



**AGENDA
AIRPORT ADVISORY COMMISSION
REGULAR MEETING
APRIL 11, 2019
6:00 PM
CITY HALL COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES**
 - 3.1 Consider approval of Minutes from January 10, 2019 Regular AAC Meeting
 - 3.2 Consider approval of Minutes from March 14, 2019 Regular AAC Meeting
- 4. PUBLIC COMMENT REGARDING ITEMS NOT ON THE AGENDA**
- 5. OLD BUSINESS**
 - 5.1 Observation Deck - Educational Component Discussion Continued
 - 5.2 GPS Approach Procedure Development Update
 - 5.3 Airport Architectural Standards Update
 - 5.4 Airport Financial Report
- 6. NEW BUSINESS**
 - 6.1 FB Hangar LLC Lease Construction Timeline Extension
 - 6.2 Driving Dynamics Facility Use Agreement Review/Recommendation
 - 6.3 FDOT Airports Economic Impact Study Results - Info Only
- 7. AIRPORT DIRECTOR AND STAFF REPORTS**
 - 7.1 Airport Manager Monthly Report
- 8. COMMISSION MEMBER REPORTS/COMMENTS**
- 9. NEXT MEETING DATE**
- 10. ADJOURNMENT**

All members of the public are invited to be present and be heard. Persons with disabilities requiring accommodations in order to participate in this program or activity should contact the City Clerk at (904) 310-3115 or TTY/TDD 711 (for the hearing or speech impaired). All interested parties may appear at said meeting and be heard as to the advisability of any action, which may be considered with respect to such matter. For information regarding this matter, please contact the Airport Manager.

1. **Call to Order:** Chairperson Chuck Colcord called the meeting to order at 6:00 pm.
2. **Members Present:** Chuck Colcord (Chair), Don Edlin, Prudence Hostetter, Ward Gill, Tom Piscitello, Kent McKee, and Dave Austin
Members Absent: Paul Behan

Others Present: Commissioner Len Kreger, Commissioner Chip Ross, Commissioner Mike Lednovich, Brian Echard, Kathryn Echard, Mickey Baity, Stan Jackson, and Brad Wente (Passero Associates).

3. **AAC Meeting Minutes:**

3.1 November 8, 2018 AAC Meeting – Approval of Minutes: Mr. Coyle stated that, following review of audio from the last meeting, the group did not vote on approval of the November 8, 2018 minutes during the meeting. Mr. Coyle presented the minutes again and asked the consideration of the AAC for approval.

A motion was made by Member Edlin, seconded by Member McKee, to approve the November 8, 2018 AAC Regular Minutes. A vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.

3.2 December 13, 2018 AAC Meeting - Approval of Minutes: The AAC reviewed the minutes from the December 13, 2018 regular meeting. Member Hostetter requested correction of a spelling error within paragraph 5.3 of the document, and Mr. Coyle stated that he would correct the error.

A motion was made by Member Edlin, seconded by Member McKee, to approve the December 13, 2018 AAC Regular Minutes. A vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.

4. **Public Comment Regarding Items Not On The Agenda:** Commissioner Len Kreger provided comment stating that he recently met with potential purchasers of the Amelia River Golf Course operation and has invited one of the representatives of the group to provide an introduction to the AAC during the February meeting. Commissioner Kreger stated that he would work with Airport Manager Coyle to schedule an agenda item for this discussion.

5. **Old Business:**

- 5.1 Observation Deck – Educational Component Discussion Continued**

Airport Manager Coyle stated that there were no updates on this topic, and Member Edlin stated that he would reach out to schedule a meeting with Mr. Coyle in the coming weeks to discuss this further and help move a project along.

5.2 GPS Approach Procedure Development Update

Airport Manager Coyle provided additional information related to development of a GPS procedure, specifically related to a question that was received during the last meeting about whether or not an obstacle survey would need to be completed again if an approach lighting system were installed in support of the runway in the future. Mr. Coyle stated that he would be moving forward with a request to pursue funding for an obstacle survey to support development of this project, and would provide updates to the AAC.

5.3 Airport Architectural Standards/Design Review Update

Airport Manager Coyle stated that he had recently issued a work order with Hanson Professional Services to assist with recommendations on revision of the airport's architectural standards. Mr. Coyle stated that he believed that recommendations would be ready for discussion by the group during the upcoming February 2019 AAC meeting, and that the discussion of the meeting would focus on this topic.

5.4 Airport Financial Report

Airport Manager Coyle presented the airport financial report to the AAC. There was no discussion on the financial report.

6. New Business:**6.1 Facility Use Agreement Review – Florida Army National Guard Temporary ATC Services during Concours d'Elegance Week****6.2 Facility Use Agreement Review – Concours d'Elegance****6.3 Facility Use Agreement Review – Buccaneer Region SCCA****6.4 Facility Use Agreement Review – Ben Byrns Annual 5K Run**

Airport Manager Coyle introduced agreements within items 6.1 through 6.4 of the agenda.

A motion was made by Member Austin, seconded by Member Gill, recommending that the City Commission approve Facility Use Agreements with the Florida Army National Guard for Temporary ATC Services during Concours d'Elegance, with Concours d'Elegance, with Buccaneer Region SCCA, and for execution of the Ben Byrns Annual 5K Run agreement as presented within the AAC Agenda Packet. A vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.

7. Airport Manager and Staff Reports:

Airport Manager Coyle presented his monthly department report to the group as included within the agenda packet.

8. Commission Member Reports and Comments:

Member Edlin stated that he noted a potential issue with the operability of the on/off switch arm on the self-service pump at the fuel farm. Mr. Coyle stated that he would have somebody look at the issue.

Member Piscitello stated that he noted there has been a delay in issuance of monthly hangar rental invoices and that he had issued a check prior to receipt of the invoice as the invoices were being mailed late. Mr. Coyle stated that he was aware that the City Billing Department had recently changed billing software and that there were some unexpected glitches with use of the new software. Mr. Coyle stated that he would contact the billing department to discuss the issue further.

9. Next Meeting Date: The group agreed that the February meeting would be scheduled on its regular date of Thursday/14 February 2019.

10. Adjournment: There being no further business to come before the Airport Advisory Commission, the meeting was adjourned at 7:01 p.m.

Secretary

Chuck Colcord, Chairperson

1. **Call to Order:** Chairperson Chuck Colcord called the meeting to order at 6:00 pm.
2. **Members Present:** Chuck Colcord (Chair), Prudence Hostetter, Kent McKee, Ward Gill, and Dave Austin
Members Absent: Tom Piscitello and Don Edlin

Others Present: Commissioner Len Kreger, Commissioner Chip Ross, Brian Echard, Kathryn Echard, Andrew Holesko (Passero Associates), Robert Kozakoff (Airport Staff), Nathan Coyle (Airport Staff), David Broughton, and R.D. Lake.
3. **Public Comment Regarding Items Not On The Agenda:** No public comment was received.
4. **Old Business:** Member McKee asked if there were any updates on the coordination of a GPS procedure, and Airport Manager Coyle stated that he continued to work with the FAA ADO office and flight procedures on this matter, and would hopefully have an update soon.
5. **New Business:**

5.1 Airport Architectural Standards – Final Discussion and Recommendation

Airport Manager Coyle presented a revised copy of draft airport architectural standards which included recommended changes that had previously been provided to the AAC. Mr. Coyle stated that the item regarding T-Hangar exclusivity still required discussion.

Mr. Coyle provided an excerpt from an AOPA publication on hangar development which outlined pros/cons between airport hangar development and private hangar development. Mr. Coyle then asked AAC members for feedback on this provision within the draft standards. Member McKee stated that he felt as though the T-Hangar exclusivity should be removed to allow private development of T-Hangars which would allow for sufficient development to help better meet the demand for hangar space at the airport. Member Austin stated that he supported this concept to allow private development of T-Hangars and that additional development may have beneficial impacts to the airport beyond land lease revenue through aviation activity, such as fuel flowage. Member Colcord asked if there were any options to control private development once exclusivity is removed, and Mr. Coyle stated that he had attempted to research this but that, in discussion with the City's Attorney, felt as though once the exclusivity is removed that it may never be available to the airport again. Member McKee asked if there were a method to control private development of T-Hangars through a process such as identifying an area within the Master Plan or on the airport's layout plan for private T-Hangar development. Andrew Holesko provided comment stating that a simple amendment to the airport's ALP could be achieved but that he was not sure about the proposed concept. Mr. Coyle stated that he thought this concept was interesting and that he had not considered it before. Mr. Coyle stated that he could discuss this concept with the FAA to see if it might be an option for consideration of the airport. The group provided

consensus that it would be beneficial to research this option and come back with more information.

Mr. Coyle then asked if there were any other comments or questions on the rest of revisions within the proposed draft airport architectural standards as presented. No other comments or questions were posed.

A motion was made by Member Hostetter, seconded by Member Austin, to recommend that the City adopt all proposed revisions to the airport's architectural standards and for the AAC to further evaluate T-Hangar exclusivity, specifically the option of identifying a parcel on the airport's layout plan for private T-Hangar development, before proposing any amendments to that language within the airport's architectural standards. A vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.

5.2 AAC Vacancy – Review of Applicants and Recommendation

Airport Manager Coyle presented four applications of interest for appointment under the existing vacancy for the AAC. Mr. Coyle also introduced Mr. R.D. Lake and Mr. David Broughton, two of the applicants, who were in the audience at the meeting. Mr. Lake and Mr. Broughton both introduced themselves and provided background regarding their experience within aviation.

The AAC deliberated on the recommendation stating that all applicants, and those at the meeting, were well qualified to fill the vacancy.

A motion was made by Member Hostetter, seconded by Member McKee, to recommend that the City Commission appoint Mr. David Broughton to the Airport Advisory Commission to fill the existing voting vacancy on the committee. A vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.

6. Airport Manager and Staff Reports:

Airport Manager Coyle presented his monthly department report to the group as included within the agenda packet.

Airport Manager Coyle also provided information about a recent discussion that had been conducted with City Manager Martin regarding an interest in potentially moving forward to develop a joint-use fire station on airport property, as shown on the airport's ALP, to serve firefighting needs of the general public and the airport alike. Mr. Coyle stated that the airport currently carries a capital improvement project in 2026 for FDOT funds to develop an ARFF facility on the airport, and that FDOT funding could be used to fund eligible (ARFF-related) expenses within construction of this facility. The City is interested in moving forward on this project within the next few years. Mr. Coyle stated that he had asked FDOT about obtaining

grant funding to support the project and/or support eligible components of design work and FDOT suggested that funds could be transferred from an existing project. Mr. Coyle stated that the FBO has offered a zero percent loan in support of funding needed for the fuel farm and perhaps there is an option to use that offer to cover any grant dollars which would potentially be transferred from the fuel farm project. Mr. Coyle asked for thoughts from the group.

Member Gill stated that he thought there would be benefit to the airport from having a fire station and ARFF capability on-site. Member Hostetter asked if the preliminary design/conceptual work would look at traffic flow and any potential issues with fire vehicles access Amelia Parkway, and Mr. Coyle stated that he believes response capability would most likely be a part of the planning process. Member Colcord stated that he would be concerned if this project would jeopardize replacement of the existing fuel farm. Mr. Coyle stated that he felt the fuel farm project could still be completed but did not yet have cost estimates as Passero will be completing initial scoping for the project in the coming weeks, which would reveal general cost estimates for the project. Mr. Coyle stated that he would keep the group advised on this discussion as it evolves.

7. Commission Member Reports and Comments:

Member Colcord asked if there were any updates on Hangar B or the demolition of the old FBO office facility. Mr. Coyle stated that there were no updates on Hangar B however the plans for demolition of office space had been received from Passero and a bid packet had been developed for release, and would be released in the coming weeks.

8. Next Meeting Date: Thursday April 11, 2019.

9. Adjournment: There being no further business to come before the Airport Advisory Commission, the meeting was adjourned at 8:00 p.m.

Secretary

Chuck Colcord, Chairperson

Enter Airport ID or City or Airport Name

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IFP Information Gateway Instructional
Video

FHB FERNANDINA BEACH/FERNANDINA BEACH MUNI

✓ Notify me of changes to FHB

Charts (6)

IFP Production Plan (3)

IFP Coordination (0)

IFP Documents (NDBR) (3)

IFP Production Plan - Current IFPs under Development or Amendments with Tentative Publication Date and Status.

Filter Options

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Procedure ▼	Airport Name ▼	Airport ID ▼	City/State ▼	Scheduled Pub Date ▼	Status ▼	Actual Pub Date ▼	
RNAV (GPS) RWY 13, AMDT 2C	FERNANDINA BEACH MUNI	FHB (KFHB)	FERNANDINA BEACH, FL	12/5/2019	Pending		✉ Email FAA
RNAV (GPS) RWY 22, AMDT 1D	FERNANDINA BEACH MUNI	FHB (KFHB)	FERNANDINA BEACH, FL	12/5/2019	Pending		✉ Email FAA
RNAV (GPS) RWY 4, ORIG	FERNANDINA BEACH MUNI	FHB (KFHB)	FERNANDINA BEACH, FL	12/5/2019	Pending		✉ Email FAA

Showing results 1 - 3 of 3

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AIRPORT 420**AIRPORT
420**

	BUDGET 2018-2019	YTD	Percentage
REVENUES			
33120 FEMA GRANT			
33220 FAA GRANT	293,000	167,642.90	57.2%
33323 FDOT GRANT	87,000	0.00	0.0%
33420 FEMA STATE GRANT	-		0.0%
33440 OTHER GRANT	-		0.0%
34970 FUEL SALES	20,000	14,243.60	71.2%
34971 LEASE PAYMENTS - LAND LEASE	68,439	65,522.66	95.7%
34972 LEASE PAYMENTS - BUILDING LEASE		1,856.15	0.0%
34973 LAND LEASE - AMELIA RIVER	205,960	73,064.34	35.5%
34974 LAND LEASE PAYMENTS - NON-TAXABLE	37,105	16,505.65	44.5%
34975 RENT/LEASE PAYMENTS - City Built	321,192	137,547.77	42.8%
34976 8 FLAGS RENT (TAXABLE)	67,017	22,867.30	34.1%
34978 8 FLAGS RENT - NON-TAXABLE	50,266	30,297.78	60.3%
36110 INTEREST			
36420 INSURANCE PROCEEDS		0.00	
36800 CAPITAL CONTRIBUTION		0.00	
38410 LOAN PROCEEDS		0.00	
36990 OTHER REVENUE	95,700	90,362.00	94.4%
36991 PARKING REVENUE	2,004	45.00	2.2%
36995 LATE FEES	-	233.83	
36992 GAIN ON SALE OF ASSETS			
34720 FACILITY RENTALS	-	2,863.60	
38101 TRANSFERS IN GENERAL FUND		0.00	
38910 CASH BALANCE FORWARD	40,900	0.00	0.0%
 TOTAL	 <u>1,288,583</u>	 <u>623,052.58</u>	 48.4%

AIRPORT 420

AIRPORT 420

	BUDGET 2018-2019	YTD	Percentage
PERSONNEL SERVICES			
51200 SALARIES	122,210	59,045.00	48.31%
51300 TEMPORARY	-	0.00	
51350 PART TIME	-	0.00	
51400 OVERTIME	-	0.00	
52100 FICA	9,349	4,088.07	43.73%
52200 RETIREMENT	36,594	19,094.54	52.18%
52300 HEALTH	29,701	14,815.15	49.88%
52301 LIFE	605	349.68	57.80%
52350 OPEB COSTS	1,756	877.98	50.00%
52400 WORKERS' COMP	2,150	1,075.02	50.00%
52500 UNEMPLOYMENT			
TOTAL	202,365	99,345.44	49.09%
OPERATING EXPENSES			
53100 PROFESSIONAL SERVICES	25,000	13,748.19	54.99%
53200 AUDIT	6,795	3,397.50	50.00%
53400 CONTRACTUAL	47,440	20,142.89	42.46%
53900 AUTO ALLOWANCE		0.00	
53910 HOUSING ALLOWANCE	-	0.00	
54000 TRAINING/TRAVEL	3,000	351.86	11.73%
54100 COMMUNICATIONS	1,920	869.07	45.26%
54101 COMMUNICATIONS - CELL	2,000	708.11	35.41%
54103 COMMUNICATIONS - INTERNET	5,750	1,592.00	27.69%
54200 POSTAGE	150	0.00	0.00%
54300 UTILITIES - ELECTRIC	45,000	15,041.07	33.42%
54310 UTILITIES - WATER & SEWER	14,504	5,768.98	39.78%
54500 INSURANCE	45,052	22,525.98	50.00%
54610 R/M GROUNDS	108,000	44,665.66	41.36%
54620 R/M EQUIPMENT	1,500	311.40	20.76%
54630 R/M VEHICLES-LABOR	4,000	4,535.00	113.38%
54640 R/M VEHICLES-MATERIALS	4,000	4,370.25	109.26%
54700 PRINTING	2,350	0.00	0.00%
54800 PROMOTIONAL	2,000	1,730.17	86.51%
54902 BAD DEBT EXPENSE		0.00	
54910 BILLING COST	7,300	3,649.98	50.00%
55100 OFFICE SUPPLIES	6,300	3,578.62	56.80%
55200 OPERATING SUPPLIES	735	410.19	55.81%
55210 UNIFORMS	400	112.50	28.13%
55230 FUEL	8,000	1,665.51	20.82%

AIRPORT 420**AIRPORT
420**

	BUDGET 2018-2019	YTD	Percentage
55400 BOOKS/SUBS/DUES	725	330.00	45.52%
TOTAL	<u>341,921</u>	<u>149,504.93</u>	43.72%
CAPITAL OUTLAY			
56200 BUILDINGS	-	0.0	
56300 IMPROVEMENTS	583,950	175,665.2	30.08%
56400 MACH./EQUIP.	-	0.0	
56401 MACH./EQUIP. Non-CAP	1,000	0.0	0.00%
TOTAL	<u>584,950</u>	<u>175,665.2</u>	30.03%
57000 SETTLEMENT EXP		0.0	
57100 PRINCIPAL	77,000	0.0	
57200 INTEREST	37,832	18,932.4	
57300 FINANCING COSTS	-	0.0	
TOTAL	<u>114,832</u>	<u>18,932.4</u>	
DEPARTMENT TOTAL	<u><u>1,288,583</u></u>	<u><u>443,448.0</u></u>	34.41%

Agenda Note: The existing TRC approval from the City for this hangar development, which was issued in June of 2017, expired. The proposer is required to re-submit site plans for consideration of TRC.

Paragraph 8 of the ground lease for FB Hangar LLC sets a timeline to commence construction (one year) and a timeline to finish construction of one hangar (15 months), otherwise allowing the City to consider termination of the lease. In discussion with the City Attorney, a letter can be issued by the City Manager to extend these deadlines. Airport staff proposes a five month extension, which is agreeable to the lessee, to allow for re-processing through TRC and commencement of construction. The AAC's recommendation is requested for issuance of this extension.

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, APPROVING THE LEASE AGREEMENT BETWEEN FB HANGAR, LLC AND THE CITY OF FERNANDINA BEACH FOR AN AERONAUTICAL GROUND LEASE AT THE FERNANDINA BEACH MUNICIPAL AIRPORT; AUTHORIZING EXECUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Fernandina Beach Municipal Airport is engaged in leasing ground to tenants for aeronautical use; and

WHEREAS, FB Hangar, LLC, a private entity, wishes to lease ground at the Fernandina Beach Municipal Airport for construction of hangars, ramp apron, automobile parking and related infrastructure which consists of approximately 102,714 square feet; and

WHEREAS, the City has published rates for the lease of ground at the Airport and allows for such use; and

WHEREAS, the parties have agreed to the rates and terms for a twenty-year ground lease with options for renewal beyond the initial term.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FERNANDINA BEACH, FLORIDA, THAT:

SECTION 1. The City Commission hereby approves the lease agreement with FB Hangar, LLC, attached hereto as Exhibit "1".

SECTION 2. The City Manager and City Clerk are hereby authorized to execute the Lease Agreement, upon review and approval of the City Attorney.

SECTION 3. This Resolution shall become effective immediately upon passage.

ADOPTED this 3rd day of July, 2018.

CITY OF FERNANDINA BEACH



John A. Miller
Commissioner – Mayor

ATTEST:

APPROVED AS TO FORM & LEGALITY:



Caroline Best
City Clerk



Tammi E. Bach
City Attorney

**GROUND LEASE AGREEMENT
FOR FB HANGAR, LLC FOR
PROPERTY LOCATED AT THE
FERNANDINA BEACH MUNICIPAL AIRPORT**

This GROUND LEASE AGREEMENT (hereinafter referred to as "Agreement"), made and entered into this 3rd day of July, 2018, made by and between the **CITY OF FERNANDINA BEACH, FLORIDA**, a municipal corporation (hereinafter referred to as "LESSOR" or "City,") and **FB HANGAR, LLC**, a Florida limited liability company, its successors and assigns (hereinafter referred to as "LESSEE".)

WHEREAS, LESSOR owns, controls and operates the Fernandina Beach Municipal Airport (hereinafter referred to as "Airport"), in the City of Fernandina Beach, County of Nassau, and State of Florida; and

WHEREAS, LESSEE has proposed to lease certain property from LESSOR at the LESSOR's municipal airport for aeronautical related activities; and

WHEREAS, LESSOR desires to make real property available to LESSEE at the Airport for the construction of two hangars, ramp apron, auto parking and related infrastructure for business use and storage of aircraft;

NOW THEREFORE, for and in consideration of the Premises and the mutual benefits and covenants contained in this Agreement, the parties hereby agree as follows:

1 Leased Premises. LESSOR hereby leases to LESSEE, and LESSEE hereby leases from LESSOR, the following real property identified and shown on Exhibit "A" Lease Area, attached hereto (hereinafter referred to as the "Premises"), together with the right of ingress and egress for vehicles and aircraft. The Premises is located within an area of Airport property designated the east area.

The LESSEE is authorized to conduct the following non-exclusive use at the Airport: All operations associated with the conduct of the LESSEE's flight operations including but not limited to general aircraft storage, and other non-commercial related aviation operations to include minor maintenance and repairs on LESSEE's aircraft. Additionally, the LESSEE is permitted to provide the commercial storage of aircraft of others. Any other commercial aeronautical activity may be permitted in the future, however such activity would require expressed written consent by LESSOR and LESSEE obtaining necessary permits, as may be required. All LESSEE operations shall comply with all federal, state and local rules, regulations and ordinances.

For the purposes of this Agreement, the term "Premises" shall include the use of airspace above and in the vicinity of said Airport, which is being used for conducting airport operations by LESSEE.

2 Term. The term of this Agreement shall be for a period of twenty (20) years, commencing on the first day of the first month following the execution of this Agreement by both parties (the "Lease Commencement Date"), and continuing for said term, unless earlier termination under the provisions of this Agreement.

Provided the LESSEE is not in default of any terms and conditions of this Agreement, upon expiration of the initial Twenty (20) year term, the LESSEE shall have the right to extend the Lease for an additional Ten (10) year term on the same terms and conditions contained herein. Furthermore, if the LESSEE is not in default of any terms and conditions of this Agreement, the LESSEE may request to extend this Agreement for an additional Ten (10) years. This renewal option shall be based on a renegotiation and mutual agreement of both parties. Such written notice must be given a minimum of 120 days and no more than 270 days before the end of each term. All options for extension of this Agreement term shall be subject to performance standards noted below and accompanying continued capital investment toward improvements and repair. Such performance standards include:

a. At the 10 year anniversary of the Agreement, and every five (5) years thereafter, the LESSOR may conduct an inspection of the Premises to ascertain that facility and any improvements have been maintained in a condition and appearance to present clean, safe and attractive facilities at the Airport. Items considered will include, but not limited to, siding and exterior finish, roofing, doors including hangar doors, structural framing, apron pavement, lighting, electrical, landscaping, drainage, signage, and parking areas including pavement and striping. Any repairs required shall be completed by the LESSEE within 180 days of receipt of written notice from LESSOR that such repairs are to be made by LESSEE. If such reasonable repairs are not completed, then LESSEE will be billed at 115% of cost for LESSOR to complete identified repairs.

b. With satisfactory performance during the initial term and renewal term of the Agreement the LESSEE may request extension of Agreement beyond the thirty (30) years (initial 20 year term and 10 year renewal term) as provided above.

c. If Lessee desires, at the expiration of the 10 year renewal term, or if exercised at the expiration of any additional extensions, LESSEE may request a new lease. If LESSOR determines that the lease Premises are not required for other airport uses, the LESSEE has met its obligations under the term of the preceding lease, and the LESSOR finds that a new lease is appropriate, the LESSOR and LESSEE may negotiate a new lease at terms to be agreed upon at the time of the negotiations. The duration of the new lease shall be at the LESSOR'S option.

3 Rent. In consideration of the rights and privileges granted by this Agreement, LESSEE agrees to pay LESSOR the following ground rent from the date of commencement of this Agreement.

a. Rent for the use of real property on Airport property based on a total lease area of 102,714 square feet; at a lease rate of .20 cents per square foot per year. Initial

annual ground rent shall be \$20,542.80.

b. This annual ground rent shall be converted to equal monthly payments to be made at the rate of \$1,711.90 per month, which also is subject to applicable sales tax currently \$116.41 or a total of \$1828.31 per month and shall commence on the first day of the first month following the execution of this Agreement. All payments shall be due and payable without notice on or before the first day of each month.

c. This ground rent rate shall be reviewed each year by the LESSOR and ground rent rates, plus all applicable taxes, shall be adjusted so as to maintain a fair rental rate based on change in the Consumer Price Index (CPI) – All Urban Consumers South Urban Region – All Items (base year 1982-84=100), as published by the United States Department of Labor – Bureau of Labor Statistics, an appraisal market rent study or other method designated by the LESSOR. For the initial 20 year term, the annual base rent shall only be adjusted for the CPI change. Such CPI change will be computed each year after the completion of the month of July and any change will be implemented and effective with October rent payments of each year. An appraisal, market rent study or alternative method as designated by the LESSOR may be substituted for the CPI adjustment on the twentieth (20th) anniversary of this lease, such that the 10 year renewal term may be increased to market rent and each and any such adjustment will also be implemented in October of the applicable year. In no event, however, shall the ground rent be less than the previous year's rental amount.

4. Delinquency Charge. Any payments received after the tenth (10th) day of the month are subject to a delinquency charge of one and one-half percent (1 ½%) per month beginning with the eleventh (11th) day after payment is due.

5. Place of Payment. All payments due LESSOR from LESSEE shall be made payable to the City of Fernandina Beach, and mailed to P. O. Box 1146, Fernandina Beach, Florida 32035 or delivered to 1180 South 5th St. Extension, Fernandina Beach, Florida 32034.

6. Non-Exclusive Right. It is not the intention of this Agreement to grant to LESSEE the exclusive right to provide any or all of the services described in this Agreement at any time during the term of this Agreement. LESSOR reserves the rights, at its sole discretion, to grant others certain rights and privileges, to grant others certain rights and privileges upon the Airport which are identical in part or in whole to those granted to LESSEE. However, LESSOR does covenant and agree that:

a. It shall enforce all Airport Minimum Standards for Commercial Aeronautical Activities as currently approved or requirements for all similar services and activities conducted at the Airport;

b. Any other provider of similar services or activities will not be permitted to operate on the Airport under rates, terms, or conditions which are more favorable than those set forth in this Agreement; and

c. It will not permit the conduct of any aeronautical endeavor or activity at the Airport, except under an approved lease or operating agreement, or as general aviation by the general public.

7. Appurtenant Privileges. LESSEE shall be entitled, in common with others so authorized, to the non-exclusive use of all facilities and improvements of a public nature which now are or may hereafter be connected with or appurtenant to the Airport, including but not limited to, the use of rights-of-way, common area utilities, landing areas, runways, taxiways, navigational aids, terminal facilities and aircraft parking areas designated by LESSOR.

8. Construction and Use of Premise. LESSEE is hereby granted the non-exclusive privilege to engage in, and LESSEE agrees to engage in, the construction and maintenance of up to two (2) hangars as described below, ramp apron, auto parking and related infrastructure on the Premises for LESSEE'S business use, or for other commercial use as may be approved by LESSOR, built in accordance with plans and specifications contained in the Architecture and Building Design Standards for Development on the Airport and as approved by LESSOR and other aviation or aeronautical activities and services necessary or incidental thereto, such approval shall not be unreasonably withheld by LESSOR. If construction on the Premises has not begun within one (1) year of the date of this Agreement, and construction of one hangar completed within fifteen (15) months of the beginning of construction, this Agreement may be terminated by the LESSOR with thirty (30) days written notice to LESSEE. The parties agree that this Agreement shall be construed as an "Aeronautical Use Agreement" and LESSEE shall not engage in any business on the Premises other than that specified herein. Included as part of the LESSEE's Premises are:

a. Hangar Building West: One (1) hangar 120 x 130 (15,600 square feet) and other improvements on the Premises, including as required business, personal and/or office space, for the purpose of providing aircraft storage to aircraft owned or leased by the LESSOR or for the commercial storage of aircraft of others and for no other purpose. Such facility shall have a minimum of one toilet and an oil waterseparator.

b. Hangar Building East: One (1) hangar 92 x 130 (11,960 square feet) and other improvements on the Premises, including as required business, personal and/or office space, for the purpose of providing aircraft storage to aircraft owned or leased by the LESSOR or for the commercial storage of aircraft of others and for no other purpose. Such facility shall have a minimum of one toilet and an oil waterseparator.

c. Suitable vehicle parking shall be installed and maintained by the LESSEE to allow the loading, unloading and parking of vehicles having business on the Premises.

d. All improvements, including the design thereof, on the Premises must be permitted by the LESSOR prior to installation or construction. The LESSEE is responsible for applying for and obtaining all necessary construction permits and licenses required by local, state and federal laws and regulations.

e. The LESSEE shall construct an aircraft ramp apron on the Premises as designated by the LESSOR, for the purpose of aircraft access to the LESSEE's Hangar facilities. No structures or fixtures will be allowed on the ramp apron. Any and all taxi-lanes and ramp aprons shall be constructed to adequately permit aircraft and vehicles access to the Premises. Pavement construction shall be of equal or greater strength than that of the existing airport taxi-lanes/taxiways/aprons to which it shall abut. The design and construction are subject to review and approval by the LESSOR's Engineer or designee.

f. Suitable pavement markings and lighting shall be installed and maintained by the LESSEE to provide for the orderly and safe movement of aircraft and vehicles on the Premises. Any lighting on the Premises must be approved by the LESSOR prior to installation, and not interfere with flight operations at the Airport.

g. All improvements shall be constructed, graded and drained so as to direct all storm water which may fall on the Premises into approved disposal devices. The LESSOR shall not contribute to storm water contamination and will take such steps and measures as are necessary to comply with the Airport's Storm Water Pollution Prevention Plan and all federal, state, and local regulations governing storm water discharge.

h. Any landscaping installed on the Premises is subject to approval by the LESSOR and shall be installed and maintained by the LESSEE.

i. LESSEE is granted the right to install at LESSEE'S option a fuel facility for private non-commercial use provided LESSEE shall pay to LESSOR the negotiated fuel flowage fee of twelve cents (.12) per gallon. Such fuel facility shall meet all government regulations regarding fuel facility installation and operation and would be included under the Airport's Spill Prevention, Control and Countermeasures Plan (SPCC). Any fuel farm use must be in compliance with applicable Minimum Standards for Commercial Aeronautical Activities to include pollution liability insurance. LESSEE agrees that this regulated fuel storage tank owned or operated by LESSEE and located on Premises shall be registered with the appropriate federal, state, and local authorities, shall be constructed of approved materials, and shall be made available for compliance inspection at all times during normal business hours. Further, LESSEE agrees to properly record, maintain, and reconcile all inventory records required by appropriate federal, state, and local regulations and to make such records available for inspection at the Premises at all times during normal business hours.

j. In consideration for the right to store fuel on the Premises and dispense fuel at the Airport for its private use, LESSEE agrees to pay LESSOR a fuel flowage of \$.12 per gallon delivered to the fuel storage facility located on the Premises. The applicable fuel flowage fee to be paid by LESSEE to LESSOR shall be due on the 10th day of each month and shall be calculated on the immediately preceding month's gallons received by LESSEE. The fuel flowage fee shall be paid by Lessee and delivered to the City Controller with a copy of the corresponding fuel invoices. LESSEE will also provide to Airport Manager a copy of each fuel delivery slip. Fuel flowage fees commence with the initial fuel supply and continue with each succeeding delivery. The LESSOR has the right to audit fuel delivery and fuel disbursement records for any month at its expense. The method of payment of fuel flowage fees may be amended by mutual consent as may be required to conform to policies of the fuel supplier

contracted by LESSEE.

k. LESSEE will not handle, store, nor dispense aviation fuels for private use of LESSEE at or from the Airport, unless that fuel is first stored in this fuel storage tank located on the Premises. Each device through which LESSEE dispenses aviation fuels on the Airport must be equipped with a flow meter calibrated and sealed by the Department of Agriculture of the State of Florida or other appropriate governmental agency. These devices shall include without limitation any Avgas truck, Jet A truck, and self-service fuel facility owned or operated by LESSEE.

l. LESSEE shall be responsible for maintaining any fuel storage facility located on Premises in a clean, neat, and orderly condition, in good repair to meet National Fire Protection Association (NFPA) standards and government codes at its sole cost and expense including tanks, electrical service, electrical switches, all lighting, exterior painting, fencing, filters, fittings, gauges, hatches, hoses, lids, motors, plumbing, pumps, security, self-service equipment, signs (including required emergency designation signs), sumps, valves, and the like.

m. The use of a fuel truck is approved for exclusive use of LESSEE to dispense fuel from the LESSEE's fuel facility into aircraft owned or leased by LESSEE or aircraft in which LESSEE or LESSEE's officers or directors have a direct beneficial interest in, with any fuel dispensing limited to ramp apron(s) leased by LESSEE from LESSOR.

9. Rights and Obligations of LESSEE.

a. Payments: LESSEE shall meet and pay all expenses and payments in connection with the use of the Premises and the rights and privileges herein granted, including taxes, ad valorem taxes, permit fees, impact fees, license fees and assessments lawfully levied or assessed upon the Premises or property situated hereon, as well as any and all utilities used or consumed by LESSEE on the Premises, including, but not limited to, water, gas, electricity, sewer, and refuse services.

b. Agreement to Pay Taxes and Obligations: LESSEE shall pay all lawful taxes and assessments, debts and obligations of every kind or nature which, during the term hereof, may become a lien upon or which may be levied by the state, county, city or any other tax levying body, upon any taxable interest of the LESSEE acquired in the Agreement or any taxable possessory right which LESSEE may have in or to the Premises or facilities hereby leased or the improvements thereon, or on the LESSOR'S fee simple interest therein, by reason of its use or occupancy thereof or otherwise as well as all taxes or taxable property, real or personal, owned by LESSEE in and about said Premises, whether said taxes are assessed in the name of LESSEE or LESSOR.

c. Premise Upkeep: The LESSEE shall, at its own expense, maintain and keep the Premises to include structural, roofs, and hangar doors as well as all improvements thereon including lighting, landscaping, drainage, signage, auto parking areas and aircraft parking ramp apron including all pavement and striping, in good condition and make all repairs, both interior and exterior, necessary to keep and maintain the Premises, including all improvements thereon in good condition. The Premises and all buildings, improvements, and property thereon must be maintained in a safe, clean and sanitary condition. The LESSOR shall require maintenance and

needed repairs to be made in a timely manner.

d. Access: LESSEE shall have at all times the right of ingress to and egress from the rented Premises. To ensure this right the LESSOR shall make all reasonable efforts to keep adjacent areas to the rented Premises free and clear of all hazards and obstructions, natural and manmade.

e. Work in Hangar: It is clearly understood by the LESSEE that no right or privilege has been granted which would operate to prevent any person, firm or corporation operating aircraft on the Airport from performing any services on its own or leased aircraft with its own regular employees (including, but not limited to, maintenance and repair) that it may choose to perform. However, City building code requirements and governmental regulations must be met for the type of work being conducted (examples – painting of aircraft or heavy maintenance of aircraft.)

f. Commercial Activity: LESSEE is permitted to operate commercial aeronautical activities as described in Section 1. LESSEE hereby agrees that it shall comply with the contents of Exhibit “D” - Minimum Operating Standards for Commercial Aeronautical Activities (Minimum Standards), attached hereto, as currently approved or as may be amended from time to time. Should the Minimum Standards be updated, and any requirement become more restrictive than current Minimum Standards the LESSEE shall have eighteen (18) months from date of adoption to meet the revised Minimum Standards unless waived in writing by the LESSOR. Once updated, those Minimum Standards shall become a part of this Agreement.

g. Signs: During the term of this Agreement, LESSEE shall have the right, at its expense, to place in or on the Premises, a sign or signs. Said sign or signs shall be of a size, shape and design, and at a location or locations, approved by LESSOR and shall conform to the City’s sign code. LESSEE shall be responsible for all permits. Notwithstanding any other provision of this Agreement, said sign(s) shall remain the property of LESSEE. LESSEE shall remove, at its expense, all lettering, signs and placards so erected on the Premises at the expiration of the term of this Agreement.

h. Compliance with Applicable Laws, Rules and Regulations: Notwithstanding other requirements contained herein, the LESSEE at its sole cost and expense hereby agrees to and shall comply with all applicable ordinances, laws, rules and regulations established by federal, state, and local government agency or by the City, and they may be amended from time to time, and conduct its operations or commercial business in accordance with all applicable regulations pertaining to airports, including Airport Rules and Regulations, attached hereto as Exhibit “E”, promulgated by the LESSOR governing safe and efficient operation of Fernandina Beach Municipal Airport. The LESSOR may, from time to time, modify and/or update the Rules and Regulations. LESSOR will provide LESSEE with a copy of the updated Rules and Regulations, and once updated or revised, those Rules and Regulations shall become a part of this Agreement.

i. Compliance with Environmental Law, Rules and Regulations: LESSEE expressly represents, covenants, warrants, guarantees, and agrees that it shall fully

comply with all federal, state and local laws, ordinances, rules and regulations protecting the environment. Any cost or expense to remain or to be compliant with applicable environmental rules and regulations shall be the responsibility of the LESSEE. LESSEE agrees to keep themselves informed of future changes in the existing environmental laws. Such compliance will be responsibility of the LESSEE at its sole cost and expense.

j. Hazardous Materials and Toxic Waste: LESSEE shall not cause or permit to occur:

1. Any violation of any federal, state or local law, ordinance or regulation now or later enacted, related to environmental conditions on, under, or about the Premises, or arising from LESSEE'S use or occupancy of the Premises, including, but not limited to, soil and ground water conditions; or

2. The use, generation, release, manufacture, refining, production, processing or disposal of any hazardous substance on, under, over, or about the Premises.

3. LESSEE shall, at its sole and exclusive expense, comply with all laws and regulations regulating the storage or transportation of hazardous substances relating to the Premises, and shall further make all submissions to, provide all information required by, and comply with all requirements of all governmental authorities under applicable federal, state and local laws and regulations; and the LESSOR is to be immediately notified by LESSEE of any claim or allegation of non-compliance herewith.

4. If any authority demands that a clean-up plan be prepared and that a clean-up be undertaken because of any deposit, spill, discharge or other release of hazardous substances that occurs during the term hereof, or any renewals hereof, at or from the Premises, or which arises from LESSEE's use or occupancy of the Premises, then LESSEE shall, at LESSEE's expense, prepare and submit the required plans and all related bonds and other required financial assurances; and LESSEE shall carry out all work required by such clean-up plans at its sole and exclusive expense.

10. Continuing Obligation. LESSEE'S obligations under Section 9, subsection (j), and Section 11 and Section 15 of this Agreement shall survive the expiration or termination of this Agreement or any renewal thereof.

11. Indemnification for Toxic Wastes. LESSEE, for itself and on behalf of its officers, agents, employees, assigns, and contractors, does agree to protect, defend, ensure and indemnify LESSOR, its officers, directors, elected and appointed officials and employees, for any manner of loss, damage, cost or assessment which may result from or in any manner be related to the deposit, spill, discharge or other release, and or the presence, use, distribution or disposition of any toxic substance, chemical, metal, petroleum product, or hazardous or toxic waste, or any other substance or derivative. This provision shall survive the expiration of this Agreement. This shall not apply to conditions which pre-exist the date of this Agreement.

12. Aerial Approaches. LESSOR reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent LESSEE from erecting, or permitting to be erected, any building or other structure on or adjacent to the Airport which, in the opinion of the LESSOR, would limit the usefulness of the Airport or constitute a hazard to aircraft.

13. Leasehold Improvements.

a. LESSEE agrees to submit to LESSOR, for approval, detailed plans and specifications for any structural change, alteration, addition, improvement or removal from or to the Premises. LESSOR shall approve the plans and specifications as submitted, or transmit proposed revisions to LESSEE within sixty (60) days of receipt of the plans and specifications from LESSEE. In the event that LESSOR requires revisions of the original plans and specifications, LESSEE shall have thirty (30) calendar days from the date of receipt of the proposed revisions to resubmit the plans and specifications for LESSOR's approval. This initial review shall not constitute review for the purposes of obtaining City permits. LESSEE shall be required to obtain all permits from governmental agencies as may be required, including the City, and shall be solely responsible for all costs relating to permitting the proposed improvements.

b. Any such improvements made by LESSEE shall remain the property of the LESSEE until the expiration of this Agreement and any extensions or renewals thereof and which shall remain on the Premises until the expiration or termination of this Agreement, at which time such improvements shall become the property of LESSOR. LESSEE shall at all times maintain all improvements constructed on the property in good condition. Upon expiration or termination of this Agreement, the LESSEE shall execute any and all documentation necessary to transfer clear title to the leasehold improvements, free of any lien or encumbrance, to LESSOR.

c. LESSEE shall not permit any mechanic's or other liens to be placed upon the Premises, at any time, except that LESSEE shall be permitted to mortgage its leasehold improvements to be constructed on the Premises by LESSEE. LESSOR shall not be required to subordinate its interest to such Leasehold Mortgage. All documentation regarding any leasehold mortgage must be reviewed and approved by the LESSOR prior to finalization of documents, to assure that no interest of the LESSOR is included in the documentation.

d. LESSEE shall provide payment and performance bonds in amounts and form as approved by LESSOR, prior to commencement of construction.

e. Within sixty (60) days of completion of construction, erection or any alteration of any improvements by the LESSEE, the LESSEE shall provide to the LESSOR a complete set of "as-built" plans and drawings.

14. Insurance. LESSEE shall obtain and maintain continuously in effect at all times during the term of this Agreement, at LESSEE's sole expense, the following insurance:

a. Comprehensive general liability insurance with a Combined Single Limit

(CSL) of not less than One Million (\$1,000,000) Dollars protecting LESSOR against any and all liability by reason of LESSEE's conduct incident to the use of the Premises, caused by or arising out of any negligent or wrongful act or omission of LESSEE;

b. LESSEE agrees that, should it desire to lease space for aircraft hangaring and storage, it shall obtain Hangar Keepers liability insurance protecting LESSOR against any and all liability by reason of LESSEE'S conduct incident to the use of the Premises, caused by or arising out of any negligent or wrongful act or omission of LESSEE, in the minimum amount of One Million (\$1,000,000) Dollars;

c. All insurances as required under the applicable Airport Minimum Standards for Commercial Aeronautical Activities shall be provided to LESSOR;

d. Property insurance covering direct physical loss due to perils of fire, windstorm and extended coverage for full replacement value;

e. Copy of annual insurance certificate(s) to be attached hereto as Exhibit "C", Liability Insurance Certificate, and shall be provided to LESSOR annually; AND

f. All insurance requirements specified herein above shall name LESSOR as an additional insured with instructions that the insurance carrier will notify LESSOR if the LESSEE defaults on premium payments, and shall require that the insurance carrier notify LESSOR thirty (30) days prior to any event leading to the material modification or cancellation of the policy.

15. Indemnification. LESSEE agrees to assume liability for and indemnify, hold harmless, and defend the LESSOR, its commissioners, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, arising directly or indirectly out of or in connection with any negligent and/or deliberate act or omission of LESSEE, its officers, employees, agents, and representatives. LESSEE'S liability hereunder shall include all attorney's fees and costs incurred by the LESSOR in the enforcement of this indemnification provision. This includes claims made by the employees of LESSEE against the LESSOR and LESSEE hereby waives its entitlement, if any, to immunity under Sections 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Agreement and shall not be limited by the amount of any insurance required to be obtained or maintained under this Agreement. Nothing contained in the foregoing indemnification shall be construed to be a waiver of any immunity or limitation of liability the LESSOR may have under the doctrine of sovereign immunity of Section 768.28 Florida Statutes.

16. Assignment or Sublease. This Agreement, or any part thereof, may not be assigned, transferred or subleased by LESSEE, by process or operation of law or in any other manner whatsoever, without the prior written consent of LESSOR, which consent shall not be unreasonably withheld. Prior to issuing any written consent, LESSOR may demand such information it may require to adequately judge whether the proposed assignee, transferee or sub-lessee can adequately perform the duties of the LESSEE

under this Agreement.

17. Independent Contractor. In its use of the Premises, LESSEE acts as an independent contractor and not as an agent of LESSOR. The selection, retention, assignment, direction and payment of LESSEE'S employees shall be the sole responsibility of LESSEE, and LESSOR shall not attempt to exercise any control over the daily performance of duties of LESSEE'S employees.

18. Non-Discrimination. Notwithstanding any other inconsistent provision of this Agreement, during the performance of this Agreement, LESSEE, for itself, its heirs, personal representatives, successors in interest and assigns, as part of the consideration for this Agreement, does hereby covenant and agree, as a covenant running with the land, that:

a. No person on the grounds of race, color, religion, sex, or national origin shall be excluded from participating in, denied the benefits of, or otherwise be subjected to discrimination, in the use of the Premises.

b. In the furnishing of services on, over or under the Premises, no person on the grounds of race, color, religion, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination;

c. LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968, and as said regulations may be amended.

19. Maintenance of Airport Facilities. LESSOR shall maintain all public and common joint use areas of the Airport, including the Air Operations Area, in good repair, and shall make such repairs, replacements or additions thereto, as in its opinion, are required and necessary for the safe and efficient operation of the Airport.

20. Termination. This Agreement shall be subject to termination by either party in the event of any one or more of the following:

a. The abandonment of the Airport as an airport or airfield;

b. The default by either party in the performance of any of the terms, covenants and conditions of this Agreement, and the failure of such defaulting party to remedy or to undertake to remedy to the other party's satisfaction such default for a period of thirty (30) days after receipt of notice from the non-defaulting party to the defaulting party to remedy same. This includes the failure of the LESSEE to complete the proposed improvements within the time frames as set forth herein;

c. Damage to or destruction of all or a material part of the Premises or Airport facilities necessary to the LESSEE'S operation;

d. LESSEE shall be entitled to terminate this Agreement in the event of the lawful assumption by the United States, or any authorized agency thereof, of the operation, control or use of the Airport, or any substantial part thereof, in such a manner as to restrict substantially LESSEE from conducting its operations for a period in excess of ninety (90) days.

e. LESSOR shall be entitled to terminate this Agreement upon the filing of a voluntary petition in bankruptcy by LESSEE, including a reorganization plan, a general or other assignment for the benefit of creditors, adjudication as a bankrupt, or if a receiver is appointed for the property or affairs of LESSEE and such receivership is not vacated within thirty (30) days after the appointment of such receiver;

f. LESSOR shall be entitled to terminate this Agreement upon the conviction of LESSEE or any of LESSEE's officers, managers or employees of any crime involving moral turpitude relating to this Agreement of LESSEE's operations hereunder;

g. LESSEE shall have the right to terminate this Agreement and its obligations hereunder, by providing sixty (60) days written notice to LESSOR and by conveying to LESSOR the title to the improvements constructed on the Premises, free and clear of any lien or encumbrance, provided that LESSEE has properly maintained said property and it is in as good condition as when originally constructed, ordinary wear and tear excepted, and provided, further, that the obligations regarding accumulated rent and indemnification shall specifically survive.

h. In the event of abandonment or closure of the Airport by the LESSOR, referenced in Paragraph 20(a) above, LESSOR shall reimburse LESSEE the difference between LESSEE's actual investment costs including preliminary engineering and design fees, permitting fees, contracting and building fees, insurance, utilities, maintenance fees and ground leasing fees incurred by LESSEE minus rents collected by LESSEE through the date of abandonment or closure of the Airport, plus recapture of all investment costs and interest to date including accumulated expense and investments. This reimbursement obligation by LESSOR to LESSEE shall continue for a period of 20 years from the initial effective date of this Agreement.

21 Subordination. This Agreement shall be subordinate to the provisions of any existing or future agreement between LESSOR and the United States, relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport.

22 National Emergency. During the time of war or national emergency, the LESSOR shall have the right to lease the landing area or all or any part of the Premises upon demand to the United States Government, and if any such agreement is executed, the provisions of this Agreement with the LESSEE herein, and all obligations of LESSEE to make the payments as required in Section 3 above, shall be suspended for the length of time that the United States Government requires the use of the said landing area and/or Premises. This period of time during which the Agreement is so

26. Governing Law, Venue and Attorney's Fees. This Agreement is to be construed in accordance with the laws of the State of Florida, with venue in Nassau County, Florida. In the event of any litigation between the parties regarding the breach and/or enforcement of this Agreement, the prevailing party shall be entitled to its reasonable attorney's fees and costs, including at the appellate court level, from the non-prevailing party as determined by a court of competent jurisdiction.

