Authority shall complete such property improvements without causing delay to Tenant in the completion of its development tasks as to the applicable Phase Property.

**Subsection 103.4. Compliance with Section 255.05, Florida Statutes/No Lien.** Authority and Tenant acknowledge that as a result of Authority's reversionary interest in any improvements to the Property at the end of the term of the Lease, including without limitation the Improvements, as set forth in this Agreement, no individual or entity is entitled to a construction lien on the same as provided in chapter 713, Florida Statutes. Accordingly, Tenant shall be required at its sole cost and expense to comply with the provisions of section 255.05, Florida Statutes (2021), as may be amended from time to time.

## **SECTION 104. BASE RENT AND ADJUSTMENTS.**

**Subsection 104.1. Base Rent.** Annual base rent due Authority from Tenant shall be calculated and paid as set forth below commencing on the Rent Commencement Date (as hereinafter defined):

A. The initial annual base rent for the Phase 1 Property shall be equal to twelve percent (12%) of the FMV of the Phase 1 Property as established pursuant to the same procedure set forth in [Subsection 102.2](#), above, for determining Updated Rent. Said initial annual base rent shall then be adjusted or re-calculated as set forth in this

Lease. As used in this Lease, the term “base rent” shall mean the rent due and payable from Tenant to Authority for real property not including taxes, fees, expenses, utilities or other charges related to said real property. The parties further agree that the FMV of the Phase 2 Option Property shall be determined in the same manner as set forth in Section 102.2 above and shall be completed simultaneously with the determination of the FMV for the Phase 1 Property.

B. Tenant’s obligation to pay base rent to Authority hereunder is expressly subject to the rent credits as set forth in **Subsection 104.5**, and this Lease if any.

C. Base rent for the Phase 1 Property shall commence as follows (“Rent Commencement Date”): (i) twenty (20%) percent of Tenant’s total obligation to pay base rent for the Phase 1 Property to Authority shall commence on the earlier of the date Tenant receives a Certificate of Occupancy allowing lawful use for approximately 20% of the Phase 1 Property or August 1, 2024; (ii) an additional twenty (20%) percent of Tenant’s total obligation to pay base rent (cumulatively for a total with (i) of 40%) for the Phase 1 Property to Authority shall commence on the earlier of the date Tenant receives a Certificates of Occupancy allowing lawful use for approximately forty (40%) percent of Phase 1 or August 1, 2024; (iii) an additional twenty (20%) percent of Tenant’s total obligation to pay base rent (cumulatively for a total with (i) and (ii) of 60%) for the Phase 1 Property to Authority shall commence on the earlier of the date Tenant receives Certificates of Occupancy allowing lawful use for approximately sixty (60%) percent of Phase 1 or August 1, 2025; (iv) an additional twenty (20%) percent of Tenant’s total obligation to pay base rent (cumulatively for a total with (i), (ii) and (iii) of 80%) for the Phase 1 Property to Authority shall commence on the earlier of the date Tenant receives Certificates of Occupancy allowing lawful use for approximately eighty (80%) percent of the Phase 1 Property or August 1, 2025; and (v) an additional twenty (20%) percent of Tenant’s total obligation to pay base rent (cumulatively for a total with (i), (ii), (iii) and (iv) of 100%) for the Phase 1 Property to Authority shall commence on the earlier of the date Tenant receives Certificates of Occupancy allowing lawful use for approximately one hundred (100%) percent of the Phase 1 Property or no later than August 1, 2025. Subject to the foregoing but for the avoidance of doubt, full base rent for the Phase 1 Property shall commence and be due and owing from Tenant to Authority no later than August 1, 2025.

Each date Tenant’s obligation to pay base rent to Authority commences as set forth above shall be a “Rent Commencement Date” or collectively, the “Rent Commencement Dates.”

D. If Tenant leases the Phase 2 Property and/or the Phase 3 Property, then in that event the same methodology (calculation of FMV as set forth in **Subsection 102.2**) shall be utilized to calculate and commence the Phase 2 Property base rent and/or the Phase 3 Property base rent (as applicable) subject to rent credits as set forth in **Subsection 104.5** and the Lease, if any. In addition, phased rent commencement dates for portions of the Phase 2

Property and/or the Phase 3 Property if leased by Tenant shall be similar in duration to those set forth for the Phase 1 Property, above, should Tenant's investment in each property likewise be proportionately similar (taking into account acreage of the leased property) to its investment in the Phase 1 Property. Given the much larger size of the Phase 3 Property, however, the percentage of rent owed for each phase shall be broken into smaller portions and phased out from commencement to 100% in a longer overall duration if the Phase 3 Property ultimately leased by Tenant, if any, is materially larger in size than the Phase 1 Property or the Phase 2 Property.

E. Tenant's obligation to pay base rent to Authority hereunder, as adjusted from time to time pursuant to the terms of the Agreement, shall continue from the applicable Rent Commencement Date(s) through expiration or sooner termination hereof, unless expressly set forth herein. As soon as reasonably possible after each Rent Commencement Date, the parties shall insert such Rent Commencement Date on [Exhibit D](#) as then revised and annexed to this Agreement and execute the same; however, no delay in executing [Exhibit D](#) hereto shall affect Tenant's obligation to pay rent as set forth above.

F. In addition to the base rent, as may be adjusted from time to time pursuant to the terms of the Agreement, Tenant shall pay to Authority as additional rent any sales tax which may be due under applicable state law on all base rent and any other sums payable hereunder, if applicable, at the rate prescribed by Florida or local law from time to time. Authority agrees to remit such sales tax, if applicable, to the State of Florida or other legal authority as required by law.

**Subsection 104.2. Service Fee for Off-Site Drainage Service.** Although Tenant's current anticipated site plan for the Phase 1 Property does not require off-property drainage or stormwater management, Tenant shall have the right in its discretion to utilize off-property drainage and/or stormwater storage or management constructed by the Authority in accordance with [Appendix "1,"](#) and Tenant shall be obligated to pay Authority an Off-Site Drainage Fee commensurate with such fees charged by Authority to similarly situated tenants for off-site drainage and/or stormwater management or storage, including the benefit of all discounts for such use and repeated use as available and/or may be provided to other tenants at TIX. If Tenant pays Off-Site Drainage Fees under this [Subsection 104.2](#), that charge will be adjusted as set forth below in [Subsection 104.3](#).

**Subsection 104.3. Annual Rent Adjustments.** Each year on the anniversary of the Commencement Date of the Lease and commencing on the first Commencement Date anniversary occurring after the Rent Commencement Dates for the Phase 1 Property have occurred (the "Rent Adjustment Date(s)"), all rent and other Phase 1 Property-related payments and charges due Authority from Tenant as set forth in this [Section 104](#) of this Agreement shall increase by the greater of: (a) any increase in the Consumer Price Index ("CPI") (All urban consumers 1982= 100; all items) based on a twelve (12) month period ending ninety (90) days prior to the

anniversary date of the Commencement Date, or (b) two and one half percent (2.5%) of the then-current amount, but in no event shall the increase exceed three and one half (3.5%) percent over and above the immediate-prior year's rent and Premises-related payments and charges. The increases set forth in this **Subsection 104.3** shall also apply to the Phase 2 Property and/or the Phase 3 Property if leased by Tenant pursuant to the terms of this Lease and shall increase for each year on the anniversary of the calculation of the applicable FMV as initially determined for the Phase 2 Property and/or Phase 3 Property.

**Subsection 104.4. Additional Rent.** The term "Additional Rent" shall mean any monetary obligation of Tenant under this Agreement other than Base Rent.

**Subsection 104.5. Rent Credits for Completion of Authority Improvements.** Within forty-five (45) days of final site plan approval for the Phase 1 Property or such other deadline agreed upon by the parties in writing, Authority and Tenant shall agree on the items to be included in the a land development cost budget (the "Land Development Cost Budget"), which shall reflect the estimated costs to prepare the Phase 1 Property for development, including internal infrastructure within the Phase 1 Property and which shall also include all professional costs related to the site plan, including without limitation engineering, architectural and legal fees. However, the Land Development Cost Budget shall not include any costs or expenses for vertical improvement or construction. The Land Development Cost Budget shall be revised if and as necessary at receipt of the Certificate of Occupancy for the initially constructed building(s) on the Phase 1 Property to reflect the actual costs incurred and expended by Tenant. To the extent any of the tasks or items identified in the Land Development Cost Budget were the Authority's financial responsibility pursuant to this Lease as set forth on **Appendix "1,"** and to the extent Tenant in Tenant's sole discretion notified the Authority that it would be completing same on the Authority's behalf in order to mitigate any delays in completion, Tenant shall be entitled to a credit for such costs incurred by Tenant against any sums owed by Tenant to the Authority as and for base rent under this Lease (the "Rent Credits"). The amount of Rent Credits available to Tenant pursuant to this paragraph shall equal to the amount actually expended by Tenant for the completion of tasks or items identified in the Land Development Cost Budget that were the Authority's financial responsibility pursuant to this Lease. Tenant shall provide all reasonable documentation to Authority upon request to support or otherwise justify the Rent Credits Tenant claims.

In addition to the above, and if any portion of the Rent Credits due Tenant pursuant to the foregoing paragraph have not yet been applied, any unapplied remaining Rent Credits may also be applied as a credit toward any sums Tenant owes Authority for the Phase 2 Property Option Fee as well as any base rent due and owing

Authority for the Phase 2 Property. Selection of the sums due and owing to Authority to be offset by Rent Credits pursuant to this paragraph shall be in the Authority's discretion.

If Tenant leases the Phase 2 Property and/or Phase 3 Property pursuant to this Lease, the parties shall cooperate to prepare a written land development cost budget similar to the Land Development Cost Budget identified above for the Phase 2 Property and/or the Phase 3 Property, and any land development cost budget agreed upon by the parties in writing for a property shall be entitled to the same treatment as set forth above, namely that Tenant shall be entitled to rent credits equal to the amount Tenant actually expends on tasks and items in any such land development cost budget(s) that are the Authority's financial responsibility under this Lease or under any separate written agreement enumerating the same for the Phase 2 Property and/or the Phase 3 Property but that the parties agree in writing shall be completed by Tenant, which may also be assigned in the land development cost budget(s).

## **ARTICLE 2**

### **AUTHORITY AND TENANT OBLIGATIONS**

**SECTION 201. COMPLIANCE WITH ALL LAWS.** Tenant agrees that it will substantially observe and comply with all laws, ordinances, orders and regulations applicable to the business operated by Tenant on the Leased Property(ies). Authority warrants and represents that on the Commencement Date, the Phase 1 Property is in compliance with all applicable laws, rules, ordinances, orders, and regulations, including, without limitation, laws regarding hazardous wastes.

**SECTION 202. REPAIRS, ALTERATIONS AND MAINTENANCE.** Authority shall not be obligated to maintain the Leased Property(ies) or the Improvements thereon during the Lease Term unless such maintenance is required as a result of the negligence or wrongful acts or omissions of Authority or its officers, directors, employees, agents, assigns, tenants, subtenants, guests, invitees, suppliers, contractors, or subcontractors. Tenant shall maintain the Leased Property(ies) and the Improvements thereon in good, clean and neat condition at its own cost and expense and shall ensure that all regular maintenance and repairs normally and customarily performed by commercial tenants are performed by Tenant on and for the Leased Property(ies) and all Improvements thereon. Furthermore, Tenant agrees, at its sole cost and expense, to maintain all of the Improvements, including any parking and service areas, and utilities on and/or servicing the Leased Property(ies) in a good state of repair.

Authority acknowledges and agrees that it shall be solely responsible to maintain in good order all runways, taxiways taxilanes, ramps, ground run-up enclosures and run-up areas, the compass rose and all other



areas of the airfield shared in common with others at the Airport and as currently existing adjacent to or near the Leased Property(ies) at its sole cost and expense.

Additionally and without regard to any other term of this Lease, at the expiration or earlier termination of this Lease pursuant to the terms hereof, Tenant shall have thirty (30) days to have conducted on the Leased Property(ies) at Tenant's sole cost and expense a Phase 1 Environmental Site Assessment for each of the Leased Property(ies) and shall provide the final, written reports and assessments stemming from said Phase 1 Environmental Site Assessment(s) to Authority within five (5) business days of Tenant's receipt thereof.

**SECTION 203. UTILITIES AND SITE ACCESS.** The Authority shall provide necessary, adequate and customary utilities to the boundary of the Leased Property(ies) in accordance with the Authority's improvement schedule set forth on [Appendix "1"](#) at the Authority's sole cost and expense. The parties acknowledge that the capacity and availability of public and private utilities is not guaranteed by Authority to the extent it has no control over the same. Further, Authority cannot guarantee approvals for road entrances, traffic island crossovers, signalization, turning lanes, or acceleration lanes, etc. In the event a critical utility (potable water, sewer, electricity, natural gas and/or telecommunications) or adequate transportation access (as required and determined by Tenant in its sole, reasonable discretion) cannot be made available to the Phase 1 Property such that Tenant cannot complete the Improvements set forth in [Exhibit B-1](#) hereto, Tenant may terminate this Lease without prejudice.

Unless otherwise stated in the Lease, Tenant shall be responsible for any improvements within the Leased Property(ies) boundaries necessary for internal site access.

Tenant shall have the right to grant any easements, rights of way, and licenses required by any public or quasi-public utility company with respect to the construction, operation and use of the Improvements and Personalty. Authority shall execute any instruments which any such public or quasi-public utility companies may reasonably request or require from Authority; provided, however, that in each case such easement, right of way or license: (i) does not materially impair the value, utility and remaining useful life of the Leased Property(ies), (ii) is reasonably necessary in connection with the construction, operation or use of the Improvements and Personalty, and (iii) does not cause the Leased Property(ies) or any portion thereof to fail to comply with all material requirements of law.

**SECTION 204. UTILITY CHARGES.** Tenant shall be responsible for charges for electricity, water, sewer, telecommunications, solid waste, heat, janitor service or any other utility or service consumed in connection with the occupancy of the Leased Property(ies) by Tenant and/or any third party permitted to occupy any such property(ies) by Tenant.



