

MEMORANDUM

TO: **Real Estate & Transportation Committee**
Commissioner Mike Musick, Chairman
Commissioner Bill Read
Commissioner Chad McLeod

FROM: City Attorney's Office

DATE: December 16, 2024

RE: **Land Lease Agreement with the Florida State Guard**

Attached hereto for your consideration is a proposed Land Lease Agreement with the Florida State Guard (State Guard), a State supported volunteer force that provides rapid emergency response to protect and preserve the life and property of the people of Florida from threats to public safety through rapid deployment of ground, maritime and air capabilities in partnership with state and local agencies. The State Guard is seeking to construct a hangar, office and aircraft apron on 8.9 acres of undeveloped land located on the south side of the Airport. The State Guard is also seeking a right of first refusal on four (4) additional acres of adjacent undeveloped land for potential future expansion of its facilities, which may be exercised at any time during the term of the Lease upon sixty (60) days prior written notice.

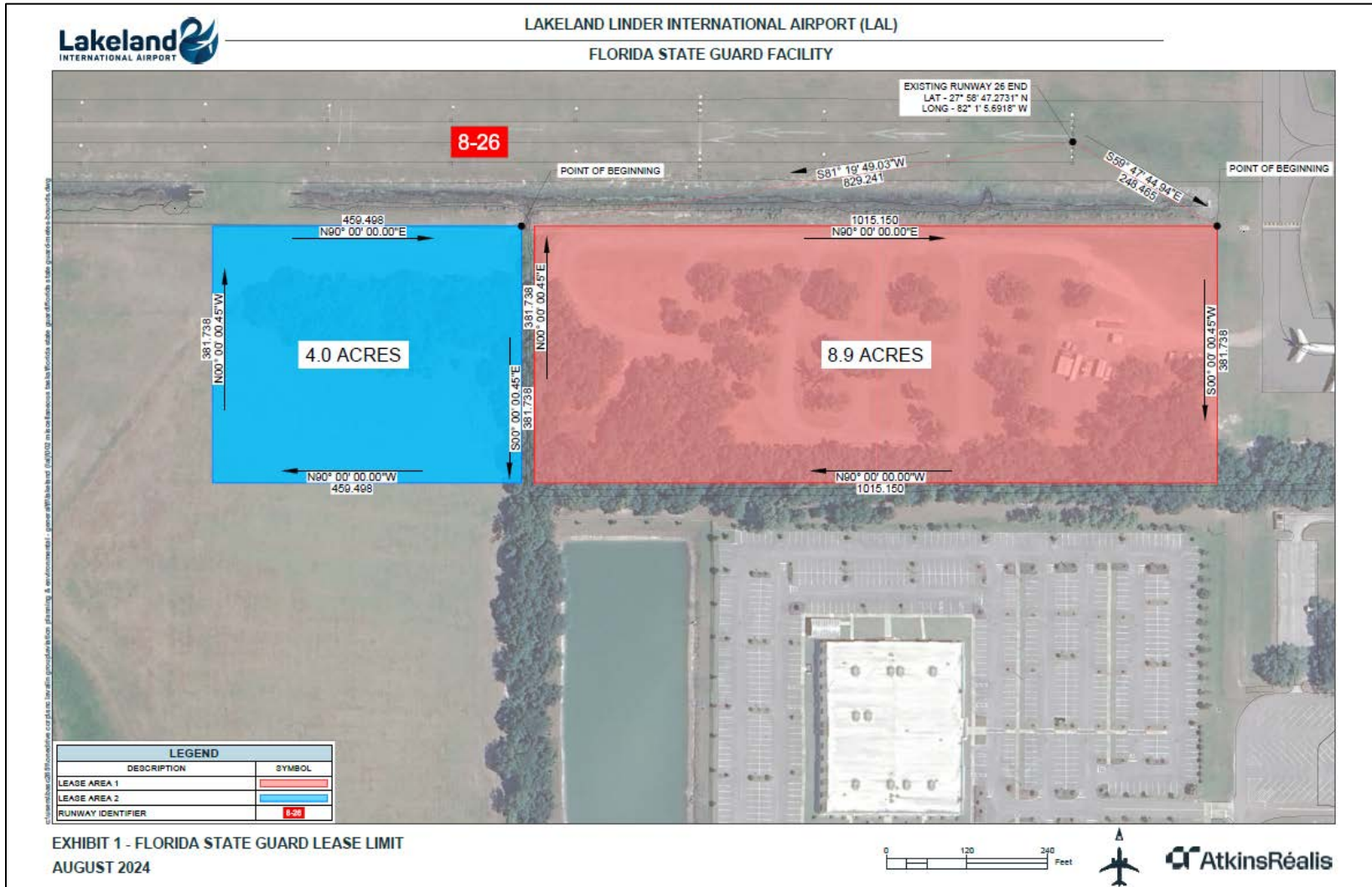
The Lease Agreement, subject to City Commission approval, is for a term of thirty (30) years, effective December 16, 2024, and contains two (2) additional ten (10) year options of renewal upon mutual written agreement of the parties. The Rent Commencement Date will be the earlier of twelve (12) months from the effective date or upon issuance of the Certificate of Occupancy for the hangar construction project. Beginning on the Rent Commencement Date, the State Guard will pay the City annual base rent of \$156,816.00 for the initial twelve (12) month period, paid in monthly installments of \$13,068.00.

The Base Rent will be subject to an increase at the expiration of each one (1) year period the Lease is in effect in the amount to be determined by the percentile change in the Consumer Price Index with a maximum increase that shall not exceed 8%. Prior to the commencement of the eleventh year of the Lease, the base rent will be adjusted to 10% of an appraisal of the unimproved premises (land only) conducted by a certified Member of the Appraisal Institute (MAI). The cost of the MAI appraiser will be paid for by the State Guard. The base rent does not include utilities or any applicable taxes, which the State Guard will be required to pay in addition to its base rent.