27. Re-Entry. It is further understood and agreed between the parties hereto that in the event of any breach of any covenant or agreement on the part of the LESSEE to be performed and provided, that if such breach is not remedied by the LESSEE after reasonable notice in writing to it by the LESSOR, the LESSOR may re-enter and terminate this tenancy by giving the LESSEE thirty (30) days written notice, to quit the Premises. LESSOR shall at all times be entitled to recover by all lawful means any and all damages, including reasonable attorney's fees and costs, sustained by it through the breach of any said covenants and agreements on part of the LESSEE to be performed.

28. Obligation Upon Termination. Upon termination of this Agreement, all obligations of either party hereunder to the other shall cease and terminate, except as specifically provided herein, and the LESSEE agrees it shall immediately quit, surrender and return peaceable and quiet possession of the Premises, including all improvements to include but not limited to buildings, parking areas, and fuel facility improvements, to the LESSOR in as good order and condition as existed at the time of the initial occupancy and only reasonable wear and tear being accepted. LESSEE shall be allowed to remove all LESSEE's equipment and trade fixtures from the Premises, including the fuel facility equipment.

29. Inspection. The LESSOR shall have the right to enter upon the Premises at reasonable intervals during regular business hours to inspect the Premises for compliance with the terms and conditions of the Agreement and federal, state and local laws and regulations. In case of emergencies, the LESSOR shall have the right to immediately enter the Premises.

30. Further Airport Development. LESSOR reserves the right to further develop or improve the remaining area of the Airport as it sees fit, regardless of the desires or view of the LESSEE, and without interference or hindrance.

31. Non-Waiver. The failure of the LESSOR to insist upon strict performance of any of the terms, conditions or covenants herein set forth shall not be deemed a waiver of any rights or remedies that it may have and shall not be deemed a waiver of any breach or default by the LESSEE of the terms, conditions or covenants contained herein.

32. Radon Gas Notice: Pursuant to Florida Statutes Section 404.056(8), LESSOR hereby makes, and LESSEE hereby acknowledges, the following notification:

Radon Gas: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks 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.

LESSOR makes no representation or warranty with respect to the presence or absence of radon on the Premises, and LESSEE shall undertake such inspection or testing as it deems necessary or convenient to assure itself as to the presence or absence of radon.

33 Lease Commencement Date: The commencement date of this Agreement shall be the date set forth in Section 2 above.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF FERNANDINA BEACH, FL

FB HANGAR, LLC



By: Dale Martin
Its: City Manager

By: Denny Clay Lee
Its: Manager

ATTEST:

ATTEST:



By: Caroline Best
Its: City Clerk

By: Its:

APPROVED AS TO FORM & LEGALITY:



By: Tammi E. Bach
Its: City Attorney

Attachments

Exhibit "A" Lease Area — Legal Description of LESSEE'S Property and Sketch or Drawing of Description

Exhibit "B" Overview of improvements to be provided at sole cost of LESSEE

Exhibit "C" Liability Insurance Certificate(s) as required under this lease and/or applicable Minimum Standards for Commercial Aeronautical Activities (Note: This certificate shall show that the City has been named as an additional insured on all policies.)

Exhibit "D" Minimum Standards for Commercial Aeronautical Activities

Exhibit "E" Airport Rules and Regulations

EXHIBIT A LEGAL DESCRIPTION OF PARCEL

OF:

A PORTIONS OF LANDS LOCATED IN TOWNSHIP 2 NORTH, RANGE 28 EAST OF NASSAU COUNTY, FLORIDA, SAID LANDS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE COMMENCE AT A POINT ALONG THE WESTERLY RIGHT OF WAY OF AMELIA ROAD AN 100 FOOT RIGHT OF WAY AS CURRENTLY ESTABLISHED, SAID POINT BEING THE SOUTHERN CORNER OF AMELIA ISLAND INDUSTRIAL PARK SECTION ONE, AS RECORDED IN PLAT BOOK 4 PAGE 67 OF THE PUBLIC RECORD OF NASSAU COUNTY, THENCE DEPART SAID RIGHT OF WAY OF AMELIA ROAD AND TRAVEL ALONG THE SOUTHWESTERN BOUNDARY LINE OF SAID AMELIA ISLAND INDUSTRIAL PARK SECTION ONE, NORTH 54°10'45" WEST, A DISTANCE OF 655.37 FEET TO A POINT, SAID POINT BEING THE WESTERLY CORNER OF AMELIA ISLAND INDUSTRIAL PARK SECTION ONE, THENCE TRAVEL ALONG THE NORTHWESTERLY BOUNDARY LINE OF SAID AMELIA ISLAND INDUSTRIAL PARK SECTION ONE NORTH 35°50'42" EAST, A DISTANCE OF 364.08 FEET TO A POINT ALONG SAID NORTHWESTERLY BOUNDARY LINE; THENCE DEPART SAID BOUNDARY LINE AND TRAVEL NORTH 54°09'18" WEST, A DISTANCE OF 512.32 FEET TO THE POINT OF BEGINNING:

FROM THE POINT OF BEGINNING TRAVEL SOUTH 35°49'58" WEST, A DISTANCE OF 348.69 FEET TO A POINT; THENCE TRAVEL NORTH 54°10'02" WEST, A DISTANCE OF 369.30 FEET TO A POINT; THENCE TRVEL NORTH 35 °49'58" EAST, A DISTANCE OF 76.80 FEET TO A POINT; THENCE TRAVEL NORTH 53°12'12" EAST, A DISTANCE OF 34.50 FEET TO A POINT; THENCE NORTH 72°22'32" EAST, A DISTANCE OF 47.00 FEET TO A POINT; THENCE TRAVEL SOUTH 15°09'02" EAST, A DISTANCE OF 51.50 FEET TO A POINT; THENCE TRAVEL NORTH 35°49'58" EAST, A DISTANCE OF 186.59 FEET TO A POINT, SAID POINT BEING ALONG THE RIGHT OF WAY LINE OF JAMESTOWN ROAD A 60' RIGHT OF WAY AS CURENTLY ESTABLISHED, THENCE TRAVEL ALONG SOUTHWESTERLY RIGHT OF WAY LINE OF JAMESTOWN ROAD SOUTH 54°12'46" EAST, A DISTANCE OF 123.05 FEET TO A POINT OF CURVATURE OF A CURVE ALONG THE RIGHT OF WAY LINE OF JAMESTOWN ROAD, SAID CURVE HAVING A RADIUS OF 187.91 FEET; THENCE CONTINUE ALONG SAID CURVE A DISTANCE OF 135.45 FEET AND THROUGH A CENTRAL ANGLE OF 41°17'58", TO A POINT ON SAID CURVE, SAID CURVE BEING SUBTENDED BY A CHORD BEARING OF SOUTH 77°44'59" EAST AND A CHORD DISTANCE OF 132.54 FEET THENCE TRAVEL NORTH 82°07'12" EAST, A DISTANCE OF 29.18 FEET TO A POINT ALONG SAID RIGHT OF WAY JAMESTOWN ROAD, THENCE DEPART SAID RIGHT OF WAY LINE AND TRAVEL SOUTH 7°52'48" EAST, A DISTANCE OF 36.74 TO THE POINT OF BEGINNING.

AREA CONTAINING 2.36 AC +/-

MAP SHOWING BOUNDARY SURVEY

EXHIBIT A

A PORTIONS OF LANDS LOCATED IN TOWNSHIP 2 NORTH RANGE 28 EAST OF HARRAU COUNTY FLORIDA SAID LANDS BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

FOR A POINT OF REFERENCE COMMENCE AT A POINT ALONG THE WESTERLY RIGHT OF WAY OF AMELIA ROAD AN 100 FOOT RIGHT OF WAY AS CURRENTLY ESTABLISHED, SAID POINT BEING THE SOUTHERN CORNER OF AMELIA ISLAND INDUSTRIAL PARK SECTION ONE, AS RECORDED IN PLAT BOOK 4 PAGE 67 OF THE PUBLIC RECORD OF HARRAU COUNTY. THENCE DEPART SAID RIGHT OF WAY OF AMELIA ROAD AND TRAVEL ALONG THE SOUTHWESTERN BOUNDARY LINE OF SAID AMELIA ISLAND INDUSTRIAL PARK SECTION ONE NORTH 84° 10' 48" WEST A DISTANCE OF 688.37 FEET TO A POINT, SAID POINT BEING THE WESTERLY CORNER OF AMELIA ISLAND INDUSTRIAL PARK SECTION ONE. THENCE TRAVEL ALONG THE NORTHWESTERLY BOUNDARY LINE OF SAID AMELIA ISLAND INDUSTRIAL PARK SECTION ONE NORTH 38° 50' 42" EAST A DISTANCE OF 364.08 FEET TO A POINT ALONG SAID NORTHWESTERLY BOUNDARY LINE. THENCE DEPART SAID BOUNDARY LINE AND TRAVEL NORTH 84° 09' 18" WEST A DISTANCE OF 612.32 FEET TO THE POINT OF BEGINNING.

FROM THE POINT OF BEGINNING TRAVEL SOUTH 38° 49' 88" WEST A DISTANCE OF 348.88 FEET TO A POINT. THENCE TRAVEL NORTH 84° 10' 02" WEST A DISTANCE OF 388.30 FEET TO A POINT. THENCE TRAVEL NORTH 38° 49' 88" EAST A DISTANCE OF 76.80 FEET TO A POINT. THENCE TRAVEL NORTH 63° 12' 12" EAST A DISTANCE 34.80 FEET TO A POINT. THENCE TRAVEL NORTH 72° 22' 32" EAST A DISTANCE OF 47.00 FEET TO A POINT. THENCE TRAVEL SOUTH 18° 09' 02" EAST A DISTANCE 81.80 FEET TO A POINT. THENCE TRAVEL NORTH 38° 49' 88" EAST A DISTANCE OF 188.88 FEET TO A POINT. SAID POINT BEING ALONG THE RIGHT OF WAY LINE OF JAMESTOWN ROAD A 60' RIGHT OF WAY AS CURRENTLY ESTABLISHED. THENCE TRAVEL ALONG SOUTHWESTERLY RIGHT OF WAY LINE OF SAID JAMESTOWN ROAD SOUTH 84° 12' 48" EAST A DISTANCE OF 123.05 FEET TO A POINT OF CURVATURE OF A CURVE ALONG THE RIGHT OF WAY LINE OF JAMESTOWN ROAD, SAID CURVE HAVING A RADIUS OF 187.91 FEET. THENCE CONTINUE ALONG SAID CURVE A DISTANCE OF 135.45 FEET AND THROUGH A CENTRAL ANGLE OF 41° 17' 58", TO A POINT ON SAID CURVE. SAID CURVE BEING SUBTENDED BY A CHORD BEARING OF SOUTH 77° 44' 88" EAST AND A CHORD DISTANCE OF 132.54 FEET. THENCE TRAVEL NORTH 82° 07' 12" EAST A DISTANCE OF 28.18 FEET TO A POINT ALONG SAID RIGHT OF WAY OF JAMESTOWN ROAD. THENCE DEPART SAID RIGHT OF WAY LINE AND TRAVEL SOUTH 7° 52' 48" EAST A DISTANCE OF 36.74' TO THE POINT OF BEGINNING.

AREA CONTAINING 2.36 AC +/-

FERNANDINA BEACH
MUNICIPAL AIRPORT
OR BOOK 1612 PAGE 955

FERNANDINA BEACH
MUNICIPAL AIRPORT
OR BOOK 1612 PAGE 955

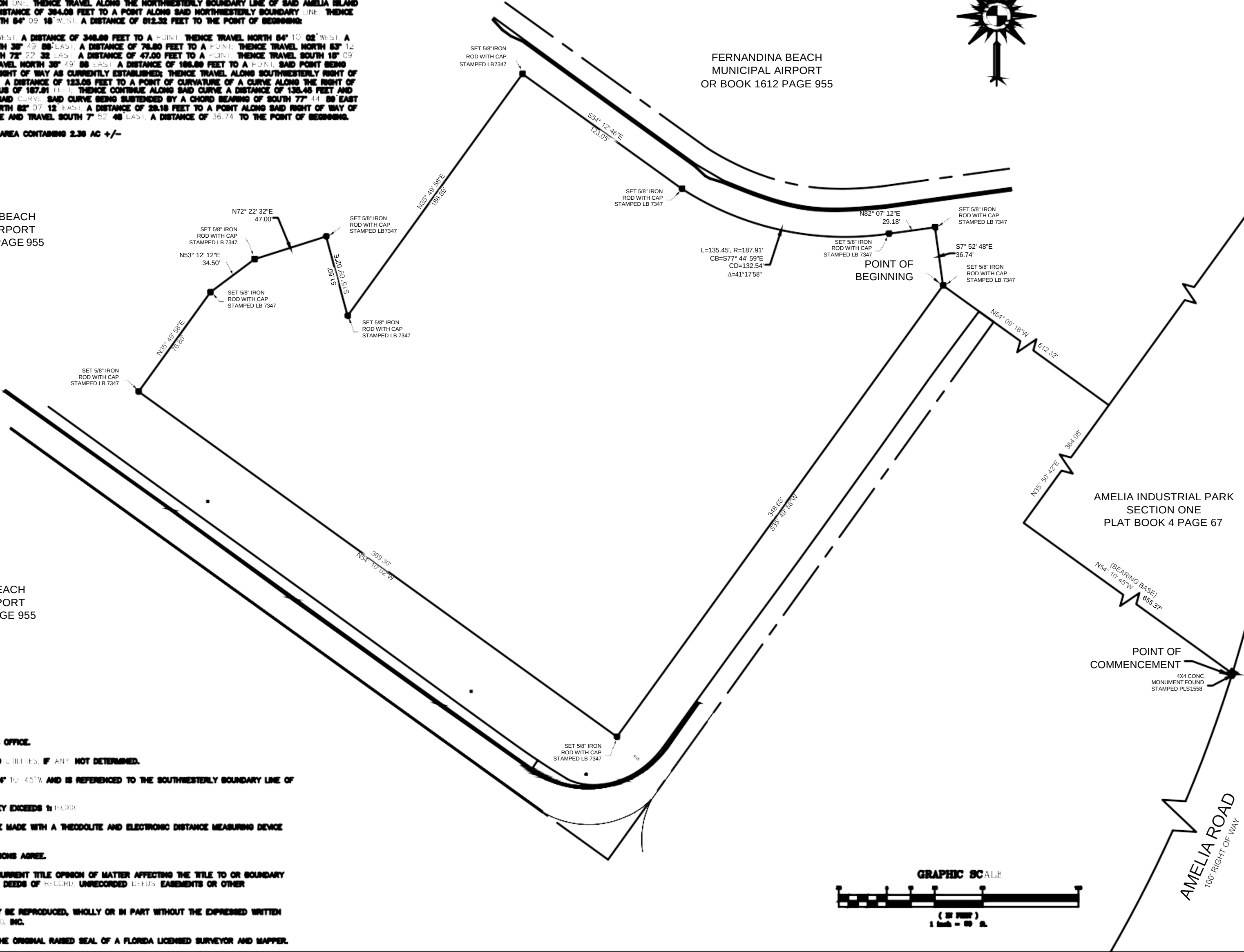
SURVEYOR'S NOTES

- 1) THE DESCRIPTION AS SHOWN HEREON WAS WRITTEN BY THIS OFFICE.
- 2) THIS IS A SURFACE LOCATION SURVEY ONLY. UNDERGROUND UTILITIES, IF ANY, NOT DETERMINED.
- 3) BEARING STRUCTURE NOTED HEREON IS REFERENCED TO N84° 10' 45"W AND IS REFERENCED TO THE SOUTHWESTERLY BOUNDARY LINE OF AMELIA ISLAND INDUSTRIAL PARK PER PLAT BOOK 4 PAGE 67.
- 4) THE RELATIVE LINEAR DISTANCE ACCURACY FOR THIS SURVEY EXCEEDS 1:10,000.
- 5) ALL MEASUREMENTS ARE IN U.S. STANDARD FEET AND WERE MADE WITH A THEODOLITE AND ELECTRONIC DISTANCE MEASURING DEVICE AND/OR STEEL TAPE.
- 6) UNLESS OTHERWISE NOTED, RECORD AND MEASURED DIMENSIONS AGREE.
- 7) THE UNDERSIGNED SURVEYOR HAS NOT BEEN PROVIDED A CURRENT TITLE OPINION OF MATTER AFFECTING THE TITLE TO OR BOUNDARY OF THE SUBJECT PROPERTY. IT IS POSSIBLE THAT THERE ARE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES.
- 8) THIS IS A COPYRIGHTED DOCUMENT. NO PORTION OF IT MAY BE REPRODUCED, WHOLLY OR IN PART WITHOUT THE EXPRESSED WRITTEN PERMISSION OF CODY'S PROFESSIONAL SURVEYING AND MAPPING, INC.
- 9) THIS SURVEY IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

LEGEND
CB - DENOTES CHORD BEARING
CD - DENOTES CHORD DISTANCE
CONC - DENOTES CONCRETE
A - DENOTES DELTA
L - DENOTES ARC LENGTH
LB - DENOTES LICENSED BUSINESS
OR - DENOTES OFFICIAL RECORDS
R - DENOTES RADIUS



FERNANDINA BEACH
MUNICIPAL AIRPORT
OR BOOK 1612 PAGE 955



CAD TECH	AK
PARTY CHIEF	RM
FIELD BOOK & PAGE	1/1
DATE OF SURVEY	AUGUST 16, 2017

PRELIMINARY	PROGRESS SET
BY CODY'S PROFESSIONAL SURVEYING & MAPPING, INC.	FL REGISTRATION NO. 6570
	AUGUST 16, 2017
	FLORIDA L.B. # 7347

Cody's Professional Surveying & Mapping, Inc.
1000 NE 1st Ave, Suite 101
Fort Lauderdale, FL 33301
Tel: 954-561-1001
Fax: 954-561-1002
www.codyss.com

AMELIA INDUSTRIAL PARK
SECTION ONE
PLAT BOOK 4 PAGE 67

PROJECT NUMBER	14017
SHEET NO.	1
OF	1

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**GROUND LEASE AGREEMENT
FOR FB HANGAR, LLC. FOR
PROPERTY LOCATED AT THE
FERNANDINA BEACH MUNICIPAL AIRPORT**

Exhibit B

Overview of Improvements to Leased Premises

Facilities:

Soverign desires to construct two bulk hangars (120x130 and 92x130), parking and access facilities, and a fuel farm facility at the lessee's option upon 102,714 square feet in the east area of the Airport. Such facilities shall be built in conformance with conditions stated in Section 8 "Construction and Use of Premises" of the Agreement.



EXHIBIT C

CERTIFICATE OF LIABILITY INSURANCE

6/30/2018

DATE (MM/DD/YYYY)
5/22/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816)960-9000	CONTACT NAME: PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS:
INSURED	FB HANGAR 1446808 PO BOX 1004 ALMA GA 31510	INSURER(S) AFFORDING COVERAGE INSURER A : Westfield Insurance Company INSURER B : INSURER C : INSURER D : INSURER E : INSURER F :

COVERAGES

CERTIFICATE NUMBER: 15390127

REVISION NUMBER: XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☐ GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ JECT ☐ LOC ☐ OTHER:	Y	N	CAG 4753137	6/30/2017	6/30/2018	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 COMBINED SINGLE LIMIT (Ea accident) \$ XXXXXXXX BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX
	☐ AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY			NOT APPLICABLE			
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTIONS \$0	Y	N	CAG 4753137	6/30/2017	6/30/2018	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 PER STATUTE \$ XXXXXXXX OTH-ER \$ XXXXXXXX E.L. EACH ACCIDENT \$ XXXXXXXX E.L. DISEASE - EA EMPLOYEE \$ XXXXXXXX E.L. DISEASE - POLICY LIMIT \$ XXXXXXXX
	☐ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	NOT APPLICABLE			
CE	CERTIFICATE HOLDER						

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
CITY OF FERNANDINA BEACH MUNICIPAL AIRPORT IS ADDITIONAL INSURED ON GENERAL LIABILITY AND UMBRELLA IF REQUIRED BY WRITTEN CONTRACT AND SUBJECT TO THE TERMS AND CONDITIONS OF THE POLICY

15390127
CITY OF FERNANDINA BEACH MUNICIPAL AIRPORT
700 AIRPORT ROAD
FERNANDINA BEACH FL 32034

AUTHORIZED REPRESENTATIVE

EXHIBIT D

FERNANDINA BEACH MUNICIPAL AIRPORT

MINIMUM STANDARDS FOR COMMERCIAL AERONAUTICAL ACTIVITIES

Original Adoption September 10, 1987

Amended December 18, 2007

Amended October 20, 2009

Amended August 2, 2011

Amended October 7, 2014

Prepared By:
City of Fernandina Beach
700 Airport Road

Fernandina Beach, Florida 32034

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Section 1 – General

1.1 INTRODUCTION

The City of Fernandina Beach, as owner, operator, and sponsor of Fernandina Beach Municipal Airport (FBMA), being responsible for all aspects of the administration of this public, general aviation facility, and in order to foster and encourage the economic growth and orderly development of aviation and related aeronautical activities at FBMA has established certain requirements for commercial aeronautical entities to ensure that adequate aeronautical services and facilities are provided to the users of FBMA.

These Minimum Standards for Commercial Aeronautical Activities (Minimum Standards) are the threshold entry requirements for a person or persons, partnership, company, trust, corporation, or other business entity, based on FBMA and/or using FBMA, to engage in one or more commercial aeronautical service or activity to the public at FBMA. These Minimum Standards are to promote fair competition at FBMA, taking into consideration the aviation role of FBMA, facilities that currently exist at FBMA, services being offered at FBMA, and the future development planned for FBMA. The uniform application of these Minimum Standards, containing the minimum levels of service and facilities that must be offered by the service provider, relates primarily to the public interest and discourages substandard entrepreneurs, thereby protecting both established and future aeronautical activity as well as FBMA patrons. All commercial aeronautical operators are provided a level playing field on which they will hopefully prosper while providing excellent service to aviation customers. There is not any prohibition to exceed the minimum requirements in terms of quality of facilities and services provided.

The adoption of these Minimum Standards for Commercial Aeronautical Activities is recommended by the FAA to comply with federal law and regulations that prohibit the granting of exclusive rights to use an Airport that has received federal Airport Improvement Program (AIP) funding. The City of Fernandina Beach will comply with federal law and Federal Aviation Administration (FAA) Advisory Circulars which currently exist for MINIMUM STANDARDS FOR COMMERCIAL AERONAUTICAL ACTIVITIES, and EXCLUSIVE RIGHTS AT FEDERALLY-OBLIGATED AIRPORTS, and as those advisory circulars may be amended by the FAA from time to time.

These Minimum Standards are not intended to be all-inclusive, as the operator of a commercial aeronautical venture who is based on or uses FBMA will be subject to additional applicable federal, state and local laws, codes and ordinances and other applicable regulatory measures, including the Airport Rules and Regulations pertaining to all such activities.

1.2 PURPOSE

- Provide a minimum level of services that are offered to the public in connection with the conduct of particular aeronautical activities or services on FBMA
- Provide for the safe conduct of all commercial aeronautical activities at FBMA
- Protect airport users from unlicensed and unauthorized products and services
- Maintain and enhance the availability of adequate services for all airport users
- Provide that no entity receives a competitive advantage through less-than-fair and uniform market value use of City facilities
- Promote the economic health of FBMA businesses
- Promote the orderly improvement and development of FBMA

1.3 EXCLUSIVE RIGHTS

In accordance with FBMA assurances given to the federal or state government by the City as a condition to receiving federal or state funds, the granting of rights or privileges to engage in commercial aeronautical activities shall not be construed in any manner as affording any person or entity any exclusive right, other than the exclusive use of the land and/or improvements which are specifically set forth in a written lease, permit, or agreement.

1.4 STATEMENT OF POLICY

A fair and reasonable opportunity, without unjust discrimination, shall be accorded to all applicants to qualify and present ideas for doing business, using FBMA facilities and furnishings, which the City, deems are available for selected aeronautical activity or service. Proposals meeting the Minimum Standards as established by the City and set forth herein for commercial aeronautical activities at FBMA shall be presented to the City Commission for approval. Commercial aeronautical activities may be proposed that do not fall within the categories designated herein. In any such cases, appropriate Minimum Standards shall be developed on a case-by-case basis for such activities and, if accepted and approved by the City, incorporated into the entity's written agreement with the City and into these Minimum Standards by amendment. The City in its sole discretion may distribute a Letter of Interest (LOI) or a Request for Proposal (RFP) for the leasing/use of available FBMA facilities.

A written agreement, lease, or permit, properly executed by the City and a based or local area commercial aeronautical operator is a prerequisite to commencement of FBMA facility and airfield use by any commercial aeronautical activity. Contingent upon its qualifications, its meeting the established Minimum Standards with the City and the payment of the prescribed rentals, fees, and charges, commercial aeronautical operators shall have the right and privilege to engage in and conduct the activity or activities specified by written agreement with the City. All agreement provisions, however, must be compatible with the Minimum Standards herein contained and will not change or modify the standards and requirements themselves. In all cases where the words "standards" or "requirements" appear, it shall be understood that they are modified by the word "minimum." Any required determinations, interpretations, or judgments regarding what constitutes an acceptable minimum standard, or regarding compliance with such standard, shall be made by the City.

The City reserves and retains the right for the use of FBMA by others who may desire to use it, pursuant to applicable federal, state, and local laws, ordinances, codes, standards, and other regulatory measures pertaining to such use. The City further reserves the right to designate specific FBMA areas in which the individual or a combination of aeronautical services may be conducted. Such designation shall give consideration to the nature and extent of the operation and the lands and improvements available for such purpose, consistent with the orderly and safe operation of FBMA.

These Minimum Standards may be included in whole, in part, or by reference as part of all leases, and other agreements between the City and any entity desiring to be based on and/or use FBMA and engage in any commercial aeronautical activities. The rates, fees, and charges applicable to the providers of commercial aeronautical activities are established by the City to make FBMA as financially self-sustaining as possible and be sufficient to cover FBMA costs.

These Minimum Standards are not retroactive and do not alter any existing written agreement properly executed prior to the date of approval of these Minimum Standards and as may be amended that does not provide for application of future revisions of the Minimum Standards, in which case these Minimum Standards shall be effective consistent with such written agreement. In any event, upon expiration of an existing lease, agreement, or permit with the City or if the commercial aeronautical operator desires to materially increase or expand its activities, the commercial aeronautical operator shall then comply with the provisions of these Minimum Standards. Conversely, these Minimum Standards shall not be deemed to modify any existing agreement under which an entity is required to exceed these Minimum Standards, nor shall they prohibit the City from entering into or enforcing an agreement that

requires an entity to exceed the Minimum Standards. In the event of any conflict between the terms of these Minimum Standards and the provisions of any lease or agreement, the terms of the lease or agreement shall be controlling.

These Minimum Standards may be supplemented and amended by the City from time to time and in such manner and to such extent as is deemed appropriate by the City. Minimum Standards shall be reviewed and updated at minimum every five years or as needed to be amended.

The City reserves the right to lease an existing facility or any portion of an existing facility to a Specialized Aviation Service Operation (SASO) in order to maximize facility use and business opportunities. A lease of this nature shall be at the City's sole discretion, and shall be considered to meet any minimum facility requirements as defined in these Minimum Standards.

The City further reserves the right to designate from time to time the specific areas where individual aeronautical services or a combination of aeronautical services may be conducted, and to determine whether or not there is sufficient, appropriate, or adequate space at the proposed site to meet the minimum requirements established herein. Such determination shall consider the nature and extent of the proposed operation and the sites available for such purpose, consistent with the current Airport Master Plan and the orderly, safe, and efficient operation and development of FBMA.

1.5 WAIVER OF MINIMUM STANDARDS

No commercial aeronautical operator will be allowed to operate or provide services not in compliance with these Minimum Standards unless unusual circumstances exist which may give cause for consideration of a temporary waiver. The City may, at its sole discretion, waive or modify any portion of the Minimum Standards for any person or entity when it is determined that such waiver is in best interest of the public and will not result in unjust discrimination against other commercial aeronautical operators at FBMA. Any initial waiver will not exceed 12 months. However any waiver may be reviewed annually and extended in sole discretion of City.

1.6 GENERAL REQUIREMENTS FOR COMMERCIAL AERONAUTICAL OPERATORS

The following shall apply to all commercial aeronautical activity or service provider, either a FBO or SASO, at FBMA:

1. Unless otherwise provided by the City, all activities of the commercial aeronautical entity shall be conducted on an area or areas of sufficient size to accommodate all services that the commercial aeronautical operator is approved to perform, allowing for future growth and additional services as contemplated by the City or the commercial aeronautical operator at the time of application, but as limited by the space available on FBMA.
2. Shall conduct its business operations strictly within the areas assigned to it by the City, and its operations shall not in any way interfere with the operations of other commercial aeronautical entities, agencies, or other businesses operating on FBMA, the use of FBMA by the general public, or with any common use areas.
3. Shall provide their services or activities on a fair, equal, and not unjustly discriminatory basis to all users thereof, and they will charge fair, reasonable, and not unjustly discriminatory prices for each unit or services provided. Lessee may be allowed to make reasonable and non-discriminatory discounts, rebates, and other similar types of discounts to volume purchasers or users of the service provided. Further, any commercial aeronautical entity will insure that any sub-lessee or subcontractor comply with the provisions of this paragraph.
4. Personnel shall meet all federal, state, and local training and certification requirements applicable to their individual duties and company services.

5. Shall control the conduct and demeanor of its personnel and subtenants, as well as to conduct its business operations in a safe, orderly, efficient, and proper manner so as not to unreasonably disturb, endanger, or offend any customers, tenants, or competitive operators.
6. Shall employ the necessary quantity of trained staff, on-duty management, and supervisors to provide for the efficient, safe, and orderly compliance with its lease, agreement, sublease, or permit.
7. No right or privilege will be granted to any commercial aeronautical entity which would prevent any entity operating aircraft at FBMA from performing any services on its own aircraft with its own direct employees (W-2), including but not limited to maintenance and repair, that it may choose to perform.
8. The City reserves the right to further develop or improve FBMA as it sees fit, regardless of the desires or views of the commercial aeronautical operator, and without interference or hindrance. FBMA shall make every effort to minimize the disruption of normal airport usage during periods of repair or further airport development.
9. Airport access and security shall be maintained at all times in accordance with standards as may be established and required by the City.
10. Any fine or penalty imposed on the City by the FAA or other governmental body, resulting from lessee's or permittee's use, operations, and occupancy of the leased premises, will be payable by lessee or permittee.
11. Shall keep current and provide the Airport Manager with applicable point-of-contact(s) and phone numbers for emergency purposes.
12. Shall permit its personnel who drive motor vehicles on FBMA to do so only in accordance with the Airport Rules and Regulations, applicable federal, state, and local laws, ordinances, codes, or other similar regulations now in existence or as may be hereafter modified, amended, or enacted.
13. Shall keep and maintain its leased premises and all improvements in a neat and orderly condition at all times, and in good and substantial repair, condition, and appearance. Shall keep mowed and in a pleasing condition all landscaping and grass areas within its leased premises.
14. Shall commit no unlawful nuisance, waste, or injury on the leased premises and will refrain from doing anything which may result in the creation, commission, or maintenance of such nuisance, waste, or damage to property on FBMA.
15. Shall refrain from creating or allowing on its premises any obnoxious odors or smokes, or noxious gases or vapors. The creation of exhaust fumes by the operation of internal combustion engines or aircraft engines of other types, so long as such engines are maintained and are being operated in a proper manner, is not a violation of this paragraph, nor shall the reasonable operation of the commercial aeronautical operator's business constitute such violation, although some odors, gases, and vapors may result therefrom.
16. Shall refrain from doing anything which might interfere with the effectiveness or accessibility of FBMA's public utilities systems, drainage or sewer system, storm water management system, fire protection system, sprinkler system, alarm system, or fire hydrants and hoses, if any are installed or located on or in their leased premises.
17. Shall remove or dispose of debris and other waste material, whether solid or liquid, arising from the commercial aeronautical operator's activities. Any garbage, debris, or waste, which may be temporarily stored in the open, shall be kept in suitable metal garbage or waste receptacles equipped with tight-fitting covers of a design sufficient to contain whatever may be placed therein. Shall use extreme care when removing all such waste. Any hazardous waste generation, storage, or disposal shall comply with all applicable federal, state, and local regulations.
18. No fuels, oils, greases, detergents, or other insoluble substances shall be placed in the sewage or drainage systems or on the ground. Any FBO or SASO, at its sole cost and expense, shall comply with all requests made by the U.S. Environmental Protection Agency (EPA) or other competent governmental authority including, but not limited, to the installation of a grease

and oil trap designed to catch all oils, greases, detergents, and other insoluble substances used in the maintenance and washing of equipment and/or aircraft. The installation of any required equipment or structure shall conform to recommended specifications of the EPA or Florida Department of Environmental Protection (FDEP) as applicable.

19. Shall at no time conduct any aeronautical activity on leased property from a structure that would be considered temporary or mobile under Florida Building Codes and applicable City Ordinances without specific approval from the City.
20. Shall maintain all aprons, ramps, taxiways, roadways, and parking lots that are constructed by the FBO or SASO or reserved for their exclusive use.
21. Shall refrain from doing any act or thing upon the FBMA which will invalidate or conflict with any fire, property, or liability insurance policies covering FBMA.
22. Shall provide an adequate supply of properly located, type, size and operable fire extinguishers and other safety equipment in accordance with the National Fire Prevention Association (NFPA) requirements.

1.7 SUB-LESSEE OR SUBCONTRACTOR REQUIREMENTS

If a commercial aeronautical operator leaseholder desires to sublease space to another person or entity or contracts with an aeronautical operator to provide one or more specialized aviation services, the following conditions shall apply:

1. Lessee must obtain written approval of sublease or subcontractor agreement from the City before allowing sub-lessee or subcontractor to occupy or conduct any form of business from the lessee's leasehold. Said sublease or subcontract shall define the type of business and service to be offered by sub-lessee or subcontractor.
2. Sub-lessee or subcontractor shall also enter into an agreement with the City. Such agreement shall be appropriate to the particular type of services to be provided by sub-lessee or subcontractor. The agreement or permit shall provide for payment by sub-lessee or subcontractor to FBMA of fees pertinent to the types of services offered by sub-lessee or subcontractor unless prohibited by written agreement.
3. Lessee must have the facilities and physical space necessary to support the aeronautical services of his sub-lessee(s) or subcontractor(s). Such facilities and space shall be sufficient to accommodate the lessee's aeronautical service as well as those requirements for any sub-lessee or subcontractor according to these Minimum Standards.
4. The sub-lessee or subcontractor must meet all of the Minimum Standards established by the City for the category or categories of services to be furnished. The Minimum Standards may be met in combination by lessee and sub-lessee or subcontractor. Any sublease or subcontract agreement shall specifically define those services provided by lessee to sub-lessee or subcontractor that must be used to meet the Minimum Standards.
5. Sub-lessee or subcontractor shall provide evidence of minimum insurance coverage as determined by the City for the categories of service to be offered as noted in Section 1.08 and Appendix B. Additionally any sub-lessee or subcontractor shall carry premise insurance.

1.8 INSURANCE REQUIREMENTS FOR COMMERCIAL AERONAUTICAL OPERATORS

Insurance amounts as detailed in Appendix B provide a minimum guideline and may not meet the requirements for every commercial aeronautical entity. Each commercial aeronautical entity should make its own analysis to determine if more is needed. Insurance coverage shall be obtained and paid for by the commercial aeronautical operator as required in the coverage and amounts specified by the City. Commercial aeronautical operators shall demonstrate to the City's satisfaction evidence of its ability to acquire insurance coverage as stipulated for each particular type of operation. Each policy shall name the City of Fernandina Beach as additional insured. All insurance required shall apply as primary and not in excess of or contributing with other insurance which the commercial aeronautical entity may carry. A Certificate of Insurance or a copy of the insurance policies shall be furnished to the City with each annual

renewal and shall provide 30 days advance written notice of any change in coverage to any policy or cancellation of any policy. The City will provide 90 days advance notice of any changes to the minimum insurance coverage requirement. The types of insurance as noted in Appendix B may be added to or deleted from as determined by the City in its sole discretion.

A commercial aeronautical operator leaseholder shall be required to carry public liability insurance for any sub-lessee or subcontractor or provide a certificate of insurance which shows the entity and the City as named insured, in amounts commensurate with sub-lessee's or subcontractor's individual activities and services, as determined by the City.

Section 2 – Lease Requirements for Commercial Aeronautical Operators

2.1 BUSINESS PLANNING

The Airport Manager is the first person of contact to discuss providing or increasing a commercial aeronautical opportunity at FBMA. At this meeting any prospective commercial aeronautical operator can secure the necessary documents needed to complete the process to become a FBO or SASO at FBMA. Documents available include:

1. Minimum Standards for Commercial Aeronautical Activities
2. Airport Leasing Policy
3. Application for Ground or Facility Lease or Airport Operating Permit
4. Airport Ground Leasehold Development Process
5. Airport Architecture and Building Design Standards
6. Airport Rates and Charges
7. Sample Ground or Facility Lease
8. Airport Rules and Regulations

2.2 QUALIFICATION AND REQUIREMENTS

Any person desiring to conduct a commercial aeronautical activity on FBMA must complete a written application for an Airport Ground or Facility Lease or Airport Operating Permit and submit it to the Airport Manager detailing what aeronautical service or services are to be provided. No processing or approval action is possible until this application is submitted. Such application from any prospective commercial aeronautical operator assists in the City's determination that the applicant is technically and financially able to perform the services proposed. A person or entity shall have such business background and shall demonstrate the business capability to successfully provide the contemplated commercial aeronautical activity as to meet the City's approval. The information presented shall include financial documentation (annual balance sheets and related) to demonstrate the entity's financial capability to initiate operations and/or to construct improvements that may be required to support the proposed operation, or operations, and also indicate the commercial aeronautical operator's ability to operate the contemplated operations, once initiated. In each instance, the City shall be the final judge as to the qualifications and financial ability of the entity. A business plan may be required of entities desiring to operate on FBMA. The City also may request any such additional information as may reasonably be required to evaluate the proposal. Additionally any entity seeking to conduct commercial aeronautical activity at FBMA as a FBO shall demonstrate that it has adequate resources to realize the business objectives agreed to by the City and the entity.

Those commercial aeronautical entities not leasing or subleasing property on FBMA, such as an independent aeronautical operator or an independent service provider, also need to provide appropriate documentation as part of the application process for their proposed operation to secure an Airport Operating Permit. Such independent commercial aeronautical operators shall meet and maintain

compliance with the applicable Minimum Standards for their commercial activity. The City retains the right to restrict or deny such FBMA access if FBMA safety or efficiency is compromised by the existence of the proposed commercial service or activity. Further the City has the right to prohibit use or continued use of FBMA should a lease holding entity offer same or similar services on FBMA. Once an Airport Operating Permit is approved then each year such independent commercial aeronautical operators shall secure an annual renewal of the permit to include providing applicable operational certificates, providing evidence of insurance, and paying any applicable fees.

2.3 APPLICATION TO PROVIDE ON AIRPORT SERVICES

Demonstration of intent to conduct a business operation at FBMA shall be by application to the Airport Manager. The following at minimum must be provided:

1. The legal name of the entity submitting this application and its business name (if different).
2. The address and telephone number of the entity and primary contact person.
3. The names, addresses, phone numbers, and short resume of all owners of five (5) per cent or more equity interest, management control, or debt in the entity.
4. A comprehensive listing of all activities proposed to be offered, along with copies of all applicable federal, state, or local operating certificates and licenses held.
5. Evidence of past experience and technical ability to perform and/or develop the proposed services and facilities.
6. Amount of land to lease.
Building space to lease or facilities to construct.
Will there be any subleasing of building space.
7. The estimated cost of any structure or facilities to be constructed or furnished, proposed specifications, and the means and method of financing such construction.
8. The dates for commencement and completion of proposed development or the proposed date for commencement of the intended activities and proposed term for conducting same.
9. The equipment, any special tooling required, vehicles, and inventory proposed to be utilized in connection with the intended activities.
10. Will there be any hazardous materials located on site. If yes describe.
11. The number of persons to be employed, including the names and qualifications of each management/supervisory person, and specifications as to whether the employees will be full-time, part-time, or seasonal.
12. Periods (days and hours) of proposed operation:
13. The number of aircraft to be utilized in connection with the proposed activities and the make, model, passenger seating capacity, cargo capacity, aircraft registration number, and copies of applicable operating certificates for each aircraft.
14. Amounts and types of insurance coverage to be maintained (no less than required under Minimum Standards).
15. For proposed agreements for lease of unimproved or improved Airport areas, a layout (to scale) of the size, configuration, and location of the property proposed for occupancy and a preliminary drawing(s) of the building(s) and improvements to be constructed, together with the identification of vehicle parking areas (See Ground Leasehold Development Process).
16. For proposed agreements to lease existing structures or improvements, a description of the size, location, and proposed utilization of office, hangar, tie-downs, and vehicle parking areas to be utilized (See Ground Leasehold Development Process).
17. Evidence of a written business plan to include:
 - a. Business projections for the first year by quarter and the succeeding 4 years annualized.
 - b. A current balance sheet and previous fiscal year's balance sheet.
 - c. Methods to be used to attract new business (advertising and incentives).
 - d. Amenities to be provided to attract business.
 - e. Plans for physical expansion, if business should warrant such expansion.
18. Contact information of three references (name, title, company, telephone).

19. Contact information of three credit references (name, title, company, telephone).

2.4 ACTION ON APPLICATION FOR COMMERCIAL AERONAUTICAL OPERATORS

With a properly submitted application to the Airport Manager, an agreement or lease will then be developed between the entity and the City. Both documents are also presented to the Airport Advisory Commission for its review. The Airport Advisory Commission will develop a recommendation and forward to the City Commission for its final action. This process can take 120 days from the receipt of application.

Applications may be denied for one or more of the following reasons:

1. The applicant, for any reason, does not meet qualifications, standards, and requirements established by these Minimum Standards.
2. The proposed operation or construction will create a safety hazard on FBMA.
3. The granting of the application will require the expenditure of local funds, labor, or materials on the facilities described in or related to the application, or the operation will result in a financial loss or hardship to FBMA.
4. There is no appropriate or adequate available space or building on FBMA to accommodate the proposed activity at the time of application.
5. The proposed operation, FBMA development, or construction does not comply or is inconsistent with the Land Development Code, approved Airport Layout Plan, or conflicts with federal, state, or local rules and regulations.
6. The development or use of the land area requested will result in aircraft or building congestion or will unduly interfere with the operation of any present commercial aeronautical operator on FBMA or restrict aircraft access to any commercial aeronautical operator's area.
7. Any party applying, or interested in the business, has supplied false information, or has misrepresented any material fact in the application or in supporting documents, or has failed to make full disclosure on the application.
8. Any party applying, or having an interest in the business, has a record of violating the FBMA Airport Rules and Regulations, the rules and regulations of any other airport, Florida Department of Aviation (FDOT) aviation regulations, or Federal Aviation Regulations.
9. Any party applying, or having an interest in the business, has defaulted in the performance of any lease or other agreement with the City or any lease or other agreement at any other airport.
10. On the basis of current financial information, the entity does not, in the opinion of the City, exhibit adequate financial responsibility to undertake the proposed services.
11. Any party applying, or having an interest in the business, is not sufficiently credit worthy and responsible in the judgment of the City to provide and maintain the business to which the application relates and to promptly pay amounts required under the lease.
12. The applicant cannot provide a performance bond or other adequate security in an amount required by the City to ensure performance of its obligations under its proposed lease or permit or ensure completion of any associated construction.
13. The applicant has committed any crime, or violated any local ordinance, rule, or regulation, which adversely reflects on its ability to conduct the FBO or SASO operation applied for.

2.5 SITE DEVELOPMENT AND CONSTRUCTION STANDARDS

Once the City Commission has approved the agreement, both parties sign the lease or agreement and rent becomes applicable. In the meantime, with a supporting recommendation from the Airport Advisory Commission, it is usual for a commercial aeronautical operator, if desired, to begin the site development and permitting process. The commercial aeronautical operator shall obtain at its sole expense all licenses and permits necessary for the conduct of the commercial aeronautical operator's activities at FBMA as required by the City or any other duly authorized governmental agency. However,

no construction of any kind shall be commenced at FBMA without final approval from the City, FAA, or any other agency that may have jurisdiction. Any proposed construction or modification of facilities by a commercial aeronautical operator will be subject to the development regulations described in the Airport Ground Leasehold Development Process, the Airport Architecture and Building Design Standards, applicable federal, state, local laws and regulations, Florida Building Codes, applicable City Building Ordinances, NFPA requirements, and conformity with the Airport Master Plan. The City must approve the plans and specifications prior to construction, and also approve the filing by the prospective commercial aeronautical operator of a notice of proposed construction required by FAR Part 77, "Objects Affecting Navigable Airspace," to the FAA (Form 7460-1).

Land that is designated for aeronautical purposes must be developed and used for aeronautical activities only. Non-aviation related activities shall not be allowed in buildings or hangars located on land designated for aeronautical purposes without FAA approval. However the City may, at its option, grant an exemption to permit in conjunction with an aeronautical use a limited non-aeronautical use of the land and facility usually not to exceed 30%. No commercial aviation operator shall be allowed to operate in, from, or around a City owned t-hangar or bulk row storage hangar.

All improvements constructed on FBMA, other than trade fixtures, shall become a part of the land and belong to the City upon expiration, termination, or cancellation of the lease agreement between the commercial aeronautical operator and the City covering such improvements. If the commercial aeronautical operator chooses to develop a site which is not currently served by taxiways, roadways, and/or utility services, the commercial aeronautical operator shall be responsible for extending such services and pavement surfaces to its site at the commercial aeronautical operator's sole expense, unless otherwise negotiated with the City. All such utility services and pavement areas shall be constructed in full compliance with FBMA and FAA standards, as well as applicable City codes.

Section 3 – Fixed Base Operator (FBO)

3.1 GENERAL

A Fixed Base Operator is an entity that provides multiple aeronautical services including aircraft fueling to aircraft owners, airport users, and airport tenants. Only a FBO shall be permitted to sell aviation fuel, lubricants, and other related services to both transit aircraft operations and operations of aircraft based at FBMA.

3.2 FBO MINIMUM SERVICE LEVEL

1. Aircraft Fueling and Oil Services
2. Aircraft Line Services
3. Aircraft Crew and Passenger Customer Services
4. The following optional services are encouraged, but not required:
 - a. Aircraft Maintenance and Repair
 - b. Aircraft Bulk Hangar Storage
 - c. Flight Training
 - d. Aircraft Rental/Lease

A FBO may subcontract or use third party operators to provide any of the required FBO services or optional services above, with the exception of Items 1 through 3. For these services, a FBO may be permitted to enter into an agreement with a professional aviation services management company, experienced in managing/operating FBO's, to provide day-to-day management and/or staffing. Such management agreement must be approved by the City. The FBO shall remain the responsible party to the City for all decisions related to safety, security, and overall operational issues. A FBO's subcontractors

and third-party operators shall meet or exceed all Minimum Standards applicable for such services performed and must operate from the FBO premise. See Section 1.07 regarding subleases.