**SECTION 205. ADDITIONAL TENANT OBLIGATIONS.** The City of Titusville will determine if the Improvements are of sufficient size to require a transportation concurrency study and/or other traffic access studies. Tenant is responsible for all studies and costs associated with this requirement, as well as the assessments and improvements required by the City of Titusville. In addition, Tenant is responsible for all transportation, utility and other impact fees associated with this project related solely to Tenant's improvements levied by the City of Titusville and/or Brevard County, and Tenant shall be solely entitled to the benefit of any credits provided by such governmental entities related thereto.

A representative of Tenant shall appear at the Authority's regularly scheduled Board of Directors meeting at least once every three (3) months to provide updates to the Authority's Board of Directors on the progress of development and construction of the Leased Property(ies). This provision shall not apply during an periods of time when Tenant is not actively developing and/or constructing improvements upon any of the Leased Property(ies).

**SECTION 206. FAILURE OF TENANT TO COMMENCE OR COMPLETE CONSTRUCTION.**

A. In the event Tenant does not commence with construction of the Improvements (defined as beginning physical work on the Property) within the time allotted in **Subsection 103.3** for any reason not directly caused by Authority or its officers, directors, employees, agents, assigns, subtenants, guests, invitees, suppliers, contractors, or subcontractors, which period will be extended due to Force Majeure (defined below), then in that event, Authority may terminate this Agreement. In order to effectuate termination, Authority shall provide a notice of non-monetary default in the manner provided under **Article 6** provided, however, that Tenant shall have sixty (60) days to cure this notice of default. Provided Tenant does not cure within this notice period and Authority terminates the Lease, Tenant shall reimburse to Authority all direct and reasonable costs Authority has paid with respect to this Lease, including but not limited to, costs related to site appraisal, boundary survey, environment studies, legal, preliminary engineering, permitting and site planning with a credit provided in favor of Tenant to the extent Tenant has expended actual funds in accord with the Land Development Budget and such expenditures have either reasonably increased the value of the Property and/or result in reports, assessments or studies that are assignable and are assigned by the Tenant to the Authority.

B. In the event Tenant fails to complete any Improvement identified in this Lease, including without limitation in the exhibits attached hereto, by the date specified in **Subsection 103.3** or by the date of any extensions granted by Authority, the Authority shall deliver written notice to Tenant of said failure to complete construction of said improvements within the allotted time period and notice of its intent to terminate this Agreement ("Notice of Intent to Terminate") effective one hundred twenty (120) calendar days after the delivery of the Notice of Intent

to Terminate to Tenant. Tenant shall then have the right to complete the construction of said improvements during the one hundred twenty (120) calendar days period or may otherwise request a good faith extension of the time to complete said improvements providing the reason for said extension. The parties understand that significant investment will be made by the Tenant to the Leased Property(ies) and any requests for an extension of the time to complete the improvements should be allowed, provided Tenant provides reasonable assurance of how the improvements will be completed. Should Tenant fail to respond to the Notice of Intent to Terminate or fail to take any actions to complete construction of the improvements within the allotted time, then Authority shall have the right to terminate this Agreement by written notice to Tenant given any time after the expiration of the 120-day period without obligation of Authority to pay Tenant any compensation for work performed and funds expended prior to such termination.

**SECTION 207. ADDITIONAL COVENANTS, WARRANTIES AND REPRESENTATIONS OF AUTHORITY.** Authority warrants and represents that there are (i) no mortgages, liens or encumbrances, (ii) no covenants or restrictions, and (iii) no agreements with third parties, which may prevent or impair Authority from performing any of its covenants under this Lease.

**SECTION 208. SIGNS.** Tenant shall have the right to erect and maintain such sign or signs on the Property and Improvements as may be permitted by applicable law, ordinances and codes, and Tenant shall have the right to expressly name its facilities as Tenant deems appropriate and allowed under applicable law. The Authority shall build a monument sign at the Authority's sole expense as set forth on [Appendix "1"](#) in a location to be mutually agreeable to both parties.

### **ARTICLE 3** **TAXES**

**SECTION 301. AD VALOREM TAXES.** If applicable, Tenant shall pay all ad valorem taxes levied or assessed against the Leased Property(ies) by the appropriate governmental authorities as a result of Tenant's occupancy or use of the Leased Property(ies) pursuant to this Lease, whether the billing is addressed to Authority or Tenant, together with all taxes levied against any stock of merchandise, furniture, furnishings, equipment and other property located in, on or upon the Leased Property(ies), including without limitation the Improvements, if applicable. Tenant shall have the right to contest the validity or amount of any ad valorem tax imposed against the Leased Property(ies) and the Improvements at Tenant's sole cost and expense. Upon adjudication (including all appeals) of such contest, Tenant shall pay all court costs, interest, penalties and other expenses related to the appeal.

**SECTION 302. SOLID WASTE FEES.** If applicable, Tenant shall pay all solid waste fees assessed against the Leased Property(ies) by the appropriate governmental authorities as a result of Tenant's occupancy or use of the Leased Property(ies) pursuant to this Lease, whether the billing is addressed to Authority or Tenant.

**SECTION 303. STORM WATER FEES.** Tenant shall pay all storm water fees assessed against the Leased Property(ies) by the appropriate governmental authorities (excluding the Authority for the purposes of this **Section 303**) as a result of Tenant's occupancy or use of the Leased Property(ies) pursuant to this Lease.

**SECTION 304. EMERGENCY AMBULANCE FEES .** If applicable, Tenant shall pay all emergency ambulance fees assessed against the Leased Property(ies) by the appropriate governmental authorities as a result of Tenant's occupancy or use of the Leased Property(ies) pursuant to this Lease, whether the billing is addressed to Authority or Tenant.

**SECTION 305. OTHER TAXES AND FEES.** If applicable, Tenant shall pay any and all lawful and reasonable tax, fee, or assessment that may be levied by third parties as a result of Tenant's occupancy and use of and/or interest in the Leased Property(ies) pursuant to this Lease and not known at this time.

**SECTION 306. BILL RECEIVED BY AUTHORITY.** For the purposes of **Sections 301-305**, above, should a billing be addressed to the Authority that Authority believes is the responsibility of Tenant, Authority shall provide the bill to the Tenant promptly. Should Authority not provide the billing to Tenant within an appropriate time such that Tenant may contest the amount or pay timely, Authority shall be responsible for all losses suffered by Tenant as a result of Authority's tardiness in providing the billing to Tenant. Further, Tenant shall have the right to contest the validity or amount of any ad valorem tax, assessment or fee imposed against the Leased Property(ies) and/or the Improvements at Tenant's sole cost and expense.

#### **ARTICLE 4** **INSURANCE AND INDEMNITY**

**SECTION 401. LIABILITY INSURANCE.** In addition to such insurances as may be required by law, Tenant shall maintain, without lapse or material change, for so long as it occupies the Phase 1 Property and/or the Improvements thereon, the following insurance:

(A) Commercial General Liability Insurance, including Contractual Liability, to cover Tenant's personal property, Improvements and operations in an amount not less than \$5,000,000.00 combined-limit, per-occurrence for bodily injury and property damage. Authority must be shown as an additional insured with respect to this coverage. Coverages shall be for each occurrence or an annual policy aggregate of no less than twice the amount of coverage required for each occurrence. A combination of umbrella or excess liability insurance may

be combined with such commercial general liability insurance to arrive at such annual policy aggregate amount. In the event that Tenant's available coverage falls below the per occurrence amount shown above, Tenant shall secure a new certificate of insurance evidencing the required coverage. Tenant acknowledges that Authority reserves the right not to accept policies with deductibles in excess of \$50,000.00.

(B) Automobile Liability Insurance covering all owned, non-owned and hired vehicles (including ground or mobile equipment) used by Tenant in connection with its operations under this Lease in an amount not less than:

(1) \$5,000,000.00 combined single-limit, per-occurrence for bodily injury and property damage covering all vehicles used by Tenant in connection with its business operation; and

(2) \$5,000,000.00 combined single-limit, per-occurrence for bodily injury and property damage covering such vehicles when being used by Tenant off of the Airport.

(C) A policy of insurance, if applicable, such as a Pollution Legal Liability (PLL) policy if compliant herewith, in a coverage amount not less than \$1,000,000.00 single-limit, per-occurrence intended to provide coverage for environmental risks, including without limitation hazardous materials (whether known or unknown), spill or seepage of pollutants or other hazardous materials or waste, negligent or otherwise improper disposal of waste and other risks related to Tenant's use of the Phase 1 Property. The Authority shall be named in the policy as an additional insured.

(D) The insurance coverages required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of Tenant under this Agreement. All insurance policies required pursuant to the terms of this Agreement shall be issued by companies approved to do business under the laws of the State of Florida. Such companies must be rated no less than "B" as to management, and no less than "V" as to strength, in accordance with the latest edition of "Best's Insurance Guide," published by A.M. Best Company, Inc., or its equivalent, subject to approval of Authority.

## **SECTION 402. PROPERTY INSURANCE.**

(A) Builders Risk and Hazard Insurance: Tenant, at its sole cost and expense throughout the term of this Lease shall keep the Improvements insured on an "All Risk" basis in an amount not less than 100% of the full replacement value of the Improvements against loss or damage (in excess of a reasonable per occurrence deductible amount, which shall be the responsibility of Tenant) by fire, lightning, tornado, hurricane, windstorm, hail, flood, explosion, riot, riot attending strike, civil commotion, vandalism and malicious mischief, water leakage or seepage, sprinklers and sprinkler leakage, aircraft, vehicles and smoke, or any other casualty to the extent such coverage is commercially available at commercially reasonable rates. The full replacement value of

the Improvements shall be established as of the Commencement Date of this Lease and shall be established at intervals of not more than three (3) years thereafter by the firm and professional property evaluators used by Authority for establishing replacement values for Authority property or any other firm and/or individual chosen by Authority in the reasonable exercise of its discretion. Any deficiency in the amount of the proceeds from such property insurance resulting from a failure by Tenant to properly establish the full replacement value of the Improvements shall be the sole responsibility of Tenant, and Tenant shall be liable therefor. In addition, subject to the rights of any Tenant note or mortgage/prior lien holder, Authority shall be shown on the policies as a loss payee as its interest appears and as required pursuant to this Agreement.

(1) Damage or Destruction and Restoration of the Improvements: In case of substantial damage to or destruction of all or a portion of the Improvements, Tenant shall give prompt notice thereof to Authority, and Tenant shall promptly commence and complete with due diligence (subject only to Force Majeure and insurance adjustment and receipt of insurance proceeds), the restoration of the damaged or destroyed portion of the Improvements as nearly as reasonably practicable to the value and condition thereof immediately prior to such damage or destruction. In the event of such damage or destruction, the proceeds of all property insurance policies shall be used to restore the facility to make it function for the uses permitted under this Lease. Tenant shall receive reimbursement from the proceeds of all applicable property insurance policies it has procured in restoring the Improvements to their pre-loss condition as set forth in this paragraph to the extent determined by Tenant, and Tenant shall be obligated to provide any additional monies necessary for such restoration as determined by Tenant. Notwithstanding the foregoing, Tenant's obligation to rebuild shall be expressly contingent on the availability of sufficient insurance proceeds including availability of such proceeds being made available from any lender of Tenant.

(2) Damage or Destruction Near End of Agreement: Within the last five (5) years of the initial Lease term or the last five (5) years of any Option Period, in case of damage to or destruction of all or a portion of the Improvements, Tenant shall have the right within thirty (30) days of the damage to give notice to Authority ("Notice of Damage Termination") of the loss and elect not to restore the Phase 1 Property, but rather to assign all applicable proceeds of all property insurance policies to the Authority to the extent the proceeds are applicable to Improvements (and not Personalty) and terminate the Agreement effective one hundred twenty (120) days after the Notice of Damage Termination is sent to the Authority.

(B) Business Interruption Insurance: Tenant at its sole cost and expense throughout the term of this Lease and any extension hereof shall maintain business interruption insurance, at a minimum, in an amount

sufficient to continue making all payments hereunder and maintaining the insurance required hereunder during the rebuilding period as a result of damage to the Improvements.

**SECTION 403. INSURANCE CERTIFICATES.** Prior to the commencement of operations hereunder and annually thereafter, Tenant shall furnish or cause to be furnished certificates of insurance to Authority which certificates shall clearly indicate that:

- (A) Tenant has obtained insurance in the types, amounts and classifications as required for compliance with this Lease;
- (B) The policy cancellation notification provisions specify at least thirty (30) days advance written notice of cancellation to Authority, provided, however, only ten (10) days' notice of cancellation shall be required if due to failure to pay premiums;
- (C) Authority is named as an additional insured with respect to Tenant's commercial general liability policies;
- (D) Authority is named as a loss payee with respect to Tenant's builders risk and property insurance policies; and
- (E) On said insurance certificates, liability coverage shall include contractual liability and notification of cancellation.

**SECTION 404. ADDITIONAL INSURANCE.** The parties acknowledge that should the industry standards for insurance coverages being required for comparable properties and uses exceed the minimum insurance amounts set forth in this Lease, the parties will negotiate in good faith to reasonably review such requirements amend this **Article 4** as mutually agreed.

**SECTION 405. COMPLIANCE.** Compliance with the requirements of this **Article 4** shall not relieve Tenant of its liability under any other portion of this Lease or any other agreement between Authority and Tenant, and Tenant's obligations to Authority hereunder are not limited to available insurance proceeds unless otherwise provided in the Lease.

**SECTION 406. RIGHT TO EXAMINE.** Authority reserves the right, upon reasonable notice to Tenant, to examine true copies of applicable portions of policies of insurance (including but not limited to binders, amendments, exclusions, riders and applications) to determine the true extent of coverage. Tenant agrees to permit such inspection.

**SECTION 407. PERSONAL PROPERTY.** Any personal property of Tenant or of others placed in or on the Leased Property(ies), Improvements and anywhere else at Authority-owned property(ies) shall be at the

sole risk of Tenant or the owners thereof, and Authority shall not be liable for any loss or damage thereto, except to the extent such loss or damage was caused by the negligence or wrongful acts or omissions of the Authority officers, directors, employees, agents, assigns, subtenants, guests, invitees, suppliers, contractors, or subcontractors, as limited or otherwise affected by section 768.28, Florida Statutes.

