



DATE: Thursday – March 16, 2023  
TIME: 5:00 P.M.  
LOCATION: Airport Administration Building | 355 Golden Knights Blvd | Titusville, FL 32780

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### MEETING AGENDA

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call
- D. Approval of Agenda
- E. Approval of Meeting Minutes  
February 16, 2023 (Regular Meeting)
- F. Action Items
  - Purchase of 1 Bristow Way Facility
    - a. Commercial Purchase and Sales Agreement
    - b. Lease Termination with United States Aviation Training Solutions
    - c. Bill of Sale with Warranty
    - d. FDOT Public Transportation Grant Agreement (FPN 452683-94-01) for the acquisition of the 1 Bristow Way Improvements & Associated Resolution
    - e. Aeronautical Lease Agreement with Space Perspective, Inc. for 1 Bristow Way facility
  - Request for Qualifications # 2023 – 1 (General Consulting Services)
    - a. Request for Qualification Results
      - 1. Review and Approval of Selection Committee’s Rankings
      - 2. Authorization for staff to negotiate the contract with the Selection Committee’s two top-ranked firms
  - Invoice Approval
    - a. Approval of Invoices
- G. Deputy Director of Operations & Maintenance Report  
Capital Improvement Projects Update
- H. Attorney’s Report  
Wells Fargo Check Fraud Update

- I. Deputy Director of Finance & Administration Report
  - a. Check Register
  - b. Preliminary February 2023 Financials
  - c. Introduction of new Airport Business Manager
  
- J. Authority Members' Reports
  
- K. Public Comments
  
- L. Adjournment

**TITUSVILLE – COCOA AIRPORT AUTHORITY**

The Regular Meeting of the Titusville - Cocoa Airport Authority was held on February 16th, of 2023 at 5:00 p.m. at the Titusville - Cocoa Airport Authority Office at 355 Golden Knights Boulevard, Titusville, Fl and via video conference. The following members were present: Mr. John Craig, Chairman; Mr. Donn Mount, Vice Chairman/Treasurer; Mr. Roger Molitor, Secretary; Mr. Al Voss; Mr. Kevin Daugherty, AAE, Director of Airports; Mr. Adam Bird; Attorney. Mr. Brad Whitmore attended via video conference. Ms. Jessica Curry and Mr. Mark Grainger were absent.

**Call to Order**

Mr. Craig called the meeting to order and determined a quorum was present.

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

Mr. Craig questioned Mr. Daugherty as to any changes in the agenda. Mr. Daugherty stated there were no changes to the agenda. Mr. Craig called for motion to approve agenda as presented. Mr. Voss made the motion. Mr. Molitor seconded the motion. Motion passed.

**Approval of Meeting Minutes:****1. January 19, 2023 – Regular Meeting**

Mr. Craig called for motion to approve the minutes as presented. Mr. Molitor made the motion to approve. Mr. Voss seconded the motion. Motion passed.

**Action Items****1. Grants****a. Approval of the North Brevard Development District Economic Incentive Grant Agreement & Associated Resolution for the Design and Permitting of the Challenger Drive Extension project at the Space Coast Regional Airport.**

Mr. Craig called for motion to approve the grant as presented by Mr. Daugherty. Mr. Voss made motion to approve. Mr. Molitor seconded the motion. Motion passed.

## **2. Invoice Approval**

### **a. Approval of Invoices**

Mr. Hopman gave an overview of the invoices presented.

Mr. Craig called for motion to approve the invoices as presented.

Mr. Molitor made motion to approve. Mr. Voss seconded the motion. Motion passed.

## **Deputy Director of Operations & Maintenance Report**

### **1. Capital Improvement Projects Update**

Mr. Hopman stated the Corporate Hangar project at Merritt Island Airport has had the contract signed by C & D Construction.

Mr. Hopman stated the FAA opted to not fund additional construction drainage work for runway 9-27 rehab project at Space Coast Regional Airport at this time, therefore the grant will be closed.

The North Area Security and Infrastructure project at Merritt Island is near completion, stated Mr. Hopman with concrete and asphalt work scheduled to be completed in March.

Mr. Hopman stated the AWOS project for Merritt Island Airport and Arthur Dunn Airpark are in progress. He informed that Board that obtaining AWOS units has a six-month lead time.

The Air Traffic Control Tower design is moving forward. The Airport is still awaiting notification of construction funding from the FAA.

Mr. Hopman stated the Fuel Farm Relocation design project at Space Coast Regional Airport continues to move forward.

Mr. Hopman gave details regarding the number of operations conducted at each airport. Mr. Hopman stated noise complaints received are few and typically from the same person.

## **Attorney's Report**

### **1. Wells Fargo Check Fraud Update**

Mr. Bird gave details regarding the Wells Fargo check fraud which was determined to be a sophisticated check cashing scheme. Mr. Bird

is continuing to work with Wells Fargo to regain funds lost due to fraudulent activity and will present the outcome to the Board as further communication is received from Wells Fargo.

## **Deputy Director of Finance & Administration Report**

### **1. Check Register**

Ms. Kinard called for any questions regarding the check register from the Board. Mr. Craig questioned why invoice totals presented on the check register are not in line with the invoice totals presented on payments. Ms. Kinard gave details of different scenarios in which totals might not match when presented due to timing of invoices received and when payments were issued.

Mr. Craig questioned the payment to Brevard County Commission. Ms. Kinard explained the payment was for employee benefits.

Mr. Craig questioned the payment to Commercial Space Flight Federation. Ms. Kinard explained the payment was for dues and membership fees.

### **2. Preliminary January 2023 Financials**

Ms. Kinard provided an overview of the January 2023 Financials and explained they were preliminary due to the audit not being complete.

Ms. Kinard provided details of the income statement. Ms. Kinard explained the statement lists each airport and spaceport separately.

Ms. Kinard provided details of the budget-to-actual report.

## **Authority Member's Report**

Mr. Craig called for any comments from the Board. Mr. Craig explained the benefit of Board members having business cards and wearing airport authority shirts for community recognition.

## **Public Comments**

None

**Adjournment**

Mr. Craig adjourned the meeting at 5:36 p.m.

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JOHN CRAIG, CHAIRMAN

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DONN MOUNT, VICE CHAIRMAN/TREASURER

**1. PURCHASE AND SALE:**

Titusville-Cocoa Airport Authority \_\_\_\_\_ ("Buyer"),  
agrees to buy and

US Aviation Training Solutions, Inc. \_\_\_\_\_ ("Seller"),  
agrees to sell the improvement(s) to real property described as:

All improvements, including without limitation all edifices, buildings, structures, parking lots, ramps, aprons, tie-downs, taxiways, landscaping, sidewalks, walkways, awnings and curbing, located on, constructed upon and/or attached to the parcel of real property located at and with a legal address of 1 Bristow Way, Titusville, FL 32780.

Legal Description:

N/A

and the following Personal Property:

ALL PERSONAL PROPERTY REMAINING AS OF MARCH 31, 2023

(all collectively referred to as the "Property") on the terms and conditions set forth below. **The "Effective Date" of this Contract is the date on which the last of the Parties signs the latest offer. Time is of the essence in this Contract.** Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal holidays and any time period ending on a Saturday, Sunday or national legal holiday will be extended until 5:00 p.m. of the next business day.

**2. PURCHASE PRICE:**

	\$ 1,720,000.00
(a) Deposit held in escrow by _____ N/A	\$ N/A
(b) Additional deposit to be made within _____ days from Effective Date	\$ N/A
(c) Total mortgages	\$ N/A
(d) Other: _____ Post-closing payments to Seller (See "Additional Terms" below)	\$ 720,000.00
(e) Balance to close, subject to adjustments and prorations, To be made with cash, locally drawn certified or cashier's check or wire transfer	\$ 1,000,000.00

**3. THIRD PARTY FINANCING: NOT APPLICABLE.**

**4. TITLE:** Seller has the legal capacity to and will convey marketable title to the Property by  statutory warranty deed  other \_\_\_\_\_ Bill of Sale \_\_\_\_\_, free of liens, mortgages and encumbrances of record or known to Seller; covenants, restrictions and any claims by third parties; and (list any other matters to which title will be subject) \_\_\_\_\_; provided there exists at closing no violation of the foregoing and none of them prevents Buyer's intended use of the Property as \_\_\_\_\_.

(a) **Evidence of Title:** Buyer shall deliver to Seller at closing and warrant to Buyer full and singular title to and ownership of the Property free and clear from any claims of any kind from and/or by any third party except as acknowledged in this Contract.

(b) **Title Examination:** N/A

(c) **Survey:** N/A

(d) **Ingress and Egress:** N/A

**5. CLOSING DATE AND PROCEDURE:** This transaction will be closed in \_\_\_\_\_ Brevard \_\_\_\_\_ County, Florida, on or before March 23, 2023 ("Closing Date"), unless otherwise extended herein.  Seller  Buyer will designate the closing agent. Closing may be conducted by mail or electronic means. Buyer and Seller will, within \_\_\_\_\_ days from Effective Date, deliver to Escrow Agent signed instructions which provide for closing procedure. If an institutional lender is providing purchase funds, lender requirements as to place, time of day, and closing procedures will control over any contrary provisions in this Contract.

(a) **Costs:** Buyer will pay taxes and recording fees on notes, mortgages and financing statements, if any. Seller will pay taxes on the Property and recording fees for documents needed to cure title defects, if any.

(b) **Documents:** Buyer will provide the bill of sale, notes and, if applicable, assignments of leases, updated rent roll, tenant and lender estoppel letters, assignments of permits and licenses, corrective instruments and letters notifying tenants of the change in ownership/rental agent.

(c) **Taxes, Assessments, and Prorations:** The following items will be made current and prorated  as of the day before Closing Date  as of \_\_\_\_\_: bonds, assessments and other Property expenses payments expressly assumed in writing by Buyer, interest, rents, association dues, insurance premiums acceptable to Buyer, and operational expenses will be prorated through the day before the Closing. If the amount of taxes and assessments for the current year cannot be ascertained, rates for the previous year will be used with due allowance being made for improvements and exemptions. Seller is aware of the following assessments affecting or potentially affecting the Property: \_\_\_\_\_ N/A \_\_\_\_\_.

(d) **Special Assessments by Public Body:** Regarding special assessments imposed by a public body, Seller will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but has not resulted in a lien before closing; and Buyer will pay all other amounts. If special assessments may be paid installments, Buyer will pay installments due after Closing.

(e) **FIRPTA Tax Withholding:** The Foreign Investment in Real Property Act ("FIRPTA") requires Buyer to withhold at closing a portion of the purchase proceeds for remission to the Internal Revenue Service ("I.R.S.") if Seller is a "foreign person" as defined by the Internal Revenue Code. The parties agree to complete, execute, and deliver as

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directed any instrument, affidavit, or statement reasonably necessary to comply with the provisions of FIRPTA and to provide, at or prior to closing, appropriate documentation to establish any applicable exemption from the withholding requirement. If withholding is required and **Buyer** does not have cash sufficient at closing to meet the withholding requirement, **Seller** will provide the necessary funds and **Buyer** will provide proof to **Seller** that such funds were properly remitted to the I.R.S.

**6. ESCROW:** **Buyer** and **Seller** authorize \_\_\_\_\_ N/A

Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_

Address \_\_\_\_\_ to act as "Escrow Agent" to receive funds and other items and, subject to clearance, disburse them in accordance with the terms of this Contract. Escrow Agent will deposit all funds received in  a non-interest bearing escrow account  an interest bearing escrow account with interest accruing to \_\_\_\_\_ with interest disbursed (check one)  at closing  at \_\_\_\_\_ intervals. If Escrow Agent receives conflicting demands or has a good faith doubt as to Escrow Agent's duties or liabilities under this Contract, he/she may (a) hold the subject matter of the escrow until the parties mutually agree to its disbursement or until issuance of a court order or decision of arbitrator determining the parties' rights regarding the escrow or (b) deposit the subject matter of the escrow with the clerk of the circuit court having jurisdiction over the dispute. Upon notifying the parties of such action, Escrow Agent will be released from all liability except for the duty to account for items previously delivered out of escrow. If a licensed real estate broker, Escrow Agent will comply with applicable provisions of Chapter 475, Florida Statutes. In any suit or arbitration in which Escrow Agent is made a party because of acting as agent hereunder or interpleads the subject matter of the escrow, Escrow Agent will recover reasonable attorneys' fees and costs at all levels, with such fees and costs to be paid from the escrowed funds or equivalent and charged and awarded as court or other costs in favor of the prevailing party. The parties agree that Escrow Agent will not be liable to any person for misdelivery to **Buyer** or **Seller** of escrowed items, unless the misdelivery is due to Escrow Agent's willful breach of this Contract or gross negligence. **Buyer** acknowledges that Escrow Agent is the Attorney for **Seller**, and in the event of a dispute arising between the parties under this Contract that Escrow Agent may act as attorney for the **Seller** and **Buyer** waives any and all conflict by virtue of being Escrow Agent acting as Seller's attorney hereunder.

**7. PROPERTY CONDITION:** Subject to Florida law on the condition of improvements to real property and disclosures prior to sale required thereby, **Seller** will deliver the Property to **Buyer** at the time agreed in its present "as is" condition, ordinary wear and tear excepted, and will maintain the landscaping and grounds in a comparable condition. Except as set forth herein, **Seller** makes no additional warranties other than marketability of title.

(a) **As Is:** Subject to the express terms of this Contract, **Buyer** is fully familiar with the physical condition of the Property and accepts it "AS IS," and **Seller** has made no representations of whatever nature in connection with the condition of the Property.

(b) **Due Diligence Period:** **Buyer** will, at **Buyer's** expense and not later than March 22, 2023 ("Due Diligence Period"), determine whether the Property is suitable, in **Buyer's** sole and absolute discretion, for **Buyer's** intended use and operation of the Property. During the Due Diligence Period, **Buyer** may conduct any tests, analyses, surveys and investigations ("Inspections") which **Buyer** deems necessary to determine to **Buyer's** satisfaction the Property's engineering, architectural, environmental properties; zoning and zoning restrictions; flood zone designation and restrictions; subdivision regulations; soil and grade; availability of access to public roads, water, and other utilities; consistency with local, state and regional growth management and comprehensive land use plans; availability of permits, government approvals and licenses; compliance with American with Disabilities Act; absence of asbestos, soil and ground water contamination; and other inspections that **Buyer** deems appropriate to determine the suitability of the Property for **Buyer's** intended use and operation. **Buyer** shall deliver written notice to **Seller** prior to the expiration of the Due Diligence Period of **Buyer's** determination of whether or not the Property is acceptable. **Seller** grants to **Buyer**, its agents, contractors and assigns, the right to enter the Property at any time during the Due Diligence Period for the purpose of conducting Inspections; provided, however, that **Buyer**, its agents, contractors and assigns enter the Property and conduct Inspections at their own risk. **Buyer** shall indemnify and hold **Seller** harmless from losses, damages, costs, claims and expenses of any nature, including attorneys' fees at all levels, and from liability to any person, arising from the conduct of any and all inspections or any work authorized by **Buyer**, excluding discovery of pre-existing conditions or adverse facts with respect to the underlying real property or claims resulting from **Seller's** gross negligence or willful misconduct. **Buyer** will not engage in any activity that could result in a mechanic's lien being filed against the Property without **Seller's** prior written consent. In the event this transaction does not close, (1) **Buyer** shall repair all damages to the Property resulting from the Inspections and return the Property to the condition it was in prior to conduct of the Inspections, and (2) **Buyer** shall, at **Buyer's** expense, release to **Seller** all reports and other work generated as a result of the Inspections. Should **Buyer** deliver timely notice that the Property is not acceptable, **Seller** agrees the Contract shall be immediately terminated.

(c) **Walk-through Inspection:** **Buyer** may, on the day prior to closing or any other time mutually agreeable to the parties, conduct a final "walk-through" inspection of the Property to determine compliance with this paragraph.

(d) **Disclosures:**

1. **Radon Gas:** 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.

2. **Energy Efficiency:** **Buyer** may have determined the energy efficiency rating of the building, if any is located on the Real Property.

**8. OPERATION OF PROPERTY DURING CONTRACT PERIOD:** **Seller** will continue to operate the Property in the manner operated prior to Contract and will take no action that would adversely impact the Property. Any changes, such as renting vacant space, that materially affect the Property or **Buyer's** intended use of the Property will be permitted  only with **Buyer's** consent  without **Buyer's** consent.

**9. RETURN OF DEPOSIT:** N/A

**10. DEFAULT:** In the event the sale is not closed due to any default or failure on the part of **Seller** other than failure to make the title clear and the Property unencumbered after diligent effort, **Buyer** may seek specific performance and any other remedy available to **Buyer** pursuant to Florida law.

**Buyer** (\_\_\_\_) (\_\_\_\_) and **Seller** (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page.

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**11. ATTORNEY'S FEES AND COSTS:** In any claim or controversy arising out of or relating to this Contract, the prevailing party, which for purposes of this provision will include **Buyer** and **Seller**, will be awarded reasonable attorneys' fees, costs and expenses.

**12. BROKERS:** Neither **Buyer** nor **Seller** has utilized the services of, or for any other reason owes compensation to, a licensed real estate Broker other than:

(a) **Listing Broker:** \_\_\_\_\_ N/A  
who is  an agent of \_\_\_\_\_  
 a transaction broker  a nonrepresentative and who will be  
compensated by  **Seller**  **Buyer**  both parties pursuant to  a listing agreement  other (specify): \_\_\_\_\_

(b) **Cooperating Broker:** \_\_\_\_\_ N/A  
who is  an agent of \_\_\_\_\_  
 a transaction broker  a nonrepresentative and who will be  
compensated by  **Buyer**  **Seller**  both parties pursuant to  an MLS or other offer of compensation to a  
cooperating broker  other (specify) \_\_\_\_\_

Except as set forth above, each party represents and warrants that they have dealt with no other person, firm, or entity or taken any action that could cause a real estate commission to become due, and each party shall be responsible for any real estate commission that results from that party's actions and further shall indemnify and hold the other harmless from any breach of this representation including reasonable attorney's fees and costs.