3.3 FBO MINIMUM SERVICE STANDARDS

1. Operation
 - a. Shall have premises open and services available every day of the year, except Christmas Day, from 0800-2000.
 - b. Shall be staffed with a minimum of two properly trained and uniformed personnel during normal business hours.
 - c. Shall be available to provide services outside of normal business hours, if requested in advance, or in response to unscheduled required services.
 - d. Shall be able to assist in the removal of disabled aircraft from FBMA's runway and taxiway system in a timely manner.
2. Aircraft Fueling and Oil Services
 - a. Shall provide the sale and into-plane delivery at a minimum 100LL-octane Aviation Gas (Avgas) and Jet A aviation fuels, accepted grades of aviation engine oils and lubricants, and other aviation petroleum products for aircraft that regularly operate at FBMA.
 - b. Shall deliver fuel to aircraft utilizing at least one Jet A refueling vehicle with a capacity of 2,000 gallons and one Avgas refueling vehicle with a capacity of 500 gallons.
 - c. Shall demonstrate satisfactory arrangements to purchase fuel, oil, and aviation lubricants in such quantities as is necessary to meet expected demand.
 - d. Shall provide properly trained personnel in the safe and proper handling, dispensing, and storage of aircraft fuel using equipment provided by the FBO.
 - e. Shall operate a fixed fuel storage facility which shall contain safety fixtures and filtration systems to ensure aircraft fuel quality in accordance with all Environment Protection Agency (EPA) regulations including proper fuel spill prevention features and containment capabilities. In addition, shall provide an approved fuel Spill Prevention Countermeasure and Control (SPCC) Plan to the Airport Manager or be properly coordinated into the Airport's SPCC Plan.
 - f. In addition to into-plane delivery may provide self-fueling facility for public use and such equipment must be in compliance with applicable state and local regulations and standards, and comply with fueling equipment requirements listed in this section.
 - g. Shall comply with all applicable local, state, and federal environmental statutes and regulations regarding storage tanks, disposal of waste oil and other potentially hazardous substances, and for the refueling of all aircraft and vehicles.
 - h. All equipment used for the storage, handling, and/or dispensing of petroleum products must meet all applicable federal, state, and local safety and fire codes, regulations and standards, NFPA requirements for aircraft fueling operations, and the appropriate FAA Advisory Circular.
 - i. All dispensing equipment shall be equipped with reliable metering devices subject to an independent inspection of the Motor Fuels Section of the Florida Department of Transportation and must be capable of servicing, in an efficient and safe manner, all types of aircraft. All metering devices must be inspected, checked and certified annually by appropriate local and state agencies. A copy of each such inspection must be provided to the Airport Manager.
 - j. All fueling services and systems shall be subject to routine inspection for fire and other hazards by the City, the FAA, and the appropriate state and local fire agencies.
 - k. Quality control of the fuel is the responsibility of the FBO.
 - l. Complete dated records shall be kept with regard to all maintenance activities conducted on fueling equipment and mobile refueling vehicles.
 - m. Shall maintain current fuel reports on file and available for auditing at any time by the City, the FDOT, or the FAA or other applicable agencies.
3. Aircraft Line Services

- a. Shall provide ramp assistance including the parking, tie-down, ground handling, and storage of aircraft including ropes or other types of restraining devices and wheel chocks for aircraft based or normally transiting FBMA.
- b. Shall provide adequate loading/unloading and towing equipment to safely and efficiently move aircraft to include aircraft tug(s) that can accommodate aircraft based or normally transiting FBMA.
- c. Shall provide proper equipment as may be required to service and support aircraft based or normally transiting FBMA such as inflating aircraft tires, changing engine oil, washing aircraft windscreens, recharging aircraft batteries, and starting engines and performing minor repairs not requiring a certified mechanic. Shall have ground power starting capability.
- d. Keep the ramp well maintained, clean, and free of foreign object debris(FOD).
4. Aircraft Crew and Passenger Customer Services
 - a. Shall provide a flight planning area with appropriate communication facilities for complete flight planning including weather communication links separate from other public areas.
 - b. Shall provide a minimum of one courtesy vehicle available for customer use.
 - c. Shall provide appropriate concierge services and/or referral services as may be required to pilots and users and maintain local ground transportation contacts.
 - d. Shall have available basic pilot supplies.
5. Optional Services
 - a. Shall meet Minimum Standards for like category of SASO as to equipment and services.

3.4 LAND AND IMPROVEMENTS REQUIREMENTS

1. Shall lease land area at a minimum of four acres (174,240 square feet) to provide for all buildings, aircraft parking, paved ramped area, and on-site customer and employee parking. Parking requirements will be in accordance with City code.
2. Shall lease or construct on the leased premises a public use operations building(s) and related improvements not less than 3,200 total square feet to sufficiently accommodate all activities and operations proposed, as approved by the City. The facility shall be properly lighted, air-conditioned, and heated to include office space, floor space for lobby or public waiting area, pilot's lounge separate from public waiting area, classroom/training room and/or conference room, storage, and public restrooms. Also provide snack food and beverage machines and public use telephone.
3. If optional services for aircraft maintenance and repair and/or aircraft bulk hangar storage is offered then shall lease or construct a hangar facility not less than 4,800 square feet with properly lighted space to perform maintenance work, aircraft storage, parts storage.
4. Any facility(ies) provided shall meet FBMA Architectural and Building Design Standards, NFPA requirements, Florida Building Codes, and all applicable City Building Ordinances.
5. Shall provide sufficient ramp area to support all activities of the FBO and all approved subtenants.
6. Shall lease or construct a separate, above ground or approved underground, aircraft fuel storage facility in a designated area with a minimum 10,000 gallons 100LL/Avgas and 10,000 gallons Jet A. Such facility may offer self-serve capability for either or both fuel products sold. Such facility and all improvements shall, at the FBO own expense, be maintained in a presentable condition consistent with good business practices and in accordance with the appropriate rules and regulations at the time of construction and any mandated changes.

3.5 INSURANCE

See Section 1.08 and Appendix B for insurance coverage requirements for a FBO operation on FBMA.

Section 4 – Specialized Aviation Service Operation (SASO)

4.1 GENERAL

A Specialized Aviation Service Operation (SASO) is a person or entity that provides a single or limited number of commercial aeronautical services and activities, and shall comply with the Minimum Standards for the specific service or activity described in this section. A SASO may not sell fuel.

Whenever a SASO conducts multiple activities pursuant to one lease, permit, or agreement with the City, and the Minimum Standards for one of the commercial aeronautical operator's activities are inconsistent with the Minimum Standards for another of the commercial aeronautical operator's activities, then the Minimum Standards which are more stringent, and/or more protective of the public's health, safety, and welfare, shall apply. When one or more activity is conducted, the minimum requirements may vary depending on the nature of each activity or combination of activities, but shall not necessarily be cumulative but will be required to obtain insurance for all exposures.

Nothing contained herein shall convey or imply an exclusive right of operation by any such commercial aeronautical entity. The City reserves the right to consider any and all other type services and activities not otherwise described herein as a SASO.

A SASO may sublet from a FBO or another SASO with approval of the City and payment of appropriate fees for the privilege to operate a commercial entity on FBMA. See Section 1.07 regarding subleasing.

4.2 SASO – AIRCRAFT MAINTENANCE AND REPAIR SERVICES (Airframe, Power Plant, Propeller, Radios, Instruments, and Accessories)

An aircraft maintenance and repair services SASO engages in a business capable of providing a service, or combination of services which otherwise may require FAA certification for the repair of aircraft airframe (major and minor), power plant, propellers, radios, instruments, and accessories for general aviation aircraft. This category shall also include the nonexclusive sale of aircraft parts and accessories. A SASO in this category may provide full service maintenance and repair services, individual services, or a combination of services. Usually this type of repair is performed on the aircraft, although it may also include bench repair of items removed from an aircraft that are intended for replacement on that aircraft.

Minimum Standards:

1. Shall lease sufficient land area, as approved by the City, to provide for all buildings, aircraft parking, paved ramped area, and on-site customer and employee parking to accommodate activities and operations proposed. Parking requirements will be in accordance with City code.
2. Such facility shall meet FBMA Architectural and Building Design Standards, NFPA requirements, Florida Building Codes, and all applicable City Building Ordinances including properly sized paved aircraft apron. Apron shall have tie down capability for all non-hangared aircraft capable of being tied down.
3. The facility shall include properly lighted, air conditioned, and heated office space, storage, and restroom area. Also provide telephone availability.
4. Any shop area and/or equipment and parts storage area provided shall be properly ventilated.
5. Shall possess and maintain all licenses and/or certificates as may be required by the FAA, Federal Communications Commission (FCC), or other appropriate agency which are applicable to the operation or services contemplated.

6. Shall employ and have on duty during operating hours trained personnel in such numbers as may be required to meet these Minimum Standards in a safe and efficient manner, but never less than one person currently certificated by the FAA with ratings appropriate to the work being performed and who holds a mechanic certificate or an inspection authorization.
7. Shall maintain appropriate hours of operation sufficient to meet public demand or provide a point of contact telephone communication capability for the public desiring the SASO services.
8. At the SASO discretion, but strongly encouraged, provide on-call emergency service capability.
9. Shall conduct all maintenance operations in accordance with applicable Airport Rules and Regulations, National Fire Protection Association requirements, and other applicable safety regulations.
10. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

4.3 SASO – AIRCRAFT COMPONENT AND SUPPORT SERVICES (ancillary aircraft ground services such as aircraft stripping/painting, aircraft salvage, refurbishing, upholstery)

An aircraft component and support services SASO engages in the business of aircraft support services such as aircraft painting, aircraft salvage, refurbishing, upholstery, and similar aircraft components and support services. This category of commercial aeronautical operator also includes the nonexclusive sale of new and/or used components described above.

Minimum Standards:

1. Shall lease sufficient land area, as approved by the City, to provide for all buildings, aircraft parking, paved ramped area, and on-site customer and employee parking to accommodate activities and operations proposed. Parking requirements will be in accordance with City code.
2. Such facility shall meet FBMA Architectural and Building Design Standards, NFPA requirements, Florida Building Codes, and all applicable City Building Ordinances including properly sized paved aircraft apron. Apron shall have tie down capability for all non-hangared aircraft capable of being tied down.
3. The facility shall include properly lighted, air-conditioned, and heated office space, storage, and restroom area. Also provide telephone availability.
4. Any shop area and/or equipment and parts storage area provided shall be properly ventilated.
5. Shall possess and maintain all licenses and/or certificates as may be required by the FAA, or other appropriate agency which are applicable to the operation or services contemplated.
6. Shall employ and have on duty during operating hours trained personnel in such numbers as may be required to meet the Minimum Standards in a safe and efficient manner, but never less than one person currently certificated as a FAA rated repairman or inspector as appropriate to the services to be offered.
7. Shall maintain appropriate hours of operation sufficient to meet public demand or provide a point of contact telephone communication capability for the public desiring to utilize the SASO services.
8. Any stripping/painting provided must be with a proper spray booth and comply with all federal, state, and local regulations pertaining thereto.
9. Shall conduct all maintenance operations in accordance with applicable Airport Rules and Regulations, National Fire Protection Association requirements, and other applicable safety regulations.
10. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

4.4 SASO – FLIGHT TRAINING

A flight training SASO engages in instructing pilots in dual and solo flight training, in fixed and/or rotary wing aircraft, and provides such related ground school instruction as is necessary preparatory to taking a written examination and flight check ride for the category or categories of pilots' licenses and ratings involved.

Minimum Standards:

1. Shall lease sufficient land area, as approved by the City, to provide for all buildings, aircraft parking, paved ramped area, and on-site customer and employee parking to accommodate activities and operations proposed. Parking requirements will be in accordance with City code.
2. Such facility shall meet FBMA Architectural and Building Design Standards, NFPA requirements, Florida Building Codes, and all applicable City Building Ordinances including properly sized paved aircraft apron. Apron shall have tie down capability for all non-hangared aircraft capable of being tied down.
3. The facility shall be properly lighted, air-conditioned, and heated to include office space, floor space for lobby or public waiting area, classroom or suitable accommodation for proper ground school instruction, storage, and public restroom. Also provide telephone availability.
4. Shall have available for use in flight training, either owned or leased by and under exclusive control of the SASO not less than one aircraft properly equipped and maintained, and FAA certified for flight instruction.
5. Shall have in its employ or under contract, and on duty as required during operating hours, currently FAA certificated instructor pilots and ground instructors in sufficient numbers as may be required, but never less than one instructor/pilot, to meet the demands of the number of students expected to be engaged in such flight training.
6. Shall provide suitable space equipped with adequate audio and visual aids for effective ground school instruction. All materials, supplies, and training methods must meet FAA requirements for the type training offered.
7. Shall maintain appropriate hours of operation sufficient to meet public demand or provide a point of contact telephone communication capability for the public desiring to utilize the SASO services.
8. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

4.5 SASO – AIRCRAFT LEASE/RENTAL

An aircraft lease/rental SASO engages in the lease or rental of aircraft to the public for compensation.

Minimum Standards:

1. Shall lease sufficient land area, as approved by the City, to provide for all buildings, aircraft parking, paved ramped area, and on-site customer and employee parking to accommodate activities and operations proposed. Parking requirements will be in accordance with City code.
2. Such facility shall meet FBMA Architectural and Building Design Standards, NFPA requirements, Florida Building Codes, and all applicable City Building Ordinances including properly sized paved aircraft apron. Apron shall have tie down capability for all non-hangared aircraft capable of being tied down.
3. The facility shall be properly lighted, air-conditioned, and heated to include office space, floor space for lobby or public waiting area, storage, and public restroom. Also provide

- telephone availability.
4. Provide, and at all times maintain not less than one aircraft, owned or leased by and under exclusive control of the SASO, properly equipped and maintained aircraft and FAA certified for rental.
 5. Shall have in its employ or under contract and on duty as required during operating hours trained personnel in such numbers as may be required to meet the Minimum Standards in a safe and efficient manner, but no less than one properly FAA certified and qualified pilot to provide demonstration and check rides for any aircraft it intends to lease or rent.
 6. Shall maintain appropriate hours of operation sufficient to meet public demand or provide a point of contact telephone communication capability for the public desiring to utilize the SASO services.
 7. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

4.6 SASO – AIRCRAFT CHARTER AND AIR TAXI SERVICE

An aircraft charter and/or an air taxi service SASO engages in the business of providing air transportation of person and/or property, to the general public for hire, on demand, either on a charter basis or as an air taxi operator, as currently defined in the FAR Part 135 “Operating Requirements: Commuter and On Demand Operations and Rules Governing Persons on Board Such Aircraft,” or as may be supplemented or amended from time to time.

Minimum Standards:

1. Shall lease sufficient land area, as approved by the City, to provide for all buildings, aircraft parking, paved ramped area, and on-site customer and employee parking to accommodate activities and operations proposed. Parking requirements will be in accordance with City code.
2. Such facility shall meet FBMA Architectural and Building Design Standards, NFPA requirements, Florida Building Codes, and all applicable City Building Ordinances including properly sized paved aircraft apron. Apron shall have tie down capability for all non-hangared aircraft capable of being tied down.
3. The facility shall be properly lighted, air-conditioned, and heated to include office space, floor space for lobby or public waiting area, storage, and public restroom. Also provide telephone availability.
4. Shall have and maintain during the term of the tenancy at FBMA, an air taxi license (refer to FAR Part 135) and shall operate in conformance with all appropriate FARs including but not limited to FAR Part 135 as amended.
5. Shall provide not less than one aircraft properly maintained and currently certified under FAR Part 135, either owned or under written lease to the SASO, all of which must meet the requirements of the FAA air taxi commercial operator certificate held by the SASO. Any multi-engine aircraft shall be certified for instrument operations.
6. Shall have in its employ or under contract and on duty as required during operating hours trained personnel in such numbers to carry out services as may be required to meet the Minimum Standards in a safe and efficient manner, but never less than one person who hold current FAA commercial pilot certificate with appropriate ratings to permit the flight activity offered by the SASO. All flight crews shall be properly rated for the aircraft operated. Shall provide dispatch capability within six hours of a customer request.
7. Employ one person with experience and ability to provide charter quotes, schedule and dispatch support, and customer service.
8. Make satisfactory arrangements for the checking in of passengers, handling of luggage, ticketing, ground transportation, etc.
9. Shall maintain appropriate hours of operation sufficient to meet public demand or provide a point of contact telephone communication capability for the public desiring to utilize the

SASO services.

10. Charter and non-scheduled air taxi companies, not regularly based at FBMA, but who are providing service to and from FBMA, are not subject to these Minimum Standards, but must comply with the Airport Rules and Regulations.
11. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

4.7 SASO – AIRCRAFT SALES (NEW AND/OR USED)

An aircraft sales SASO engages in the sale of new and/or used aircraft through brokerage, ownership, franchise, or licensed dealership or distributorship, either on a retail or wholesale basis, of an aircraft manufacturer or otherwise, and provides or provides access to such repair, services, and parts, as may be contractually required, to meet any guarantee or warranty on new and/or used aircraft sold by it.

- A. **NEW AIRCRAFT SALES:** An aircraft sales SASO engages in the sale of new aircraft through franchises or licensed dealerships, if required by local, county, or state authority, or distributorship, either on a retail or wholesale basis, of an aircraft manufacturer or used aircraft.
- B. **USED AIRCRAFT SALES:** Many companies engage in the purchasing and selling of used aircraft. This is accomplished through various methods including matching potential purchasers with an aircraft, i.e. brokering, assisting a customer in the purchase or sale of an aircraft, or purchasing used aircraft and marketing them to potential purchasers.

Minimum Standards:

1. Shall lease sufficient land area, as approved by the City, to provide for all buildings, aircraft parking, paved ramped area, and on-site customer and employee parking to accommodate activities and operations proposed. Parking requirements will be in accordance with City code.
2. Such facility shall meet FBMA Architectural and Building Design Standards, NFPA requirements, Florida Building Codes, and all applicable City Building Ordinances including properly sized paved aircraft apron. Apron shall have tie down capability for all non-hangared aircraft capable of being tied down.
3. The facility shall be properly lighted, air-conditioned, and heated to include office space, storage, and public restroom. Also provide telephone availability.
4. A dealer of new aircraft shall hold an authorized factory sales or distributor franchise or sub-dealership. All aircraft dealers shall hold applicable licenses or permits that may be required by any law or regulation.
5. A dealer of new aircraft shall have available or on-call at least one current FAA certificated and airworthy model demonstrator for the aircraft in its authorized product line. A new aircraft dealer shall be able to provide for demonstration of additional models of the manufacturer for which a dealership is held.
6. Dealers of used aircraft shall have reasonable access to aircraft offered for sale for purpose of demonstration.
7. Shall have in its employ or under contract and on duty as required during operating hours trained personnel in such numbers as may be required to meet the Minimum Standards in a safe and efficient manner, or be able to obtain within eight hours of a request a fully qualified pilot for the aircraft to be demonstrated.
8. Shall maintain appropriate hours of operation sufficient to meet public demand or provide a point of contact telephone communication capability for the public desiring to utilize the SASO services.
9. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

4.8 SASO - AIRCRAFT HANGAR STORAGE

An aircraft hangar storage SASO engages in the rental of space within conventional, open-bay, bulk hangars for the temporary or long-term parking or storage of aircraft.

Minimum Standards:

1. Shall lease sufficient land area, as approved by the City, to provide for all buildings, aircraft parking, paved ramped area, and on-site customer and employee parking to accommodate activities and operations proposed. Parking requirements will be in accordance with City code.
2. Such facility shall meet FBMA Architectural and Building Design Standards, NFPA requirements, Florida Building Codes, and all applicable City Building Ordinances including a restroom and properly sized paved aircraft apron.
3. May provide properly lighted, air-conditioned, and heated office space(s).
4. Shall have his facilities available for the tenant's aircraft removal and storage on a continuous basis.
5. Shall determine which party is responsible for the tenant's aircraft removal and storage on a continuing basis.
6. Shall employ trained personnel to meet all requirements for the storage of aircraft with appropriate equipment and on site during all aircraft operations.
7. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

4.9 SASO – AIRCRAFT MANAGEMENT SERVICES

An aircraft management service SASO engages in the operational management of based aircraft for specific aircraft owners. Typically, an aircraft management service operator ensures or provides aircraft maintenance coordination, storage, dispatch, aircrew assignment, and ground servicing for these aircraft. An aircraft management service SASO may choose not to own or exclusively lease the aircraft to be managed and would therefore be prohibited from self-fueling such aircraft. Copies of management services agreements between the aircraft owner and the SASO must be furnished to the City.

Minimum Standards:

1. Shall lease sufficient land area, as approved by the City, to provide for all buildings, aircraft parking, paved ramped area, and on-site customer and employee parking to accommodate activities and operations proposed. Parking requirements will be in accordance with City code.
2. Such facility shall meet FBMA Architectural and Building Design Standards, NFPA requirements, Florida Building Codes, and all applicable City Building Ordinances including properly sized paved aircraft apron. Apron shall have tie down capability for all non-hangared aircraft capable of being tied down.
3. The facility shall be properly lighted, air-conditioned, and heated to include office space, floor space for lobby or public waiting area, storage, and public restroom. Also provide telephone availability.
4. Shall provide and have based upon its leasehold properly certificated and maintained aircraft.
5. Shall have in its employ or under contract and on duty as required during operating hours trained personnel in such numbers to carry out services as may be required to meet the Minimum Standards in a safe and efficient manner, and all pilots must hold current FAA commercial pilot certificates with appropriate ratings to permit the flight activity offered by the SASO. All flight crews shall be properly rated for the aircraft operated. The SASO shall provide reasonable assurance of the continued availability of qualified operating crews within

- a reasonable notice period.
6. Shall maintain appropriate hours of operation sufficient to meet public demand or provide a point of contact telephone communication capability for the public desiring to utilize the SASO services.
 7. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

4.10 SASO – SPECIALIZED COMMERCIAL FLYING SERVICES

A specialized commercial flying service SASO engages in air transportation for hire for the purpose of providing the use of aircraft for activities including, but not limited to the following:

1. Nonstop sightseeing flights that begin and end at the same airport within a 25-mile radius of the airport.
2. Crop-dusting, seeding, spraying, bird chasing, fish spotting, etc.
3. Banner towing and aerial advertising.
4. Aerial photography, mapping, or survey.
5. Aerial fire fighting.
6. Power line or pipeline patrol.
7. Airborne mineral exploration.
8. Aerial ambulance.
9. Any other operations specifically excluded from FAR Part 135.

Minimum Standards:

1. Shall lease sufficient land area, as approved by the City, to provide for all buildings, aircraft parking, paved ramped area, and on-site customer and employee parking to accommodate activities and operations proposed. Parking requirements will be in accordance with City code.
2. Such facility shall meet FBMA Architectural and Building Design Standards, NFPA requirements, Florida Building Codes, and all applicable City Building Ordinances including restroom and properly sized paved aircraft apron.
3. May provide properly lighted, air-conditioned, and heated office space.
4. Shall provide and have based on its premises, owned or leased by and under exclusive control of the SASO, a minimum of one airworthy aircraft, suitably equipped for, and meeting all the requirements of the FAA and applicable regulations of the State of Florida with respect to the type of operations to be performed.
5. Shall provide evidence of all applicable FAA and other government agency certificates for services being provided.
6. Shall have in its employ or under contract and on duty as required during operating hours trained personnel in such numbers as may be required to meet the Minimum Standards in a safe and efficient manner, but no less than one properly FAA certified and qualified pilot properly rated for the aircraft to be used and the type of operation to be performed.
7. Shall maintain appropriate hours of operation sufficient to meet public demand or provide a point of contact telephone communication capability for the public desiring to utilize the SASO services.
8. In the case of crop-dusting or aerial application, the SASO shall make suitable arrangements and have such space available in its leased area for the safe loading and unloading and storage and containment of noxious chemical materials and that it is properly licensed by the Florida Department of Agriculture for aerial application in the State of Florida.
8. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

NOTE: With prior permission of the City, some requirements above may be satisfied by a sublease of such space from an existing SASO or FBO or through an aeronautical operator agreement for existing

facilities, if available, from the City. See Section 1.07 regarding subleasing.

4.11 SASO – INDEPENDENT AERONAUTICAL OPERATOR

An independent aeronautical operator SASO requires the use of an aircraft to conduct its commercial aeronautical activity at FBMA, however, the independent aeronautical operator does not have commercial tenancy on FBMA. This SASO provides a single-service aeronautical activity on FBMA and may include, but is not limited to, sightseeing; flight instruction; aerial advertising; aerial photography, mapping, or survey; power line or pipeline patrol; firefighting or fire patrol; fish spotting; airborne mineral exploration; aerial ambulance; aircraft broker/dealer; aircraft rental; aircraft charter.

The City recognizes that certain commercial aeronautical operations do not always interface directly with the public and, therefore, do not necessarily require public facilities to satisfactorily conduct business. In some cases the only FBMA requirement is access to the airport or a tie down space since all other activities of the business are normally conducted off the airport. Such a provider must obtain an annual Airport Operating Permit from the City to conduct such business on FBMA. In no case shall a City owned t-hangar or bulk row storage hangar be used to operate a commercial operation on FBMA. However a properly permitted independent aeronautical operator SASO may use such hangar for aircraft storage only. An independent aeronautical operator SASO may also sublet from a FBO or SASO with approval of the City and payment of appropriate fees for the privilege to operate a commercial operation on FBMA. See Section 1.07 regarding subleasing.

A person holding a current FAA flight instructor certificate, who gives occasional flight instruction (does not advertise or proactively make available flight instruction) to an aircraft owner in the aircraft owner's aircraft, shall not be deemed a commercial aeronautical operator.

Minimum Standards:

1. Except as otherwise noted previously herein, this SASO shall have a permit or agreement with the City of Fernandina Beach for the privilege to operate their commercial aeronautical activity on FBMA. Such agreement is in addition to any possible subtenant status to another SASO or FBO.
2. Shall provide equipment and services required to meet the Minimum Standards as herein described elsewhere in Section 4 for the category of aeronautical activity the SASO is performing.
3. Shall comply with the aircraft requirements, including the equipment thereon for each aeronautical service to be performed except multiple uses can be made of all aircraft owned or under lease by the SASO.
4. Shall provide evidence of all applicable FAA or other government agency certificates for the services being provided.
5. Shall have in its employ or under contract and on duty as required during operating hours trained personnel in such numbers as may be required to meet the Minimum Standards in a safe and efficient manner for each aeronautical service the SASO is performing as herein provided. Multiple responsibilities may be assigned to meet the personnel requirements for each aeronautical service being performed by the SASO.
6. For any SASO who do not post regular operating hours shall provide a point of contact telephone communication capability for the public desiring to utilize the SASO services.
7. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

4.12 SASO – INDEPENDENT SERVICE PROVIDER

An independent service provider SASO is a person or entity on FBMA that does not require an aircraft and does not operate from owned or leased property on FBMA. Examples of independent service

provider include but are not limited to: certified mechanics and inspectors, aircraft detailers, prop balancing, and oil recyclers.

The City recognizes that certain commercial aeronautical operations do not always interface directly with the public and, therefore, do not necessarily require public facilities to satisfactorily conduct business. In some cases the only FBMA requirement is access to the airport to conduct its commercial aeronautical business. Such a provider must obtain an annual Airport Operating Permit from the City to conduct such business upon FBMA. A properly permitted independent service provider may also sublet from a FBO or SASO with approval of the City and payment of appropriate fees for the privilege to operate a commercial operation on FBMA.

Minimum Standards:

1. Except as otherwise noted previously herein, this SASO shall have a permit or agreement with the City of Fernandina Beach for the privilege to operate their commercial activity on FBMA. Such agreement is in addition to any possible subtenant status to another SASO or FBO.
2. Shall provide evidence of all applicable FAA or other government agency certificates for the services being provided.
3. Shall provide sufficient qualified personnel necessary to meet the Minimum Standards for each aeronautical service provided. However, multiple responsibilities may be assigned to employees where feasible.
4. For any SASO who do not post regular operating hours shall provide a point of contact telephone communication capability for the public desiring to utilize the SASO services.
5. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

4.13 SASO – COMMERCIAL PARACHUTING AND SKYDIVING

A commercial parachuting and skydiving SASO engages in the transportation of persons for skydiving, instruction in skydiving, and rental and sales of skydiving equipment.

Minimum Standards

1. Shall lease sufficient land area, as approved by the City, to provide for all buildings, aircraft parking, paved ramped area, and on-site customer and employee parking to accommodate activities and operations proposed. Parking requirements will be in accordance with City code.
2. Such facility shall meet FBMA Architectural and Building Design Standards, NFPA requirements, Florida Building Codes, and all applicable City Building Ordinances including properly sized paved aircraft apron. Apron shall have tie down capability for all non-hangared aircraft capable of being tied down.
3. The facility shall be properly lighted, air-conditioned, and heated to include office space, floor space for lobby or public waiting area, classroom or suitable accommodation for proper ground school instruction, storage, and public restroom. Also provide telephone availability. Also within the hangar or building should be an area for parachuter rigging.
4. The commercial aeronautical operator shall meet or exceed the Basic Safety Requirements (BSR) of the United States Parachute Association (USPA), FAR Part 105 "Parachute Operations," and related FAA Advisory Circulars.
5. Shall provide suitable space equipped with adequate audio and visual aids for effective ground school instruction. All materials, supplies, and training methods must meet FAA requirements for the type training offered.
6. Shall have available for skydiving, either owned or under written lease to the SASO, at least one properly certificated and equipped aircraft for skydiving.
7. Hours of operation will be at the discretion of the SASO but shall only be daylight hours.
8. Shall have in its employ or under contract and on duty as required during operating hours

trained personnel in such numbers as may be required to meet the Minimum Standards in a safe and efficient manner, but no less than one properly FAA certified and qualified pilot properly rated for the aircraft to be used and the type of operation to be performed.

9. Shall have one appropriately rated jumpmaster.
10. Shall maintain appropriate hours of operation sufficient to meet public demand or provide a point of contact telephone communication capability for the public desiring to utilize the SASO services.
11. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

4.14 FLYING CLUBS

In an effort to foster and promote flying for pleasure, develop skills in aeronautics, including pilotage, navigation, and an awareness and appreciation of aviation requirements and techniques, flying clubs are permitted at FBMA but are subject to these Minimum Standards, the Airport Rules and Regulations, federal, state, and local laws and regulations, and other restrictions as may be set forth in an operating agreement. A flying club qualifies as an individual under the FAA grant assurances. As such, a flying club has the right to fuel and maintain the aircraft of its members. All flying clubs desiring to base their aircraft and operate on FBMA must comply with the applicable provisions of these standards and requirements. However, they shall be exempt from regular commercial aeronautical operator requirements upon satisfactory fulfillment of the following:

Minimum Standards:

1. Shall lease existing property or lease sufficient land area, as approved by the City, to provide all buildings, aircraft parking, paved ramp area, and parking to accommodate activities and operations proposed. Parking requirements will be in accordance with Citycode.
2. Such facility shall meet FBMA Architectural and Building Design Standards, NFPA requirements, Florida Building Codes, and all applicable City Building Ordinances including properly sized aircraft apron. Apron shall have tie-down capability for all non-hangared aircraft capable of being tied down.
3. A flying club shall be a non-profit or not-for-profit entity (corporation, association, or partnership) organized for the express purpose of providing its members with one or more aircraft for their personal use and enjoyment only. The lease or ownership of the aircraft(s) must be vested in the name of the flying club, or owned on a pro rata basis by all of its members. The property rights of the members of the flying club shall be equal and no part of the net earnings of the flying club will inure to the benefit of any member in any form, such as salaries, bonuses, etc. The flying club may not derive greater revenue from the use of its aircraft than the amount necessary for the operations, maintenance, and replacement of its aircraft, facilities, and overhead, if any.
4. Flying clubs may not offer or conduct charter and/or air taxi services, or rental of aircraft operations. They may not conduct aircraft flight instruction except for regular members owning the aircraft, and only members of the flying club may operate the aircraft. Instruction may be given by a certified instructor member of the flying club or a SASO or FBO based on FBMA authorized to provide flight training. Any properly licensed mechanic who is a regular member of the flying club, or a SASO or a FBO based on FBMA authorized to provide maintenance, is permitted to perform maintenance on aircraft owned by the flying club.
5. All flying clubs and their members are prohibited from leasing or selling any goods or services whatsoever to any person or firm other than to a member of such flying club, except that a flying club may sell or exchange its capital equipment for replacement.
6. The flying club shall furnish the Airport Manager a copy of its charter and by-laws, articles of incorporation, association, partnership agreement, or other documentation supporting its existence; evidence of the club's status as a nonprofit organization; roster or list of members,

including names of officers and directors, to be revised on an annual basis; evidence of insurance in the amounts determined by the City; number and type of aircraft; evidence that all aircraft are properly certificated; evidence that ownership of the aircraft to be used are vested in the club; and the operating rules of the club. The books and records of the club shall be available for review at any reasonable time by the City.

7. See Section 1.08 and Appendix B for insurance coverage requirements for this commercial aeronautical activity on FBMA.

Appendix A - Definitions

- **Aeronautical Activity** – Any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted on airports, include, but are not limited to the following: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, aircraft sales and services, aircraft storage, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, parachute or ultralight activities, and any other activities that, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities.

- **Agreement (or Lease)** – A written contract between the City of Fernandina Beach and an entity or person to occupy, use, and/or develop land and/or improvements and engage in aeronautical activity. Such contract shall recite the terms and conditions under which the activity will be conducted at the airport including, but not limited to, term of the agreement, rents, fees, and charges to be paid by the entity or person, and the rights and obligations of the respective parties.

- **Aircraft** – Any contrivance now known or hereafter invented, used, or designed for navigation of or flight in air. Examples of aircraft include, but are not limited to, airplane, glider, rotorcraft (helicopter or gyroplane), balloon, blimp, and ultralight.

- **Aircraft Maintenance** – The inspection, overhaul, repair, preservation, and the replacement of parts. Major repairs include major alterations to the airframe, power plant, and propeller as defined in 14 CFR Part 43 Maintenance, Preventive Maintenance, Rebuilding, and Alteration. Minor repairs include normal, routine annual inspection with attendant maintenance, repair, calibration, or adjustment of aircraft and their accessories.

- **Airport** – All land within the legal boundaries of Fernandina Beach Municipal Airport, owned by the City of Fernandina Beach.

- **Airport Layout Plan (ALP)** – A drawing depicting the physical layout of the airport that identifies the location and configuration of runways, taxiways, buildings, hangars, roadways, utilities, nav aids, etc.

- **Airport Manager** – The individual appointed and authorized by the City of Fernandina Beach to administer and manage all operations of the airport and airport facilities.

- **Airport Operating Permit** – An administrative approval issued by the City of Fernandina Beach (normally not exceeding annually) to a person or entity to conduct an aeronautical or commercial aeronautical activity on the airport.

- **Airport Rules and Regulations** – Rules and Regulations of the airport, properly adopted by Resolution of the City Commission of the City of Fernandina Beach, as may be amended from time to time.

- **Apron (or Ramp)** – A defined area of an airport intended to accommodate aircraft for the purposes of loading and unloading passengers or cargo, refueling, parking, or maintenance.

- **City** – The City of Fernandina Beach, located in Nassau County, Florida

- **Commercial Aeronautical Activity** – An activity which involves, makes possible, or is required for the operation of aircraft, or which contributes to or is required for the safety of aircraft operations commonly conducted on the airport and the purpose of such activity being to generate or secure earnings, income, compensation, services, goods, like-kind exchange, or profit of any kind, whether or not such results are accomplished.

- Commercial Aeronautical Operator – An entity engaging in an activity which involves, compliments, makes possible, or is required for the operation of aircraft, or which contributes to, or is required for the safe conduct and utility of such aircraft operations, the purpose of such activity being to secure earnings, income, compensation, or profit, whether or not such objective or objectives are accomplished. A commercial aeronautical operator may be classified as either a Fixed Base Operator (FBO) or a Specialized Aviation Services Operation (SASO).

- Entity – A person, persons, firm, limited-liability company, corporation, partnership, unincorporated proprietorship, association, or group formed for the purpose of conducting the proposed activity.

- FAA (Federal Aviation Administration) – The federal agency within the Department of Transportation of the United States government that has the responsibility of promoting safety in the air, by both regulation and education.

- FAR (Federal Aviation Regulation) – The federal government rules and regulations governing aviation activity under Code of Federal Regulations – Title 14 Aeronautics and Space.

- Fixed Base Operator (FBO) – A commercial business granted the right by the airport sponsor to operate on an airport and provide aeronautical services such as fueling, hangaring, tie-down and parking, aircraft rental, aircraft maintenance, and flight instruction, etc.

- Flight Training – Any primary use of an aircraft to increase or maintain pilot or crewmember proficiency, rather than the use of an aircraft as transportation between two different airports or other destinations. Flight training shall also include any portion of a flight between two airports or other destinations dedicated to increase or maintain pilot or crewmember proficiency.

- Fuel – Any petroleum product used for the purpose of providing propulsion to an aircraft.

- Lessee – An entity that has entered into an agreement with the City of Fernandina Beach to occupy, use, and/or develop land and/or improvements and engage in aeronautical or commercial aeronautical activities.

- Master Plan – An assembly of appropriate documents and drawings covering the development of the airport from a physical, economical, social, and political jurisdictional perspective and adopted by the City Commission, a copy of which is on file and available for inspection in the Airport Manager's office and any amendments, modifications, revisions, or substitutions thereof. The Airport Layout Plan is a part of the Master Plan.

- Minimum Standards for Commercial Activity (Minimum Standards) – The qualifications, criteria, and standards established by the City of Fernandina Beach as the minimum requirements to be met as a condition for the right to conduct a commercial aeronautical activity on the airport.

- Person – Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic or any other group acting as an entity, or combination of thereof; and further includes any trustee, receiver, committee, assignee, or other representative or employee thereof.

- Regulatory Measures – Federal, state, county, city, and airport laws, codes, ordinances, policies, rules, and regulations, including, without limitation, those of the United States Department of Transportation, the FAA, the FDOT, NFPA, Airport Minimum Standards, Airport Rules and Regulations, all as may be in existence, hereafter enacted, and amended from time to time.

- Repair Station – A certificated aircraft maintenance facility approved by the FAA to perform certain specific maintenance functions. These facilities are certificated under 14 CFR Part 145 "Repair Stations."

- Self-Service – Refers to the refueling, repair, preventative maintenance, towing, adjustment, cleaning, and/or other general services of any aircraft performed by the aircraft owner, or by such direct employee(s) of an aircraft owner with resources supplied by the aircraft owner.

- Shall (or will or must) – These words are always mandatory.

- Specialized Aviation Service Operation (SASO) – A commercial aeronautical entity that offers a single or limited service. These types of companies differ from a FBO in that they typically offer only a specialized aeronautical such as aircraft sales, flight training, aircraft maintenance, aircraft rental, or avionics services for example.

- Subcontract – A written agreement stating the terms and conditions under which a third party

Fernandina Beach Municipal Airport Minimum Standards

person renders aeronautical services or materials on the airport necessary for the performance of another contract at the airport.

- **Sublease** – A written agreement stating the terms and conditions under which a third party person leases space from a Lessee on the airport for the purpose of providing aeronautical services at the airport.
- **Through the Fence** – The right to have direct access to the airport from private property located contiguous to the airport whereby aircraft located on the private property has direct access to the airport's runway and taxiway system.

Appendix B – Insurance Requirements for Commercial Aeronautical Operators

Minimum Standard Insurance Requirements													Appendix B	
Category >>>	Fixed Base Operator	Aircraft Maintenance & Repair Services	Aircraft Component & Support Services	Flight Training	Aircraft Lease/Rental	Aircraft Charter & Air Taxi Services	Aircraft Sales (New and/or Used)	Aircraft Hangar Storage	Aircraft Management Services	Specialized Commercial Flying Services	Independent Aeronautical Operator	Independent Service Provider	Commercial Parachuting & Skydiving	Flying Club
Insurance Requirement v v v														
Airport Liability w ith Combined Single Limit (CSL) including Premise Liability NOTE 1	\$3,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$100,000/ \$300,000 NOTE 5	\$1,000,000	\$1,000,000
Aircraft Liability w ith Combined Single Limit (CSL) including Bodily Injury & Property Damage and per Passenger Sub-limits >=\$100,000 NOTE 1	\$1,000,000	\$1,000,000 NOTE 2	\$1,000,000 NOTE 2	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000 NOTE 2	\$1,000,000 NOTE 2	\$1,000,000	\$1,000,000		\$1,000,000	\$1,000,000
Hangar Keeper's Liability	\$1,000,000 per occurrence	\$500,000 per occurrence	\$500,000 per occurrence	\$500,000 per occurrence NOTE 2	\$500,000 per occurrence NOTE 2	\$500,000 per occurrence NOTE 2	\$500,000 per occurrence NOTE 2	\$500,000 per occurrence	\$500,000 per occurrence NOTE 2	\$500,000 per occurrence NOTE 2	\$500,000 per occurrence NOTE 2		\$500,000 per occurrence NOTE 2	\$500,000 per occurrence NOTE 2
Comprehensive Business Auto Liability w ith Combined Single Limit (CSL) including Hired and Non-ow ned	\$1,000,000 per occurrence	\$1,000,000 per occurrence NOTE 2	\$1,000,000 per occurrence NOTE 2	\$1,000,000 per occurrence NOTE 2	\$1,000,000 per occurrence NOTE 2	\$1,000,000 per occurrence NOTE 2	\$1,000,000 per occurrence NOTE 2	\$1,000,000 per occurrence NOTE 2	\$1,000,000 per occurrence NOTE 2	\$1,000,000 per occurrence NOTE 2	\$1,000,000 per occurrence NOTE 2	\$1,000,000 per occurrence NOTE 2	\$1,000,000 per occurrence	
Workers Compensation and Employers Liability	Statutory Limits as required by Florida law NOTE 2 & 3	Statutory Limits as required by Florida law NOTE 2 & 3	Statutory Limits as required by Florida law NOTE 2 & 3	Statutory Limits as required by Florida law NOTE 2 & 3	Statutory Limits as required by Florida law NOTE 2 & 3	Statutory Limits as required by Florida law NOTE 2 & 3	Statutory Limits as required by Florida law NOTE 2 & 3	Statutory Limits as required by Florida law NOTE 2 & 3	Statutory Limits as required by Florida law NOTE 2 & 3	Statutory Limits as required by Florida law NOTE 2 & 3	Statutory Limits as required by Florida law NOTE 2 & 3	Statutory Limits as required by Florida law NOTE 2 & 3	Statutory Limits as required by Florida law NOTE 2 & 3	
Pollution Liability w ith a Combined Single Limit (CSL)	\$1,000,000													
Student and Renter's Liability	If Applicable			YES	YES						If Applicable		YES NOTE 4	If Applicable

NOTE 1: Airport Liability (including Premises), Hangar Keeper's Liability, and Auto Liability can be covered as part of the Aircraft Liability Policy

NOTE 2: As applicable

NOTE 3: Employers Liability shall be not less than \$100,000 bodily injury by accident, \$100,000 bodily injury by disease, each employee and \$500,000 per occurrence

NOTE 4: Also include individual jumper liability insurance

NOTE 5: Insurance requirement is \$100,000 except for those providers that do actual maintenance on the aircraft w hich has a \$300,000 insurance requirement

EXHIBIT E

FERNANDINA BEACH MUNICIPAL AIRPORT

AIRPORT RULES AND REGULATIONS

Initial Adoption October 1, 1987

Amended July 17, 2007

Amended August 21, 2007

Amended September 2, 2008

Amended December 7, 2010

Prepared By:

City of Fernandina Beach

700 Airport Road

Fernandina Beach, Florida 32034

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Introduction

Fernandina Beach Municipal Airport (FBMA-FHB) is municipally owned and operated by the City of Fernandina Beach, Florida as a General Aviation Reliever Airport. These Airport Rules and Regulations (R&R) are intended to promote the health, safety, interest, and welfare of the public in general and in particular the operators, lessees, tenants, consumers, and users of FBMA, and to promote the safe, orderly, and efficient use of the Airport.

These R&R apply to all users, aeronautical and otherwise, of FBMA property, are not all-inclusive, and reinforce and emphasize federal, state, and local statutes, laws, ordinances, and regulations as well as leases and agreements that may apply (see Appendix A - References). In addition the content of Appendixes A and B attached hereto and made a part hereof shall be adhered to by all users of FBMA. In the event of a conflict between these R&R and a lease or other agreement, the lease or other agreement shall govern. Individual Airport users must adhere to the applicable provisions of these R&R and its attached Appendices, as well as any applicable leases and agreements, and all pertinent federal, state, and local statutes, laws, ordinances, and regulations that may be applicable to their operations.

Violations of the R&R may result in revocation of Airport access privileges, denial of use of the Airport, termination of leases or other agreements, and/or prosecution under applicable laws. Perpetration of violation(s) shall be considered as a factor in renewing or not renewing a violator's application or permit/lease renewal. Use of Airport property without approval or in conflict with these R&R is considered a trespass. Nothing in these R&R is intended to preclude any authorized City personnel from taking other action authorized by law. Section 6 of these R&R provides an appeal process to be followed in the event a user of the Airport is aggrieved by the interpretation and application of the R&R.

These R&R may be amended as required, however, every three years an updated revision should be published.

Section 1 – General

1.1 COMPLIANCE AND RESPONSIBILITIES:

- a. By publication of these R&R, all persons based at FBMA will be deemed to have knowledge of the contents herein. Copies of these R&R will be distributed to all tenants and leaseholders, posted at the Airport, and available through the Airport Manager's office.
- b. Entry upon/into the Airport by any person shall be deemed to constitute an agreement by such person to comply with and be governed by these R&R. All persons employed on or using the Airport shall cooperate with the Airport Manager or his designated representatives to enforce these R&R.
- c. Airport tenants/leaseholders shall be responsible for compliance with all requirements of these R&R applicable to them for their exclusive areas and they shall be held liable for any fines, penalties, or other monetary assessments imposed upon the City by any agency having jurisdiction with respect to any violations involving these areas. Any user, who by their intentional or unintentional action or activity, cause the City to be fined, cited, sued, or charged unnecessary fees/fines, will be responsible for reimbursement of said fines/fees upon demand to the City.
- d. Any permission granted by the Airport Manager or the City under these R&R is conditioned upon the payment of any and all applicable fees and charges established by the City.
- e. Voiding of any particular rule or regulation contained herein shall not affect the validity of the remainder of these regulations.

1.2 EMERGENCY PROCEDURES AND DIRECTIVES:

- a Under emergency conditions, e.g., a natural disaster, the Airport Manager, or designated representative, is empowered to suspend these R&R, or any part thereof, including ordering persons to leave the Airport or portions of the Airport and prevent access to such areas for such time as may be necessary, and to issue such directives and take such actions as is necessary to protect life and property and ensure the safe operation of the Airport. Such directives and actions have the full power of regulation as long as the emergency exists.
- b In the event of an extreme threat, condition, or event the Airport Manager shall have, in his discretion, the authority to close the Airport in its entirety or any portion thereof to air traffic, to prohibit aircraft landing and/or taking off, and may delay or restrict any flight or other aircraft operation.
- c The Airport Manager may also, in his discretion, temporarily close the Airport due to periods of adverse climatic conditions when such action is considered necessary and desirable to avoid endangering persons or property.
- d Under no circumstance shall an authorized Airport closure or restriction constitute grounds for reimbursement of any expense, loss of revenue, or damage incurred by any operator, lessee, or any other entity.

1.3 LIABILITY:

- a The City shall not be responsible for loss, injury, or damage to persons or property by reason of fire, theft, vandalism, wind, flood, earthquake, collision, strikes, war, acts of terrorism, or act of God, nor shall the City be liable for injury to persons while on the Airport.
- b The City, City Commission, Airport, and the Airport Manager, individually and collectively, and their representatives, officers, employees, agents, and volunteers shall be held harmless and shall not be liable for loss, loss of use, damage, or injury to persons or property arising out of any accident, incident, or mishap of any nature whatsoever, or from any cause whatsoever to any individual, aircraft or property occurring on or from the Airport or in the use of any facility situated on Airport property.

1.4 FACILITIES AND PROPERTY:

- a Operational deficiencies regarding buildings, structures, equipment, utilities, or other property owned by the City shall be reported to the Airport Manager so that repairs, as necessary, may be made in a timely manner.
- b No person shall alter, add to, or erect any building or sign on the Airport or make any excavation on the Airport without prior written approval of the City.
- c Any person causing, or responsible for damage to or destruction of Airport property of any kind, including facilities, equipment, real property, fixtures or appurtenances, shall be required to pay the City for the full amount of said damage. Any such damage shall be immediately reported to the Airport Manager.

1.5 OTHER LAWS:

All applicable provisions of Federal Aviation Regulations (FAR), federal, state, and local regulations, laws, statutes, and/or ordinances now in existence or hereafter promulgated are hereby adopted as part of the R&R for FBMA.

1.6 USE AND ENJOYMENT OF AIRPORT PREMISES:

- a All FBMA users are required to abide by applicable federal, state, and local statutes and ordinances regarding personal conduct on Airport property.
- b Any person who causes injury to any person or damages equipment or property on the Airport shall be liable for such injuries and/or damages.
- c All commercial activities shall be conducted in accordance with the FBMA Minimum Standards for Commercial Activities (Minimum Standards).

- d No person may throw, shoot, or propel any object nor shine a light or laser in such a manner as to interfere with or endanger the safe operation of any aircraft taking off from, landing at, or operating on the Airport or any vehicle operating on the Airport.

1.7 ENTRY UPON AND USE OF AIRPORT:

- a Entry into FBMA property shall be through designated gates.
- b All FBMA users shall observe and obey all posted signs, fences, and barricades regarding activities and demeanor while on the Airport.
- c Use of any FBMA facility for other than authorized purposes is prohibited.
- d Nothing herein contained shall be construed to limit the use of any area of the Airport by its employees, approved contractors, or to prevent law enforcement or fire department personnel from acting in their official capacity.
- e No person, except representatives of the press on duty or during official announcements, shall take still, motion, or sound pictures for commercial purposes on non-leasehold Airport property without first obtaining written permission of the Airport Manager.
- f No camping is permitted on FBMA without written permission of the Airport Manager.

1.8 ACCESS TO THE AIRPORT OPERATIONS AREA:

- a No person may, without authorization of the Airport Manager, enter the FBMA Airport Operations Area (AOA) except:
 - 1. Persons under the direct supervision of a tenant or leaseholder
 - 2. Persons or entities and their employees performing aeronautical activities
 - 3. Passengers, under appropriate supervision, who enter for the purpose of enplaning or deplaning an aircraft
 - 4. Visitors to Fixed Base Operations (FBO)
 - 5. Emergency vehicles
- b Except for entry/exit, all ground vehicle gates will be secured. Vehicle operators using an Airport perimeter gate shall ensure the gate closes prior to leaving the vicinity; additionally, should a vehicle operator observe any suspicious vehicles or persons gain (or attempt to gain) access to the airside, they shall notify law enforcement immediately.
- c Persons who have been provided an Airport access device or access code for the purpose of obtaining access to the AOA shall use only Airport issued devices and shall not duplicate or otherwise distribute or disseminate the same to any other person unless the Airport Manager provides written permission.
- d No person shall walk or drive on taxiways or runways without written authorization from the Airport Manager.
- e It shall be the responsibility of a tenant, lessee, or contractor to restrict persons or vehicles to their exclusive use area or leasehold and to establish operating procedures for them, reviewed by the Airport Manager for appropriateness.
- f No one under 16 years of age will be allowed to enter the AOA except under the direct supervision of an adult or unless visiting an FBO.
- g No person shall assist an unauthorized individual in accessing the AOA.