**SECTION 408. INDEMNITY.** Each party (the “Indemnifying Party”) shall indemnify and hold harmless the other party and/or its officers, directors, employees, agents and assigns, (the “Indemnified Party”) from any and all liability, losses or damages, including reasonable attorneys’ fees and costs of defense, that Indemnified Party incurs or may incur as a result of claims, demands, suits, causes of action or proceedings of any kind or nature arising out of, relating to or resulting from the negligence or wrongful acts and/or omissions of the Indemnifying Party and/or its officers, directors, employees, agents or assigns. The Indemnifying Party shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or action of any kind or nature in the name of Indemnified Party, where applicable, including appellate proceedings, and shall pay costs, judgments and reasonable attorney’s fees which may issue thereon. The Indemnifying Party expressly understands and agrees that any insurance protection required by this Lease or otherwise provided by such Indemnifying Party shall in no way limit its responsibility to indemnify, keep and save harmless and defend the Indemnifying Party and/or its officers, directors, employees, agents or assigns as herein provided. The obligation of Indemnifying party hereunder shall survive the termination of this Lease. The Indemnifying Party's obligation to indemnify the Indemnified Party hereunder shall in no way affect, abridge or amend an Indemnifying Party’s right to assert governmental or sovereign immunity as to any claims, other than those by the parties or their respective permitted transferees and assignees, including without limitation the immunity afforded under section 768.28, Florida Statutes.

## **ARTICLE 5**

### **PREVENTION OF USE OF THE PROPERTY**

If, after the Commencement Date, Tenant is precluded or prevented from constructing or operating the Improvements on the Phase 1 Property as contemplated by Tenant by reason of any change in any zoning law, zoning ordinance or zoning regulation of any public authority having jurisdiction over the Phase 1 Property other than the Authority, and such prohibition shall continue for a period of at least ninety (90) days, then Tenant may terminate this Lease by giving to Authority not less than thirty (30) days prior written notice of termination. Tenant shall also have the right to contest such change in use and /or to seek reimbursement from the applicable governing authority instituting the change through eminent domain or similar action for any land development costs actually incurred by Tenant prior to such change. This provision shall not apply once construction is physically commenced on the Phase

1 Property in which event other provisions of the Lease shall apply, such as Force Majeure and Eminent Domain. To the extent applicable the provisions of this Section will also apply to the Phase 2 Property and/or Phase 3 Property.

## **ARTICLE 6** **DEFAULT BY TENANT**

**SECTION 601. EVENT OF DEFAULT.** As used in this Lease, the term "event of default" shall mean any of the following:

(A) Any failure to pay any sums due Authority under this Lease, including without limitation base rent and Additional Rent, where such failure to pay is not cured within sixty (60) days following written notice to Tenant by Authority;

(B) Other than for non-payment of sums due Authority, the failure of the Tenant, after receipt of written demand from Authority specifying the nature of the default, to fulfill any duty or obligation imposed on Tenant by this Lease within seventy five (75) days of said written demand unless a different cure period is specifically provided elsewhere in this Lease or, if such default cannot be cured within seventy five (75) days, to commence to remedy or correct such default and to diligently pursue cure of such default throughout the seventy five (75) day cure period and diligently thereafter through complete cure;

(C) The appointment of a receiver for Tenant, Tenant filing a petition seeking bankruptcy protection of any kind, the assignment by the Tenant for the benefit of creditors and/or the participation by the Tenant in any other insolvency proceeding, except if such appointment, order, assignment or proceeding is stayed, dismissed or vacated within ninety (90) days of the commencement thereof; or

(D) The taking of the leasehold interest of the Tenant hereunder pursuant to an execution on a judgment.

**SECTION 602. DELINQUENT PAYMENTS.** If any rent payment, including any Additional Rent, due to Authority pursuant to this Lease is not paid (the "Delinquent Payment") within fifteen (15) days of the date the same is due, the Delinquent Payment shall bear interest at the rate of three percent (3%) per annum (the "Interest Rate") until the date the same is paid in full to Authority. If the Delinquent Payment is not paid by Tenant within sixty (60) days following notice of monetary default from Authority to Tenant, then the Delinquent Payment shall thereafter bear interest at the maximum allowable rate under Florida law ("Default Interest Rate") until the date the same is paid in full to Authority.

**SECTION 603. AUTHORITY'S REMEDY UPON DEFAULT.** Upon the happening of any event of default beyond any applicable cure period(s), the Authority may, at its option, terminate this Lease and obtain possession of the Phase 1 Property from Tenant through any lawful means and without prejudice to any other



remedy available to Authority, provided however, that as a prerequisite to Authority's termination of this Lease or of Tenant's right of possession of the Phase 1 Property (unless otherwise addressed elsewhere in this Lease as to a specific event of default), the Authority shall deliver written notice to Tenant of said event of default and notice of Authority's intent to terminate this Lease ("Notice of Intent to Terminate") effective one hundred twenty (120) calendar days after the delivery of the Notice of Intent to Terminate to Tenant and any leasehold mortgagee ("Final Cure Period"). Tenant and any leasehold mortgagee shall then have the right to cure the event of default during the Final Cure Period. Should Tenant (or any leasehold mortgagee) not cure the event of default within the Final Cure Period, unless Authority consents in writing or a longer cure period is provided elsewhere in this Lease as to a specific event of default, the Lease shall be terminated.

## **ARTICLE 7**

### **DEFAULT BY AUTHORITY**

Authority shall be in default if Authority fails to perform any of its covenants, agreements or other obligations under this Lease, and such failure continues for a period of seventy-five (75) days after receipt by Authority of written notice from Tenant of such failure, or, in the event of an emergency, reasonably promptly after written notice. Should Authority default, Tenant shall have the right (but not the obligation) to take such actions and to expend such monies as are reasonably necessary to correct the Authority's failure to perform if and only if: (1) the Authority fails to commence and continue to cure the default within the 75-day cure period, or (2) the Authority provides written notice to Tenant that it cannot cure its alleged failure to perform. In such event, Tenant may expend such sums as are reasonably necessary to cure Authority's default, and no approval of the reasonable sums by the Authority is necessary. Tenant shall be entitled to offset the cost to cure, plus an administrative fee of five percent (5%) of such costs incurred by or on behalf of Tenant, against its next monthly rent payment(s) and continue applying the offset as a credit until the credit is used up. The foregoing rights of self-help and set-off shall be in addition to, not in lieu of, any rights and remedies which Tenant has at law, in equity or under this Lease.

## **ARTICLE 8**

### **REAL ESTATE COMMISSION**

Authority and Tenant covenant and warrant one each to the other that it has not authorized any person, firm or corporation as a real estate agent or broker to deal on behalf of Authority with Tenant or Tenant with Authority. The provisions of this **Article 8** are subject to the indemnifications of **Subsection 408**, above.

**ARTICLE 9**  
**IDENTITY OF INTEREST**

The execution of this Lease or the performance of any act pursuant to the provisions hereof shall not be deemed or construed to have the effect of creating between Authority and Tenant the relationship of principal and agent or of a partnership or of a joint venture, and the relationship between them shall be and remain only that of landlord and tenant.

**ARTICLE 10**  
**NOTICES AND REPORTS**

Any notice, report, statement, approval, consent, designation, demand or request to be given or any option or election to be exercised by a party in writing under the provisions of this Agreement shall be delivered by hand, sent by U.S. Mail, postage prepaid, by registered or certified mail, return receipt requested, or by nationally recognized overnight delivery service, e.g., FedEx or UPS, addressed to the respective parties at the respective addresses set forth below, and shall be deemed delivered upon actual receipt or upon the date shown on the proof of dispatch if delivery is refused or unclaimed:

Authority:	Director of Airports Titusville-Cocoa Airport Authority 355 Golden Knights Blvd. Titusville, FL 32780
Tenant:	Space Coast Innovation Park, LLC 355 Golden Knight Blvd., Suite #3 Titusville, Florida 32780 Attention: _____
With a required copy to:	WhiteBird, PLLC 2101 Waverly Place, Ste. 100 Melbourne, FL 32901 Attention: Adam M. Bird, Esq.
and	Allyson D. Goodwin, Esq. Saavedra Goodwin 888 S.E. 3 <sup>rd</sup> Ave. Suite 500 Fort Lauderdale, Florida 33316

Provided, however, that either party may designate a different address from time to time by giving to the other party notice in writing of the change. Any payments to Authority under this Agreement shall be made by Tenant at Authority's address provided in this **Article 10** hereinabove.

Notwithstanding foregoing, the parties agree that routine reports, approvals, and consents provided in the ordinary course of business may be delivered electronically provided that any report, approval or consent that adversely impacts the material rights or obligations of a party under this Lease shall additionally be delivered by one of the other methods specified in this **Article 10**.

#### **ARTICLE 11** **MEMORANDUM OF LEASE**

Either party may file a Memorandum of this Lease with the Brevard County Property Appraiser's Office or have the same recorded by the Brevard County Clerk of Court at the recording party's expense.

#### **ARTICLE 12** **ENTRY OF AUTHORITY**

Authority may enter the Leased Property(ies), except as set forth hereinbelow, during Tenant's normal business hours with reasonable advance notice (not less than three (3) business days, except in emergencies constituting an immediate threat to life or property) and subject to Tenant's reasonable security rules and regulations as follows:

- (A) To inspect or protect the Leased Property(ies);
- (B) To determine whether Tenant is complying (as required under this Lease) with the applicable laws, orders or regulations of any lawful authority having jurisdiction over the Leased Property(ies) or any business conducted therein; or
- (C) To show the Leased Property(ies) to prospective tenants or buyers during the last six (6) months of the Term of this Lease.

In exercising its entry rights under this Article, Authority shall use all reasonable efforts to not disturb Tenant's conduct of business and use of the Leased Property(ies) and/or that of any of Tenant's subtenants.

#### **ARTICLE 13** **LEASE EXPIRATION**

At the expiration of the Lease, all improvements erected on the Leased Property(ies), including without limitation the Improvements, shall become the sole property of Authority, and Tenant hereby knowingly and voluntarily waives any claims related to the same, including without limitation claims for unjust enrichment or any other legal or equitable relief seeking value of any kind for such Improvements. Any and all trade fixtures, signs,

moveable equipment, and other personal property placed on the Leased Property(ies) by Tenant in which Tenant (or its lenders) has (have) legal or equitable title shall remain Tenant's sole property, and Tenant shall have the right to remove the same within ten (10) business days after expiration of the Lease, provided any damages caused by such removal are repaired by Tenant at the time of removal and provided, further, that Tenant is not in material default of the Lease. In the event Tenant is not in material default of the Lease and fails to remove all of its personal property within ten (10) business days after expiration of the Lease, the Authority will provide written notice to Tenant and an opportunity to remove personal property from the Leased Property(ies) within thirty (30) days of Tenant's receipt of the notice. Should Tenant fail to remove the personal property after the thirty (30) days of receipt of the notice, said failure to remove shall be deemed to be an abandonment of the property. In the event of such abandonment, Authority shall have the right to remove and sell or dispose of the personal property without any liability to the Tenant which obligation shall survive the expiration of or termination of the Term of this Lease. All monies received from any sale or disposal of the personal property by Authority shall first be used to reimburse Authority for any expenses incurred including without limitation reasonable attorney's fees and costs of all kind and nature and any expenses related to removal, storage and/or sale of said personal property, and the balance remaining after setting off any sums still owed by Tenant to Authority shall be remitted to the Tenant.

#### **ARTICLE 14** **QUIET ENJOYMENT**

Subject to the provisions of this Lease, Authority covenants that Tenant, on paying all sums due hereunder and fully and timely performing the covenants of this Lease on its part to be performed within applicable notice and cure periods set forth in the Lease, shall and may peaceably and quietly have, hold, and enjoy the Phase 1 Property for the Term of this Lease. Authority represents that it has authority to execute this Lease, that it has obtained all necessary governmental authorizations or approvals to execute this Lease and that this Lease constitutes a valid and binding obligation of Authority, enforceable against Authority in accordance with its terms.

#### **ARTICLE 15** **GOPHER TORTOISE AND OTHER PROTECTED SPECIES RELOCATION**

In accordance with the schedule for Tenant's Improvements as set forth on [Appendix 2](#), or such other times as the parties may agree in writing, Tenant shall obtain all required permits or licenses and shall relocate any gopher tortoises found on the Phase 1 Property to appropriate and legal gopher tortoise preserve(s) or such other location as may comply with all applicable law. Tenant shall pay the cost of such relocation. If any other species of plants or animals are identified on the Phase 1 Property at any time that have been listed as endangered, threatened, of special concern or protected in any respect pursuant to any applicable federal, state or local laws or regulations, the removal

of or mitigation for which has any impact upon the construction of the Improvements or Tenant's use and occupancy, Authority and Tenant shall cooperate to expedite the removal or mitigation of such condition by Tenant at Tenant's sole cost and expense; any performance deadlines of either party effected by such condition shall be extended. Proper permits for the removal and relocation of any animal or plant, if required, shall be obtained by Tenant from the applicable governmental authority and removal and relocation of such animals or plants shall be performed in accordance with state statute or the regulations of all applicable government authorities.

## **ARTICLE 16**

### **AIRPORT SECURITY**

Tenant shall comply with applicable Authority security access control, to include, but not limited to, all doors and gates that access the Airport Operations Area (AOA) if applicable to the Leased Property(ies). Any changes or modifications regarding access will need prior written approval from the Airport Security Coordinator (ASC) or his/her designee. Tenant shall comply with all reasonable security directives as outlined in the Airport Security Program (ASP) and should direct any questions or concerns about Authority security matters to the ASC. Any of Tenant's employees who may be required to have access to the AOA must comply with Authority badging requirements. As long as Tenant takes appropriate steps to train, monitor and discipline its employees, agents, contractors and subcontractors concerning the Authority's security requirements, Tenant shall not be in default of this Lease for violations of the Authority's security requirements by its employees, agents, contractors and subcontractors.