**13. ASSIGNABILITY; PERSONS BOUND:** This Contract  is not assignable  is assignable. The terms "**Buyer**," "**Seller**" and "**Broker**" may be singular or plural. This Contract is binding upon **Buyer**, **Seller** and their heirs, personal representatives, successors and assigns (if assignment is permitted).

**14. OPTIONAL CLAUSES:** (Check if any of the following clauses are applicable and are attached as an addendum to this Contract):

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Arbitration                    | <input type="checkbox"/> Seller Warranty                   | <input type="checkbox"/> Existing Mortgage |
| <input type="checkbox"/> Section 1031 Exchange          | <input type="checkbox"/> Coastal Construction Control Line | <input type="checkbox"/> Other             |
| <input type="checkbox"/> Property Inspection and Repair | <input type="checkbox"/> Flood Area Hazard Zone            | <input type="checkbox"/> Other             |
| <input type="checkbox"/> Seller Representations         | <input type="checkbox"/> Seller Financing                  | <input type="checkbox"/> Other             |

**15. MISCELLANEOUS:** The terms of this Contract constitute the entire agreement between **Buyer** and **Seller**. Modifications of this Contract will not be binding unless in writing, signed and delivered by the party to be bound. Signatures, initials, documents referenced in this Contract, counterparts and written modifications communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or typewritten terms inserted in or attached to this Contract prevail over preprinted terms. If any provision of this Contract is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective. This Contract will be construed under Florida law and will not be recorded in any public records. Delivery of any written notice to any party's agent will be deemed delivery to that party.

**16. ADDITIONAL TERMS:** The following additional terms shall constitute binding and material terms of this Contract and are expressly incorporated herein by reference and made a part of this Contract for all purposes:

(a) At Closing, Seller shall execute a "Termination of Lease Agreement" or like document supplied by **Buyer** that will fully and finally terminate the written lease agreement between **Buyer** and **Seller** through which **Seller** currently leases the Property from **Buyer**. It is understood and acknowledged that **Seller** currently subleases the Property to a third party, which is addressed below.

(b) At Closing, **Seller** shall provide documentary proof that it has validly terminated or otherwise cancelled any sublease between **Seller** and any third-party individual or entity for any part or portion of the Property, including without limitation providing documentary and valid proof that any and all subtenants have validly and willingly consented to such termination or cancellation. Furthermore, **Seller** shall indemnify and hold **Buyer** harmless from any and all claims, expenses, costs, damages and all other liabilities of any kind asserted or threatened to be asserted by any individual and/or entity claiming to be entitled to occupancy, use and/or possession or all or a portion of the Property including without limitation any subtenant(s) thereof.

(c) **Seller** expressly acknowledges that **Buyer** currently intends to lease the Property to **Seller's** current subtenant in and on the Property, and **Seller** hereby expressly consents to all communications, negotiations and agreements between **Buyer** and any subtenant of the Property without recourse to **Seller**, including without limitation **Seller's** waiver and release of any claims related there, such as interference with a contract and/or advantageous business relationship.

(d) **Seller** expressly acknowledges that it has disclosed all material facts **Seller** knows or reasonably should know concerning the condition of the Property that materially affect the Property's value and/or **Buyer's** intended use thereof. Should **Seller** discover any previously unknown condition materially and negatively affecting the Property prior to Closing, **Seller** shall immediately notify **Buyer** of the same in writing.

(e) At any time, including without limitation after Closing, should it become reasonably necessary to effectuate the full and final transfer of all of **Seller's** interest in the Property to **Buyer** (assuming **Buyer** closes on the purchase of the Property as set forth in this Contract), **Buyer** and **Seller** shall execute any and all documentation requested by the other to confirm the transfer of all title and interest in the Property from **Seller** to **Buyer**, including without limitation any deed or other instrument of transfer.

(f) Should **Buyer** close on its purchase of the Property at Closing, **Buyer** shall pay to **Seller** the \$720,000.00 balance set forth on Line 2(d), above, pursuant to the following schedule: (i) \$240,000.00 on or before the first anniversary of the Closing Date, (ii) \$240,000.00 on or before the second anniversary of the Closing Date, and (iii) \$240,000 on or before the third anniversary of the Closing Date. Sums due **Seller** from **Buyer** pursuant to this paragraph shall not bear interest, and no interest shall be due or payable from **Buyer** to **Seller** in relation to such payments.

**17. CONTRACT MODIFICATION:** **Seller** and **Buyer** acknowledge that some of the standard provisions contained within the Florida Association of Realtor's Commercial Contract have been modified and/or deleted, and they should not, nor shall they have the right to rely upon any terms in the original version being included within this contract.

**Buyer** (\_\_\_\_) (\_\_\_\_) and **Seller** (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page.

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THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT, IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING. BROKER ADVISES BUYER AND SELLER TO VERIFY ALL FACTS AND REPRESENTATIONS THAT ARE IMPORTANT TO THEM AND TO CONSULT AN APPROPRIATE PROFESSIONAL FOR LEGAL ADVICE (FOR EXAMPLE, INTERPRETING CONTRACTS, DETERMINING THE EFFECT OF LAWS ON THE PROPERTY AND TRANSACTION, STATUS OF TITLE, FOREIGN INVESTOR REPORTING REQUIREMENT, ETC.) AND FOR TAX, PROPERTY CONDITION, ENVIRONMENTAL AND OTHER SPECIALIZED ADVICE. THIS CONTRACT SHALL NOT BE CONSTRUED MORE FAVORABLY FOR ONE PARTY OR THE OTHER AND SHALL NOT BE CONSTRUED "AGAINST THE DRAFTER" HEREOF.

**OFFER:** Buyer offers to purchase the Property on the above terms and conditions. Unless acceptance is signed by Seller and a signed copy delivered to Buyer or Buyer's agent no later than \_\_\_\_\_  a.m.  p.m. on \_\_\_\_\_, Buyer may revoke this offer and receive a refund of all deposits.

Date: \_\_\_\_\_ **BUYER:** \_\_\_\_\_ Tax ID No: \_\_\_\_\_

Title: \_\_\_\_\_ Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_  
Address: \_\_\_\_\_

Date: \_\_\_\_\_ **BUYER:** \_\_\_\_\_ Tax ID No: \_\_\_\_\_

Title: \_\_\_\_\_ Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_  
Address: \_\_\_\_\_

**ACCEPTANCE:** Seller accepts Buyer's offer and agrees to sell the Property on the above terms and conditions ( subject to the attached counter offer).

Date: \_\_\_\_\_ **SELLER:** \_\_\_\_\_ Tax ID No: \_\_\_\_\_

Title: \_\_\_\_\_ Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_  
Address: \_\_\_\_\_

Date: \_\_\_\_\_ **SELLER:** \_\_\_\_\_ Tax ID No: \_\_\_\_\_

Title: \_\_\_\_\_ Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_  
Address: \_\_\_\_\_

Buyer (\_\_\_\_) (\_\_\_\_) and Seller (\_\_\_\_) (\_\_\_\_) acknowledge receipt of a copy of this page.

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## LEASE TERMINATION AGREEMENT AND LIMITED RELEASE

**THIS LEASE TERMINATION AGREEMENT AND LIMITED RELEASE** (this “**Agreement**”) is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2023 by and between the **TITUSVILLE-COCOA AIRPORT AUTHORITY**, a special taxing district existing under the laws of the State of Florida whose address is 51 Bristow Way, Titusville, Florida 32780 (“**Landlord**”), and **US AVIATION TRAINING SOLUTIONS, INC.**, a Florida corporation whose address is 365 Golden Knights Boulevard, Titusville, Florida 32780 (“**Tenant**”).

### RECITALS

**WHEREAS**, Landlord and Tenant’s predecessor in interest, Bristow Academy, Inc. (“**Former Tenant**”) are parties to a certain lease agreement for the lease of commercial property located at Space Coast Regional Airport, which is owned and operated by Landlord, more particularly described as that certain “Lease Agreement” with an effective date of October 10, 2010 by and between Landlord and Former Tenant for the parcel of real property and improvements thereon located at 1 Bristow Way, Titusville, FL 32780, as more particularly described in said “Lease Agreement” (the “**Lease**”);

**WHEREAS**, Tenant purchased all or substantially all of the assets of Former Tenant, which was subsequently dissolved, took possession of the demised premises under the Lease, became the actual tenant therein and assume all of the rights, duties and obligations of Former Tenant under the Lease;

**WHEREAS**, Former Tenant and/or Tenant constructed on the real property subject to the Lease certain improvements, including without limitation a building (collectively, the “**Improvements**”), that has been operated by Tenant and, more recently, subleased by Tenant to a third party (the “**Subtenant**”); and

**WHEREAS**, Tenant has contracted to sell to Landlord, and Landlord has contracted to purchase from Tenant, all of the Improvements on the real property subject to the Lease, which Landlord currently intends to lease to the Subtenant; and

**WHEREAS**, as a result of the foregoing, it is in Landlord’s and Tenant’s best interests, respectively, to terminate the Lease (rather than take an assignment of Tenant’s sublease with the Subtenant) to allow Landlord to enter into a direct and written lease agreement with the Subtenant to provide the most current terms, provisions and rights to be set forth in said written lease agreement; and

**WHEREAS**, both Landlord and Tenant acknowledge that the other is not in material default or breach of the Lease, and each is not aware of any existing material breach or default in and/or under the Lease by the other, including without limitation as it pertains to payment of sums due Landlord from Tenant under the Lease and Landlord’s maintenance and repair obligations thereunder.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein

contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant hereby agree as follows:

1. **“Whereas” Clauses.** Landlord and Tenant agree and acknowledge that the representations contained in the above “Whereas” clauses are true and accurate and that they were expressly relied upon by Landlord and Tenant in the entry into this Agreement.

2. **Termination of Lease.** With the exception of any term(s) that expressly survive termination of the Lease as set forth therein, Landlord and Tenant agree and acknowledge that the Lease shall terminate effective the “Closing Date” as that term is defined in that certain Commercial Contract between Landlord and Tenant for the purchase and sale of the Improvements (the “Commercial Contract”). Landlord and Tenant agree to abide by all terms of the Lease through said Closing Date, including without limitation provisions regarding use and possession of the leased premises and payment of rent. Tenant agrees to fully vacate the demised premises subject to the Lease on or before the Closing Date and to leave said demised premises in the condition required by the Lease. Tenant further agrees that this termination of the Lease shall include any and all options to extend the Lease as set forth therein, which Tenant voluntarily waives, relinquishes and disclaims.

3. **Limited Release.** Landlord and Tenant hereby release, disclaim, relinquish and waive any claim of any kind, type or nature each may have against the other for any breach or default of the Lease and/or related to any term and/or provision thereof, with the exception of claims that arise after the execution of this Agreement.

4. **Authorization.** Tenant represents and warrants to Landlord that its execution and delivery of this Agreement has been duly authorized, that the person executing this Agreement on behalf of such party (including without limitation on behalf of Bristow Academy, Inc.) has been duly authorized to do so, and that no other action or approval is required with respect to this Agreement.

5. **No Waiver.** This Agreement shall not operate as a waiver by Landlord of any of its rights under the Lease that accrued during the Lease term (October 1, 2011 through March 31, 2021) including without limitation its right to enforce any terms of the Lease.

6. **Material Condition to Validity.** This Agreement shall only be valid, binding and effective should Landlord close on the purchase of the Improvements from Tenant pursuant to the terms of their Commercial Contract. To the extent the same does not occur, then this Agreement shall be immediately become void and of no further force or effect.

7. **Miscellaneous.**

a. This Agreement constitutes the entire understanding between the parties hereto with respect to the subject matter contained herein and may not be changed orally but only by an agreement in writing signed by Landlord and Tenant. Except as set forth herein, neither Landlord nor Tenant is relying upon any representations, warranties, statements or agreements not explicitly contained in this Agreement as an inducement to such party’s entering into this Agreement.

b. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

c. This Agreement may be executed in any number of counterparts, which counterparts, taken together, shall constitute one and the same instrument. It is agreed that an electronic .PDF signature shall evidence and constitute valid execution of this Agreement and shall be binding on the signing party and shall be the same as delivery of an original. At the request of any party, electronic pdf transmitted signatures will be confirmed by the delivery to the requesting party a signed original counterpart of this Agreement.

d. If any of the provisions of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of the Agreement or the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby, and every provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of date set forth in the preamble hereto.

**LANDLORD:**

**TITUSVILLE-COCOA  
AIRPORT AUTHORITY**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to form and legality  
this \_\_\_\_ day of \_\_\_\_\_, 2023.

**WhiteBird, PLLC**

By: \_\_\_\_\_  
Adam M. Bird, Esq.  
TCAA Legal Counsel

**WITNESSES:**

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

\_\_\_\_\_  
(Print Name)

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

\_\_\_\_\_  
(Print Name)

**TENANT:**

**US AVIATION TRAINING  
SOLUTIONS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**WITNESSES:**

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

\_\_\_\_\_  
(Print Name)

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

\_\_\_\_\_  
(Print Name)

**BILL OF SALE ABSOLUTE**

**KNOW ALL MEN BY THESE PRESENTS:**

That US AVIATION TRAINING SOLUTIONS, INC., 365 Golden Knights Boulevard, Titusville, FL 32780, party of the first part, for and in consideration of the sum of TEN (\$10.00) DOLLARS, in lawful money (and other good and valuable considerations) paid by TITUSVILLE-COCOA AIRPORT AUTHORITY, 51 Bristow Way, Titusville, FL 32780, party of the second part, the receipt of which is hereby acknowledged, have granted, bargained, sold, transferred, set over and delivered, and by these presents does grant, bargain, sell, transfer, set over and deliver unto the party of the second part, its heirs, successors, and assigns, all of those certain goods and chattels, described as follows:

All improvements and attached items, including all items on premises, located on, in and/or upon that certain parcel of real property with a legal address of 1 Bristow Way, Titusville, FL 32780, as reflected, depicted, and described in the Appraisal of Real Property report prepared by Andrew H. Magenheimer, MAI dated August 12, 2022 (SJM File No. 22025).

**TO HAVE AND TO HOLD** the same unto the party of the second part, its heirs, successors and assigns forever.

And the party of the first part, for itself and its successors and assigns, hereby covenants to and with the party of the second part, its heirs, successors and assigns that it is the lawful owner of the said goods and chattels; that it is free from all liens and encumbrances; that it is good right to sell the same as aforesaid, and that it will warrant and defend the same against the lawful claims and demands of all persons whomsoever.

**IN WITNESS WHEREOF**, the party of the first part has hereunto caused these presents to be executed on this \_\_\_ day of \_\_\_\_\_, 2023.

WITNESSES:

**US AVIATION TRAINING SOLUTIONS, INC.**

\_\_\_\_\_

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

*Print name:* \_\_\_\_\_

As Its: \_\_\_\_\_  
(Title)

\_\_\_\_\_

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

*Print name:* \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF BREVARD

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] remote online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, who is/are personally known to me or has/have produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public - State of Florida

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

My Commission Expires:

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Financial Project Number(s): <small>(item-segment-phase-sequence)</small> 452683-1-94-01	Fund(s): Work Activity Code/Function: Federal Number/Federal Award Identification Number (FAIN) – Transit only:	DDR 215 N/A N/A	FLAIR Category: Object Code: Org. Code: Vendor Number:	088719 751000 55052000531 VF591061002001
Contract Number:	Federal Award Date:	N/A		
CFDA Number:	Agency SAM/UEI Number:			
CFDA Title:				
CSFA Number:				
CSFA Title:				

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:

- 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.
- Purpose of Agreement.** The purpose of this Agreement is to provide for the Department’s participation in Building Acquisition at Space Coast Regional, 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.
- 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**

- 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 B3: Alternative Advanced Pay (Transit Bus Program)
- \*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



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- \_\_\_ \*Exhibit H: Audit Requirements for Awards of Federal Financial Assistance  
 \_\_\_ \*Exhibit I: Certification of Disbursement of Payment to Vehicle and/or Equipment Vendor  
 \_\_\_ \*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.

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**9. Project Cost:**

- a. The estimated total cost of the Project is \$1,060,000. 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 \$530,000 and, the Department's participation in the Project shall not exceed 50.00% 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,

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Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

- 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

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may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

- 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

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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 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 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.

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

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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, 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



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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 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

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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 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

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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.

**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.

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- 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.
- 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

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subcontractor, in connection with this Agreement. Additionally, to the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28, Florida Statutes, 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, 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. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the Department's or the Agency's sovereign immunity. 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

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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.

- 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.

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- 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 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)): Building acquisition at Space Coast Regional - The purchase of the 1 Bristow Way building, that will increase annual revenues at the airport.

**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): As required by 215.971, F.S., this scope of work includes but is not limited to consultant and legal fees, costs of survey, appraisals, title search, deed preparation and land acquisition. It includes all materials, equipment, labor, and incidentals required to complete transfer of the subject property or properties to the sponsor.

The specifics of the Project Scope are described in the Property Appraisal Report conducted by the Slack Johnston Magenheimer dated August 12, 2022. Together with all plan updates, necessary design variation, exceptions, and change orders approved by the Agency." The Sponsor will comply with Aviation Program Assurances.

**D. Deliverable(s)**: Final close out documents to be uploaded in 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 material.

**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.





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**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
452683-1-94-01	DDR	088719	2023	751000	55.004	Aviation Grant Program	\$530,000.00
452683-1-94-01	LF	088719	2023	751000	55.004	Aviation Grant Program	\$530,000.00
<b>Total Financial Assistance</b>							<b>\$1,060,000.00</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	\$530,000.00	\$530,000.00	\$0.00	\$1,060,000.00	50.00	50.00	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>\$530,000.00</b>	<b>\$530,000.00</b>	<b>\$0.00</b>	<b>\$1,060,000.00</b>			

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

<b>Scope Code and/or Activity Line Item (ALI) (Transit Only)</b>	
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**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.