It is recommended that the City Commission approve the terms of the Land Lease Agreement with the State Guard and authorize the appropriate City officials to finalize and execute all corresponding documents consistent with the above-specified terms.

Attachments

Description of Premises



LAND LEASE AGREEMENT

THIS LAND LEASE AGREEMENT (“Lease”) dated this 16th day of December, 2024 by and between the City of Lakeland, a Florida municipal corporation (hereinafter referred to as "Lessor"), whose address is 228 S. Massachusetts Avenue, Lakeland, Florida 33801, on behalf of its municipal airport Lakeland Linder International Airport, and the Florida State Guard, a political subdivision of the State (hereinafter referred to as "Lessee"), whose mailing address is 2601 S Blair Stone Rd., Tallahassee Florida, 32301 which collectively shall be referred to as the “Parties”.

WHEREAS, Lessor desires to let and lease certain real aviation property located at Lakeland Linder International Airport in Polk County, Florida, more particularly described below for the purpose of developing and constructing a hangar, office, and aircraft ramp facility for the Florida State Guard.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

W I T N E S S E T H:

The Parties hereto do hereby mutually covenant, agree and promise as follows:

SECTION 1.

1.1 The Lessor, for and in consideration of the mutual promises, agreements, and covenants herein contained, does hereby lease, let, and rent unto the Lessee for its exclusive use, land consisting of 8.9 acres located in and comprising a part of the Lakeland Linder International Airport (“hereinafter referred to as the “Airport”) as more particularly described in **Exhibit "A"**, attached hereto and made a part hereof (hereinafter referred to as the "Leased Premises" or “Premises”).

1.2 The Lessor, for and in consideration of the mutual promises, agreements, and covenants herein contained, does hereby grant Lessee a right of first refusal to lease for its exclusive use, adjoining real property (“property”) consisting of approximately four (4) acres located in and comprising a part of the Airport as more particularly described in **Exhibit “A”**. Lessee may exercise its right of first refusal to lease the additional property at any time during the term of this Agreement upon sixty (60) days prior written notice to the Lessor.

1.3 The initial term of this Lease shall commence December 16, 2024 (the “Effective Date”) for a period of thirty (30) years from the Effective Date unless otherwise cancelled or terminated as set forth herein (“Initial Term”). Upon expiration of the Initial Term, Lessee shall have the option to extend the Lease for two (2) additional ten (10) year renewal terms upon mutual written agreement of the parties and upon the same terms set forth in this Lease, provided Lessee is not in default, except that the Base Rent shall be adjusted in accordance with Sections 2.4 and 2.5 (“Renewal Terms”). Lessee shall provide notice of its intent to exercise any Renewal Term by providing written notice to Lessor no less than sixty (60) days prior to the expiration of each prior Lease term.

SECTION 2.

2.1. The rent commencement date shall be the earlier of the twelve (12) months from the Effective Date or upon issuance of the Certificate of Occupancy for the hangar construction project by the authority having jurisdiction (“Rent Commencement Date”). Beginning on the Rent Commencement Date, the Lessee shall pay to the Lessor annual base rent for the Leased Premises of One Hundred Fifty-Six Thousand Eight Hundred Nineteen and 00/100 Dollars (\$156,816.00) for the initial twelve (12) month period, paid in monthly installments, in the amount of Thirteen Thousand Sixty-Eight and 00/100 Dollars (\$13,068.00) per month (“Base Rent”). Thereafter, annual Base Rent

shall be adjusted in accordance with Sections 2.4 and 2.5. No Base Rent shall be due before the Rent Commencement Date.

2.2 In addition to the payment of Base Rent, but beginning from the Effective Date, the Lessee shall be responsible for directly paying for all utilities and taxes, including but not limited to electric, water, wastewater services, storm water, and refuse collection for the Leased Premises. Lessee shall be responsible for paying ad valorem taxes to the Lessor as specifically set forth in Section 2.7.

2.3 Each monthly payment shall be paid, together with sales taxes, pass through expenses, and all other applicable taxes and charges ("Additional Rent"), in advance on or before the first day of each month. Late payments, which shall be any payment received more than fifteen (15) days after the due date, shall bear a late payment charge of five percent (5%) per month of the late payment for any month or any portion of any month until paid.

2.4 The Base Rent to be paid hereunder shall be subject to an increase at the expiration of each one (1) year period the Lease is in effect in the amount to be determined by the percentile change in the Consumer Price Index, All Urban Consumers, U.S. City Average, All Items, as published by the Bureau of Labor Statistics, United States Department of Labor (the "CPI-U"), using the Rent Commencement Date as the base index for such determination.

2.5 The CPI-U for the month of the Rent Commencement Date is hereby established as the "Base Index". Thirty (30) days prior to the beginning of each one (1) year period for the first ten (10) years of the Lease as defined in Section 1.2, the CPI-U shall be ascertained, and the annual Base Rent to be paid during the next one (1) year period shall be adjusted by increasing the initial amount set forth herein by a percentage equal to the percentage of change in the CPI-U as compared with the Base Index, the maximum annual increase shall not exceed eight percent (8%). At no time will an

adjustment be made in the event of a negative change in the CPI-U. In the event the CPI-U, or an equivalent or successor thereof, is not published at the time such adjustments are made, the amount of Base Rent shall be governed by Section 2.6, provided that if the CPI-U subsequently becomes available the Lessor shall be entitled to receive forthwith, the greater of the percent change in the CPI-U or the adjustment required under Section 2.6.

Prior to the commencement of year eleven (11) and for each subsequent ten (10) year period including any Renewal Term of the Lease, Base Rent shall be adjusted to ten percent (10%) of an appraisal of the unimproved Premises (land only) conducted by a certified Member of the Appraisal Institute (MAI). Such Base Rent adjustment shall then become the new Base Rent for all future CPI-U adjustments for the applicable Term. The MAI certified appraiser shall be selected by the Lessor and Lessee shall pay for all associated fees related to the appraisal, including the fee for the MAI certified appraiser. The appraisal shall be performed within sixty (60) days before the commencement of the applicable Term.