Additionally, Authority recognizes and acknowledges that Tenant will be enacting and enforcing its own security protocols necessary for Tenant's operation of its business on the Phase 1 Property and consents to the same to the extent they are not in conflict with existing Airport security protocol.

## **ARTICLE 17**

### **RULES AND REGULATIONS**

The current Rules and Regulations for the Authority are attached as [Exhibit F](#) (the "Rules and Regulations"). From time to time Authority may adopt and amend the Rules and Regulations with respect to the occupancy and use of the Leased Property(ies) and Authority owned property; provided that if any change in the Authority's Rules or Regulations drives additional cost to Tenant, Tenant either shall be afforded a waiver from such new or amended Rules and Regulations or an equitable adjustment shall be made in Tenant's rent to offset the additional costs of complying with such new or amended Rules and Regulations. Tenant shall observe and obey such Rules and Regulations and shall require its officers, directors, employees, agents, assigns, subtenants, guests, invitees, suppliers, contractors, and subcontractors to observe and obey the same (provided that Tenant

will not be deemed to have violated any new rule or regulation unless the Authority has provided at least thirty (30) days prior notice of such change to Tenant). Authority reserves the right to deny access to the Leased Property(ies), Authority-managed airports and airfields and/or Authority facilities to any person or entity that repeatedly fails or refuses to obey and comply with such Rules and Regulations and/or any applicable laws. Authority's Rules and Regulations will not be inconsistent with the terms of this Lease nor with valid rules, regulations orders and procedures of the Federal Aviation Administration or any superior government authority duly authorized to make or enforce rules and regulations for the operation of the Airport and the operation of aircraft using the Airport. Additionally, to the extent any change to the Authority's Rules and Regulations affects Tenant's then-existing Improvements, Personalty, site plans and/or business operations, Tenant's affected Improvements, Personalty, site plans and/or business operations shall be "grandfathered" in and not affected by such changes to the Rules and Regulations to the extent such changes are not reflective of any change in applicable and mandatory law or regulation to which the Airport and/or Authority are subject.

#### **ARTICLE 18** **MINIMUM STANDARDS**

In addition to the covenants herein contained, this Lease is further subject to the applicable provisions of those certain minimum standards pertaining to tenants as adopted by the Authority (the "Minimum Standards"). The current Minimum Standards are attached as part of [Exhibit F](#).

#### **ARTICLE 19** **HEIGHT RESTRICTIONS**

Tenant expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Leased Property(ies) to such a height so as to comply with Federal Aviation Regulations, Part 77, as applicable to the Leased Property(ies), and as amended from time to time if such amendments are made after the Commencement Date and are retroactive. Authority shall, to the extent it is able, assist and work with Tenant for Tenant to submit to the FAA for approval of the height of the Improvements such that the FAA may determine that the planned Improvement will not violate the height requirements underlying Federal Aviation Regulations, Part 77, as of the Commencement Date of this Lease.

Tenant expressly agrees for itself, its successors and assigns, to prevent any use of the Leased Property(ies) by, through or under Tenant which would interfere with or adversely affect the operation or maintenance of any Authority owned airport and/or airfield, or otherwise constitute an airport hazard. Authority covenants and acknowledges that the use of the Leased Property(ies) as proposed by Tenant does not and will not, to Authority's knowledge, interfere with or adversely affect the operation or maintenance of the airport or otherwise constitute

an airport hazard.

Authority reserves unto itself, its successors and assigns for the use and benefit of the public a right of flight for the passage of aircraft in the airspace above the surface of the Leased Property(ies), together with the right to cause in such airspace such noise as may be permitted by law and inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the airspace, and for use of said airspace for landing on, taking off from, or the operation of, any Authority owned airport and/or airfield.

## **ARTICLE 20** **NONDISCRIMINATION**

(A) Tenant for itself, its heirs, personal representatives, successors in interest, and assigns, as a part of the consideration for this Lease, does hereby covenant and agree, as a covenant running with the land comprising the Leased Property(ies), that in the event Improvements are constructed, maintained, or otherwise operated on the Leased Property(ies) for a purpose for which a Authority of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Authority of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Authority of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

(B) Tenant, for itself, its personal representatives, successors in interest, and assigns, as part of the consideration for this Lease, does hereby covenant and agree, as a covenant running with the land comprising the Leased Property(ies), that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination in the use of said facilities, (2) in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefit of, or be otherwise subjected to discrimination, and (3) that Tenant shall use the Leased Property(ies) in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Authority of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

This provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed including exercise or expiration of appeal rights. The remedies for breach of this provision shall be limited to those remedies provided under said regulations. Nothing herein shall be interpreted or deemed to preclude Tenant from complying with all applicable export control laws and regulations and applicable government security requirements.

## **ARTICLE 21** **WARRANTIES**

Authority warrants that upon the Commencement Date, the Phase 1 Property will be free and clear of all encumbrances except ad valorem taxes, if applicable, for the current calendar year and easements and restrictions of record; that there are no easements, restrictions of record, environmental condition or other condition which will (i) impair, preclude or adversely affect Tenant's use and development of the Phase 1 Property, as contemplated by this Lease, (ii) interfere with Tenant's rights under this Lease, or (iii) interfere with Authority's ability to perform its covenants and obligations under this Lease; that Authority has full power and authority to execute this Lease and that it will warrant and defend the leasehold interest created hereby against all parties whomsoever and that Tenant upon observing and complying with the terms, covenants and conditions of this Lease shall enjoy the quiet and undisturbed use and occupancy of the Phase 1 Property during the Lease Term. Apart from the warranties provided in this paragraph and elsewhere in the Lease, Authority makes no representations and provides no other warranties concerning the Phase 1 Property and/or its use.

## **ARTICLE 22** **ASSIGNMENT AND SUBLETTING**

Except as provided in this **Article 22**, Tenant shall not assign this Lease or sublet the Leased Property(ies) or any portion thereof, or otherwise transfer any right or interest hereunder, without the prior written consent of Authority, which consent shall not be unreasonably withheld, delayed or conditioned. Except as set forth herein, Authority's consent to a sub-tenancy under this Agreement shall not be required if said sublease is substantially in agreement with a form sublease pre-approved by the Authority to be used by Tenant.

The parties agree and acknowledge that Tenant is leasing the Phase 1 Property and any additional Leased Property(ies) for the purpose of constructing buildings and other improvements thereon that will not be occupied by Tenant but, rather, will be mostly or entirely sublet to third parties for occupancy and use. Tenant is and shall remain liable to Authority should Tenant sublet any portion of any of the Leased Property(ies) to any third party where such sublease causes a breach and/or violation of any applicable rule, regulation and/or law (the "Governing Authorities"), including without limitation those promulgated enforced by the Federal Aviation Administration, regardless of whether Tenant was aware that such sublease was violative of any such applicable rule, regulation or law. Additionally, should Tenant sublet any portion of the Leased Property(ies) in violation of the Governing Authorities, said sublease shall be null and void, and Tenant shall be solely liable for any and all damages or liabilities of any kind related to such sublease, including without limitation any claim brought by the subtenant. In the event of a void sublease as set forth above, Tenant shall take all reasonable steps to remove the subject subtenant from the Leased



Property(ies) at Tenant's sole cost and expense, including without limitation instituting an eviction and/or ejectment action to remove such subtenant from the Leased Property(ies). Tenant shall indemnify and hold Authority harmless from any and all expenses, claims and liabilities arising out of this **Article 22** and/or Tenant's subleases.

Tenant shall maintain with Authority a written and/or electronic list of existing subtenants occupying any of the Leased Property(ies) and shall update said list with Authority each month no later than the 15<sup>th</sup> day of each month.

In addition, notwithstanding anything to the contrary contained in this Agreement, provided Tenant shall give Authority written notice of the same, Authority's consent shall not be required in connection with an assignment of the lease or a sublet of the Property or any part thereof to any entity which is controlled by, under common control with, or which controls Tenant, or in which Tenant holds an equity interest, or any entity which acquires all or substantially all of the ownership interest in or assets of Tenant or into which Tenant is merged or consolidated.

### **ARTICLE 23**

#### **ENVIRONMENTAL REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATION**

**SECTION 2301. ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES BY TENANT.** Tenant represents and warrants that it will comply and will be in compliance in all material respects with all applicable federal, state and local environmental laws, regulations, codes or ordinances, as it relates to the Phase 1 Property commencing after its occupancy thereof. The parties recognize that Tenant's operation may involve the use of hazardous substances (as defined in the Comprehensive Environmental Compensation and Liability Act of 1980, as amended, the Resources Conservation and Recovery Act of 1986, as amended, or any successor or similar law). Any hazardous substances used by Tenant, its assigns, subtenants, agents or contractors at the Property will be processed, discharged, stored, treated, disposed of or managed by Tenant, its assigns, subtenants, agents or contractors at the Property in accordance with all federal, state and local environmental laws, regulations, codes or ordinances.

**SECTION 2302. ENVIRONMENTAL INDEMNIFICATION BY TENANT.** Tenant hereby agrees to indemnify, defend and hold Authority harmless from and against any and all claims, lawsuits, losses, liabilities, damages, and expenses (including without limitations cleanup costs and reasonable attorney's fees arising by reason of the aforesaid or an action against Tenant under this indemnity) resulting directly or indirectly from, out of or by reason of (i) any hazardous waste being located on the Leased Property(ies) which is directly attributed to Tenant, its officers, directors, employees, agents, assigns, subtenants, guests, invitees, suppliers, contractors, or subcontractors, or (ii) any breach of **Section 2301**, above, or (iii) an Environmental Complaint occurring as a direct result of occupancy of the Leased Property(ies) by Tenant, its subtenants or assigns and which is determined

by applicable authorities and adjudication to be the responsibility of Tenant under this Lease. "Environmental Complaint" as used in the Lease means any complaint, order, citation or notice from a governmental entity with regard to any federal, state or local environmental laws, regulations, codes or ordinances.

**SECTION 2303. ENVIRONMENTAL REPRESENTATIONS BY AUTHORITY.** Authority represents and warrants to Tenant that no hazardous or toxic waste or substances exist on (or under) the Phase 1 Property beyond what was reported in that certain "Phase 1 Environmental Site Assessment Report" dated June 19, 2019 attached hereto as [Exhibit H](#), and that the Phase 1 Property, upon the execution date of this Lease, complies with all applicable federal, state and local environmental laws, regulations, codes or ordinances. Authority represents and warrants that it will comply and will be in compliance in all material respects with all applicable environmental laws, ordinances, orders or decree of all federal, state and local environmental laws, regulations, codes or ordinances, as it relates to the Phase 1 Property with respect to ownership of the Phase 1 Property. Should hazardous substances be discovered in the Phase 1 Property that are not attributed to Tenant, its officers, directors, employees, agents, assigns, subtenants, guests, invitees, suppliers, contractors, or subcontractors, or should Authority breach its obligations under this Article, Authority shall take all actions necessary to comply with all environmental laws and shall, at Authority's sole cost and expense, perform any required remediation necessary to remedy the condition without unreasonable interference with Tenant's business. Authority hereby agrees, subject to and without waiving its right to assert any form of governmental and/or sovereign immunity as to claims made by anyone other than the Tenant or its permitted transferees and assignees, including that set forth in section 768.28, Florida Statutes, to indemnify, defend and hold Tenant harmless from and against any and all claims, lawsuits, losses, liabilities, damages, and expenses (including without limitations cleanup costs and reasonable attorney's fees arising by reason of the aforesaid or an action against Tenant under this indemnity) resulting directly or indirectly from, out of or by reason of (i) any hazardous waste being located on (or under) the Phase 1 Property prior to the date of this Lease, and (ii) any hazardous waste being located on (or under) the Phase 1 Property which was not caused or necessitated by the actions of Tenant, its officers, directors, employees, agents, assigns, subtenants, guests, invitees, suppliers, contractors, or subcontractors.

## **ARTICLE 24**

### **ADDITIONAL PROVISIONS - OPTION TO LEASE/RIGHT OF FIRST REFUSAL**

In consideration of this Agreement, Authority has granted to Tenant as set forth in [Section 101](#), above, a certain exclusive option to lease the Phase 2 Property and a certain right of first refusal/potential to lease the Phase 3 Property. Furthermore, and without regard to any other term herein, the parties agree and acknowledge that the Phase

2 Property and Phase 3 Property are being offered to Tenant for development of substantial improvements thereon and that said improvements and Tenant's construction thereof at its sole cost and expense are a material requirement of this Lease, particularly as it pertains to the rights being granted to Tenant hereunder related to the Phase 2 Property and the Phase 3 Property.

**SECTION 2401. PHASE 2 PROPERTY OPTION TO LEASE.** Authority represents that the Phase 2 Property is currently unencumbered by any lease or other third-party interest beyond Authority's ownership. In order to exercise the Phase 2 Property Option, Tenant must deliver clear, written notice of its exercise of the Phase 2 Property Option as to those portions of the Phase 2 Property Option capable of development (i.e., excluding any areas within the Phase 2 Option Property agreed to and determined by the parties to be undevelopable as identified during the Tenant's due diligence on same) during the Phase 2 Property Option Period. Failure to do so will result in Tenant being unable to exercise the Phase 2 Property Option.

If Tenant validly and timely exercises the Phase 2 Property Option: (a) Tenant shall lease the developable Phase 2 Property from Authority; (b) except as specifically set forth above, the Phase 2 Property shall thereafter be included in the definition of the term "Leased Property(ies)" as that term is used herein, and any dates for required action applicable to the Leased Property(ies) shall be brought forward and as applicable to the Phase 2 Property beginning on the date the Phase 2 Property Option is validly and timely exercised by Tenant; and (c) the lease term for the Phase 2 Property will be co-terminus with the term of this Lease with identical renewal option periods, all as set forth in **Section 102** of this Lease. Additionally, the Phase 2 Property Option may be exercised at any time within the Phase 2 Property Option Period. At the end of the Phase 2 Property Option Period, if Tenant does not timely and validly exercise the Phase 2 Property Option, the Phase 2 Property Option Period shall automatically expire without recourse of any kind against Authority.