Luciana Taylor

Department Grant Manager Name

Signature

Date

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**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.**

- 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.



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- 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

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).

- 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.

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- 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.

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**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>.

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**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:** \$530,000

\*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>

**TITUSVILLE–COCOA AIRPORT AUTHORITY**



**AERONAUTICAL LEASE AGREEMENT**

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**Space Coast Regional Airport**

Titusville, Florida

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Lessee:

**SPACE PERSPECTIVE, INC.**

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**AERONAUTICAL LEASE AGREEMENT**

THIS AERONAUTICAL LEASE AGREEMENT (the “Lease” or “Agreement”) made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 (the “Effective Date”) by and between the **TITUSVILLE COCOA AIRPORT AUTHORITY**, as the governing body of the Titusville Cocoa Airport District, a special taxing district existing by and under the laws of the State of Florida with its principal place of business located at 51 Bristow Way, Titusville, FL 32780 (the “Authority”), and **SPACE PERSPECTIVE, INCORPORATED**, a Delaware corporation authorized to do business in the State of Florida with its principal place of business located at 831 E. 17<sup>th</sup> Street Tucson, Arizona 85719 (the “Lessee”).

W I T N E S S E T H:

WHEREAS, Authority owns and operates airports known as Arthur Dunn Airpark (X21), Space Coast Regional Airport (TIX), and Merritt Island Airport (COI), and Authority is desirous of leasing to Lessee certain premises hereinafter more fully described and located at Space Coast Regional Airport, together with the right to use and enjoy individually and in common with others the facilities referred to; and

WHEREAS, Authority wishes to lease to Lessee and Lessee wishes to lease from Authority an aeronautical parcel of real property, together with various improvements, located at Space Coast Regional Airport (1 Bristow Way Titusville, FL 32780) and totaling 465,003 square feet (building/pavement/land) (the “Property,” as more specifically identified on **Exhibit “A”** hereto), to occupy and use the same for the express purposes set forth herein and pursuant to the terms hereof.

NOW, THEREFORE, in consideration of the mutual agreements, covenants, and conditions herein contained, Authority does hereby lease, demise, grant and let to Lessee, the Property, more particularly identified in **Exhibit “A”** attached hereto, upon the following terms and conditions, to-wit:

ARTICLE I  
**LEASED PREMISES**

Authority hereby leases unto Lessee, and Lessee hereby leases from Authority, the Property located at 1 Bristow Way, Titusville, FL 32780, as more specifically described in **Exhibit “A”** hereto, consisting of approximately **465,003 square feet** of real property, more or less, located at the **Space Coast Regional Airport**.

If applicable, to the extent it has not yet been provided and as soon as reasonably practical after the execution of this Lease, Lessee shall be responsible for obtaining, at its sole cost and expense, a boundary survey for the Property depicting the true boundaries thereof, and the same shall be appended hereto and become a part of **Exhibit "A"** to this Lease (together with the current **Exhibit "A"**), and each and every reference in this Lease to **Exhibit "A"** shall refer to said composite exhibit consisting of the current **Exhibit "A"** and the land survey to be appended hereto after execution of this Lease. Both Authority and Lessee acknowledge that each has sufficient information and knowledge to locate the Property, as defined herein, but further agree that in an abundance of caution and for the sake of clarity, the aforementioned boundary survey shall be required to set the formal and defined metes and bounds of the Property. Notwithstanding that said boundary survey may not be attached to this Lease at the time it is executed, both Authority and Lessee knowingly and voluntarily waive any argument either has or may have that failure to attach the boundary survey at or before the time this Lease is executed in any way affects the validity and/or enforceability of this Lease, including without limitation any argument that the Property herein is not sufficiently defined prior to the attachment of said boundary survey.

**Section 1.01 -Conditions.**

- A. Lessee hereby accepts the Property in its "as is" condition, and subject to (i) all applicable building codes, zoning regulations, and municipal, county, state and federal ordinances and regulations governing or regulating the use of the Property, and (ii) any covenants, easements and restrictions of record.
- B. Lessee acknowledges that Authority has made no representations or warranties respecting the suitability of the Property for Lessee's purposes and that Authority has no obligation whatsoever to repair, maintain, renovate or otherwise incur any cost or expense with respect to the Property and/or any leasehold improvements, fixtures, furnishing or equipment installed in or used on the Property, except as otherwise set forth in this Lease.
- C. Lessee agrees that it shall provide sufficient facilities and/or accommodation on the Property for the required stormwater retention if and to the extent the same

may be required by the Florida Department of Environmental Regulation, Brevard County, or the City of Titusville.

- D. Lessee further agrees that it shall observe all setback and landscaping requirements set forth by the applicable governmental agency and that it will irrigate and maintain in clean and well-kempt condition all landscaped areas.
- E. Lessee further agrees that it shall observe all applicable Airport Rules and Regulations regarding the use of the Property and that approved improvements to be constructed by Lessee will be used solely for commercial aviation endeavors.

ARTICLE II  
TERM AND RENEWAL

**Section 2.01 - Term**

- A. The term of this Lease shall be a period of **Five (5) Years** commencing on the day of \_\_\_\_\_ **2023** (the “Commencement Date”) and terminating on \_\_\_\_\_, **2028** (the “Term”). To the extent Lessee makes any improvements to the Property pursuant to the terms hereof, at the termination of the Lease, title to all improvements on the Property of any kind not already in the name of Authority shall revert to Authority with the exception of trade fixtures.
- B. Lessee shall have the option to extend the term of this Lease for one (5) five year consecutive additional period (“Extension Term”) by notifying the Authority in writing at least ninety (60) days prior to the expiration of the preceding term and requesting the Authority’s estimate of Fair Market Value (FMV) of the Leased premises for the upcoming Extension Term. The FMV rental rate 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 aeronautical use of real property at public-use airports (the “Appraiser”).
- C. The Lessee, in order to exercise the Extension Term, shall not have committed an Event of Default which is continuing at the time of the exercise of the Extension

Term or at the time of the extension of the Initial Term. The Initial Term, and Extension Term, if any, are collectively referred to as the “Term”.

- D. Either Party shall have the right, with or without cause to terminate the agreement by providing ninety days written notice to the other party; providing the terminated party has otherwise complied with the material terms and conditions of this agreement and is not in default hereunder.
- E. If within ninety (90) days of the Commencement Date, the Federal Aviation Administration (“FAA”) disapproves the Lease, then this Lease will be void and of no further force and effect and the parties will be released from any further Lease obligations. Provided however, if the parties reasonably attempt to comply with any modifications required by the FAA for approval, then this Lease shall remain in full force and effect even if such compliance does not lead to a reversal or withdrawal of FAA disapproval within the aforementioned 90-day deadline.
- F. Lessee agrees that upon expiration of the term of this Lease, from lapse of time or otherwise, said Property will be delivered to Authority in the same or better condition than when Lessee received possession, reasonable wear and tear excepted. Reasonable wear and tear shall be determined at the sole discretion of the Authority upon inspection of the premises from time to time.
- G. In the event Lessee shall continue to occupy the Property beyond the Term without Authority's written consent, such occupancy shall not constitute a renewal or extension of this Lease, but shall create a month-to-month tenancy that may be terminated at any time by either party by giving thirty (30) days’ written notice to the other party.

ARTICLE III  
FACILITY RENTAL

**Section 3.01 - Rent.**

For the purpose of computing the rental payments, Authority and Lessee agree that the Property is comprised of 465,003 square feet (building, ramp, land) more or less, as described in **Exhibit "A"**. The initial annual base rental rate for the Property (prior to any rental rate increases as set forth below) shall be **\$354,807** (the "Initial Annual Base Rent"). The Initial Annual Base Rent shall increase on the rent schedule as set forth in Section 3.03.

**Section 3.02 -Commencement of Annual Base Rent.**

Lessee's obligation to pay to Authority the annual base rent as set forth in this Lease shall commence on the Commencement Date.

**Section 3.03 -Adjustment of Annual Base Rent.**

Each year on the anniversary of the Effective Date (the "Rent Adjustment Date(s)"), all rent and Premises-related payments and charges due Authority from Lessee as set forth in section 3.2 above shall increase by an amount equal to the percent increase in the Consumer Price Index for all Urban Consumers, all items and major group figures (1982 - 84 = 100), (the "BLS Index" - <https://www.bls.gov/data/>) published by the Bureau of Labor Statistics, U.S. Department of Labor (the "Bureau"). On each Rent Adjustment Date, the annual base rent due Authority hereunder will be increased by the change in the BLS Index for the annual period beginning two months prior to the Effective Date or the preceding Rent Adjustment Date, whichever is more recent, through two months prior to the then-current Rent Adjustment Date. Notwithstanding anything herein to the contrary, the rent and Premises-related payments and charges due Authority from Lessee as set forth above shall never decrease such that in the unlikely event the Consumer Price Index reflects a negative figure when applying the foregoing formula to an annual adjustment, rent and other charges due Authority from Lessee pursuant to this Agreement shall remain the same for that year.

**Section 3.04 -Time of Payment.**

- A. Initial Annual Base Rent shall be due to Authority from Lessee in twelve (12) equal monthly installments of \$29,567 plus applicable sales tax thereon. However, after the Initial Annual Base Rent increases as set forth in Section 3.03, above, one-twelfth (1/12) of Annual Base Rent shall be paid by Lessee to Authority as and for rent each month. Said monthly installment shall be paid in advance on or before the first day of each and every month during the term of this Lease. Monthly rental payments, including all applicable sales tax, shall be paid to Authority from Lessee on or before the first day of each month for that month's rent.

**Section 3.05 -Late Payment.**

- A. Any installment of rents, fees, or other charges or monies accruing under any provisions of this Lease that are not received by Authority by the 10th day of the month in which payment is due shall bear interest at the highest rate allowed by Florida law from the date when the same was due according to the terms of this Lease until paid by Lessee.

**Section 3.06 -Taxes and Assessments.**

- A. At all times during the term of this Lease and beginning with the Commencement Date, Lessee shall pay, on or before the due date established therefore, all lawful taxes (including ad valorem taxes) assessments and impact fees levied against the Property and/or the Leasehold as well as all taxes and assessments and impact fees levied against Lessee's personal property or otherwise arising out of its operations on the Property. None of the terms, covenants or conditions of this Lease shall be construed as a release or waiver on the part of Authority, as a political subdivision of the State of Florida and the County, or on the part of the County, of the right to assess, levy or collect any license, personal, intangible,

occupation or other tax which they, or either of them, may lawfully impose on the business or property of Lessee.

ARTICLE IV  
USES AND PRIVILEGES

**Section 4.01 -Rights of Lessee.**

Authority hereby grants to Lessee and Lessee hereby accepts the following rights and privileges in connection with its use of the Property subject, however, to applicable City, County, State and Federal building and zoning use and regulations. Lessee shall have the right to occupy and develop the Property as set forth generally in this Lease. Additionally, Lessee shall be permitted to conduct the following activities on the Property: maintenance, storing and servicing of aircraft, including overhauling, repairing, inspection and licensing of the same and the purchasing and sales of parts, equipment, painting and accessories and all lawful permitted activities reasonably attendant thereto. Self-fueling is not permitted on the Leased Premises. Any activity, including without limitation those identified in the preceding sentence, conducted on the Property shall be at Lessee's sole cost and expense, and Lessee shall indemnify and hold Authority harmless for same. Moreover, Authority makes no representations or warranties about Lessee's ability to conduct any specific operations or activities of any kind on the Property, and it is Lessee's sole responsibility to ensure that it can do so. Sub-leasing space on the Property shall be subject to the terms of Section 4.02, below, and shall also be subject to review and approval of any sublease and sublessee by Authority in its sole discretion, said approval not to be unreasonably conditioned, withheld or delayed.

**Section 4.02 -Subjugation.**

All provisions of this Lease shall be as binding on Lessee's subconcessionaires and subcontractors as on the Lessee, and Lessee shall include in all subconcessionaire agreements and subcontracts a provision by which the subconcessionaire or subcontractor agrees to be bound by and to comply with all applicable terms of this Lease. Lessee shall provide each subconcessionaire/subcontractor with a copy of this Lease, which shall be incorporated by reference in each subagreement. The agreements with subcontractors shall fully protect the rights of the Authority hereunder, including termination rights and shall require the prior written

approval of the Authority. All revenue received from operations by others will be considered part of Lessee's gross revenues and shall be included in the percentage computation of return to the Authority, if applicable.

**Section 4.03 -Access.**

Lessee, its employees and invitees shall have the right of ingress and egress from the Property, over airport roadways, including the use of common use roadways, with such rights and license subject to such reasonable rules and regulations as may be established by the Authority as respecting such use and subject to law. Where access is through a controlled gate, Lessee shall be held responsible for sub-Lessees and invited guests. For Lessee's protection and protection of other tenants, gate entrance codes are not to be divulged to anyone other than tenants.

**Section 4.04 -Lessee Obligations.**

Lessee covenants and agrees:

- (a.) To pay all rent and other charges herein reserved at such times and places as the same are due and payable;
- (b.) To pay all utility charges related to the Property;
- (c.) To keep and maintain the Property in the condition herein required and to surrender the same upon the expiration or sooner termination hereof in said condition reasonable wear and tear excepted;
- (d.) To observe and comply with any and all valid and applicable requirements of duly-constituted public authorities and with all federal, state and local statutes, ordinances, regulations and standards applicable to Lessee, Authority, the Property, and the Airport, including, but not limited to, Authority Minimum Standards and reasonable rules and regulations of uniform application promulgated from time to time by or at the direction of Authority for the administration of the Airport.
- (e.) To pay all taxes, assessments and other charges assessed or imposed by any governmental authority in relation to the Property, upon Lessee's interest in the



Property, and upon any leasehold improvements, and other property erected, installed or located thereon.

- (f.) To procure and keep in force during the term of Lease all necessary occupational licenses and permits as are required by law for the operation of Lessee's business and operations on the Property.
- (g.) To use the Property only for the uses and purposes hereinabove described;
- (h.) To grant Authority and its authorized agents free access to the Property and any improvement(s) thereon at all reasonable times for the purpose of examining the same and seeing that all of the obligations of Lessee hereunder are being met and performed, and to permit them to enter any building or structure on the Property at any time in the event of an emergency (the determination of an emergency being at the sole discretion of Authority);
- (i.) To yield up and surrender immediate possession of the Property and all improvement(s) thereon to Lessee upon termination of this Lease by lapse of time or otherwise or, upon its failure so to do, to be thereafter considered a tenant-at-sufferance; provided, however, that nothing contained in this subparagraph shall be deemed to constitute a waiver by Authority of its right of re-entry, nor shall the receipt of rent or any part thereof or any act in apparent affirmance of Lessee's continued tenancy operate as a waiver of Authority's right to terminate Lessee's use of the Property by eviction or otherwise; and,
- (j.) To be solely responsible for securing all federal, state, county or municipal approvals of an environment of an environmental or other nature required for any construction or alteration of any and all improvements on the Property, or for any of Lessee's operations thereon.
- (k.) To pay all casualty, bond and liability insurance premiums required in accordance with Article VII herein below.
- (l.) Lessee agrees that it shall not use or permit premises to be used for any other purpose than herein described without prior written approval from Authority.

ARTICLE V  
CONSTRUCTION OF IMPROVEMENTS BY LESSEE

**Section 5.01 -Mutual Intent.**

To the extent Lessee undertakes any construction on the Property under this Lease, it shall be subject to the following terms:

- A. Construction of any improvement(s) on the Property shall begin no later than ninety (90) days after: (1) Authority notifies Lessee in writing that the Property site has been sufficiently prepared for Lessee's commencement of construction, and (2) Lessee has timely submitted site plans for Authority's approval and Authority has approved said site plans pursuant to Section 5.02, below (the "Construction Commencement Date"). Construction of said improvement(s) shall be completed by Lessee no later than twelve (12) months from the Construction Commencement Date provided, however, such completion date shall be extended by a period equal to: (1) any delays caused by matters not within the control of Lessee and provided Lessee informs Authority of such delays as they occur, and/or (2) any additional period necessary for Lessee to complete construction if Lessee has diligently begun and pursued completion of construction and simply is unable to complete construction during the 12-month construction period and Lessee's failure to complete construction within the 12-month construction period was not due to any delays caused by Lessee or its agents, contractors, subcontractors and/or employees. Lessee shall provide written notice of any construction delays to Authority within three (3) business days of any such delay(s). Presenting record of delays at the end of the 12-month construction period without Authority having prior knowledge will not be considered sufficient to warrant extensions of the period. Additionally, should even diligent action in pursuit of completion to such improvements not permit construction of same to be completed within the 12-month period identified above, Lessee shall so notify Authority in writing as soon as the same is discovered or reasonably should have been discovered.

- B. The Authority shall have the absolute right but not the obligation to terminate this Lease if Lessee has failed to comply with this construction requirement by the completion date stated above, together with any extensions thereof.

**Section 5.02 -Plan Approval.**

- A. Prior to commencing construction of any improvements on the Property, and prior to commencing to renovate, enlarge, demolish or modify any leasehold improvement now or hereafter existing on the Property, Lessee shall submit to Authority plans and specifications for such work (including plans for landscaping and drainage), and Authority shall approve or disapprove such plans and specifications in its sole discretion. Upon Lessee's receipt of Authority written approval of such plans and specifications, Lessee shall commence the work therein described, including without limitation obtaining necessary permitting and governmental and/or agency approvals, and any improvements shall be constructed in strict accordance with such plans and specifications.
- B. Authority's approval of any plans and specifications submitted to it by Lessee shall not constitute the assumption of any liability by Authority for their compliance or conformity with applicable building codes, zoning regulations, and municipal, county, state and federal laws, ordinances and regulations, or for their accuracy, and Lessee shall be solely responsible and liable for such plans and specifications. Authority's approval of such plans and specifications shall not constitute a waiver of Authority's right to thereafter require Lessee to amend the same to provide for any corrections or omissions needed to comply with applicable building codes, zoning regulations, municipal, county, state or federal laws, ordinances or regulations.