2.6 If at any time during the Initial Term or any Renewal Term, the United States Department of Labor, Statistics, or its successor or equivalent, shall discontinue issuance of the CPI-U, the Parties agree to use other nationally recognized standard cost-of-living indices issued and published by the United States Government.

2.7 The Leased Premises may be subject to ad valorem property tax pursuant to the policy of the Polk County Tax Assessor's Office ("Tax Assessor"). The Lessee shall pay to Lessor any ad valorem taxes or other taxes assessed. The Lessor shall provide proof of the assessment as soon as is practical following receipt of the tax bill, which shall then be payable by the Lessee on the date the next rental payment would be due. Subsequent to any such initial assessment, Lessor reserves the right to provide for periodic payments of the tax required by the Tax Assessor. Lessor will pass

through to the Lessee any ad valorem or other taxes or any other governmental charges or special assessments levied after the Effective Date pertaining to the Leased Premises.

SECTION 3.

Upon the expiration or termination of the later of the Initial Term or any Renewal Term, any and all improvements, including structures upon the Premises, shall become the property of the Lessor if not removed by the Lessee within one hundred twenty (120) days after such expiration.

SECTION 4.

4.1. The Premises, and any improvements thereon, whether in existence or constructed in the future pursuant to the terms and conditions contained herein, shall be used for the construction of hangars, offices, parking, storage, and maintenance of aircraft, self-fueling of Lessee's aircraft, aviation related uses, and office use for Lessee and Lessee's third party tenants as further required by all applicable building codes and regulations.

The Premises shall be used exclusively for aeronautical purposes and shall not be used for purposes that are detrimental to aviation, which shall include, but may not be limited to, activities that generate excessive light, glare or electromagnetic interference on the Premises that might interfere with the operation of aircraft to, from, or at the airport. Any non-aeronautical use, including without limitation, residential use shall be prohibited on the Premises. For purposes of this Lease, "aeronautical use" shall have the same meaning as used by the Federal Aviation Administration in the Policy on Non-Aeronautical Use of Hangars, 81 Fed. Reg. 38906 (June 15, 2016).

4.2. The Lessee shall be able to conduct self-fueling and self-service activities as set forth in Section 14 of the City of Lakeland Code, as may be amended from time to time.

4.3 Lessor hereby consents to a leasehold mortgage of the Premises for Lessee to obtain financing for improvements (“Leasehold Mortgage”). In providing such consent, Lessor agrees to make certain certifications as to Lessee’s standing under the Lease (e.g., payment of rents, lack of notice of violations, etc.) which are reasonable and customary in light of industry practices. Lessor also agrees that in the event any financial institution, lender or investor (collectively, a “Lender”) shall, for the purpose of perfecting its security interest or in connection with a refinancing or securitization, reasonably request modifications to this Lease and/or execution of a ground lease estoppel agreement, Lessor shall labor in good faith to negotiate with such Lender to make such modifications and/or execute such ground lease estoppel agreement.

4.4 Copies of the plans for the construction of any improvements upon the Leased Premises, including the site plan, are to be filed with the Lessor prior to the commencement of construction. The Lessor shall approve or disapprove any such plans and/or specifications no later than thirty (30) days after receiving construction approval by the Federal Aviation Administration, or other appropriate governmental authority. Lessor’s approval shall not be unreasonably withheld. Any reasons for Lessor’s disapproval of the plans shall be stated in writing and provided promptly to Lessee. Lessee shall have fifteen (15) days to revise the plans to be responsive to the Lessor’s requests.

4.5 All buildings, structures, and other improvements, including any machinery, equipment and other fixtures or personal property located on the Premises shall be the property of the Lessee, and the Lessor shall have no interest therein for the Initial Term of this Lease and any Renewal Terms thereto, except as provided herein or as may be provided by law. Lessee has no authority to obligate the Premises for the costs of any improvements and shall not permit any lien to be filed upon said Premises. Notwithstanding the foregoing sentence, pursuant to Section 4.3 of this Lease, Lessor

hereby consents to a leasehold mortgage of the Premises by Lessee to Lessee's Lender, provided that in the event of foreclosure, the mortgagee shall agree to be bound to the obligations of Lessee as set forth herein.

4.6 All improvements located on the Premises shall become property of the Lessor upon the expiration of this Lease and any renewals or extensions, subject to the Lessee's rights set forth below.

4.7 Lessee's Right Upon Termination. At the termination of this Lease and any subsequent renewals or extensions thereof and, provided Lessee is not in default, then Lessee shall:

(a) Return the Leased Premises to Lessor clear of all-improvements except those improvements chosen by Lessee to remove, which may include buildings, improvements, foundations and footings which have been constructed by Lessee, its agents, employees, assigns or successors; provided, however, that Lessee shall have one hundred twenty (120) days after termination in which to remove all such improvements. In the event that demolition by Lessee exceeds the one hundred twenty (120) day period, Lessee shall pay rent at the then current rate for any excess days, and

(b) Transfer title to the improvements not removed by Lessee to Lessor in lieu of removal of the said improvements and Lessee hereby agrees to execute all appropriate documents to vest title to said improvements in Lessor free and clear of any and all liens and encumbrances.

SECTION 5.

