



# CITY OF AVON PARK

Highlands County, Florida  
CITY COUNCIL REGULAR MEETING

October 24, 2022, 6:00 p.m.

Council Chambers, 123 E. Pine Street, Avon Park, FL

**This meeting will be held in person at the above address.**

**You are welcome to attend via ZOOM, if you wish. To enter this meeting, you must use the ZOOM app and use code 699 454 4458 No Password needed**

**A. ALL TO ORDER:**

1. Invocation
2. Pledge of Allegiance
3. Roll Call

**B. CITIZENS/OUTSIDE AGENCIES**

4. Request Road Closure for: Fall Festival & Trunk or Treat – Union Church, Tracey Caraballo
5. Proclamation: “World AIDs Day,” December 1, 2022- Campbell Health Solutions, Inc., Melissa Lors
6. Event Request, Annual Jingle Bell Run with Road Closures- The Jarrett Family

**C. CONSENT AGENDA:**

7. Minutes, October 10 2022, City Council Regular Meeting - City Clerk, Christian Hardman

**D. ACTION AGENDA**

8. **Public Hearing:** Second Reading, Ordinance No. 17-2022- Amend the Regulations for Home-Based Businesses in the Unified Land Development Code - CFRPC
9. **Public Hearing:** Second Reading, Ordinance No. 16-2022- Amend the City Code Section 2-33, Increasing Council Pay and Allowing Councilmembers in the Insurance Program- Human Resources Director, David Shoup
10. **Public Hearing:** Second Reading, Ordinance No. 18-2022- Code Enforcement Moratorium for Debris and Damage Caused by Hurricane Ian- City Attorney, Jerry Buhr
11. Amendment Number 2- Kimley Horn-Post Design Services During Apron Rehabilitation Construction Phase- Finance Director, Melody Sauerhafer
12. Draft Airport Commercial Lease Agreement with Nasgrass, Inc. (Lawn Mower Race Track)- City Manager, Mark Schrader
13. CRA Advisory Board: Designate Rick Hayes to Airport CRA and appoint new-CRA Advisory Board Member Laura Wade to the Main Street CRA
14. Resolution No. 2022-30, Approve FDOT Public Transportation Grant Agreement and Resolution No. – City Manager, Mark Schrader

**E. STAFF UPDATES/ADMINISTRATION**

**F. ATTORNEY UPDATES**

**G. COUNCIL DISCUSSION/UPDATES:**

**H. CITY MANAGER’S REPORT**

15. Regular Updates from the City Manager

**I. PUBLIC PARTICIPATION**

- J. ADJOURN:** The next City Council Regular Meeting is scheduled for Monday, November 14, 2022, at 6:00 p.m.

Any person who might wish to appeal any decision made by the City Council of the City of Avon Park, Highlands County, Florida, in public hearing or meeting is hereby advised that he/she will need a record of the proceedings, and for such purpose, he/she may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be based. Any person with disabilities requiring accommodations in order to participate should contact the City Manager prior to the meeting.

## **Agenda Item Summary**

**Date of Action:** October 24, 2022

**Subject:** Fall Festival and Trunk-or-Treat Churchwide Event

**Item No.:** B-4

**Placed on Agenda by:** Union Church, Tracey Caraballo

**Staff Review:** Yes

**Attorney Review:**

**Recommended Motion(s):** Approve Road closure request

**Documentation:**

- Event Request Form
- Map of Road Closure

**Background:**

Union Church is requesting the road closure on N. Butler from W. Pleasant Stret to Robert Britt Street, for their above noted event on October 26<sup>th</sup> from 4:00 – 6:00 p.m.





# City of Avon Park

## Event Request Form

**State Road closure permits require DOT Road Closure Permit form and City Council approval.**  
**State Road closure Permit Application MUST be submitted at least 3 months in advance of the event.**  
**City Road Closures REQUIRE at least 2 months in advance of the event and may require City Council approval.**

### TO BE COMPLETED & SIGNED BY ORGANIZATION'S REPRESENTATIVE:

Name of Organization: UNION CHURCH Today's Date: 10-12-22  
 Organization's Address: 106 N BUTLER AVENUE City: AVON PARK State: FL Zip: 33825  
 Contact Person: TRACEY CARABALLO Phone#: (863) 368-9318 Email: tcaraballo@weareunion.org  
 Name of Event: FALL FESTIVAL  
 Date(s) WED, OCT 26, 2022 and Time(s) of Event 4:00 a.m. ☒ p.m. to: 6:00 a.m. ☒ p.m.  
 Location of Event: 106 N. BUTLER AVE AVON PARK, FL 33825  
 (Include overview of map outlining location & layout of event)  
 Description of Event: FALL FESTIVAL & TRUNK OR TREAT CHURCH WIDE EVENT  
 Signature: Tracey S. Caraballo Print Name: TRACEY S. CARABALLO Relation to Organization: TREASURER Date: 10-12-22  
 (Verifying information and answers to questions below are correct)

### Please answer EACH question to better assist you with planning your event:

Question to be completed by organization/representative	Action Required (completed by City Employee)
Do you need any streets or roadways closed for the event? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If yes, please obtain the road closure forms from our office)	If "yes", permission will be needed to close roadways. State Road closures require DOT approval. City roads may require City Council approval (SEE REQUIRED NOTICE ABOVE). Police fees, traffic cones fees, and dumpster fees may be required. <input type="checkbox"/> Police Fees _____ per hour per officer (minimum 2 hours) = \$ _____ Total <input type="checkbox"/> Traffic Cones/ MOT: Qty _____ x \$ _____ per City "Block" = _____ Total (This includes delivery, installation and pick-up of cones by City staff. Weekend work may require additional charges. <u>Sponsor needs to stack cones at end of event</u> ) <input type="checkbox"/> Dumpster (6 yard): Quantity _____ x \$200 per dumpster = \$ _____ Total
Will you be using a city park to hold your event? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (If yes, please obtain Pavilion/Park Rental form from our office)	If "yes" Facility availability must be verified and City Council approval may be required. Fees will apply. <b>Park Fees: \$ _____ (Pavilion/Park Rental Form is Required)</b>
Will there be a band, DJ or other music/entertainment at the event? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If yes, please note: City will need at least 2 weeks notice) <u>SPEAKER SYSTEM</u>	If "yes", a variance for the city's "Noise Ordinance" might be necessary. This should be requested through the City Council. Date approved by CC _____
Do you want to display or hang any banners or signs above the roadway in reference to your event? (If yes, obtain form-3 months adv notice required) <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", then approval may be necessary. For banners on state roads, a DOT Banner Request must be completed and approved. Date DOT completed & approved _____
Will you have bounce houses or other activities for children? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (Note: Policy must be current through event date) <u>NO BOUNCE HOUSE</u>	If "yes" you will be required to provide copy of your Event Insurance 2 weeks in advance (\$ 2 million coverage minimum) and the City of Avon Park needs to be named as "Additional Insured" on your policy.) Date Copy Ins provided _____
Will there be any fireworks or pyrotechnics?(60 days notice required) <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", the vendor must be licensed and the safety aspects of the special event need to be coordinated with public safety entities. Date Public Safety approved _____
Will you be selling, serving or distributing alcohol at the event? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", the event needs to be licensed through the Division of Alcoholic Beverages and Tobacco (DABT). Licensure information can be obtained at (850) 488-8284. Date copy of license obtained _____
Will people be allowed to consume alcohol while at your event? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", in addition to an alcohol license, an "alcohol variance" may have to be granted by the Avon Park City Council. Date variance granted _____
Will food vendors be cooking or serving food at the event? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes <u>ICE CREAM TRUCK</u>	If "yes", provide the event coordinator with a copy of DBPR Form HR 5030-034 which outlines food vendor notif & licensure requirements. Date copy of License obtained _____
Does your event necessitate the use or setup of any temporary structures such as tents, canopies, buildings, stages, etc.? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", permits may be necessary and these structures may have to be inspected. Date copy of permit obtained _____ Date structure inspected _____
Is the event "animal related" (animal rides, rodeos, zoos, etc.)? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", ensure that safe and appropriate animal handling measures have been put in place. Approval by City Council may be required.

NOTE: You will be contacted by phone with a total amount due (fees will be due immediately after).

Please submit completed form to the Administrative Office located on the 2<sup>nd</sup> floor of City Hall, 110 E Main Street, Avon Park, FL 33825. Phone (863) 452-4401

Revised 09/11/2018 JB



## **Agenda Item Summary**

**Date of Action:** October 24, 2022

**Subject:** Proclamation, "World AIDs Day," December 1<sup>st</sup>, 2022

**Item No.:** B-5

**Placed on Agenda by:** Campbell Health Solutions, Inc., Melissa Lors

**Staff Review:** Yes

**Attorney Review:**

**Recommended Motion(s):** Approve

**Documentation:**

- Email from Melissa Lors - Ref: Requesting Proclamation
- Draft Copy of Proclamation

**Background:**

## Christian Hardman

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**From:** Areliz Chavez  
**Sent:** Friday, October 14, 2022 9:02 AM  
**To:** Christian Hardman  
**Subject:** FW: Proclamation Request  
**Attachments:** Proclamation - Avon Park.docx

Hey Chrissy,

Let me know if there's anything I can do to help!