**SECTION 2402. PHASE 3 PROPERTY RIGHT OF FIRST REFUSAL AND CONVERSION TO OPTION TO LEASE.** Authority represents that the Phase 3 Property is currently unencumbered by any lease or other third-party interest beyond Authority's ownership.

In the event Tenant validly and timely exercises the Phase 2 Property Option and is not in material breach of this Lease beyond any applicable cure period, then at the time of Tenant's exercise of Phase 2 Property Option, Tenant's Phase 3 Property ROFR may, at Tenant's sole discretion, permanently terminate, and Tenant shall simultaneously receive a 3-year exclusive option to lease that portion of the Phase 3 Property that has not been validly leased to Tenant or any third party (the "Phase 3 Property Option"). The 3-year period during which Tenant shall receive the above-described option at Tenant's discretion related to the Phase 3 Property shall commence on the date Tenant validly and timely exercises the Phase 2 Property Option and provides the Authority written notice of its

desire to convert the ROFR to an Option and shall terminate upon: (i) the proper and timely exercise of the Phase 3 Property Option; (ii) written notice to Authority of termination of the Phase 3 Option Property by Tenant; (iii) written agreement of the parties; or (iv) upon expiration of the 3-year period, whichever occurs first (the “Phase 3 Property Option Period”). For the avoidance of doubt, as long as Authority abides by its Phase 3 Property ROFR obligations during the period when Tenant’s Phase 3 Property ROFR is in effect, Authority may lease some or all of the Phase 3 Property to Tenant or any third party(ies) without recourse to Tenant, and when the Phase 3 Property Option takes effect, it shall apply only to that portion of the Phase 3 Property that has not been validly leased to Tenant or any third party(ies). By way of example, if a third party wishes to lease one-half of the Phase 3 Property while the Phase 3 Property ROFR is in effect (before the Phase 3 Property Option Period commences), then if Tenant elects not to exercise its Phase 3 Property ROFR and Authority thereafter leases that one-half of the Phase 3 Property to said third party, Tenant’s Phase 3 Property Option, if it comes into effect, shall not include or otherwise cover the leased one-half of the Phase 3 Property but it shall include the unleased one-half.

In consideration for the Phase 3 Property Option, should it come into effect as set forth above at Tenant’s discretion, and without regard to any other term of this Lease, Tenant shall pay Authority a non-refundable option fee equal to thirty percent (30%) of the annual base rent of and for that portion of the Phase 3 Property subject to the Phase 3 Property Option for each year of the Phase 3 Property Option Period (the “Phase 3 Property Option Fee”) for the privilege of the Phase 3 Property Option, which shall be fully earned by Authority when due. The Phase 3 Property Option Fee shall be due as follows: (a) within ninety (90) days of Tenant’s exercise of the Phase 3 Property conversion to the Phase 3 Property Option from the Phase 3 Property ROFR, Tenant shall owe the Authority the Phase 3 Property Option Fee for the first year of the Phase 3 Property Option Period, payment of which however shall be deferred and to be paid in full by Tenant along with the second year Phase 3 Property Option Period payment as set forth in subsection (b) subject to the application of any Phase 3 Option Credits as defined below, if any; (b) within ninety (90) days of Tenant’s exercise of the Phase 3 Property conversion to the Phase 3 Property Option from the Phase 3 Property ROFR, Tenant shall pay to Authority the Phase 3 Property Option Fee for the second year of the Phase 3 Property Option Period in full (conditioned on Tenant not having previously terminated the Phase 3 Property Option), along with and in addition to the first year Phase 3 Property Option Period payment less any Phase 3 Option Credits as defined below (which first year Phase 3 Property Option Fee (which shall be due regardless of whether Tenant previously terminated the Phase 3 Property Option)); (c) conditioned on Tenant not having previously terminated the Phase 3 Property Option, within ninety (90) days of Tenant’s exercise of the Phase 3 Property conversion to the Phase 3 Property Option from the Phase 3 Property ROFR , Tenant shall pay to Authority the Phase 3 Property Option Fee for the third year of the Phase 3 Property

Option Period in full. Should Tenant exercise the Phase 3 Property Option in accordance with the requirements of this Lease, Tenant shall not be responsible for payment of any future payments of the Phase 3 Property Option Fee which would otherwise be due under this subsection. In the event Tenant exercises the Phase 3 Property Option during an Option Year for which Tenant has already paid the annual payment for that Phase 3 Option Property Option year, then in that event the Phase 3 Property Option Fee for the Option year in question shall be pro-rated on a per diem annualized basis and any portion attributable to the remainder of the Option Year (i.e. after Option exercise) shall be applied as a credit to the Rent otherwise due Authority for the Phase 3 Property when due. The parties agree said Phase 3 Property Option Fee shall constitute sufficient consideration for the Phase 3 Property Option and shall be in addition to the other consideration for the Option otherwise provided in this Lease in terms of the Lease obligations of the Tenant hereunder generally.

In order to exercise the Phase 3 Property Option, Tenant must deliver clear, written notice of its exercise of the Phase 3 Property Option during the Phase 3 Property Option Period. Failure to do so will result in Tenant being unable to exercise the Phase 3 Property Option.

Furthermore, the Parties acknowledge that in the event Tenant terminates the Phase 3 Property Option during the first year of the Phase 3 Property Option, the Tenant shall be entitled to an offsetting credit against the first year Phase 3 Option Fee otherwise owed by Tenant hereunder equal to the amount of fees and costs directly expended by Tenant in payment to third parties (as proven by Tenant to the Authority's reasonable satisfaction), for the commencement, of, work in progress on and/or completion of any site plan, engineering, architectural or other site related professional work related to the Phase 3 Property but only to the extent such work is actually assigned to the Authority by the Tenant ("Phase 3 Option Credits").

**SECTION 2403. PARTIAL LEASE OF OPTION PROPERTY.** Tenant shall not be permitted to lease any part or portion of the Phase 2 Property and/or the Phase 3 Property but may only exercise its options related thereto to lease the full parcels of property or, in the case of the Phase 3 Property, that portion of the Phase 3 Property subject to the Phase 3 Property Option.

## **ARTICLE 25** **MORTGAGE INTEREST**

**SECTION 2501. MORTGAGE INTEREST.** Notwithstanding any provision of this Lease to the contrary, the provisions hereinafter set forth shall apply to the holder of record of a first mortgage on Tenant's leasehold interest in the Phase 1 Property:

(A) Tenant shall have the right to mortgage Tenant's interest under this Lease to a federal or state savings and loan association, institutional lenders, bank or trust company, insurance company, pension fund or trust, private individuals, corporations, companies or other lenders without obtaining the prior consent of Authority, subject, however, to the other terms and conditions of this Lease.

(B) If Tenant shall mortgage its leasehold interest and if the holder of the mortgage shall forward to Authority a copy of the recorded leasehold mortgage together with a written notice setting forth the name and address of the leasehold mortgagee, then, until the time that the leasehold mortgage shall be satisfied of record, the following provisions of this paragraph shall apply.

I When giving notice to Tenant with respect to any default under the provisions of this Lease, including but not limited to the failure of Tenant to pay rent, Authority will also serve a copy of such notice upon the leasehold mortgagee(s), which copy shall be sent by Authority by Certified Mail, Return Receipt Requested, to such mortgagee(s), which notice must specify the nature of each such default.

(D) The leasehold mortgagee, upon receipt from Authority of the notice referred to in **subparagraph (C)** above, shall have, in addition to any period of grace extended to Tenant under the terms and conditions of this Lease, a period of ninety (90) days within which to cure the default or cause the same to be cured, or to commence to cure such default and proceed diligently thereafter through completion of such cure if the default cannot be cured within the 90-day period; provided, however, that as to any default of Tenant for failure to pay rent, the leasehold mortgagee shall be given written notice of such default by certified mail by Authority, and the leasehold mortgagee shall have sixty (60) days from the date the notice of default was mailed within which to cure such default.

(E) Should the leasehold mortgagee foreclose its leasehold mortgage, Authority agrees to recognize the leasehold mortgagee as Tenant under this Lease for so long as the leasehold mortgagee holds this Lease as a result of a foreclosure of its mortgage or as a result of the assignment of this Lease in lieu of foreclosure, or otherwise, whereupon such leasehold mortgagee shall immediately become and remain liable under this Lease, except as provided below without having to obtain the consent of Authority to same. In such event, the term "Tenant" as used in this section means only the owner or holder of Tenant's interest for the time being so that in the event of a sale, assignment or other disposition of Tenant's interest in this Lease by the leasehold mortgagee, the mortgagee shall be entirely freed and released of all covenants and obligations of Tenant under this Lease from the time it transfers the leasehold interest to a third party.

(F) References in this Lease to acquisition of Tenant's interest in this Lease by the leasehold mortgagee shall be deemed to refer, where circumstances require, to acquisition of Tenant's interest in this Lease by any

purchaser at a sale on foreclosure of the leasehold mortgage, and all provisions applicable to the leasehold mortgagee in such instance or instances shall also be applicable to any such purchaser.

(G) Any leasehold mortgage shall be specifically subject and subordinate to Authority's rights under this Lease. The foregoing shall not be deemed or construed to impose or establish upon Tenant's interest in this Lease or upon the lien of any leasehold mortgage the superiority of any lien or encumbrance, including, without limitation, the lien of any fee mortgage, judgment or tax created directly or indirectly by, through or against Authority.

(H) In the event of any conflict or inconsistency between the terms of this Article and any other provision of this Lease, the terms of this Article shall control.

(I) Within ten (10) days after written request by Tenant or Tenant's leasehold mortgagee, or in the event that upon any sale, assignment or mortgage of Tenant's interest in this Lease by Tenant or Tenant's leasehold mortgagee, an estoppel certificate shall be required from Authority, Authority agrees to deliver in recordable form an estoppel certificate to any proposed leasehold mortgagee, purchaser or assignee, or to Tenant certifying (if such be the case): (i) the amount of rental and additional rental due under the Lease, if any, and the date to which rentals have been paid; (ii) that this Lease is in full force and effect; (iii) that Authority has no knowledge of any default under this Lease or if any default exists, specifying the nature of the default; and (iv) that there are no defenses or offsets which may be asserted by Authority against Tenant in respect of obligations pursuant to this Lease or if defenses or offsets exist specifying the nature of such offsets or defenses.

(J) Authority agrees that the leasehold mortgagee need not pay or otherwise satisfy any claim, the lien of which would be extinguished upon the conclusion of foreclosure proceedings brought by the leasehold mortgagee, nor shall leasehold mortgagee be required to cure any default relating to the insolvency, financial condition or bankruptcy of Tenant, nor shall Authority be entitled to terminate this Lease, accelerate the rent or exercise any other remedy under this Lease for any reason including as a consequence of Tenant's refusal, inability or failure to assume and affirm this Lease as an asset of Tenant's bankruptcy estate so long as, within ninety (90) days following the leasehold mortgagee's acquisition of title to the leasehold interest following a foreclosure of the leasehold mortgagee's mortgage on said interest, or through a Deed in Lieu of Foreclosure, the leasehold mortgagee commences to cure defaults required to be cured by it under the language above in this paragraph and thereafter diligently prosecutes the same, and any notice of termination theretofore given shall be void and of no force and effect. Authority further acknowledges and agrees that if, during the course of a bankruptcy proceeding involving Tenant as debtor, Tenant rejects or otherwise fails to assume and affirm this Lease as an asset of Tenant's bankruptcy estate, this Lease shall not terminate and the leasehold mortgagee may, within ninety (90) days of receipt of written notice from Authority of such rejection or other failure to assume this Lease and the irreversible release of such

leasehold estate from Tenant's bankruptcy estate, assume this Lease by effecting a cure of the defaults required to be cured by the leasehold mortgagee under the language above in this paragraph and thereafter preserve the same. Authority further agrees that in the event the leasehold mortgagee forecloses its leasehold interest in the property or assigns Tenant's leasehold interest to a third party, Authority will not terminate the Lease solely on account of any event of default relating to the insolvency, financial condition or bankruptcy of Tenant, including, without limitation, Tenant's refusal, inability or failure to assume and affirm the Lease as an asset of Tenant's bankruptcy estate, in which event, Authority shall recognize the leasehold mortgagee as Tenant under the Lease. Authority further agrees that the leasehold mortgagee may, pending foreclosure of its mortgage, take possession of the Leased Property(ies) by and through its representative or receiver, as the leasehold mortgagee may elect and, provided it does so in accordance with the terms and provisions of the Lease, administer the Leased Property(ies) as if it were Tenant thereunder.

(K) If Tenant, or any trustee of Tenant, shall reject the Lease pursuant to Section 365(h) of the Bankruptcy Code, 11 U.S.C. § 101, et seq (the "Bankruptcy Code"), (i) Tenant shall without further act or deed be deemed to have elected under Section 365(h) (1) of the Bankruptcy Code to remain in possession of the Leased Property(ies) for the balance of the Term of the Lease, (ii) any exercise or attempted exercise by Tenant of a right to treat the Lease as terminated under Section 365(h)(1) of the Bankruptcy Code shall be void and (iii) neither the Mortgage nor any other aspect of the Loan shall be affected or impaired by rejection of the Lease. (For the purposes of Section 365(h) of the Bankruptcy Code, the term "possession" shall mean the right to possession of the Leased Property(ies) granted to Tenant under the Lease notwithstanding that all or part of such Leased Property(ies) shall have been subleased.)