1.9 ANIMALS:

- a Animals, including service animals, are permitted on Airport property only when under the control of their owners/handlers; any waste must be properly collected and removed by the animal's owner/handler
- b No person shall commit any act to encourage the congregation of birds or other animals on the Airport.

1.10 CARGO, MATERIAL STORAGE, AND ABANDONED PROPERTY:

- a Unless otherwise provided for by lease or other contractual agreement, no person, firm, partnership, or corporation, shall use any area of the Airport, including buildings, either

privately owned or publicly owned, for the storage of non-aeronautical related cargo, equipment, or any other property without written permission of the Airport Manager.

- b. Any property, aircraft, or vehicle, determined by the Airport Manager to be abandoned, disabled, or which creates an operations problem, nuisance, security or safety hazard, or which otherwise is placed in an illegal, improper, or unauthorized manner, will be removed, stored, and/or disposed of at the owner's expense. The City shall not be liable for any damage to the property or loss or diminution of value that may be caused by the act of removal.

1.11 FIREARMS AND WEAPONS:

Firearms are allowed on FBMA only as permitted by state and federal statutes.

1.12 ADVERTISING, COMMERCIAL SPEECH, AND SIGNAGE:

- a. No person shall post, circulate, distribute, or display written or printed materials or signs on Airport property or facilities or on motor vehicles and aircraft without prior written permission from the Airport Manager. However persons approved to be on Airport property may use vehicles on Airport property that display advertising, pictures, or written material.
- b. Airport entry signage or signage in public areas of the Airport must meet specifications of City codes and be approved by the Airport Manager.

Section 2 – Aeronautical Operations

2.1 COMPLIANCE WITH ORDERS:

All aeronautical activities at FBMA shall be conducted in compliance with applicable FARs, federal and Florida statutes, and local ordinances, these Rules and Regulations, Minimum Standards, and directives/resolutions, as currently written or as may be amended from time to time.

2.2 HOLD HARMLESS:

The aircraft owner, pilot, agent, or his or her duly authorized representative agrees to release, discharge and hold harmless the City, its City Commission, the Airport, and its employees of and from liability for any damage which may be suffered by any aircraft and its equipment, and for personal injury or death. The use of the AOA and related facilities shall constitute acceptance of the terms of this provision, these R&R and other Airport procedures and operating directives.

2.3 NEGLIGENT OPERATIONS PROHIBITED:

- a. Aircraft operators shall not land; take off; taxi; or park an aircraft on any area that has been restricted to a maximum weight bearing capacity of less than the weight of the aircraft. It shall be the aircraft owner's responsibility to repair any damage to the Airport's runways, taxiways, or aprons caused by excessive aircraft weight loading.
- b. No person shall operate any equipment or device on the Airport that will interfere with any aircraft radio communication frequency or any aircraft navigational aid.

2.4 AIRCRAFT ACCIDENTS/INCIDENTS, AIRWORTHY, DISABLED, AND DERELICT AIRCRAFT:

- a. The owner or operator of any aircraft involved in an accident or incident on the Airport, resulting in any injury or death or damage to property shall immediately notify the appropriate emergency response agencies, the Airport Manager, and other governmental agencies as applicable.
- b. The pilot or owner of an aircraft involved in an accident or incident shall be responsible for all costs associated with the accident or incident, including but not limited to, wreckage removal/disposal, environmental clean up, and repair or replacement of property.
- c. Disabled aircraft shall be removed from runways and/or taxiways as quickly as practicable.

- d. Disabled and derelict aircraft shall not be permitted on the tie-down or ramp areas unless in response to an emergency and with written approval of the Airport Manager.
- e. If the owner of an aircraft fails for any reason to remove a disabled or derelict aircraft from the Airport property as may be requested, the Airport Manager may cause the removal and storage or disposal of such disabled or derelict aircraft at the sole expense of the owner.

2.5 AIRPORT OPERATIONAL AREA RESTRICTIONS:

- a. Unless contrary to federal regulations and/or grant assurances, the City shall have the authority to designate or restrict the use of runways or other operational areas at the Airport with respect to, but not limited to, the following:
 - 1. Experimental Flights (Advance notification to Airport Manager of first flight);
 - 2. Equipment Demonstration;
 - 3. Air Shows;
 - 4. Parachute Operations;
 - 5. Banner Towing Operations (Permit required);
 - 6. Aircraft Type.
- b. No kites, model airplanes, rockets, tethered unmanned balloons, or other objects constituting a hazard to aircraft operations shall be operated on the Airport.

2.6 AIRCRAFT PARKING:

- a. No person shall use any area of the Airport for parking and/or storage of aircraft unless otherwise provided for in a lease or other agreement without the written permission of the Airport Manager. If any person uses unauthorized areas for aircraft parking, the aircraft may be removed by or at the direction of City, at the risk and expense of the owner, without liability for damage that may arise from or out of such removal or storage.
- b. No person shall leave an aircraft parked and unattended on the Airport unless it is in a hangar or properly locked and secured with either wheel chocks and/or tie-down ropes. Owners of such aircraft shall be held responsible for any damage resulting from failure to properly comply with this provision.
- c. Articles left in aircraft are the sole responsibility of the aircraft owner/operator. The City is not responsible for theft or vandalism of said articles.

2.7 STARTING AND RUNNING AIRCRAFT ENGINES:

- a. No aircraft engine will be started or operated inside or taxied from/into any hangar or under the roofline of a hangar, whether said hangar is enclosed or not. This shall not be construed as prohibiting the use of tractors, with National Fire Protection Association (NFPA) approved exhaust systems, when moving aircraft within any hangar.
- b. Starting an aircraft when there is any flammable liquid on the ground in the immediate vicinity is prohibited.
- c. No person may run an engine of an aircraft parked on the Airport in a manner that propeller or jet blast could cause injury to persons, damage to any other property, or in any way hinder the safe operation of the Airport. In no case will the operator of an aircraft block any runway, taxiway, or taxi lane while conducting any maintenance/repair run-up.
- d. No full power aircraft engine run-ups are authorized between 2200 and 0700 hours local for maintenance purposes without written approval of the Airport Manager.

2.8 AIRCRAFT OPERATIONS:

- a. All aircraft operations shall be conducted in accordance with published FARs.
- b. Aircraft operators will familiarize themselves with published local noise abatement guidelines.

2.9 REPAIRING AND MAINTAINING AIRCRAFT:

- a. Aircraft owners, under self-maintenance operations, are permitted to fuel, wash, repair, or otherwise service their owned based aircraft utilizing their own equipment and their own employees, as outlined in FAR Part 43 "Maintenance, Preventative Maintenance, Rebuilding and Alteration" and/or as identified in provisions of written agreement.
- b. Aircraft maintenance or repair is permitted only on paved areas of the Airport.
- c. No aircraft or aircraft component shall be suspended or lifted utilizing the building or any component of the building.

Section 3 – Fire, Safety and Environment

3.1 GENERAL:

- a. All persons using the Airport shall exercise the utmost care to guard against fire and injury to persons and property.
- b. All activities at FBMA shall comply with applicable state, local, and National Fire Protection Association (NFPA) codes and standards now in existence or hereafter promulgated and not in conflict with FARs. All applicable codes, standards, and recommended practices are hereby adopted by reference as part of the R&R of the Airport. In the event of conflict, Florida Statute 633 and NFPA codes and/or FARs shall prevail.
- c. Any fire causing damage, regardless of the size of the fire or whether or not the fire has been extinguished, shall be reported immediately to the Fernandina Beach Fire Department as well as the Airport Manager.

3.2 SMOKING:

Smoking or carrying lighted smoking materials or striking matches or other incendiary devices, such as lighters, are not permitted:

- a. Within 50 feet of parked aircraft and fuel carriers not in motion; within 100 feet of aircraft being fueled or de-fueled, a fuel storage facility, or a flammable liquid spill;
- b. In any area on the Airport where smoking is prohibited by the City or leaseholder by means of posted signs;
- c. In any hangar, shop, or other building in which flammable liquids are stored or used, except in cases where specifically approved smoking areas have been designated for that purpose.

3.3 FIRE EXTINGUISHERS:

- a. All tenants or lessees of hangars, aircraft maintenance buildings or shop facilities shall maintain a minimum of one readily accessible, operable fire extinguisher that shall conform to applicable NFPA standards. Current inspection tags shall be left attached to each unit.
- b. No person shall tamper with any fire extinguisher equipment at the Airport or use the same for any purpose other than fire fighting or fire prevention.

3.4 OPEN FLAME OPERATIONS:

- a. The use of any equipment employing open flames or sparks within any aircraft storage area is prohibited. This excludes open flames utilized by lessees and tenants in the performance of aircraft maintenance approved by agreement.
- b. Lead and carbon burning, fusion gas and electric welding, blow-torch work, engine testing, and all operations involving open flames shall be restricted to the repair shops. During such operations, the shop shall be separated from the storage section by closing all doors and openings to the storage section.

3.5 STORAGE OF MATERIALS:

- a. No operator, tenant, or lessee on the Airport shall keep, store, stack, box, bag, or stock material or equipment in such a manner as to constitute a hazard to persons or property, obstructing any operation, littering, or in such a manner as to create any unsightly appearance.
- b. Storage of materials or equipment except for hoses attached to water spigots shall not be permitted outside buildings or hangars unless under approved sheds, within designated storage areas, or in designated parking areas.

3.6 HAZARDOUS WASTE AND MATERIALS:

- a. No person shall store, keep, handle, use, disperse, discharge, or transport at, in, or upon the Airport any hazardous materials in contravention of any regulatory measures.
- b. No more than five gallons of fuel in a container shall be stored in any building or structure on the Airport at any time. An approved fuel container shall be used at all times.
- c. All empty oil, paint, and varnish cans, bottles, or other containers shall be removed from the Airport in a timely manner and shall not remain on the floor, wall stringers, or overhead storage areas of the hangars, offices, shops, or other buildings and only those hazardous materials used in the maintenance of aircraft, engines, and components may be stored and utilized on the Airport.
- d. No person shall use volatile or flammable substances for cleaning hangar floors, hangars or other buildings on the Airport. Cleaning agents shall meet all federal, state, and local codes, regulations, and permit requirements.
- e. All persons on the Airport shall keep all premises, including floors, leased, or used by them, clean and clear of accumulation of oil, grease, and other flammable material and free of rags, waste materials, or other trash or rubbish or accumulated debris.
- f. Gasoline, oil, and solvent drums or receptacles shall not be stored within aircraft and/or vehicle operating areas nor be in excess of that required as current stock. Such materials shall be kept enclosed and covered in clearly marked and labeled housing.
- g. No person shall use, keep, or permit to be used or kept, any foul or noxious gas or substance at the Airport, or permit or suffer the Airport to be occupied or used in a manner offensive or objectionable to other users by reason of noise, odors, and/or vibrations, or interfere in any way with other occupants or those having business therein.
- h. No volatile substances such as fuels, grease, oil, dopes, acid, flammable liquids, solvents and other cleaning fluids, paints and contaminants of any kind, may be stored inside t-hangars, bulk hangar facilities, or other leased property from the City used for storage of aircraft unless included as part of a rental agreement or lease.
- i. All petroleum products, dopes, paints, solvents, acids, or any other hazardous waste shall be disposed of off the Airport and in compliance with all applicable regulatory measures and shall not be dumped or run into drains, on ramp aprons, catch basins, ditches, sewer systems, storm drains, or elsewhere on the Airport.
- j. No person shall store, keep, handle, use, dispose of, or transport at, in, or upon the Airport any Class A, Class B, or Class C explosives or Class A poison, as defined in the Federal Motor Carrier Safety Administration regulation for transportation of explosives and other dangerous articles, and other poisonous substances, solid, liquid, or gas, compressed gas, and/or radioactive article, substance, or material at such time or place or in such manner or condition that may, or may be likely, to unreasonably endanger persons or property.
- k. Cleaning of aircraft parts and other equipment shall preferably be done with non-flammable cleaning agents or solvents. When the use of flammable solvents cannot be avoided, only liquids having flash points in excess of 100⁰ F shall be used and special precautions shall be taken to eliminate ignition sources in compliance with good practice recommendations of the NFPA.

3.7 DOPING, SPRAY PAINTING, AND PAINTSTRIPPING:

- a. No paint, varnish, or lacquer spraying of aircraft or motor vehicles is permitted inside any building or hangar on the Airport unless such facility was properly designed and constructed for such activity. Hand-held aerosol containers or a small air compressor powered automotive type touch up spray gun not to exceed 7 oz. capacity may be permitted for paint touchup, used outside and in a no wind situation, with the specific written approval of the Airport Manager.
- b. The use of “dope”, cellulose, nitrate, or cellulose acetate dissolved in volatile flammable solvents, within any hangar is prohibited.

3.8 SANITATION AND ENVIRONMENTAL POLLUTION:

- a. Each person while on Airport property shall conduct his/her activities so as to not cause litter, environmental pollution, or unsanitary conditions.
- b. No person shall unnecessarily or unreasonably or in violation of law, cause any smoke, dust, fumes, gaseous matter, or particulates to be emitted into the atmosphere or be carried by the atmosphere. Exceptions include normal emissions from internal combustion engines, jet engines, smoke from cigarettes, cigars, or pipes, or aircraft maintenance activities.
- c. Aircraft may not be washed with running water in hangars.
- d. Any person who experiences overflow or spillage of oil, grease, fuel, or similar contaminants anywhere on the Airport is responsible and shall take appropriate action in the control, containment, clean up, disposal, and rehabilitation of such hazardous spill. Failure to take appropriate action to clean the area shall result in the City providing the cleanup at the expense of the responsible party. If the responsibility for the spill cannot be promptly determined, the leaseholder will be held responsible for the cleanup.
- e. Spills, such as, jet fuel, gasoline, fuel oil, hydraulic oil, motor oil, turbine oil, alcohol, glycol, and all similar chemicals that could be considered hazardous, that covers over 10 feet in any direction or is over 50 square feet in area, continues to flow or is otherwise a hazard to persons or property require notification to the Fernandina Beach Fire Department as well as to the Airport Manager. The spill shall be investigated to determine the cause, to determine whether emergency procedures were properly carried out, and to determine the necessary corrective measures.
- f. In the event of spillage, fuel delivery devices and other vehicles shall not be moved or operated in the vicinity of the spill until the spillage is removed. A fireguard shall be promptly posted to the spill area.
- g. No garbage, empty boxes, crates, rubbish, trash, papers, refuse, and/or other litter of any kind shall be placed, discharged, or deposited on the Airport, including cigarettes, cigars, and matches, except in receptacles specifically provided for such purpose.
- h. The burning of garbage, empty boxes, crates, rubbish, trash, papers, refuse, and/or other litter of any kind is prohibited. With prior written permission of the Airport Manager, Fire Department personnel may engage in training exercises that require controlled burning.
- i. Any person discarding chemicals, paints, oils, batteries, or any products, which may not be discarded in a routine manner, will adhere to all applicable federal, state, and local laws and regulations.
- j. No fuel, grease, oil, dopes, paints, solvents, acid, flammable liquids, or contaminants of any kind shall be allowed to flow into or be placed in any Airport sanitary sewer system or storm drain system.
- k. No person shall dispose of any fill or building, discarded, or waste materials on Airport property except as approved in writing by the Airport Manager and appropriate City authorities.

3.9 ELECTRICAL EQUIPMENT AND LIGHTING SYSTEM:

- a. Extension lights and all portable and mobile lighting equipment used in and around aircraft hangars, shops, buildings, and other areas on or near combustible materials shall be explosion proof and meet NFPA standards. No portable lamp assembly shall be used without a proper protective guard or shield over such lamp assemblies to prevent breakage.
- b. All power operated equipment or electrical devices including hangar interior lights shall be shut off when not in use.
- c. A low current, constant current/constant voltage, or demand type battery charger with a maximum short term output charge rate exceeding seven amps, or a continuous trickle charge rate exceeding two amps, may not be used when an aircraft is located inside or partially inside a hangar.

3.10 HEATING EQUIPMENT:

- a. All heating equipment and fuel burning appliances installed or used on FBMA shall comply with the requirements of the State of Florida and the Florida Fire Prevention Code.
- b. Space heaters may be utilized when attended in hangars so long as the heater has a clear radius of 10 feet from aircraft, or any other object, and fire prevention/safety measures are observed.

Section 4 – Fueling Operations

4.1 GENERAL:

- a. All fuel handled on the Airport shall be treated with due caution and prudent attention with regard to the rights and safety of others so as not to endanger, or likely to endanger, persons or property.
- b. All aircraft fueling operations, including self-fueling, shall be in accordance with NFPA 407 “Standards for Aircraft Fuel Servicing.”
- c. No aircraft shall be fueled or drained of fuel while within the confines of any building, hangar, or enclosed space.
- d. Fueling of aircraft is allowed only on paved surfaces.
- e. In accordance with FAA Order 5190.6B “Airports Compliance Handbook,” any person self-fueling with their own equipment requires authorization and permit from the Airport Manager confirming compliance with all orders, procedures, standards, and these R&R regarding fueling operations.
- f. Airport tenants involved in fueling operations, including those self-fueling, shall maintain an adequate supply of fuel absorbent materials readily available for use in the event of a fuel spill.
- g. No person shall engage in aircraft fueling or de-fueling without readily accessible, adequate, operational fire extinguishing equipment at the point of fueling.
- h. Aircraft being fueled shall be positioned so that aircraft fuel system vents or fuel tank openings are not closer than 25 feet from any terminal building, hangar, or service building.
- i. During fueling operations, no person shall use any material or equipment that is likely to cause a spark or ignition within 100 feet of such aircraft or vehicle.
- j. No aircraft shall be fueled or de-fueled while passengers are on board unless a passenger boarding device is in place at the cabin door of the aircraft, the door is open, and a flight crew member or ground person is at or near the cabin door.
- k. Fueling or de-fueling operations on the Airport shall not be conducted during periods of dangerous thunderstorm activity or if an electrical storm is observed within three statute miles of the Airport.
- l. Should a fire occur during the fueling of an aircraft, fueling shall be discontinued, all emergency valves and dome covers shall be shut down, and the Fire Department notified immediately.

- m. Any malfunction or irregularity detected on or within the aircraft being refueled or de-fueled shall be brought to the attention of the fueling operator immediately.

4.2 ENGINE OPERATIONS:

- a. No aircraft shall be fueled or de-fueled while one or more of its engines are running or is being warmed by external heat.
- b. No person shall start the engine of an aircraft on the Airport if there is any gasoline or other volatile fluid on the ground within the vicinity of the aircraft.
- c. Combustion heaters on aircraft e.g., wing & tail surface heaters, integral cabin heaters, shall not be operated during fueling operations.

4.3 STATIC BONDING:

- a. Each hose, funnel, or apparatus used in fueling or de-fueling aircraft, including self-fueling, shall be maintained in good condition and be properly bonded.
- b. A conductive funnel shall be used to reduce the chance of spillage during fueling operations, when a hose with an approved nozzle is unavailable. When a funnel is used, it shall be kept in contact with the filler neck as well as the fueling nozzle spout during fueling operations.

4.4 LIABILITY:

- a. The fueling operator, tenant, or lessee shall be solely responsible for any violation incident to or in connection with fueling, storage facilities, equipment, operations, and training. The City assumes no liability or responsibility for violations of any applicable fueling requirements and procedures.
- b. The operator, tenant, or lessee shall reimburse the Airport for any fines, legal, or court costs, incurred by FBMA for such violations.

Section 5 – Motor Vehicles

5.1 GENERAL:

- a. All motor vehicles and their operators on the Airport shall comply fully with the State of Florida motor vehicle laws as amended, these R&R, and instructions issued by law enforcement personnel.
- b. Unless otherwise provided herein, the City shall have the authority to establish regulations regarding motor vehicle traffic and control on FBMA.
- c. The Airport Manager may tow, remove, or cause to be removed from the Airport any vehicle that is disabled, abandoned, and/or parked in violation of these R&R at the vehicle operator's risk and expense and without liability for damage that may result from such removal if the vehicle creates a safety hazard or interferes with Airport operations.
- d. Any person causing death or injury on the Airport or damage to Airport property as a result of a motor vehicle accident or incident shall report the accident or incident immediately to the Fernandina Beach Police Department as well as the Airport Manager. Such persons shall be responsible to the City for any damages to City property.
- e. Use of all-terrain vehicles, mini-bikes, go-carts, roller blades, roller skates, skateboards is not permitted on the Airport.
- f. Use of bicycles for transportation between buildings is permitted within hangar areas.

5.2 LICENSING AND INSURANCE:

- a. No person shall operate a motor vehicle or motorized ground equipment on the Airport without a valid operator's license appropriate for the vehicle being operated.
- b. All vehicles entering Airport property are required to have at least the minimum amount of insurance as required by State of Florida statutes.

5.3 VEHICLE OPERATIONS WITHIN AIRPORT OPERATIONS AREA:

- a. No person shall operate a motor vehicle of any kind on the Airport in a reckless manner, or in excess of the posted speed limit.
- b. Speed limits shall not exceed 10 mph on ramps, aprons, in aircraft parking or hangar areas, and other areas of the AOA unless posted.
- c. All motor vehicles on the Airport shall be operated on roadways or paved surfaces when traveling to/from/between aircraft parking areas, hangar areas, and tenant facilities.
- d. No motor vehicle shall be permitted on any portion of the AOA unless the Airport Manager has granted specific written permission to such vehicle's operator and such vehicle is utilized for, or in conjunction with, aeronautical activities.
- e. Pedestrians, aircraft, and emergency vehicles shall at all times have right of way over vehicular traffic.
- f. No person shall operate a motor vehicle in any hangar that is occupied by an aircraft on the Airport unless its exhaust is protected by screens and baffles pursuant to NFPA guidelines.
- g. No person shall park motorized ground equipment near any aircraft in such manner so as to prevent it or the other ground equipment from being readily driven or towed away from the aircraft in case of emergency.
- h. No vehicle used for hauling trash, dirt, or any other materials shall be operated on the Airport unless such vehicle is constructed so as to prevent the contents from dropping, sifting, leaking, or otherwise escaping therefrom.

5.4 VEHICLES CROSSING TAXIWAYS AND RUNWAYS:

- a. All motor vehicles operating on or across taxiways or runways shall have a functioning two-way radio (capable of communicating on UNICOM) and an operating yellow rotating flashing beacon, except when under escort by a motor vehicle properly authorized and equipped. During an emergency, blue/red flashing lights are acceptable for law enforcement and fire and rescue vehicles.
- b. The installation of two-way radio and/or flashing beacon shall not be construed as license to operate a motor vehicle on the taxiways or runways without prior written permission of the Airport Manager.
- c. Motor vehicles permitted to operate on the Airport will not proceed closer than 250 feet from the centerline of the runways nor across any of the runways prior to visually clearing for aircraft taking off or landing.
- d. When parking adjacent to a runway, all motor vehicles must park at least 250 feet to the outside of the runway lights. Exceptions include operational, agricultural, and maintenance equipment engaged in working on runways.
- e. Construction-related motor vehicles required to enter or work within the AOA, will be marked with an approved orange and white-checkered flag for daytime operations or a yellow beacon for nighttime operations. Non two-way radio capable construction vehicles shall be escorted at all times while within the AOA by an Airport authorized vehicle or flagman equipped with two-way radio.

5.5 PARKING:

- a. Short-term (less than 24 hours) motor vehicle parking is available only in the unpaved vehicle parking lot on Airport Road. Long-term (more than 24 hours up to 30 days) parking may be permitted in the paved vehicle parking lot on Airport Road. Any ground vehicle improperly parked in the short term or long term public parking areas without written approval of the Airport Manager may be removed at the owner's expense.
- b. No person may park in such a manner to obstruct a parking lot lane, driveway, roadway, Airport access gate, walkway, crosswalk, fire lane, runway, taxiway, taxi lane, and/or obstruct access to hangars, parked aircraft, and/or parked vehicles or create a hazard nor in a manner, which could interfere with, or create a hazard for aircraft operations.

- c. No person shall use any public parking area to temporarily or permanently store any type of motor vehicle.
- d. Boats, jet skis, snowmobiles, dune buggies, any cars including race cars and antique cars, recreational vehicles, trailers, and like equipment may not be permanently parked or stored on FBMA, including within hangars, unless permitted by written agreement or with written permission of the Airport Manager.
- e. Attended vehicles shall be parked parallel to the t-hangar. One vehicle only may be parked inside a t-hangar when hangar is empty and aircraft is not on the Airport. Additional motor vehicles shall park in long-term parking or other designated areas.
- f. Bulk hangar tenants shall park their motor vehicles in designated areas at their hangar.

5.6 REPAIR OF VEHICLES:

No person shall clean or make any repairs to motor vehicles anywhere on the Airport; except as may be approved by the Airport Manager for minor repairs.

Section 6 – Conflict Resolution Process

6.1 VIOLATIONS:

The Airport Manager may issue verbal or written violation notices to any tenant or operator and agents or employees who, in his discretion, violates any part of these R&R.

6.2 APPEAL PROCESS:

- a. Anyone issued a written notice of violation who wishes to contest such issuance shall have ten (10) calendar days from such notice to provide a written statement to the Airport Manager explaining the occurrence and providing any other information or explanation concerning the alleged violation(s). The Airport Manager has ten (10) calendar days to respond to any request for review based upon information received from the alleged violator and, if applicable, may revise, amend, or rescind his original violation notice. However, should the Airport Manager, in his discretion, conclude that the alleged violation(s) poses a threat to the safety, health, and welfare of others, may temporarily revoke the violator's Airport privileges and/or temporarily suspend the Airport operations of the violator pending completion of such appeal.
- b. An alleged violator may file a written request of appeal to the City Manager within ten (10) calendar days of the Airport Manager's written decision. The City Manager, along with the City Attorney, and an appointee of the City Manager, who shall be a Department Director but not the Airport Manager, shall schedule a meeting to review and hear an appeal from the Airport Manager's decision. The Committee shall hear the appeal and have thirty (30) calendar days to issue a written opinion which shall be final and binding on the alleged violator.

Appendix A

REFERENCES

Code of Federal Regulations – Title 14 Aeronautics and Space – All Chapters, Current Edition
(commonly called Federal Aviation Regulations – FARs)

Code of Federal Regulations – Title 49 Transportation – Current Edition

Aeronautical Information Manual (AIM) - Current Edition

Chapters 1-10, Appendix 3 Abbreviations/Acronyms, Pilot/Controller Glossary

FAA Order 5190.6B – Airport Compliance Handbook

City of Fernandina Beach Code of Ordinances

Nassau County Code of Laws and Ordinances

State of Florida Statutes as applicable including:

Chapter 163 – Intergovernmental Programs

Chapters 329-333 – Aviation

Chapter 633 – Fire Prevention and Control

National Fire Prevention Association Codes as applicable including:

NFPA Code 403 – Standard for Aircraft Rescue and Firefighting Services at Airports

NFPA Code 407 – Standard for Aircraft Fuel Servicing

NFPA Code 409 – Standard on Aircraft Hangars

NFPA Code 410 – Standard on Aircraft Maintenance

NFPA Code 30 – Flammable and Combustible Liquids Code

State of Florida Administrative Code as applicable including:

Department 9 – Department of Community Affairs

Department 14 – Department of Transportation

Department 17 – Department of Environmental Regulation

Department 62 – Department of Environmental Protection

Fernandina Beach Municipal Airport Minimum Standards for Commercial Activities

Fernandina Beach Municipal Airport Noise Abatement Procedures

Aircraft Owners and Pilots Association (AOPA) - AOPA WATCH

Florida Department of Environmental Protection

State of Florida Aviation System Plan

State of Florida Department of Transportation, “Florida (Aviation) Guidelines”

Navy Helicopter Operations MOU

Local Operations MOUs

Appendix B

DEFINITIONS

The terms below shall have the following definitions for purposes of these R&R. All other terms not defined below and related to aeronautical practices, processes, and equipment shall be construed according to their general usage in the aviation industry.

- **Aeronautical Activity** – Any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations. Activities within this definition, commonly conducted on airports, include, but are not limited to the following: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, aircraft sales and services, aircraft storage, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, parachute or ultralight activities, and any other activities that, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities.

- **Agency** – Any federal, state, or local government entity, unit, agency, organization, or authority.

- **Agreement (or Lease or Hangar Rental Agreement)** – A written contract between the City of Fernandina Beach and an entity or person to occupy, use, and/or develop land and/or improvements and engage in aeronautical activity. Such contract shall recite the terms and conditions under which the activity will be conducted at the Airport including, but not limited to, term of the agreement, rents, fees, and charges to be paid by the entity or person, and the rights and obligations of the respective parties.

- **Aircraft** – Any contrivance now known or hereafter invented, used, or designed for navigation of or flight in air. Examples of aircraft include, but are not limited to, airplane, glider, rotorcraft, helicopter or gyroplane, balloon, blimp, and ultralight.

- **Airport** – All land within the legal boundaries of Fernandina Beach Municipal Airport, owned by the City of Fernandina Beach.

- **Airport Manager** – The individual appointed and authorized by the City of Fernandina Beach to administer and manage all operations of the Airport and Airport facilities.

- **Airport Rules and Regulations** – Rules and Regulations of the Airport, properly adopted by Resolution of the City Commission of the City of Fernandina Beach, as may be amended from time to time.

- **Airport Tenant (Tenant)** – Any person or entity based on the property of the Airport possessing an approved lease or agreement with the City; any person or entity with a sublease agreement with an entity based on the Airport possessing a lease or agreement with the City.

- **AOA (Airport Operations Area)** – The area of the Airport situated within the perimeter fence line, which is used primarily for aircraft parking, taxiing, refueling, landing, takeoff, or surface maneuvering.

- **Apron (or Ramp)** – A defined area of an Airport intended to accommodate aircraft for the purposes of loading and unloading passengers or cargo, refueling, parking, or maintenance.

- **City** – The City of Fernandina Beach located in Nassau County, Florida

- **Commercial Aeronautical Activity** – An activity which involves, makes possible, or is required for the operation of aircraft, or which contributes to or is required for the safety of aircraft operations commonly conducted on the Airport and the purpose of such activity being to generate or secure earnings, income, compensation, services, goods, like-kind exchange, or profit of any kind, whether or not such results are accomplished.

- **Emergency Vehicle** – Vehicle of the police or fire department, ambulance or any vehicle conveying an Airport official or Airport employee in response to an official alarm call.

- **Entity** – A person, persons, firm, limited-liability company, corporation, partnership, unincorporated proprietorship, association, or group formed for the purpose of conducting the proposed activity.

Fernandina Beach Municipal Airport Rules and Regulations

- FAA (Federal Aviation Administration) – The federal agency within the Department of Transportation of the United States government that has the responsibility of promoting safety in the air, by both regulation and education.
- FAR (Federal Aviation Regulation) – The federal government rules and regulations governing aviation activity under Code of Federal Regulations – Title 14 Aeronautics and Space.
- Fire Department – Fernandina Beach Fire Department having jurisdiction and responsibility over the Airport.
- Fixed Base Operator (FBO) – A business granted the right by the Airport sponsor to operate on an Airport and provide aeronautical services such as fueling, hangar space, tie-down and parking, aircraft rental, aircraft maintenance, and flight instruction.
- Flammable Liquids – A liquid or agent which when in contact with another property or properties may ignite causing a flame.
- Fuel – Any petroleum product used for the purpose of providing propulsion to an aircraft.
- Fuel Handling – The transporting, delivering, dispensing, storage, or draining of fuel or fuel waste products to or from any aircraft, vehicle or equipment.
- Hazardous Materials – Any substance, waste or material which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous, and is or becomes regulated as a hazardous material by any governmental authority, agency, department, commission, or board.
- Minimum Standards for Commercial Activities (Minimum Standards) – The qualifications, criteria, and standards established by the City of Fernandina Beach as the minimum requirements to be met as a condition for the right to conduct a commercial aeronautical activity on the Airport.
- Motor Vehicle (or Vehicle) – Any device that is capable of moving itself, or being moved, from place to place upon wheels, but does not include any device designed to be moved by muscular power or designed to move primarily through the air.
- NFPA (National Fire Protection Association) – All codes, standards, rules, and regulations contained in the standards of the National Fire Protection Association, as may be amended from time to time, and are incorporated herein by reference.
- Operator (Aircraft or Motor Vehicle) – Any person who is in actual physical control of an aircraft or motor vehicle.
- Operating Directive – Specific written documents detailing approved methods of operations as directed and signed by the Airport Manager. Such will become an addendum of the Airport Rules and Regulations.
- Owner – Any person who holds the legal title of an aircraft or a motor vehicle.
- Permission – A right or approval granted by the Airport Manager under authority delegated by City Manager and/or City Commission.
- Person – Any individual, firm, partnership, corporation, company, association, joint stock association, or body politic or any other group acting as an entity, or combination of thereof; and further includes any trustee, receiver, committee, assignee, or other representative or employee thereof.
- Police Department (or Law Enforcement) – Fernandina Beach Police Department having jurisdiction and responsibility over the Airport.
- Public Area (or Common Area) – The land and/or improvements at the Airport that is available for use on a non-exclusive basis and not controlled by any leasehold.
- Regulatory Measures – Federal, state, county, city, and Airport, laws, codes, ordinances, policies, rules and regulations, including, without limitation, those of the United States Department of Transportation, the FAA, the FDOT, NFPA, Airport Minimum Standards, Airport Rules and Regulations, all as may be in existence, hereafter enacted, and amended from time to time.
- Restricted Area – Any area of the Airport wherein entry or use thereof is restricted to authorized personnel only pursuant to regulatory measures, including but not limited to: runways, taxiways, fire lanes, Airport maintenance facilities, mechanical rooms, electrical vaults, fire breaks, and any of the areas marked as such with appropriate signage.

Fernandina Beach Municipal Airport Rules and Regulations

- Run-up – Aircraft engine operation above normal idle power for purposes other than initiating taxi or takeoff.
- Runway – A defined rectangular surface on an Airport prepared or suitable for the landing or taking off of aircraft. Runways are identified by a broken white centerline, solid white edge lines, and white edge lights.
- Self-fueling or self-service – Self-fueling means the fueling or servicing of an aircraft (i.e. changing the oil, washing) by the owner of the aircraft with his or her own employees and using his or her own equipment. Self-fueling or other self-services cannot be contracted out to another party. Self-fueling implies using fuel obtained by the aircraft owner from the source of his/her preference. As one of many self-service activities that can be conducted by the aircraft owner or operator by his or her own employees using his or her own equipment, self-fueling, differs from using a self-service fueling pump made available by the Airport, a FBO, or an aeronautical service provider. The use of a self-service fueling pump is a commercial activity and is not considered self-fueling as defined herein and can be subject to Minimum Standards. In addition to self-fueling, other self-service activities that can be performed by the aircraft owner with his or her own employees include activities such as maintaining, repairing, cleaning, and otherwise providing service to an aircraft, provided the service is performed by the aircraft owner or his/her employees with resources supplied by the aircraft owner. Title 14 CFR Part 43 permits the holder of a pilot certificate to perform specific types of preventative maintenance on any aircraft owned or operated by the pilot.
- Shall (or will or must) – These words are always mandatory.
- Taxi lane – The portion of the aircraft parking areas used for access between taxiways and aircraft parking positions.
- Taxiway – A defined path established for the taxiing of aircraft from one part of an Airport to another. Taxiways are identified by a solid painted yellow centerline and blue edge lights.
- Tie-down Area – An area paved or unpaved suitable for parking and mooring of aircraft wherein suitable tie-down points are located.
- UNICOM (CTAF) – A two-way communication system operated by a non-governmental entity on a designated radio frequency to provide Airport advisory information while operating to or from an Airport that does not have a control tower or an Airport when the tower is closed. The Common Traffic Advisory Frequency (CTAF) may be a UNICOM, MULTICOM, Flight Service Station (FSS), or a tower frequency and is identified in appropriate aeronautical publications. While not required for operation at Fernandina Beach Municipal Airport, use is strongly encouraged.

CITY OF FERNANDINA BEACH FACILITIES USE AGREEMENT

This FACILITIES USE AGREEMENT (herein after called the AGREEMENT) is made and entered into this 21st day of May, 2019, by and between the CITY OF FERNANDINA BEACH, a Florida municipal corporation, whose address is 204 Ash Street, Fernandina Beach, FL 32034 (herein called "CITY"), and Driving Dynamics, Inc. whose address is 258 Chapman Road, Suite 201, Newark, DE 19702 (herein called "USER").

WHEREAS, CITY owns, controls and operates that certain public facility known as the Fernandina Beach Municipal Airport (herein called "FACILITY"); and

WHEREAS, USER has expressed a desire to use said FACILITY for Advanced Safe Driving Program.

NOW, THEREFORE, the parties agree as follows:

1. USER shall be permitted to use the FACILITY described above for the purpose of conducting its driver training classes during the period September 23 and September 24, 2019 from 8 AM until 5 PM on each day.
2. USER will set up and use the FACILITY on a continuous basis during this period on the remote parking pavement area between Runway 9/27 and Taxiway C (Closed Runway 18/36).
3. USER shall pay CITY the sum of \$925.00 per day for use of FACILITY during the period designated, payable with returning this signed AGREEMENT.
4. As condition to USER's right to use the facilities herein, USER agrees to and shall comply with the following:
 - a. USER shall not exclude any person from its services because of race, sex, age, religion, disability, national origin or other prohibited discrimination.
 - b. USER shall have competent, responsible, and able supervision on the premises at all times that its service is operational.
 - c. USER shall not interfere with emergency operations of CITY or other authorized users of the FACILITY.
 - d. USER shall keep premises in a clean and sanitary condition, and be responsible for cleanup on a daily basis and removal of temporary structures at the site upon completion of the event and returning property to same condition as when received.
 - e. CITY shall have the right, acting through its agents or employees, to enter upon the premise at reasonable hours and times for the purpose of making inspections.
 - f. USER will obtain all required Federal, State, County and City permits including any applicable fees.
 - g. USER shall not undertake any alterations or changes in the construction of the facility premises, without prior written consent of CITY.
 - h. USER agrees to assume liability for and indemnify, hold harmless, and defend the CITY, its commissioners, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, arising directly or indirectly out of or in connection with any negligent and/or deliberate act or omission of USER, its officers, employees, agents, and representatives. USER's liability hereunder shall include all attorney's fees and costs incurred by the CITY in the enforcement of this indemnification provision. This includes claims made by the employees of USER against

the CITY and USER hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Agreement and shall not be limited by the amount of any insurance required to be obtained or maintained under this Agreement. Nothing contained in the foregoing indemnification shall be construed to be a waiver of any immunity or limitation of liability the CITY may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

- i. USER shall not rent, sublet, or assign space in the FACILITY premises without the prior written consent of CITY.
 - j. USER has priority over the portion of the FACILITY as described during the time agreed upon in this AGREEMENT, and can use specified areas during the time of this AGREEMENT.
 - k. CITY reserves the right to cancel this AGREEMENT at any time, without cause, by giving USER 30 days notice of such cancellation.
 - l. USER shall maintain liability insurance, in amounts as deemed necessary and appropriate by the City Attorney, show the CITY as additional insured thereon, and shall provide proof of it to CITY, upon commencement of this AGREEMENT, and thereafter, as required by CITY. USER will provide insurance on all their equipment being used in the FACILITY.
 - m. USER shall, at all times, abide by Federal, State, and local laws, in the operation of its programs or services at the FACILITY. Sale and/or consumption of alcohol not allowed on Airport property unless properly permitted by the City.
5. Term of Agreement: The term of the AGREEMENT is as noted in paragraphs 1 and 2 above, unless terminated sooner.
6. The addresses for giving notices are as follows:

USER: Paula Lanouette, Logistics Manager
258 Chapman Road, Suite 201
Newark, DE 19702

CITY: City of Fernandina Beach
204 Ash Street
Fernandina Beach, FL 32034
Attn: City Manager

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this day and year first above written.

USER: _____

By: Paula Lanouette
Driving Dynamics
Its: Logistics Manager

101 _____
Employer ID #

CITY OF FERNANDINA BEACH

By: _____
Dale L. Martin
Its: City Manager

By: _____
Caroline Best
Its: City Clerk

Approved as to Form and Legality:

Tammi E. Bach, City Attorney



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

09/04/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Dionna Spina
Liberty Insurance Associates, Inc.	PHONE (A/C, No, Ext): (732) 792-7000
525 State Route 33	FAX (A/C, No):
	E-MAIL ADDRESS: dspina@lanet.com
Millstone Twp. NJ 08535	INSURER(S) AFFORDING COVERAGE
	INSURER A: Citizens Insurance of America
	INSURER B: Hanover Insurance
	INSURER C: National Liability & Fire Insurance
	INSURER D:
	INSURER E:
	INSURER F:

COVERAGES

CERTIFICATE NUMBER: 2018-19

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:			ZBY885271507	09/01/2018	09/01/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Included Employee Benefits \$ 1,000,000
C	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS ONLY			70APB002567	07/16/2018	07/16/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 0			UHY878487507	09/01/2018	09/01/2019	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WHY906675206	04/09/2018	04/09/2019	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Fernandina Beach included as additional insured if required in a written contract with our named insured subject to the policy terms and conditions. Attached additional insured form CG2026 07/04, CG2010 07/04 and CG2033 07/04 applies for General Liability.

CERTIFICATE HOLDER

CANCELLATION

Fernandina Beach Municipal Airport 204 Ash Street Fernandina Beach FL 32034	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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The following graphic is an example of how activity at Florida airports generates economic impacts throughout the state.

ACME AIR IS PAID \$1 MILLION TO REPAIR AIRCRAFT

THE MONEY

HOW THE MONEY IS CIRCULATED



\$450,000
DIRECT PAYROLL

Acme Air uses \$450,000 of the \$1 million to pay their workers, including wages and benefits.

\$150,000
TAXES

Acme Air pays \$150,000 of the \$1 million to local, state, and federal taxes.



\$210,000
SUPPLIER PURCHASES

Acme Air pays \$210,000 of the \$1 million to Florida businesses that support their operations, such as machine shops and computer stores.

\$100,000
INDIRECT PAYROLL

\$100,000 of the \$210,000 is paid to workers as wages and benefits.

\$80,000
GOODS/SERVICES

\$80,000 of the \$210,000 is spent on goods and services.

\$30,000
BUSINESS TAXES

\$30,000 of the \$210,000 is paid to business taxes.

\$190,000
LEAKAGE

Acme Air pays \$190,000 of the \$1 million to businesses located outside Florida. This money is expelled from the state economy.



\$110,000
TAXES & SAVINGS

Employees from Acme Air and other in-state businesses use \$110,000 of their earnings on taxes and personal savings.

\$330,000
IN STATE PURCHASES

Employees from Acme Air and other in-state businesses spend \$330,000 of their wages on goods and services at Florida businesses.

\$80,000
INDUCED PAYROLL

Florida businesses pay \$80,000 of the \$330,000 to their workers as wages and benefits.

\$200,000
GOODS/SERVICES

Florida businesses spend \$200,000 of the \$330,000 on goods and services.

\$50,000
BUSINESS TAXES

Florida businesses pay \$50,000 of the \$330,000 to business taxes.

\$110,000
LEAKAGE

\$110,000 is lost to Florida's economy through out of state purchases.

DIRECT PAYROLL & TAXES

\$450,000 **\$150,000**

DIRECT PAYROLL BUSINESS TAXES

SUPPLIER PURCHASES

\$100,000 **\$30,000**

INDIRECT PAYROLL BUSINESS TAXES

INCOME RE-SPENDING

\$80,000 **\$50,000**

INDUCED PAYROLL BUSINESS TAXES

+ Value Added = \$860,000

THE ECONOMIC IMPACT OF

Fernandina Beach Municipal Airport (FHB)



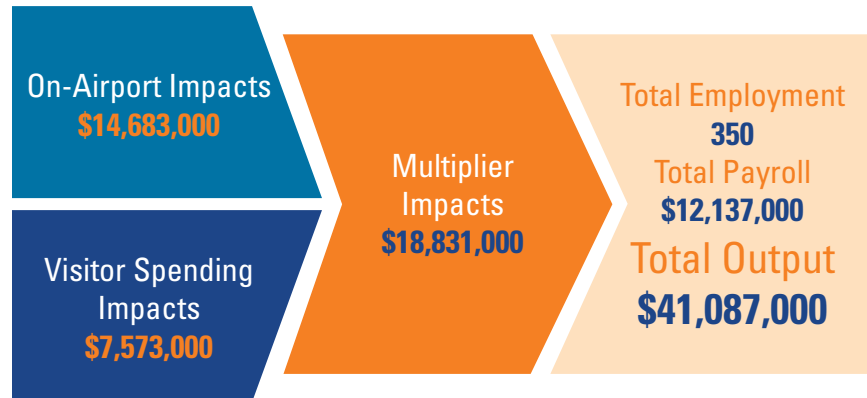
FHB

FDOT

FERNANDINA BEACH MUNICIPAL AIRPORT

Fernandina Beach Municipal Airport is located on Amelia Island, about 23 miles north of downtown Jacksonville. Three runways serve the airport, each more than 5,000 feet long. The airport primarily serves the tourism and business needs of the City of Fernandina Beach and Amelia Island.

The airport is located near multiple high-end beach resorts and hotels, which regularly host business conferences and meetings. Fernandina Beach Municipal Airport provides critical support for the annual Bonhams auto auction and the Concours D'Elegance auto show. These annual events attract visitors from across the world and have a significant economic impact on the island. Businesses at the airport include the fixed base operator (FBO), a skydiving operation, aviation related maintenance and repair businesses, and a hang gliding business. Non-aviation businesses at the airport include the Nassau County Humane Society and the Amelia River Golf Club. Local government also uses airport property as a staging area during and after natural hazard events, and local law enforcement uses the airport for training.



Previous versions of this Study used different terminology to communicate results. The following terms were updated: Direct Impacts changed to On-Airport Impacts and Indirect Impacts changed to Visitor Spending Impacts.

Florida's Statewide Benefits From Aviation

Florida realizes significant economic benefits from aviation. The Florida Department of Transportation completed a comprehensive economic impact analysis to measure these benefits. Benefits measured in the FDOT study considered on-airport impacts, visitor spending impacts, and multiplier impacts.

Florida's 129 public-use airports (including 20 commercial service facilities) are a major economic engine of the State's economy. The aviation system keeps Florida connected to the global marketplace while simultaneously driving local economies. Florida's airports provide space and infrastructure for important activities such as manufacturing, logistics, tourism, and emergency response. Below is a summary of the total statewide economic impact as well as the impact of District 2.

STATEWIDE



DISTRICT 2



For more information regarding the results and methodology of this economic impact study, please visit <https://www.fdot.gov/aviation/economicimpact.shtm>

FLORIDA DEPARTMENT OF TRANSPORTATION

STATEWIDE AVIATION Economic Impact Study



Executive Summary

2019



Executive Summary

THE AVIATION INDUSTRY IS AN

ECONOMIC ENGINE

FOR THE STATE OF FLORIDA

FLORIDA'S STATEWIDE BENEFITS FROM AVIATION

Statewide, the economic impacts of airports consist of four primary categories—On-Airport Activity, Visitor Spending, Industry Reliance, and Military Spending. Together in 2017, these accounted for nearly **\$175 billion** in economic impact for Florida's aviation industry.