Sincerely,

*Areliz Chavez*

Administrative Assistant

Office: 863.452.4400 Ext: 124, 125

Fax: 863.453.0070

City of Avon Park

110 E. Main St

Avon Park, FL 33825



LEGAL NOTICE REGARDING EMAIL Senate Bill 80 - effective July 1, 2006, under Florida Law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send an electronic email to this entity. Instead, contact this office by phone or in writing.

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**From:** Melissa Lors <mlors@campbellhealth.org>  
**Sent:** Friday, October 14, 2022 8:52 AM  
**To:** Areliz Chavez <achavez@avonpark.city>  
**Subject:** Proclamation Request

**Caution:** This email was sent from outside the City of Avon Park's organization.

Good Morning

Below is my request for and Proclamation on or before Dec 1st. Which is World AIDS Days. Please see attachment. If you can please send me the next step to obtain Proclamation I would appreciate it.

**Melissa Lors**



Director Of Operations

Campbell Health Solutions, Inc

2090 Palm Beach Lakes Blvd,

Suite 301

West Palm Beach, Florida 33409

(O) 561-208-6595

(C) 561-779-5790

[mlors@campbellhealth.org](mailto:mlors@campbellhealth.org)

[www.chs.health](http://www.chs.health)

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# Proclamation

## A proclamation of the City of Avon Park

**WHEREAS**, world-wide an estimated 38.4 million people are living with HIV, and an estimated 1.5 million new infections occurred in 2021, which is an estimated 4,100 new infections every day; and

**WHEREAS**, world-wide 15% of persons with HIV (PWH) don't know their status and only 75% of PWH who need life-saving antiretroviral therapy (ART) are currently accessing those medications; and

**WHEREAS**, the global spread of HIV necessitates a worldwide effort to increase communication, education and action to stop the spread of HIV; and

**WHEREAS**, the Joint United Nations Program on HIV/AIDS (UNAIDS) observes December 1 of each year as "**World AIDS Day**", and leads and inspires the world to achieve its shared vision of zero new HIV infections, zero discrimination and zero AIDS-related deaths; and

**WHEREAS**, the 95-95-95 ambitious global plan to help end the AIDS epidemic has set its targets for 2030, that 95% of all PWH will know their HIV status, 95% of all people with diagnosed HIV will receive sustained ART, and 95% of all people receiving ART will have viral suppression; and

**WHEREAS**, clinical evidence has firmly established that PWH who achieve and maintain an undetectable viral load by taking ART daily as prescribed cannot sexually transmit the virus to others, and this is known as Undetectable=Untransmittable, or U=U; and

**WHEREAS**, the World AIDS Day theme in the United States for 2022 is "Ending the HIV Epidemic: Equitable Access, Everyone's Voice"; and

**WHEREAS**, in Highlands County more than 292 persons are living with HIV and Community Prevention Networks and Community-Based Organizations such as Campbell Health Solutions – Elaine May Campbell, through collaborations and partnerships are working together to renew HIV/AIDS awareness and to expand and strengthen the local effort to stop the spread of HIV in Highlands County on World AIDS Day.

**NOW, THEREFORE, I Garrett Anderson, MAYOR OF Avon Park**, do hereby proclaim "**World AIDS Day**" on December 1, 2022; and urge all residents of the City of Avon Park to take part in activities and observances designed to increase awareness and understanding of HIV/AIDS as a global challenge and urge residents to join the global effort to prevent further spread of HIV/AIDS.

(Seal)

ATTEST:

CITY OF AVON PARK, FLORIDA

By: \_\_\_\_\_  
Christian Hardman, City Clerk

By: \_\_\_\_\_  
Garrett Anderson, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Gerald Buhr, City Attorney

## **Agenda Item Summary**

**Date of Action:** October 24, 2022

**Subject:** Jingle Bell Run (Street Closures)

**Item No.:** B-6

**Placed on Agenda by:** The Jarrett Family

**Staff Review:** Yes

**Attorney Review:**

**Recommended Motion(s):** Approve the Jingle Bell Run Event, with Street Closures as presented in the Event Request

**Documentation:**

- Event Request Form
- Temporary Road Closure Form
- Jingle Bell Run Event Route
- Jingle Bell Run Event Map

**Background:**

The Jingle Bell Run is an annual event.





# City of Avon Park

## Event Request Form

**State Road closure permits require DOT Road Closure Permit form and City Council approval.**  
**State Road closure Permit Application MUST be submitted at least 3 months in advance of the event.**  
**City Road Closures REQUIRE at least 2 months in advance of the event and may require City Council approval.**

### TO BE COMPLETED & SIGNED BY ORGANIZATION'S REPRESENTATIVE:

Name of Organization: The Jarrett Family Today's Date: 10/18/2022  
 Organization's Address: 1305 US 27 North City: Avon Park State: FL Zip: 33825  
 Contact Person: William Jarrett Jr. Phone#: 863-443-4741 Email: BillJarrett@Jarrettford.com  
 Name of Event: JINGLE BELL RUN  
 Date(s) 12/09/2022 and Time(s) of Event 6:00 a.m. (p.m.) to: 8:00 a.m. (p.m.)  
 Location of Event: Union Congregational Church, 106 N. Butler Ave. Avon Park FL  
 (Include overview of map outlining location & layout of event)  
 Description of Event: 5K Run/Walk on Main St. and Lake Ave. Similar to past years.  
 Signature: [Signature] Print Name: William R. Jarrett Relation to Organization: \_\_\_\_\_ Date: \_\_\_\_\_  
 (Verifying information and answers to questions below are correct)

### Please answer EACH question to better assist you with planning your event:

Question to be completed by organization/representative	Action Required (completed by City Employee)
Do you need any streets or roadways closed for the event? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes (If yes, please obtain the road closure forms from our office)	If "yes", permission will be needed to close roadways. State Road closures require DOT approval. City roads may require City Council approval (SEE REQUIRED NOTICE ABOVE). Police fees, traffic cones fees, and dumpster fees may be required. <input type="checkbox"/> Police Fees _____ per hour per officer (minimum 2 hours) = \$ _____ Total <input type="checkbox"/> Traffic Cones/ MOT: Qty _____ x \$ _____ per City "Block" = _____ Total (This includes delivery, installation and pick-up of cones by City staff. Weekend work may require additional charges. <u>Sponsor needs to stack cones at end of event</u> ) <input type="checkbox"/> Dumpster (6 yard): Quantity _____ x \$200 per dumpster = \$ _____ Total
Will you be using a city park to hold your event? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (If yes, please obtain Pavilion/Park Rental form from our office)	If "yes" Facility availability must be verified and City Council approval may be required. Fees will apply. <b>Park Fees: \$ _____ (Pavilion/Park Rental Form is Required)</b>
Will there be a band, DJ or other music/entertainment at the event? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (If yes, please note: City will need at least 2 weeks notice)	If "yes", a variance for the city's "Noise Ordinance" might be necessary. This should be requested through the City Council. Date approved by CC _____
Do you want to display or hang any banners or signs above the roadway in reference to your event? (If yes, obtain form-3 months adv notice required) <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", then approval may be necessary. For banners on state roads, a DOT Banner Request must be completed and approved. Date DOT completed & approved _____
Will you have bounce houses or other activities for children? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (Note: Policy must be current through event date)	If "yes" you will be required to provide copy of your Event Insurance 2 weeks in advance (\$2 million coverage minimum) and the City of Avon Park needs to be named as "Additional Insured" on your policy.) Date Copy Ins provided _____
Will there be any fireworks or pyrotechnics?(60 days notice required) <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", the vendor must be licensed and the safety aspects of the special event need to be coordinated with public safety entities. Date Public Safety approved _____
Will you be selling, serving or distributing alcohol at the event? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", the event needs to be licensed through the Division of Alcoholic Beverages and Tobacco (DABT). Licensure information can be obtained at (850) 488-8284. Date copy of license obtained _____
Will people be allowed to consume alcohol while at your event? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", in addition to an alcohol license, an "alcohol variance" may have to be granted by the Avon Park City Council. Date variance granted _____
Will food vendors be cooking or serving food at the event? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", provide the event coordinator with a copy of DBPR Form HR 5030-034 which outlines food vendor notif & licensure requirements. Date copy of License obtained _____
Does your event necessitate the use or setup of any temporary structures such as tents, canopies, buildings, stages, etc.? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", permits may be necessary and these structures may have to be inspected. Date copy of permit obtained _____ Date structure inspected _____
Is the event "animal related" (animal rides, rodeos, zoos, etc.)? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes	If "yes", ensure that safe and appropriate animal handling measures have been put in place. Approval by City Council may be required.