The Lessee may sell, sublet, or assign all or any portion of the Premises with the prior written approval of the Lessor, which approval shall not be unreasonably withheld. In reviewing a request by the Lessee to sell, sublet, or assign all or any portion of the Leased Premises, the Lessor will consider, *inter alia*, the permitted and intended uses of the Leased Premises for aviation purposes. If the Lessor approves the sublease or assignment of any portion of the Leased Premises, the Lessee

shall remain liable for any and all obligations under this Lease, unless on the basis of reasonable evidence presented, that the sub-lessee or assignee has the requisite financial capacity, resources and business plan to satisfy any and all obligations hereunder. The requirement to obtain Lessor's reasonable approval applies, without limitation, to any assignment or sublease which would occur by operation of law; assignment or sublease to or by a trustee or receiver in any federal or state bankruptcy, receivership or other insolvency proceeding; and the sale, assignment or transfer of all or substantially all of Lessee's assets. Under no circumstance shall the Lessee sublet or assign all or any portion of the Premises for residential use or other uses not set forth in this Lease.

SECTION 6.

6.1. No building or other structure may be constructed or placed upon the Premises without the prior written approval of the Lessor, which approval shall not be unreasonably withheld. Buildings, structures and other improvements made by the Lessee on the Premises shall be fully consistent with the currently approved Airport Layout Plan maintained by the Lessor and adhere to all local building codes and regulations.

If Lessee erects an approved new building or structure and decides to sell said building or structure during the first five (5) years from the Effective Date of this Lease, Lessor shall retain a right of first refusal to purchase said building or structure. Lessee shall notify Lessor, in writing, of its intent to sell the building or structure and Lessor shall have thirty (30) days after receipt of such written notice to exercise its first right of refusal to purchase the building or structure based on its Fair Market Value (FMV). For purposes of this Lease the FMV will be determined by averaging two (2) independent appraisals performed by Appraisers that have been mutually agreed to, in writing, by the Parties. If the Parties are unable to agree as to a FMV for the building or structure within ninety (90) days of completion of the appraisal, then Lessee shall have the right to market and sell to a third-party

subject to the conditions set forth in Section 5 of this Lease. After the first five (5) years of this Lease, Lessee shall have the right to sell any such buildings or structures to a third party without Lessor having any right of first refusal, subject to the conditions set forth in Section 5 of this Lease.

6.2. The Lessee expressly agrees for itself, its successors and assigns, to restrict the height of structures and objects or natural growth determined by the Federal Aviation Administration to constitute an obstruction or hazard pursuant to 14 C.F.R. Part 77, as the same may be amended from time to time. The Lessee agrees to comply with the notification and review requirements of said regulations in the event any future structure or building is planned for the leased Premises, or in the event of any planned modification or alteration of any present or future building or structure situated on the Premises.

6.3. Lessee agrees to comply with all applicable codes, ordinances, statutes, or regulations of any governmental authority having jurisdiction in the design and construction of improvements made upon the Premises. Lessee shall provide Lessor with any as-built plans for any authorized improvements on said Premises.

6.4. The Lessor shall have the right to install all navigation aids at the Airport as may be identified on the current Airport Layout Plan (ALP) and any future ALP approved by the Federal Aviation Administration. The Lessor may furnish portions of the Airport to the Federal Government in connection with air traffic control and navigation facilities. No structure, sign, appurtenance, projection, or modification shall be installed or kept in place by Lessee on the Premises without the prior written approval from the Lessor and any applicable federal, state, county, or other governmental agency.

SECTION 7.

7.1. To the extent permitted by law, Lessee shall pay, defend, indemnify and save harmless the Lessor, its agents, guests, invitees and employees from all suits, actions, claims, demands, damages, losses and other reasonable expenses, including reasonable attorney's fees, and costs of every kind and description to which the Lessor, its agents, guests, invitees or employees may be subjected to by reason of injury to persons or death or property damage, resulting from the negligence of the Lessee, its agents or employees, arising from and/or in connection with this Lease or any operations necessary and incidental to the occupancy, maintenance, repair or improvement by the Lessee of the Premises. Nothing herein is intended to waive the sovereign immunity of the Lessee and/or waive the Lessee's limits of liability as set forth in Section 768.28 of the Florida Statutes regardless of whether such claims are based in tort, contract, statute, strict liability, products liability, negligence or otherwise.

7.2. To the extent permitted by law, the Lessee shall defend, indemnify and save harmless the Lessor, its agents, guests, invitees or employees, against any claim or liability, including reasonable attorney's fees, arising from or based upon the violation of any federal, state, county or city law, by-law, ordinance, or regulation by such Lessee, its agents, trainees, invitees, servants or employees.

7.3 It is the intention of the Parties that Lessor shall be responsible for any environmental contamination contained on the Premises leased by the Lessee prior to Lessee occupying said Premises. Lessee shall be responsible for any environmental contamination that occurs on the Effective Date of this Lease or thereafter if due to activities occurring on the Premises after Lessee takes possession.

7.4. **INSURANCE AND LIABILITY.** Lessee is a political subdivision of the State and is responsible for its own insurance. Each party shall be liable for its own negligent or wrongful acts

or omissions. To the extent permitted by law, the Lessee agrees to indemnify and hold harmless the Lessor, including the Lessor's officers and employees, from liabilities, damages, losses, and costs, including but not limited to, court costs, expert fees, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Lessee and persons employed, utilized, or serviced by the Lessee in the performance of this Lease or arising out of the Lessee's access and use of the Premises under this Lease. This obligation to indemnify shall survive the expiration or earlier termination of this Agreement, and the insurance required by this Agreement shall cover the obligation to indemnify the Lessor. Lessee shall provide Lessor with evidence of Insurance coverage pursuant to Florida Statute Chapter 284 and such Certificate of Coverage shall be attached hereto as **Exhibit "B"**.

SECTION 8.

The Lessor reserves the right for the Airport Director ("Director") or his/her duly authorized representative will provide, when possible, at least 72 hours' notice to enter the Leased Premises during normal business hours for the purpose of performing such inspections considered necessary by the Director or designee, including without limitation compliance with the terms of this Lease, the Airport Minimum Standards and the Airport Rules and Regulations, and Lessee does hereby consent to such entry and waive any right to require a warrant for such inspection, provided that such entry and inspections shall not interfere with the Lessee's operations or the conduct of its business. The Lessee, after written notice, shall promptly correct any condition which is a hazard to life or property. The Lessee agrees that the transportation, storage, management and use of any explosives, gasoline or other highly flammable materials, in, on or about the Leased Premises shall be in strict compliance with the Airport Minimum Standards, Airport Rules and Regulations and any other standards or compliance requirements imposed by any governmental agency with jurisdiction.