On-Airport Activity **\$72,014,206,000**

Visitor Spending **\$90,732,534,000**

Industry Reliance **\$2,281,049,000**

Military Spending **\$9,815,780,000**

Total
Economic
Impact

**\$175
BILLION**

**Totals above may not add due to rounding*

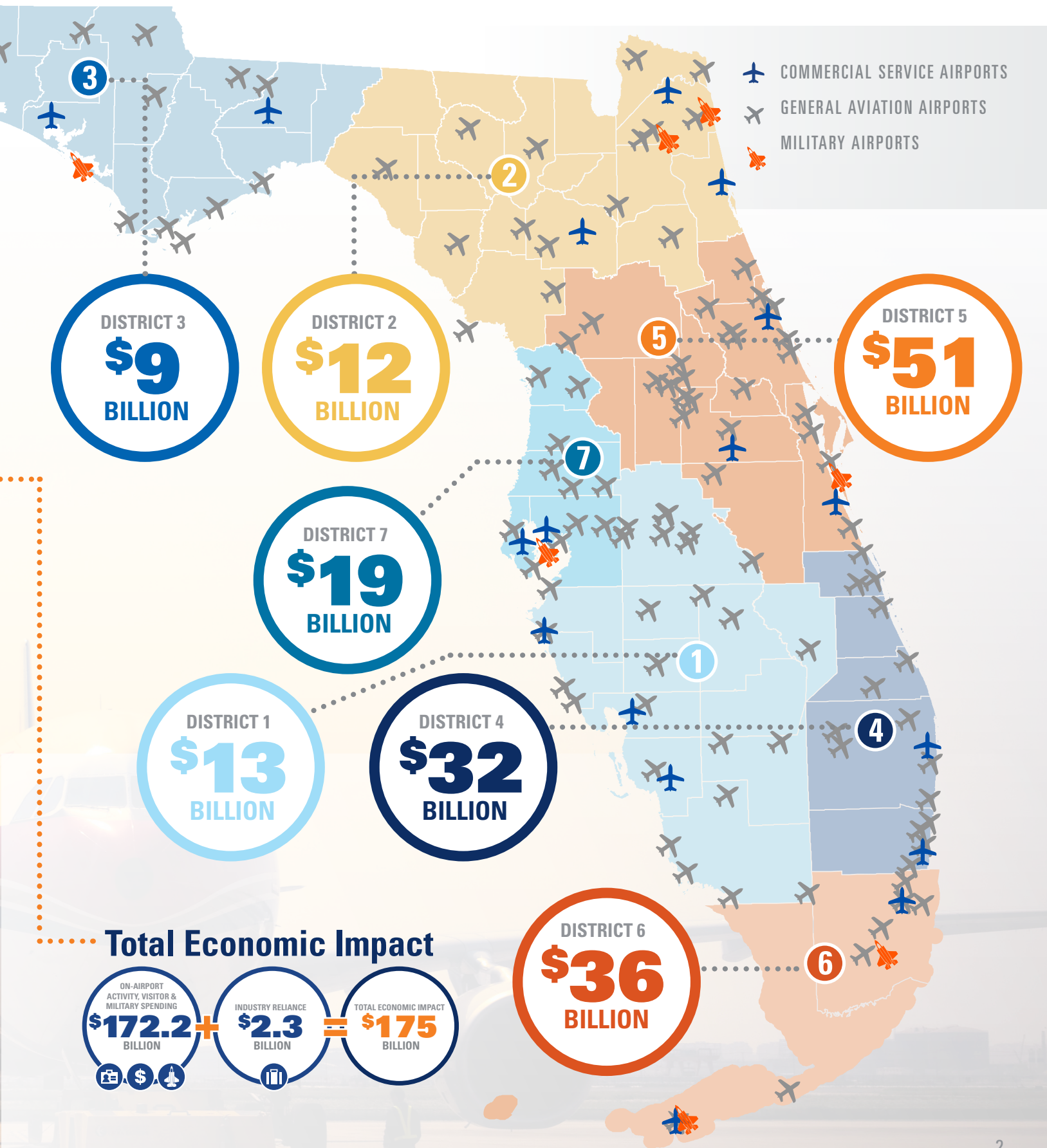
The industry reliance analysis is based on companies identified by airport administration only and is not a statewide assessment of all of the companies in Florida that depend on aviation to conduct business. Multiplier impacts are not calculated. While this approach is very conservative, it is an indicator of how much businesses in Florida depend on aviation.

Florida's airports are vital to daily life and trade. Whether for delivery services, news reporting, personal vacations, or business travel, Floridians rely on the aviation industry to stay connected with each other and economic markets. Florida's extensive aviation system includes 20 public-use commercial service airports, 109 public-use general aviation airports, and hundreds of private airports. These airports support Florida's diverse economy, including tourism, agriculture, aviation and aerospace, and manufacturing, and they are a critical component of essential services such as medical transportation, law enforcement, search and rescue, and disaster response and recovery.

As the link that connects people and businesses, Florida's airports help ensure sustained economic growth.

The state's airports support economic activity by providing access to destinations within the state, throughout the country, and across the globe. Airports also offer significant economic contributions to our communities by supporting jobs, generating income, and triggering spending at the local, regional, and state level.

To understand how Florida's 129 public-use airports contribute to the economy, the Florida Department of Transportation (FDOT) Aviation and Spaceports Office has commissioned the fourth iteration of FDOT's 2019 Statewide Aviation Economic Impact Study (the Study). This study evaluates the impact of the state's aviation system on Florida's economy and supports strategic planning and funding decisions at the state level.



Statewide Impact of Florida's Airports

What is economic impact?

Aviation jobs and commerce on airports create strong economic stimuli for Florida. FDOT periodically conducts the Study to understand the overall role of aviation in supporting the state's economy and to help inform state decision-making.

Several metrics communicate economic impact. Output and the portion of those sales used to pay workers (payroll) drive economic impacts. Output is the total value of goods and services sold, as well as budget expenditures by public entities. Payroll is salaries, wages, profits, and benefits to workers. The third metric is jobs.

To quantify the contribution of Florida's aviation system to the economy, the Study utilizes a variety of primary and secondary data sources and economic modeling techniques. The primary data source was a series of six surveys for airport administration, tenants, visitors, and aviation-reliant businesses to gather key information related to economic metrics. Data were input into Impact Analysis for Planning (IMPLAN), an economic modeling software used to generate the multiplier effect.

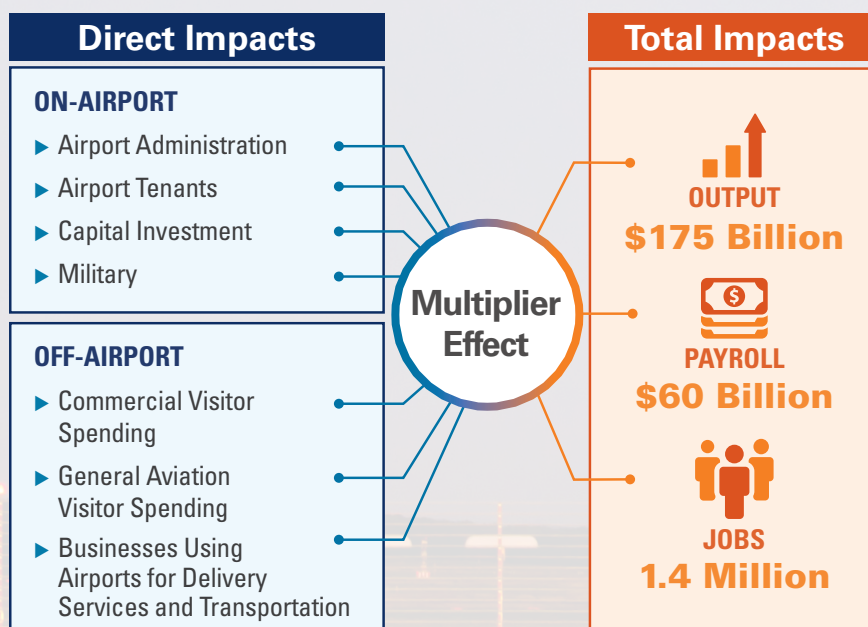
Resulting economic metrics include jobs, payroll, and output for direct impacts, supplier purchases (indirect impacts), and employee spending (induced impacts).



How is economic impact measured?

Direct impacts are related to the provision of aviation services, visitor spending, or the activity of aviation-reliant businesses. Direct impacts of on-airport tenants include the number of persons they employ on the airport, the wages and benefits paid to those workers, and their output. Similarly, the direct impacts of visitors arriving by air transportation include the money they spend on services and goods and the jobs and payroll supported by those expenditures.

Supplier purchases and employee spending (indirect impacts and induced impacts, respectively) are two streams often called multiplier effects. Supplier purchases generate economic impact when directly affected businesses use a portion of direct business revenue to purchase goods and services from other Florida businesses. Employee spending impacts occur when workers who earn income due to direct sales and supplier sales spend their wages in Florida to purchase household goods and services, such as groceries, rent, entertainment, and other goods and services.



ECONOMIC IMPACTS OF ON-AIRPORT ACTIVITY

The economic contribution of airport administration and business tenants and their capital improvements are on-airport economic impacts. While the category is called on-airport activity, supplier purchases and employee spending may be generated off-airport.



**Statewide
On-Airport
Impacts**

\$72B
OUTPUT

\$22B
PAYROLL

393,879
EMPLOYEES



Fixed base operators (FBOs) provide key services on airports such as fueling, hangar storage, tie-downs and parking, aircraft rentals, flight training, and aircraft maintenance, among other similar services.

Florida's airports are often home to emergency medical aviation teams that provide critical services when ambulances cannot quickly reach a location.



**AIRPORT
ADMINISTRATION**
generated
20% (\$14 Billion)
of on-airport output



accounted for
23% (\$5 Billion)
of payroll and

26% (101,033)
of employees

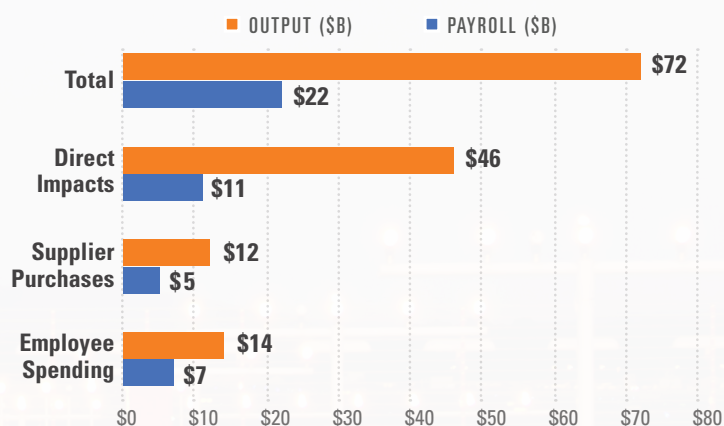
**BUSINESS
TENANTS**
generated
80% (\$58 Billion)
of on-airport output



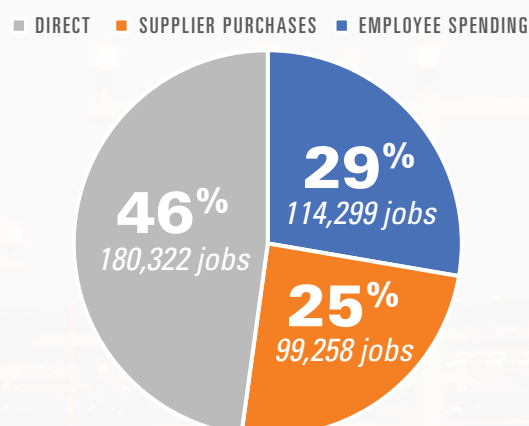
accounted for
77% (\$17 Billion)
of payroll and

74% (292,846)
of employees

ON-AIRPORT OUTPUT AND PAYROLL



ON-AIRPORT JOBS



ECONOMIC IMPACTS OF VISITOR SPENDING

The aviation system is a key supporter of tourism, one of Florida's main industries. According to Visit Florida, over 110 million out-of-state visitors came to Florida in 2017, with more than half arriving by air transportation.

The FDOT Aviation and Spaceports Office conducted a comprehensive survey effort of commercial service and general aviation passengers to gather travel details such as average number of travelers, spending habits, length of stay, destination, and state of origin. Surveyors collected data from international and domestic travelers over a period of several days at most commercial service airports. Posters with a link to online surveys were available at general aviation airports, and surveyors went to select general aviation airports to gather surveys in person as well.

Of the over 5,000 visitors surveyed as part of this study, 77 percent came to Florida for pleasure, 16 percent came for business, and the remainder came for other reasons. Economic impacts are related to visitors' spending on goods and services at hospitality businesses and the jobs and payroll supported by those expenditures.



COMMERCIAL SERVICE OUTPUT

\$86B

GENERAL AVIATION OUTPUT

\$4B

TOTAL OUTPUT

\$91B

92 percent of survey respondents were domestic visitors, while the rest were international visitors

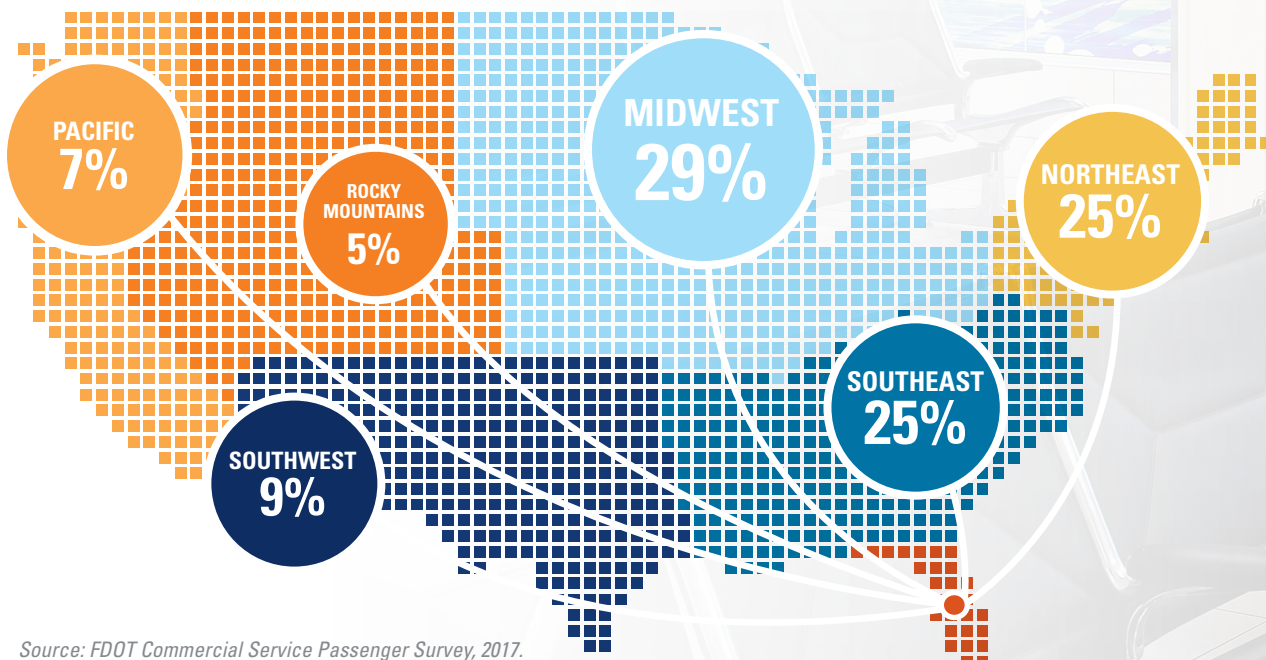
91 percent of the **92 percent** of domestic travelers were from the United States

Visitor spending generated over **\$90 Billion in output** and **\$31 Billion in payroll** for about **894,081 employees**

Five percent of the statewide total output was associated with general aviation visitors, while **95 percent** of the statewide total was due to commercial service passengers

**Totals above may not add due to rounding*

The map below shows where visitors originated from within the United States.



Source: FDOT Commercial Service Passenger Survey, 2017.



ECONOMIC IMPACTS OF INDUSTRY RELIANCE

Airports within the state play a vital role in supporting the state economy by enabling business travel as well as air cargo shipments for Florida-based businesses. Businesses rely on air transportation to conduct long-distance business trips, bring clients and colleagues to Florida, acquire the efficiency of air cargo shipments for inputs to production, or to transport finished goods to customers in domestic and international markets. To quantify this dependence, FDOT asked airport managers to identify businesses that rely on their airport, consisting of companies that base aircraft on airports or are frequent users of commercial or cargo services. Then, surveys were distributed to these companies asking them to indicate the percentage of their revenues considered to rely on air transportation. As presented in Table 1, the percentage of jobs reliant on Florida airports for the top seven industries range from **21 percent** (finance and insurance) to **55 percent** (professional services). These results are based on survey responses, and do not expand the results to the rest of the state economy. However, these results are illustrative of how businesses in Florida rely on aviation to enter long-distance markets and acquire materials to enable production and sales of competitively priced goods.

TABLE 1: ECONOMIC PROFILE OF INDUSTRIES RELIANT ON AVIATION

INDUSTRY	Reliant Jobs	% Total Jobs	Payroll	Output
Construction	5,521	43%	\$255,199,000	\$760,143,000
Finance and Insurance	2,850	55%	\$222,145,000	\$441,477,000
Professional Services	2,492	23%	\$83,379,000	\$200,296,000
Real Estate	1,227	21%	\$95,678,000	\$262,136,000
Retail	741	52%	\$10,947,000	\$124,414,000
Business Services	506	48%	\$14,696,000	\$34,805,000
Manufacturing	728	31%	\$37,225,000	\$119,063,000
All Others	2,155	11%	\$120,600,000	\$338,716,000
TOTAL RELIANCE	16,220	25%	\$839,867,000	\$2,281,049,000

Source: Airport manager survey. Calculations by EDR Group using Bureau of Labor (BLS) and Bureau of Economic Analysis (BEA) data within IMPLAN. Totals may not add due to rounding.

ECONOMIC IMPACTS OF MILITARY SPENDING

Military aviation is a key component of Florida's economy. Due to its geographic location, favorable weather, and over-water airspace, Florida is an ideal location for many military aviation installations. The State of Florida recognizes the importance of military aviation through the Florida Aviation System Plan's (FASP) goal to "Foster Florida's reputation as a military-friendly state."

Military aviation in Florida is a major contributor to the state and local economies, employing more than **108,172 workers** and contributing over **\$9.8 billion** in economic activity in the form of expenditures and payroll. Table 2 summarizes payroll and expenditures for military airports by FDOT District.



TABLE 2: ECONOMIC IMPACTS OF MILITARY SPENDING

District*	Payroll	Expenditures	Total Spending
2	\$1,809,599,000	\$659,848,000	\$2,469,447,000
3	\$3,846,630,000	\$1,046,772,000	\$4,893,403,000
5	\$379,553,000	\$470,946,000	\$850,500,000
6	\$272,351,000	\$311,602,000	\$583,953,000
7	\$273,346,000	\$745,132,000	\$1,018,478,000
STATEWIDE	\$6,581,480,000	\$3,234,300,000	\$9,815,780,000

* The scope of this study does not include any military installations in FDOT Districts 1, 4, and 7.

Source: Department of Defense (DOD) economic impact publications, the Base Closure and Realignment Commission (BRAC), and other state and local economic impact sources developed between 2014 and 2016. Refer to the Statewide Aviation Economic Impact Study Technical Report for a full list of sources. Totals may not add due to rounding.

Executive Summary

TABLE 3: TOTAL IMPACTS BY AIRPORT – COMMERCIAL SERVICE

District #	Airport Name	Associated City	Total Jobs	Total Payroll	Total Economic Impact (Output)
1	Southwest Florida International Airport	Fort Myers	83,290	\$2,846,339,000	\$8,405,324,000
	Punta Gorda Airport	Punta Gorda	12,392	\$418,762,000	\$1,275,088,000
	Sarasota/Bradenton International Airport	Sarasota/Bradenton	12,130	\$465,502,000	\$1,333,583,000
2	Gainesville Regional Airport	Gainesville	2,964	\$113,074,000	\$374,006,000
	Jacksonville International Airport	Jacksonville	26,396	\$993,638,000	\$3,194,422,000
	Northeast Florida Regional Airport	St. Augustine	5,624	\$343,082,000	\$1,472,434,000
3	Northwest Florida Beaches International Airport	Panama City Beach	7,602	\$235,213,000	\$771,907,000
	Pensacola International Airport	Pensacola	11,497	\$397,184,000	\$1,266,616,000
	Tallahassee International Airport	Tallahassee	5,202	\$187,906,000	\$599,879,000
	Destin-Fort Walton Beach Airport	Valparaiso	7,682	\$249,831,000	\$814,149,000
4	Fort Lauderdale/Hollywood International Airport	Fort Lauderdale	156,200	\$6,674,292,000	\$20,803,987,000
	Palm Beach International Airport	West Palm Beach	48,602	\$1,851,444,000	\$5,642,274,000
5	Daytona Beach International Airport	Daytona Beach	6,431	\$242,673,000	\$737,597,000
	Melbourne International Airport	Melbourne	15,059	\$957,793,000	\$2,771,364,000
	Orlando International Airport	Orlando	343,576	\$13,539,181,000	\$41,128,183,000
	Orlando Sanford International Airport	Orlando	21,179	\$818,972,000	\$2,600,786,000
6	Key West International Airport	Key West	7,185	\$296,469,000	\$856,687,000
	Miami International Airport	Miami	263,953	\$11,380,900,000	\$33,195,200,000
7	St. Pete-Clearwater International Airport	St. Petersburg/Clearwater	21,365	\$827,905,000	\$2,579,499,000
	Tampa International Airport	Tampa	121,159	\$4,507,716,000	\$14,451,785,000
TOTAL COMMERCIAL SERVICE AIRPORT IMPACTS			1,179,488	\$47,347,876,000	\$144,274,770,000

▲ *All values presented in 2017 dollars. Sources: Economic Impact Study (EIS) Surveys (Kimley-Horn), 2017; Calculations by EDR Group in 2018 using the 2016 IMPLAN model. Table includes only on-airport activity and visitor spending impacts.



TABLE 4: TOTAL IMPACTS BY AIRPORT – GENERAL AVIATION

District #	Airport Name	Associated City	Total Jobs	Total Payroll	Total Economic Impact (Output)
1	Arcadia Municipal Airport	Arcadia	34	\$1,944,000	\$4,953,000
	Avon Park Executive Airport	Avon Park	70	\$3,537,000	\$9,610,000
	Bartow Municipal Airport	Bartow	1,501	\$75,783,000	\$222,429,000
	Airglades Airport	Clewiston	124	\$5,942,000	\$18,093,000
	Buchan Airport	Englewood	8	\$164,000	\$370,000
	Everglades Airpark	Everglades City	15	\$701,000	\$2,287,000
	Page Field	Fort Myers	3,328	\$135,336,000	\$385,068,000
	Immokalee Regional Airport	Immokalee	247	\$11,517,000	\$39,056,000
	La Belle Municipal Airport	La Belle	68	\$2,342,000	\$7,112,000
	Lake Wales Municipal Airport	Lake Wales	145	\$5,263,000	\$15,296,000
	Lakeland Linder International Airport	Lakeland	4,408	\$203,693,000	\$574,814,000
	South Lakeland Airport	Lakeland	6	\$200,000	\$590,000
	Marco Island Executive Airport	Marco Island	294	\$11,180,000	\$31,709,000
	Naples Municipal Airport	Naples	3,367	\$152,296,000	\$440,173,000
	Okeechobee County Airport	Okeechobee	374	\$13,050,000	\$37,332,000
	Airport Manatee	Palmetto	7	\$235,000	\$706,000
	River Ranch Resort Airport	River Ranch	289	\$20,700,000	\$46,693,000
	Sebring Regional Airport	Sebring	2,649	\$111,457,000	\$368,436,000
	Venice Municipal Airport	Venice	420	\$17,835,000	\$53,577,000
	Wauchula Municipal Airport	Wauchula	23	\$1,004,000	\$3,627,000
2	Jack Browns Seaplane Base	Winter Haven	33	\$757,000	\$1,776,000
	Winter Haven Regional Airport	Winter Haven	622	\$22,029,000	\$66,640,000
	Flying Ten Airport	Archer	1	\$31,000	\$93,000
	George T Lewis Airport	Cedar Key	40	\$1,316,000	\$3,948,000
	Cross City Airport	Cross City	77	\$2,626,000	\$7,955,000
	Fernandina Beach Municipal Airport	Fernandina Beach	350	\$12,137,000	\$41,087,000
	Oak Tree Landing Airport	High Springs	21	\$827,000	\$2,565,000
	Hilliard Airpark	Hilliard	4	\$178,000	\$536,000
	Cecil Airport	Jacksonville	11,084	\$694,250,000	\$2,839,786,000
	Herlong Recreational Airport	Jacksonville	379	\$16,205,000	\$52,471,000
	Jacksonville Executive At Craig Airport	Jacksonville	885	\$33,027,000	\$103,545,000
	Keystone Airpark	Keystone Heights	127	\$6,763,000	\$17,785,000
	Lake City Gateway Airport	Lake City	4,079	\$243,024,000	\$1,004,033,000
	Suwannee County Airport	Live Oak	96	\$3,917,000	\$14,475,000
	Palatka Municipal - Lt Kay Larkin Field	Palatka	207	\$8,192,000	\$29,357,000
	Perry-Foley Airport	Perry	10	\$421,000	\$1,286,000
	Williston Municipal Airport	Williston	1,719	\$78,190,000	\$309,763,000

▲ *All values presented in 2017 dollars. Sources: EIS Surveys (Kimley-Horn), 2017; Calculations by EDR Group in 2018 using the 2016 IMPLAN model. Table includes only on-airport activity and visitor spending impacts.

Executive Summary

TABLE 4 CONTINUED FROM PREVIOUS PAGE

District #	Airport Name	Associated City	Total Jobs	Total Payroll	Total Economic Impact (Output)
3	Apalachicola Regional-Cleve Randolph Field	<i>Apalachicola</i>	133	\$4,387,000	\$13,963,000
	St. George Island Airport	<i>Apalachicola</i>	0	\$11,000	\$35,000
	Calhoun County Airport	<i>Blountstown</i>	37	\$1,539,000	\$5,618,000
	Tri-County Airport	<i>Bonifay</i>	102	\$3,675,000	\$12,168,000
	Carrabelle-Thompson Airport	<i>Carrabelle</i>	6	\$228,000	\$666,000
	Bob Sikes Airport	<i>Crestview</i>	3,056	\$159,345,000	\$755,708,000
	Defuniak Springs Airport	<i>Defuniak Springs</i>	139	\$5,370,000	\$18,216,000
	Destin Executive Airport	<i>Destin</i>	1,309	\$40,856,000	\$144,030,000
	Marianna Municipal Airport	<i>Marianna</i>	317	\$12,945,000	\$44,314,000
	Peter Prince Field	<i>Milton</i>	422	\$11,522,000	\$37,309,000
	Fort Walton Beach Airport	<i>Navarre</i>	4	\$93,000	\$309,000
	Wakulla County Airport	<i>Panacea</i>	0	\$14,000	\$43,000
	Ferguson Airport	<i>Pensacola</i>	89	\$4,729,000	\$17,689,000
	Costin Airport	<i>Port St. Joe</i>	1	\$33,000	\$106,000
	Quincy Municipal Airport	<i>Quincy</i>	27	\$996,000	\$3,327,000
4	Belle Glade State Municipal Airport	<i>Belle Glade</i>	108	\$5,247,000	\$16,422,000
	Boca Raton Airport	<i>Boca Raton</i>	3,055	\$135,203,000	\$433,992,000
	Downtown Fort Lauderdale Heliport	<i>Fort Lauderdale</i>	7	\$278,000	\$713,000
	Fort Lauderdale Executive Airport	<i>Fort Lauderdale</i>	12,708	\$578,721,000	\$2,091,276,000
	Treasure Coast International Airport	<i>Fort Pierce</i>	3,403	\$154,388,000	\$509,649,000
	North Perry Airport	<i>Hollywood</i>	1,163	\$40,254,000	\$119,123,000
	Palm Beach County Glades Airport	<i>Pahokee</i>	201	\$7,559,000	\$22,032,000
	Pompano Beach Airpark	<i>Pompano Beach</i>	1,054	\$44,575,000	\$133,843,000
	Sebastian Municipal Airport	<i>Sebastian</i>	426	\$17,602,000	\$54,268,000
	Witham Field	<i>Stuart</i>	3,222	\$204,932,000	\$786,440,000
	New Hibiscus Airpark	<i>Vero Beach</i>	4	\$147,000	\$395,000
	Vero Beach Regional Airport	<i>Vero Beach</i>	5,522	\$338,820,000	\$1,321,201,000
	North Palm Beach County General Aviation Airport	<i>West Palm Beach</i>	312	\$13,708,000	\$44,910,000
	Palm Beach County Park Airport	<i>West Palm Beach</i>	523	\$22,024,000	\$74,386,000
5	Orlando Apopka Airport	<i>Apopka</i>	8	\$260,000	\$788,000
	Bob White Field	<i>Deland</i>	13	\$509,000	\$1,672,000
	Deland Municipal-Sidney H. Taylor Field	<i>Deland</i>	3,839	\$259,736,000	\$713,705,000
	Marion County Airport	<i>Dunnellon</i>	333	\$13,320,000	\$44,432,000
	Leesburg International Airport	<i>Leesburg</i>	556	\$31,190,000	\$109,522,000
	Merritt Island Airport	<i>Merritt Island</i>	501	\$20,507,000	\$62,551,000
	New Smyrna Beach Municipal Airport	<i>New Smyrna Beach</i>	1,281	\$61,700,000	\$171,903,000

District #	Airport Name	Associated City	Total Jobs	Total Payroll	Total Economic Impact (Output)
5	Ocala International-Jim Taylor Field	Ocala	613	\$22,950,000	\$69,068,000
	Kissimmee Gateway Airport	Orlando	1,576	\$62,280,000	\$190,943,000
	Executive Airport	Orlando	4,537	\$210,216,000	\$622,914,000
	Ormond Beach Municipal Airport	Ormond Beach	426	\$18,654,000	\$56,309,000
	Flagler Executive Airport	Palm Coast	1,343	\$48,744,000	\$150,017,000
	Pierson Municipal Airport	Pierson	9	\$297,000	\$778,000
	Tavares Seaplane Base	Tavares	161	\$9,493,000	\$39,349,000
	Arthur Dunn Air Park	Titusville	76	\$2,856,000	\$8,266,000
	Space Coast Regional Airport	Titusville	826	\$36,844,000	\$120,329,000
	Umatilla Municipal Airport	Umatilla	112	\$5,455,000	\$19,871,000
	Valkaria Airport	Valkaria	435	\$18,460,000	\$58,483,000
6	Homestead General Aviation Airport	Homestead	87	\$3,900,000	\$6,900,000
	The Florida Keys Marathon International Airport	Marathon	785	\$38,537,000	\$106,239,000
	Dade-Collier Training and Transition Airport	Miami	30	\$1,280,000	\$2,428,000
	Miami Homestead General Aviation Airport	Miami	993	\$51,700,000	\$81,300,000
	Miami Seaplane Base	Miami	66	\$3,460,000	\$10,884,000
	Miami-Opa Locka Executive Airport	Miami	6,867	\$388,700,000	\$1,096,800,000
7	Pilot Country Airport	Brooksville	4,431	\$209,061,000	\$780,229,000
	Brooksville-Tampa Bay Regional Airport	Brooksville	3	\$134,000	\$374,000
	Clearwater Air Park	Clearwater	169	\$6,250,000	\$20,449,000
	Crystal River-Captain Tom Davis Field	Crystal River	78	\$2,861,000	\$8,042,000
	Inverness Airport	Inverness	83	\$3,417,000	\$9,657,000
	Plant City Airport	Plant City	327	\$17,858,000	\$38,515,000
	Albert Whitted Airport	St. Petersburg	665	\$26,529,000	\$79,703,000
	Peter O. Knight Airport	Tampa	857	\$47,135,000	\$114,400,000
	Tampa Executive Airport	Tampa	1,297	\$55,122,000	\$147,686,000
	Zephyrhills Municipal Airport	Zephyrhills	629	\$30,360,000	\$106,276,000
	TOTAL GENERAL AVIATION AIRPORT IMPACTS		108,473	\$5,417,045,000	\$18,471,965,000



Case Study Highlights

The FDOT Aviation and Spaceports Office developed ten case studies describing real-life examples of the economic impact that Florida's airports have on their communities. These case studies highlight unique aspects of Florida's aviation industry and provide a qualitative description of how the aviation industry impacts Florida's businesses and communities. A sample of these case studies is below. Other examples include ST Engineering-Aerospace at Pensacola International Airport, Embraer at Melbourne International Airport, Goodyear Blimp at Pompano Beach Airpark, and Skydive City at Zephyrhills Municipal Airport.

ANCHOR TENANTS

LAKE CITY GATEWAY AIRPORT - BIG BUSINESS AT FLORIDA AIRPORTS

Many of Florida's smaller airports often have one or two major anchor tenants that drive economic development and growth. Anchor tenants come in many shapes and sizes and offer a variety of services to the aviation community in Florida. Lake City Gateway Airport is home to HAECO, a maintenance, repair, and overhaul (MRO) provider with four major locations in the U.S. At their Lake City location, HAECO provides airframe services and a strip-and-paint shop. Facilities include over 600 thousand square feet of covered hangars, 1.3 million square feet in ramp area, six MRO hangars, and a paint hangar. Additionally, an expansion of service in 2016 resulted in the addition of over 400 new high-skill, high-paying jobs—located right in Lake City! In partnership with the Columbia County School District and Northeast Florida Education Consortium, HAECO implemented the North Florida Aviation Academy to train a workforce for their Lake City location or for any similar company across the country.

BY THE NUMBERS

1



Pensacola International Airport

ST Engineering-Aerospace is estimated to have created nearly 400 jobs paying \$30,000 to \$58,000 per year

2



Lake City Gateway Airport

HAECO airframe services operation has created over 400 high-skill jobs

3

4

Melbourne International Airport

Embraer's Executive Jets division employs nearly 850 people

5



Pompano Beach Airpark

This airpark is home to one of only three Goodyear blimp bases

Zephyrhills Municipal Airport

Skydive City annually accommodates approximately 70,000 jumps performed by skydivers from 80 countries and all 50 states



MEMORANDUM

TO: AIRPORT ADVISORY COMMISSION

FROM: AIRPORT MANAGER

DATE: April 11, 2019

RE: MONTHLY REPORT

- Following the last AAC meeting, I discussed the airport's architectural standards with the City's planning department. The City planning department executes amendments to land development code twice per year and will be reviewing updates at its next meeting in April. To meet this deadline, I have submitted the revisions that were reviewed/recommended by the AAC, to date, and have told the planning department that we will come back with a follow-up after the T-Hangar exclusivity conversation is complete with any proposed revisions, if necessary. The Planning Advisory Board will review proposed revisions to the architectural standards in its next meeting on Wednesday/10 April. I will attend to help the discussion as the group reviews the recommended changes we have provided to date.
- Site plans for demolition of the previous FBO office have been completed by Passero. A bid packet has been developed and is in coordination for release. I am awaiting a final piece to be added to the bid packet before release, which is an asbestos and lead test. The results of this test will be reviewed for action, if necessary, and included with the bid packet. The test should be completed within the next week and results returned within a week's time.
- The City Commission approved a proposal from Hi-Lite Airfield Services for re-striping of Runway 13/31 under a grant from FDOT. The grant from FDOT provided \$50,000 in funding with a 20% grant match requirement and was budgeted as such. The proposal from Hi-Lite is under the statewide FDOT Airport Marking Contract, and will obliterate incorrect marking and re-stripe new centerline, threshold, numbers, and lead-in lines. The edge stripe on the runway will be budgeted and completed in a subsequent year. I am awaiting a timeline for completion of this work, and will ensure notice is sent to airport tenants to accompany publication of appropriate closure NOTAMs to complete the work.

- The City and County Property Appraiser have submitted a joint request for consideration by the Attorney General regarding application of ad valorem taxes to airport-owned hangars rented for aircraft storage. I have attached the submitted documents to this report, and will be awaiting feedback or outcome from this review. As a reminder, the City and Property Appraiser agreed to abide by the outcome of this review.
- Mr. David Broughton was recommended for appointment by the AAC to the existing vacancy during its March meeting. This appointment request is scheduled for Commission consideration on Tuesday/April 16th.
- The airport has been finalizing discussions with the FBO for proposal of an addendum to the FBO ground lease and agreement. This addendum will revise the original ground lease area, as was contemplated to occur in the original lease, and cover rental/use of the new terminal facility. The addendum will be passed through the AAC for review prior to City Commission consideration.
- I have received no further correspondence from developers interested in proposing assignment of the Amelia River Golf Course lease. I will ensure that the AAC is informed when I receive additional information regarding any proposal for use of this property.



March 18, 2019

Ashley Moody
Attorney General
Department of Legal Affairs
The Capitol PL 01
Tallahassee, FL 32399-1050

RE: Request for Attorney General Opinion

Dear Attorney General Moody:

I respectfully submit this request for an Attorney General Opinion jointly with counsel, Christopher Woolsey for the Nassau County Property Appraiser, Michael Hickox. Although the City of Fernandina Beach does not agree with Mr. Hickox that bulk hangars and T-Hangars at the Fernandina Beach Municipal Airport are taxable, we mutually agreed to seek your opinion on the matter.

QUESTIONS PRESENTED

1. Whether City-owned and operated bulk hangars and T-Hangars at the Fernandina Beach Municipal Airport are exempt from ad valorem taxation pursuant to the Article VII, Section 3(a) of the Florida Constitution (1968), when spaces inside the hangars are periodically leased directly by the City to private aircraft owners to store airplanes?
2. Whether City-owned and operated bulk hangars and T-Hangars at the Fernandina Beach Municipal Airport are serving a governmental, municipal or public purpose when spaces inside the hangars are periodically leased to private aircraft owners to store airplanes?

FACTS

1. City of Fernandina Beach is a municipal corporation duly-organized under the laws of Florida.
2. City of Fernandina Beach owns and operates the Fernandina Beach Municipal Airport as a general aviation airport and public-use airport as defined by Section 332.004(14), Fla. Stats.
3. City of Fernandina Beach owns and operates bulk hangars and T-Hangars which the City leases for airplane storage located within the aeronautical area, also known as aviation area on the City of Fernandina Beach Airport Layout Plan, dated September 2015, attached as Exhibit "1".



City of Fernandina Beach

Tammi E. Bach

Office of the City Attorney

tbach@fbfl.org

MEMORANDUM OF LAW AND ANALYSIS OF THE PARTIES

1. ATTACHED. The Nassau County Property Appraiser has provided an opinion letter dated March 1, 2019 from his attorney, Christopher Woolsey, Esq. including Facts, Question of Law, and Analysis supporting his position that hangars leased by City for private storage of airplanes are taxable.
2. ATTACHED. The City of Fernandina Beach has provided two (2) opinion letters dated March 11, 2019 and March 15, 2019 from its attorney, Benjamin Phipps, Esq. supporting its position that City-owned hangars leased by City for private storage of airplanes are exempt from ad valorem taxation.

Thank you for your consideration regarding this important issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "TEBach", is written over the printed name.

Tammi E. Bach, J.D., B.C.S.
City Attorney

Board Certified Specialist City, County & Local Government Law

****Attachments**

cc: Mayor and City Commissioners
Dale L. Martin, City Manager
Nathan Coyle, Airport Manager
Pauline Testagrose, Comptroller
Christopher Woolsey, Counsel for Nassau County Property Appraiser



THE PHIPPS FIRM

201 S. Monroe Street, 4th Floor
Tallahassee, FL 32301
(850) 222-7000 - Telephone
(850) 545-1683 - Mobile

Mailing Address:
Post Office Box 1351
Tallahassee, FL 32302-1351

Benjamin K. Phipps
ben@thephippsfirm.com

11 March 2019¹
(via USPS and Email)

Tammi E. Bach, J.D. B.C.S.
City Attorney
City of Fernandina Beach
204 Ash Street
Fernandina Beach, 32034

Re: Opinion Letter/Fernandina Beach Airport

Dear Ms. Bach:

The question has arisen as to the exemption from ad valorem taxation of certain property at the Fernandina Beach Airport. The airport is owned and operated by the City of Fernandina Beach, serving the general aviation needs of the community and area.

Municipal Property Owned and Used By the Municipality is Constitutionally Exempt

Municipal property is exempt from ad valorem tax through constitutional mandate in Article VII, Section 3(a) of the Florida Constitution (1968):

All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation.

As explained by the Supreme Court in *Dept. of Rev. v. City of Gainesville*, 918 So. 2d 250, 255 *et seq.* (Fla 2005), this language, providing tax exemption for municipalities, was added to the constitution, in 1968, and requires that cities be both the owner *and* the user [operator] to qualify for the exemption.

The specific property at the Fernandina Beach Airport ("Airport") on which the Nassau County Property Appraiser and City of Fernandina Beach are seeking clarification are T-hangars. These are structures designed and built to house small aircraft, and the individual T-shaped bays are rented out on a periodic basis. The City of Fernandina Beach owns and operates the Airport, generally, and specifically the T-hangar structures. The periodic leases for the individual bays or

¹ Originally prepared as a memorandum of law and transmitted to City Attorney of the City of Fernandina Beach on 17 December 2018. Reformatted as formal opinion letter on 11 March 2019.

spaces are from the City directly to the aircraft owners. Therefore, the constitutional requirement of both ownership and use have been met in this instance.

Because the owner and user (operator) of the Airport is a municipality, the only remaining question is whether the municipal airport is performing a municipal or public purpose. The answer is as obvious as it seems, but to remove any doubt, an examination of case law reinforces the obvious. Once again, the seminal case dealing with this very question is *City of Gainesville, id.* In that case, the Court recognized **all** traditional municipal activities as being “municipal or public purposes,” and thus exempt under the 1968 Florida Constitution, just as they had been under the 1885 Constitution. The operation of airports is a traditional municipal function.

The *City of Gainesville* case has been recently clarified by the Supreme Court to explain that municipal activities which are associated with transportation and with recreation are the type of “traditional municipal” services that are exempt. *Treasure Coast Marina, etc v. City of Fort Pierce, et al*, 219 So. 3d 793 (Fla. 2017). This case specifically addressed two municipal owned and operated marinas, but the Court’s clarification included parks, golf courses, tennis courts, playgrounds and other recreational facilities. Both the briefs and oral arguments addressed the essential municipal service of parking for all forms of transportation, such as automobile parking lots and slips at a marina. At airports, there are three forms of parking for aircraft: large bulk hangar (unassigned) space, individual T-hangars, and individual tie-down spaces. It seems fairly obvious that parking, at any public airport, for both automobiles and aircraft is part of the governmental service of that airport. Aircraft parking and storage is synonymous with docking vessels in slips at a municipal marina or parking automobiles in a municipal parking garage.

Nathan Coyle, the Fernandina Beach Airport Director, has provided me with a Federal Aviation Authority document listing and defining “Aeronautical Activity.” Aeronautical activity, according to the FAA includes, “Activity within this definition, commonly conducted on airports, include, but are not limited to, the following: general and corporate aviation, air taxi and charter operations, scheduled and nonscheduled air carrier operations, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, aircraft sales and services, **aircraft storage**, sale of aviation petroleum products, repair and maintenance of aircraft, sale of aircraft parts, parachute or ultralight activities, and any other activities that, because of their direct relationship to the operation of aircraft, can appropriately be regarded as aeronautical activities. (Emphasis added). FAA Advisory Circular 150/5190-7, *Minimum Standards for Commercial Aeronautical Activities* (August 28, 2006). A Florida statutory definition under Section 196.012(6), Fla. Stats. (discussed below) includes all aviation and airport operations as being not just municipal or public purposes, but “governmental” as well. The FAA definition provides the most authoritative definition of aeronautical activity which is part of “airport operations.” As such, all real and tangible personal property utilized in performing any of these services are *constitutionally* exempt from taxation when performed by a municipality.

Therefore, all the tests set out in the self-executing constitutional mandate of exemption (Art VII, Sec 3(a)) have been met: the property is owned by the city, used (operated) by the city, and the purpose not only meets, but goes beyond, the “municipal or public purpose” requirement. Airports are a traditional municipal activity and parking for motor vehicles and aircraft are essential to the operation of an airport. In situations where the property in question (at a municipally owned airport) houses any of the services specifically identified and recognized as “airport” or “aeronautical activity”, such property is conclusively exempt and no further

examination is necessary. It is very important to understand that this constitutional exemption is self-executing, as explained in *City of Gainesville, id.*, at 259. This means that there is no need for acting upon administrative legislation for the exemptions to apply. If the property in question is both owned and operated by a municipality, that property is automatically exempt.

Finally, there is a fundamental rule of common law tax policy that comes into play here: exemptions claimed by municipalities (or any governmental entity) come clothed with a presumption favoring the exemption. The Supreme Court in *City of Gainesville, id.* at 256, restated this principle of tax policy: an exemption claimed by any governmental unit is presumed to be legally correct. This is the opposite of the presumption for tax exemptions claimed by private parties. Thus, in this situation of the City of Fernandina Beach's claim of tax exemption, the Property Appraiser's refusal to recognize the exemption is legal error.

Municipal Property Used By A Nongovernmental Lessee May Be Taxable –

Almost all of the case law and scholarly commentary have been focused on whether the municipal exemption established in Section 3(a) of Article VII should apply where the governmental unit leases its property to a private party to perform the municipal service, *i.e.* owned but not used. See, *City of Gainesville id.*, at 260 *et seq.*, and *Sebring "III"*, 718 So. 2d 296 (Fla. 1998). Under this scenario, if the property is leased to a private party who is not conducting governmental functions, the leasehold interest (under §196.199, Fla. Stat.) may be taxable. See *Page v. Fernandina Beach*, 719 So. 2d 107 (1st DCA., 1998). However, by statutory definition (§196.012(6), Fla. Stat.), property leased to a fixed base operator ("FBO") at a public airport is deemed to be performing a governmental function. Accordingly, its leasehold is not subject to tax. This statutory construct has been upheld against an attempted ad valorem assessment in *Nolte v. Paris Air*, 975 So. 2d 627 (4th DCA, 2008). Both FBOs, Paris Air and Sun Aviation, were full service FBOs providing all forms of parking for private aircraft.

An attempt to tax T-hangars at a general aviation airport was denied in *Nikolits v. Runway 5-23, etc.*, 847 So. 2d 1054, (4th DCA, 2003). The only reason Mr. Nikolits was attempting to tax these particular T-hangars was because they had been subleased to a subsidiary of the FBO to construct a T-hangar condominium in which the airplane owners, rather than lease by the month, would buy a single condo (T-hangar space) for the entire multi-year lease term. Mr. Nikolits, the Palm Beach Property Appraiser, conceded that T-hangars leased directly to aircraft owners were exempt, at 1055:

The hangars involved in this case are only a portion of the hangars on the airport property being used by private aircraft owners. The remaining hangars are leased by the fixed base operators to private aircraft owners in return for periodic payments. *The property appraiser concedes the latter are exempt from real property taxes under section 196.012(6), but differentiates . . .* (Emphasis added)

The trial and Fourth District courts both held the specific T-Hangars in question were also exempt. Thus, all hangars rented to aircraft owners by FBOs are exempt.

Obviously, if T-hangars are exempt when leased to the individual airplane owners through an intermediary FBO, they are exempt if the lease is direct from a municipality, without the intermediary FBO. This reasoning applies equally to motor vehicles in parking lots or garages, aircraft at airports, and vessels in a marina. The only difference being that publicly owned parking garages/parking lots and marinas may be taxable with the intervention of a private lessee/operator, while hangars at an airport for "parking" aircraft will always be exempt (under §196.012(6)), with or without a nongovernmental lessee because FBO's are tax-exempt based upon the services they provide that are deemed to serve a governmental, municipal, or public purpose, such as aircraft parking and storage.

If the Nassau County Property Appraiser is operating under the theory that the rental of the hangar space to nonexempt individuals (or their corporate entities) makes those leaseholds taxable, that theory has also been rejected. That was the basis on the attempted taxation of the marina slips at Islamorada which was denied by the Third District. *Islamorada Village, etc. v. Higgs et. al*, 882 So. 2d 1009 (3rd DCA 2003). The holding in that case was recognized and upheld in both *City of Gainesville, id*, and *Treasure Coast Marina, id*.

Conclusion –

All space at a publically owned airport, such as Fernandina Beach Municipal Airport, used for the parking or storage of aircraft is exempt from ad valorem tax. Traditionally, the operation of public airports by any governmental entity is not only a municipal or public purpose, but a governmental one as well. Thus, airports operated by the state or its counties are immune under the fundamental law of sovereignty. Municipal operated airports are not under the shield of sovereignty but are exempt under the mandate of Article VII, Section 3(a) of the Florida Constitution. Case law has specifically recognized T-hangars as part of the immune or exempt venue at public airports. And because the legislature has determined that airports are performing governmental functions, even FBO lessees at airports (meeting that statutory definition) are deemed to be performing governmental services and performing a governmental function.

In summary, the T-hangars at the Fernandina Beach Airport intended for the storage and parking of aircraft are exempt from ad valorem taxation whether rented directly by the City or through an intermediary FBO.

Sincerely,



Benjamin K. Phipps

201 S. Monroe Street, 4th Floor
Tallahassee, FL 32301
(850) 222-7000 - Telephone
(850) 545-1683 - Mobile



Mailing Address:
Post Office Box 1351
Tallahassee, FL 32302-1351

Benjamin K. Phipps
ben@thephippsfirm.com

15 March 2019
(via USPS and Email)

Tammi E. Bach, J.D. B.C.S.
City Attorney
City of Fernandina Beach
204 Ash Street
Fernandina Beach, 32034

Re: Analysis of Hickox Memorandum of Law

Dear Ms. Bach:

I have reviewed the memorandum of law submitted to the Attorney General in support of a request by the Nassau County Property Appraiser for a formal opinion from that office in support of his attempt to tax property owned and used by the City of Fernandina for governmental, municipal and public purposes. The memorandum was prepared by J. Christopher Woolsey, Esq. of the law firm Wood & Stuart in Bunnell:

In Florida, all public airports are owned and operated by some form of local government: cities, counties, or local airport authorities. Counties, as subdivisions of the state, share the state's sovereign immunity, so airports owned and operated by county governments are immune from local ad valorem taxes. The other two types of public airports in Florida are automatically exempt under the Florida Constitution. The exemption (§ 3(a), Art VII) is automatic because it is self-executing. Thus, the entire airport operated by a city or airport authority is automatically exempt so long as the airport is operated by the governmental entity.