NOTE: You will be contacted by phone with a total amount due (fees will be due immediately after).



## TEMPORARY CLOSING OF STATE ROAD PERMIT

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

Permit No. \_\_\_\_\_

## Governmental Entity

Approving Local Government The City of Avon Park Contact Person MARK SCHRAEDER  
Address 110 E. Main St. AVON PARK, FL  
Telephone 888-452-4400 Email MSchraeder@AvonParkCity

## Organization Requesting Special Event

Name of Organization The Jarrett Family Contact Person William Jarrett Jr.  
Address 1305 US 27 North  
Telephone 863-443-4741 Email BillJarrett@Jarrettford.com

## Description of Special Event

Event Title JINGLE BELL RUN Date of Event 12/09/2022  
Start Time 6:00pm End Time 8:00pm  
Event Route (attach map) \_\_\_\_\_  
Detour Route (attach map) ATTACHED

## Law Enforcement Agency Responsible for Traffic Control

Name of Agency HIGHLANDS COUNTY SHERIFFS OFFICE

## US Coast Guard Approval for Controlling Movable Bridge

Not Applicable ☒Copy of USCG Approval Letter Attached ☐

Bridge Location \_\_\_\_\_

The Permittee will assume all risk of and indemnify, defend and save harmless the State of Florida and the FDOT from and against any and all loss, damage, cost or expense arising in any manner on account of the exercise of this event.

The Permittee shall be responsible to maintain the portion of the state road it occupies for the duration of this event, free of litter and providing a safe environment to the public.

## Signatures of Authorization

Event Coordinator _____	Signature _____	Date _____
Law Enforcement Name/Title _____	Signature _____	Date _____
Government Official Name/Title _____	Signature _____	Date _____

## FDOT Special Conditions

## FDOT Authorization

Name/Title \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

## JINGLE BELL RUN EVENT ROUTE

Start at Union Congregational Church

Head South on Butler Avenue

Head West on Main Street

U-turn at Anoka Avenue

Head East on Main Street

U-turn on Delaney

Head West on Main Street

Head North on N. Lake Avenue

Continue North until Kendall Boulevard

U-turn at Kendall Boulevard

Head South on N. Lake Avenue

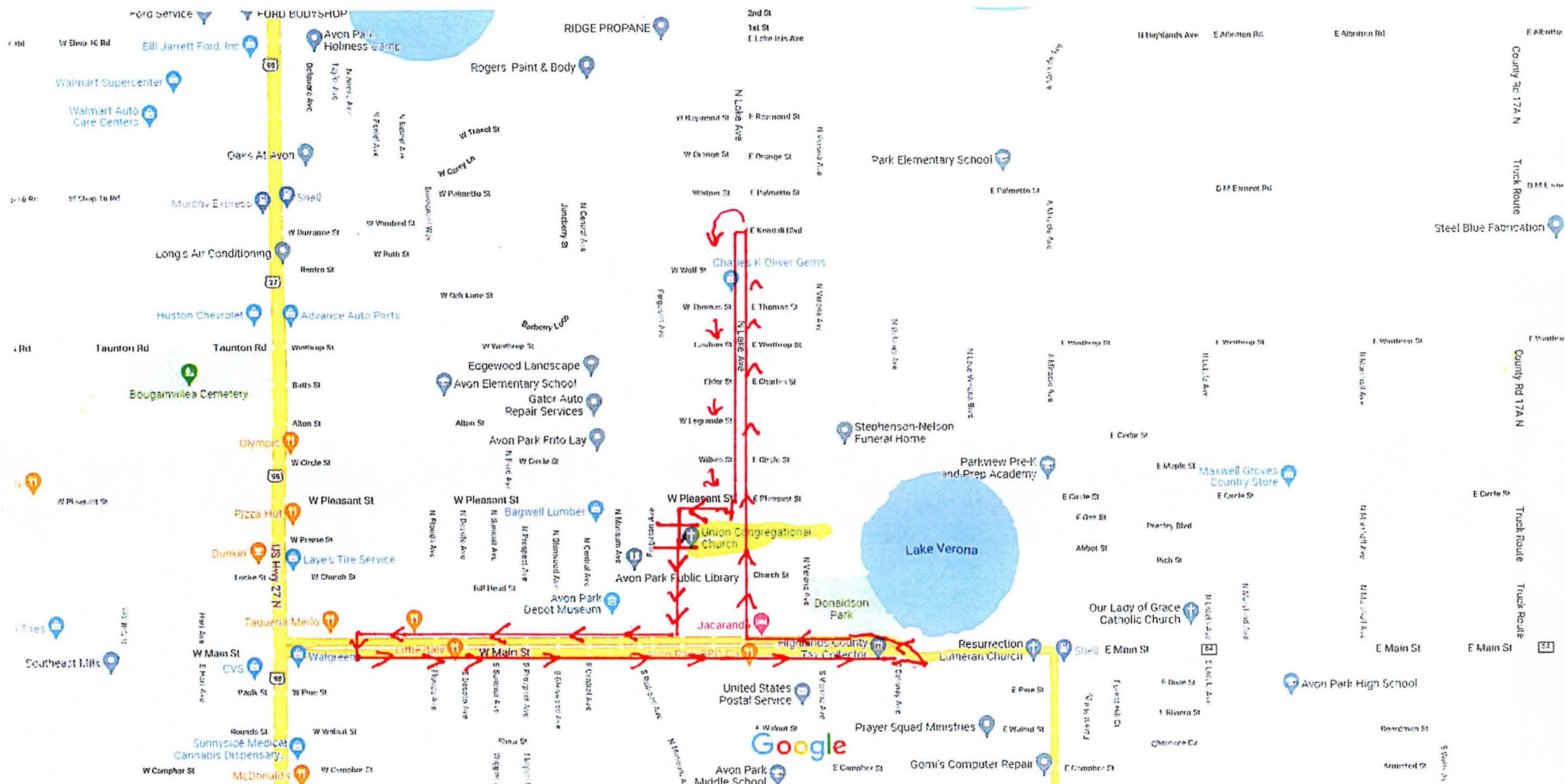
Head West on W. Pleasant

Head South on Butler

Finish at Union Congregational Church

Google Maps

## Jingle Bell Run 12/10/2021 Event route



Map data ©2021 500 ft

## **Agenda Item Summary**

**Date of Action:** October 24, 2022

**Subject:** Minutes of the City Council Regular Meeting, October 10, 2022

**Item No.:** C-7

**Placed on Agenda by:** City Clerk, Christian Hardman

**Staff Review:** Yes

**Attorney Review:**

**Recommended Motion(s):** Approve Consent Agenda

**Documentation:**

- Draft Minutes, City Council Regular Meeting, October 10, 2022

**Background:**





**CITY OF AVON PARK**  
Highlands County, Florida

**MINUTES OF THE CITY COUNCIL  
REGULAR MEETING  
October 10, 2022, at 6:00 p.m.**

**A. OPENING:** CTO – 6:00 PM

1. Invocation: Councilmember Brittany McGuire
2. Pledge of Allegiance: Councilmember Brittany McGuire
3. Roll Call: Finance Director, Melody Sauerhafer

COUNCIL MEMBERS PRESENT:           Member Brittany McGuire  
  Member Shelly Mercure  
  Member Berniece Taylor  
  Deputy Mayor Jim Barnard  
  Mayor Garrett Anderson

COUNCIL MEMBERS ABSENT:

STAFF PRESENT:                       City Attorney, Gerald Buhr  
  City Manager, Mark Schrader  
  Code Enforcement Supervisor, Randy LaBelle  
  Finance Director, Melody Sauerhafer  
  Human Resources Director, David Shoup  
  Public Works Director, Rick Reed

**B. CITIZENS/OUTSIDE AGENCIES:**

4. SBA Disaster Assistance Recovery and Mitigation Resources- Public Affairs Specialist, Sandra Lawson

Sandra Lawson of the U.S. Small Business Administration (SBA) presented resources available to communities affected by Hurricane Ian. These included a Disaster Loan Program for homeowners, renters, businesses, and non-profits. She went over guidelines, how to qualify, and the amount of assistance available for homeowners and business owners with property damage. She agreed to provide information on where SBA community resource sites are located before the end of the meeting.