(L) If, notwithstanding the provisions of **subparagraph (J)** above, the leasehold mortgagee reasonably determines that a new lease will be necessary to give legal or practical effect to the unimpaired or unaffected continuation of the leasehold mortgage, Authority will negotiate with the leasehold mortgagee and attempt to agree upon and enter into a new lease ("New Lease") of the Leased Property(ies). In the event of termination of the Lease as a result of Tenant's default, or otherwise, without the prior written consent of leasehold mortgagee, Authority shall, in addition to providing the notices of default and termination as required by **subparagraph (C)** above, provide the leasehold mortgagee with written notice that the Lease has been terminated together with a statement of all sums which would at the time be due under the Lease, but for such termination, and of all other defaults, if any, then known to Authority ("Notice of Delinquency"). Authority agrees to negotiate and, if accord is reached, enter into a New Lease of the Leased Property(ies) with the leasehold mortgagee or its designee for the remainder of the term of the Lease effective, as of the date of termination, at the rent and additional rent, and upon the terms, covenants



and conditions (including all options to renew but excluding requirements which are not applicable or which have already been fulfilled) of the Lease, provided:

(i) leasehold mortgagee shall make written request upon Authority for such New Lease within sixty (60) days after the date leasehold mortgagee receives Authority's Notice of Delinquency;

(ii) leasehold mortgagee or its designee shall pay or cause to be paid to Authority at the time of the execution and delivery of such New Lease, any and all sums which would at the time of execution and delivery thereof be due pursuant to the Lease but for such termination and, in addition thereto, all reasonable expenses, including reasonable attorney fees, which Authority shall have incurred by reason of termination and the execution and delivery of the New Lease and which have not otherwise been received by Authority from Tenant or other parties in interest under Tenant;

(iii) leasehold mortgagee or its designee shall agree to remedy any of Tenant's defaults of which leasehold mortgagee was notified by Authority's Notice of Delinquency and which are reasonably susceptible of being so cured by leasehold mortgagee or its designee;

(iv) any New Lease made pursuant to this subparagraph shall be prior to any mortgage or other lien, charge, or encumbrance on the fee of the Leased Property(ies) and Tenant under such New Lease shall have the same right, title and interest in and to the Leased Property(ies) and the buildings and improvements thereon as Tenant had under the Lease;

(v) Tenant under any such New Lease shall be liable to perform the obligations imposed on Tenant by such New Lease only during the period such person has ownership of such leasehold estate.

(M) In the event the leasehold mortgagee becomes the legal owner and holder of the leasehold estate under the Lease by foreclosure of its leasehold mortgage, or as a result of an assignment of the Lease in lieu of foreclosure (which assignment is hereby consented to by Authority), or in the event leasehold mortgagee is granted a New Lease pursuant to **subparagraph L** above, Authority hereby agrees that upon receipt of a written application for consent to the assignment of Lease from either Tenant or leasehold mortgagee to a new lessee to whom leasehold mortgagee desires to transfer its interest, Authority will execute a written consent to such assignment provided there is no outstanding default with respect to the payment of rental under the Lease. Authority further agrees that, upon becoming the owner and holder of the leasehold estate, leasehold mortgagee shall have all rights and privileges of Tenant. Further, Authority agrees that upon acquisition of the leasehold estate by leasehold mortgagee, or its assigns, any default which is not reasonably capable of being cured by leasehold mortgagee, or which is personal to leasehold mortgagee, shall not be required to be cured by leasehold mortgagee or its assigns.

(N) In the event that leasehold mortgagee shall acquire the interest of Tenant under the Lease and, in accordance with the foregoing subparagraph, assign such interest to a successor lessee, upon such assignment leasehold mortgagee shall thereupon be relieved of any further liability under the Lease.

(O) To the extent required pursuant to the provisions of any mortgage encumbering the Leased Property(ies) or the leasehold created hereunder, this Lease may not be amended without prior written consent of leasehold mortgagee.

(P) Authority and Tenant shall cooperate in including in this Lease by suitable amendment from time to time any provision which may reasonably be requested by a proposed leasehold mortgagee for the purpose of implementing the mortgagee-protection provisions contained in the Lease and allowing such mortgagee reasonable means to protect or preserve the lien of the leasehold on the occurrence of a default under the terms of this Lease. Authority and Tenant each agree to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to affect any such amendment; provided, however, that any such amendment shall not in any way affect the term or rent under this Lease, nor otherwise in any material respect adversely affect any rights of Authority under this Lease.

**SECTION 2502. ALTERNATIVE FINANCING.** Notwithstanding any provision of this Lease to the contrary, the Tenant or its subtenant(s) may obtain private financing, opportunity zone funding, or other forms of funding and Authority agrees to reasonably accommodate any additional notice or appropriate agreements to facilitate such funding agreements so long as such agreement shall not in any way affect the term or rent under this Lease, nor otherwise in any material respect adversely affect any rights of Authority under this Lease or cause Authority to incur any costs or expenses. Further, Authority shall negotiate and agree to reasonable amendments to the Lease consistent with the purpose and intent set out herein to facilitate the financing.

## **ARTICLE 26** **ATTORNEYS' FEES**

If any legal action or other proceeding is commenced in relation to this Lease or any documents incidental thereto and/or the Leased Property(ies), the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection with such action or proceeding from the non-prevailing party, including all reasonable attorneys' fees and costs incurred on appeal, in litigating entitlement to and/or amount of attorneys' fees and costs to be awarded and in connection with the prevailing party's efforts to collect on any judgment. The phrase "prevailing party" shall include a party who receives substantially the relief desired whether by dismissal, summary judgment, judgment or otherwise. The provisions of this section shall survive the termination of this Lease.

## **ARTICLE 27**

### **OTHER PROVISIONS**

**SECTION 2701. REASONABLENESS AND GOOD FAITH.** Except to the extent expressly set forth or limited in this Lease otherwise, whenever this Lease grants the Authority or Tenant the right to take action, exercise discretion, establish rules and regulations, make allocations, or other determinations, or otherwise exercise rights or fulfill obligations, the Authority and Tenant shall act reasonably and in good faith and take no action that might result in the frustration of the reasonable expectations of a sophisticated landlord and sophisticated tenant concerning the benefits to be enjoyed under this Lease.

**SECTION 2702. FORCE MAJEURE.** Except as provided below, any prevention, delay or stoppage attributable to strikes, lockouts, labor disputes, hurricanes, floods, earthquakes, tornadoes, or other natural disasters, acts of God, civil commotion, terrorism, war, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (collectively, the “Force Majeure”) will excuse the performance of that party for a period equal to the duration of the prevention, delay or stoppage. If, therefore, this Lease specifies a time period for performance of an obligation of either party, a delay that a Force Majeure causes will extend the period within which the party must complete its performance.

**SECTION 2703. HEADINGS.** Any headings preceding the text of any articles, paragraphs or sections of this Lease shall be solely for convenience of reference and shall not constitute a part of this Lease, nor shall they affect its meaning, construction or effect.

**SECTION 2704. BINDING EFFECT.** The terms, conditions and covenants of this Lease shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. This provision shall not constitute a waiver of any conditions prohibiting assignment or subletting.

**SECTION 2705. FEDERAL SUBORDINATION.** This Lease shall be subordinate to the provisions of any existing agreements between the Authority and the United States of America that have been provided to the Tenant relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

**SECTION 2706. RIGHTS RESERVED.** Rights not specifically granted the Tenant by this Lease are reserved to the Authority.

**SECTION 2707. NO WAIVER.** There shall be no waiver of the right of either party to demand strict performance of any of the provisions, terms and covenants of this Lease nor shall there be any waiver of any breach, default or non-performance hereof by either party, unless such waiver is explicitly made in writing by the

other party. Any previous waiver or course of dealing shall not affect the right of either party to demand strict performance of the provisions, terms and covenants of this Lease with respect to any subsequent event or occurrence of any subsequent breach, default or nonperformance hereof by the other party.

**SECTION 2708. SEVERABILITY.** If any provision of this Lease or the application thereof to either party to this Lease is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this Lease which can be given effect without the invalid provision, and to this end, the provisions of this Lease are severable.

**SECTION 2709. PAYMENT OF TAXES.** If applicable, Tenant shall pay all taxes and other costs lawfully assessed against its leasehold interests in the Leased Property(ies) and its interest in the Improvements, other improvements and its operations under this Lease; provided, however, Tenant shall not be deemed to be in default of its obligations hereunder for failure to pay such taxes pending the outcome of any legal proceedings instituted to determine the validity of such taxes or amounts, if and only if such legal proceedings stay Tenant's obligations to pay such taxes pending the case outcome. Failure to pay the taxes, if any, determined by the court of applicable authorities upon the final unappealable conclusion of such legal proceedings against Tenant and the continuation of that failure for more than the applicable grace period established in **Article 6** shall constitute a default.

**SECTION 2710. INTERPRETATION OF LEASE.** This Lease is the result of negotiation between the parties hereto and has been typed/printed by one party for the convenience of both parties, and the parties covenant that this Lease shall not be construed in favor of or against any of the parties hereto or against the "drafter" hereof.

**SECTION 2711. NO AGENCY.** Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship between the parties hereto. It is understood and agreed that neither the method of computation of rentals, fees and charges, nor any other provisions contained herein, nor any acts of the parties hereto creates a relationship other than the relationship of landlord and tenant.

**SECTION 2712. RIGHTS NON-EXCLUSIVE.** Notwithstanding anything herein contained that may be or appear to the contrary, the rights, privileges and licenses granted under this Lease, except in the Leased Property(ies) and Improvements and as to Tenant's rights under **Article 24**, are "nonexclusive," and the Authority reserves the right to grant similar privileges to other persons, firms or corporations.

**SECTION 2713. JURISDICTION AND VENUE.** The parties acknowledge that a substantial portion of negotiation, anticipated performance and execution of this Lease occurred or shall occur in Brevard County, Florida, and that, therefore, each of the parties: (a) agrees that this Lease and all rights and obligations hereunder shall be governed by the laws of the State of Florida without regard to its conflict of law provisions; (b) agrees that any suit, action or legal proceeding arising out of or relating to this Lease shall be brought exclusively in the courts of record of the State of Florida in Brevard County, Florida; or in the federal courts in the Middle District of Florida, (c) consents to the jurisdiction of each such court in any such suit, action or proceeding; and (d) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any such courts.

**SECTION 2714. ENTIRETY OF AGREEMENT.** The parties hereto agree that this Lease sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Lease may be added to, modified, superseded or otherwise altered, except as may be specifically authorized herein or by written instrument executed by the parties hereto.

**SECTION 2715. JURY WAIVER.** EACH PARTY HEREBY COVENANTS AND AGREES THAT IN ANY LITIGATION, SUIT, ACTION, COUNTERCLAIM, OR PROCEEDINGS, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS LEASE, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, TRIAL SHALL BE TO A COURT AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. EITHER PARTY MAY FILE AN ORIGINAL COUNTERPART OR COPY OF THIS LEASE WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

## **ARTICLE 28**

### **REQUIRED FEDERAL PROVISIONS**

**SECTION 2801. ADDITIONAL CIVIL RIGHTS PROVISION.** Tenant agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. If Tenant transfers its obligation to another, the transferee is obligated in the same manner as Tenant. This provision obligates Tenant for the period during which the

property is used and/or possessed by Tenant and the Airport remains obligated to the Federal Aviation Administration. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

**SECTION 2802. REQUIRED CLAUSE FOR TRANSFER OF REAL PROPERTY.** The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Authority pursuant to the provisions of the Airport Improvement Program grant assurances.

- (A) The Tenant for itself, its successors in interest and its assigns, as a part of the consideration for this Lease, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the property described in this Lease for a purpose for which a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the Tenant will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Pertinent List of Nondiscrimination Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities..
- (B) With respect to this Lease, in the event of breach of any of the above nondiscrimination covenants, Authority will have the right to terminate the Lease and to enter, re-enter, and repossess said Property and the facilities thereon, including without limitation the Improvements, and hold the same as if the Lease had never been made or issued.

**SECTION 2803. TITLE VI LIST OF PERTINENT NONDISCRIMINATION ACTS AND AUTHORITIES.** During the performance of this Lease, Tenant, for itself, its assignees, and successors in interest, agrees to comply with the following nondiscrimination statutes and authorities:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27;

- The Age Discrimination Act of 1975, as amended (42 USC § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 471, Section 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-209) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§ 12131 — 12189) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); and
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC 1681 *et seq.*).

## **ARTICLE 29**

### **FLORIDA SPECIFIC PROVISIONS**

RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL

AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT. [NOTE: THIS PARAGRAPH IS PROVIDED FOR INFORMATIONAL PURPOSES PURSUANT TO SECTION 404.056(8), FLORIDA STATUTES, (1988).]

**ARTICLE 30**  
**FOREIGN TRADE ZONE**

It is acknowledged that the Airport is currently designated as a part of Foreign Trade Zone 136 ("FTZ"). Authority agrees that, at the request of Tenant, it shall take such actions as may be necessary to bring certain portions of Tenant's business within the FTZ.

**ARTICLE 31**  
**BOND FINANCING**

If Tenant elects to seek financing for the Improvements through the issuance of Industrial Revenue Bonds or other taxable or tax-exempt bonds or notes ("Bonds"), the Authority agrees to fully support Tenant in its effort and assist to obtain financing for the project as long as the Authority is not obligated as to such Bonds and is not required to incur expenses related thereto. Further, if the issuance of Bonds for the project or any portion thereof requires it, Authority shall negotiate and agree to reasonable amendments to the Lease consistent with the purpose and intent set out herein to facilitate the issuance and sale of such Bonds.

**[SIGNATURES ON NEXT PAGE]**



**SIGNATURES**

IN WITNESS WHEREOF the parties hereto have set their hands and seals the date and year first above written.