The only time any part of a public airport *may be* taxable is when some function or activity is performed by a private entity under a lease from the governmental entity who owns the airport. These private entities are known as "nongovernmental lessees" and their interest in the real property they hold are "nongovernmental leaseholds". The nongovernmental leaseholds may be taxable. The controlling statute imposing a tax on these leaseholds is paragraph 196.199(2)(a), Florida Statutes. It states that nongovernmental leaseholds are exempt from ad valorem taxes, "only when the lessee serves or performs a governmental, municipal, or public purpose or function as defined in s. 196.012(6)."

That statute (§196.012(6)) provides both a broad generalized definition of the term “governmental, municipal, or public purpose” and a number of very specific examples. But first it is critical to understand that the definition only applies to nongovernmental lessees and their leasehold estates. It does not apply to the use by the governmental entity:

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the *lessee* under any *leasehold interest created in property* of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state
· · · (Emphasis added)

The broad, generalized limitation is “a valid subject for the allocation of public funds”. The rest of the subsection is a lengthy set of specific examples. They include the FBO exemption the Nassau County Property Appraiser’s memorandum treats as if it were the exclusive language of the statute. Additional examples in the statute, include the, “aviation, airport, aerospace, and maritime” exemption for airports and seaports; the “convention center” (and numerous similar public gathering venues) exemption; the “spaceport” exemption; and a wordy inclusion in the exemption of property “owned” by an FBO, but which revert to the airport at the end of the lease. (This last provision is a legislative rejection of the ultimate holding in the *Marathon Air Services* case cited in the Nassau County Property Appraiser’s memorandum (“Memorandum”). The Memorandum, nevertheless, correctly cites the case as one upholding the FBO language in 196.012(6).)

There are many cases dealing with whether the purpose or function of a *lessee* is “governmental, municipal, or public”, beginning with *Williams v Jones*, 326 So. 2d 425 (Fla. 1975). That case held that when there is a governmental leasehold, the property must be owned by a governmental entity and used by the nongovernmental lessee for governmental purposes, to qualify the *leasehold* as exempt. The decision adopted the short-hand, *governmental-governmental* to describe such a situation. It is unclear if the Supreme Court intended to eliminate the broader “municipal or public” concept and limit exempt leaseholds to only those performing the much more limited traditional governmental functions, but the subsequent cases seem to have adopted that more narrow construction. All the cases in the Memorandum deal with this more narrow construction applicable to nongovernmental leaseholds. The Memorandum misconstrues the limitation of “governmental-governmental”, to apply to non-lease situations, those where the government itself is performing the service or function – “owned and used”.

When the property in question is owned and used by a municipality, the governing case is the *City of Gainesville*, 918 So. 2d 250 (Fla 2005). As I explained (at length) in my opinion letter, that case addresses the circumstances when the automatic constitutional exemption for cities applies. Since the Constitution does not include the word “governmental”, the Supreme Court examined the term found in the Constitution, “municipal or public purpose”. I have never heard it even suggested that a public airport does not serve a municipal or public purpose.

In addition to expanding the application of the statutory language beyond non-governmental leaseholds, the Memorandum overlooks the statutory acknowledgement of municipal exemption in section 196.199(1)(c). I use the word "acknowledgement" because, as explained, no implementing law can govern a self-executing constitutional grant. Paragraph 196.199(1)(c) does include the word "governmental" but its addition is not a limitation, but a restatement of the obvious. Similarly, subsection (1) extends an exemption to the United States in (1)(a) and the state in (1)(b), both of which are technically immune. The subsection (§196.199(1)) simply provides an overview, or statement, of the law in this context; it does not constitute a legislative grant of exemption.

In summary, the bulk of the statutory interpretation and reliance on case law in the Memorandum are entirely a misapplication of authority. There is no nongovernment leasehold in the property in question. The hangars are for the storage of aircraft at a municipally owned and operated public airport.

While acknowledging that an FBO leasehold is entitled to an exemption under section 198.199(2)(a) and 196.012(6), the Memorandum questions the reasoning behind the *Vero Beach* case. The Memorandum states it is "flawed" and "180 degrees backwards". The reasoning was not flawed, and in fact, is exactly right. Let me explain:

A truly basic concept is that it is bad tax policy for government to tax government, and even worse for the government to tax itself. Citizens should not be forced to pay not only for their government's operations, but also pay a tax imposed on their government by another government. The highest absurdity is to force citizens to pay a tax which their government imposes on itself. Unsurprisingly, our law has developed a presumption to avoid this absurd situation. It is: "while exemptions are construed strictly against a private taxpayer claiming one, exemptions (or immunity) from taxation claimed by a municipality (or state or nation) is strictly construed to favor the exemption (or immunity). See, e.g. *Am.Jur.2d*, *C.J.S. Fla.Jur.2d*, and Judge Thomas Cooley's massive treatise, *The Law of Taxation*.

In Florida, this maxim was first articulated in *Saunders v. City of Jacksonville*, 25 So.2d 648 (Fla. 1946). This involved an attempt to impose an ad valorem tax on electric utility poles and other property situated in Clay County but owned and used by the City of Jacksonville to transmit electric power from its Jacksonville plant into the adjoining county. The Florida Supreme Court stated:

Many of our opinions have been cited to sustain the principle that the exemptions from taxes are frowned upon and each claim should be strictly construed. This rule does not apply where the question is raised by a municipality asserting the exemption by virtue of a statute duly passed pursuant to the Constitution. In the latter case exemption is the rule and taxation is the exception. *City of Eugene v. Keeney*, 134 Or. 393, 293 P. 924.

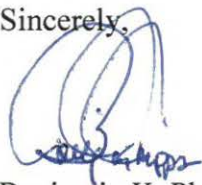
In *Gainesville II*, the Supreme Court affirmed this presumption in Florida, citing a later (than *Saunders*) decision from Pensacola, which dealt with a gross receipt tax on the sale of natural gas by the City. The *Pensacola* case relied on and cited *Saunders*. See also, *Overstreet v. Indian Creek Village*, 239 So.2d 151 (Fla. 1970). So, the latest word on this rule, in *Gainesville II*, is:

Although we have held that statutory provisions granting tax exemptions should be strictly construed, this rule of construction does not apply to exemptions claimed by municipalities. See, *State ex rel. Green v. City of Pensacola*, 126 So.2d 566, 569 (Fla. 1961).

918 So.2d 250, at 256. This is the authority on which the Trial Judge relied which Mr. Woolsley was unable to locate.

In conclusion, the Memorandum is entirely dependent on applying a statute that has no application to the subject here for the Fernandina Beach Municipal Airport, and then relying on case law non-analogous to the facts and legal status at issue.

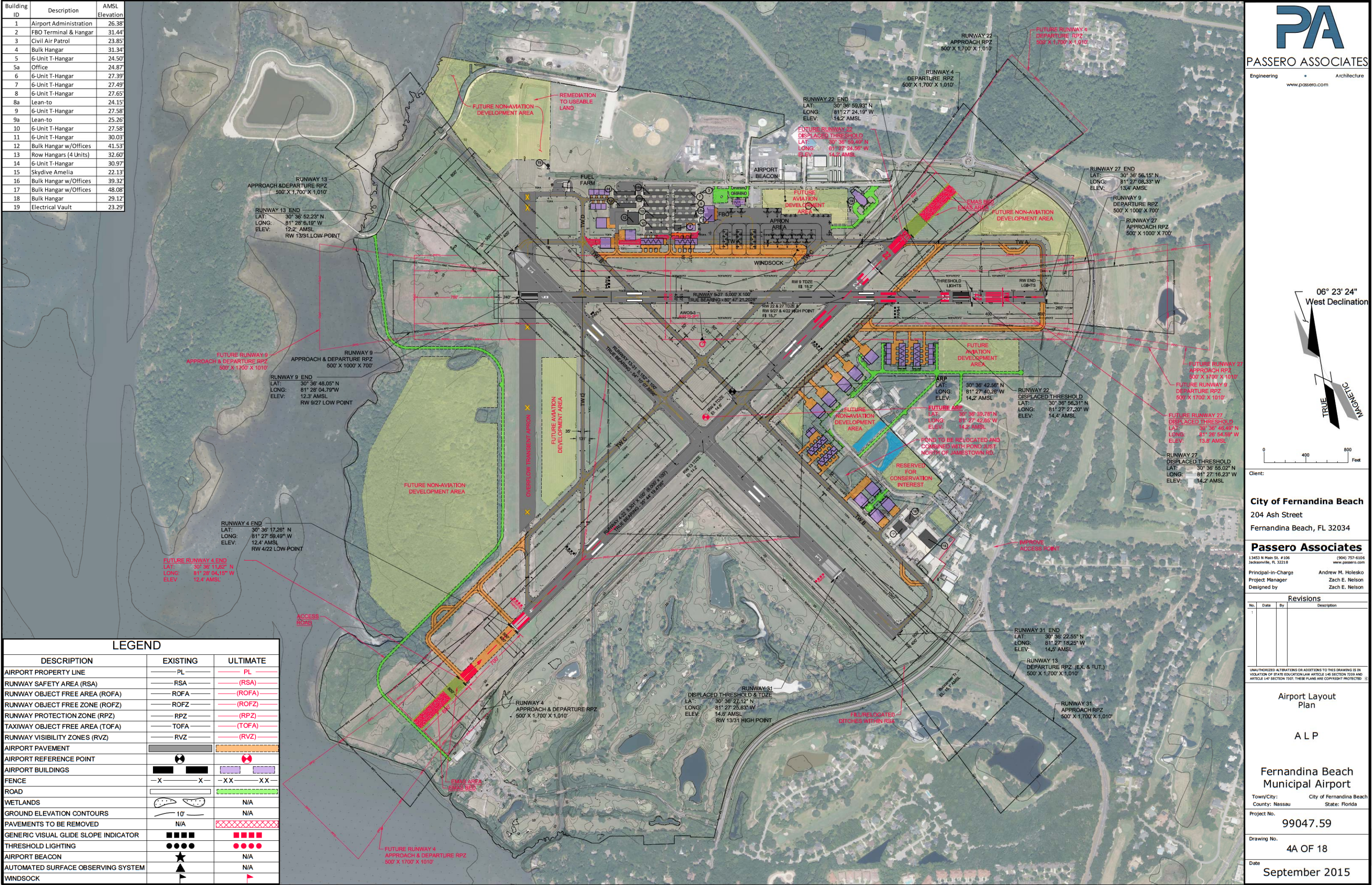
Sincerely,



Benjamin K. Phipps

Building ID	Description	AMSL Elevation
1	Airport Administration	26.38'
2	FBO Terminal & Hangar	31.44'
3	Civil Air Patrol	23.85'
4	Bulk Hangar	31.34'
5	6-Unit T-Hangar	24.50'
5a	Office	24.87'
6	6-Unit T-Hangar	27.39'
7	6-Unit T-Hangar	27.49'
8	6-Unit T-Hangar	27.65'
8a	Lean-to	24.15'
9	6-Unit T-Hangar	27.58'
9a	Lean-to	25.26'
10	6-Unit T-Hangar	27.58'
11	6-Unit T-Hangar	30.03'
12	Bulk Hangar w/Offices	41.53'
13	Row Hangars (4 Units)	32.60'
14	6-Unit T-Hangar	30.97'
15	Skydive Amelia	22.13'
16	Bulk Hangar w/Offices	39.32'
17	Bulk Hangar w/Offices	48.08'
18	Bulk Hangar	29.12'
19	Electrical Vault	23.29'

LEGEND		
DESCRIPTION	EXISTING	ULTIMATE
AIRPORT PROPERTY LINE	— PL —	— PL —
RUNWAY SAFETY AREA (RSA)	— RSA —	— (RSA) —
RUNWAY OBJECT FREE AREA (ROFA)	— ROFA —	— (ROFA) —
RUNWAY OBJECT FREE ZONE (ROFZ)	— ROFZ —	— (ROFZ) —
RUNWAY PROTECTION ZONE (RPZ)	— RPZ —	— (RPZ) —
TAXIWAY OBJECT FREE AREA (TOFA)	— TOFA —	— (TOFA) —
RUNWAY VISIBILITY ZONES (RVZ)	— RVZ —	— (RVZ) —
AIRPORT PAVEMENT		
AIRPORT REFERENCE POINT		
AIRPORT BUILDINGS		
FENCE	- X - X -	- XX - XX -
ROAD		
WETLANDS		N/A
GROUND ELEVATION CONTOURS		N/A
PAVEMENTS TO BE REMOVED	N/A	
GENERIC VISUAL GLIDE SLOPE INDICATOR		
THRESHOLD LIGHTING		
AIRPORT BEACON		N/A
AUTOMATED SURFACE OBSERVING SYSTEM		N/A
WINDSOCK		



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Fernandina Beach, FL 32034

Passero Associates
13453 N Main St. #106 Jacksonville, FL 32218 (904) 757-6106 www.passero.com
Principal-in-Charge: Andrew M. Holesko
Project Manager: Zach E. Nelson
Designed by: Zach E. Nelson

Revisions			
No.	Date	By	Description
1			

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Airport Layout Plan
A L P
Fernandina Beach Municipal Airport
Town/City: City of Fernandina Beach
County: Nassau State: Florida
Project No. **99047.59**
Drawing No. **4A OF 18**
Date **September 2015**

Wood & Stuart, P.A.

Attorneys at Law

Gaylord A. Wood, Jr.
B. Jordan Stuart (1943-2016)
J. Christopher Woolsey

P.O. Box 1987
Bunnell, FL 32110
Telephone (386) 437-9400
Fax: (386) 437-9414

March 1, 2019

Hon. Ashley Moody
Office of the Attorney General
Department of Legal Affairs
The Capitol, PL-01
Tallahassee, FL 32399-1050

Re: Request for Attorney General Opinion: Exemption of Hangars at Fernandina Beach Municipal Airport, leased to private parties for storage only.

Dear Attorney General Moody:

Our office has been engaged by A. Michael Hickox, Nassau County Property Appraiser, to request an Attorney General Opinion addressing whether or not the hangars at Fernandina Beach Municipal Airport should be exempt or taxable, pursuant to Florida law. Because FHB is leasing hangars strictly for storage space, and lessees offer no fixed base operation which offers goods and services to the general aviation public in the promotion of air commerce, we believe that the hangars at FHB are clearly taxable. Our analysis follows.

FACTS

The City of Fernandina Beach owns and leases 48 t-hangar units and four 44 x 41.5 row/bulk hangars on the north side of the Airport. The list of available hangars is available on the FHB website: <https://www.fbfl.us/68/Hangar-Rental>. These are rented to the public at rates of from \$286 to \$508 including sales tax. It is our understanding that the hangars are not used as a Fixed Base Operation (FBO).

A Fixed Base Operator is an entity that provides multiple aeronautical services including aircraft fueling to aircraft owners, airport users, and air port tenants. Only a FBO shall be permitted to sell aviation fuel, lubricants, and other related services to both transient aircraft operations and operations of aircraft based at FHB. The hangars are likewise not permitted to be used for a Specialized Aviation Service Operation (SASO). A SASO is a person or entity that provides a single or limited number of commercial aeronautical services and activities

such as flight training, and shall comply with the Minimum Standards for the specific service or activity prescribed by the City. A SASO may not sell fuel. We understand that the use of the hangars is limited to noncommercial activities, i.e., storage of aircraft.

The Property Appraiser has the hangars on the tax rolls, because the leased hangars offer only storage space.

The City and the Airport claim that this puts FHB at a competitive disadvantage with respect to airports leasing comparable property at competing airports in other counties, where the Property Appraiser does not put the hangars on the tax rolls.

QUESTION OF LAW TO BE ANSWERED

Are hangars located on municipal airport property that are leased to private entities and used solely for storage, being used to perform a governmental, municipal or public purpose or function as contemplated by Article VII, Section 3 of the Florida Constitution, and defined by Section 196.012(6), Florida Statutes.

ANALYSIS

All property is subject to taxation unless expressly exempt and such exemptions are strictly construed against the party claiming them. *Volusia County v. Daytona Beach Racing & Recreational Facilities Dist.*, 341 So.2d 498, 502 (Fla.1976). See also Section 196.001, Florida Statutes (2014). Statutes providing for an exemption from ad valorem tax are to be strictly construed, see *Dade County Taxing Auths. v. Cedars of Lebanon Hosp. Corp.*, 355 So.2d 1202, 1205 (Fla.1978), and any ambiguity is to be resolved against the taxpayer and against exemption, see *Markham v. PPI, Inc.*, 843 So.2d 922, 925 (Fla. 4th DCA 2003). See also *Parrish v. Pier Club Apartments, LLC*, 900 So. 2d 683, 684-5 (Fla. 4th DCA 2005)(strictly construing Section 196.1978, Florida Statutes in a low income housing exemption case).

The foundation for the exemption at issue is found in Article VII, Section 3(a) of the Florida Constitution. "All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation." The Florida Legislature gave effect to this in Section 196.199(2)(a), Florida Statutes:

Leasehold interests in property . . . of municipalities, . . . shall be exempt from ad valorem taxation and the intangible tax pursuant to paragraph (b) only when the lessee serves or performs a governmental, municipal, or public purpose or function, as defined in s. 196.012(6).

While property of counties is immune from taxation, pursuant to *Markham v. Broward County*, 825 So. 2d 472 (Fla. 4th DCA 2002), municipal property is exempt from taxation but can lose that exemption if not used exclusively for municipal or public purposes, *Orlando Utilities Authority v. Milligan*, 229 So. 2d 262 (Fla. 4th DCA 1969). The Supreme Court interpreted the term "municipal or public purpose" for the purpose of Section 196.012(6) in *Williams v. Jones*, 326 So. 2d 425 (Fla. 1975):

The exemptions contemplated under Sections 196.012(5) [now 196.012(6)] and 196.199(2)(a), Florida Statutes, relate to "governmental-governmental" functions as opposed to "governmental-proprietary" functions. With the exemption being so interpreted all property used by private persons and commercial enterprises is subjected to taxation either directly or indirectly through taxation on the leasehold. Thus all privately used property bears a tax burden in some manner and this is what the Constitution mandates.

The Legislature defined the type of municipal airport property that performed a governmental, municipal or public purpose with great specificity, in Section 196.012(6), Florida Statutes:

Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of . . . any municipality, . . . is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is **used for the administration, operation, business offices and activities related specifically thereto in**

connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. Emphasis supplied.

Under the rule of statutory construction, *expressio unius est exclusio alterius*, "when a law expressly describes a particular situation where something should apply, an inference must be drawn that what is not included by specific reference was intended to be omitted or excluded." *Prewitt Management Corp. v. Nikolits*, 795 So. 2d 1001 (Fla. 4th DCA 2001)(citing *Lowe v. Broward County*, 766 So. 2d 1199 (Fla. 4th DCA 2000), rev. den.). By specifying that the use of property for a fixed base operation is a governmental, municipal or public purpose or function, the Legislature intended to exclude other airport uses from entitlement to exemption.

Section 332.03, Florida Statutes, grants municipalities authority to acquire lands and establish airports and other air navigation facilities, and declares these to be a public purpose. This applies to the acquisition and construction of airport facilities, not ad valorem taxation. Application of this statute to the exemption of the subject property from taxation would render Section 196.012(6), Florida Statutes meaningless. It is a cardinal rule of statutory interpretation that courts should avoid readings that would render part of a statute meaningless. See *Forsythe v. Longboat Key Beach Erosion Control Dist.*, 604 So. 2d 452 (Fla. 1992).

There are numerous cases holding publicly-owned land used for fixed base operations is entitled to exemption; see, e.g., *Nolte v. Paris Air, Inc.*, 975 So. 2d 627 (Fla. 4th DCA 2008), *Marathon Air Services, Inc. v. Higgs*, 575 So. 2d 1340 (Fla. 3^d DCA 1991). There are cases holding that publicly-owned airport land used for private, non-aviation, profit-making use is not entitled to exemption. See *City of Bartow v. Roden*, 286 So. 2d 228 (Fla. 2nd DCA 1973).

There are no appellate decisions to provide guidance for the instant case. The circuit court case of *City of Vero Beach v. Nolte*, Case No. 2003-0837-CA19, Final Judgment dated January 30, 2009 did address the issue, and decided the court ruled in favor of exemption of the leased hangars.

Vero Beach v. Nolte is a uniquely flawed decision that is persuasive authority, but not controlling, due to the decision being *per curiam affirmed* by the Fourth DCA. The court's analysis is weakened by basing an incorrect statement of presumptions that apply on a case involving the constitutionality of a statute. The court cited *Florida Department of Revenue v. City of*

Gainesville, 918 So. 2d 250, 258 (Fla. 2005) for the proposition that a city's claim for constitutional exemption is presumed to be correct, and that the Property Appraiser has the burden of overcoming that presumption. There is no such statement at that citation. It is possible that the court in *Vero Beach v. Nolte* was referring to the Supreme Court's citation to *City of Sarasota v. Mikos*, later in the *DOR v. Gainesville* decision, at page 261. "This Court recognized that 'property owned by a municipality is not exempt from taxation if it is used for a private purpose,' but held that 'vacant land held by a municipality is presumed to be in use for a public purpose if it is not actually in use for a private purpose on tax assessment day.'" *DOR v. Gainesville*, 918 So. 2d at 261, internal citations omitted.

If the court in *Vero Beach v. Nolte* was citing *DOR v. Gainesville* for that proposition, the court managed to get it 180-degrees backwards, because the property at issue in that case was not vacant and was being used for a private purpose.

Another circuit court decision is simply distinguishable. See *Federal Express Corp. v. Robert Turner*, Case Number 11-010006-CA13, Order Granting Summary Judgment Plaintiff, Federal Express Corporation's Motions for Summary Judgment, etc. This case addressed whether airport property leased by the Hillsborough County Aviation Authority to FedEx was exempt. The court found that FedEx was one of the largest airlines in the world, and ran a complete, full service air cargo operation from the facility, including maintenance, refueling, and other aspects of being an FBO. The court cited the FBO cases cited *supra* to rule that the property was exempt because FedEx was serving an aviation or airport purpose.

The full service operation of one of the world's largest airlines is a far cry from leasing hangars for storage of private planes, and is much closer to the terms of the statute than simply leasing hangars.

CONCLUSION

If the Legislature intended for such property to be exempt, it needed to spell that out explicitly, as it did in Section 196.012(6), Florida Statutes, by defining FBOs as serving a public purpose. Because it did not do so for other types of the same property, any claim for exemption of such facilities must fail.

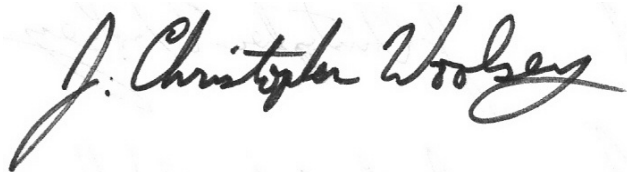
This may very well leave municipal airports in counties in which the property appraiser follows the law at a competitive disadvantage. The solution to the problem is not for property appraisers to unconstitutionally stretch

exemption statutes to make them fit uses the Legislature did not deem public. The solution is to inform property appraisers who are not following the law that they are granting improper exemptions. That is why we request an Attorney General Opinion on this topic.

We have undertaken this request in communication with the City of Fernandina Beach, which has also prepared a Memorandum of Law on the topic.

Thank you for your consideration of this matter. Should you have any questions for me, I will be happy to reply.

Very truly yours,

A handwritten signature in black ink, reading "J. Christopher Woolsey". The signature is written in a cursive style with a large, stylized "J" and "W".

J. Christopher Woolsey
For the firm.

TAB 1

Select Year: 2018 ▼ Go

The 2018 Florida Statutes

[Title XIV](#)
TAXATION AND FINANCE

[Chapter 196](#)
EXEMPTION

[View Entire Chapter](#)

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(1) “Exempt use of property” or “use of property for exempt purposes” means predominant or exclusive use of property owned by an exempt entity for educational, literary, scientific, religious, charitable, or governmental purposes, as defined in this chapter.

(2) “Exclusive use of property” means use of property solely for exempt purposes. Such purposes may include more than one class of exempt use.

(3) “Predominant use of property” means use of property for exempt purposes in excess of 50 percent but less than exclusive.

(4) “Use” means the exercise of any right or power over real or personal property incident to the ownership of the property.

(5) “Educational institution” means a federal, state, parochial, church, or private school, college, or university conducting regular classes and courses of study required for eligibility to certification by, accreditation to, or membership in the State Department of Education of Florida, Southern Association of Colleges and Schools, or the Florida Council of Independent Schools; a nonprofit private school the principal activity of which is conducting regular classes and courses of study accepted for continuing postgraduate dental education credit by a board of the Division of Medical Quality Assurance; educational direct-support organizations created pursuant to ss. [1001.24](#), [1004.28](#), and [1004.70](#); facilities located on the property of eligible entities which will become owned by those entities on a date certain; and institutions of higher education, as defined under and participating in the Higher Educational Facilities Financing Act.

(6) Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. For purposes of the preceding sentence, an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function. Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport as defined in s. [332.004\(14\)](#) by municipalities, agencies, special districts, authorities, or other public bodies corporate and public bodies politic of the state, a spaceport as defined in s. [331.303](#), or which is located in a deepwater port identified in s. [403.021\(9\)](#) (b) and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed to perform an aviation, airport, aerospace, maritime, or port purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose. The use by a

lessee, licensee, or management company of real property or a portion thereof as a convention center, visitor center, sports facility with permanent seating, concert hall, arena, stadium, park, or beach is deemed a use that serves a governmental, municipal, or public purpose or function when access to the property is open to the general public with or without a charge for admission. If property deeded to a municipality by the United States is subject to a requirement that the Federal Government, through a schedule established by the Secretary of the Interior, determine that the property is being maintained for public historic preservation, park, or recreational purposes and if those conditions are not met the property will revert back to the Federal Government, then such property shall be deemed to serve a municipal or public purpose. The term “governmental purpose” also includes a direct use of property on federal lands in connection with the Federal Government’s Space Exploration Program or spaceport activities as defined in s. 212.02(22). Real property and tangible personal property owned by the Federal Government or Space Florida and used for defense and space exploration purposes or which is put to a use in support thereof shall be deemed to perform an essential national governmental purpose and shall be exempt. “Owned by the lessee” as used in this chapter does not include personal property, buildings, or other real property improvements used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed based operation which provides goods and services to the general aviation public in the promotion of air commerce provided that the real property is designated as an aviation area on an airport layout plan approved by the Federal Aviation Administration. For purposes of determination of “ownership,” buildings and other real property improvements which will revert to the airport authority or other governmental unit upon expiration of the term of the lease shall be deemed “owned” by the governmental unit and not the lessee. Providing two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(14), and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199, unless the telecommunications services are provided by the operator of a public-use airport, as defined in s. 332.004, for the operator’s provision of telecommunications services for the airport or its tenants, concessionaires, or licensees, or unless the telecommunications services are provided by a public hospital.

(7) “Charitable purpose” means a function or service which is of such a community service that its discontinuance could legally result in the allocation of public funds for the continuance of the function or service. It is not necessary that public funds be allocated for such function or service but only that any such allocation would be legal.

(8) “Hospital” means an institution which possesses a valid license granted under chapter 395 on January 1 of the year for which exemption from ad valorem taxation is requested.

(9) “Nursing home” or “home for special services” means an institution that possesses a valid license under chapter 400 or part I of chapter 429 on January 1 of the year for which exemption from ad valorem taxation is requested.

(10) “Gross income” means all income from whatever source derived, including, but not limited to, the following items, whether actually owned by or received by, or not received by but available to, any person or couple: earned income, income from investments, gains derived from dealings in property, interest, rents, royalties, dividends, annuities, income from retirement plans, pensions, trusts, estates and inheritances, and direct and indirect gifts. Gross income specifically does not include payments made for the medical care of the individual, return of principal on the sale of a home, social security benefits, or public assistance payments payable to the person or assigned to an organization designated specifically for the support or benefit of that person.

(11) “Totally and permanently disabled person” means a person who is currently certified by two licensed physicians of this state who are professionally unrelated, by the United States Department of Veterans Affairs or its predecessor, or by the Social Security Administration, to be totally and permanently disabled.

(12) “Couple” means a husband and wife legally married under the laws of any state or territorial possession of the United States or of any foreign country.

(13) “Real estate used and owned as a homestead” means real property to the extent provided in s. 6(a), Art. VII of the State Constitution, but less any portion thereof used for commercial purposes, with the title of such

property being recorded in the official records of the county in which the property is located. Property rented for more than 6 months is presumed to be used for commercial purposes.

(14) "New business" means:

(a)1. A business or organization establishing 10 or more new jobs to employ 10 or more full-time employees in this state, paying an average wage for such new jobs that is above the average wage in the area, which principally engages in any one or more of the following operations:

a. Manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant; or

b. Is a target industry business as defined in s. 288.106(2)(q);

2. A business or organization establishing 25 or more new jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; or

3. An office space in this state owned and used by a business or organization newly domiciled in this state; provided such office space houses 50 or more full-time employees of such business or organization; provided that such business or organization office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

(c) A business or organization that is situated on property annexed into a municipality and that, at the time of the annexation, is receiving an economic development ad valorem tax exemption from the county under s. 196.1995.

(15) "Expansion of an existing business" means:

(a)1. A business or organization establishing 10 or more new jobs to employ 10 or more full-time employees in this state, paying an average wage for such new jobs that is above the average wage in the area, which principally engages in any of the operations referred to in subparagraph (14)(a)1.; or

2. A business or organization establishing 25 or more new jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by s. 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; provided that such business increases operations on a site located within the same county, municipality, or both colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization, resulting in a net increase in employment of not less than 10 percent or an increase in productive output or sales of not less than 10 percent.

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that increases operations on a site located within the same zone or area colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization.

(16) "Permanent resident" means a person who has established a permanent residence as defined in subsection (17).

(17) "Permanent residence" means that place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she has the intention of returning. A person may have only one permanent residence at a time; and, once a permanent residence is established in a foreign state or country, it is presumed to continue until the person shows that a change has occurred.

(18) "Enterprise zone" means an area designated as an enterprise zone pursuant to s. 290.0065. This subsection expires on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

(19) "Ex-servicemember" means any person who has served as a member of the United States Armed Forces on active duty or state active duty, a member of the Florida National Guard, or a member of the United States Reserve Forces.

History.—s. 1, ch. 71-133; s. 1, ch. 72-367; s. 1, ch. 73-340; s. 14, ch. 74-234; s. 13, ch. 76-234; s. 1, ch. 77-447; s. 6, ch. 80-163; s. 1, ch. 80-347; s. 2, ch. 81-219; s. 85, ch. 81-259; s. 9, ch. 82-119; s. 29, ch. 84-356; s. 1, ch. 88-102; s. 45, ch. 91-45; s. 87, ch. 91-112; s. 1, ch. 91-121; s. 1, ch. 91-196; s. 3, ch. 92-167; s. 58, ch. 92-289; s. 9, ch. 93-132; s. 3, ch. 93-233; s. 61, ch. 93-268; s. 67, ch. 94-136; ss. 59, 66, ch. 94-353; s. 1472, ch. 95-147; s. 4, ch. 95-404; s. 3, ch. 97-197; s. 25, ch. 97-255; s. 2, ch. 97-294; s. 109, ch. 99-251; s. 11, ch. 99-256; s. 29, ch. 2001-79; s. 2, ch. 2002-183; s. 907, ch. 2002-387; s. 20, ch. 2003-32; s. 1, ch. 2005-42; s. 20, ch. 2005-132; s. 17, ch. 2005-287; s. 52, ch. 2006-60; s. 4, ch. 2006-291; s. 14, ch. 2007-5; s. 6, ch. 2008-227; s. 54, ch. 2011-36; s. 31, ch. 2011-64; s. 1, ch. 2011-182; s. 20, ch. 2012-5; s. 4, ch. 2013-77; s. 2, ch. 2016-220; s. 3, ch. 2017-36.

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TAB 2

326 So.2d 425 (1975)**Mary WILLIAMS et al., Appellants,****v.****John R. JONES, As County Appraiser of Escambia County, Florida, Formerly Known As Tax Assessor of Escambia County, Florida, et al., Appellees.****DUNES MOTEL, INC., a Florida Corporation, et al., Appellants,****v.****John R. JONES, As County Appraiser of Escambia County, Florida, Formerly Known As Tax Assessor of Escambia County, Florida, et al., Appellees.****John J. LERGENMILLER, Jr., et al., Appellants,****v.****John R. JONES, As County Appraiser of Escambia County, Florida, Formerly Known As Tax Assessor of Escambia County, Florida, et al., Appellees.**Nos. 47434-47436.**Supreme Court of Florida.**

December 17, 1975.

Rehearing Denied March 4, 1976.

428 *428 J. McHenry Jones of Jones, Liberis & Merting, Pensacola, for appellants.

J.B. Hopkins, Bert Lane of Beggs, Lane, Daniel, Gaines & Davis, Jack H. Greenhut, Pensacola, Robert L. Shevin, Atty. Gen., and Larry Levy, Asst. Atty. Gen., for appellees.

SUNDBERG, Justice.

This matter is before us on direct appeal from the Circuit Court of the First Judicial Circuit in and for Escambia County, Florida. We have jurisdiction of the appeal pursuant to Article V, Section 3(b)(1), Florida Constitution, and Rule 2.1, subd. a. (5)(a), Florida Appellate Rules, in that the Circuit Court passed directly upon the validity of Sections 196.001(2), 196.199(6) and 196.199(7), Florida Statutes, by holding that the county appraiser properly assessed certain leasehold interests of the appellants for the three years last past for taxation as real property pursuant to the cited sections. Appellants are lessees of county-owned property from the Santa Rosa Island Authority which was created by Chapter 24,500, Special Laws of Florida 1947. The circuit judge specifically held that Sections 196.001(2), 196.199(6) and 196.199(7) do not violate the equal protection clause of the Florida Constitution or the Fourteenth Amendment of the Constitution of the United States. The sections of the Florida statute in question were enacted as a part of Chapter 71-133, Laws of Florida 1971, commonly referred to as the "tax reform act". It should be noted at the outset that notwithstanding the fact that the Division of Statutory Revision and Indexing placed the contents of Section 196.001 at that chapter of the Florida Statutes for 1971, Section 16 of Chapter 71-133, Laws of Florida 1971, provided that Chapter 192, Florida Statutes, was to be amended by adding such new section as Section 192.010. Whereas Chapter 196, Florida Statutes, is entitled "Exemption", Chapter 192, Florida Statutes, is entitled "Taxation, General Provisions".

The cases herein consolidated are representative of twenty-five cases filed in the court below wherein more than 300 taxpayers intervened.^[1] The twenty-five cases were classed so as to embrace all the issues involved and allow for the differences and the particular status of taxpayers. Basically, the taxpayers are divided into classes of commercial and residential leaseholders. The commercial taxpayers are represented by enterprises such as the operation of barber shops, plumbing businesses, beauty shops, laundries, rental cottages or rental units, motels, restaurants and campgrounds. In addition to the constitutional points raised, such commercial taxpayers assert that the operation of their facilities constitutes a governmental or public purpose or function and, accordingly, such leaseholds are *exempt* from ad valorem taxation pursuant to Section 196.012(5), Florida Statutes. The main thrust of the appellants' *429 arguments is: (i) that the leasehold interests are a category of personal property which at common law would be classified as a "chattel real" or form of

intangible personal property and, therefore, must be taxed in accordance with the provisions of Chapter 199, Florida Statutes, dealing with taxation of intangible personal property exclusively by the state; (ii) that the taxation of the leasehold interests as real property violates the provisions of Article VII, Section 2 and Section 4, of the Florida Constitution, as being an unreasonable classification under the "just valuation" mandate of such Article; and (iii) that the taxation of such leaseholds as real property violates the taxpayers' rights to equal protection under the Florida Constitution and the Fourteenth Amendment to the Constitution of the United States. The issues were framed by the appellees' Motions to Dismiss the several Amended Complaints of the appellants. After hearing upon the Motions to Dismiss the trial judge in entering his Order of Dismissal made extensive and well-reasoned findings of fact and conclusions of law.

The appellants, subsequent to the filing of the appellees' brief in this Court, moved to strike portions thereof relating to argument by appellees in response to an asserted attack by the appellants upon the statutes as constituting an impairment of contract rights of the appellants. Appellants contend that the issue was not raised below nor was it assigned as error. From our review of the record it appears clear that the issue was raised in the Complaints as amended and was addressed by the trial court. Be that as it may, whether the appellants concede the point or not, we deem that issue to have been disposed of adverse to the appellants by our opinion in Straughn v. Camp, 293 So.2d 689 (Fla. 1974). Accordingly, the Motion to Strike of the appellants is denied.

This is the third occasion in which the taxable status of leaseholds on Santa Rosa Island has been before this Court. See State v. Escambia County, 52 So.2d 125 (Fla. 1951), and Straughn v. Camp, *supra*. The factual background and legislative history concerning the special and general acts establishing the authority for development of Santa Rosa Island and the tax treatment of leaseholders on the Island is aptly set forth in Straughn v. Camp, *supra* and we deem it unnecessary to reiterate that background here.

The questions presented by the instant appeal essentially are: Does the Legislature have the power constitutionally to treat leasehold interests in public land such as are here involved as real property for ad valorem tax purposes and, secondly, has the Legislature done so through the enactment of the statutory provisions here under attack? We answer both propositions in the affirmative.

As to the power of the Legislature to so legislate, the words of Mr. Justice Terrell on rehearing in the case of Bancroft Inv. Corporation v. City of Jacksonville et al., 157 Fla. 546, 27 So.2d 162 (1946), provide a guiding principle concerning the function of the Court in reviewing the exercise by the Legislature of its taxing power when he stated at page 170 of the opinion:

"... We approach it on the premise that this is a democracy in which every parcel of property is expected to bear its due portion of the burden of government, unless exempted by the legislature in the manner provided by Section 1, Article IX of the Constitution. Courts have no more important function than to direct the current of the law in harmony with sound democratic theory."

In that case the Court, on rehearing, determined that the equitable interest of a purchaser of certain real property in Jacksonville, Florida, from the United States Government under an executory contract for sale was a sufficient interest in real estate to justify levy of ad valorem real estate taxes thereon.

430 *430 Appellants' assertion that the classification of a leasehold interest in public land as an interest in real estate violates the provisions of Section 2, Article VII, Constitution of Florida, is, we believe, untenable. That section merely provides that all ad valorem taxation shall be at a uniform rate within each taxing unit, subject to certain exceptions with respect to intangible personal property. The predecessor to Article VII, Section 2, was Article IX, Section 1, in the Constitution of 1885. That document required a "uniform and equal rate of taxation". The words "and equal" in the 1885 Constitution have been displaced in our current Constitution with the phrase "within each taxing unit". Such revision was simply for the sake of clarity. See commentary to Article VII, Section 2, Constitution of Florida, 26A F.S.A. Consequently, cases construing the former Article IX, Section 1, are relevant to an inquiry under Article VII, Section 2, of our present Constitution. In analyzing the restrictions upon the Legislature imposed by the former constitutional provision, this Court stated in Hayes v. Walker, 54 Fla. 163, 44 So. 747 (1907):

"Classifications for purposes of legislation may be made with reference to similarity of situation, circumstances, requirements, and convenience to best subserve the public interest. The test as to the validity of classifications for purposes of legislation is good faith, not wisdom."

The rate of the tax imposed by Section 196.001(2), Florida Statutes, is uniform as to all leaseholds of public property enumerated therein. The section under consideration does not apply non-uniformly in one political subdivision of the State of Florida as opposed to another. In that it applies similarly to all under like conditions, it cannot be said that such classification is arbitrary, unreasonable or unjustly discriminating.

By the same token appellants' attack upon the Legislature's ability to so classify under Article VII, Section 4, Florida Constitution, must fail. Article VII, Section 4, provides as follows:

"By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

"(a) Agricultural land or land used exclusively for non-commercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

"(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value."

The limitation imposed by the foregoing section was clearly intended to be a check upon the Legislature so as to prohibit it from classifying property for ad valorem taxation in such a manner as to result in a valuation of any class of property at *less than* just value, subject to the provisos of subsections (a) and (b). In short, the clear intent of the revisers of the Constitution was to prohibit the Legislature from making only those classifications which would result in some property being taxed at less than its just value, except for the categories enumerated in subsections (a) and (b). The classifications created by Section 196.001(2) and Section 196.199, Florida Statutes, result in the holders of leases of publicly owned lands bearing their fair share of the tax burden, thus placing them on a parity with other real property in the private sector devoted to similar uses. Certainly the statutes under consideration do not mandate that the taxpayers' leasehold interest be assessed at less than or a percentage of just value. This proposition has been recognized in the case of *Straughn v. Amoco Production Company*, 309 So.2d 39 (Fla.App.2d 1975), where the court there had under consideration Section 193.481(1),

431 Florida Statutes, *431 relating to oil and mineral leases. There the court said:

"The questions remain, however, whether the legislature can tax a leasehold interest as an estate in realty and, if so, whether it did so here. Ordinarily, leasehold interests in private real property are not amenable to ad valorem taxes. We are aware of no reason, however, why they cannot be if the legislature clearly so ordains and such classification is a reasonable one considering the purpose. Indeed, our Supreme Court expressly recognized oil and mineral leases as being exceptions to the general rule in *Dade County v. Pan American World Airways, Inc.*" (Footnotes omitted)

The same conclusion was reached by this Court in the case of *Park-N-Shop, Inc. v. Sparkman*, 99 So.2d 571 (Fla. 1957), where the Court, confronted with the character of a commercial leasehold interest in property owned by Hillsborough County, determined that such an interest was neither tangible personal property nor intangible personal property, but concluded:

"In our examination of the tax statutes we have not found provisions for the specific assessment of the lessees' interest and we have been referred to none, although we are not conscious of any reason why the legislature could not set up machinery for that purpose in situations such as that presented in this case, but we are satisfied that the interests of lessees are neither tangible nor intangible personal property as presently defined." (p. 574)

Appellants rely heavily on the case of *Interlachen Lakes Estates, Inc. v. Snyder*, 304 So.2d 433 (Fla. 1973), wherein the Court had under consideration Section 195.062(1), Florida Statutes, commonly referred to as the "Rose law", which provided in pertinent part:

"... [The tax assessor's manual of instructions] shall provide that platted lands unsold as lots shall be valued for tax assessment purposes on the same basis as any unplatted acreage of similar character until 60 percent of such lands included in one plat shall have been sold as individual lots."

Justice Ervin, for the Court, concluded that such valuation was impermissible under Article VII, Section 4, Florida Constitution, because it provided for valuation of a class of property at less than just value, such property being not one of the classes within the provisos to Article VII, Section 4, i.e. agricultural land, land used exclusively for non-commercial

recreational purposes, tangible personal property held for sale as stock in trade, or livestock. This case stands for the proposition only, then, that the Legislature is precluded from classifying property for valuation purposes at *less than* just valuation except in the instances of the provisos to Article VII, Section 4. The result obtained through application of Sections 196.001(2) and 196.199, Florida Statutes, is to require that the leasehold interests defined therein shall be taxed at a just valuation like "all other property" in the state. To accept the appellants' contention that the Legislature is without power to so classify such leasehold interests as real property would not only result in such leasehold interests being taxed on the reduced intangible personal property ad valorem rate but would also deprive the political subdivisions wherein the leaseholds are situated from raising revenues from such sources in order to defray the costs of the services supplied to the users thereof, services which include, especially, the education of the children of such users. The holder of a lease on Santa Rosa Island requires no less police protection, fire protection or education of his or her children than does his or her neighbor in the county who occupies under a fee simple title. But if appellants' argument is accepted the revenues derived from the tax of a leasehold as intangible personal property must constitutionally be paid into the coffers of the state rather than the local *432 political subdivision. See Article VII, Sections 1 and 9. The Legislature clearly has the power to classify so that all property devoted to private use is treated on a parity and, therefore, there is an equitable distribution of the tax burden. Basically, the appellants contend for a constitutional exemption from ad valorem real estate taxation where none exists and, if it did, such an exemption would undoubtedly be discriminatory and violative of the equal protection provisions of the Florida and United States Constitutions.

Which brings us to the assertion by the appellants that the statutory sections under attack are discriminatory as to them and deprive them of the equal protection mandated by the Florida Constitution and the 14th Amendment to the United States Constitution. Such assertion must be rejected because it has been long recognized that the Legislature, within developed constitutional limits, has broad powers of classification for taxation purposes so as to bring about a fair contribution by all property interests to the tax burden necessary to provide the revenues for the functioning of government. As stated by Mr. Justice Roberts in Just Valuation & Taxation League, Inc. v. Simpson, 209 So.2d 229 (Fla. 1968), where the separate classification of intangible personal property was under attack, "... Decisions by the federal courts recognizing the power of the state to classify property for the purpose of taxation are legion ..." The United States Supreme Court cases cited in his opinion are clearly representative of the cases reflecting that there is no United States constitutional prohibition against the exercise of broad powers of classification by a state legislature for purposes of taxation.

In determining whether the classification by a state legislature is reasonable, the United States Supreme Court has looked to the practical operation of the tax. As stated in American Oil Company v. Neill, 380 U.S. 451, 85 S.Ct. 1130, 14 L.Ed.2d 1 (1965);

"When passing on the constitutionality of a state taxing scheme it is firmly established that this Court concerns itself with the practical operation of the tax, that is, substance rather than form. (Citations omitted) This approach requires us to determine the ultimate effect of the law as applied and enforced by a State or, in other words, to find the operating incidence of the tax."

The practical effect of Sections 196.001(2) and 196.199, Florida Statutes, is to withdraw exemption from certain users of property and to impose an ad valorem real property tax upon them consistent with the tax imposed upon persons who make similar uses of property.

The proposition put forth by the appellants with respect to leaseholders of commercial property to the effect that they are exempt under Section 196.012(5), Florida Statutes, as performing a public purpose has, we believe, been aptly disposed of in Straughn v. Camp, *supra*. As stated therein at page 695:

"It is the utilization of leased property from a governmental source that determines whether it is taxable under the Constitution. Furthermore, tax exemptions should be strictly construed against the claimant. State v. Inter-American Center Authority (Fla. 1955) 84 So.2d 9. Reference is made particularly to Rast v. Hulvey, 77 Fla. 74, 80 So. 750, holding that where property was not being used solely for educational purposes, but was used also as a home by an individual and his family, it was not exempt from taxation. To the same effect see Amos v. Jacksonville Realty and Mortgage Co., 77 Fla. 403, 81 So. 524; Orlando Utilities Commission v. Millican [Milligan] (DCA 4 1969), 229 So.2d 262; State ex rel. Miller v. Doss, 146 Fla. 752, 2 So.2d 303; State v. Town of North Miami (Fla. 1952) 59 So.2d 779, text 784; Adams *433 v. Housing Authority of City of Daytona Beach (Fla. 1952) 60 So.2d 663 and Hillsborough County Aviation Authority v. Walden, *supra* [210 So.2d 193]."

The operation of the commercial establishments represented by appellants' cases is purely proprietary and for profit. They are not governmental functions. If such a commercial establishment operated for profit on Panama City Beach, Miami Beach, Daytona Beach, or St. Petersburg Beach is not exempt from tax, then why should such an establishment operated for profit on Santa Rosa Island Beach be exempt? No rational basis exists for such a distinction. The exemptions contemplated under Sections 196.012(5) and 196.199(2) (a), Florida Statutes, relate to "governmental-governmental" functions as opposed to "governmental-proprietary" functions. With the exemption being so interpreted all property used by private persons and commercial enterprises is subjected to taxation either *directly* or *indirectly* through taxation on the leasehold. Thus all privately used property bears a tax burden in some manner and this is what the Constitution mandates.

Having established that the Legislature has the power constitutionally to tax the leasehold interests in question as real property, we turn to the question of whether or not it has done so. Appellants submit that even if such leasehold interests are not exempt under Sections 196.199(2)(a) and 196.012(5), Florida Statutes, that the tax imposed by Section 196.001(2), Florida Statutes, is merely an ad valorem intangible personal property tax because none of the statutory provisions relied upon by the appellees expressly state that the leasehold estates in question are to be taxed "as an interest in real property". The appellants cite numerous cases from many jurisdictions to the effect that at common law a leasehold interest is considered as a "chattel real" or a species of personal property. It should be noted, however, that each of the two Florida cases cited by appellants as authority for their position, Thalheimer v. Tischler, 55 Fla. 796, 46 So. 514 (1908) and Oliver v. Mercaldi, 103 So.2d 665 (Fla.App.2nd 1958), states the rule that *in the absence of a statute changing the common law rule* a leasehold estate is a "chattel real" and is to be classed as personalty rather than realty. In construing the provisions of Section 73.10(4), Florida Statutes, in 1962 the Second District Court of Appeal in the case of State Road Department v. White, 148 So.2d 32 (Fla.App.2nd 1962), cert. discharged, 161 So.2d 828 (Fla. 1964) opined:

"Turning to the law on the subject of ownership interest by a lessee, we find that, in the law of real property, it is well established that a valid lease for a term of years is a conveyance of an interest in land. Flowers v. Atlantic Coast Line Railway Co., 1939, 140 Fla. 805, 192 So. 321; Campbell v. McLaurin Investment Co., 1917, 74 Fla. 501, 77 So. 277. A lessee's interest in a leasehold estate is thus stated: 'During the life of a lease, the lessee holds an outstanding leasehold estate in the premises, which for all practical purposes is equivalent to absolute ownership. The estate of the lessor during such time is limited to his reversionary interest, which ripens into perfect title at the expiration of the lease.' Rogers v. Martin, 1924, 87 Fla. 204, 99 So. 551, 4th Headnote. In the case of DeVore v. Lee, Comptroller, 1947, 158 Fla. 608, 30 So.2d 924, it is stated: 'A lease has been defined as "'a conveyance by the owner of an estate to another of a portion of his interest therein for a term less than his own"' and "it passes a present interest in the land for the period specified."' In the law of eminent domain, a lessee for years under a written lease is an owner of property in the constitutional sense, and is entitled to share in the compensation when all or a part of the leased property is taken during the period of the lease. 12 Fla.Jur., *434 Eminent Domain, Sec. 91, Leasehold Interests, page 63."