5. Use of Donaldson Park for Christmas Bicycles and Toys Give-Away Event and Request for a City Donation to Buy Bicycles- Frankie Grover, KISS Radio, LLC

Mayor Anderson went over the request, saying Frankie Grover has hosted the KISS-mas give away for several years. Frankie Grover of KISS Radio, LLC, said in 2021, they gave away 125-bicycles and 2,000 toys, and fed 200 people. Their goal is to do more this year. He has a 501(c)(3) involved in the event and will provide insurance before (or by) the middle of November.

Councilmember Taylor asked if he has a 501(c)(3) organization and if he goes to different organizations for insurance coverage? Grover said he has a 501(c)(3) organization working with him and has a local insurance provider for the event. Councilmember Taylor said she remembered last year he was working with Brenda Gray. Grover explained Ms. Gray represented the 501(c)(3) involved with the event. This year, another organization has agreed to participate. Councilmember Taylor noted each year he works with a different 501(c)(3). He agreed, adding he wants to get more people involved with the event.

Councilmember Mercure said the event is scheduled for December 17th and he is requesting the parking lot be closed off. She asked if they set the past events up that way? Grover said last year, there was another event scheduled at the same time at the Shuffle Board courts; vehicles had taken up many of the parking spaces. She asked if he will use the back or side area? Grover said the front where the picnic tables are; his concern is for parking availability.

Deputy Mayor Barnard said Grover does a great job for the community and children. Last year, the city donated money. He asked if Grover has an idea what he wants to do with the donation this year? Grover said the goal is to purchase more bikes; he wants to give away at least 200. Councilmember McGuire said he is asking for a \$2,000 donation, to which City Manager Schrader said the Council approved a \$1,000 donation in 2021.

Deputy Mayor Barnard asked if he had any bicycles left over after last year's event? Grover said no, they actually did not have enough. Deputy Mayor Barnard expressed support for approving a donation. Mayor Anderson asked how much additional funding does he intend to raise from other sources? Grover said his major sponsor is Walmart, and he wants to raise at least \$10,000.

**MOTION**, made by Deputy Mayor Barnard and seconded by Councilmember Mercure, to approve agenda item "B-5," for the donation of \$2,000 to the KISS-mas Bicycle and Toy Drive Give Away.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

**Motion Passed: 5-0**

6. Veteran's Day Celebration Event, at Veterans Triangle- Highlands County NAACP, Al Norton

Al Norton of the Highlands County NAACP (via ZOOM) said the annual event is a complimentary luncheon for veterans. Because of Mr. Norton's internet connectivity issues, the Council postponed the discussion until he could get the issue resolved.

7. Community Give Back for "ALL" BBQ Cookout at MLK Jr. Memorial Field- Donald Gordon, LLC

Donald Gordon of 918 S. Palmer Avenue presented his request to use the MLK Memorial Field parking lot for a community give back BBQ event. He asked for the grass to be cut, the use of cones, and garbage cans. Deputy Mayor Barnard asked when the event is? Gordon said November 12<sup>th</sup> at noon.

**MOTION**, made by Deputy Mayor Barnard and seconded by Councilmember Mercure, to approve agenda item "B-7," for the Community Give Back for "ALL" BBQ Cookout at MLK Jr. Memorial Field.

Councilmember Taylor abstained because Gordon is married to her niece.

AYE: McGuire, Mercure, Barnard, Anderson

ABSTAIN: Taylor

NAY:

**Motion Passed: 4-0**

6. (Continued): Veteran's Day Celebration Event, at Veterans Triangle- Highlands County NAACP, Al Norton

Mayor Anderson noted Mr. Norton was inaudible; they agreed to move forward with discussion based on the documentation included in the Councilmember's agenda packet. He said if there were questions, they would call Mr. Norton. The request is to host an event at the Southside Veteran's Garden Triangle. There are no road closures. The request is for use of the park and electric. Mayor Anderson asked if Mr. Norton would have insurance and to confirm by a head nod. Mr. Norton confirmed. Deputy Mayor Barnard and Councilmember Mercure expressed their support for the event.

**MOTION**, made by Councilmember Mercure and seconded by Deputy Mayor Barnard, to approve agenda item "B-6," for the Veteran's Day Celebration Event, at Veterans Triangle.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

**Motion Passed: 5-0**

City Manager Schrader said Mr. Norton is one of the nicest people to come to City Hall. Everyone thinks highly of him and appreciates what he does for veterans. He is a good human being.

**C. CONSENT AGENDA:**

8. Minutes, September 26, 2022, City Council Regular Meeting- City Clerk, Christian Hardman

Councilmember Taylor noted a point of clarification on the minutes. During the agenda item discussion for a Professional Wrestling event in March, the minutes reflected that admission to the event for kids is free. They actually said, if the parents pay for a full price ticket, then kids would get in free. Deputy Mayor Barnard agreed.

**MOTION**, made by Deputy Mayor Barnard and seconded by Councilmember Taylor, to approve agenda item "C-8," Minutes for September 26, 2022 with the noted changes.



AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

**Motion Passed:** 5-0

#### **D. ACTION AGENDA:**

9. State of Emergency- Resolution No. 2022-28- City Manager, Mark Schrader

City Manager Schrader said his recommendation is to rescind the resolution because it is no longer needed. He advised Council that under the resolution, he signed the agreement for the logistics staging area (Department of Emergency Management -at the Airport) and purchased fuel for the airport. The fuel purchase was over his limit; Florida Airport Management (FAM) greatly needed the fuel for the helicopters and planes that were flying in as part of the logistical staging area. Mayor Anderson said his understanding is that the resolution will automatically end if not renewed. City Manager Schrader said it would expire at midnight. Mayor Anderson said no action was required, so long as they had a consensus in favor of terminating the resolution. There was no opposition.

10. Appoint Brenda Gray to the Avon Park Housing Authority Board- City Manager, Mark Schrader

City Manager Schrader presented the vacancy on the Avon Park Housing Authority Board. He said staff contacted Penny Pieratt, Chief Executive Officer, who confirmed the opening. Brenda Gray applied to serve on the board. Mayor Anderson asked if we ever advertised the opening? City Manager Schrader said there was a death which created the vacancy, and he did not know how long ago it was. Mayor Anderson believed, based on the letter from Pieratt, that the vacancy came at short notice.

Councilmember Mercure asked if we advertised it? Councilmember McGuire and Mayor Anderson said we did not advertise it on the website. Mayor Anderson said Pieratt's confirmation of the vacancy leads him to believe they did not have a great deal of time between the vacancy and the application. Councilmember McGuire felt we should advertise it to give others an opportunity to apply.

Councilmember Taylor said she feels they should advertise it as she (herself) would like to apply. Deputy Mayor Barnard said he does not believe that is allowed. City Attorney Buhr said it is a conflict of interest, she would have to resign from the Council to serve. Councilmember Taylor said the Council needs to be fair. She did not see it on the website; although, Ms. Gray would do a great job, they must do it right and give everyone an opportunity. Councilmember Mercure agreed. Mayor Anderson did not think it would do any harm to advertise it; noting that this board rarely struggles with a quorum.

Mayor Anderson asked who is the liaison for the board? Councilmember Mercure said she is. He asked if there was an attendance problem? She said no; they have enough for a quorum. If they are one or two members short, they attend via phone. Mayor Anderson asked if there is a guideline for how long to advertise the position? Councilmember Mercure suggested 60-days, to which Councilmember McGuire agreed. Councilmember Taylor disagreed, saying they need to fill the vacancy. She has individuals in mind for the position. Mayor Anderson asked for her-



suggestion? Councilmember Taylor answered 30-days, to which Councilmember Mercure suggested a compromise of 45-days.

**MOTION**, made by Deputy Mayor Barnard and seconded by Councilmember Mercure, to advertise the vacancy on the Avon Park Housing Authority for 45-days.

Councilmember McGuire recommended caution. She agreed with advertising because the Council needs to spend time and thought about who is appointed to a board. Their discussions on the Planning and Zoning Board and the considerations for the roles members play in the city require the Council choose qualified individuals. It should be put out there so that these individuals know of the vacancy to come forward.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

**Motion Passed: 5-0**

11. First Reading, Ordinance 17-2022- Amend the Regulations for Home-Based Businesses in the Unified Land Development Code- CFRPC

City Attorney Buhr read the short title for Ordinance 17-2022, respectively.