SECTION 9.

9.1. The Lessee shall, at its expense, perform all maintenance and repairs associated with the Leased Premises in a timely and prompt fashion including the painting of the exterior of the facility so as to maintain a neat and orderly condition of the facility. The maintenance responsibilities are more particularly described in **Exhibit "C"**.

9.2. The Lessee shall at its expense maintain the Leased Premises, including any structures thereon, in a neat and orderly condition at all times. The Lessee shall maintain the grounds and exterior signage of the building so as to present a neat and attractive exterior appearance at all times during the term of this Lease.

9.3 The Lessee shall not have the authority to make any modifications or alterations to the Leased Premises without prior written consent of the Airport Director, which shall not be unreasonably withheld. The primary consideration in the approval process shall be the best interest of the Airport and the public.

9.4 The Lessee shall be responsible for removing trash from the Leased Premises to an area at a designated location agreed to by the Lessor for collection by the municipal sanitation service and shall remove trash on not less than a weekly basis.

SECTION 10.

Should the Lessee default in the payment of the rent or the performance of any of the promises, covenants or agreements herein made, the Lessor may, at its option, if such default continues after giving the Lessee fifteen (15) days written notice in the case of a default in the payment of the rent and thirty (30) days' written notice in the case of any other default, declare all future payments hereunder immediately due and payable. The Lessor may, at its option, draw upon a deposit hereunder in full or partial satisfaction of the Lessee's failure to pay the rent or other fees required hereunder.

The Lessor shall have a lien upon any and all buildings and other property of the Lessee located upon the Premises at the time of default for any amount due the Lessor by the Lessee. If Lessee's default requires for its cure a period longer than that allocated in this Section, the Lessee shall not be in default if, in Lessor's sole opinion the Lessee proceeds diligently to effectuate the cure and same is accomplished within a reasonable period of time.

SECTION 11.

Upon the occurrence of an event of default, as set forth in Section 10, Lessor may at its option exercise any one or more of the following remedies:

(a) The Lessor may terminate this Lease by giving to the Lessee written notice of Lessor's intention to do so, in which event the term of this Lease shall end and all right, title and interest of the Lessee hereunder shall expire on the date stated in such notice, which shall not be less than five (5) days after the date of the notice by the Lessor of its intention to so terminate; or

(b) The Lessor may terminate the right of the Lessee to possession of the Premises or any portion thereof by giving written notice to the Lessee that the Lessee's right of possession shall end on the date stated in such notice, which shall not be less than five (5) days after the date of the notice by the Lessor of its intention to so terminate the right of possession; or

(c) The Lessor may enforce the provisions of this lease and may enforce and protect the right of the Lessor hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein or for the enforcement of any other appropriate legal or equitable remedy.

(d) If the Lessor exercises either of the remedies provided for in sub-paragraphs (a) or (b), the Lessor may then or at any time re-enter the Premises in accordance with Florida law.

(e) If the Lessor terminates the Lessee's right of possession pursuant to sub-paragraph (b), the Lessor may re-enter the Premises or any portion thereof and take possession of all or any portion of the real property, may move any portion of the Lessee's property thereon which the Lessor elects so to do, and may sub-let or re-let the Premises or any part thereof from time to time for all or any part of the unexpired part of the then term hereof, or for a longer period, and the Lessor may collect the rents from re-letting or sub-letting and apply same, first to the payment of the rents payable hereunder and in the event that the proceeds from such re-letting or sub-letting are not sufficient to pay in full the foregoing, the Lessee shall remain and be liable therefore. Lessee reserves the right to remove any personal property which shall not include building or fixtures. The Lessee promises and agrees to pay the amount of any such deficiency and the Lessor may at any time sue and recover judgment for any such deficiency or deficiencies or draw upon any deposit provided by the Lessee or both.

SECTION 12.

No remedy herein conferred upon or reserved by the Lessor is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right

and power may be exercised from time to time and so often as may be deemed expedient. In order to entitle the Lessor to exercise any remedy reserved to it in this Section, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

SECTION 13.

13.1. This Lease, and all provisions hereof, shall be subordinate to all the covenants and restrictions of the deeds under which the Lessor acquired the property known as the Lakeland Linder International Airport from the United States of America, insofar as such covenants and restrictions remain in effect from time to time and after the date hereof, such deeds being identified as follows:

(a) Quitclaim Deed and Surrender of Lease dated September 26, 1947, between the United States of America and City of Lakeland, recorded in Deed Book 816, page 571, Public Records of Polk County, Florida; and

(b) Supplemental Quitclaim Deed dated April 20, 1948, between the United States of America and the City of Lakeland, recorded in Deed Book 832, page 311, Public Records of Polk County, Florida.

except however, any such covenants and restrictions may hereafter become ineffective or as shall have been or may hereafter be extinguished or released, whether by statute, rule or regulations, interpretation, judicial decision, or deed or other instrument, including but not limited to the release of the "National Emergency Use Provisions" by the Deed of Release dated December 17, 1959, recorded in Official Records Book 389, page 338, current public records of Polk County, Florida, and the extinguishment of the restrictions on use for industrial or manufacturing purposes by the Act of Congress on July 30, 1947 (61 Stat. 678).

13.2. This Lease shall be subordinate to the provisions of any existing or future agreement entered into between the Lessor and the United States of America for the improvement or operation

and maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the planning, improvement or expansion of the Airport.