**Section 5.03 -Licenses and Permits.**

Lessee shall obtain all necessary licenses and permits to accomplish its work as contemplated herein, and any contract or agreement for labor, services, materials or supplies to be furnished in connection with the construction or alteration of any improvement on the

Property shall provide that no lien, claim or other encumbrance shall thereby be created, or arise, or be filed by anyone thereunder upon or against the Property and/or any improvements thereon.

**Section 5.04 -Liens.**

Lessee hereby warrants to Authority that all improvements on the Property shall remain free and clear of all liens, claims and encumbrances and agrees to indemnify and hold Authority harmless from and against any and all losses, damages and costs, including reasonable attorneys' fees, with respect thereto. If any lien or notice of lien on account of the alleged debt of Lessee or any notice of contract by any party engaged by Lessee or Lessee's contractor to work on the Property shall be filed against the Property and/or any improvements thereon, Lessee shall, within thirty (30) days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. No work hereunder shall be commenced by Lessee until it has, at its sole cost and expense, provided to Authority a surety performance and payment bond from a company acceptable to Authority and, if the total construction cost related to said improvement exceeds \$200,000, compliant with section 255.05, Florida Statutes, in an amount equal to 100% of the estimated cost of the improvements to be accomplished, which bond guarantees the completion of the work by Lessee's contractors in accordance with the plans and specifications theretofore approved by Authority and guarantees the payment by such contractors of all subcontractors' charges and all charges of all other persons and firms supplying services, labor, materials or supplies in connection with the work.

**Section 5.05 -Title to Improvements.**

Upon termination of this Lease by the passage of time or otherwise, the Authority shall have the option in its sole discretion to either require removal of all or part of the improvements to the Property within thirty (30) days after the expiration at Lessee's expense; or take title to such structures, installations or improvements without compensation to Lessee.

**Section 5.06 -Construction Costs and As-Built Drawings.**

- A. Within thirty (30) days of completion of the construction or alterations for any improvements on the Property undertaken by Lessee, Lessee shall present to

Authority for examination and approval a sworn statement of the construction and/or alteration cost. Construction and/or alteration costs are defined as all costs incurred by Lessee for actual demolition, construction or alteration, including architectural, design and engineering costs plus pertinent fees in connection therewith. The cost of the initial improvements shall be included in the total project costs and shall be considered as interim facilities.

- B. Within thirty (30) days following completion of the initial construction and any subsequent additions, alterations or improvements by Lessee, Lessee shall present to Authority a complete set of "as built" drawings including, but not limited to, architectural renderings, specifications, plumbing and electrical plans, and Lessee shall bear the cost of preparation and delivery of such "as built" drawings.

**Section 5.07 -Mortgage of Leasehold Interest.**

If applicable, Lessee shall have the right to place a first mortgage lien upon its leasehold interest in the Property, the terms and conditions of such mortgage lien shall be subject to approval of Authority prior to obtaining said lien. Under no circumstances shall Lessee have the right to encumber title to the underlying real property owned by Authority and/or the Authority Improvements.

ARTICLE VI

MAINTENANCE AND OPERATION

Authority agrees to, with reasonable diligence, prudently develop, improve and at all times, maintain and operate with adequate, efficient and qualified personnel, the Authority-owned property with exception of Property and adjacent roadways not within their control in good condition.

**Section 6.01 -Maintenance and Repair.**

- A. Lessee shall be solely responsible, at its own cost and expense, for performing or procuring the performance of all maintenance, repair and replacement to and on

the Property and any and all improvements thereon in order to keep the Property and improvements in good, safe, attractive and sanitary condition and in properly working order. All such maintenance, repair and replacement performed by Lessee or at its direction shall be of reasonable quality sufficient to restore the maintained, repaired or replaced item to the same or better condition than it was in prior to the need for maintenance, repair or replacement. All exterior paint colors and structural appendages shall be used or installed only with the prior written approval of Authority.

- B. If Lessee fails to fulfill any of its obligations under this paragraph and fails to correct such failure within ten (10) days after Authority's written demand, then in addition to all of its other remedies under this Lease, Authority shall have the right, but not obligation, to make or complete said maintenance, repair or replacement, and Lessee shall pay the cost thereof as additional rent promptly upon demand by Authority. In addition to the maintenance obligations set forth above, Lessee further agrees that it shall landscape, irrigate and maintain in good, safe and attractive condition throughout the term of this Lease, in accordance with plans and specifications approved by Authority, those areas a part of and directly adjacent to the Property.

**Section 6.02 -Utilities.**

- A. If applicable, the Lessee agrees that it shall bear all costs of bringing water, sewer (including sewer benefit fees) and electrical service to the boundaries of the Property and of extending such services within said boundaries, all in accordance with plans and specifications approved Authority. All utility lines and mains constructed by Lessee shall be placed underground as required by Authority. Lessee acknowledges that Authority has made no representations or warranties regarding the adequacy of any utility service for the uses intended by Lessee.
- B. Lessee shall contract in its own name, and pay before delinquency, all utility services rendered or furnished to the Property, including water, gas, electricity, fire protection, sewer rental, sewage treatment facilities, sewer benefit fees, and the

like, together with all taxes and other charges levied or assessed on account of such utilities.

- C. Utilities service may, from time to time with or without Authority's knowledge be temporarily interrupted to the Property whenever such discontinuances are necessary to make repairs or alterations to parts of the Airport. No such action shall be construed as an eviction of Lessee, a disturbance of Lessee's possession and quiet enjoyment of the Property, or an election by Authority to terminate this Lease. Authority shall not be held liable in any way to Lessee as a result of such action. However, upon being notified prior to an interruption, Authority shall, in all due course, attempt to notify Lessee of a possible interruption.
  
- D. Lessee shall not do, or permit to be done, anything at or about the Airport which may interfere with the effectiveness or accessibility of the drainage and sewer systems fire hydrants and hoses, heat and air conditioning systems, electrical power and plumbing installed or located on or within the Leased premises on the Airport. Further, Lessee shall not dispose of nor permit to be disposed of any petroleum products, flammables or hazardous materials into the stormwater system or onto the open ground.

**Section 6.03 -Trash and Garbage.**

At its own cost and expense, Lessee shall provide a complete and proper arrangement for the adequate sanitary handling of all trash, garbage and other refuse caused as a result of the operation of the Property and shall provide for its timely removal. Lessee shall provide and use suitable covered receptacles for all garbage, trash and other refuse on or in connection with the Property.

**Section 6.04 -Area Security.**

- A. Authority shall provide, or cause to be provided during the term of this Lease, security protection similar to that afforded to other operators on the Airport and

will issue and enforce rules and regulations with respect thereto for all portions of the Airport.

- B. Lessee shall have the right, but shall not be obligated, to provide such additional or supplemental public protection as it may desire at its own cost. Such right, whether or not exercised by Lessee, shall not in any way be construed to limit or reduce the obligations of Lessee hereunder.

**Section 6.05 -Rules and Regulations.**

Lessee covenants and agrees to observe and comply with all rules and regulations of Authority, which now exist or may hereafter be promulgated from time to time governing safe use of its facilities. Lessee further covenants and agrees to observe and comply with any and all valid and applicable requirements of all duly-constituted public authorities and with all federal, state and local statutes, ordinances and regulations applicable to Lessee, the Property and the Airport. Said Rules, regulations, ordinances and statutes are made a part of this Lease by reference.

**ARTICLE VII**

**INSURANCE AND INDEMNIFICATION**

Lessee shall carry during the term of this agreement insurance coverage with limits as hereinafter stated, and the carrying of such insurance coverage shall be Lessee's obligation under this agreement.

**Section 7.01 -Liability Insurance.**

Lessee shall, without expense to Authority, obtain and maintain throughout the term of this Lease and any extension(s) hereof, Comprehensive General Liability Insurance protecting Lessee, Authority, and the members, officers, agents and employees of each, from and against all liabilities arising out of or in connection with Lessee's use and occupancy of and the conduct of operations on the Property, including without limitation construction of any improvements thereon, in such form and with such company or companies as Authority shall approve with no



less than Five Million Dollars (\$5,000,000.00) combined single limits or its equivalent, with a deductible which does not exceed an amount approved in writing by Authority, with a waiver of all rights of subrogation that the issuers of such policies might have against Authority and with contractual liability coverage for the covenants and indemnification hereunder of Authority by Lessee. Within ten (10) days after execution of this Lease and thereafter on an annual basis on each anniversary date of the Commencement Date, Lessee shall furnish a certificate of insurance to Authority evidencing such coverage, and such certificate shall provide that Authority is named as additional insured and that the policy or policies will not be canceled nor the limits thereunder materially changed without first providing thirty (30) days' written notice thereof to Authority.

**Section 7.02 -Fire and Extended Coverage Insurance.**

- A. Lessee shall obtain and maintain throughout the term of this Lease and any extension(s) hereof, for the benefit of Lessee and Authority as their interests may appear, fire and extended coverage insurance on the full insurable value of the any improvements on the Property, on a replacement cost basis, in such form and with such company or companies as Authority shall approve with a deductible which does not exceed an amount approved in writing by the Authority, and with a waiver of all rights of subrogation that the issuers of such policies might have against Authority. Prior to completion of any construction on the Property and at least ten (10) days prior to the expiration of any policy or policies provided by Lessee hereunder, Lessee shall cause a certificate of insurance to be furnished to Authority evidencing such coverage, and such certificate shall provide that Authority is named as additional insured. If Lessee shall not comply with its covenants made in this section, Authority as residual owner shall have the right, but not obligation, to cause insurance as aforesaid to be issued, and in such event Lessee agrees to pay the premium for such insurance as required above. Such forced-placed insurance premium will be included as additional rent upon the demand of Authority. Lessee shall provide Authority with such information and supporting documents pertaining to the cost and replacement value of any improvements on the Property as Authority may from time to time request.

**Section 7.03 -Indemnity.**

- A. Lessee agrees to indemnify, defend and hold harmless Authority and its officers, directors, board members, independent contractors, employees and agents from and against all liabilities, claims, judgments, damages, costs and expenses (including reasonable attorneys' fees prior to institution of legal proceedings and at both trial and appellate levels) which may be incurred by, charged to or recovered from any of the foregoing as a result of or in relation to Lessee's use, occupancy and/or maintenance of the Property and any improvements thereon, including construction thereof, or Lessee's operations thereon, or the acts or omissions of Lessee's officers, agents, employees, contractors, subcontractors or invitees, unless the same was proximately caused solely by Authority's negligence or by the joint negligence of Authority and any person other than Lessee or its officers, agents, employees, contractors, subcontractors or invitees. Nothing in this section is intended to or does extend, modify, abridge, waive, release or otherwise affect in any fashion Authority's right to assert any form of governmental or sovereign immunity against any claim, including without limitation Authority's rights and privileges under section 768.28, Florida Statutes.
- B. In the event of any loss or damage to any improvement on the Property, Lessee shall have the obligation, one hundred eighty (180) days after such loss or damage, to repair and restore the same to the condition it was in prior to such loss or damage, according to plans and specifications approved in writing by Authority, and Lessee, on behalf of itself and its insurer, hereby waives right of subrogation it might otherwise have against Authority for any such loss or Lessee's obligation to pay rent to Authority or to make other payments required to be made by Lessee under this Lease. Any insurance proceeds received with respect to such loss or damage shall be held in trust by Authority and applied in payment of the expenses of such repair and restoration; any expenses of such repair and restoration in excess of the amount of such insurance proceeds shall be the sole responsibility of Lessee. In the event there are any excess insurance proceeds after restoration and repair are completed to the satisfaction of Authority, said excess insurance proceeds shall be paid to Lessee.

**Section 7.04 –Non-Liability of Authority.**

- A. Authority shall not in any event be liable for the acts or omissions of Lessee or its agents, servants, employees, and/or independent contractors, or for any condition resulting from the operations or activities of Lessee and/or its agents, servants, employees, or independent contractors, to Lessee or to any other person.
- B. Authority shall not be liable for Lessee's failure to perform any of the obligations under this Agreement or for any delay in the performance thereof, nor shall any such delay or failure be deemed a default by Authority.
- C. Authority shall not be liable for any loss or damage suffered by Lessee arising out of the interruption or cessation of the business conducted by Lessee under this Lease and/or on the Property.

**Section 7.05 –Guaranty**

- A. At any time that Lessee undertakes construction of any facilities, Lessee shall, at its own cost and expense, cause to be made, executed, and delivered to Authority separate bonds, as follows:
  - 1. Prior to the date of commencement of construction, a contract surety bond in a sum equal to 100% of the construction contract awarded. Said bond shall be drawn in a form and from such company as approved by Authority; shall guarantee the faithful performance of necessary construction and completion of improvements in accordance with approved final plans and detailed specifications; and shall guarantee Authority against any losses and liability, damages, expenses, claims and judgments caused by or resulting from any failure of Lessee to perform completely, the work described as herein provided.

2. Prior to the date of commencement of construction, a payment bond with Lessee's contractor or contractors as principal, in a sum equal to 100% of the construction contract awarded. Said bond shall guarantee payment of all wages for labor and services engaged and of all bills for materials, supplies and equipment used in the performance of said construction contract.

ARTICLE VIII  
ASSIGNMENT AND LIABILITY

**Section 8.01 -General.**

- A. Lessee shall not at any time assign this Lease or any of its rights or obligations hereunder, or assign or sublet all area incidental thereto, without prior written approval of Authority, said approval not to be unreasonably conditioned, withheld or delayed; Lessee may, with the prior written consent of Authority, assign this Lease, but in such event, Lessee shall remain liable to Authority for the remainder of the term of the Lease to pay to Authority any portion of the rental and fees provided for herein upon failure of the assignee to pay the same when due. Said assignee shall not assign said Lease except with the prior written approval of the Authority and the Lessee herein, and any assignment by the Lessee shall contain a clause to this effect.

ARTICLE IX  
DEFAULT

**Section 9.01 -Events of Default**

Any one of the following events shall constitute an Event of Default hereunder:

- (a.) The failure of Lessee to make any payment of or any other payment required to be made by Lessee hereunder when due as herein provided, which failure is not remedied within ten (10) days after such payment is due (Authority may but shall

not be required to provide Lessee with any notice related to non-payment of any sums due under this Lease);

- (b.) The failure of Lessee to keep, observe or perform any of the other covenants or agreements herein contained to be kept, observed or performed by Lessee, and continued failure to observe or perform any such covenant or agreement after a period of thirty (30) days after receipt by Lessee of Authority's written demand.
- (c.) The repeated failure (defined for this purpose as at least three (3) of the same such failures within any twelve-month period) to make any payment of rent or any other payment required to be made by Lessee hereunder when due as herein required (provided that notice of such late payment shall have been given to Lessee, but whether or not Lessee shall have made any such payment within the time provided for in such notice);
- (d.) The repeated failure (defined for this purpose as at least three (3) of the same such failures within any twelve-month period) to keep, observe or perform any of the other covenants or agreements herein contained to be kept, observed or performed by Lessee (provided that notice of such failure shall have been given to Lessee, but whether or not Lessee shall have remedied any such failure within the time provided for in such notice);
- (e.) Abandonment or vacating of the Property at any time prior to the expiration of this Lease without the prior written consent of Authority;
- (f.) Commencement by Lessee or by any surety of this Lease in any court pursuant to any statute of the United States or of any State, territory or government, of an insolvency or bankruptcy proceeding, including without limitation, a proceeding for liquidation, indebtedness, reorganization or for the readjustment of its indebtedness;
- (g.) Commencement of any insolvency or bankruptcy including, without limitation, a proceeding for liquidation, reorganization or for adjustment of indebtedness) against Lessee or any surety of this Lease, if an order for relief is entered against

such party and the same is not stayed or vacated within thirty (30) days after entry thereof, or if such party fails to secure a discharge of the proceedings within sixty (60) days after the filing thereof;

- (h.) Insolvency of the Lessee or any surety of this Lease, or the written admission by Lessee or any surety of this Lease that it is unable to pay its debts as they become due;
- (i.) The making by Lessee or by any surety of this Lease of an assignment for the benefit of its creditors or the filing of a petition for or the entering into of an arrangement with its creditors;
- (j.) The appointment or sufferance of a receiver, trustee or custodian to take possession of all or substantially all of the property of Lessee or of any surety of this Lease.

ARTICLE X  
TERMINATION

**Section 10.01 -Events Permitting Termination by Lessee**

- A. If any of the following conditions occur, Lessee may terminate this Agreement and terminate all of its future obligations hereunder at any time that Lessee is not in default in its payments or other obligations to the Authority hereunder, by giving Authority thirty (30) days advance notice:
  - 1. If the Airport is permanently abandoned as an air transportation facility.
  - 2. If the use of the Airport is restricted in such a manner that the Lessee cannot reasonably operate on the Airport for a period of ninety (90) days.
  - 3. If the Authority is in breach of any of the covenants or agreements contained in this Agreement for a period exceeding thirty (30) days after receipt of written notice of such breach.

**Section 10.02 -Termination by Authority**

In the event Lessee commits one or more Event of Default as defined in Article IX, above, Authority may immediately terminate this Lease and shall be entitled to avail itself of all remedies available to it as a result of Lessee's breach hereof. In such event, Lessee shall immediately vacate the Property or shall be subject to eviction proceedings together with all other legal rights and remedies available under Florida law or otherwise available to Authority. In addition, termination of the Lease under this section shall also trigger the reversion of title to any improvements on the Property, whether constructed by Lessee or otherwise, to Authority.