Signed, Sealed and Delivered  
in the presence of:

AUTHORITY:  
TITUSVILLE-COCOA AIRPORT AUTHORITY

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Kevin Daugherty, AAE  
Director of Airports

\_\_\_\_\_  
Witness

Attest: \_\_\_\_\_  
Name:  
Position:  
(corporate seal)

TENANT:  
SPACE COAST INNOVATION PARK, LLC,  
a Florida limited liability company

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Title: \_\_\_\_\_

\_\_\_\_\_  
Witness

Attest: \_\_\_\_\_  
(corporate seal)

**EXHIBIT A-1**  
**DESCRIPTION OF PHASE 1 PROPERTY**

**(See Attached Exhibit)**

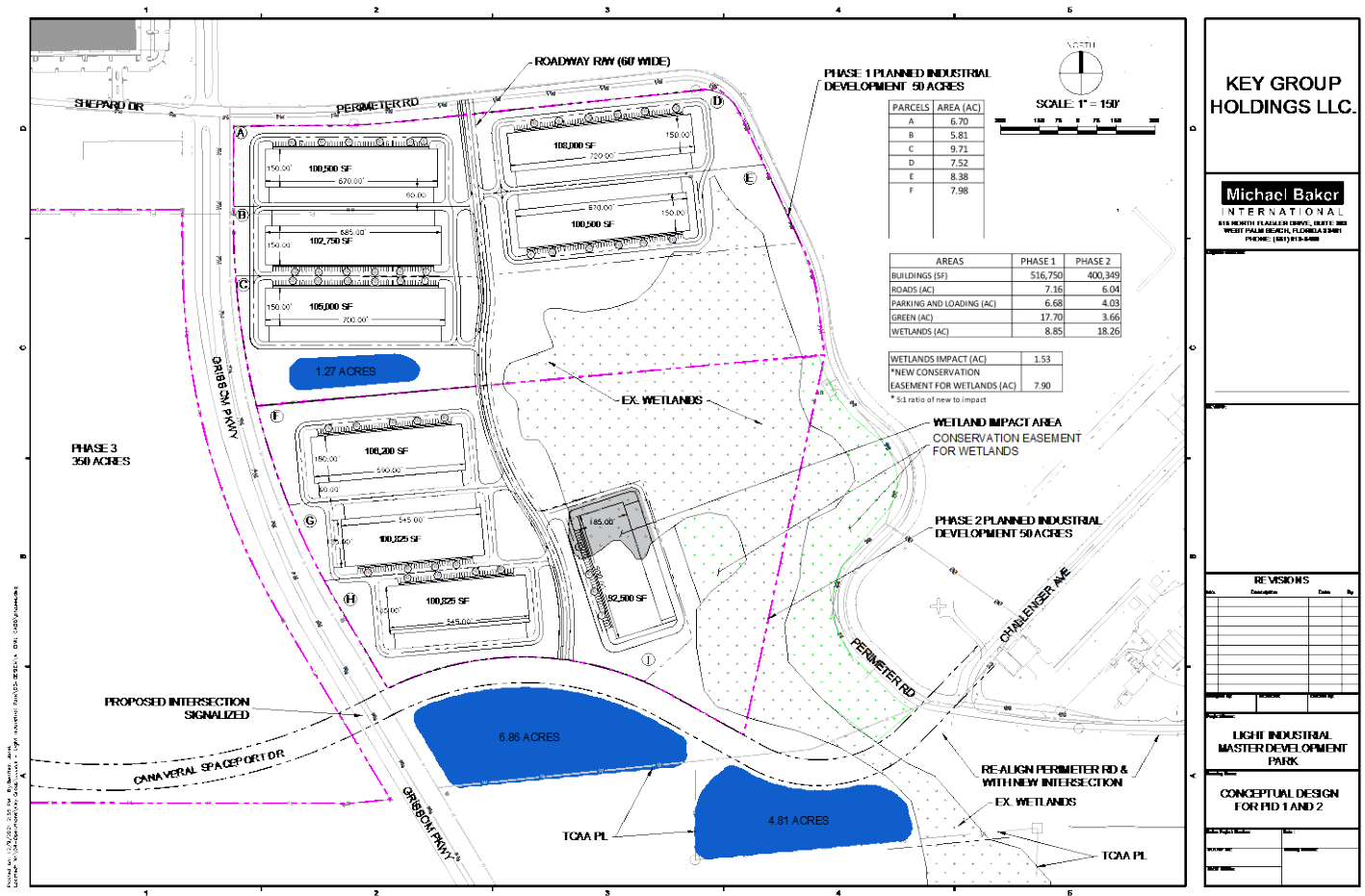
**EXHIBIT A-2**  
**DESCRIPTION OF PHASE 2 PROPERTY**

**(See Attached Exhibit)**

**EXHIBIT A-3**  
**DESCRIPTION OF PHASE 3 PROPERTY**

**(See Attached Exhibit)**

# **EXHIBIT B-1** **TENANT PRELIMINARY SITE PLAN- PHASE 1 AND 2**



**EXHIBIT C  
OMITTED**

**EXHIBIT D**  
**RENT COMMENCEMENT CERTIFICATE**

The TITUSVILLE-COCOA AIRPORT AUTHORITY and SPACE COAST INNOVATION PARK, LLC hereby agree to the delivery and acceptance of the Property, and that [MONTH] [DATE], [YEAR] shall be the “Rent Commencement Date”.

**EXECUTED BY THE AUTHORITY**, this [DATE] day of [MONTH], [YEAR].

**TITUSVILLE-COCOA AIRPORT AUTHORITY**

_____ Witness	By: _____ Kevin Daugherty, AAE Director of Airports
------------------	---

\_\_\_\_\_  
Witness

**EXECUTED BY TENANT**, this [DATE] day of [MONTH], [YEAR].

**SPACE COAST INNOVATION PARK, LLC**  
**a Florida limited liability company**

_____ Witness	By: _____ Printed Name: _____
------------------	----------------------------------

_____ Witness	Printed Title: _____
------------------	----------------------

**EXHIBIT E**  
**[OMITTED]**



**EXHIBIT F**  
**RULES AND REGULATIONS AND MINIMUM STANDARDS**

**EXHIBIT G**  
**[OMITTED]**

**EXHIBIT H**  
**ENVIRONMENTAL SITE ASSESSMENT REPORT**

**EXHIBIT I**  
**OPTION TO LEASE- Phase 2 Property**

### **Phase 3 Property**

**EXHIBIT J**  
**[OMITTED]**

**APPENDIX “1”**  
**Authority Improvements and Schedule**

**APPENDIX “2”**  
**Tenant Improvements and Schedules**





## **MEMORANDUM**

**DATE:** February 14, 2022

**TO:** Airport Authority Board Members

**FROM:** Kevin Daugherty, AAE  
Director of Airports

**SUBJECT:** Six Month Performance Review

Following my hiring last summer, we have increased our revenues by leasing out the remaining Administration Building offices to Space Perspective and Michael Baker International. We also leased additional facilities to Space Perspective (Hangar 55 and the 6995 Tico Road facility) to accommodate their rapid growth. We also assisted the East Florida Railroad group with a temporary space agreement on the westside of the Airport. Grand total for the new leases total \$319,991.04 annually.

We are working on a Memorandum of Understanding (MOU) with developers interested in constructing large corporate hangars on the westside of TIX and have entered into a NDA with Project Enroute – a space based company interested in constructing a new facility on a five acre parcel along the TIX perimeter road. The group plans on beginning their due diligence on the parcel within the next few weeks (geo-tech and survey). We also have met with several aircraft owners that are interested in constructing small private hangars at Merritt Island Airport. Additionally, we completed an Interlocal Agreement with Brevard County and the City of Rockledge to protect our airports from incompatible land uses and airspace issues.

With the Board's input and assistance, we completed the first ever Strategic Business Plan for the Airport Authority. The business plan recommended staffing corrections which are in the process of being implemented with the hiring of our new Finance Manager and Administrative Assistant. The Administrative Manager position was removed from the organization and we're currently in discussions with the City of Titusville to outsource ARFF Fire duties for the Space Coast Regional Airport.

Multiple grants from FDOT are in the works including the new AWOS units for both Merritt Island Airport and Arthur Dunn Airpark; along with grants for the upcoming Air Traffic Control Tower Siting Study and Fuel Farm Replacement project at Space Coast Regional Airport. Additional funding will also be heading our way for the VAC Ramp at TIX and NASI project at COI. We have also submitted federal funding requests for the Master Plans for all three

airports along with Space Florida requests for the Spaceport Master Plan and Common Use Rocket Testing Facility. We have recently completed the new Fly Space Coast website, new corporate logo, and are working on implementing a quarterly newsletter, along with developing a social media presence.

We have increased our community involvement and outreach. We established the Merritt Island Airport Noise Abatement Committee and now attend the EAA chapter meetings and gatherings. This gives our customers the opportunity to interact with staff and address any concerns they may have. We have also completed Airport Tenant Appreciation Days at TIX and COI (X21 has been rescheduled due to weather).

In an effort to increase industry knowledge & facilitate networking, I attended the High-Speed Aerospace Transportation Workshop in Midland, Texas and the SpaceCom 2022 Conference in Orlando. Additionally, I was recently selected to serve on the Titusville Chamber of Commerce Board of Directors and have completed presentations to local civic groups within the city.

Over the next evaluation period, my goals will be to finalize the Request for Qualifications (RFQ) process for the upcoming FAA funded Airport Master Plans and Space Florida funded Spaceport Master Plan, begin the engineering for the Common Use Rocket Testing Facility, and develop a marketing strategy for all three airports.

We also plan to continue to correct the below market lease agreements that have inaccurate or missing legal descriptions and / or sketches. This has been delaying some of the upcoming leasehold valuations. Finally, we are evaluating the fee simple purchase of the 5.56 acre parcel of undeveloped land along Tico Road in effort to add to the ad valorem tax base and grow non-aeronautical revenues for the Airport.

I would like to thank the Board members for their continued support and guidance. Please let me know if I can provide further detail or additional information.

ID	Task Name	Duration	Start	Finish													
					Qtr 4	2022				2023				2024			
						Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	
1	TCAA Master Infrastructure Schedule	505 days	Thu 6/2/22	Wed 5/8/24													
2	Master Infrastructure Design	175 days	Thu 6/2/22	Wed 2/1/23													
3	Master Infrastructure Construction	270 days	Thu 4/27/23	Wed 5/8/24													
4	Master Infrastructure Completion	0 days	Wed 5/8/24	Wed 5/8/24													
<div></div>																	
Project: TCAA Master Infrastructure Schedule Date: Fri 1/21/22		<div>Task<div></div>Milestone<div></div>Summary<div></div>Manual Task<div></div></div>															
Page 1																	

# PROJECT STATUS REPORT

## TITUSVILLE COCOA AIRPORT AUTHORITY

*PREPARED BY: MR. KEVIN DAUGHERTY, DIRECTOR OF AIRPORTS*

*DATE: **FEBRUARY 2022***

PROJECT: RUNWAY 9-27 REHAB – SPACE COAST REGIONAL AIRPORT

BUDGET: \$3.8M (\$0 Local Match)

SCOPE:

- A. MILL AND REPAVE TO REMOVE BAD ASPHALT AND CORRECT CROSS SLOPE
- B. INVESTIGATE AND REPLACE DRAINAGE PIPES
- C. INVESTIGATE AND REMOVE ABANDONED UTILITIES/PIPES/ETC
- D. REMOVE PAVED SHOULDERS AND VARIOUS PAVEMENTS ADJACENT TO RUNWAY
- E. CORRECT FILLETS AT TAXIWAY CONNECTORS
- F. CONSTRUCT STORM WATER FACILITIES TO CORRECT LEGAL POSITIVE OUTFALL ISSUE AND ADD TREATMENT AS REQUIRED BY PERMIT
- G. RESTRIPE PAVEMENT MARKINGS
- H. ADD EDGE LIGHT PROTECTION

CURRENT STATUS: **CONTRACTOR AHEAD OF SCHEDULE BY 1 MONTH; DESIGN OF ADDITIONAL DRAINAGE TO BE SUBMITTED FOR PERMIT ON MARCH 1<sup>ST</sup>**

SCHEDULE: 10 MONTHS OF CONSTRUCTION PLUS 1 MONTH OF CLOSEOUT

PHOTO/SKETCH:



PROJECT: HANGAR 52 DEMO – SPACE COAST REGIONAL AIRPORT

BUDGET: \$320K (\$64K LOCAL MATCH)

SCOPE:

- A. DEMO 3 BUILDINGS ON WEST APRON
- B. FILL ADJACENT POND
- C. MODIFY DITCH TO REMOVE ORGANICS AND FILL ABOVE SEASONAL HIGH GROUND WATER

CURRENT STATUS: **CONTRACTOR PRICING**

SCHEDULE: PROJECT IS SUBSTANTIALLY COMPLETE BUT PUNCHLIST WAS NOT COMPLETED IN ACCORDANCE; MBI IS WORKING TO REMEDY WITH CONTRACTOR

PHOTO/SKETCH:





PROJECT: TCAA/VAC APRON AND TAXILANE – SPACE COAST REGIONAL AIRPORT

BUDGET: \$1.62M (\$0 LOCAL MATCH)

SCOPE:

- A. CONSTRUCT TAXILANE
- B. CONSTRUCT AIRCRAFT PARKING APRON FOR MAX ADG II (C-47)
- C. CONSTRUCT EDGE LIGHTING
- D. EXCAVATE POND AND DRAINAGE
- E. CONSTRUCT EMBANKMENT FOR BUILDING PADS

CURRENT STATUS: **CONSTRUCTION CONTRACT WAS SIGNED LAST WEEK; CONTRACTOR IS WORKING TO OBTAIN PERMIT FOR TEMPORARY DRIVEWAY PERMIT; INSPECTION FOR TORTOISE SITE WITH FWC AT THE END OF FEBRUARY**

SCHEDULE: 8 MONTHS OF CONSTRUCTION PLUS 1 MONTH OF CLOSEOUT

PHOTO/SKETCH:



VAC CAMPUS EXPANSION STUDY



**PROJECT:** WILLOW CREEK CONNECTOR ROAD – SPACE COAST REGIONAL AIRPORT

**BUDGET:** \$2M (\$0 LOCAL MATCH)

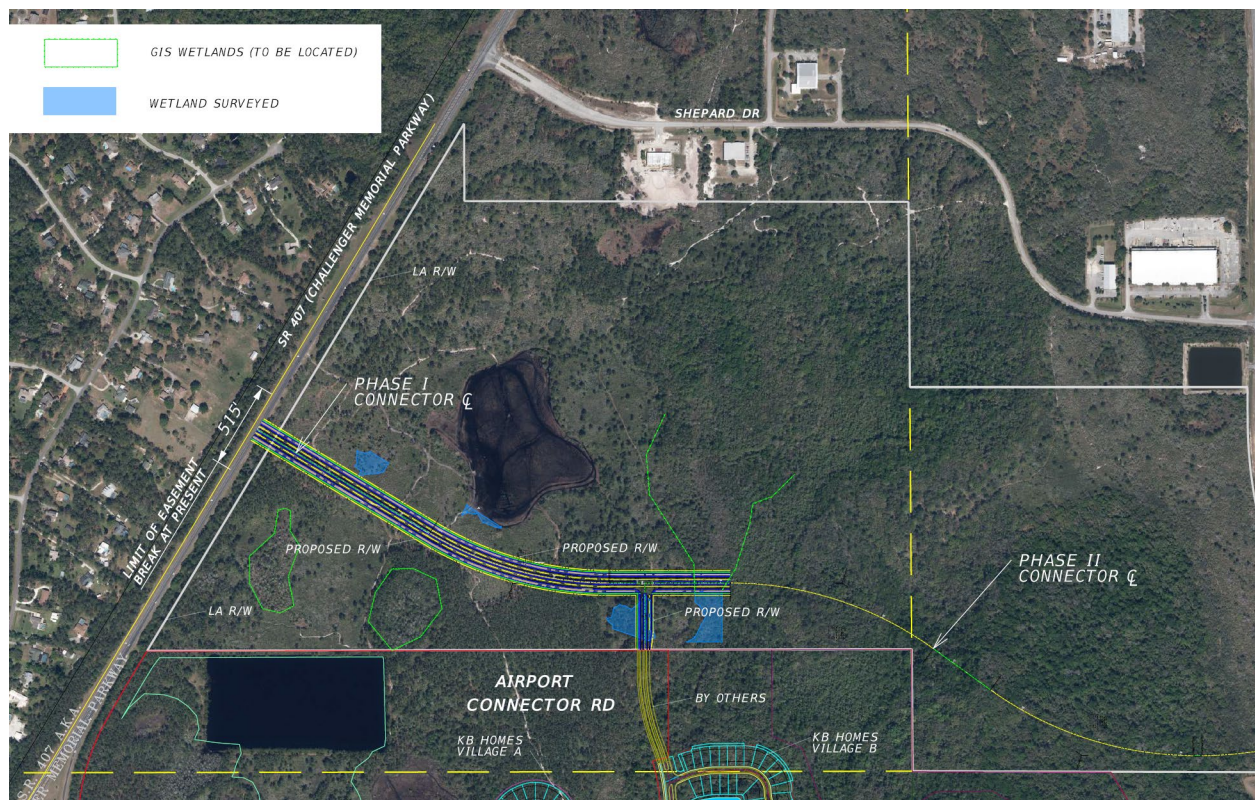
**SCOPE:**

- A. CONSTRUCT 3,500 LF OF COLLECTOR ROADWAY PHASE 1)
- B. CONSTRUCT INTERSECTION AT SR 407 WITH 4 LANE CONNECTOR, NOT SIGNALIZED
- C. PREPARE BREAK REQUEST IN LIMITED ACCESS EASEMENT WITH FDOT AND TURNPIKE
- D. CONDUCT SURVEY, GEOTECH EXPLORATION, WETLAND DOCUMENTATION, PART 163 ENVIRONMENTAL REVIEW OF CORREDOR

**CURRENT STATUS:** RECEIVED GEOTECH PERMIT; WORKING ON PERMIT FOR BREAK IN LA ROW

**SCHEDULE:** 8 MONTHS FOR DESIGN AND PERMITTING; 5 MONTHS REMAINING; 2 MONTHS BEHIND SCHEDULE DUE TO ADDITION OF EXTENSION OF THE VERONA ROAD NORTH

**PHOTO/SKETCH:**





**PROJECT:** CORPORATE HANGAR – MERRITT ISLAND AIRPORT

**BUDGET:** \$700K (\$0 LOCAL MATCH)

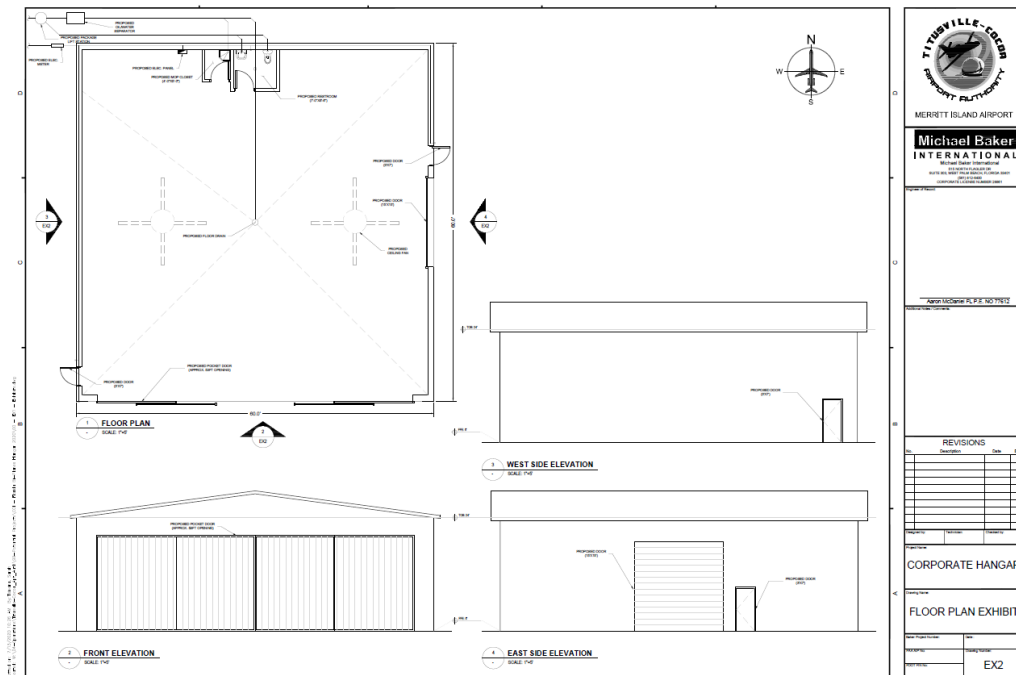
**SCOPE:**

- A. CONSTRUCT 60' X 60' CORPORATE HANGAR
- B. CONSTRUCT UTILITIES AND PARKING LOT
- C. CONSTRUCT AIRCRAFT PARKING APRON AND TAXILANE

**CURRENT STATUS:** LAST ROUND OF PERMIT COMMENTS ARE BEING TURNED IN AT THE END OF THE WEEK; BIDDING TO START THE 1<sup>ST</sup> WEEK OF MARCH

**SCHEDULE:** 7 MONTHS OF CONSTRUCTION PLUS 1 MONTH OF CLOSEOUT

**PHOTO/SKETCH:**



PROJECT: EA FOR T-HANGAR DEVELOPMENT – MERRITT ISLAND AIRPORT

BUDGET: \$269K (\$0 LOCAL MATCH)

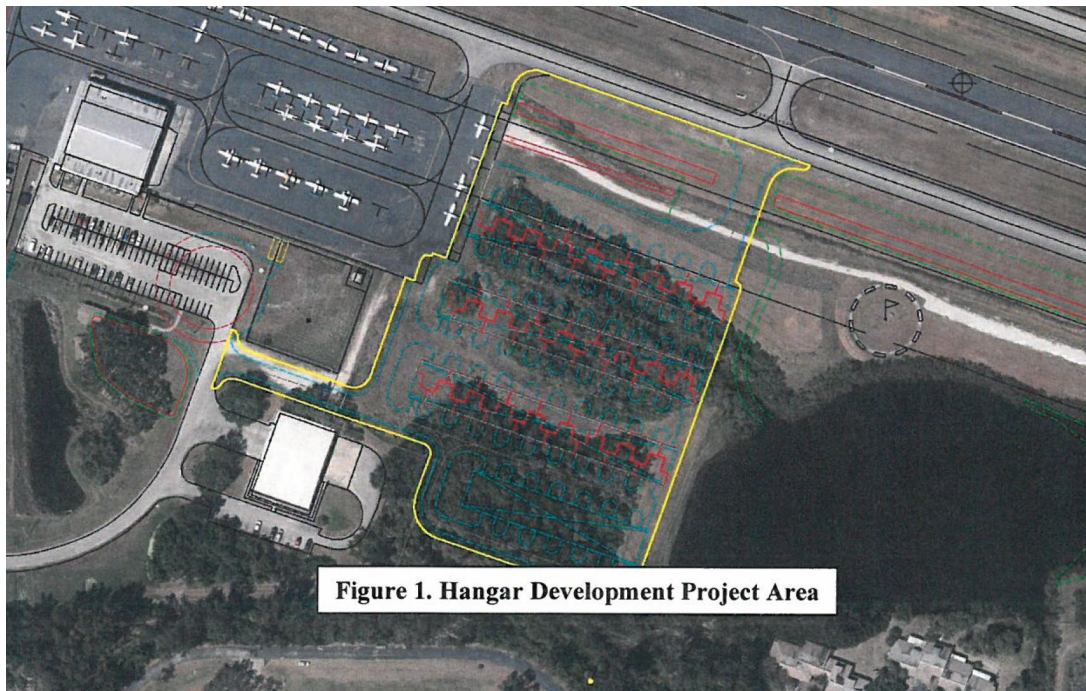
SCOPE:

- A. AN ENVIRONMENTAL ASSESSMENT WILL BE PREPARED IN ACCORDANCE WITH THE NEPA POLICY ACT, FAA ORDER 5050.4B.
- B. WETLAND IMPACTS WILL BE FLAGGED AND DOCUMENTED WITH MITIGATION REQUIREMENTS OUTLINED

CURRENT STATUS: PROJECT STARTED; EXPECTED COMPLETION IN LATE 2023; **ON-GOING; AS PART OF THE EA, THE FAA WILL BE REQUIRING ADDITIONAL INFORMATION ON AIRCRAFT NOISE.**

SCHEDULE: 12 MONTHS IS BASED ON PUBLIC MEETINGS AND NOTICES REQUIRED BY THE FAA

PHOTO/SKETCH:



**PROJECT:** NORTH AREA SECURITY AND INFRASTRUTURE – MERRITT ISLAND AIRPORT

**BUDGET:** \$949K (\$189,800 LOCAL MATCH)

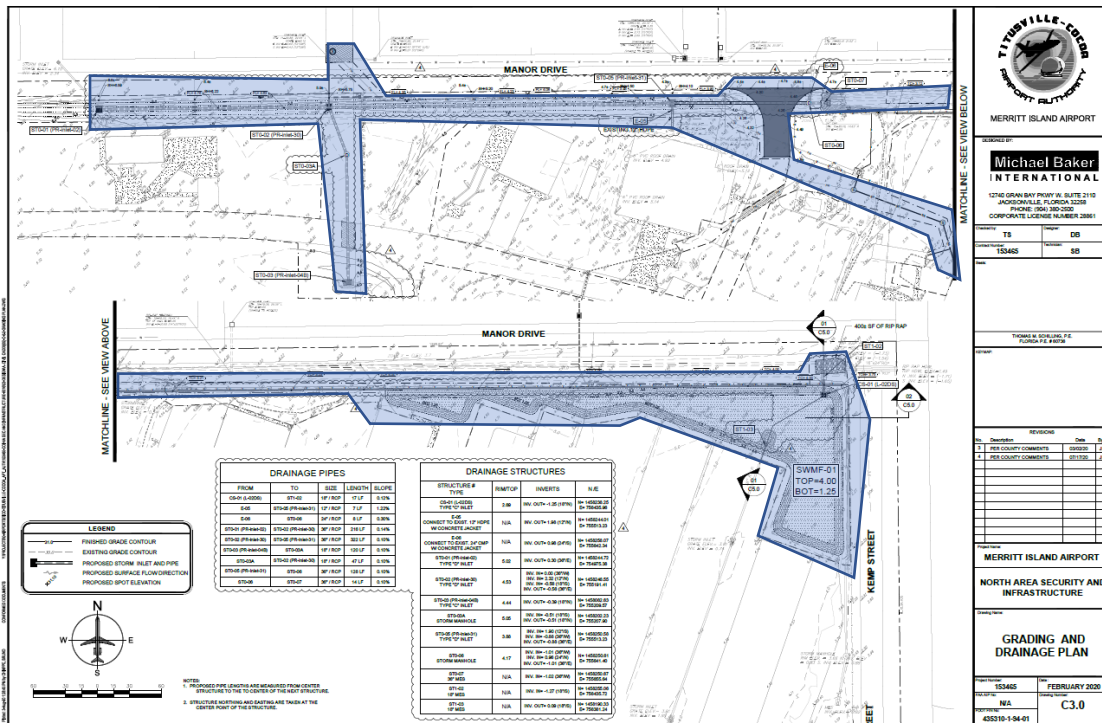
**SCOPE:**

- A. MODIFY/CONSTRUCT DRY DETENTION AREAS
- B. RECONSTRUCT SECURITY FENCING
- C. REMOVE 3 SEPTIC TANKS AND CONSTRUCT LIFT STATION WITH FORCE MAIN TO CONNECT WITH BREVARD COUNTY WASTEWATER

**CURRENT STATUS:** PERMIT IS IN-HAND AND CONTRACTOR IS MOBILIZING TO START WORK IMMEDIATELY

**SCHEDULE:** 5 MONTHS OF CONSTRUCTION PLUS 1 MONTH OF CLOSEOUT

**PHOTO/SKETCH:**



PROJECT: STRATEGIC BUSINESS PLAN FOR THE AIRPORT SYSTEM

BUDGET: \$75K

SCOPE:

- A. ANALYSIS OF EXISTING CONDITIONS
- B. ASSETS AND OPPORTUNITIES ANALYSIS
- C. EVALUATE MANAGEMENT AND GOVERNANCE
- D. FINANCIAL ANALYSIS
- E. DEVELOP GOALS AND OBJECTIVES
- F. RULES AND REGULATIONS REVIEW
- G. MINIMUM STANDARDS REVIEW
- H. AIRPORT REGIONAL VALUE

CURRENT STATUS: **PROJECT COMPLETE**

SCHEDULE: 90 DAYS FROM NTP

PHOTO/SKETCH: NONE