13.3 Should the Department of Transportation, Federal Aviation Administration or any successor department or agency issue an order determining that any provision herein is inconsistent with any covenant or restriction of the deeds under which the Lessor acquired the Airport, or the provisions of any existing or future agreement entered into between the Lessor and the United States of America, the Parties shall amend this Lease as necessary to resolve the inconsistency. If the Parties cannot agree on the manner in which to resolve the inconsistency, the Lease may terminate upon mutual written agreement of the Parties or the Parties, upon mutual written agreement, may amend the Lease to resolve the inconsistency.

13.4. This Lease and all the provisions hereof shall be subject to whatever right the Government of the United States of America now has or in the future may have or acquire, affecting the control, operation, regulation and reacquisition of said Airport or the exclusive or nonexclusive use of the Airport by the United States of America during the time of war or national emergency.

SECTION 14.

Notwithstanding anything herein contained that may be or appear to the contrary, it is expressly understood and agreed that nothing herein shall be understood to confer an exclusive right upon the Lessee to conduct any aeronautical activity at the Airport in violation of 40 U.S.C. Section 40103(e) or 49 U.S.C. Section 47107(a)(4) or any grant assurance thereunder.

SECTION 15.

15.1. The Lessee, on behalf of itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, hereby covenants and agrees as a covenant running with the land that:

(a) no person on the grounds of race, color, creed, sex or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of the facilities;

(b) in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, creed, sex or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and

(c) the 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, entitled *Nondiscrimination in Federally-Assisted Programs of the Department of Transportation* - Effectuation of Title VI of the Civil Rights Act of 1964, and as such Regulations may be amended.

15.2. In the event of a breach of any of the above nondiscrimination covenants, the Lessor shall have the right to terminate the Lease and to re-enter and repossess the leased land and the facilities thereon and hold the same as if the Lease had never been made or issued. This provision shall be subject to the procedures of Title 49, Code of Federal Regulations, Part 21, including exercise or expiration of appeal rights.

SECTION 16.

The Lessor reserves the right to take whatever actions necessary for the operation, maintenance, and improvement of the Airport and its appurtenances, without interference or hindrance, with appropriate consideration for the continuity and profitability of the Lessee's operations and the payment of the obligations to the Lessor herein. The Lessor may order the temporary closure of the Airport in the interest of safety or for other special events as approved by the Federal Aviation Administration. The Lessee agrees to abide by any such order issued by the Lessor. Lessor shall not be liable to the Lessee for monetary damages that may result from any temporary closure of the Airport.

SECTION 17.

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

SECTION 18.

The Lessee, its officers, employees, guests, invitees and suppliers of materials and services, shall have the right of ingress and egress over public right-of-way to the Leased Premises for the purpose of permitting Lessee to enjoy the rights, uses, and privileges granted by the Lessor.

SECTION 19.

The Lessee covenants and agrees to promptly repair or remove any disabled vehicles located on the Premises or any joint use areas of the Airport.

SECTION 20.

The Lessee specifically covenants and agrees to observe and obey Lakeland Linder International Airport's Rules and Regulations and Minimum Standards, as the same may be amended from time to time, as adopted and promulgated by the Lessor for operation at the Airport. Lessee shall remain in full compliance with the Airport Rules and Regulations, as the same may be amended from time to time, any Notice to Air Missions issued by the Lessor and published by the Federal Aviation Administration, and any regulations or orders issued by the Federal Aviation Administration, including without limitation, 14 C.F.R. Part 91, as the same may be amended from time to time.

The Lessee specifically covenants and agrees to observe and obey all applicable federal laws on the subject of airport and aviation security, all applicable regulations and directives issued by the Department of Homeland Security, Transportation Security Administration or any successor department or agency, and all ordinances and rules issued by the Lessor related to security, including without limitation rules issued in furtherance of the Lessor's security program. The Lessee further covenants and agrees to alter and improve the Premises as required to comply with any such law, regulation, directive, ordinance or rule.

SECTION 21.

The Lessor hereby designates the Airport Director as its official representative with the full power to represent the Lessor in all dealings with the Lessee in connection with this Lease or the Leased Premises, subject to approval by the Lakeland City Commission. The Lessee hereby designates the Executive Director, as its official representative with the full power to represent the Lessee in all dealings with the Lessor in connection with this Lease or the Leased Premises. The Parties may designate by written notice other representatives from time to time, and such

representatives may exercise those rights and duties of the Parties as may be necessary to effectuate the purposes of this Lease.

Notice to the Lessor shall be sufficient if either mailed by first class mail, postage prepaid, addressed to Airport Director, Lakeland Linder International Airport, City of Lakeland, 3900 Don Emerson Drive, Suite 210, Lakeland, Florida 33811, or delivered at such address, and notice to the Lessee named herein shall be sufficient if either mailed by first class mail, to Lessee at 2601 North Blair Stone Road, Tallahassee, Florida 32399 or delivered at such address. Either party may change its address at which notice is to be mailed or delivered, by giving written notice of such change of address to the other party in the manner provided in this section.

SECTION 22.

This Lease shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns to the extent assignment and subletting are permitted. This Lease shall not confer any rights or remedies upon any third-party not a party to this Lease.

SECTION 23.

The Lessee shall be responsible for and pay any and all ad valorem property taxes or such other taxes which are assessed on the Premises or this Lease, all sales taxes and all utility charges. The Lessor will provide to the taxing authority whatever information is required so that the Lessee's taxable interests shall be separated from the Lessor's.

SECTION 24.

Should it become necessary for the Lessor to bring any action at law or equity to enforce or interpret this agreement or to remove the Lessee from the Leased Premises, the prevailing party shall be entitled to all costs, including reasonable attorney's fee at both trial and appellate levels.

SECTION 25.

This Lease shall be governed by and construed in accordance with the laws of the State of Florida. Venue and jurisdiction for any action brought to enforce or interpret this Lease or to remove Lessee from the Premises shall be in the courts of Polk County, Florida.

SECTION 26.