**Section 10.03 -Surrender of the Assigned**

Lessee covenants and agrees that upon expiration of the term of this Lease or upon earlier termination as hereinafter provided, it will peaceably surrender possession of the assigned spaces along with all improvements to the premises hereunder to Authority in good condition, reasonable wear and tear excepted. Authority shall have the right to take possession of the Property and shall not be required to give notice to quit possession on the expiration date of the term of this Lease. The Lessee shall not abandon any of its property on the Property without the written consent of Authority and agrees to reimburse Authority for any costs incurred in the removal of Lessee's property by Authority.

Any holding over by Lessee after termination of this Lease or the expiration of its term without written consent of Authority shall create a month-to-month term only, unless Authority holds over and remains in possession of the Property after receiving notification from Authority to vacate the same, in which event Lessee shall become a tenant at sufferance and double rent shall be due Authority from Lessee. All insurance and performance bond requirements shall remain in full force and effect in either event.

ARTICLE XI  
GENERAL GOVERNING PROVISIONS

**Section 11.01 -Authority's Reserved Rights**

- A. Authority reserves the right for itself and others to utilize and maintain existing utility easements over, under or across the Property, and to run water, sewer, electrical, telephone, gas, drainage and other lines over, under or through the Property and to grant necessary utility easements therefor; provided, however, that in the exercise of such rights, Lessee's use of the Property and any improvements thereon shall not be unreasonably impaired, and any damage to the Property or any improvement thereon caused by Authority as a result thereof shall be repaired without cost to Lessee.
  
- B. Authority reserves the right to further develop, improve, repair and alter the Airport and all roadways, parking areas, terminal facilities, landing areas and taxiways as it may reasonably see fit, regardless of the desires or views of Lessee and free from any and all liability to Lessee for loss of business or damages of any nature whatsoever to Lessee occasioned during the making of such improvements, repairs, alterations and additions. Authority also reserves the right to establish such fees and charges for the use of the Airport, excluding the Property unless set forth in this Lease, by Lessee and all others as Authority may deem advisable.

**Section 11.02 -Quiet Enjoyment.**

Authority agrees that, upon payment of all fees herein required and performance of all covenants and agreements on the part of Lessee to be performed hereunder, Lessee shall have peaceable use and enjoyment of the Property.



### **Section 11.03 -Subordination.**

Lessee covenants and agrees that this Lease shall be subject and subordinate to the provisions of any existing or future agreement between Authority and the United States Government relative to the operation or maintenance of Airport.

- A. In such event, Authority shall furnish a true copy of such agreement to Lessee.
- B. Authority may from time to time be required by the United States Government, or one or more of its agencies, to adopt additional or amended provisions including non-discrimination provisions, concerning the use and operation of the Airport, and Lessee agrees that it will adopt any such requirement as a part of this Lease.
- C. If Lessee shall furnish any services to the public at the Airport, it shall furnish said services on a fair, equal and not unjustly discriminatory basis to all users thereof and shall charge fair, reasonable and not unjustly discriminatory prices for each unit of service, provided that Lessee shall be allowed to make reasonable and non-discriminatory discounts, rebates or other similar types of price reductions to volume purchasers, if any.
- D. In the event of breach of any of the above nondiscrimination covenants, Authority shall have the right to terminate this Lease and to re-enter and repossess said Property and any improvements thereon. The right granted to Authority by the foregoing sentence shall not be effective until applicable procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercises or expiration of appeal rights.

### **Section 11.04 -Affirmative Action**

The Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall, on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by

this Subpart. The Lessee assures that it will require that its covered sub organizations provide assurances to the Lessee that they similarly will undertake affirmative action programs, and that they will require assurances from their sub organizations, as required by 14 CFR Part 152, Subpart E, to the same effect, to the extent that said requirements are applicable, as a matter of law, to Lessee.

**Section 11.05 -Federal Aviation Administration, Transportation Security Administration, and/or Florida Department of Transportation Requirements**

- A. Lessee shall comply with all applicable regulations of the Federal Aviation Administration, Transportation Security Administration, and/or Florida Department of Transportation relating to airport security and shall control the Property so as to prevent or deter unauthorized persons from obtaining access to the Air Operations Area (AOA) of the Airport by installing and maintaining a barrier, the type of which will be approved by Authority, at the perimeter of its Leasehold.
- B. Authority reserves unto itself, and unto its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft through the airspace above the surface of the Property and for navigation or flight in the said airspace for landing on, taking off from or operating on Airport.
- C. Lessee expressly agrees, on behalf of itself and its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the Property in compliance with the requirements of Federal Aviation Regulations, Part 77.
- D. Lessee agrees to require any lights on the Property to be constructed, focused or arranged in a manner that will prevent them from casting their beams in an upward direction so as to interfere with the vision of pilots in aircraft landing at or taking off from the Airport or the vision of personnel in the air traffic control tower (if applicable).

- E. Lessee expressly agrees, on behalf of itself and its successors and assigns, to prevent any use of the Property and any improvements thereon which would interfere with or adversely affect the operation or maintenance of the Airport, or which would otherwise constitute a hazard at the Airport.
  
- F. In the event that the Federal Aviation Administration or its successor shall require any amendments, modifications or changes in this Lease as a condition precedent to the granting of funds for the operation or improvement of the Airport, Lessee hereby consents to such amendments, modifications, or changes as may reasonably be required to obtain such funds; provided, however, that in no event will Lessee be required, pursuant to this paragraph, to accept an increase in the rent provided for hereunder or a reduction in the size of the Property or a change in the use of the Property and any improvements thereon which is permitted hereunder.
  
- G. Lessee agrees that it will not exercise or grant any right or privilege which would operate to prevent any person, firm or corporation operating aircraft on the Airport from performing any service (including, but not limited to maintenance and repair) on its own aircraft with its own employees that it may choose to perform.

**Section 11.06 -Headings**

The paragraph headings contained in this Lease Agreement are inserted only as a matter of convenience and reference, and in no way define, limit or describe the scope or intent of any provision of this Lease Agreement.

**Section 11.07 -“Whereas” Clauses**

The “Whereas” Clauses preceding Article I of the Lease are deemed to be material terms of this Lease and the agreement between Lessee and Authority hereunder.

**Section 11.08 -Non-exclusive Rights**

Notwithstanding anything herein contained that appear to be the contrary, it is expressly understood and agreed that, except as to Lessee's right to exclusive possession of the Property, the rights granted under this Lease Agreement are non-exclusive.

**Section 11.09 -Successors and Assigns.**

Except as otherwise provided herein, the provisions of this Lease shall bind and inure to the benefit of the successors and assigns of the parties hereto.

**Section 11.10 -Time of Essence.**

Time is expressed to be of the essence of this Lease.

**Section 11.11 -Severability.**

This Lease shall be governed by and construed in accordance with the laws of the State of Florida. It is agreed that if any covenant, condition or provision contained in this Lease is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenant, condition or provision herein contained.

**Section 11.12 -Material Interest**

Lessee represents and warrants to Authority that, except as may be disclosed in an Addendum hereto, no officer, employee or agent of Authority has any material interest, either directly or indirectly, in the business of Lessee to be conducted hereunder, and that no such person shall have any such interest at any time during the term hereof.

**Section 11.13 -Entire Agreement/Abrogation of Prior Lease Agreement**

This Lease, together with the exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and representations or

statements heretofore made with respect to such subject matter, whether verbal or written, are merged herein. This Lease may be altered or amended only by written instrument executed by both parties hereto. Furthermore, this Lease shall not be “construed against the drafter” or otherwise interpreted in a way that is more favorable to one party or the other.

**Section 11.14 -Consent of the Parties**

Where this agreement requires the consent of one or more parties, the Lessee and the Authority agree that such consent shall not be unreasonably withheld.

**Section 11.15 -Choice of Law/Mandatory Forum Selection**

This Lease and any claim, action or issue relating hereto shall be governed exclusively by the laws of the State of Florida, and the parties to this Lease knowingly, voluntarily and irrevocably agree to submit any claim, action or other issue arising from or related to this Lease to the sole and exclusive jurisdiction, forsaking all others, of any court of competent jurisdiction in Brevard County, Florida.

**Section 11.16 -Exhibits to Lease**

**Exhibits “A” through “F” and “J”** are deemed to be material and integral parts of the Lease, and the Parties agree to comply therewith and to be bound thereby. The remaining exhibits are provided for informational purposes and/or as examples of documents related to this Lease, although neither party represents that those remaining exhibits are definitively sufficient to meet all requirements under the Lease.

ARTICLE XII  
CONSTRUCTION ON PROPERTY

**Section 12.01 -Construction**

- A. For any improvements and/or construction on the Property undertaken by Lessee pursuant to the terms of this Lease, Lessee shall be solely responsible for all costs, expenses, fees and any other charges related to construction of any improvements on the Property and shall indemnify and hold harmless Authority

from the same.

- B. In relation to any construction performed by Lessee on the Property, Lessee at its sole cost and expense shall be required to obtain, execute, furnish and record in the public record a payment and performance bond with a surety insurer authorized to do business in the State of Florida as a surety (the "Bond") as required by section 255.05, Florida Statutes. Lessee shall comply with all requirements related to the Bond as set forth in section 255.05, Florida Statutes, including without limitation the obligation to provide Authority with a certified copy of the recorded Bond prior to commencing construction on the Property, and failure to do so shall constitute a material breach of this Lease. Lessee shall not be required to furnish a Bond under this subsection if the total contracted cost of construction is \$200,000 or less.
- C. Lessee shall indemnify and hold harmless Authority and its officers, directors, employees and agents from any and all liability, losses or damages, including reasonable attorneys' fees and costs of defense, that Authority or its officers, board members, employees, agents or instrumentalities 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 or related to construction on the Lease Property and stemming from or related to the acts or omissions, whether intentional or unintentional, of Lessee, its employees, agents, servants, partners, principals, contractors, subcontractors, subconsultants or invitees. Lessee 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 Authority, including appellate proceedings, and Lessee shall pay all costs, judgments and reasonable attorney's fees which may be incurred in relation thereto. Lessee expressly understands and agrees that any insurance protection required by this Lease or otherwise provided by Lessee shall in no way limit the responsibility to indemnify, hold harmless and defend Authority and its officers, employees, agents, and instrumentalities as provided herein. Lessee's obligations hereunder shall survive the termination of this Lease. Nothing in this paragraph is intended to or does limit or modify Authority's right to assert sovereign immunity or any other form of governmental immunity in any claim or action against it, including

without limitation the rights of Authority under section 768.28, Florida Statutes.

**GUARANTOR HEREBY WAIVES ANY RIGHT GUARANTOR MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED UPON THIS GUARANTY, OR ARISING OUT OF ANY OTHER COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER WRITTEN OR ORAL), OR ACTIONS OF THE PARTIES. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE AUTHORITY TO ENTER INTO THE LEASE WITH THE LESSEE.**

*(Signature Page Follows)*

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have set their hands and signatures this \_\_\_\_\_ day of \_\_\_\_\_, 2023, and do agree to the terms and provisions of the Lease.

APPROVED FOR LEGAL CONTENT:  
WHITEBIRD, PLLC

APPROVED:

Authority: **TITUSVILLE-COCOA  
AIRPORT AUTHORITY**

By: \_\_\_\_\_  
Adam M. Bird, Esq., Legal Counsel  
Titusville-Cocoa Airport Authority

BY \_\_\_\_\_  
KEVIN DAUGHERTY, AAE  
DIRECTOR OF AIRPORTS

Lessee:  
**SPACE PERSPECTIVE, INC.**

By: \_\_\_\_\_  
Print Name: Taber MacCallum  
Its: CO-CEO

Witnesses as to Lessee:

Witnesses as to Authority:

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

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

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

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



**EXHIBIT "A"**  
**DEPTICTION OF PROPERTY**

**EXHIBIT "B"**  
**PROPERTY SITE PLAN**

**Not applicable.**

**EXHIBIT "C"**  
**AUTHORITY IMPROVEMENTS**

**None.**

**EXHIBIT "D"**  
**LESSEE INITIAL IMPROVEMENTS**

**None.**

**EXHIBIT “E”**  
**CONSTRUCTION OF IMPROVEMENTS BY LESSEE**

1. Prior to commencement of construction of any improvements on the Property, and prior to commencing to renovate, enlarge, demolish or modify any improvements now or hereafter existing on the Property, Lessee must obtain the approval of the Director of Airports, which approval shall not be unreasonably withheld. Lessee shall submit the plans and specifications (prepared in accordance with the Minimum Standards and under the seal of a duly licensed architect or engineer) to Authority for its approval (the “Plans”), in accordance with the approval process prescribed by Authority. No construction of any type shall commence prior to Lessee’s receipt of: (i) Authority’s written approval of the Plans, and (ii) a notice to proceed from the Authority.
2. Authority’s approval of any Plans submitted by Lessee shall not constitute the assumption of any liability by Authority for the compliance or conformity of the Plans with applicable building codes, zoning regulations and municipal, county, state and federal laws, ordinances and regulations, or for their accuracy or suitability for Lessee’s intended purpose, and Lessee shall be solely responsible for the Plans. Authority’s approval of the Plans shall not constitute a waiver of Authority’s right thereafter to require Lessee, at its expense, to amend the same so that they comply with building codes, zoning regulations, municipal, county, state and federal laws, ordinances and regulations either applicable at the time the Improvements were constructed or by laws otherwise made applicable to Lessee’s Improvements, and to make such construction changes as are necessary so that the completed work is in conformity with the approved Plans.
3. In the event Authority does not approve the Plans, it shall notify Lessee of the changes required to be made (including reference to those portions of this Lease, the Minimum Standards and the Master Plan forming the basis for disapproval, if applicable), and Lessee shall promptly revise the Plans to incorporate the required changes, and shall resubmit revised Plans to the Authority for approval.
4. Lessee shall obtain, at its expense, all necessary licenses and permits to accomplish its Improvements, and shall pay all applicable impact fees relating thereto.
5. Once Lessee has commenced construction of any improvements, such construction shall be pursued diligently to completion, subject to Force Majeure. All improvements shall be constructed in accordance with the approved Plans, the Minimum Standards, and all applicable building codes, zoning regulations and municipal, county, state and federal laws, ordinances and regulations. Within ninety (90) days after completion of construction of the improvements, Lessee shall, at its expense, provide Authority with record drawings showing the “as built” condition of any improvements constructed by Lessee, in such format (including, without limitation a CADD format) as the Director of Airports shall request.
6. Lessee hereby warrants and covenants to Authority that all improvements now or hereafter erected on the Property shall be at all times free and clear of all liens, claims and encumbrances. If any such lien or notice of lien on account of the alleged debt of Lessee shall be filed against the Property, Lessee’s leasehold interest therein or any improvements, the Lessee shall, within

thirty (30) days after notice of filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. Prior to construction of any improvements at the Property, Lessee shall record and post a Notice of Commencement and all applicable payment bonds in accordance with applicable laws. No work hereunder shall be commenced until Lessee or its Contractor provides to Authority from a company reasonably acceptable to the Director of Airports: (i) a surety payment bond for the benefit of Authority in an amount equal to the total estimated cost of the work, which bond shall guarantee the payment of all contractors' and subcontractors' charges and charges of all other persons and firms supplying services, labor, materials or supplies in connection with the work, (ii) a surety performance bond for the benefit of Authority in an amount equal to the total estimated cost of the work, which shall guarantee the prompt completion of the work by Lessee in accordance with the Plans, and (iii) a policy of builder's risk insurance.

7. Nothing in this Lease shall be deemed or construed in any way as constituting the consent or request of Authority, express or implied, to any contractor, subcontractor, laborer, materialman, architect, surveyor or engineer for the performance of any labor or the furnishing of any materials or services for or in connection with the Property or any part thereof. Notice is hereby given that the Authority shall not be liable for any labor or materials or services furnished or to be furnished to Lessee upon credit, and that no construction or other lien for labor, materials or services shall attach to or affect the fee or reversionary or other estate or interest of the Authority in the Property or in this Lease. All persons dealing with the Property and with Lessee are hereby put on notice that Lessee does not have the power to deal with the Property in such a manner as to authorize the creation of construction liens, by implication or otherwise; and all persons making improvements to the Property, either by doing work or labor or services or by supplying materials thereto, at the request of Lessee or persons dealing by, through or under Lessee, are hereby put on notice that they must look solely to the Lessee and not to the Property or any part thereof or to this Lease for the payment of all services, labor or materials performed upon or delivered to the Property.

8. Title to all improvements constructed by Lessee on the Property shall vest in Authority upon termination or expiration of the Lease, and prior to such time title shall remain in and with Lessee. Lessee hereby covenants to execute and deliver to Authority any and all instruments or documents that Authority reasonably requests to effectively transfer, assign and convey such improvements in fee to Authority. Lessee shall ensure that at the expiration or termination of the Lease, such improvements are free of any liens or encumbrances.

**EXHIBIT "F"**  
**REQUIRED PROVISIONS**

Authority's Reserved Rights. Authority reserves the right for itself and others to utilize and maintain any utility and drainage easements located on the Property, and to run water, sewer, electrical, telephone, gas, drainage and other lines under or through the Property and to grant necessary utility easements therefore, provided that in the exercise of such rights, Lessee's use of the Property and any Improvements shall not be unreasonably impaired and any damage to the Property or any Improvements caused by Authority as a result thereof shall be repaired without cost to Lessee.

Discrimination Not Permitted.

Lessee, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (i) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of the Property, any Improvements or the Airport under the provisions of this Lease; (ii) that in the construction of any Improvements on, over or under the Property and the furnishing of services thereon, no person on the grounds of race, color or national origin shall be excluded from participation, denied the benefits of, or otherwise be subject to discrimination; and (iii) that Lessee shall use the Property and the Improvements in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted Programs of the Department of Transportation-effectuation of Title VI of the Civil Rights Acts of 1964, as the same may be amended. Likewise, Lessee shall comply with the laws of the State of Florida prohibiting discrimination because of race, color, religion, sex, national origin, age, handicap or marital status. Should the Lessee authorize another person, with Authority's prior written consent, to provide services or benefits upon the Property or the Improvements, Lessee shall obtain from such person a written agreement pursuant to which such person shall, with respect to the services or benefits which it is authorized to provide, undertake for itself the obligations contained in this subsection. Lessee shall furnish the original or a true copy of such agreement to Authority.