AN ORDINANCE OF THE CITY OF AVON PARK, FLORIDA, AMENDING THE AVON PARK UNIFIED LAND DEVELOPMENT CODE, AMENDING REGULATIONS FOR HOME-BASED BUSINESSES, SPECIFICALLY AMENDING ARTICLE 7, SECTION 7.10.00, CONCERNING HOME OCCUPATIONS; AND AMENDING ARTICLE 2, SECTION 2.02.08 AND SECTION 2.02.09, REGARDING EMPLOYMENT WITHIN GROUP CARE FACILITIES; AND AMENDING ARTICLE 9, PROVIDING A NEW DEFINITION FOR HOME OCCUPATION, FOR CONSISTENCY WITH SECTION 559.955, FLORIDA STATUTES REGARDING THE REGULATION OF HOME-BASED BUSINESSES IN THE CITY OF AVON PARK; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Stephanie Von Palesky-Busch with Central Florida Regional Planning Council (CFRPC), explained Florida Legislature, which went into effect July 1, 2021, changing the standards for how local governments regulate home-based businesses. The documentation included in the Councilmember's agenda packets is in conformance with the Florida Statutes; specifically, amending Article, Section 2.02.08, which deals with adult family care homes, family daycare centers, and family foster homes. The amendment also applies to Section 2.02.09, regarding special needs facilities. Ordinance 17-2022 removes references to home occupations and modifies Article 7, Section 7.10.00 on home occupations by updating some definitions.

Von explained how the legislature prohibits local governments from taking certain actions regulating licensure of home-based businesses; further clarifying the conditions under which they consider a business a home-based business. It allows home-based businesses to operate in areas zoned for residential use which are subject to certain business taxes. Von discussed how the statute addresses accessories to residential uses, which must be conducted in the principal residential dwelling, incidental to the use of the dwelling. She read from the statute, "Any adversely affected current or prospective home-based business owner may challenge any local government action in violation of this section; the prevailing party in a challenge may recover-

reasonable attorney's fees and costs incurred in challenging or defending the action, including reasonable appellate attorney's fees and costs."

Von went over additional regulations set by the statute and Ordinance No. 17-2022, including employees, the character of the home, external modification conformance, signage, retail transactions, parking and storage of heavy machinery, performance standards, and business tax receipts.

Deputy Mayor Barnard asked if limitations on the home-based businesses is allowed? Von said no, they cannot be restricted, other than noise, odor, and glare, etc. City Attorney Buhr clarified limitations on nuisance standards that were placed beforehand can still apply.

**MOTION**, made by Deputy Mayor Barnard and seconded by Councilmember McGuire, to approve Ordinance No. 17-2022, as presented.

AYE: McGuire, Taylor, Barnard, Anderson

NAY: Mercure

**Motion Passed: 4-1**

12. First Reading, ordinance No. 16-2022- Amend the City Code Section 2-33, Increasing council Pay and Allowing Councilmembers in the Insurance Program- Human Resources Director, David Shoup

City Attorney Buhr read the short title for Ordinance 16-2022, respectively.

AN ORDINANCE TO AMEND THE CITY CODE SECTION 2-33 OF THE CITY CODE INCREASING COUNCIL PAY AND ALLOWING PARTICIPATION BY COUNCILMEMBERS IN CITY INSURANCE PROGRAM; PROVIDING FOR CONFLICTS AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE AND AN EFFECTIVE DATE.

Human Resources Director Shoup went over the changes to the city's code provided in Ordinance No. 16-2022, included in the Councilmember's agenda packets. Changes included an increase to the monthly compensation rate for Councilmembers to \$867, an increase to the monthly compensation rate for the mayor to \$1,023; the retroactive application of the changes to the first day of the 2022-2023 budget, starting on October 1, 2022, and the participation of Councilmembers in the City's insurance coverage.

**Motion**, made by Deputy Mayor Barnard, and seconded by Councilmember Taylor to approve agenda item, "D-12," Ordinance No. 16-2022, as presented.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

**Motion Passed: 5-0**

13. Resolution No. 2022-29, to Accept the FDOT Public Transportation Grant- Finance Director, Melody Sauerhafer

City Attorney Buhr read the short title for Resolution No. 2022-29, respectively.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AVON PARK FLORIDA, PROVIDING FOR THE ADOPTION OF A GRANT AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION AND PROVIDING FOR AN EFFECTIVE DATE.

Finance Director Sauerhafer summarized how the Council approved the FAA portion of the Apron Rehabilitation Grant in September 2022, for the amount of \$2.4 million. Resolution No. 2022-29 is for the approval of the 10% DOT matching funds, \$267,374. We will use these funds for full depth pavement reconstruction on Taxiway-F.

Mayor Anderson asked if a motion would also require, he be given the authority to sign the agreement? City Attorney Buhr said yes.

**Motion**, made by Deputy Mayor Barnard, and seconded by Councilmember Taylor to approve agenda item, "D-13," Resolution No. 2022-29, and the signing by Mayor Anderson.

City Attorney Buhr clarified the reason a motion to grant the mayor signing authority is made for anything important; he does not want to take any chances, in case there is contestation. With that said, the mayor is granted authority under the city's charter and code of ordinances.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

**Motion Passed:** 5-0

14. Award RFQ #22-07 for Professional Engineering Services for the Design of the Avon Park Fire Station Hardening Project, to Cool and Cobb Engineering- Finance Director, Melody Sauerhafer

Sauerhafer said the city put out a request for quote (RFQ) for professional engineering services for the design of the Avon Park Fire Station Hardening grant. The submittal from Cool and Cobb Engineering was the sole response; it was in the amount of \$894,000. It includes exterior walls, roof removal and replacement, new doors and windows, window shutters, ceiling and wall repair, electrical upgrades, a new paging system, kitchen and bunk room upgrades.

Councilmember Mercure asked how long the project will take once approved? Mayor Anderson estimated a year and a half. She asked if they will do the project in sections and will the fire fighters be displaced? Mayor Anderson said they will work around it. Sauerhafer said Chief Marcy is looking to move during the project because it will be like a full remodel of the inside of the fire station.

Mayor Anderson did not see why they could not do the project in stages. The fire station was redone roughly 10-years ago. At that time, the internal work, such as the sleeping quarters, was completed in a way that allowed the firefighters to operate at the station. With their specialized equipment, he does not see how moving will work. City Manager Schrader said, at this time, it is unknown if they will have to temporarily relocate, but they may require temporary trailers; and they have also considered the community center. City Manager Schrader said we hope we can do it in stages; however, we are not sure.

Mayor Anderson asked that Chief Marcy give special consideration to that point. During the engineering phase, the priority should be given to keeping the firefighters in the building. City Manager Schrader agreed.



**Motion**, made by Deputy Mayor Barnard, and seconded by Councilmember Mercure to approve agenda item, "D-14," to award RFQ #22-07 to Cool and Cobb Engineering.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

ABSTAIN:

NAY:

**Motion Passed: 5-0**

Prior to Mayor Anderson voted he said he had a question for the city attorney and noted that he typically abstains from anything involving Cool and Cobb, because the Cobb part of Cool and Cobb is his first cousin. He asked City Attorney Buhr what Councilmember McGuire would have to do to remedy her vote? Councilmember McGuire said she read the form (Form-8B Memorandum of Voting Conflict) the last time she used it), and it says nothing on there about cousins, so she did not want to vote if she was supposed to, since it is a cousin, or out of abundance of caution not vote.

After review of the form, City Attorney Buhr said there are three definitions for voting conflicts under Florida Statutes 112; he believed Councilmember McGuire has no choice but to vote as she was obligated to. Mayor Anderson asked the City Attorney to consider the signing of checks as the city does a lot of business with Cool and Cobb, and he typically refrains from signing these checks. City Attorney Buhr said that falls under a different statute and agreed he would need to look at the definitions under that one.

Councilmember Taylor referenced her previous abstention (agenda item D-7), then asked if she does not have to fill out Form-8B? Councilmember McGuire said she had already abstained, then asked if they need to retake the vote? Mayor Anderson said it passed despite the abstention. If that were the deciding vote, then it would be an issue. City Attorney Buhr said it is up to the Council whether they wish to renew the vote. The consensus was to continue without renewing the vote.

Mayor Anderson said a lesson from the City Attorney should be in the near future. City Attorney Buhr said he can set up another training on Florida Ethics. Mayor Anderson said the Council must complete the Ethics training annually. City Attorney Buhr said he will perform an in-person training session with Zolfo Springs. The Council can choose to do the class online, individually or collectively. Mayor Anderson asked would they train in Council Chambers or at Zolfo Springs. City Attorney Buhr said we have done it in Council Chambers before; he can either do a session for the city or they can do it online (individually). Haines City also has a training session in which they invite other municipalities. The State Ethics Commission and the Florida League of Cities have information on their website.

Mayor Anderson asked what the cost would be for City Attorney Buhr to do the training? He said his normal hourly rate and expense. Mayor Anderson asked that he update the Council on the cost at the next meeting.

#### **E. STAFF UPDATES/ADMINISTRATION:**

- **Updates: Hurricane Debris Pickup- Florida Airport Management, J.T. Clark**

J.T. Clark of FAM provided a report for Hurricane Ian. He said the Avon Park Airport was assigned as the Bravo Camp-staging area; it was the second largest staging area for the Department of Emergency Management (DEM) in the state. In the past 16-days, the site has distributed over 1,000 pieces of heavy equipment, over 700 missions deployed to Sanibel Island, and has served 550 meals around the clock. Additionally, over 200 plus workers have been housed at the site; over 700,000 gallons of fuel have been dispensed and FAM has logged in just over 2200 man-hours performed.