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Section 73.10(4), Florida Statutes, nowhere referred to a lease or leasehold interest, but permitted the jury in a condemnation proceeding to take into consideration damages to an established business of more than five years' standing "owned by the party whose lands are being so taken, located upon adjoining lands owned or held by such party". Accordingly, for purposes of condemnation award it has been concluded by the courts of this state that a leasehold interest is a species of real property under a statute that did not expressly so state. The predecessor to Subsection 196.001(2) and Section 196.199, Florida Statutes, enacted in 1971, was Section 196.25, Florida Statutes, enacted in 1969, which in turn was a verbatim reenactment of Section 192.62, Florida Statutes, enacted in 1961. Section 196.25, Florida Statutes, provided in pertinent part as follows:

"(1) Any real or personal property which for any reason is exempt or immune from taxation but is being used, occupied, owned, controlled or possessed, directly or indirectly by a person, firm, corporation, partnership or other organization in connection with a profit making venture, whether such use, occupation, ownership, control or possession is by lease, loan, contract of sale, option to purchase or in any wise made available to or used by such person, firm, corporation, partnership or organization, shall be assessed and taxed to the same extent and in the same manner as other real or personal property.

"(2) This section shall not apply to property described in subsection (1) when:

"(c) The property is owned or used by the state, any county, municipality, or public entity or authority created by statute and is leased or otherwise made available to such person, firm, corporation, partnership or organization by such public body for a consideration in the performance by the public body of a public function or public purpose authorized by law, or which property prior to the effective date of this section was leased for valuable consideration for purposes not otherwise exempt hereunder;"

Section 192.62, Florida Statutes, was obviously enacted in 1961 by the Legislature in response to the Court's observation in Park-N-Shop, Inc. v. Sparkman, *supra*, that a leasehold interest in publicly owned land was neither tangible nor intangible personal property but that there was no reason why the Legislature could not set up machinery to tax such a leasehold interest. See footnote 3 to the majority opinion in Dade County v. Pan American World Airways, Inc., 275 So.2d 505 (Fla. 1973). That decision also recognized, in footnote 8, that the exemption contained in Section 196.25, Florida Statutes, repealed in 1971, is covered in the present Section 196.199, Florida Statutes, enacted in 1971 as a part of Chapter 71-133, Laws of Florida 1971.

Section 192.62, Florida Statutes, was expressly construed by this Court in Hillsborough County Aviation Authority v. Walden, 210 So.2d 193 (Fla. 1968), wherein we approved the determination by the trial court that the leasehold interest of a motel operator from the Aviation Authority, a tax-exempt body, was a separate, distinct interest in such property and was amenable to assessment and taxation as *real estate* to the lessee, which was using such property for a predominantly private purpose. In the Walden case, *supra*, the lessee asserted that it performed a public purpose or function and should thereby enjoy an exemption from taxation upon the same principle as the appellants here contend that they are exempt under Subsection 196.012(5), Florida Statutes. It will be observed that Section 192.62, Florida Statutes, although using the term "lease" simply says that *435 such use shall be assessed and taxed to the same extent and in the same manner as other real or personal property. Accordingly, it required interpretation by the Court to conclude that the leasehold interest in question was to be taxed as real property and conclusively reflects that this Court has accepted that proposition. In his dissent in Dade County v. Pan American World Airways, Inc., *supra*, Mr. Justice Ervin discarded as without merit the contention by the airline that its leasehold interests, if taxable, were only taxable as intangible personal property. He cited as authority therein Hillsborough County Aviation Authority v. Walden, *supra*, and State Road Department v. White, *supra*. In Straughn v. Camp, *supra*, Justice Ervin stated at page 695 of the opinion:

"The plaintiffs (appellees) admit that the great majority of their leases are those wherein an individual lessee is occupying and enjoying a private home for the use and benefit of the lessee and his or her family. Hillsborough County Aviation Authority v. Walden, *supra*, construed the predecessor law (F.S. Section 192.62, F.S.A.) to Chapter 71-133 and held that despite exemption of prior leases, an airport authority lease for a motel at an airport is taxable. *It is obvious that holding is applicable here.*" (Emphasis supplied)

The language in Justice Ervin's dissent in Dade County v. Pan American World Airways, Inc., *supra*, makes clear that the emphasized language quoted just above refers to a lease for a motel at an airport being taxable as an interest in real property.

Our conclusion is further buttressed by the principle of statutory construction which provides that the Legislature is presumed to know the existing law when it enacts a statute and is also presumed to be acquainted with the judicial construction of former laws on the subject concerning which a later statute is enacted. See 30 Fla. Jur., Statutes, Section 110, page 270, and Collins Investment Co. v. Metropolitan Dade County, 164 So.2d 806 (Fla. 1964). With this rule of construction in mind we can only conclude that the Legislature was aware of the development of the law in this area from Park-N-Shop, Inc., *supra*, through Hillsborough County Aviation Authority v. Walden, *supra*, when it enacted the series of statutes hereinabove considered (192.62, 1961; 196.25, 1969; and 196.001(2) & 196.199 (1971). Therefore, in treating with exemptions in Chapter 71-133, Laws of Florida 1971, the Legislature deemed it only necessary to provide that leasehold interests in public lands shall no longer enjoy exemption from ad valorem taxation except under the limited circumstances therein prescribed. The rule is that all property is subject to taxation unless expressly exempt and such exemptions are strictly construed against the party claiming them. State ex rel. Wedgworth Farms, Inc. v. Thompson, 101 So.2d 381 (Fla. 1958).

Appellants contend that Section 196.001, Florida Statutes, cannot be construed to impose the tax herein asserted in that it appears in the chapter on exemptions. As heretofore alluded to, the Legislature by Section 16 of Chapter 71-134, Laws of Florida 1971, directed that the provisions of Section 196.001 be incorporated in the statutes as Section 192.010 bearing the

heading "Property Subject to Taxation." The placement by the Statutory Revision and Indexing Division of such provisions in the chapter on exemptions cannot affect the intent of the Legislature as expressed in Chapter 71-133, Laws of Florida 1971.

Our attention has not heretofore focused upon Subsection (6) of Section 196.199, Florida Statutes, which reads:

"Property which is originally leased for 99 years or more, exclusive of renewal options, shall be deemed to be 'owned' for purposes of this section."

436 *436 Since Subsection (2)(a) of Section 196.199, Florida Statutes, effectively removes from the exemption afforded property owned and used by the designated governmental units all leasehold interests which do not serve or perform a governmental, municipal, or public purpose or function as defined in Section 196.012(5), regardless of the length of the lease, it must be concluded that Subsection (6) dealing with 99-year leases was intended by the Legislature to provide a standard for valuation. Leases for an initial term of less than 99 years are to be valued based on the economic value thereof taking into consideration, among other things, the duration of the unexpired term of the lease, while in the case of leases for an initial term of 99 years or more the lessee may be considered to be the owner "in fee simple" and the property subject to the lease shall be valued for tax purposes as all other property owned in fee simple. Since a lease for a term of 99 years or more is tantamount to ownership of the fee, we do not construe this to be an unreasonable classification by the Legislature. The Constitution employs a similar standard in the Homestead Exemption provision found in Article VII, Section 6, Florida Constitution.

Appellants also contest the procedure for enforcement of the tax as found in Section 196.199(7), Florida Statutes. We do not concur in appellants' objection. Since the fee simple title to the property subject to lease cannot be reached or attached to satisfy the tax indebtedness, the cited section substitutes other property of the taxpayer and allows for recovery by way of an action against the taxpayer. The manner of securing collection of taxes is purely a legislative matter not to be disturbed by the Court unless constitutionally defective. The procedure for collection and enforcement embodied in Section 196.199(7), Florida Statutes, is consistent with the nature of the property being taxed and is a legislative determination resting within the legislative power. The rule is thus stated in 84 C.J.S. Taxation § 644, at page 1323:

"While it has been stated as a general proposition that, unless other provision is made, a tax on property is collectable only from the property assessed, it has been recognized that it is *within the power of the state to make one class or kind of property* responsible for taxes levied and assessed against another kind or class of property, and, under constitutional or statutory provisions, a tax may be collected not only from the property against which the levy was made, but also from property other than that against which the tax was levied, and any property of a person against whom a tax has been levied may be subject to process for the collection of the tax... ." (Footnotes omitted) (Emphasis supplied)

And at pages 1319-20 it is stated:

"... On the other hand, in many jurisdictions the owner of real estate is *personally liable for taxes levied on the property*, and this is true *notwithstanding* the existence of a lien on the property for the collection of the taxes. Personal liability may exist even in the absence of any provision for obtaining a personal judgment for such taxes ..." (Footnote omitted) (Emphasis supplied)

The foregoing principles are consistent with the collection procedures imposed by Section 199.262, Florida Statutes, dealing with intangible personal property tax.

437 In response to the suggestion by appellants that a charge in lieu of taxes was taken into consideration in establishing the rent paid by the lessees we would simply say that if such is the case such lessees may very well be entitled, in a proper forum, to seek an equitable adjustment of *437 their rental payments which would recognize any proven charge incorporated therein which was intended to be in lieu of taxes.

We find no justification for prospective operation of this decision in that we do not find the same state of facts here as relied upon by Mr. Justice Ervin in *Interlachen Lakes Estates, Inc. v. Snyder, supra*. There the majority found that persons relied on a state statute assuming it to be valid despite the new provisions of the 1968 State Constitution. Nor do we find equitable estoppel present as in the case of *City of Naples v. Conboy*, 182 So.2d 412 (Fla. 1965). In each of those cited cases the taxing authorities acted in accordance with a statute or ordinance and thereby undervalued the property of the taxpayers, thus presumably, lulling the taxpayers into a sense of reliance upon the invalid provisions. In the instant case the taxing

authorities have consistently assessed the leasehold interests as real property in accordance with Section 196.001, Florida Statutes, subsequent to its enactment into law in 1971 and have in nowise misled the taxpayers concerning the interpretation of the law. Prior to the enactment of Chapter 71-133, Laws of Florida 1971, in fact since 1961, the general laws of Florida explicitly designated leaseholders on Santa Rosa Island as exempt from taxation. However, Chapter 71-133, Laws of Florida 1971, just as explicitly eliminated their designation for exemption. Any reliance upon the interpretation of Chapter 71-133, Laws of Florida 1971, espoused by appellants herein cannot be deemed to be the sort of reasonable reliance which should move this Court to apply this decision only prospectively.

Accordingly, the orders appealed from are affirmed.

ADKINS, C.J., ROBERTS, BOYD, OVERTON and ENGLAND, JJ., and FERRIS, Circuit Judge, concur.

[1] Although the parties in their briefs assume all of the leaseholds involved in the litigation are for an initial term of 99 years, the record in *Joe E. Barnes, etc. v. John R. Jones, etc., et al.*, reflects by Exhibit C attached to the Complaint that at least one of the leases is for an initial term of only 25 years.

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TAB 3

918 So.2d 250 (2005)

FLORIDA DEPARTMENT OF REVENUE, Appellant,

v.

The CITY OF GAINESVILLE, Appellee.

No. SC03-2273.

Supreme Court of Florida.

December 8, 2005.

252 *252 Charles J. Crist, Jr., Attorney General, Christopher M. Kise, Solicitor General, Louis Hubener, III, Nicholas Bykowsky and Mark T. Aliff, Assistant Attorneys General, Tallahassee, FL, for Appellant.

Robert Pass and E. Kelly Bittick, Jr. of Carlton Fields, P.A., Tallahassee, FL, for Appellee.

Sherri L. Johnson and John C. Dent, Jr. of Dent and Associates, P.A., Sarasota, FL, on behalf of Ed Crapo.

Larry E. Levy and Loren E. Levy of the Levy Firm, Tallahassee, FL, on behalf of Property Appraisers' Association of Florida, Inc.

John R. Beranek, Kenneth R. Hart, and Jason B. Gonzalez of Ausley and McMullen, Tallahassee, FL, on behalf of Florida Telecommunications Industry Association, for Amici in support of Appellant.

James Baller and Sean A. Stokes of The Baller Herbst Law Group, P.C., Washington, D.C. and William J. Peebles, Tallahassee, FL, on behalf of Florida Municipal Electric Association, for Amicus in support of Appellee.

PARIENTE, C.J.

253 In this case, we review a decision holding unconstitutional a law that requires payment by a municipality of ad valorem taxes on property owned and used exclusively by the municipality to provide telecommunications *253 services to the public. See *Dep't of Revenue v. City of Gainesville*, 859 So.2d 595 (Fla. 1st DCA 2003). The applicable provision in our state constitution provides that "[a]ll property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation." Art. VII, § 3(a), Fla. Const. We have mandatory jurisdiction. See art. V, § 3(b)(1), Fla. Const. Because we conclude that providing telecommunications services does not as a matter of law always serve municipal or public purposes, ad valorem taxation of a municipality's telecommunications facilities is not facially unconstitutional. In reaching this conclusion, we do not dispute that telecommunications services are essential services. Rather, we make the narrower determination that in providing these services, regardless of circumstances such as the availability of the same services through other providers, a municipality does not as a matter of law engage in an activity essential to the welfare of the community. We therefore reverse the decision of the First District Court of Appeal holding the statutory provisions imposing ad valorem taxation on these telecommunications facilities facially unconstitutional.

I. FACTS AND PROCEDURAL HISTORY

As part of the nationwide transition from single-provider telecommunications services to a competitive marketplace, the Florida Legislature enacted legislation in 1995 authorizing governmental entities including municipalities to sell two-way telecommunications services to the public. See § 364.02(12), Fla. Stat. (1995) (defining "telecommunications company" to include "every political subdivision in the state offering two-way telecommunications service to the public for hire within this state by the use of a telecommunications facility"). However, in 1997 the Legislature made that authority conditional upon payment of ad valorem taxes or equivalent fees on facilities used to provide the telecommunications services. See ch. 97-197, § 2, at 3738-42, Laws of Fla.^[1] Section 2 of the 1997 enactment created section 166.047, Florida Statutes (1997), which provides in pertinent part:

166.047 Telecommunications services.—A telecommunications company that is a municipality or other entity of local government may obtain or hold a certificate required by chapter 364, and the *obtaining or holding of*

said certificate serves a municipal or public purpose under the provision of s. 2(b), Art. VIII of the State Constitution, only if the municipality or other entity of local government:

....

(3) Notwithstanding any other provision of law, *pays*, on its telecommunications facilities used to provide two-way telecommunications services to the public for hire and for which a certificate is required pursuant to chapter 364, *ad valorem* taxes, or fees in amounts equal thereto, to any taxing jurisdiction in which the municipality or other entity of local government operates. Any entity of local government may pay and impose such ad valorem taxes or fees.

(Emphasis supplied.) In other words, the Legislature conditioned the grant of the power to obtain or hold a certificate from the Public Service Commission (PSC) for operation of a telecommunications facility on the municipality's payment of ad valorem *254 taxes, and specified that payment of the taxes is necessary for the facility to serve a public purpose under the municipal powers clause of the Constitution.^[2]

In the same act, the Legislature amended section 196.012(6), Florida Statutes (1995), to exclude the telecommunications services authorized in section 166.047 from the statutory ad valorem tax exemption for municipally owned property "used for governmental, municipal or public purposes" contained in section 196.199(1)(c), Florida Statutes (1995). See ch. 97-197, § 3, Laws of Fla.^[3] The pertinent portion of section 196.012(6), as amended, specifies that "[p]roviding two-way telecommunications services to the public for hire by the use of a telecommunications facility, as defined in s. 364.02(13), and for which a certificate is required under chapter 364 does not constitute an exempt use for purposes of s. 196.199," with exceptions inapplicable here. § 196.012(6), Fla. Stat. (1997).

The amended provisions operate in tandem. Section 166.047(3) invokes the municipal powers provision of the state constitution to mandate ad valorem taxation, and the amendment to section 196.012(6) disqualifies municipally owned and operated telecommunications facilities from a statutory ad valorem tax exemption for municipal property. The purpose and effect of this legislation is to make property owned and used by a municipality for a telecommunications business subject to ad valorem property taxation. See Fla. H.R. Comm. on Util. & Comm., CS for CS for HB 313 (1997) Staff Analysis 1 (July 1, 1997) (on file with Comm.) (stating that chapter 97-197 "removes the exemptions that municipalities, counties, or other entities of local government have on ad valorem taxes on property used for the purpose of providing telecommunications services to the public").

The City of Gainesville (the City), operating under the fictitious name Gainesville Regional Utilities, acquired certificates from the PSC to operate as a public telecommunications provider. The City then began selling communications infrastructure and integrated telecommunications services to the public, charging contractually agreed-upon rates. Under the service agreements with the City, customers do not have any leasehold interest in the City's telecommunications property.^[4] The City uses a fiber-optic network to provide private line service and special access service for the transmission of voice, data, and video.

*255 In its 1995 base planning study, the City stated that "[n]o substantial communication services competition appears to be emerging in Gainesville," and asserted that "[i]f the citizens of Gainesville are to be provided with all of the benefits which will be possible through the National Information Superhighway at a reasonable price, a major independent investor will need to assume a role in shaping the communications environment." The City anticipated that its telecommunications business would make it both a provider of services and a promoter for the entry of new service providers. The City stated in its 1995 start-up business plan that its "overall business activities" would benefit the local economy by creating competition in what it termed a "monopoly market," producing additional revenues for the City, and keeping profits within the community. In its pleadings in this case, the City specified that by 2000, it had invested approximately \$10 million in infrastructure and equipment.

In 2000, the City filed suit seeking a declaration that the portions of chapter 97-197 imposing the tax obligation on its telecommunications facilities are unconstitutional under article VII, section 3(a). The trial court granted summary judgment in favor of the City and declared sections 2 and 3 of chapter 97-197 facially unconstitutional. The First District affirmed, holding that "the property in question is being used by the City for a municipal purpose and the legislature's attempt to condition the provision of these municipal services on the payment of an amount equal to any ad valorem tax liability is in direct conflict with Article VII, Section 3(a) of the Florida Constitution." Dep't of Revenue, 859 So.2d at 597. Judge Ervin

dissented, concluding that the amendments "are a proper exercise of the legislature's discretion to classify real property for ad valorem taxation." *Id.* at 601 (Ervin, J., dissenting).

II. ANALYSIS

Article VII, section 4 of the Florida Constitution requires a "just valuation of all property for ad valorem taxation," with exceptions that do not apply here.^[5] However, governmentally owned property is generally excluded from taxation, through either immunity or exemption. An exemption presupposes an ability to tax, whereas an immunity implies the absence of that ability. See Greater Orlando Aviation Auth. v. Crotty, 775 So.2d 978, 980 (Fla. 5th DCA 2000). The state and counties are immune from taxation. See Canaveral Port Auth. v. Dep't of Revenue, 690 So.2d 1226, 1228 (Fla.1996); Park-N-Shop, Inc. v. Sparkman, 99 So.2d 571, 573 (Fla.1957). Unlike counties, municipalities are not subdivisions of the state and are therefore subject to taxation absent an exemption. See Greater Orlando Aviation Auth., 775 So.2d at 980.

Article VII, section 3(a) of the Florida Constitution confers on property owned by municipalities an exemption from ad valorem taxation under certain circumstances. To qualify for the exemption in article VII, section 3(a), the property must be both *owned* by a municipality and *used* exclusively by the municipality for municipal or public purposes.

In this case, the parties' arguments generally reflect the majority and dissenting opinions below. In accord with the First District majority, the City asserts that chapter 97-197 on its face violates article VII, section 3(a) by targeting for taxation property that is used by a municipality exclusively for the "municipal or public purposes" of providing telecommunications services to residential and business customers *256 within the municipality. The Department of Revenue, relying on Judge Ervin's dissent and precedent holding leasehold interests in municipal property ineligible for the constitutional exemption, argues for a narrower construction of "municipal or public purposes" that would exclude a municipality's telecommunications business that competes with the private sector for customers.

The determination of a statute's constitutionality and the interpretation of a constitutional provision are both questions of law reviewed de novo by this Court. See Zingale v. Powell, 885 So.2d 277, 280 (Fla.2004). "While we review decisions striking state statutes de novo, we are obligated to accord legislative acts a presumption of constitutionality and to construe challenged legislation to effect a constitutional outcome whenever possible." Florida Dept. of Revenue v. Howard, 916 So.2d 640, 642 (Fla. 2005). Further, a determination that a statute is facially unconstitutional means that no set of circumstances exists under which the statute would be valid. See State v. Bales, 343 So.2d 9, 11 (Fla.1977); Cashatt v. State, 873 So.2d 430, 434 (Fla. 1st DCA 2004).

In Zingale, in which we were called upon to construe a constitutional provision limiting increases in annual tax assessments of homestead property, we recognized that "[o]ur task in this case of constitutional interpretation follows principles parallel to those of statutory interpretation." 885 So.2d at 282. We reiterated from our prior precedent that

"[a]ny inquiry into the proper interpretation of a constitutional provision must begin with an examination of that provision's explicit language." Likewise, this Court endeavors to construe a constitutional provision consistent with the intent of the framers and the voters. ...

The fundamental object to be sought in construing a constitutional provision is to *ascertain the intent of the framers* and the provision must be construed or interpreted in such manner as *to fulfill the intent of the people*, never to defeat it. Such a provision must never be construed in such manner as to make it possible for the will of the people to be frustrated or denied.

... Moreover, in construing multiple constitutional provisions addressing a similar subject, the provisions "must be read in *pari materia* to ensure a consistent and logical meaning that gives effect to each provision."

Id. at 282-83 (citations omitted) (quoting Caribbean Conservation Corp. v. Fla. Fish & Wildlife Conservation Comm'n, 838 So.2d 492, 501 (Fla.2003)). Although we have held that statutory provisions granting tax exemptions should be strictly construed, this rule of construction does not apply to exemptions claimed by municipalities. See State ex rel. Green v. City of Pensacola, 126 So.2d 566, 569 (Fla.1961).

The facial constitutionality of the statute imposing a tax obligation on municipally owned and operated telecommunications facilities hinges on whether providing two-way telecommunications services to the public always serves "municipal or public

purposes" as contemplated in article VII, section 3(a). If so, the property used exclusively by a municipality to provide these services cannot be taxed, and the legislation requiring payment of taxes on the property as a condition of operation is unconstitutional on its face.

257 The term "municipal or public purposes" is not defined in article VII, section 3(a). Although "governmental, municipal, or public purpose or function" is statutorily defined in section 196.012(6), Florida *257 Statutes (2004),^[6] which also concerns tax exemptions for governmentally owned property, "[a] reading of section 3(a) of article VII clearly establishes that it is a self-executing provision and therefore does not require statutory implementation." *City of Sarasota v. Mikos*, 374 So.2d 458, 460 (Fla.1979). Therefore, the statutory definition does not control the construction of the term "municipal or public purposes" in the constitutional provision. In addition, the statutory definition in section 196.012(6) applies only to property leased from governmental entities.

Article VII, section 3(a) was adopted in the 1968 revision to the Florida Constitution. To place this provision in historical perspective, we explore its antecedent provisions in the Florida Constitution of 1885, which also provided an exemption from ad valorem taxation for property used for "municipal purposes." Then we discuss the adoption of article VII, section 3(a) and precedent interpreting and applying that provision. Next we compare the definition of "municipal and public purposes" in article VII, section 3(a) with the definition of "municipal purposes" used in applying article VIII, section 2(b), which governs municipal powers. Finally, we specify how the term "municipal or public purposes" is to be defined in construing the ad valorem tax exemption for property owned and used exclusively by a municipality, and apply that definition in determining whether chapter 97-197 is facially constitutional.

A. Tax Exemptions for Property Used for Municipal Purposes Under the 1885 Constitution

Before the 1968 revision, tax exemptions for property used for municipal purposes were covered in two different constitutional provisions:

The Legislature shall provide for a uniform and equal rate of taxation, ... and shall prescribe such regulations as shall secure a just valuation of all property, both real and personal, *excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious, or charitable purposes.*

Art. IX, § 1, Fla. Const. (1885) (emphasis supplied).

The property of all corporations ... shall be subject to taxation *unless such property be held and used exclusively for religious, scientific, municipal, educational, literary, or charitable purposes.*

258 Art. XVI, § 16, Fla. Const. (1885) (emphasis supplied).^[7] Article IX, section 1 differed from article XVI, section 16 in that the former provision was not limited solely to corporations, and the property did not have to be held exclusively for the listed purposes. See *State ex rel. Cragor Co. v. *258 Doss*, 150 Fla. 486, 8 So.2d 15, 16 (1942). In its use of the term "as may be exempted by law," article IX, section 1 was not self-executing, and therefore a tax exemption under that provision required legislative authorization. See *Rast v. Hulvey*, 77 Fla. 74, 80 So. 750, 752 (1919). Shortly before these provisions were supplanted by the 1968 Constitution, this Court held that article XVI, section 16 was also not self-executing. See *Jasper v. Mease Manor, Inc.*, 208 So.2d 821, 825 & n. 5 (Fla.1968) (receding from *Lummus v. Miami Beach Congregational Church*, 142 Fla. 657, 195 So. 607 (1940)).

In the few cases in which this Court was expressly called upon to construe the "municipal purposes" exemptions in the 1885 Constitution, we deferred to the Legislature. In *State ex rel. Harper v. McDavid*, 145 Fla. 605, 200 So. 100 (1941), a taxpayer challenged an exemption for property owned by a city housing authority and used for a low-rent housing and slum clearance project. The Legislature had authorized municipalities to erect low-rent housing units and exempted them from ad valorem taxation by declaring that they served municipal purposes. See *id.* at 101. This Court upheld the tax exemption against challenges under both article IX, section 1 and article XVI, section 16 of the 1885 Constitution. See *id.* at 101-02. The Court noted that it had previously "conceded power in the legislature to define a municipal purpose as contemplated by the provisions of the Constitution alluded to." *Id.* at 102. Responding to the claim that providing low-rent housing did not serve a valid municipal purpose, the Court stated:

It is contended that the business of the Housing Authority is in no sense municipal, that it is in direct competition with private enterprise and even though declared by the legislature to be strictly municipal and charitable, its properties should not be exempt from taxation and that any attempt to make them so should be held in violation of the Constitution.

What constituted a municipal purpose is a legislative question that should not be interfered with by the courts in the absence of a clear abuse of discretion. A municipal purpose is much broader in its scope than it was a generation ago. Under our system of jurisprudence, constitutional validity may be determined by practical operation and effect. Measured by this test, we cannot say that the legislature exceeded its power in pronouncing the properties of the Housing Authority held for a municipal purpose free from all forms of taxation. *They are held not for profit, must be restricted to a low income group, and contribute materially to the health, morals, safety, and general welfare of the people.* They aid materially in reducing the cost of fire prevention and police protection and the Housing Authority is authorized to make annual compensation to the City in lieu of taxes and other services furnished. There is no suggestion that the officers charged with the administration of the present scheme have failed in their duty and being so, we must assume that the law has been faithfully observed.

The time was when a municipal purpose was restricted to police protection or such enterprises as were strictly governmental but that concept has been very much expanded and *a municipal purpose may now comprehend all activities essential to the health, morals, protection, and welfare of the municipality.*

Id. (emphasis supplied).

259 Five years later, this Court relied on the same definition in holding that electric light poles and other properties held and used by a city to supply electric power to *259 customers in an adjacent county could not be taxed by that county under article IX, section 1 of the 1885 Constitution. See *Saunders v. City of Jacksonville*, 157 Fla. 240, 25 So.2d 648, 649 (1946). The Legislature had exempted from ad valorem taxation property owned by a municipality's public utility but located in a different county. See *id.* The Court concluded that furnishing electric current served a municipal purpose. As in *McDavid*, we explicitly rejected the claim that the exemption was invalid "because it might enable the City to compete with private utilities required to pay taxes," again deferring to the Legislature's judgment "as the arbiter of this question." *Id.* at 650.^[8] The Court held that "[i]t is a controlling factor that the owner of the property has no stockholders, or partners, and any income must necessarily accrue to the general public." *Id.* at 651.

McDavid and *Saunders* demonstrate that in applying the non-self-executing provisions of the 1885 Constitution, this Court deferred to the Legislature's authorization of municipal functions and clear intention to exempt property used therefor from ad valorem taxation. Further, we held that a municipal purpose could be served even though the activity was one that competed with the private sector, if the Legislature determined that the activity was essential to the welfare of the municipality. The Court accepted the Legislature's determination that providing low-income housing and electrical power to those in need were "essential" municipal services.

B. Tax Exemptions for Municipal Use of Municipal Property Under the 1968 Constitution

The 1968 constitutional revision effected changes in the exemption from ad valorem taxation for property used for municipal purposes. Unaltered since its adoption in 1968, article VII, section 3(a) provides in full:

All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

This provision differs from its antecedents in the 1885 Constitution in two significant ways. First, as stated above, it does not require legislative authorization to activate the self-executing exemption for property owned and used exclusively by the municipality for municipal or public purposes. In other words, no longer was the exemption contingent upon the Legislature

declaring that an activity served a municipal purpose and was therefore tax exempt. See Mikos, 374 So.2d at 460 (holding change in statutory language on exemption irrelevant because provision is self-executing "and therefore does not require statutory implementation"); see generally 2 Tax Section, The Florida Bar, *Florida State and Local Taxes*, ¶ 5.03[4], at 215 (1984) (describing exemption in article VII, section 3(a) as "unique, ... mandatory and self-executing").

260 Second, the self-executing exemption requires use of the property by the municipality that owns it, whereas article XVI, section 16 of the 1885 Constitution did not require ownership and use by the municipality *260 as long as the property was "held and used exclusively" for municipal purposes. A tax exemption for portions of property used "predominantly" for municipal purposes, regardless of ownership, still requires legislative authorization under the express terms of article VII, section 3(a).

The requirement that the property be both owned and used exclusively by the municipality was seen as a response to the 1965 decision in Daytona Beach Racing & Recreational Facilities District v. Paul, 179 So.2d 349, 353 (Fla.1965), holding that municipal property leased to a corporation for a racetrack served a public purpose because it contributed to the economic well-being of the community, rendering the lessees' interest in the property exempt from ad valorem taxation. See Volusia County v. Daytona Beach Racing & Recreational Facilities Dist., 341 So.2d 498, 501 (Fla.1976) ("Perceiving decisions [such as *Daytona Beach Racing*] as creating inequities in the tax structure, the draftsmen of the Constitution of 1968 limited the municipal purpose exemption to 'property owned by a municipality and used exclusively by it for municipal or public purposes.'"); Bonnie Roberts, *Ad Valorem Taxation of Leasehold Interests in Governmentally Owned Property*, 6 Fla. St. U.L.Rev. 1085, 1091-92 (1978) (stating that *Daytona Beach Racing* "dealt a substantial blow to the legislature's attempt to tax leasehold interests," and that the drafters of the 1968 Constitution "attempted to deal with the problem by limiting the constitutional grounds on which an exemption could be based").

Effectuating the intent of the framers and voters, we held in *Volusia County* that property leased from a municipality and used to generate a profit was not exempt from ad valorem taxation under article VII, section 3(a). See 341 So.2d at 502 (stating that the corporation's use of the leasehold on governmental property to make profits for its stockholders is "determinative"). The decision in *Volusia County* marked one step in a series of cases in which this Court developed a separate and more restrictive test under article VII, section 3(a) for private interests in municipal property. Under this test, a tax exemption is constitutionally permitted only if the use by the private entity "could properly be performed or served by an appropriate governmental unit, or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds." Sebring Airport Auth. v. McIntyre, 783 So.2d 238, 246-48 (Fla.2001) (quoting Roberts, *supra*, at 1092). In *Sebring Airport Authority* we applied this standard, known as the "governmental-governmental" test, to invalidate a statutory tax exemption granted under section 196.012(6) for profitmaking endeavors such as convention and visitor centers, sports facilities, concert halls, arenas and stadiums. We have also applied the "governmental-governmental" test to uphold ad valorem taxation of property leased from an airport authority by food, drink, and merchandise vendors,^[9] as well as property leased from a governmental authority for both residential and commercial uses.^[10] *Sebring Airport Authority* ultimately established that for private leaseholds of municipal property, the "governmental-governmental test" governs eligibility for the constitutional tax exemption in article VII, section 3(a). See 783 So.2d at 248 ("Pursuant to this 'governmental-governmental' standard, article VII, section 3(a) does not permit municipal property leased to private entities for governmental-proprietary activities to be tax exempt.").

261 *261 Our review of the history of article VII, section 3(a) and the pertinent case law demonstrates that the test for private interests in municipally owned property was never intended to apply to property both owned and used exclusively by a municipality for municipal or public purposes. For property both owned and used exclusively by the municipality, the question becomes whether "municipal or public purposes" under article VII, section 3(a) of the 1968 Constitution is as broad as "municipal purposes" under the corresponding provisions of the 1885 Constitution as interpreted in decisions such as *McDavid* and *Saunders*.

As discussed above, article VII, section 3 does not provide a definition of "municipal or public purposes," just as its antecedent provisions in the 1885 Constitution did not define "municipal purposes." The 1968 provision added the term "public purposes," but this addition neither broadened nor narrowed the exemption. This Court had previously held that "public purposes," the term specified in a statutory tax exemption for governmental property, was synonymous with "municipal purposes." See *Daytona Beach Racing*, 179 So.2d at 353; *Gwin v. City of Tallahassee*, 132 So.2d 273, 276 (Fla.1961). Thus, although the framers of article VII, section 3(a) sought to limit the holding in *Daytona Beach Racing*, they

did so by requiring both ownership and exclusive use of the property by the municipality rather than by narrowing the definition of municipal purposes.

In our decisions since 1968 on tax exemptions under article VII, section 3(a) for property both owned and used exclusively by a municipality, we have not elaborated on the meaning of "municipal or public purposes." In *Ford v. Orlando Utilities Commission*, 629 So.2d 845, 846 (Fla.1994), this Court concluded that property located outside Orlando but owned and used by the city for an electrical power plant was used for a valid municipal purpose. We held that under the "clear and unambiguous language" of article VII, section 3(a), the property was exempt from taxation. *Id.* at 847.^[11] In *Mikos*, we held that property owned and held as open space or reserved for future needs was constitutionally exempt from ad valorem taxation under article VII, section 3(a). See 374 So.2d at 460. This Court recognized that "property owned by a municipality is not exempt from taxation if it is used for a private purpose," but held that "vacant land held by a municipality is presumed to be in use for a public purpose if it is not actually in use for a private purpose on tax assessment day." *Id.* at 460-61.^[12]

C. "Municipal Purposes" Under Article VIII, Section 2(b)

262 The City asserts that "municipal or public purposes" should receive the *262 same broad construction as "municipal purposes" under article VIII, section 2(b) of the Florida Constitution, which prescribes municipal powers. Adopted in the same 1968 revision as article VII, section 3(a), article VIII, section 2(b) provides in pertinent part:

Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and *may exercise any power for municipal purposes* except as otherwise provided by law.

(Emphasis supplied.) Under this provision, municipalities have "inherent power to meet municipal needs," and the "legislature's retained power is ... one of limitation." *Lake Worth Utils. Auth. v. City of Lake Worth*, 468 So.2d 215, 217 (Fla.1985). Previously, "municipalities were inherently powerless, absent a specific grant of power from the legislature." *Id.* We recognized the broad sweep of municipalities' inherent power under article VIII, section 2(b) in *State v. City of Sunrise*, 354 So.2d 1206 (Fla.1978), where we stated:

Article VIII, Section 2, Florida Constitution, expressly grants to every municipality in this state authority to conduct municipal government, perform municipal functions, and render municipal services. The only limitation on that power is that it must be exercised for a valid "municipal purpose." It would follow that municipalities are not dependent upon the Legislature for further authorization. Legislative statutes are relevant only to determine limitations of authority.

Id. at 1209; see also *City of Ocala v. Nye*, 608 So.2d 15, 17 (Fla.1992) (reiterating "municipal purposes" requirement from *City of Sunrise* as only constitutional limitation on municipal power).

In *City of Boca Raton v. Gidman*, 440 So.2d 1277, 1281 (Fla.1983), this Court held that providing day care educational facilities is a valid municipal purpose under article VIII, section 2(b). We stated that we would accept the Legislature's determination that an activity served a municipal purpose absent an abuse of discretion. See *id.* at 1280. The Court also noted that the term "municipal purposes" had been broadly interpreted and included such activities as maintenance and operation of a radio broadcasting system by a municipality, citing to *State v. City of Jacksonville*, 50 So.2d 532 (Fla.1951). *Gidman*, 440 So.2d at 1280. *City of Jacksonville* concerned validation of revenue certificates to finance a municipally owned and operated radio station. There this Court employed the same definition of municipal purpose as in *McDavid* and *Saunders*, the two pre-1968 tax exemption cases, stating that "[t]hough there was a time when a municipal purpose was restricted to police protection or such enterprises as were strictly governmental that concept has been very much expanded and a municipal purpose may now comprehend all activities essential to the health, morals, protection and welfare of the municipality." *City of Jacksonville*, 50 So.2d at 535.

Unfortunately, the language in some of these cases has been imprecise. See *Gidman*, 440 So.2d at 1281 (defining a municipal purpose as being "rationally related to the health, morals, protection and welfare of the municipality") (emphasis supplied); *Basic Energy Corp. v. Hamilton County*, 652 So.2d 1237, 1239 (Fla. 1st DCA 1995) (defining municipal purpose under article VIII, section 2(b) as "one that is related to the health, morals, safety, protection or welfare of the municipality")

(emphasis supplied). Therefore, we specifically distinguish precedent construing article VIII, section 2(b), which uses language that is *263 overly broad for determining eligibility for the ad valorem tax exemption in article VII, section 3(a).

There is another reason to conclude that the precedent construing "municipal purposes" under article VIII, section 2(b) is of limited use in construing article VII, section 3(a). As stated above, prior to the adoption of the 1968 Constitution, the Legislature had complete discretion to prescribe municipal powers. Thus, the legislative determination that operation of a radio station, parking garage, or public auditorium served a municipal or public purpose was largely unchecked, absent an abuse of discretion. See Gate City Garage, Inc. v. City of Jacksonville, 66 So.2d 653 (Fla.1953) (parking facility); Starlight Corp. v. City of Miami Beach, 57 So.2d 6 (Fla.1952) (auditorium); City of Jacksonville, 50 So.2d at 535 (radio station). The Court was unwilling to hold that the Legislature abused its discretion in determining that a municipal project that it had authorized served a public purpose.

The precedent discussed above shows that this broad construction of municipal powers remains in force under article VIII, section 2(b), in which the Legislature's remaining authority is to limit, rather than authorize, municipal powers. In fact, the only restriction we have placed on the exercise of municipal powers for a municipal purpose under article VIII, section 2(b) is to hold that "borrowing money for the primary purpose of reinvestment is not a valid municipal purpose." State v. City of Orlando, 576 So.2d 1315, 1317 (Fla.1991).

Because the definition of "municipal purposes" applied under article VIII, section 2(b) has been imprecise, and because that provision and article VII, section 3(a) serve different functions, we conclude that not every municipal activity that the Legislature either declined to prohibit after the 1968 revision, or had authorized in older cases relied upon in construing the 1968 municipal powers provision, was intended to also qualify for the constitutional ad valorem tax exemption in article VII, section 3(a). Thus, an activity may serve valid "municipal purposes" under article VIII, section 2(b) and constitute a permissible municipal function, but not serve "municipal or public purposes" under article VII, section 3(a) making the property owned by the municipality and used exclusively by it for the activity eligible for the constitutional ad valorem property tax exemption.

D. Delineating "Municipal or Public Purposes" Under Article VII, Section 3(a)

In the absence of any indication in the Constitution to the contrary, we conclude that the term "municipal or public purposes" should be construed in accordance with the definition utilized by the Court in its prior decisions on the constitutional tax exemption. There is nothing in the language of article VII, section 3(a) that evinces an intent to create a more restrictive definition of "municipal or public purposes" for property that is owned and used exclusively by the municipality than the definition applied to "municipal purposes" under the 1885 Constitution in *McDavid* and *Saunders* through the 1968 adoption of the current provision. Although *McDavid* and *Saunders* rested at least in part on judicial deference to the Legislature's assessment of what type of activity served municipal purposes, we have no basis to conclude that a narrower construction was intended when the self-executing exemption was included in the 1968 Constitution. To the contrary, had the framers of article VII, section 3(a) intended to narrow the exemption, they could have specifically defined *264 "municipal or public purposes," or used different terms altogether.

This determination is consistent with the principle that the Legislature "is presumed to have adopted prior judicial constructions of a law unless a contrary intention is expressed," Florida Dep't of Children & Families v. F.L., 880 So.2d 602, 609 (Fla.2004), which is equally applicable on the constitutional level. See generally Coastal Fla. Police Benev. Ass'n v. Williams, 838 So.2d 543, 548 (Fla.2003) (stating that rules governing statutory construction are generally applicable to construction of constitutional provisions). As stated by one observer shortly after the adoption of the 1968 Constitution, cases construing the constitutional municipal purposes exemption and the statutory public purposes exemption "continue to be good law even after the adoption of the new constitution." Robert F. Williams, Note, *Property Tax Exemptions Under Article VII, Section 3(a) of the Florida Constitution of 1968*, 21 U. Fla. L.Rev. 641, 643 (1969).

We therefore conclude that the "municipal or public purposes" for which municipally owned property must be exclusively used in article VII, section 3(a) to qualify for an ad valorem tax exemption encompass activities that are essential to the health, morals, safety, and general welfare of the people within the municipality. We agree with the dissent on the parameters of this test, but disagree on its application in determining the facial constitutionality of the challenged legislation.

E. Whether the Tax Exemption Under Article VII, Section 3(a) Necessarily Applies to Municipal Telecommunications Facilities

In putting this definition into practice, we focus on the word "essential," which is generally defined as something basic, necessary, or indispensable. See *Merriam-Webster's Collegiate Dictionary* 396 (10th ed. 1999). For example, an "essential element" is one on which proof is required in order to establish a legal claim or criminal offense. See, e.g., *Rubano v. Dep't of Transp.*, 656 So.2d 1264, 1266 (Fla.1995) ("Proof that the governmental body has effected a taking of the property is an essential element of an inverse condemnation action."); *Randall v. State*, 760 So.2d 892, 901 (Fla.2000) ("[P]remediation is the essential element that distinguishes first-degree murder from second-degree murder."). Thus, inherent in the word essential is the concept of great need or necessity.

A thread of necessity also runs through the precedent concerning tax exemptions for municipal use of municipally owned property that we have discussed. In *McDavid*, which held a tax exemption for a public housing facility valid, the Legislature had declared that housing conditions were "a menace to the health, safety, and morals of the people ... necessitat[ing] excessive expenditures for crime and fire prevention, health, and welfare," and that public safety "demand[ed]" replacement of slums by "sanitary and better housing facilities." 200 So. at 101 (emphasis supplied). In upholding the tax exemption for property owned by a municipal power company located in another county in *Saunders*, we recognized that the Legislature "was doubtless well aware of the need for light, heat and power by those areas outside of municipalities." 25 So.2d at 650. Similarly, in *Ford*, this Court held that the production of electricity by a municipality's power company served a municipal purpose. See 629 So.2d at 847. Such services are essential in that municipally owned power companies have legally protected monopolies within their territorial boundaries, and have traditionally provided these *265 services. See § 366.11(1), Fla. Stat. (2004); *City of Homestead v. Beard*, 600 So.2d 450, 452 (Fla.1992). Finally, the tax-exempt status upheld in *Mikos* for vacant land held by a municipality to preserve natural open spaces or for future needs, 374 So.2d at 461, is consistent with the traditional municipal function of providing parks for the municipal population. Cf. *City of Miami Beach v. Hogan*, 63 So.2d 493, 495 (Fla.1953) (stating that "[i]n all heavily populated municipalities the police power should be exercised by municipal officials to afford all of the people light, air, [and] an opportunity for recreation").

Unlike electrical power and public parks, telecommunications services have historically been provided by the private sector. The Legislature's rationale for opening telecommunications services to competition by various entities including municipalities was to "provide customers with freedom of choice, encourage the introduction of new telecommunications service, encourage technological innovation, and encourage investment in telecommunications infrastructure." § 364.01(3), Fla. Stat. (2004). However, under the law applicable to this case, municipalities may enter the market regardless of whether their participation furthers any of these goals. In other words, a municipality, using infrastructure advantages gained from its pre-existing utility operations, may enter a market in which a high level of service and competition already exists without introducing new levels of service, fostering innovation, or encouraging infrastructure investment. If that is the case, the municipal telecommunications company does not provide a service that is essential to the health, morals, safety, and general welfare of the people within the municipality.^[13]

Because this is a facial challenge to the constitutionality of legislation taxing municipal use of municipally owned property, we need not determine whether the specific services provided by the City pass this test. As stated above, in a facial constitutional challenge, we determine only whether there is any set of circumstances under which the challenged enactment might be upheld. See *Bales*, 343 So.2d at 11 ("[A]ny legislative enactment ;carries a strong presumption of constitutionality, including a rebuttable presumption of the existence of necessary factual support in its provisions. If any state of facts, known or to be assumed, justify the law, the court's power of inquiry ends.") (citation omitted); *Cashatt*, 873 So.2d at 434 ("A facial challenge to a statute is more difficult than an 'as applied' challenge, because the challenger must establish that no set of circumstances exists under which the statute would be valid.") We conclude that in a situation in which municipal telecommunications services do not promote any of the goals set forth above from section 364.01, Florida Statutes, for the benefit of the municipal population, property used to provide those services does not serve "municipal or public purposes" and therefore is not exempt *266 from ad valorem taxation under article VII, section 3(a).

III. CONCLUSION

For the reasons we have stated, we hold that section 166.047(3), Florida Statutes (1997), as enacted in chapter 97-197, section 2, Laws of Florida, and the amendment to section 196.012(6) contained in section 3 of the same act are not unconstitutional on their face. We do not determine the constitutionality of these provisions as applied. We reverse the decision of the First District holding the provisions facially unconstitutional, and remand with directions to reverse the summary judgment granted in the City of Gainesville's declaratory judgment action in this case.

It is so ordered.

WELLS, LEWIS, QUINCE, CANTERO, and BELL, JJ., concur.

ANSTEAD, J., dissents with an opinion.

ANSTEAD, J., dissenting.

I respectfully disagree with the majority's determination to strictly and narrowly construe the term "municipal purpose" as it appears in Florida's Constitution, by limiting the definition to only "activities that are *essential* to the health, morals, safety, and general welfare of the people within the municipality." Majority op. at 264 (emphasis added). The majority's adoption of this definition appears both arbitrary and without support from our case law, and it represents an unprecedented challenge to the broad discretion and authority of local government and home rule traditionally favored in Florida. As is immediately evident from comparing today's majority opinion with the comprehensive review of our case law contained in Chief Judge Wolf's opinion for the First District, today's holding constitutes a dramatic break from this Court's unbroken line of decisions broadly construing the term "municipal purpose." Until today, great deference has been shown to the judgment of local government as to the use of municipal property for the benefit of its citizens. Today that deference has been removed.

Further, I cannot concur in the majority's conclusion that a municipality's providing telecommunications services to its residents is not an essential service and, therefore, does not constitute a "municipal purpose" under the majority's analysis. Even without the dramatic backdrop of enormous communication failures occurring during the recent natural disasters and terrorist attacks in this country, it is simply a modern fact of life that our citizens and our communities view the widespread availability of the latest in communication technology as essential to their general welfare.