Lessee will provide all information and reports required by said regulations, or by directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Authority or the Federal Aviation Administration to be pertinent to ascertain whether there has been compliance with said regulations and directives. Where any information required of Lessee is in the exclusive possession of another who fails or refuses to furnish this information, Lessee shall so certify to Authority or the Federal Aviation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

In the event of a breach of any of the above non-discrimination covenants, Authority shall have the right to terminate this Lease and to re-enter and repossess said Property and the Improvements, and hold the same as if this Lease had never been made or issued. The rights granted to Authority by the foregoing sentence shall not be effective until all applicable

procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights, and the completion of any judicial review.

Further, Lessee assures Authority that no person shall be excluded on the grounds of race, creed, color, national origin or sex from participating in or receiving the services or benefits of any program or activity covered by Title 14, Code of Federal Regulations, Part 152, Subpart E, Federal Aviation Administration, Non-Discrimination in Airport Aid Program, and that it will be bound by and comply with all other applicable provisions of such Subpart E, as it may be amended. Lessee also assures Authority that it will require its covered suborganizations to provide written assurances to the same effect and provide copies thereof to Authority.

Lessee further assures Authority that it will comply with pertinent statutes, Executive Orders, and such other rules as are promulgated to assure that no person shall on the grounds of race, creed, national origin, sex, age, handicap or marital status be excluded from participating in any activity conducted at or in connection with its operations at the Property. Lessee also assures Authority that it will require its contractors and subtenants to provide assurances to the same effect and ensure that such assurances are included in contracts and subleases at all tiers which are entered into in connection with Lessee's operations at the Property.

Authority may from time to time be required by the United States Government, or one or more of its agencies, to adopt additional or amended provisions, including nondiscrimination provisions concerning the use and operation of the Airport, and Lessee agrees that it will adopt such requirements as part of this Lease.

#### Federal Aviation Administration Requirements.

Authority reserves unto itself, and unto its successors and assigns for the use and benefit of the public, a right of flight for the passage of aircraft through the airspace above the surface of the Property, together with the right to cause in the airspace such noise as may be inherent in the operation of aircraft now known or hereafter used, and for navigation of or flight in the airspace, and use of the airspace for landing on, taking off or operating on the Airport.

Lessee expressly agrees, on behalf of itself and its successors and assigns:

to restrict the height of structures, vegetation and other Improvements on the Property in compliance with the requirements of Federal Aviation Administration Regulations, 14 CFR Part 77, as they may be amended from time to time; and

to prevent any use of the Property and any Improvements which would unreasonably interfere with or adversely affect the operation and maintenance of the Airport, or which would otherwise constitute a hazard at the Airport.

Right to Operate Aircraft at Airport. Nothing contained in this Lease shall give Lessee the right to operate a scheduled airline at the Airport. The right to operate aircraft at the Airport may be obtained by a qualified Lessee from Authority by executing an Operating Agreement in the form prescribed by the Authority.



Member Protection. No recourse under or upon any obligation, covenant or agreement contained in this Lease, or any other agreement or document pertaining to the operations of Lessee hereunder, as such may from time to time be altered or amended in accordance with the provisions hereof, or under any judgment obtained against Authority, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise, under or independent of this Lease, shall be had against any member (including, without limitation, members of Authority's Board and members of Authority's citizens advisory committees), officer, employee or agent, as such, past, present and future, of Authority, either directly or through Authority or otherwise, for any claim arising out of this Lease or the operations conducted pursuant to it, or for any sum that may be due and unpaid by Authority. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any Authority member, officer, employee or agent, as such, to respond by reason of any act or omission on his or her part or otherwise for any claim arising out of this Lease or the operations conducted pursuant to it, or for the payment for or to Authority, or any receiver therefore or otherwise of any sum that may remain due and unpaid by Authority, is hereby expressly waived and released as a condition of and as consideration for the execution of this Lease.

Authority Rules and Regulations. Lessee shall observe and comply with all reasonable rules and regulations of Authority which now exist or may hereinafter be promulgated from time to time governing all matters relating to the Airport, including, without limitation, access, use, safety and conduct of operations at the Airport and the safe use of Airport facilities. Authority shall, at Lessee's written request, furnish a copy of all such rules and regulations, and any amendments thereto, to Lessee.

Authority Access to Property. Lessee grants Authority and its authorized agents full and free access to the Property and all Improvements located thereon at all reasonable times (upon reasonable prior notice, except in the event of an emergency) for the purposes of examining the same and seeing that all of the obligations of Lessee hereunder are being met and performed, and for exercising the Authority's rights under Paragraph 4.1 of the Lease, and shall permit them to enter any building or structure on the Property at any time in the event of an emergency. Authority and its employees, licensees, invitees, agents, patrons and suppliers, and its tenants and their employees, licensees, invitees, agents, patrons and suppliers, shall have the right of vehicular and pedestrian access, ingress and egress over all non-restricted access streets at the Airport.

Relationship of Parties. Nothing contained in this Lease shall be deemed or construed by Authority or Lessee or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between Authority and Lessee, it being expressly understood and agreed that neither the computation of Annual Rent, Rent nor any other provisions contained in this Lease nor any act or acts of the parties hereto shall be deemed to create any relationship between Authority and Lessee other than the relationship of landlord and tenant.

Exclusive Rights. The rights granted to Lessee under this Lease are not exclusive, except that Lessee shall have the exclusive use of the Property for the Term of this Lease in accordance with the provisions of this Lease. The Authority expressly reserves the right to grant to third parties

rights and privileges on other portions of the Airport that are identical, in whole or in part, to those granted to Lessee hereunder.

### Miscellaneous Provisions.

The section headings contained in this Lease are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provision of this Lease.

Except as otherwise provided herein, the provisions of this Lease shall bind and inure to the benefit of the successors and assigns of the parties hereto.

Time is expressed to be of the essence of this Lease.

In the event that any proceeding at law or in equity arises hereunder or in connection herewith (including any appellate proceeding or bankruptcy proceeding) the prevailing party shall be awarded costs, reasonable expert fees and reasonable Attorney's Fees incurred in connection therewith.

This Lease was made in, and shall be governed by and construed in accordance with the laws of, the State of Florida. If any covenant, condition or provision contained in this Lease is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any other covenant, condition or provision herein contained.

This Lease, together with the exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and any prior agreements, representations or statements heretofore made with respect to such subject matter, whether oral or written, and any contemporaneous oral agreements, representations or statements are merged herein. This Lease may be altered or amended only by written instrument executed by both parties hereto.

Words of gender used in this Lease shall be held and construed to include any other gender; and words in the singular shall be held to include the plural and vice versa unless the context otherwise requires.

Authority and Lessee represent and warrant to each other that they have dealt with no broker in connection with this Lease and the transactions contemplated hereby, and each agrees to indemnify and hold the other harmless in the event its representation and warranty contained herein is not true.

At the request of either party, the other shall with reasonable promptness deliver to the requesting party a written and acknowledged statement that this Lease is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), that to the best of the responding party's knowledge, the requesting party is not in default under this Lease (or if the responding party has knowledge that the requesting party is in default, identifying the default), and providing such other information with respect to the Lease and the relationship between Authority and Lessee as may reasonably be requested.

**COMMUNICATIONS CONCERNING DISPUTED DEBTS. ALL (A) COMMUNICATIONS CONCERNING DISPUTES ABOUT DEBTS THAT ARE OWED OR MAY BE OWED PURSUANT TO THIS AGREEMENT, AND (B) INSTRUMENTS IN LESS THAN THE FULL AMOUNT CLAIMED BY THE AUTHORITY AND TENDERED AS FULL SATISFACTION OF A DISPUTED DEBT OR OTHER AMOUNT OWED, SHALL BE SENT CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE FOLLOWING:**

**DIRECTOR OF AIRPORTS  
TITUSVILLE-COCOA AIRPORT AUTHORITY  
51 Bristow Way  
Titusville, Florida 32780**

In accordance with Florida law, Lessee is hereby advised as follows:

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.

Fire Protection System. Lessee shall, at its own cost and expense, maintain in good working order in each building on the Property where the same is required by applicable fire and safety standards a fire protection system satisfying applicable requirements of NFPA, the local building code enforcement agency and any other applicable legal requirements, which Lessee shall cause to be certified as meeting all applicable fire and safety standards upon installation, and recertified at least annually thereafter, by a qualified fire protection system inspector with a copy of each such certification provided to Authority.

Airport Security. Lessee shall comply with all applicable regulations of the Federal Aviation Administration, Transportation Security Administration, and/or the Florida Department of Transportation relating to airport security (including, at the Authority's request and without limitation, all such regulations applicable to the Authority with respect to the operation of the Property) and shall control the Property so as to prevent or deter unauthorized persons from obtaining access to that portion of the Airport consisting of cargo areas, airside buildings, aircraft aprons, ramps, taxiways and runways (the "Air Operations Area"). Any fines or other penalties incurred by the Authority as a result of Lessee's breach of this Paragraph shall be included in the indemnification provided to Authority pursuant to Paragraph 8.1 of the Lease.

### Compliance with Stormwater Regulations.

Lessee acknowledges that the Airport is subject to federal stormwater regulations, 40 C.F.R. Part 122 (the "Regulations"), which are applicable to, among other activities, (i) certain industrial activity, including, without limitation, the operation of a vehicle maintenance shop (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations and deicing operations and (ii) certain construction activity at the Airport. Lessee also acknowledges that it is familiar with the Regulations and agrees to comply with the Regulations as they may be amended from time to time. Lessee further acknowledges that it has been advised that the Authority has complied with the Regulations by obtaining coverage under the Environmental Protection Agency's Stormwater Multi-Sector General Permit for Industrial Activities (the "Multi-Sector Permit"). Lessee may be able to become a co-permittee under such Multi-Sector Permit by filing separately in accordance with the provisions of the Regulations and the Multi-Sector Permit. Lessee shall provide to the Authority's Manager of Environmental Services copies of any such filings and such other information as the Director of Airports may reasonably request with respect to Lessee's compliance with the Regulations. Lessee agrees to comply with such Multi-Sector Permit or any other permit obtained by Authority or Lessee in connection with the Regulations as they pertain to the Property, and any modifications to or renewals thereof. Such permit will not cover construction activities as defined by the Regulations and will not eliminate the need to obtain permits from state or local agencies as applicable laws, ordinances or regulations may require.

If Lessee, or its authorized agents or representatives, engages in construction activity at the Airport, including, without limitation, clearing, grading, or excavation, Lessee shall determine whether the Regulations require a permit, and if so, Lessee shall obtain the permit, send a copy of the permit to the attention of the Authority's Director of Airports, and comply with the permit conditions.

Americans with Disabilities Act. As used herein, "ADA" shall mean the Americans with Disabilities Act, P.L. 101-336, 104 Stat. 327 (1990), as amended from time to time, and the regulations promulgated thereunder. Lessee shall be responsible for any actions required to comply with ADA (including, without limitation, any actions required by the Authority to enable the Authority to meet its ADA obligations with respect to Lessee's operations) as a result of (i) any Improvements or modifications which it makes to the Property, (ii) its particular use of the Property and (iii) any changes to the ADA after the Effective Date. Any modification to the Property, which Lessee is required to make under this Paragraph, shall be performed to the satisfaction of the Authority. In the event the Lessee shall fail to construct or modify any Improvements to the Property as required under this Paragraph, the Authority shall have the right to enter the Property and perform such modifications on the Lessee's behalf, without liability for any disruption to the Lessee's activities therein during the completion of or as a result of such modifications, and the cost of such modifications shall be invoiced to the Lessee and shall be promptly paid by the Lessee to the Authority as additional Rent hereunder.

Force Majeure. If either party hereto shall fail to timely perform any of its obligations under this Lease as a result of strikes, lockouts or labor disputes, inability to obtain labor or materials, government restrictions, fire or other casualty, adverse weather conditions not reasonably foreseeable at the location and time of year in question, by reason of war or other national

emergency, acts of God or other causes beyond the reasonable control of the party obligated to perform, then such failure shall be excused and not constitute a default under this Lease by the party in question, but only to the extent and for the time occasioned by such event. In the event the rights and privileges hereunder are suspended, Annual Rent and Rent under this Lease shall not abate, and Lessee shall have the right to make any claim against any third party permitted by law and to receive any award paid with respect to such claim. In no event shall this provision excuse any failure by Lessee to pay Annual Rent or Rent or any other payment obligation hereunder. Nor shall this provision apply to any inability by Lessee to procure funds or obtain financing necessary to comply with Lessee's obligations under this Lease. In the event that the airport is closed for a period greater than ninety (90) consecutive days by reason of war or other national emergency, the Authority will assist Lessee, as allowable by applicable law, in obtaining compensation for the unamortized portion of any Improvements constructed by Lessee on the Property from the authority taking such action. However, in no case shall the Authority be liable for any damages arising out of such an event.

#### Subordination.

This Agreement shall be subject to all restrictions of record affecting the Airport and the use thereof, all federal, state, county and city laws and regulations affecting the same, and shall be subject and subordinate to the provisions of any and all existing agreements between the Authority and third parties, including, but not limited to, those between the Authority and the United States of America, the State of Florida, or the County of Brevard, or their agencies, and to any future agreements between or among the foregoing relative to the operation or maintenance of the Airport, the execution of which may be required as a condition precedent to the expenditure of federal, state, county or city funds for the development of the Airport, or any part thereof. All provisions hereof shall be subordinate to the right of the United States to occupy or use the Airport, or any part thereof, during time of war or national emergency.

In the event the Federal Aviation Administration or its successors require modifications or changes in this Agreement as a condition precedent to the granting of its approval or to the obtaining of funds for the improvement of the Airport, Lessee hereby consents to any and all such modifications and changes as may be reasonably required.

Notwithstanding the foregoing provisions of this Paragraph, in the event any such restrictions, agreements or modifications to this Lease increase the Annual Rent payable hereunder or materially and adversely affect the ability of Lessee to use the Property for the purposes permitted under this Lease, Lessee shall have the right to terminate this Lease by written notice to the Authority.

Public Entity Crimes Law. The Lessee acknowledges the following notice:

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 \$25,000 for a period of 36 months from the date of being placed on the convicted vendor list.

Tax Exempt Status of Authority Revenue Bonds. Lessee agrees to comply promptly with any applicable provisions of any federal tax statute, and all regulations or other binding authority promulgated or decided thereunder, as required to permit the Authority's capital expansion projects to be planned and constructed by Authority with revenue bonds the interest on which is generally exempted from federal income taxation, other than any applicable individual or corporate alternative minimum taxes (and other than during any period while such revenue bonds are held by a "substantial user" of the projects financed by those revenue bonds or a "related person" to a "substantial user"), including, without limitation, the execution by Lessee and delivery to Authority of an election not to claim depreciation or any investment credit with respect to any portion of such capital expansion projects or any other portion of the Airport System in the form attached hereto as Exhibit "F" simultaneously with the execution of this Lease. Such exhibit shall be deemed to be part of this Lease and shall be binding upon Lessee, its successors and assigns.

Visual Arts. Lessee shall not permit a work of visual art, as defined in 17 USC § 101, to be installed in the Property without providing Authority with a written waiver, in form acceptable to the Authority, of the artist's rights under the Visual Artists Rights Act of 1990, Pub. L. 101-650, and without obtaining the Authority's prior written approval.

**EXHIBIT "G"**  
**PAYMENT BOND FORM - EXAMPLE**

**KNOW ALL MEN BY THESE PRESENT** that \_\_\_\_\_ hereinafter referred to as Principal, and \_\_\_\_\_, a corporation/company organized under the laws of the State of \_\_\_\_\_ and licensed to do business in the State of Florida, hereinafter referred to as Surety, are held and firmly bound unto the Titusville-Cocoa Airport Authority (the "Authority"), as Obligee, hereinafter referred to as Authority, in the Penal Sum of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), for the payment of which sum well and truly made, Principal and Surety bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, Principal executed Lease Agreement on \_\_\_\_\_, 20\_\_ for property at Space Coast Regional Airport, which is incorporated herein by reference, made a part hereof, and is hereinafter referred to as the Agreement, and

**WHEREAS**, Principal has by written agreement dated \_\_\_\_\_, 20\_\_ entered into a contract, hereinafter referred to as the Contract, with \_\_\_\_\_, hereinafter referred to as Contractor, for the construction at the Airport as described in the Agreement; and

**WHEREAS**, under the terms of the Agreement, Principal is required to indemnify and hold harmless Authority from and against any and all claims of claimants, as defined in Sections 255.05(1) and 713.01(10), Florida Statutes, for installations and improvements at the Authority as described in the Agreement, and is also required to provide a bond protecting the rights of such claimants to payment for services, labor, materials or supplies used directly or indirectly in the prosecution of the installations and improvements at the Authority as described in the Agreement; and

**WHEREAS**, Surety is authorized to do business in the State of Florida;

**NOW, THEREFORE**, the condition of this obligation is such that if Principal shall promptly make payments to all claimants as defined in Sections 255.05(1) and 713.01(16), Florida Statutes, supplying Principal and/or Contractor with services, labor, materials, or supplies, used directly or indirectly by Principal and/or Contractor in the prosecution of the improvements and installations at the Authority as provided for in the Agreement and the Contract, then this obligation shall be void; otherwise, it shall remain in full force and effect, subject, however, to the following conditions:

1. This bond is furnished for the purpose of complying with the requirements of Section 255.05, Florida Statutes, to the extent applicable; and for the purpose of exempting any legal or equitable interest in real property owned by Authority or the Principal from liens, and complying with the requirements of Section 713.23, Florida Statutes, to the extent applicable.