Clark said there were no accidents, injuries, or spills. Statewide, the disaster response has concluded and we are now in the recovery phase. Clark said repairs are underway at the facilities; specifically, the entrance gate, asphalt repairs on the apron, and roadway improvements to the exit gate near Jerry Wise. There will be street sweepers brought in to care for all paved areas. Runway 10-28 should be operational by next week. Bravo Camp is now being moved to Lehigh Acres.

Clark said they will complete facility charges through FEMA documentation and FAM will charge fair market value per square foot for services and normal ground lease rates. He said FAM and AVO has received an A+ report card, etc.

City Attorney Buhr asked if he was successful in getting DEM to draft a more reasonable contract for the future, so we can have a long-term contract? Clark said no, the agreement provided is the only contract they will issue. The House of Representatives voted on it in 2013 and it is standard across the board.

Deputy Mayor Barnard asked if Duke Energy came out to the site? Clark said no; in part because of the lateness of getting the agreement back, and DEM also did not want utilities there with large heavy equipment because of the number of missions deploying from the site. Clark said FAM will undergo a master planning in collaboration with Duke Energy and the Highlands County Road and Bridge team; meeting with us next week and the Estates so we can start laying the ground for paving an area for them to use in the future.

Mayor Anderson asked if there is any obstruction to any hangers? Clark said no; they moved camp twice to accommodate them. He then spoke of the first 48-hours of the storm event, the arrival of the Governor and Department of Homeland Security on site. They asked us how we were doing, where we were at with the AIPP and were excited to see that transition happen.

Deputy Mayor Barnard asked if FAM was happy with the emergency management team? Clark said yes, adding Resolute and Garner (emergency response contractors) have responded to every hurricane for the state of Florida. Deputy Mayor Barnard said he would like to see agreements in place with these companies (somewhat permanently) to avoid last-minute approvals. He said overall they did a good job; the only thing left is to find out more about yard waste pick-up in the city manager's updates. Deputy Mayor Barnard asked if FEMA came to the airport? Clark said FEMA has tasked Resolute with setting up FEMA response centers. They have asked if FAM is open to setting FEMA up at the airport, now that most of the heavy equipment and safety areas are clear. There will be one or two in Highlands County.

City Manager Schrader referenced the Duke Energy contract, saying it was done and City Attorney Buhr did a good job to protect the city from liability. Duke Energy's representative, Rhys, got with him about the other hazardous materials clause which they may want out at the airport; it was entered in the agreement as Exhibit Z. The agreement was approved and returned to Rhys.



City Manager Schrader said that Rhys admitted the agreement was held up because he had not gotten it to his attorney; so, the fault was not on City Attorney Buhr, city staff, or himself. City Manager Schrader added that prior to the storm he called Rhys and asked the status of the agreement, and he told him was on him for not getting forwarding it to Duke's attorney, he also said that Duke was not sure if they were going to use the Avon Park airport. Stating he just wanted it clear the delay was not on the city attorney, nor does he blame Rhys, as he is also busy and he just forgot to get it to his attorney to get it approved and back to the city to sign.

Mayor Anderson thanked FAM for all their work during the disaster response. Councilmember Taylor asked if Lawson, the representative from the SBA, had provided the information on SBA locations? Clark said she did; they will be in Arcadia and North Port. He agreed to update City Manager Schrader as soon as he has more information. City Manager Schrader said it is on the city and the county's website. Mayor Anderson said it is also on the SBA's website, of which there are no locations in Highlands County.

- **First Reading, Ordinance No. 18-2022, Code Enforcement Moratorium- City Attorney, Gerald Buhr**

City Attorney Buhr said he had met with the City Manager about placing a moratorium on Code Enforcement to set deadlines for when Code Enforcement will resume. He read the short-title for Ordinance No. 18-2022, respectively.

AN ORDINANCE OF THE CITY OF AVON PARK, FLORIDA ESTABLISHING A CODE ENFORCEMENT MORATORIUM FOR DEBRIS AND DAMAGE CAUSED BY HURRICANE IAN; PROVIDING FOR SUNSET OF MORATORIUM PROVISIONS AND AUTOMATIC TERMINATION OF THE ORDINANCE UNLESS EXTENDED BY COUNCIL; PROVIDING THAT THE ORDINANCE WILL NOT BE CODIFIED; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

Mayor Anderson asked if Code Enforcement Supervisor LaBelle saw any conflicts in entering the ordinance? He said no; he agrees with the ordinance.

**Motion**, made by Councilmember McGuire, and seconded by Councilmember Taylor to approve Ordinance No. 18-2022.

Councilmember Mercure noted there are businesses on Main Street that still have metal shutters over the windows. She asked if that falls under the February 15th deadline? City Attorney Buhr said it should be removed if the hurricane did not cause it. It would fall under the moratorium if the hurricane damaged the windows. Mayor Anderson asked if Code Enforcement can look behind the shutters to confirm if the window is damaged? Code Enforcement Supervisor LaBelle said his department is watching out for it. It is not just on Main Street. They will allow a week for things to calm down, then they will contact business and property owners to ask them. In the past, he has been told the owners are waiting for the end of Hurricane season, which is not a valid excuse.

Councilmember McGuire noted some homes were damaged by the hailstorm and it is taking a long time for insurance. She asked if it is possible to reach out to the business owners and inform them about the façade grant? Code Enforcement Supervisor LaBelle said they are and are also passing out flyers. Code Enforcement Officer Salinas is handing out applications within the Southside CRA District.

AYE: McGuire, Mercure, Taylor, Barnard, Anderson

NAY:

**Motion Passed:** 5-0

**F. ATTORNEY UPDATES:**

**G. COUNCIL DISCUSSION/UPDATES:**

**H. CITY MANAGER'S REPORT:**

**15. Regular Updates from the City Manager**

City Manager Schrader said the past two Fridays he has met at the county engineering office with other administrators, public works directors, and the contractors overseeing the debris pickup. As of October 7th, they were supposed to start in Avon Park (including unincorporated). The date changed to today - October 10th. Pickup is only for residential and churches; commercial is not included. They will not pick commercial debris up, unless FEMA gives approval. For now, it may end up the city will pick it up.

City Manager Schrader said we posted it on the website that if debris is mixed or in bags, they will not pick it up. He has informed the staff to pick up bags according to the city's schedule once the contractors pick everything else up. Mayor Anderson asked if the pickup is strictly for tree removal? City Manager Schrader said they do not know how many round trips there will be, but it starts with vegetation. From there, they will pick up the C&D material. After which, household items such as furniture or mattresses damaged by Hurricane Ian.

Mayor Anderson asked if they will take it to the city or the county landfill? City Manager Schrader said they are using the county's landfill at the clay pits for vegetation to be mulched. They cannot take bags for this reason.

Councilmember Taylor asked if the 2 cubic feet regulation no longer applies at this point? City Manager Schrader said no; the more the contractor picks up, the more they are paid.

Councilmember McGuire asked if debris from businesses will be left out until FEMA is gone. If they do not pick it up, will the city? City Manager Schrader said yes; the contractor will hit every road except for private roads. The county engineer estimated there will be three trips and is expecting completion within 60-days. They confirmed that Avon Park has less vegetation debris than the rest of the county.

Mayor Anderson said if anyone has a tree down on a home or fence, it needs to be cut up and placed on the road now. Councilmember Taylor asked if a homeowner/business owner takes debris to the dump, is it free until November 15th? City Manager Schrader said they have waived their tipping fees. He said Code Enforcement is informing citizens that co-mingled they will not pick debris piles up. Councilmember Mercure asked if citizens do not separate the piles after a certain time, is that when Code Enforcement will cite? City Manager Schrader said if Code Enforcement Officers see a pile that is co-mingled, they are informing the homeowner that they will pick it up for free but only if it is not co-mingled.



Councilmember Taylor asked if the county gave the city a timeframe for when they will no longer pick up hurricane debris? There may be situations where a homeowner has a tree down but no one to take it away for them. City Manager Schrader said the county cannot provide a timeline; the plan is to do three trips around every road in the county. If there is still debris, they will pick it up, but it will not go on forever. It is the same vendor who handled debris after Hurricane Irma. The contractors have said there appears to be less debris this time than Hurricane Irma.

Deputy Mayor Barnard asked if someone has a tree that is damaged which they are concerned will cause more damage in another storm event, can they have it cut down now and will the contractor pick it up? City Manager Schrader said yes.