Constitutional History and the Broad Interpretation of "Municipal Purpose"

Consistent with this Court's virtually unbroken precedent and case law, the First District below concluded that "municipal purpose" should continue to be given a broad definition. While I will also attempt to briefly review our constitutional and case law history, I would suggest that Chief Judge Wolf's opinion flawlessly and comprehensively speaks for itself in its interpretation of the term "municipal purpose" as previously construed by this Court. There is a particular passage in that opinion that gets right to the heart of the issue:

Appellant has not cited any case which supports the proposition that when property is owned and used by a municipality the term "municipal purpose" as used in Article VII, Section 3(a), Florida Constitution, should be narrowly construed. [*Sebring Airport Authority v. McIntyre*, 783 So.2d 238 (Fla.2001)] and other cases cited for adopting a narrow interpretation involve situations where municipal property is being leased or utilized by a private entity. In *Williams v. Jones*, 326 So.2d 425, 432 (Fla.1975), a case where a municipality leased municipal property, the court stated that one person operating a commercial establishment for profit should not have an advantage over another commercial establishment also operating for purely proprietary purposes just because one is located on governmental property. The same policy considerations do not apply where the property is being owned and operated by the municipality itself, in which case the focus of the municipality is the provision of service to its citizens. See, e.g. *City of Boca Raton v. Gidman*, 440 So.2d 1277 (Fla.1983). In fact, we are unaware of any public policy reason when property is owned and operated by a municipality that the term "municipal purpose" should not be given its generally accepted meaning in accordance with Article VIII, Section 2(b), Florida Constitution. The Fifth District's opinion in [*Greater Orlando Aviation Authority v. Crotty*, 775 So.2d [978,] 978 [(Fla. 5th DCA 2000)], and the opinion of this court in [*Page v. Fernandina Beach*, 714 So.2d 1070 (Fla. 1st DCA 1998)], support such a uniform construction. The *Crotty* court noted,

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[T]he constitution exempts from taxation property owned by a municipality and used exclusively by it for municipal or public purposes. The term "municipal purpose" has been defined as encompassing all activities essential to the health, morals, protection and welfare of the municipality. State v. City of Jacksonville, 50 So.2d 532, 535 (Fla.1951). "Municipal functions" are those created or granted for the special benefit and advantage of the urban community embraced within the corporate boundaries. Chardkoff Junk Company v. City of Tampa, 102 Fla. 501, 135 So. 457 (1931). See also State ex rel. Harper v. McDavid, 145 Fla. 605, 200 So. 100 (1941); City of Winter Park [v. Montesij], 448 So.2d [1242,] 1244 [(Fla. 5th DCA 1984)]. Our courts have ruled that municipal functions include functions which specifically and peculiarly promote the comfort, convenience, safety and happiness of the *citizens of the municipality* rather than the welfare of the general public.

Crotty, 775 So.2d at 980-981 (emphasis in original).

Dep't of Revenue v. City of Gainesville, 859 So.2d 595, 598-99 (Fla. 1st DCA 2003) (footnotes omitted). This passage focuses on the broad authority granted to municipalities to utilize property *owned and used by the municipality* to serve its citizens in a broad variety of ways, while still enjoying the constitutional tax exemption that was placed in the constitution to encourage that very activity. Obviously, such a tax exemption has served as an incentive to cities to serve their citizens. With today's decision, that incentive and the services that go with it have been placed at risk.

268 The Constitution of 1885 provided that property owned by corporations "shall be subject to taxation unless ... used exclusively for religious, scientific, *municipal*, educational, literary or charitable *purposes*." Art. XVI, § 16, Fla. Const. of 1885 (emphasis added). Under this Court's case law, the term "municipal purpose" has been consistently interpreted broadly to permit cities wide latitude in using municipal property to serve municipal residents, while still enjoying a constitutional tax exemption. For example, in State v. City of Tallahassee, 142 Fla. 476, *268 195 So. 402 (1940), this Court held that a city's construction of an office building for rent was such a "municipal purpose" contemplated by the constitutional tax exemption. *Id.* at 403. In fact, in the same opinion this Court noted that the construction of "[a]irports, golf courses, school buildings, and other structures" would be proper "municipal purposes." *Id.*

Subsequently, again construing this provision broadly, this Court held that holding a proprietary interest in "a community recreational asset and business stimulant," like a speedway, served a "municipal purpose" because it contributed to the economic well-being of the community, thereby rendering even the lessees' interest in the property exempt from ad valorem taxation under the 1885 constitutional language. Daytona Beach Racing & Recreational Facilities Dist. v. Paul, 179 So.2d 349, 354 (Fla.1965); see also State v. Daytona Beach Racing & Recreational Facilities Dist., 89 So.2d 34, 37 (Fla.1956) (noting that this Court has "on numerous cases approved as a public purpose the development of recreational facilities"). In fact, it was this case and others like it, extending the benefit of the constitutional tax break to private entities, that eventually led to a revision of these tax provisions.

Subsequently, article VII, section 3(a) of the 1968 Constitution was revised to prevent private entities from continuing to enjoy a constitutional tax exemption when municipalities leased property to them. The majority appears to acknowledge the purpose of the 1968 revisions to address these seemingly unfair tax breaks for private entities. See Majority op. at 260-61 ("Thus, although the framers of article VII, section 3(a) sought to limit the holding in Daytona Beach Racing, they did so by requiring both ownership and exclusive use of the property by the municipality *rather than by narrowing the definition of municipal purpose*." (emphasis added). Of course, the majority's acknowledgment is based on our own case law. See Volusia County v. Daytona Beach Racing & Recreational Facilities Dist., 341 So.2d 498, 501 (Fla.1976) ("Perceiving decisions [such as Daytona Beach Racing] as creating inequities in the tax structure, the draftsmen of the Constitution of 1968 limited the municipal purpose exemption to 'property owned by a municipality and used exclusively by it for municipal or public purposes.'"); Bonnie Roberts, *Ad Valorem Taxation of Leasehold Interests in Governmentally Owned Property*, 6 Fla. St. U.L.Rev. 1085, 1091-92 (1978) (stating that Daytona Beach Racing "dealt a substantial blow to the legislature's attempt to tax leasehold interests," and that the drafters of the 1968 Constitution "attempted to deal with the problem by limiting the constitutional grounds on which an exemption could be based"). No one has ever suggested that the 1968 amendment was intended to take away the exemption from municipalities that both owned the land and used it for the benefit of local residents.

Hence, the focus of the 1968 revision was on the leasing of municipal property to private parties, rather than on the use of municipal property by the municipality itself, the issue before us today. Clearly, the broad exemption of municipal property owned by municipalities and used by them for public purposes, and *not leased to private entities*, remained in place in our

269 constitution after 1968.^[14] Thus, given both *269 the substantial case law interpreting this phrase as broadly inclusive, and the narrow focus of the amendments of the Constitution in 1968 concerning private entities enjoying tax breaks, it seems evident that the term "municipal purpose" should continue to be broadly construed when it is applied to municipal property owned and used by a municipality to serve its citizens.

Indeed, that is precisely what this Court did in 1979 in rejecting a claim that property owned by a municipality to meet future undesignated needs was not entitled to a constitutional tax exemption. In City of Sarasota v. Mikos, 374 So.2d 458 (Fla. 1979), Justice Overton declared for a unanimous Court:

A reading of section 3(a) of article VII clearly establishes that it is a self-executing provision and therefore does not require statutory implementation. The change in the language of chapter 196 is irrelevant because although a statute may grant additional exemptions, it may not repeal the exemptions granted municipalities by the constitution. In our view, the city's holding of vacant land to meet the future needs of the public and to preserve natural open spaces is not a private use. We do not believe municipalities are required to dedicate land for a particular purpose, construct buildings, or otherwise be active on their land in order to maintain the tax exempt status of the property. Neither the constitution nor common sense requires there be an active use of such property. We hold that vacant land held by a municipality is presumed to be in use for a public purpose if it is not actually in use for a private purpose on tax assessment day....

We recognize that property owned by a municipality is not exempt from taxation if it is used for a private purpose. See Panama City v. Pledger, 140 Fla. 629, 192 So. 470 (1939) (land leased to a private corporation is not in use for a public purpose); City of Bartow v. Roden, 286 So.2d 228 (Fla. 2d DCA 1973) (land leased to a private enterprise for nonaeronautical activities is not in use for public purpose); Illinois Grain Corp. v. Schleman, 144 So.2d 329 (Fla. 2d DCA 1962) (land leased to a private corporation is not in use for a public purpose). None of these cases even imply that unimproved vacant land owned by a municipality falls within the category of land held for a private purpose.

270 If the contentions of the property appraiser were adopted, the tax burden of county residents would be reduced at the expense of city taxpayers. This result *270 is contrary to the purpose of our present constitution which provides that each local governmental entity shall have the same basic taxing authority, shall pay its own way, and shall not receive benefits at the expense of another local governmental unit.

Id. at 460-61. In essence, our *Mikos* opinion approved of a rebuttable presumption in favor of an article VII tax exemption for municipally owned property not being used for a private purpose, even when the property was not in current use. Today's majority, and its new and explicit requirement of "basic, necessary, or indispensable," simply cannot be reconciled with our holding in *Mikos* giving deference to a municipality's legislative judgment as to what constitutes a municipal or public purpose unless the property is "actually in use for a private purpose." *Id.* at 461.

Majority's Definition of "Municipal Purpose"

It would also appear that the majority opinion is engaging in a flawed analysis by using the terms "basic, necessary, or indispensable" to now radically limit the scope of "municipal purpose." The majority's reliance on State ex rel. Harper v. McDavid, 145 Fla. 605, 200 So. 100 (1941), to support this definition is especially troubling. In *McDavid*, this Court did conclude that "a municipal purpose may now comprehend all activities essential to the health, morals, protection, and welfare of the municipality." *Id.* at 102. But we used the phrase to encompass a broad meaning of municipal purpose. The majority's attempt to use *McDavid* as precedent for limiting the scope of "municipal purpose" is simply inconsistent with the actual broad construction and analysis we utilized in that case. In *McDavid*, for example, we cited to *City of Tallahassee* and mentioned golf courses, among other items, as endeavors that fall under the "very much expanded" definition of "municipal purpose." McDavid, 200 So. at 102. Moreover, we stated, "The time was when a municipal purpose was restricted to police protection or such enterprises as were strictly governmental but that concept has been very much expanded...." *Id.* Of course, *McDavid* recognized and endorsed this broad expansion. In other words, it is virtually impossible to use our opinion in *McDavid* as the basis for narrowly construing the term "municipal purpose" when the opinion explicitly utilizes and approves a broad definition of the term.

Authority of Local Governments

It is also virtually impossible to square the majority's narrow construction of the term "municipal purpose" with Florida's long history favoring home rule and local government and decision-making at the local level as to the use of municipal property to serve local residents. The approach advocated by the majority alters the historic presumption in favor of cities that has traditionally allowed them broad discretion to decide what constitutes a "municipal purpose." By now restricting the definition of "municipal purpose" to include only those endeavors deemed "essential," the majority seems to suggest that municipalities cannot be trusted to determine what activities benefit its own citizens.

271 In fact, with the majority's new and restrictive definition of "municipal purpose," one is left to wonder what will happen to all of the services that municipalities now provide, including municipal parks, pools, zoos and a multitude of other services that have previously withstood court challenges to their tax-exempt status.^[15] Hopefully, the majority is not signaling *271 a return to the days of the early twentieth century "when a municipal purpose was restricted to police protection or such enterprises as were strictly governmental." See McDavid, 200 So. at 102. Surely, the technological and societal advances recognized as appropriate for municipal attention since the early twentieth century are too significant for this Court to now roll back the clock on the services that Florida's municipalities have decided to provide their citizens through the use of municipally owned property.

Providing Telecommunications as a Municipal Purpose

Finally, even adhering to the majority's new definition of "municipal purpose" as one "essential to the health, morals, protection, and general welfare of the municipality," surely it cannot be denied that providing telecommunications services meets this description. In the midst of a technological and communications revolution that has been hailed as having a greater impact on civilization than anything that has preceded it, we cannot deny local governments the opportunity to bring these benefits to their citizens. I have already alluded to the fact that we are deciding this case in a backdrop of natural disasters where government at all levels, including local, has been sharply criticized for its communications failures.^[16]

The First District's opinion clearly articulates why the provision of telecommunications services should be considered a municipal purpose:

[I]f municipality-owned property is being used by the municipality for a public purpose, the legislature may not remove the exemption. Yet, that is precisely the purpose of section 166.047. The legislative staff analysis of chapter 97-197 states the purpose of the act: to "remove the exemption that municipalities, counties, or other entities of local government have for ad valorem taxes on real property used for the purpose of providing telecommunication services to the public." Fla. H.R. Comm. on Utils. and Communications, HB 313 (March 5, 1997) Staff Analysis (on file with Comm.). The only issue before us is whether this property which is owned by the City is being used for a municipal purpose.

. . . .

272 Indeed, the provision of telecommunication services for the benefit of city residents constitutes a valid municipal purpose pursuant to any reasonable interpretation *272 of the term "municipal purpose." The best evidence in this regard is the statute itself which recognizes that political subdivisions within the state may be issued certificates by the Public Service Commission to act as a telecommunications provider. See § 364.02(13), Fla. Stat.

In addition, as recognized by the trial court, there is a long history in Florida and elsewhere in this country of local governments providing utility services. In discussing the provision of telecommunications services, the trial court stated,

While the provision of telecommunications services may also partake of "no aspect of sovereignty," it is no less "a legitimate municipal corporate undertaking for the comfort, convenience, safety, and happiness of the municipality's citizens" than a marina. Indeed, if anything, it is more analogous to such services as electricity and water, long recognized as serving valid municipal and public purposes. See Ford v. Orlando Utilities Comm'n, 629 So.2d 845 (Fla.1994) (property used in furnishing electricity is used for valid municipal purpose

and exempt from tax under the Florida Constitution); Schultz v. Crystal River Three Participants, 686 So.2d 1391 (Fla. 5th DCA 1997) (interest of municipalities in private power plant was tax exempt); Orlando Utilities Comm'n v. Milligan, 229 So.2d 262 (Fla. 4th DCA 1969) (furnishing of electricity, power, and water was municipal purpose under Florida's 1885 Constitution.)

(footnote omitted).

Indeed, the provisions of telecommunication services are still regulated by the Public Service Commission just like water, sewer, and electricity. See Chs. 362, 366, and 367, Fla. Stat. Telecommunication providers like utilities provide essential public services.

Telegraph and telephone companies as ordinarily operated are categorized as "public service corporations," and in legal phraseology as "quasi-public corporations" or "corporations affected with a public interest." They are important agencies and instrumentalities of commerce, in constant use in conducting both governmental and private affairs of the country, so that the public clearly has an interest in such business. The property employed, as well as the proceeds of the business, belongs to the company, but such property is used and the business conducted for the accommodation and convenience of the public.

74 Am.Jur.2d Telecommunications § (2003) (footnotes omitted).

City of Gainesville, 859 So.2d at 598, 600-01 (footnotes omitted). The First District opinion demonstrates just how well and naturally the provision of communications services fits in a natural evolution of "municipal purpose."

Certainly no one could argue the relevance of telecommunications services in today's day and age, the information age. In modern society, for example, telecommunications services have become essential to meet the educational needs of our children and all of our citizens. Without telecommunications, there would be no radio, television, or internet broadcasts warning of impending hurricanes or other emergencies; there would be no telephone service with which to call the police, fire department, or hospitals. Therefore, it would seem apparent that telecommunications services especially qualify as a municipal purpose, even under the majority's newly created definition.^[17]

- 273 *273 It would appear to be undeniable that allowing municipalities to enter the telecommunications market would greatly benefit all of the citizens of Florida, especially in rural areas where there may be few, if any, telecommunications service providers at present. Just as rural electrification was once seen as an enormous boost to the quality of life of rural residents, modern communications technology has been hailed as an unsurpassed opportunity to advance all mankind.

Conclusion

Today's decision deals a substantial blow to local government in Florida, placing in doubt the constitutional tax-exempt status of all municipal property whose public use does not fit the majority's new and restrictive definition of municipal purpose.

When Florida's constitution was revised in 1968, it was logically changed in response to what was perceived to be an abuse of the use of tax exemptions for private lessees enjoying the benefits to which only municipalities were entitled. However, the use of municipally owned property to benefit municipal residents was not an issue, and the term "municipal purpose" was not altered. The sole purpose of the 1968 change was to prevent a private entity from gaining a tax exemption by leasing property from a municipality. There was no intent to change the meaning of "municipal purpose," and that meaning should continue to have the same broad definition that this Court has given it for over seventy years. The First District's decision and Florida's constitutional commitment to strong local government should be affirmed. I dissent.

[1] The validity of the statutory requirement that counties and local governmental entities other than municipalities pay ad valorem taxes on property used in providing telecommunications services is not before us in this case.

[2] Article VIII, section 2(b), Florida Constitution, provides that "[m]unicipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law." Thus, both article VII, section 3(a) and article VIII, section 2(b) use the term "municipal purpose."

[3] Section 196.199(1)(c), Florida Statutes (2004), which has remained unchanged since 1995, provides:

All property of the several political subdivisions and municipalities of this state or of entities created by general or special law and composed entirely of governmental agencies, or property conveyed to a nonprofit corporation which would revert to the governmental agency, which is used for governmental, municipal, or public purposes shall be exempt from ad valorem taxation, except as otherwise provided by law.

[4] The City has also signed thirty leases with seven wireless telecommunications providers to locate antennas on thirteen towers owned or operated by the City. Its complaint challenging taxation on these facilities was dismissed on procedural grounds. See Crapo v. City of Gainesville, 855 So.2d 203 (Fla. 1st DCA 2003), review denied, 895 So.2d 404 (Fla.2005).

[5] See art. VII, § 4(a)-(e), Fla. Const.

[6] The statutory tax exemption in section 196.012(6) is as follows:

Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds.

[7] The Legislature has long had the authority to grant cities the status of municipal corporations. See Coen v. Lee, 116 Fla. 215, 156 So. 747, 749 (1933) ("The creation of municipal corporations with governmental powers and the establishment and regulation of municipalities are inherent legislative powers"); § 165.041(1)(a), Fla. Stat. (2004) ("A charter for incorporation of a municipality ... shall be adopted only upon a special act of the Legislature....").

[8] The Court grounded this aspect of its holding in article VIII, section 8 of the 1885 Constitution, which gave the Legislature power to prescribe the jurisdiction and powers of municipalities.

[9] See Walden v. Hillsborough County Aviation Auth., 375 So.2d 283, 287 (Fla.1979).

[10] See Williams v. Jones, 326 So.2d 425 (Fla.1975).

[11] The Court noted that although article VII, section 3(a) permits taxation of municipally owned property located outside the municipality if authorized by general law, the Legislature had not authorized such taxation. See *id.* at 847; accord Schultz v. Crystal River Three Participants, 686 So.2d 1391, 1392-93 (Fla. 5th DCA 1997) (in absence of general law requiring payments to tax unit in which plant was located, cities' interest in nuclear power plant was tax exempt under article VII, section 3(a) and section 196.199(2)(c), Florida Statutes).

[12] The dissent asserts that our decision in this case cannot be reconciled with *Mikos*. We disagree. The presumption underlying *Mikos*, that vacant land owned by a municipality is held for a public purpose, would be inappropriate for municipally owned property used by the municipality to engage in a business venture to provide services in competition with the private sector.

[13] The 2005 Legislature enacted, and the Governor signed, legislation placing restrictions on municipalities operating telecommunications businesses. See Ch.2005-132, § 8, Laws of Fla. The new law requires municipalities that plan to start a telecommunications business to conduct hearings on whether the services it proposes to provide are already generally available in the community. The law also places financing, pricing and accounting restrictions on municipalities providing telecommunications services, and provides that if a municipality cannot show a profit from its telecommunications business within four years, it must cease operations, enter into a partnership with private business, or put the question of whether to continue to provide service to a vote of its governing body. Municipalities that, as of April 1, 2005, had a certificate to sell telecommunications services are exempted from some of the new requirements.

[14] The First District's opinion directly addresses the issue of whether the broad tax exemption for municipal property remained in place after the 1968 constitutional revision:

In Page v. Fernandina Beach, we specifically noted that city owned and operated (as opposed to leased out) property was exempt from taxation under a broad construction of "municipal purpose:"

Municipal operation of a marina is a legitimate municipal corporate undertaking for the comfort, convenience, safety, and happiness of the municipality's citizens. Indeed, the uncontradicted expert testimony was that operation of this marina constituted a proper municipal or public function. When a city operates a marina it owns, marina property it has not leased to a nongovernmental entity is exempt from ad valorem taxation.... But operating a marina partakes of no aspect of sovereignty and does not warrant an exemption for a marina leased to a nongovernmental operator seeking profits.

Page, 714 So.2d at 1076-1077.

City of Gainesville, 859 So.2d at 599-600. *Page* was recently approved by the Third District in Islamorada, Village of Islands v. Higgs, 882 So.2d 1009 (Fla. 3d DCA 2003). In that case, the Village of Islamorada, a municipality, owned and operated a marina available for use by the general public. *Id.* at 1010. Emphasizing that the marina was operated without the involvement of a non-governmental lessee or operator, the Third District relied on *Page's* definition of a public purpose as one that promotes the "comfort, convenience, safety and happiness of [its] citizens" in upholding a tax exemption for the marina. *Id.* at 1011 (quoting *Page*, 714 So.2d at 1076).

[15] Ironically, while seemingly narrowing the definition of municipal purpose, the majority indicates its agreement that the exemption should broadly apply to property owned and stockpiled by a municipality for undesigned "future uses" as this Court held in *Mikos*.

[16] Indeed, if the contents of a recent Associated Press news story is accurate, the City of Gainesville is not the only city being challenged for its attempts to provide its citizens better communications services:

To help boost its stalled economy, hurricane-ravaged New Orleans is offering the nation's first free wireless Internet network owned and run by a major city.

Mayor Ray Nagin said Tuesday the system would benefit residents and small businesses who still can't get their Internet service restored over the city's washed out telephone network, while showing the nation "that we are building New Orleans back."

The system started operation Tuesday in the central business district and French Quarter. It's to be available throughout the city in about a year.

Hundreds of similar projects in other cities have met with stiff opposition from phone and cable TV companies, which have poured money into legislative bills aimed at blocking competition from government agencies — including a state law in Louisiana that needed to be sidestepped for the New Orleans project.

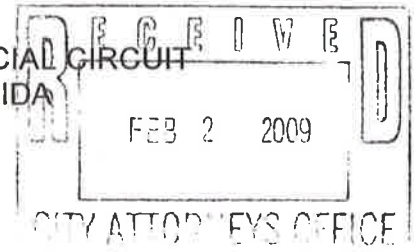
New Orleans to Offer Free Wireless Internet Citywide, Gainesville Sun, Nov. 30, 2005, at 9B.

[17] The majority notes that telecommunications services have historically been provided by the private sector and that, furthermore, since municipalities are not required to further one of the goals stated in section 364.01(3), Florida Statutes (2004), this serves as additional evidence that their participation in the market does not serve a "municipal purpose." Majority op. at 265. However, while there may be concerns that municipalities should not have an unfair advantage when competing with private companies already providing telecommunications services in an area, in reality, that concern is always present. There is essentially no limit to the services private businesses can provide in areas of service traditionally provided only by governments, including the operation of private prisons. Further, as pointed out in the majority's opinion, the City has stated the obvious, that the profits generated from a telecommunications business, as with all other municipal revenue, would be reinvested in the community and thereby serve all of the community's residents both directly and indirectly. Majority op. at 255. This concern of municipalities having an unfair advantage over private companies is also alleviated with the recent regulatory legislation that requires municipalities to jump through many hoops when entering the telecommunication services business. See Majority op. at 265 n. 13. The governor signed the bill into law on June 2, 2005. Ch. 2005-132, § 8, Laws of Fla.

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TAB 4

IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR INDIAN RIVER COUNTY, FLORIDA



CITY OF VERO BEACH,
a Florida municipal corporation,

Plaintiff,

vs.

DAVID C. NOLTE, as Property Appraiser of
Indian River County, Florida; CHARLES SEMBLER,
as the Tax Collector of Indian River County, Florida,

Defendants.

CASE NO.: (Consolidated)
2003-0837-CA19
2004-0768-CA19
2005-0824-CA17
2006-0997-CA17

FINAL JUDGMENT

THIS CAUSE came before the Court for a non-jury trial. The Court, having heard the testimony, considered the evidence admitted during the proceedings, and heard argument of counsel, makes the following findings of fact and conclusions of law:

STATEMENT OF THE CASE

The Plaintiff, City of Vero Beach ("City"), has filed a two-count complaint challenging the imposition of ad valorem taxation on aircraft hangers built and operated by the City. The City is seeking a declaratory judgment against Defendant, David C. Nolte, as Property Appraiser of Indian River County, Florida ("Property Appraiser"), that his classification and taxation of the City's municipal property, as proprietary and taxable leasehold interests subject to locally imposed ad valorem taxes, is void and contrary to law. The City is also seeking injunctive relief against Defendant, Charles Sembler, as Tax Collector of Indian River County, Florida ("Tax Collector"), to stop the collection of any such locally imposed ad valorem taxes. The City filed subsequent lawsuits challenging the assessments for the tax years of 2004, 2005, 2006, and 2007. The lawsuits were consolidated by agreement

of the parties.

The main issue to be decided by the Court in this case is whether the hangers, built and operated by the City at its municipal airport, within the aviation area, which are leased on a relatively short term basis (one year or less) to anyone owning aircraft suitable for temporary storage are subject to local ad valorem taxes.

FACTS

The City is the owner and operator of the Vero Beach Municipal Airport ("Airport"). This is a general aviation airport providing aviation/aeronautical services for the public. It is a municipally owned "public airport," subject to regulation by the Federal Aviation Administration ("FAA") and the Florida Department of Transportation ("FDOT"). These regulations include control over the acquisition, construction, and operation of all improvements to the real property with the aviation area of the airport layout plan as approved by the FAA and FDOT. The Airport is a "Part 139 (of the FAA regulations) Certified Airport."

In 2002, the City built, at the Airport, structures containing 28 "T-hanger" spaces and five "executive hanger" spaces ("the hanger facility"). Prior to the City's construction of the hanger facility, hanger space was and still is provided by privately owned fixed based operators ("FBOs") at the Airport. In 2002, the Property Appraiser notified the City that he intended to classify the hanger facility not as municipal property, but as government leaseholds, subject to local ad valorem taxation. In 2003, he reclassified the property, as he had indicated and began imposing property taxes on this municipal property.

The Tax Collector accepted the real property tax roll from the Property Appraiser, including classification of the municipal property as government leaseholds and generated a tax bill and attempted to impose a lien on the City.

The hanger facility is located within the aviation area of the Airport layout plan.

approved by the FAA for the Airport. The City did not apply for an exemption for this property or any other property owned and operated by the City.

The City operates the hanger facility, directly, without the agency of an FBO. The aircraft hanger spaces are leased on a multi-month basis to individuals, business entities, associations, or anyone else owning aircraft suitable for, and qualified for, temporary storage in the hangers. The lease agreements with the hanger tenants include pass through provisions for any ad valorem taxes legally imposed so that the tenants are "solely responsible for same. There is no residency requirement on the part of the tenant. Access to the hanger facility is granted only to tenants or authorized personnel. To access the hanger facility, one must use a key pad code for entry through the gate. The code is given only to tenants and authorized airport/emergency personnel. The fence surrounding the hanger facility is six feet or more in height topped by three strands of barbed wire. Upon taking possession, the tenant has the exclusive right to the hanger unit. Airport personnel may enter the hanger facility with the consent of the tenant or for maintenance/inspection purposes as provided in the lease with the tenant. The City does not use, lease to itself or otherwise hold possession of any of the hanger units. The City does not own, lease, have rights to or otherwise have an interest in any aircraft. The City does not have any rights to or interests in any of the aircraft stored by the tenants at the hanger facility nor does the City in any way limit, dictate or control, the tenants' use of their aircraft.

The funding for the construction of the hanger facility was provided through general revenues from the City (20%) and with grants from the FDOT (80%), as reflected in the "Public Transportation Joint Participation Agreements" and "Supplemental Joint Participation Agreements." The source of these funds is the 6.5 cents per gallon fuel tax imposed by the state on the sale of all aviation fuel. These tax revenues are deposited into the State Transportation Trust Fund to be spent for aviation related projects at the State's

public airports (both general aviation and commercial). The City applied for grants from the State to build the hanger facility because there were no facilities providing safe and secure enclosed storage for individual general aviation aircraft at the airport. The demand for this form of storage justified the cost of building the hanger facility, using grant funds. The Airport's FBOs were unwilling to build such structures because they were not economically feasible as a privately financed venture.

LEGAL CONCLUSIONS

The City's claim for a constitutional exemption in this case is presumed to be correct. The Property Appraiser has the burden of overcoming that presumption. *Florida Department of Revenue v. City of Gainesville*, 918 So.2d 250, 258 (Fla. 2005).

The Property Appraiser has alleged in his First Affirmative Defense that the City cannot claim an exemption from ad valorem taxation because the City has failed to establish that a lessee of the subject property is performing a governmental, municipal, or public function as defined in section 196.012(6), Florida Statutes.

In this case, the Property Appraiser is attempting to relate the statute to the lessees of the hanger facility and argues that the lessees are required to perform a governmental, municipal, or public function for the City to qualify for an exemption from ad valorem taxation. However, it is the City that is performing a governmental, municipal, or public function in providing the hanger facility for aircraft as part of its operation of the airport. The operation of a public airport by a municipality is traditionally a public purpose. *

In 2001, the Property Appraiser began to tax all property leased to the FBOs at the Vero Beach Municipal Airport. The FBOs alleged that they were entitled to an exemption from ad valorem taxation as an FBO providing aviation services to the general public on property leased from the City pursuant to section 196.012(6) and 196.199(2)(a), Florida

Statutes. After protracted litigation, that matter was resolved by this Court in a decision that the property was not taxable which was appealed and later affirmed by the Fourth District Court of Appeal in *Nolte v. Sun Aviation, et al.*, 975 So. 2d 627 (Fla. 4th DCA 2008).

Clearly, section 196.012(6), Florida Statutes, provides that property leased to an FBO is performing a "governmental, municipal or public purpose, making it exempt from ad valorem taxes when providing goods and services to the general aviation public in the promotion of air commerce. Therefore, when the municipality performs these same exempt functions directly, rather than through a lessee, it remains a governmental, municipal or public function.

The Property appraiser has alleged in his Second Affirmative Defense that the City is not entitled to relief under Article VII, Section 3, of the Florida Constitution because the subject property is owned by the City, a municipality, but the property is not being used exclusively by the City for a municipal or public purpose.

Article VII, §3(a) of the Florida Constitution provides, "All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation." That section confers on property owned by municipalities an exemption from ad valorem taxation under certain circumstances. To qualify for the exemption, the property must be both owned by a municipality and used exclusively by the municipality for municipal or public purposes. See *Gainesville*, 918 So.2d 250, at 258.

Section 332.03, Florida Statutes, provides that the acquisition and operation of airports granted to municipalities are determined to be used for public, governmental, and municipal purposes as a matter of public necessity. The exempt status of such property may be lost or legally abandoned when it is leased or otherwise used for a predominantly

private purpose, and only incidentally for a public purpose. *Hillsborough County Aviation Authority v. Walden*, 210 So. 2d 193 (Fla. 1968). The Court finds that the construction and leasing of the hanger facility within the aviation area of the Airport is incidental to the airports normal operation and service of providing shelter for aircraft using the facility and is therefore a public purpose. The Property Appraiser's argument would be valid if the City was leasing the hanger facility for nonaeronautical activities.

The Property Appraiser's Third Affirmative Defense states that the City is not entitled to relief under section 197.122(1), Florida Statutes. This statute enures to the benefit of the Property Appraiser and the other named entities. It provides that an act of omission or commission of the Property Appraiser, Tax Collector, Board of County Commissioners, Clerk of Court, or County Comptroller, or their deputies or assistants, or newspaper in which the advertisement of sale may be published, can be corrected so that property taxes are not defeated and the collection of any tax can be enforced. Relief is not available to the City under this section of the Florida Statutes.

The Property Appraiser's Fourth Affirmative Defense states that the City waived any claim of exemption from ad valorem taxes as a result of the failure to file an application for exemption as required by section 196.011, Florida Statutes. Article VII, § 3(a) of the Florida Constitution clearly establishes that it is a self-executing provision and therefore does not require statutory implementation. The language of chapter 196 is irrelevant because although a statute may grant additional exemptions, it may not repeal the exemptions granted municipalities by the constitution. *City of Sarasota v. Mikos*, 374 So. 2d 458 (Fla. 1979).

The Tax Collector's First Affirmative Defense states that the Tax Collector does not classify property and cannot, as a matter of law, become involved in determining what

property is or is not on the tax roll. The Court finds this affirmative defense legally insufficient as to the injunctive relief sought by the City.

The Tax Collector's Second Affirmative Defense states that section 197.122(1), Florida Statutes does not entitle the City to challenge an error of omission or commission by the Tax Collector in connection with classification of the property and to the issuance of the tax bill. The Court agrees with the Tax Collector for the same reasons stated in the Property Appraiser's Third Affirmative Defense set forth above.

The Court finds that the hanger facility directly supports the operation of the Airport and therefore is exempt from ad valorem taxation. It is therefore:

ORDERED AND ADJUDGED:

1. That Plaintiff's Motion for Summary Judgment is denied.
2. That the Defendant, David Nolte, as the Property Appraiser of Indian River County, Florida, shall reclassify the City of Vero Beach's municipal property (described as "32-39-26-00011-0140-00001/0 Vero Beach Municipal Airport Parcel #14 Less Parcel 14-13" on the Indian River Tax Collector's Notice of Ad Valorem Taxes and Non-Ad Valorem Assessments) as exempt from ad valorem taxation.
3. That the Defendant, Charles Sembler, as the Tax Collector of Indian River County, Florida, is enjoined from collecting ad valorem taxes on the subject property.
4. The Court reserves jurisdiction to award attorneys' fees and costs.

DONE AND ORDERED in chambers at Vero Beach, Indian River County, Florida
this _____ day of _____

SIGNED AND DATED

JAN 30 2009

ROBERT A. HAWLEY
JUDGE ROBERT A. HAWLEY
CIRCUIT JUDGE

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Robert C. Nall, Esquire

TAB 5

IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, FLORIDA
CIVIL DIVISION

FEDERAL EXPRESS CORPORATION,
a Delaware corporation,

Plaintiff,

vs.

CASE NO.: 11-010006
CONSOLIDATED WITH
CASE NO.: 11-010010

Division: K

ROBERT TURNER, Hillsborough County
Property Appraiser; and DOUGLAS BELDEN,
Hillsborough County Tax Collector,

Defendants.

**ORDER GRANTING PLAINTIFF, FEDERAL EXPRESS CORPORATION'S
MOTIONS FOR SUMMARY JUDGMENT AND DENYING DEFENDANT,
ROBERT TURNER'S MOTION FOR SUMMARY JUDGMENT**

THIS CAUSE, having come on before the Court for hearing on Friday, May 4, 2012 on Plaintiff, Federal Express Corporation's Motions for Summary Judgment in Case No. 11-010006 and in Case No. 11-010010, and on Defendant, Robert Turner, Hillsborough County Property Appraiser's Motion for Summary Judgment in Case No. 11-010006, and the Court, having heard argument from counsel for the parties and from *amicus curiae* Hillsborough County Aviation Authority, having reviewed the parties' submissions, and being otherwise duly advised in the premises, thereupon makes the following findings of undisputed fact and conclusions of law:

FINDINGS OF UNDISPUTED FACT

i. The Subject Property.

The real property at issue in these consolidated actions is located at the Tampa International Airport (the "Airport") in Hillsborough County, Florida, and is identified as Tax Folio No. 108945.0000 (the "Property").

The Hillsborough County Aviation Authority (“Aviation Authority”), a government body,¹ owns and leases the Property to Plaintiff, Federal Express Corporation (“FedEx”), a non-governmental for-profit lessee, pursuant to a “Tampa International Airport General Ground Lease With Planned Improvements” (“Ground Lease”) and an “Airline-Airport Use and Lease Agreement for Tampa International Airport” (“Operating Agreement”) (together, the “Leases”). Pursuant to these Leases, FedEx took possession of the Property in 2003, and has had sole and exclusive possession of the Property since that time.

ii. FedEx’s Use of the Property for Aviation and Airport Purposes and Operations.

Since 2003, FedEx has been engaged in aviation and air transportation at the Property as an air carrier operating under authority of the Civil Aeronautics Board, as provided in Subchapter IV of the Federal Aviation Act of 1958, 49 U.S.C. App. § 1371. FedEx operates over 660 aircraft and serves more than 375 airports worldwide. In terms of planes operated, FedEx is one of the largest airlines in the world, and is the largest domestic air cargo carrier. FedEx has always operated as an airline at the Property, and is a separate and distinct legal entity from non-aviation FedEx companies, such as FedEx Ground and FedEx Office.

From 2003 through the present, FedEx has utilized the Property in direct support of its aviation activities at the Airport, including loading and unloading aircraft in preparation for flight, maintenance, refueling, landing, taking off, flying over, taxiing, towing and conditioning aircraft. FedEx aircraft arrive at the Property with their cargo containers, which are packed and

¹ The Aviation Authority was created by the Florida Legislature and declared to be a public body corporate by Chapter 83-424 and Chapter 2003-370, Laws of Florida. *See also* Hillsborough County Aviation Authority Act, Hillsborough County Code of Ordinances and Laws, Sec. 5-17.

unpacked for inbound and outbound flights. Leasing the Property from the Aviation Authority to conduct transportation by air is essential to FedEx's operation as an airline.

FedEx's activities at the Property are regulated by the Federal Aviation Administration ("FAA"), and are routinely audited and inspected for compliance with FAA rules and regulations. This includes checks of employee training records to ensure that employees are qualified to operate equipment and qualified to operate around aircraft. FedEx's equipment, including containers placed on aircraft, is required to be approved by the FAA to ensure that FAA handling standards are met at the Property.

The Ground Lease provides that the Property "shall be used by Lessee solely for its air cargo operations" as authorized under its Operating Agreement. Further, as a condition of leasing the Property, FedEx is required and afforded the right to land and take off on taxiways and runways also utilized by other passenger airlines, and fly over, taxi, tow, and condition airline aircraft in designated areas. FedEx would be in breach of its Ground Lease if it ceased to use the Property in this manner, in which case the Aviation Authority could contractually compel FedEx to vacate the Property.

iii. The Property Was Declared Tax Exempt From 2003 through 2009.

Each year between 2003 and 2009, the Aviation Authority, as lessor, applied for an "aviation [or] airport . . . purpose or operation" *ad valorem* tax exemption on behalf of FedEx and other "Signatory Airlines"² at the Airport, pursuant to Section 196.012(6), Florida Statutes.

² A "Signatory Airline" is a commercial aircraft operator that is engaged in the business of transportation by air of persons, property, mail, parcels and/or cargo at the Airport. In support of these operations, the Signatory Airlines lease certain premises in connection with the use of the Airport and its facilities. Currently there are ten (10) Signatory Airlines serving the Airport, including FedEx, which has been a Signatory Airline since January 2000.

In each of these years, Defendant, Robert Turner, the Hillsborough County Property Appraiser (the “Property Appraiser”), granted FedEx the “aviation [or] airport . . . purpose or operation” exemption on the Property, the Hillsborough County Value Adjustment Board (“VAB”) certified the tax roll in which the Property received the exemption from the Property Appraiser, pursuant to Section 193.122(1) and (2), Florida Statutes, and consequently no taxes were assessed for seven (7) consecutive years.

iv. The Property Appraiser Changes His Mind in 2010 and 2011.

The Property Appraiser denied FedEx the “aviation [or] airport . . . purpose or operation” exemption for the 2010 and 2011 tax years, claiming that because FedEx is a *for-profit* non-governmental lessee, FedEx does not perform a “governmental-governmental purpose.” The Property Appraiser also claimed that FedEx is not really involved in an “aviation [or] airport . . . purpose or operation” on the Property, because FedEx is really engaged in the global package delivery business. There was no change in circumstances or any material facts prior to the Property Appraiser denying the exemption in 2010 and 2011, other than the Property Appraiser’s revised interpretation of Florida law with respect to FedEx’s leasehold. FedEx has used the Property consistently for aviation and airport purposes and operations, for profit, since taking possession of the Property in 2003.

FedEx appealed to the VAB, which upheld the Property Appraiser’s denial of the “aviation [or] airport . . . purpose or operation” exemption for the 2010 and 2011 tax years. Under protest, FedEx paid the taxes that were assessed against the Property. Thereafter, FedEx filed Case No. 11-010006 to contest the 2010 tax assessment (the “2010 Tax Year Case”) and Case No. 11-010010 to contest the 2011 tax assessment (the “2011 Tax Year Case”). Given the

overlap of the facts and legal issues involved in these matters, they have since been consolidated before this Court.

APPLICABLE LAW

Sections 196.012 and 196.199, Florida Statutes, provide a governmental, municipal, or public purpose tax exemption for real property used by a non-governmental lessee for aviation or airport purposes or operations at a public airport. Specifically, Section 196.012(1) states:

“Exempt use of property” or “use of property for exempt purposes” means predominant or exclusive use of property owned by an exempt entity for educational, literary, scientific, religious, charitable, or governmental purposes, as defined in this chapter.

Section 196.012(6) expressly defines such exempt use to include private lessees performing an “aviation [or] airport. . . purpose or operation” at a public airport:

Governmental, municipal, or public purpose or function shall be deemed to be served or performed when the lessee under any leasehold interest created in property of the United States, the state or any of its political subdivisions, or any municipality, agency, special district, authority, or other public body corporate of the state is demonstrated to perform a function or serve a governmental purpose which could properly be performed or served by an appropriate governmental unit or which is demonstrated to perform a function or serve a purpose which would otherwise be a valid subject for the allocation of public funds. . . . Any activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as a public airport . . . and owned by one of the foregoing governmental units, subject to a leasehold or other possessory interest of a nongovernmental lessee that is deemed to perform an aviation, airport, . . . purpose or operation shall be deemed an activity that serves a governmental, municipal, or public purpose.

Section 196.199(2)(a), in turn, confirms that when there is an exempt property use by a non-governmental lessee under Section 196.012(6), the leasehold is exempt from *ad valorem* taxation:

(2) Property owned by the following governmental units but used by nongovernmental lessees shall only be exempt from taxation under the following conditions:

(a) Leasehold interests in property of the United States, of the state or any of its several political subdivisions, or of municipalities, agencies, authorities, and other public bodies corporate of the state shall be exempt from ad valorem taxation only when the lessee serves or performs a governmental, municipal, or public purpose or function, as defined in s. 196.012(6) . . .

Section 196.199(5), Florida Statutes, provides in relevant part:

Leasehold interests in governmental property shall not be exempt pursuant to this subsection unless an application for exemption has been filed on or before March 1 with the property appraiser. The property appraiser shall review the application and make findings of fact which shall be presented to the value adjustment board at its convening, whereupon the board shall take appropriate action regarding the application. If the exemption in whole or in part is granted, or established by judicial proceeding, it shall remain valid for the duration of the lease unless the lessee changes its use, in which case the lessee shall again submit an application for exemption. The requirements set forth in s. 196.194 shall apply to all applications made under this subsection.

CONCLUSIONS OF LAW

Both FedEx and the Property Appraiser now move for summary judgment in the 2010 Tax Year Case, and FedEx also moves for summary judgment in the 2011 Tax Year Case. The Court finds that the foregoing facts are without dispute, and that all that remains in this action are pure questions of law. Accordingly, this matter is ripe for summary judgment.

The Property Appraiser contends that because FedEx is a *for-profit* non-governmental lessee of government-owned property, FedEx does not use the Property for an exempt governmental, municipal, or public purpose. The Property Appraiser also suggests that FedEx does not engage in an “aviation [or] airport . . . purpose or operation” at the Property because FedEx is actually in the package delivery business, transporting mail, parcels and cargo, rather than people, to and from the Property.

To support its entitlement to the exemption, FedEx argues that it performs an aviation and airport purpose and operation at a public airport, which is expressly “deemed an activity that serves a governmental, municipal, or public purpose” by the Florida Legislature pursuant to Section 196.012(6). Additionally, citing Section 196.199(5), FedEx contends that because the Property Appraiser correctly granted the Property exempt status based on his findings of fact from 2003 through 2009, FedEx is entitled to continue receiving the exemption through the end of its current lease term absent a change in FedEx’s use of the Property, which the Property Appraiser concedes has not occurred. The Court finds merit in both of FedEx’s arguments, and concludes that FedEx is entitled to the “aviation [or] airport . . . purpose or operation” exemption on the Property for the 2010 and 2011 tax years as a matter of law.

i. FedEx Performs an Aviation and Airport Purpose and Operation Within the Meaning of Section 196.012(6).

The Court finds as a matter of law that FedEx performs an aviation and airport purpose and operation at the Property. Based upon the plain language of Section 196.012(6), and the

common usage of the term, the Court finds that the words “aviation” and “airport” are not limited to passenger airlines, but also include cargo transport airlines such as FedEx.³

The Court also finds that FedEx’s status as a for-profit business does not, *ipso facto*, mean that FedEx’s “aviation [or] airport . . . purpose or operation” at the Property do not serve a governmental, municipal, or public purpose. The Property Appraiser *concedes* that “many ‘aviation’ or ‘airport’ purposes meet the ‘governmental-governmental’ test that applies to property leased from the government by a private for-profit entity.” *See* Property Appraiser’s Memorandum of Law in Support of Motion for Summary Judgment, p. 9.⁴

“When the language of the statute is clear and unambiguous and conveys a clear and definite meaning, there is no occasion for resorting to the rules of statutory interpretation and construction; the statute must be given its plain and obvious meaning.” *A.R. Douglass, Inc. v. McRaine*, 137 So. 157, 159 (Fla. 1931); *see also GTC, Inc. v. Edgar*, 967 So. 2d 781 (Fla. 2007) (“Thus, if the meaning of the statute is clear then this Court’s task goes no further than applying the plain language of the statute.”).

The Court finds that there is no ambiguity in the statutory framework. Leaseholds of non-governmental lessees performing an “aviation [or] airport . . . purpose or operation” at a public airport are *expressly* “deemed an activity that serves a governmental, municipal, or public purpose” in Section 196.012(6), and are therefore exempt from *ad valorem* taxation. Since it is undisputed that FedEx operates an aviation-based parcel delivery service at a public airport,

³ At the hearing, the Property Appraiser appeared to retract from his argument that FedEx does not engage in an “aviation [or] airport . . . purpose or operation.”

⁴ The Property Appraiser does not—and as a matter of law cannot—argue that the “aviation” exemption in Section 196.012(6) is unconstitutional. *See The Crossings at Fleming Island Comm. Dev. Dist. v. Echeverri*, 991 So. 2d 793 (Fla. 2008).

FedEx is entitled to an exemption on the Property under Sections 196.012(6) and 199(2)(a) for the 2010 and 2011 tax years as a matter of law.

There are no reported decisions construing the “aviation [or] airport . . . purpose or operation” exemption. However, FedEx has cited decisions from the Fourth District affirming government purpose tax exemptions to *for-profit* aircraft full service fixed base operations (“FBOs”), based upon a separate yet analogous portion of Section 196.012(6), which provides:

. . . an activity undertaken by a lessee which is permitted under the terms of its lease of real property designated as an aviation area on an airport layout plan which has been approved by the Federal Aviation Administration and which real property is used for the administration, operation, business offices and activities related specifically thereto in connection with the conduct of an aircraft full service fixed base operation which provides goods and services to the general aviation public in the promotion of air commerce shall be deemed an activity which serves a governmental, municipal, or public purpose or function.

See Boca Airport, Inc. v. Florida Dept. of Revenue, 56 So. 3d 140 (Fla. 4th DCA 2011); *see also Nikolits v. Runway 5-23 Hangar*, 847 So. 2d 1054 (Fla. 4th DCA 2003); *see also Nolte v. Paris Air, Inc.*, 975 So. 2d 627, 628 (Fla. 4th DCA 2008). Much like FedEx, the fact that the FBO lessees in *Boca Airport*, *Nikolits* and *Nolte* were private for-profit businesses did not defeat their entitlement to a statutory exemption. The Court finds *Boca Airport*, *Nikolits* and *Nolte* to be sufficiently analogous to the facts at hand, and therefore persuasive.

ii. FedEx Already Received the Exemption, and Has Not Changed its Use of the Property.

Section 196.199(5) explains the process by which applications for tax exemptions must be submitted to the Property Appraiser, whereupon the Property Appraiser must make findings of fact and present them to the VAB. This statute unambiguously *requires* that exemptions for

non-governmental lessees of government property must remain valid throughout a lease term when previously “granted,” either “in whole or in part . . . unless the lessee changes its use . . .”

The Property Appraiser correctly granted the “aviation [or] airport . . . purpose or operation” exemption to FedEx from 2003 through 2009, and FedEx’s use of the Property has not changed since that time. As such, under the plain language of Section 196.199(5), FedEx is entitled to continue receiving the exemption on the Property on this additional basis.

CONCLUSION

For the foregoing reasons, FedEx is entitled to an *ad valorem* tax exemption on the Property for the 2010 and 2011 tax years. Defendant, Douglas Belden, the Hillsborough County Tax Collector, shall refund FedEx’s 2010 and 2011 tax payments within twenty (20) days of the entry of final judgment, which will be entered separately. The Court will reserve jurisdiction to award costs to FedEx pursuant to Section 57.041, Florida Statutes.

DONE AND ORDERED in Chambers at Tampa, Hillsborough County, Florida, this
____ day of May, 2012.

William P. Levens
CIRCUIT COURT JUDGE

ORIGINAL SIGNED
CONFORMED COPY

MAY 22 2012

WILLIAM P. LEVENS
CIRCUIT JUDGE

Copies furnished to:

Benjamin Reiss, Esq.
William Shepherd, Esq.
Brian T. Fitzgerald, Esq.
Benjamin Phipps, Esq.
Gigi Skipper Rechel, Esq.
Joseph C. Mellichamp III, Esq.