2. It is a specific condition of this bond that a claimant's right of action on the bond

is limited to the provisions of Sections 255.05 and 713.23, Florida Statutes, including, but not limited to, the one-year (1) time limitation within which suits may be brought.

Therefore, a claimant, except a laborer, who is not in privity with the Principal and who has not received payment for his services, labor, materials or supplies shall, within forty-five (45) days after beginning to furnish services, labor, materials or supplies for the prosecution of the work, furnish the Principal with a notice that he intends to look to the bond for protection. Any claimant who has not received payment for his services, labor, materials or supplies shall, within ninety (90) days after performance of the services or labor or completion of delivery of the materials or supplies, deliver to the Principal and to the Surety written notice of the performance of the services or labor or delivery of the materials or supplies and of the nonpayment. No action for the services, labor, materials or supplies may be instituted against the Principal or the Surety unless both notices have been given. No action shall be instituted against the Principal or the Surety on the bond after one(1) year from the performance of the services or labor or completion of the delivery of the materials or supplies.

3. The Surety's obligations hereunder shall remain in full force and effect notwithstanding (i) amendments or modifications to the Agreement or Contract entered into by Authority, Principal and/or Contractor without the Surety's knowledge or consent, (ii) waivers of compliance with or any default under the Lease or Contract granted by Authority to Principal or by Principal to Contractor without the Surety's knowledge or consent, (iii) the discharge of Principal from its obligations under the Agreement or Contract as a result of any proceeding initiated under The Bankruptcy Code of 1978, as the same may be amended, or any similar state or federal law, or any limitation of the liability of Principal or its estate as a result of any such proceeding, or (iv) any other action taken by the Authority, Principal or Contractor that would, in the absence of this clause, result in the release or discharge by operation of law of the Surety from its obligations hereunder.

4. Any changes in or under the Agreement or Contract and compliance or noncompliance with any formalities connected with the Agreement or Contract or the changes therein shall not affect Surety's obligations under this bond, and Surety hereby waives notice of any such changes. Further, Principal and Surety acknowledge that the Penal Sum of this bond shall increase or decrease in accordance with approved changes or other modifications to the Agreement and/or the Contract.

**IN WITNESS WHEREOF**, the Principal and Surety have executed this instrument under their several seals on the \_\_ day of \_\_\_\_\_, 20\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents fully signed by its undersigned representative, pursuant to authority of its governing body.



Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
Principal

By: \_\_\_\_\_  
Name and Title

(SEAL)

\_\_\_\_\_  
Surety

By: \_\_\_\_\_  
Name and Title

(Seal)

\_\_\_\_\_  
(Countersigned by Florida Registered Agent)

**EXHIBIT "H"**  
**PERFORMANCE BOND FORM - EXAMPLE**

**KNOW ALL MEN BY THESE PRESENTS** that \_\_\_\_\_, hereinafter referred to as Principal, and \_\_\_\_\_ a corporation/company organized under the laws of the State of \_\_\_\_\_ and licensed to do business in the State of Florida, hereinafter referred to as Surety, are held and firmly bound unto the Titusville-Cocoa Airport Authority as Oblige, hereinafter referred to as Authority, in the Penal Sum of \_\_\_\_\_ DOLLARS (\$\_\_\_\_\_), for the payment of which sum well and truly made, Principle and Surety bind ourselves, our heirs, personal representatives, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, Principal has been awarded real property at \_\_\_\_\_, in accordance with the Agreement dated \_\_\_\_\_, which is incorporated herein by reference, made a part hereof, and is hereinafter referred to as the Lease; and

**WHEREAS**, Principal has by written agreement dated \_\_\_\_\_, 20\_\_ entered into a contract, hereinafter referred to as the Contract, with \_\_\_\_\_, hereinafter referred to as Contractor, for the construction of improvements to the above-described real property in accordance with the plans and specifications prepared by \_\_\_\_\_, dated \_\_\_\_\_, which were approved by Authority, and which are incorporated herein by reference and made a part hereof, and which are hereinafter referred to as the Plans and Specifications; and

**WHEREAS**, under the terms of the Lease, Principal is permitted or required to complete the improvements to the above-described property in accordance with the Plans and Specifications and the requirements of the Lease, and is also required to provide a bond guaranteeing the faithful performance of such improvements by the Principal and the Contractor or such replacement contractors as Principal may employ; and

**WHEREAS**, Surety is authorized to do business in the State of Florida;

**NOW, THEREFORE**, the condition of this obligation is such that if Principal, by and through Contractor or such replacement contractors as Principal may employ:

1. Promptly and faithfully completes and performs such improvements in accordance with the Plans and Specifications, the Contract, and the obligations imposed upon Principal by the Lease in connection therewith, in the time and manner prescribed in the Lease and Contract,

2. Pays Authority all losses, damages (liquidated or actual), including, but not limited to, damages caused by delays in performance of the Principal or the Contractor, expenses, costs and attorney's fees, including appellate proceedings, that Authority sustains resulting directly or indirectly from failure of the Principal or the Contractor to complete the improvements in accordance with the Plans and Specifications or the terms of the Contract, or from any breach or default by Principal or the Contractor under the Lease in connection therewith, and

3. Pays Authority all losses, damages, expenses, costs, attorneys' fees and other legal costs (including, but not limited to, those for investigative and legal support services), including those incurred in appellate proceedings, that the Authority sustains resulting directly or indirectly from conduct of the Principal or the Contractor, including, but not limited to, want of care or skill, negligence, patent infringement, or intentionally wrongful conduct on the part of the Principal or the Contractor, their officers, agents, employees or any other person or entity for whom the Principal or the Contractor are responsible, then this bond is void; otherwise it shall remain in full force and effect.

In the event that the Principal, individually or by and through the Contractor or such replacement contractors as Principal may employ, shall fail to complete the improvements in accordance with the Plans and Specifications or the terms of the Contract, or to perform any of the terms, covenants and conditions of the Lease related to construction of such improvements during the period in which this Performance Bond is in effect, the Surety shall remain liable to the Authority for all such loss or damage, including reasonable attorneys' fees and other legal costs resulting from any failure to perform up to the amount of the Penal Sum.

In the event that the Surety fails to fulfill its obligations under this Performance Bond, then the Surety shall also indemnify and save the Authority harmless from any and all loss, damage, cost and expense, including reasonable attorneys' fees and other legal costs for all trial and appellate proceedings, resulting directly or indirectly from the Surety's failure to fulfill its obligations hereunder. This paragraph shall survive the termination or cancellation of this Performance Bond. The obligations set forth in this paragraph shall not be limited by the Penal Sum of this Bond.

The Surety's obligations hereunder shall be direct and immediate and not conditional or contingent upon Authority's pursuit of its remedies against Principal, and shall remain in full force and effect notwithstanding (i) amendments or modifications to the Lease or the Contract entered into by Authority, Principal and/or Contractor without the Surety's knowledge or consent, (ii) waivers of compliance with or any default under the Lease or the Contract granted by Authority to Principal or by Principal to Contractor without the Surety's knowledge or consent, (iii) the discharge of Principal from its obligations under the Lease or the Contract as a result of any proceeding initiated under The Bankruptcy Code of 1978, as the same may be amended, or any similar state or federal law, or any limitation of the liability of Principal or its estate as a result of any such proceedings, or (iv) any other action taken by Authority or Principal or Contractor that would, in the absence of this clause, result in the release or discharge by operation of law of the Surety from its obligations hereunder.

The institution of suit upon this Bond is subject to a statute of limitations of four (4) years for claims arising out of the actual construction of improvements and five (5) years for all other claims arising out of this written contract, as set forth in Section 95.11, Florida Statutes.

Any changes in or under the Lease or the Contract and compliance or noncompliance with any formalities connected with the Lease or the Contract or the changes therein shall not affect Surety's obligations under this bond, and Surety hereby waives notice of any such changes. Further, Principal and Surety acknowledge that the Penal Sum of this bond shall increase or

decrease in accordance with approved changes or other modifications to the Lease and/or the Contract.

**IN WITNESS WHEREOF**, the Principal and Surety have executed this instrument under their seals on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, the name and corporate seal of each corporate party being hereto affixed and these presents fully signed by its undersigned representative, pursuant, authority of its governing body.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_  
\_\_\_\_\_  
(Seal)

\_\_\_\_\_  
Principal  
By: \_\_\_\_\_  
(Official Title)

\_\_\_\_\_  
\_\_\_\_\_  
(Seal)

\_\_\_\_\_  
Surety  
By: \_\_\_\_\_  
(Official Title)

\_\_\_\_\_  
(Countersigned by Florida Registered Agent)

Note: If Principal and Surety are corporations, the respective corporate seals shall be affixed and attached.

Surety shall execute and attach a certified copy of Power of Attorney Appointing Individual Attorney-In-Fact for execution of Performance Bond on behalf of Surety.

**EXHIBIT "I"**

**THIS INSTRUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:**

**For Recording Purposes Only**

**MEMORANDUM OF LEASE AGREEMENT**

THIS MEMORANDUM OF LEASE AGREEMENT (“Memorandum”) is effective this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between TITUSVILLE-COCOA AIRPORT AUTHORITY, as governing body of the Titusville-Cocoa Airport Authority, a special taxing district existing under the laws of the State of Florida, whose mailing address is 51 Bristow Way, Titusville, Florida 32780 (“**Authority**”), and \_\_\_\_\_ a Florida corporation authorized to do business in the State of Florida with its principal place of business located at \_\_\_\_\_ (“**Lessee**”).

**WITNESSETH**

1. Lease. Authority and Lessee entered into that certain Lease Agreement effective as of \_\_\_\_\_, 20\_\_\_\_ (“Lease”), with respect to the lease of certain real property and improvements thereon located in Brevard County, Florida, more particularly described on the attached **Exhibit “A”** (the “Property”).
2. Term. The Term of the Lease begins on \_\_\_\_\_, 2022 hereof and ends on \_\_\_\_\_, 20\_\_\_\_, unless sooner terminated or extended in accordance with the terms of the Lease, which in no event will be later than \_\_\_\_\_, 20\_\_\_\_.
3. Lessee’s Improvements. Pursuant to the terms of the Lease, Authority’s interest in the Property shall not be subject to any liens or claims of lien for any improvements made by or on behalf of Lessee.
4. Election Not to Claim Depreciation. Neither Lessee nor any successor-in-interest to Lessee shall claim depreciation or an investment credit with regard to any Improvements constructed by the Authority at the Property.
5. Definitions. TERMS NOT SPECIFICALLY DEFINED IN THIS MEMORANDUM SHALL HAVE THE SAME RESPECTIVE MEANINGS AS ARE ASCRIBED THERETO IN THE LEASE.

6. Lessee's Address. A copy of the Lease is maintained at Lessee's office located at the following address:

\_\_\_\_\_

and at the offices of the Authority.

7. Lease Governs. This Memorandum is executed for the sole purpose of giving public notice of certain terms and provisions of the Lease and shall not create, expand, modify or affect in any way the respective rights, interests, estates, obligations or remedies of Authority or Lessee. This Memorandum shall not be considered or taken into account in connection with the construction or interpretation of the Lease or any provision thereof.

8. Counterparts. This Memorandum may be executed in counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Memorandum effective as of the day and year first above written.

**WITNESSES:**

**Lessee:**

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

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

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

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

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

**WITNESSES:**

**Authority:**

**TITUSVILLE-COCOA AIRPORT AUTHORITY**

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

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

Name: Kevin Daugherty, AAE  
As Its: Director of Airports

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

Approved as to Form and Legality this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Approved as to Form and Legality this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**WhiteBird, PLLC**

By:

By:

\_\_\_\_\_  
Legal Counsel for: Lessee

\_\_\_\_\_  
Legal Counsel / Titusville-Cocoa Airport Authority

**STATE OF FLORIDA  
COUNTY OF BREVARD**

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_. He is [ ] personally known to me or [ ] has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)

\_\_\_\_\_  
Signature of Notary Public

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

My Commission Expires:\_\_\_\_\_

Commission No.:\_\_\_\_\_

**STATE OF FLORIDA  
COUNTY OF BREVARD**

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by KEVIN DAUGHERTY, as Director of Airports of **TITUSVILLE-COCOA AIRPORT AUTHORITY**. He is [ ] personally known to me or [ ] has produced \_\_\_\_\_ as identification.

(NOTARY SEAL)

\_\_\_\_\_  
Signature of Notary Public

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

My Commission Expires:\_\_\_\_\_

Commission No.:\_\_\_\_\_

**EXHIBIT "J"**  
**OTHER LESSEE OBLIGATIONS**

**Lessee agrees to surrender Property and all improvements to the Titusville - Cocoa Airport Authority at the end of the Lease term, however said term terminates or expires.**



**EXHIBIT "K"**  
**ELECTION FORM**

The undersigned, a duly authorized official of the Contracting Party, hereby elects (pursuant to Section 142(b)(1)(B)(i) of the Code) not to claim depreciation or an investment credit with respect to the Property described above. This Election is being made in connection with the execution of the lease, service contract, management contract or other contract (the "Contract") pertaining to the Property.

Contracting Party understands that this Election is irrevocable, and that this Election is binding on all successors in interest under the Contract regardless of whether the obligations issued to provide the Property remain outstanding. Furthermore, the Contract and any publicly recorded document recorded in lieu of such Contract states that neither the Contracting Party nor any successor in interest under the Contract may claim depreciation or an investment credit with respect to the Property.

In addition, Contracting Party agrees that it shall not use any portion of the Property for office space or, alternatively (and subject to the terms of its Contract with the Titusville-Cocoa Airport Authority), shall limit its use of any portion of the Property for office space so that no more than a de minimis amount [not more than five percent (5%)], if any, of the functions to be performed in such office space will not be directly related to the day-to-day operations either at the Property or more generally at Space Coast Regional Airport. Contracting Party agrees that this provision shall be binding upon any assignees, sub-lessees or other successors in interest.

The Issuing Authority is being provided with a copy of this Election concurrent with its execution. In addition, the Issuing Authority and the Contracting Party will retain copies of this Election in their respective records for the entire term of the Contract.

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



**EXECUTIVE SUMMARY**  
**TCAA RFQ 2023-01**  
**Request for Qualifications**  
**General Consulting Services**

**Background**

Over the previous five years, TCAA has been served by two consulting firms, Michael Baker International and AVCON, Inc. both which were previously selected to provide engineering design and other professional services to support the development of the Authority's three airports. The term of the original contracts for these services was for three years with two one-year options, which were subsequently exercised with both firms. With both contracts set to expire in April, 2023, the FAA and FDOT require that the Authority reselect their consultants through a fair and open selection process based on their qualifications.

**Discussion**

On January 12, 2023, a Request for Qualifications (RFQ) was publicly advertised and notices sent directly to 28 consulting firms that may be interested in the work. Responses were due on February 16, 2023, and the Authority received Statements of Qualifications from the following firms:

- American Infrastructure Development (AID)
- AVCON
- Infrastructure Consulting & Engineering (ICE)
- McFarland Johnson

To assist in evaluating the submittal, a Selection Committee was formed, comprised of the following members:

Kevin Cook, PE – City of Titusville, Public Works Director  
Marc Bernath, PE – Brevard County, Public Works Director  
Mark Cervasio – City of Venice, Airport Director  
Justin Hopman – TCAA Deputy Director, Operations & Maintenance  
Christy Kinard – TCAA Deputy Director, Finance & Administration

Copies of the SOQs were given to each Committee member and an evaluation sheet for scoring each submittal based on specific selection criteria that was included in the RFQ. On March 7, 2023, the Selection Committee met to review their individual scores for each SOQ and to conduct interviews with each firm. After the interviews, the Selection Committee deliberated to discuss

their observations and opinions regarding the qualifications of each firm and to make any adjustments in their scoring.

Based on the Committee’s final evaluation scores and their unanimous consensus, the ranking of the four firms was as follows:

1. AVCON
2. Infrastructure Consulting & Engineering (ICE)
3. McFarland Johnson
4. American Infrastructure Development (AID)

**Recommendation**

It is recommended that the Authority accept the results of the Selection Committee’s evaluations and authorize the Director to begin negotiations with the two top-ranked firms, AVCON and ICE, to provide general consulting services for the next three years with the option for two one-year extensions.

Note:

**Selection Committee's Final Evaluations & Rankings  
TCAA RFQ 2023-001  
General Consulting Services**

No.	Evaluation Criteria	Max Pts	AID	AVCON	ICE	MJI
1.	Understanding	100	47	90	87	47
2.	Comparable Project Completions	100	73	89	88	75
3.	Project Manager & Staff	75	53	69	66	53
4.	References	75	56	67	60	57
5.	Proximity	50	28	47	42	43
6.	Project Schedules	25	21	21	23	20
7.	Technology & Innovation	25	9	12	16	21
8.	DBE Participation	25	23	21	22	22
9.	Interest, Responsiveness, & Appearance	25	22	23	24	22
10.	Bonus	25	4	25	15	9
<b>TOTAL EVALUATION POINTS (MAX 525 PTS)</b>		<b>525</b>	<b>336</b>	<b>464</b>	<b>443</b>	<b>369</b>



# INVOICE SUMMARY

FLY SPACE COAST

TITUSVILLE-COCOA AIRPORT AUTHORITY

———— TIX, COI, X21 ————

# Airport Project Updates

## Legacy Projects

- TIX VAC Apron
- COI Corporate Hangar
- COI NASI

TIX, COI, X21

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

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

CURRENT STATUS: **Closeout paperwork in-progress.**

SCHEDULE: 8 MONTHS OF CONSTRUCTION PLUS 1 MONTH OF CLOSEOUT



# PROJECT: CORPORATE HANGAR – MERRITT ISLAND AIRPORT

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

CURRENT STATUS: **Held 1<sup>st</sup> construction meeting 3/9/23. Waiting on permits.**

SCHEDULE: 7 MONTHS OF CONSTRUCTION PLUS 1 MONTH OF CLOSEOUT



FLY SPACE COAST  
PORT AUTHORITY  
X21

# PROJECT: NORTH AREA SECURITY AND INFRASTRUCTURE – MERRITT ISLAND AIRPORT

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

CURRENT STATUS: Sod has been installed, fence work is complete, paving work will commence the 3<sup>rd</sup> week of March, then project closeout.