**I. PUBLIC PARTICIPATION:**

**J. ADJOURN:**

The Next City Council Regular Meeting is Scheduled for Monday, October 24, 2022, at 6:00 p.m.

Meeting adjourned at 7:53 p.m.

ATTEST:

CITY OF AVON PARK

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Christian Hardman, City Clerk

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Garrett Anderson, Mayor

## **Agenda Item Summary**

**Date of Action:** October 24, 2022

**Subject: Public Hearing:** Second Reading: Ordinance No. 17-2022,  
Amending Regulations for Home-Based Businesses

**Item No.: D-8**

**Placed on Agenda by:** CFRPC, Jeff Schmucker

**Staff Review:** Yes

**Attorney Review:**

**Recommended Motion(s):** See City Council Motion Options in CFRPC's  
Overview Report

**Documentation:**

- Ordinance No. 17-2022
- CFRPC Overview Report

**Background:**

See CFRPC Overview Report

## **ORDINANCE 17-2022**

**AN ORDINANCE OF THE CITY OF AVON PARK, FLORIDA, AMENDING THE AVON PARK UNIFIED LAND DEVELOPMENT CODE, AMENDING REGULATIONS FOR HOME-BASED BUSINESSES, SPECIFICALLY AMENDING ARTICLE 7, SECTION 7.10.00, CONCERNING HOME OCCUPATIONS; AND AMENDING ARTICLE 2, SECTION 2.02.08 AND SECTION 2.02.09, REGARDING EMPLOYMENT WITHIN GROUP CARE FACILITIES; AND AMENDING ARTICLE 9, PROVIDING A NEW DEFINITION FOR HOME OCCUPATION, FOR CONSISTENCY WITH SECTION 559.955, FLORIDA STATUTES REGARDING THE REGULATION OF HOME-BASED BUSINESSES IN THE CITY OF AVON PARK; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 163.3167(c), Florida Statutes, empowers the City of Avon Park to adopt land development regulations to guide the growth and development of the City; and

**WHEREAS**, pursuant to Section 166.041(3)(c)2, Florida Statutes, the City Council of the City of Avon Park has held meetings and hearings to amend the Unified Land Development Code as presented in the attached exhibit, such exhibit being Exhibit "A" made a part hereof; and the meetings were advertised and held with due public notice, to obtain public comment; and having considered written and oral comments received during public hearings, find the changes necessary and appropriate to the needs of the City; and

**WHEREAS**, in exercise of its authority, the City Council of the City of Avon Park has determined it necessary to adopt these amendments, which are shown in Exhibit "A" attached hereto and made a part hereof, to encourage the most appropriate use of land consistent with public interest.

**NOW, THEREFORE BE IT ENACTED** by the City Council of the City of Avon Park, Florida,

**Section 1.** Amendments to regulations for home-based businesses, specifically amending Article 7, Section 7.10.00, concerning home occupations; and amendments to Article 2, Section 2.02.08 and Section 2.02.09, regarding employment within group care facilities; and amending Article 9, providing a new definition for home occupation, for consistency with Section 559.955, Florida Statutes regarding the regulation of home-based businesses in the City of Avon Park, as shown in Exhibit "A" are hereby approved.

**Section 2.** **Severability:** If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

**Section 3.** **Codification:** It is the intention of the City Council that the provisions of this Ordinance shall become and be made a part of the Unified Land Development Code of the City of Avon Park; and regardless of whether such inclusion in the Code is accomplished, sections

of this Ordinance may be renumbered or relettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the City Manager or his or her designee, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

**Section 4.**     **Effective Date:** The effective date of this Ordinance shall be the date of its adoption.

**Section 5.**     A certified copy of this enacting ordinance shall be located in the Office of the City Clerk of the City of Avon Park. The City Clerk shall also make copies available to the public for a reasonable publication charge.

**INTRODUCED AND PASSED** on First Reading at the regular meeting of the Avon Park City Council held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**PASSED AND DULY ADOPTED**, on second reading at the meeting of the Avon Park City Council duly assembled on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**CITY OF AVON PARK, FLORIDA**

\_\_\_\_\_  
Garrett Anderson, Mayor

**ATTEST:**

\_\_\_\_\_  
Christian Hardman, City Clerk

**Approved as to form:**

\_\_\_\_\_  
Gerald T. Buhr, City Attorney

**Motion made by** \_\_\_\_\_ **seconded by** \_\_\_\_\_.

**The vote was** \_\_\_\_ **for** \_\_\_\_ **against with** \_\_\_\_ **abstentions and** \_\_\_\_ **absent**



**EXHIBIT "A"**

**PROPOSED TEXT AMENDMENTS  
to the City's Land Development Code**

Text shown below as underlined is text to be added.  
Text shown below as ~~strike through~~ is text to be removed

**ARTICLE 2: REGULATIONS FOR SPECIFIC DISTRICTS**

***2.02.08 Adult Family-Care Home, Family Day Care Home and Family Foster Home***

- (A) Adult Family-Care Homes, Family Day Care Homes, and Family Foster Homes are permitted in residential areas, in owner-occupied homes only, and are not subject to local zoning laws when so located. Licensing, registration, occupancy and other matters are regulated under specific provisions of the *Florida Statutes*. Article 9 of this Code defines each family care or foster care home. In home Occupational Licenses do not apply. They are included as a group in the Table of Land Uses, 2.04.01(A) under the heading "Group Care Facilities," and are permitted in all residential zoning districts.
- (B) Where State Law permits such uses in residential zoning districts, the following applies:
- (1) No sign larger than two square feet ~~shall be displayed indicating the purpose or nature of the facility~~ shall be permitted in any residential districts, in accordance with Article 4, "Sign Regulations."
  - (2) ~~No employees are allowed except family members, as allowed for a home occupation;~~
  - (2) (3) For Adult Family-Care Homes and Family Day Care Homes, on-street or off-street parking and loading areas must be available for drop-off and pick-up of children or adults, unless the facility is incorporated into a complex where a general parking area is provided.
  - (3) (4) Play areas and playgrounds for these type facilities shall be shaded a minimum of 50% by canopy trees or awnings. The list of acceptable trees is found in Article 3, Section 3.07.00, Table 3.07A, "Canopy Trees".
- (C) ~~(D)~~ Any violation of applicable state regulations shall be deemed a violation of this Code, and shall constitute grounds for termination of the use or Special Exception.

### **2.02.09 Special Needs Facilities**

- (B) Special Needs Facilities are licensed or registered by the State of Florida according to separate and specific provisions of the *Florida Statutes*. Article 9 of this Code defines each special needs facility. They are listed as a group in the Table of Land Uses, 2.04.01(A) under the heading “Group Care Facilities.”
- (C) Special Needs Facilities that wish to locate in a residential zoning district are subject to additional regulations. An application must be filed for a Special Exception use in residential zoning districts. In home Occupational Licenses do not apply. The following regulations apply:
  - (2) No sign larger than two square feet shall be ~~displayed indicating the purpose or nature of the facility shall be~~ allowed in any residential districts, in accordance with Article 4, “Sign Regulations.”
  - (3) ~~No employees are allowed except family members, as allowed for a home occupation;~~
  - (3) (4) On-street or off-street parking and loading areas must be available for drop-off and pick-up of children or adults, unless the facility is incorporated into a complex where a general parking area is provided.
  - (4) (5) Play areas and play grounds for these type facilities shall be fenced; and, all outdoor activities shall be limited to the hours between one half hour before sunrise to one half hour after sunset;
  - (5) (6) Play areas and play grounds for these type facilities shall be shaded a minimum of 50% by canopy trees or awnings. The list of acceptable trees is found in Article 3, Section 3.07.00, Table 3.07A, “Canopy Trees”.

## **ARTICLE 7: DEVELOPMENT APPROVAL PROCESS**

### **7.10.00 Home Occupations**

A home-based occupation may be conducted within a residential dwelling that is zoned for residential use under the following conditions:

- (A) Accessory to a Residential Use. The home occupation shall be conducted within the residential dwelling that is the residence of the home occupation practitioner and shall be clearly incidental and secondary to use of the dwelling for residential purposes.
- (B) Employees. Employees of the business who work at the residential dwelling must also reside in the residential dwelling, except up to a total of two (2) people or independent contractors

who do not reside at the residential dwelling may work at the business. The business may also have remote employees who do not work at the residential dwelling.