The terms and provisions of this Lease, and each sentence and paragraph hereof, are severable, and if any such term or provision shall be held invalid or unenforceable, all other terms and provisions hereof shall continue in full force and effect.

SECTION 27.

This Lease and the Exhibits attached hereto contain the entire agreement of the Parties with respect to the subject matter of this Lease, and supersede all prior negotiations, agreements and understandings with respect thereto. This Lease may only be amended by a written document duly approved and executed by the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this Lease to be executed and their respective seals to be hereunto affixed, the day and year first above written.

LESSOR:

ATTEST:

**CITY OF LAKELAND, FLORIDA,
a municipal corporation**

BY: _____
Kelly S. Koos, City Clerk

BY: _____
H. William Mutz, Mayor

Date: _____

(Seal)

APPROVED AS TO FORM AND CORRECTNESS

BY: _____
Palmer C. Davis
City Attorney

**LESSEE:
FLORIDA STATE GUARD**

By: _____

Signed in the presence of:

Date: _____

Witness
Printed Name: _____

Witness
Printed Name: _____

Exhibit "A"
DESCRIPTION OF PREMISES





DEPARTMENT OF FINANCIAL SERVICES
Division of Risk Management

STATE RISK MANAGEMENT TRUST FUND
GENERAL LIABILITY
CERTIFICATE OF COVERAGE

In consideration of the provisions and stipulations contained herein or added hereto and for the premium charged, the State Risk Management Trust Fund, hereinafter referred to as the "Fund", certifies that the State department or agency named in this certificate is hereby provided general liability coverage. Coverage shall be effective on the inception date at 12:01 a.m. standard time.

This certificate is comprised of the foregoing provisions and stipulations, together with such other provisions and stipulations as may be added hereto by the Fund in the future:

I. COVERAGES

General Liability Coverage--Bodily and Property Damage

To pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any officer, employee, agent or volunteer of the named insured, as such terms may be further defined herein or by administrative rule, while acting within the scope of his office or employment, pursuant to the provisions and limitations of Chapter 284, Part II and Section 768.28, Florida Statutes.

- (2) maintained for use exclusively on premises owned by or rented to the named insured, including the ways immediately adjoining, or
- (3) designed for use principally off public roads, or
- (4) designed or maintained for the sole purpose of affording mobility to equipment of the following types forming an integral part of or permanently attached to such vehicle; power cranes, shovels, loaders, diggers and drills; concrete mixers (other than the mix-in-transit type); graders, scrapers, rollers and other road construction or repair equipment; air-compressors, pumps and generators, including spraying, welding, and building cleaning equipment; and geophysical exploration and well-servicing equipment.

II. DEFENSE, SETTLEMENT, SUPPLEMENTARY PAYMENTS

With respect to such coverage as is afforded by this certificate, the Fund shall:

- (a) defend any proceeding against the insured seeking such benefits and any suit against the insured alleging such injury and seeking damages on account thereof, even if such proceeding or suit is groundless, false, or fraudulent. The Fund will investigate all claims filed against the insured in order to determine the legal liability of the insured and to determine damages sustained by the claimant. The Fund will negotiate, settle, or deny the claim based on these findings and appropriate Florida law.
- (b) pay all premiums on bonds to release attachments and on appeal bonds required in any such defended suit for an amount not in excess of the applicable limit of liability established in this certificate;
- (c) pay all expenses incurred by the Fund, all costs taxed against the insured in any such suit, and all interest accruing after entry of judgment until the Fund has paid, tendered, or deposited in court that part of such judgment as does not exceed the limit of the Fund's liability thereon;
- (d) pay expenses incurred by the insured for such immediate medical relief to others as shall be imperative at the time of the accident.

IV. EXCLUSIONS

This certificate does not apply:

- (a) to bodily injury or property damage arising out of the ownership, maintenance, operation, use, loading or unloading of:
 - (1) any automobile owned or operated by or rented or loaned to any insured, or
 - (2) any other automobile operated by any person in the course of his employment by any insured, but this exclusion does not apply to the parking of an automobile on premises owned by, rented to, or controlled by the named insured or the ways immediately adjoining, if such automobile is not owned by, rented, or loaned to any insured;
- (b) to any action which may be brought against the named insured by anyone who unlawfully participates in riot, unlawful assembly, public demonstration, mob violence, or civil disobedience if the claim arises out of such riot, unlawful assembly, public demonstration, mob violence, or civil disobedience;
- (c) to any obligation for which the insured or the Fund may be held liable under any employer's liability or workers' compensation law;
- (d) to property damage to property owned or occupied by the insured;
- (e) to property damage to premises alienated by the insured arising out of such premises or any part thereof;
- (f) to loss of use of tangible property which has not been physically injured or destroyed, resulting from:
 - (1) a delay in or lack of performance by or on behalf of the named insured of any contract or agreement;
 - (2) the failure of the named insured's products, or work performed by or on behalf of the named insured to meet the level of performance, quality fitness, or durability warranted or represented by the named insured;
- (g) to property damage to the named insured's products arising out of such products or any part of such products;
- (h) to property damage to work performed by or on behalf of the named insured arising out of the work or any portion thereof, or out of materials, parts, or equipment furnished in connection therewith;

III. DEFINITIONS

- (a) Named Insured - The department or agency named herein.
- (b) Insured - State department or agency named herein, their officers, employees, agents or volunteers.
- (c) Volunteer - Any person who of his own free will, provides goods or services to the named insured, with no monetary or material compensation as defined in Chapter 110, Part IV, Florida Statutes.
- (d) Agent - Any person not an employee, acting under the direct control and supervision of a state agency or department, for the benefit of a state agency or department.
- (e) Automobile - A land motor vehicle, trailer, or semi-trailer designed and licensed for use on public roads (including machinery or apparatus attached thereto), but does not include mobile equipment.
- (f) Mobile Equipment - A land vehicle (including machinery or apparatus attached thereto), whether or not self-propelled;
 - (1) not subject to motor vehicle registration, or

- (i) eminent domain proceedings or damage to persons or property of others arising therefrom;
- (j) to punitive damages;
- (k) to actions of insureds committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property;
- (l) to professional medical liability of the Board of Regents, the physicians, officers, employees, or agents of the Board;
- (m) to liability related in any way with nuclear energy;
- (n) to liability assumed by the insured under any contract or agreement;
- (o) to final judgments in which the insured has been determined to have caused the harm intentionally;
- (p) to awards for injunctive, declaratory, or prospective relief rendered against an insured by any federal or state court, agency or commission.