SCHEDULE: 5 MONTHS OF CONSTRUCTION PLUS 1 MONTH OF CLOSEOUT





# Airport Project Updates

## New Projects

- X21 AWOS
- COI AWOS
- TIX ATCT Design

FLY SPACE COAST  
TITUSVILLE COCOA AIRPORT AUTHORITY  
TIX, COI, X21

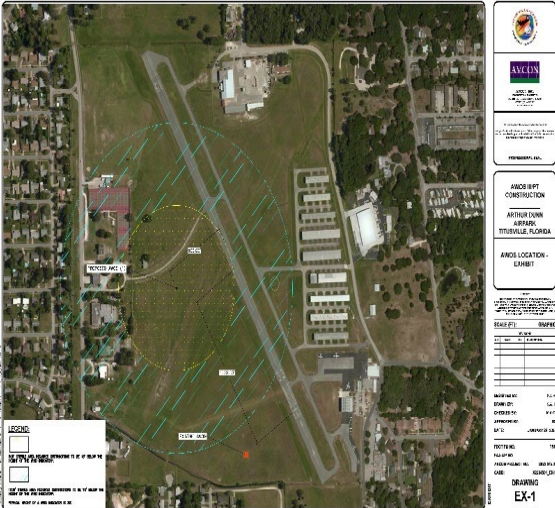


# PROJECT: Automated Weather Observation System (AWOS) Replacement – Arthur Dunn Airpark

BUDGET: \$365,000 (80/20 FDOT Grant)

CURRENT STATUS: We will issue a contract to the low bidder, order equipment, and work with FDOT on additional funds.

SCHEDULE: Design will commence once the location is determined. Design and bidding is anticipated to take 90 days. Construction will commence upon award of bid. Equipment procurement is taking 6+ months from date of purchase.

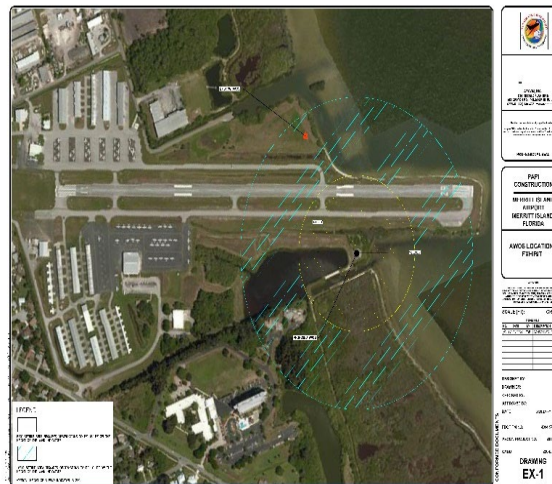


# PROJECT: Automated Weather Observation System (AWOS) Replacement – Merritt Island Airport

**BUDGET:** \$500,000 (80/20 FDOT Grant)

**CURRENT STATUS:** We will issue a contract to the low bidder, order equipment, and work with FDOT on additional funds.

**SCHEDULE:** Design will commence once the location is determined. Design and bidding is anticipated to take 90 days. Environmental permitting on the alternative site might take an additional 120 days. Construction will commence upon award of bid. Equipment procurement is taking 6+ months from date of purchase.



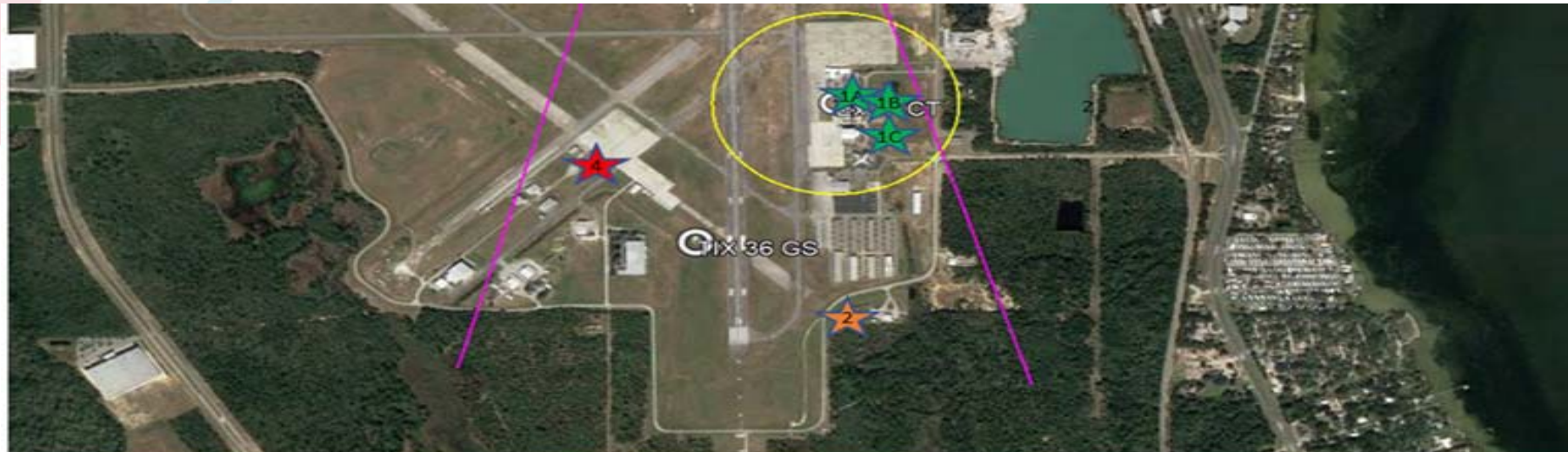
**PROJECT:** Design of the Replacement Airport Traffic Control Tower – Space Coast Regional Airport

**BUDGET:** \$960,000 (80/20 FDOT Grant)

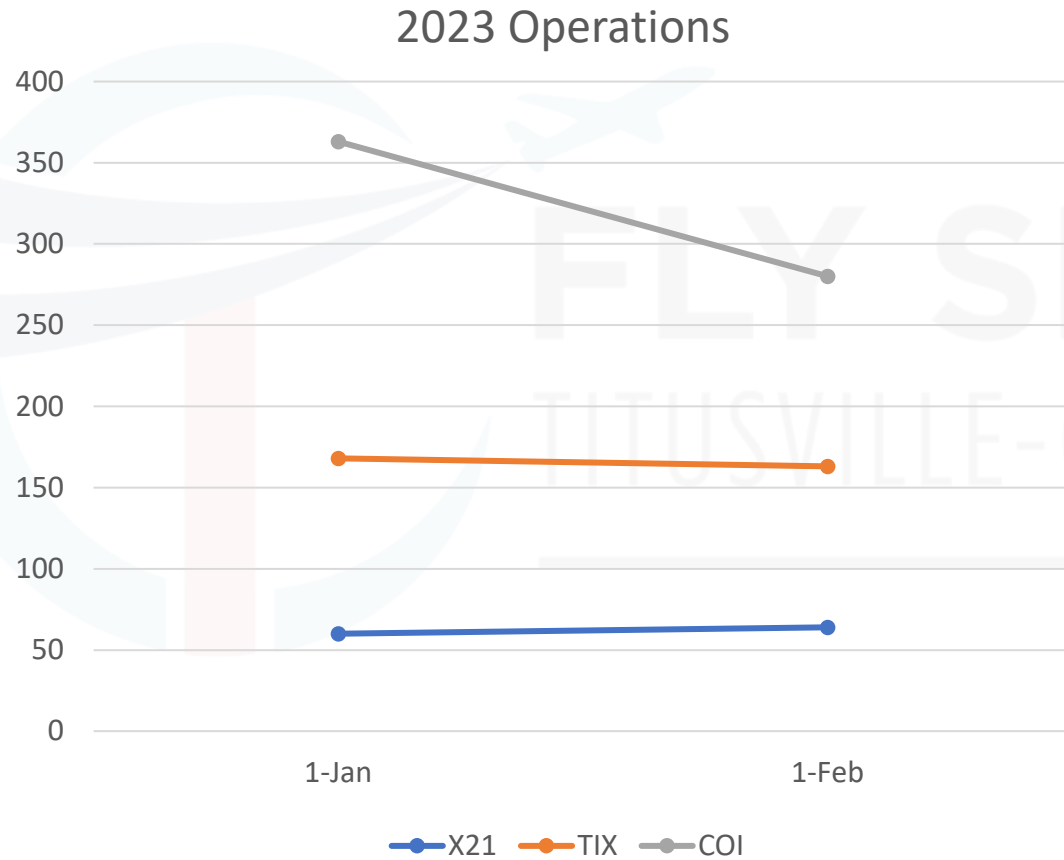
**CURRENT STATUS:** 90

**SCHEDULE:** 12 months

FLY SPACE COAST  
TITUSVILLE-COCOA AIRPORT AUTHORITY



# February 2023 Operations



**X21 - 64**  
**TIX - 163**  
**COI - 280**

**TITUSVILLE COCOA AIRPORT AUTHORITY**  
**Bill Payments for All Vendors**  
**February 5 - 11, 2023**

	Vendor	Type	Num	Date	Amount	
2/10/2023	AT&T	Bill Pmt -Check	40900	02/10/2023	465.92	
	AT&T Internet	Bill Pmt -Check	40901	02/10/2023	53.50	
	AMAZON CAPITAL SERVICES	Bill Pmt -Check	40902	02/10/2023	146.50	
	ACF STANDBY SYSTEMS	Bill Pmt -Check	40903	02/10/2023	249.00	
	AG-PRO COMPANIES	Bill Pmt -Check	40904	02/10/2023	4,211.35	
	AVCON	Bill Pmt -Check	40905	02/10/2023	2,330.00	
	AVCON	Bill Pmt -Check	40906	02/10/2023	2,330.00	
	Florida State Disbursement Unit		40907	02/10/2023	95.31	
	MISSION SQUARE - 303301		40908	02/10/2023	283.54	
	AVCON	Bill Pmt -Check	40909	02/10/2023	167,768.58	
	AVCON	Bill Pmt -Check	40910	02/10/2023	20,141.88	
	AVCON	Bill Pmt -Check	40911	02/10/2023	3,400.00	
	BOGGS GASES	Bill Pmt -Check	40912	02/10/2023	72.69	
	BOWMAN SERVICES AND ELECTRIC, INC	Bill Pmt -Check	40913	02/10/2023	200.00	
	BREVARD UNIFORM CO	Bill Pmt -Check	40914	02/10/2023	86.88	
	CITY ELECTRIC SUPPLY	Bill Pmt -Check	40915	02/10/2023	139.75	
	CITY OF TITUSVILLE	Bill Pmt -Check	40916	02/10/2023	593.16	
	CULLIGAN	Bill Pmt -Check	40917	02/10/2023	39.48	
	CYNTHIA LENNARD, CPA	Bill Pmt -Check	40918	02/10/2023	5,987.25	
	DYNAFIRE, INC	Bill Pmt -Check	40919	02/10/2023	520.00	
	FASTER THAN SOUND, INC	Bill Pmt -Check	40920	02/10/2023	1,780.00	
	FLORIDA ALARM & SECURITY TECHNOLOGIES	Bill Pmt -Check	40921	02/10/2023	18.00	
	FLORIDA COAST EQUIPMENT	Bill Pmt -Check	40922	02/10/2023	3,890.85	
	FPL	Bill Pmt -Check	40923	02/10/2023	243.59	
	FPL	Bill Pmt -Check	40924	02/10/2023	678.29	
	HOME DEPOT CREDIT SERVICES	Bill Pmt -Check	40925	02/10/2023	1,054.48	
	JUDITH DURETTE	Bill Pmt -Check	40926	02/10/2023	1,072.50	
	LOWES	Bill Pmt -Check	40927	02/10/2023	426.75	
	WALL AUTOMOTIVE GROUP INC.	Bill Pmt -Check	40928	02/10/2023	109.89	
	NAUTILUS EARTH MANAGEMENT	Bill Pmt -Check	40929	02/10/2023	9,526.40	
	RICONDO	Bill Pmt -Check	40930	02/10/2023	2,947.14	
	RICONDO	Bill Pmt -Check	40931	02/10/2023	3,638.29	
	RICONDO	Bill Pmt -Check	40932	02/10/2023	4,049.83	
	ROBERTSON'S LAWNS INC	Bill Pmt -Check	40933	02/10/2023	1,000.00	
	SAFETY-KLEEN SYSTEMS, INC	Bill Pmt -Check	40934	02/10/2023	452.50	
	T'S HANDYMAN SERVICE	Bill Pmt -Check	40935	02/10/2023	5,445.00	
	TARGET SOLUTIONS LEARNING	Bill Pmt -Check	40936	02/10/2023	926.65	
	TEN-8 FIRE & SAFETY, LLC	Bill Pmt -Check	40937	02/10/2023	672.29	
	WATKINS OIL	Bill Pmt -Check	40938	02/10/2023	1,028.38	
	WASTE MANAGEMENT	Bill Pmt -Check	40939	02/10/2023	500.37	
	CARR, RIGGS & INGRAM	Bill Pmt -Check	40940	02/10/2023	10,100.00	
	Tami Oviedo	Refund	40941	02/10/2023	25.00	
	Scott DeMasso	Refund	40942	02/10/2023	510.00	
	William Coates	Refund	40943	02/10/2023	365.33	
	2/24/2023	MISSION SQUARE - 303301	Bill Pmt -Check	40944	02/24/2023	283.54
		Florida State Disbursement Unit	Bill Pmt -Check	40945	02/24/2023	95.31
		STANDARD INSURANCE COMPANY	Bill Pmt -Check	40946	02/24/2023	707.37
CHLIC		Bill Pmt -Check	40947	02/24/2023	454.55	
DAVIS VISION		Bill Pmt -Check	40948	02/24/2023	77.78	
BOARD OF COUNTY COMMISSIONERS		Bill Pmt -Check	40949	02/24/2023	14,743.20	
AT&T MOBILITY		Bill Pmt -Check	40950	02/24/2023	350.24	
AT&T		Bill Pmt -Check	40951	02/24/2023	600.82	
ACF STANDBY SYSTEMS		Bill Pmt -Check	40952	02/24/2023	249.00	
ALLEN ENTERPRISES, INC.		Bill Pmt -Check	40953	02/24/2023	3,445.27	
Alligator Plumbing		Bill Pmt -Check	40954	02/24/2023	45.00	
AMAZON CAPITAL SERVICES		Bill Pmt -Check	40955	02/24/2023	2,282.47	
BREVARD UNIFORM CO		Bill Pmt -Check	40956	02/24/2023	86.88	
Brown & Brown of Florida, Inc		Bill Pmt -Check	40957	02/24/2023	89,692.00	
CITY OF TITUSVILLE		Bill Pmt -Check	40958	02/24/2023	303.19	
CITY OF COCOA		Bill Pmt -Check	40959	02/24/2023	266.44	
CYNTHIA LENNARD, CPA		Bill Pmt -Check	40960	02/24/2023	3,106.50	
CITY ELECTRIC SUPPLY		Bill Pmt -Check	40961	02/24/2023	859.12	
ECONOMIC DEVELOPMENT COMMISSION FLO		Bill Pmt -Check	40962	02/24/2023	1,500.00	
FEDEX		Bill Pmt -Check	40963	02/24/2023	35.65	
FLORIDA COAST EQUIPMENT		Bill Pmt -Check	40964	02/24/2023	506.00	
FLORIDA TODAY		Bill Pmt -Check	40965	02/24/2023	334.08	
FPL		Bill Pmt -Check	40966	02/24/2023	1,915.91	
FPL		Bill Pmt -Check	40967	02/24/2023	2,712.39	
FPL		Bill Pmt -Check	40968	02/24/2023	599.23	
FPL		Bill Pmt -Check	40969	02/24/2023	551.12	
FPL		Bill Pmt -Check	40970	02/24/2023	349.05	
FPL		Bill Pmt -Check	40971	02/24/2023	414.92	
Preferred Governmental Insurance Trust		Bill Pmt -Check	40972	02/24/2023	120.00	
Pitney Bowes Inc		Bill Pmt -Check	40973	02/24/2023	192.54	
Quadrex Aviation, LLC		Bill Pmt -Check	40974	02/24/2023	6,338.00	
WALL AUTOMOTIVE GROUP		Bill Pmt -Check	40975	02/24/2023	28.07	
RICONDO		Bill Pmt -Check	40976	02/24/2023	16,759.78	
RICONDO		Bill Pmt -Check	40977	02/24/2023	9,041.99	
RICONDO		Bill Pmt -Check	40978	02/24/2023	9,229.08	
SOUTHERN JANITOR SUPPLY		Bill Pmt -Check	40979	02/24/2023	280.49	
Southeast Services of CFL Inc.		Bill Pmt -Check	40980	02/24/2023	7,345.00	
Stratford Tree Surgery		Bill Pmt -Check	40981	02/24/2023	3,730.00	
T'S HANDYMAN SERVICE		Bill Pmt -Check	40982	02/24/2023	1,490.00	
TRUIST ITEM PROCESSING CENTER		Bill Pmt -Check	40983	02/24/2023	10,104.89	
Virtower LLC	Bill Pmt -Check	40984	02/24/2023	19,200.00		
VOYAGER AVIATION INTERNATIONAL	Bill Pmt -Check	40985	02/24/2023	3,450.00		
WATKINS OIL	Bill Pmt -Check	40986	02/24/2023	1,404.38		
	<b>Total</b>				<b><u>474,857.57</u></b>	