V. CONDITIONS

A. Premium

Premium charges shall be assessed in accordance with the provisions of Chapter 284, Part II, Florida Statutes, and any rules promulgated thereunder utilizing a retrospective rating arrangement premium calculation method whereby 80% of the premium is based on losses actually incurred by the insured and 20% is based on the changes in risk exposures (employees, etc.) of an insured. The premium must be paid promptly by an insured agency from its operating budget upon receiving the premium bill or invoice.

B. Audit

The Fund shall be permitted to examine and audit the insured's books and records at any time during the term of this coverage and any extension thereof, and within three years after the final termination of this coverage, as far as they relate to the premium bases or the subject matter of this coverage.

C. Insured's Duties in the Event of Occurrence, Claim or Suit

- (1) **Event of Occurrence**
Written notice containing particulars sufficient to identify the insured, along with reasonably obtainable information with respect to the time, place and circumstances thereof, the names and addresses of the injured and all known witnesses, shall immediately be given by or for the insured to the Fund.
- (2) **Notice of Claim or Suit**
If claim is made by suit brought against the insured, the insured shall immediately forward to the Fund every demand, notice, summons, or other process received by him or his representative. Failure by the insured to advise the Fund of a claim or suit prior to a settlement agreement or the insured otherwise obligating itself, shall void coverage by the Fund, for that claim.
- (3) **Assistance and Cooperation of the Insured**
The insured shall cooperate with the Fund and, upon the Fund's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the insured because of injury or damage with respect to which coverage is afforded under this certificate, and the insured shall upon request, make available all agency records pertaining to a specific claim, shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. The insured shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expenses other than for first aid to others at the time of accident.

- (4) **Action Against the Fund**
No action shall lie against the Fund unless, as a condition precedent thereto, the insured shall have been in full compliance with all of the terms of this certificate and the provisions of applicable Florida Statutes.

- (5) **Severability of Interest**
The term "the insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limits of the Fund's liability.

- (6) **Limits of Liability**
The limit of liability expressed as applicable to "each person" is the limit of the Fund's liability for all damages, including damages for care and loss of services, arising out of personal injury and property damage sustained by one person as a result of any one occurrence; but the total liability of the Fund for all damages sustained by two or more persons as a result of any one occurrence shall not exceed the limit of liability as applicable "each occurrence".

- (7) **Other Insurance**
If there is insurance applicable to any claim, the coverage extended by this certificate shall apply only as excess insurance over any and all other applicable insurance.

- (8) **Terms of Coverage**
This certificate is issued for the purpose of confirming coverage as contemplated by Chapter 284, Part II, Florida Statutes. In the event of any conflict between provisions or coverages in this certificate and the provisions of any Florida Statutes or laws including, but not limited to the aforesaid, said statutes and laws shall control.

- (9) **Cancellation**
Failure of the Fund to receive the amount of premiums billed to the insured agency within the time frames allowed by law may result in cancellation of the certificate of coverage. Payments must be made promptly from the insured's operating budget upon receipt of the premium bill as specified in Section 284.36, Florida Statutes, and lack of prompt payment will result in a request from the Fund to the Comptroller to transfer premiums from any available funds of the delinquent agency under the provisions of Section 284.44(7), Florida Statutes.

D. Self-Insurance Coverage

Coverage for defending and paying claims under this certificate is provided under the authority of Chapter 284, Florida Statutes, wherein the state is authorized to administer a self-insurance program. Provision of this certificate does not constitute the issuance of insurance other than on a self-insurance basis, and payment of any covered claim obligations is contingent upon availability of legislative funding.

EXHIBIT "C"
MAINTENANCE MATRIX OF OBLIGATIONS

RESPONSIBILITY	TENANT	AIRPORT
Air Compressor (If Installed)	X	
Air Handling System(s)	X	
Ceiling Tiles	X	
Disposal of Garbage, Debris and Waste Materials	X	
Elevators	X	
Exterior Electrical	X	
Exterior Electrical Fixtures	X	
Exterior Light Bulbs	X	
Exterior Painting	X	
Exterior Plumbing	X	
Exterior Signage	X	
Fire Protection System including Minimum Required Fire Extinguishers	X	
Generator (If Installed)	X	
Floor Replacement (Carpet, Tile Laminate ect.)	X	
Grounds Care	X	
Hangar Doors	X	
Hangar Insulation	X	
Interior Electrical	X	
Interior Electrical Fixtures	X	
Interior Light Bulbs	X	
Interior Painting	X	
Interior Plumbing	X	
Interior Walls	X	
Irrigation	X	
Janitorial Service	X	
Janitorial Service - Flooring	X	
Keys / Locks	X	
Mechanical / HVAC Maintenance	X	
Mechanical / HVAC Replacement	X	
Non-Structural Repairs	X	
Parking Lot & Side Walks	X	
Pedestrian Doors Including Hardware	X	
Personal Property	X	
Pest Control	X	
Restroom Fixtures (Exclusive to Tenant Premises / Toilets / Faucets)	X	
Roof Maintenance	X	
Roof Replacement	X	
Security System	X	
Signage / Wayfinding	X	
Structural Elements of Building	X	
Water Fountains / Water Filters	X	
CURRENT 2023.06.30		