- (C) Residential Character. Under no circumstances shall the residential character of the property be changed by the home occupation. As viewed from the street the use of the residential property shall be consistent with the uses of the residential areas that surround the property. External modifications to the residential dwelling to accommodate a home occupation shall conform to the residential character and architectural aesthetics of the neighborhood.
- (D) Signage. A non-illuminated sign, not to exceed two (2) square feet in area, may be affixed flat against the exterior wall of the residential dwelling.
- (E) Retail Transactions. The business shall not conduct retail transactions at a structure other than the residential dwelling; however incidental business uses and activities may be conducted at the residential property.
- (F) Parking. The home occupation shall not generate parking needs in greater volume than would normally be expected to serve a similar residence where no business is conducted. No additional parking spaces shall be provided in excess of those required to serve the residential unit under Section 3.03.02, Number of Required Parking Spaces. Vehicles and trailers associated with a home occupation business shall be parked in legal parking spaces and not within the right-of-way, on or over a sidewalk, or on any unimproved surfaces at the residence.
- (G) Parking or Storage of Heavy Equipment. Parking or storage of heavy equipment shall comply with the standards under Section 3.03.02, Special Parking Restrictions in Residential Districts. For purposes of this paragraph, the term “heavy equipment” means commercial, industrial, or agricultural vehicles, equipment, or machinery.
- (H) Performance Standards. No home occupation shall involve chemicals, matter or energy that may create or cause to be created noise, odors, vibration, glare, fumes, odors, electrical interference or hazards dangerous to the public health, safety and welfare in accordance with standards of performance under Section 3.06.00. In case of electrical interference, no equipment or process shall be used that creates visual or audible interference in radio, camera, computerized equipment, or television receivers, or causes fluctuations in line voltages off the premises.
- (I) Licensing. All home occupation practitioners shall obtain an occupational license/business tax receipt.

Authorized home occupations shall comply with all of the following provisions:

- (A) ~~No person other than a member of the family residing on the premises shall be employed in the home occupation.~~



- ~~(B) — The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to the use of the unit for residential purposes by its occupants. Under no circumstances shall the residential character of the property be changed by the home occupation.~~
- ~~(C) — No sign or display shall be provided to indicate from the exterior that the building is being used in whole or in part for any purposes other than that of a dwelling.~~
- ~~(D) — Business activities associated with a home occupation, including storage of merchandise and materials, shall take place only in the principal structure.~~
- ~~(E) — No home occupation shall occupy more than a total of 500 square feet of floor area.~~
- ~~(F) — Traffic shall not be generated by the home occupation in greater volumes than would normally be generated by a dwelling unit in a residential area. No additional parking spaces shall be provided in excess of those required to serve the residential unit under Section 3.03.00.~~
- ~~(G) — No equipment or process shall be used in a home occupation that creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses. In case of electrical interference, no equipment or process shall be used that creates visual or audible interference in radio or television receivers or causes fluctuations in line voltages off the premises.~~
- ~~(H) — No articles or materials pertaining to the home occupation shall be stored on the premises, except inside the principal structure.~~

~~————~~ ***7.10.01 Procedure for Approval of a Home Occupation***

~~————~~ A home occupation may be approved administratively by the Development Director upon payment of a review fee established by the City Council and submission of an application containing the following information and documentation:

- ~~————~~ (A) — Name(s) of owner(s) and a copy of the deed to the property.
- ~~————~~ (B) — Legal description of the property.
- ~~————~~ (C) — Complete written description of the activity proposed as a home occupation.
- ~~————~~ (D) — Copy of Highlands County Property Appraiser's map showing subject property and all surrounding properties within a 100 foot radius of subject property's boundaries.
- ~~————~~ (E) — Certified survey of subject property (at Development Director's discretion).
- ~~————~~ (F) — Signatures of all property owners within 100 feet on a petition indicating no objection to the home occupation.

~~The Development Director may refer the matter to the Planning and Zoning Board for approval if signatures from all property owners within 100 feet of the subject property cannot be obtained, or for any other reason that may justify such referral. Home occupation approvals shall be handled through the same process as a zoning district change or special exception approval.~~

## **ARTICLE 9: DEFINITIONS**

**Home Occupation:** An occupation, profession, or business activity conducted within a residential dwelling by a resident residing in the dwelling unit, where such use is clearly incidental and subordinate to the residential use and where the residential character of the dwelling shall not change. The term is synonymous with “home-based business”.

~~**Home Occupation:** Any occupation in connection with which there is kept no stock in trade or commodity sold upon the premises, no person employed other than a member of the immediate family residing upon the premises, and no mechanical equipment used except such as is permissible for purely domestic or household purposes; and in connection with which there is used no sign, other than an unlighted name plate not more than two (2) square feet in area, nor display that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling.~~



**CITY OF AVON PARK**  
**PROPOSED TEXT AMENDMENTS TO THE CITY'S**  
**LAND DEVELOPMENT CODE**

**OVERVIEW REPORT**  
October 24, 2022

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**TO:** City of Avon Park, City Council

**FROM:** Central Florida Regional Planning Council

**SUBJECT:** **Ordinance 17-2022:**  
City-initiated text amendments to the City of Avon Park Land Development Code as they pertain to Home Occupations, specifically amending Article 7, Section 7.10.00; and amending Article 2, Section 2.02.08 and Section 2.02.09; and amending Article 9, Definitions; to provide consistency with Section 559.955, Florida Statutes, regarding Home-Based Businesses.

**HEARING DATES:**

- September 13, 2022, 5:30 PM: Planning and Zoning Board (Public Hearing)
- October 10, 2022, 6:00 PM: City Council (First Reading)
- **October 24, 2022, 6:00 PM: City Council (Second Reading, Public Hearing)**

**CITY COUNCIL MOTION OPTIONS:**

1. I move the City Council **approve Ordinance 17-2022.**
2. I move the City Council **approve Ordinance 17-2022 with changes.**
3. I move the City Council **deny Ordinance 17-2022.**



### **PLANNING AND ZONING BOARD ACTION:**

On Tuesday, September 13, 2022, the Avon Park Planning & Zoning Board voted unanimously to forward the proposed amendments to the City Council with a **recommendation of approval**.

### **CITY COUNCIL ACTION:**

On Tuesday, October 10, 2022, the Avon Park City Council voted unanimously **approve Ordinance 17-2022 on First Reading**.

### **BACKGROUND & INTENT:**

Florida House Bill 403 created a new section in the Florida Statutes to regulate home-based businesses with the intent to make it easier to establish a business from the home. Florida Statutes, Section 559.955, which went into effect July 1, 2021, provides statewide standards for how local governments can regulate home-based businesses and limits local regulation in conformity with the new provisions of Section 559.955.

For conformance with Florida Statutes, text amendments to the City's Land Development Code have been proposed.

## **Agenda Item Summary**

**Date of Action:** October 24, 2022

**Subject: Public Hearing:** Second Reading, Ordinance 16-2022, City Council Health Insurance

**Item No.:** D-9

**Placed on Agenda by:** H.R. Director, David Shoup

**Staff Review:** Yes

**Attorney Review:** Yes

**Recommended Motion(s):** Approve of Second Reading of Ordinance 16-2022, City Council Health Insurance

**Documentation:**

- Ordinance 16-2022

**Background:**

The first reading of Ordinance 16-2022 passed during the October 10<sup>th</sup> City Council Regular meeting.

## ORDINANCE NO. 16 - 2022

**AN ORDINANCE TO AMEND THE CITY CODE SECTION 2-33 OF THE CITY CODE INCREASING COUNCIL PAY AND ALLOWING PARTICIPATION BY COUNCILMEMBERS IN CITY INSURANCE PROGRAM; PROVIDING FOR CONFLICTS AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Council has found that it necessary and prudent to compensate the City Council for health insurance expenses, and

**WHEREAS**, legal counsel has advised that providing payment as an incentive to forego electing insurance through the City is inappropriate, but that providing compensation, which Councilmembers may voluntarily elect to use for costs of their City insurance policy coverage, is not inappropriate under the law; and

**WHEREAS**, in 2019, the City Council adopted Ordinance 15-2019 to increase Councilmember salaries to account for the extra cost to Councilmembers for insurance in place at that time; and

**WHEREAS**, 2023 changes in insurance plan have brought about a change to the amounts provided in Ordinance 15-2019; and

**WHEREAS**, this Ordinance is intended to amend the City 's code to provide such compensation for direct cost of participating in the City 2023 insurance program.

**NOW, THEREFORE BE IT ENACTED BY THE PEOPLE OF THE CITY OF AVON PARK, FLORIDA, AS FOLLOWS:**

Form: Redline and underline shall mean language added to the code, and language strike through shall mean language deleted from the code.

### **SECTION ONE: Amendment of Section 2-33 of the City Code**

#### **Sec. 2-33. - Compensation.**

- (a) Members of the City Council of the City of Avon Park, Florida shall be compensated at the rate of \$760.20 **867.00** per month and on a monthly basis in the amount of \$25.00 for every regular, special, and workshop council meeting attended during that month.
- (b) The Mayor of the City of Avon Park shall be compensated at the rate of \$916.20 **1023.00** per month and on a monthly basis in the amount of \$25.00 for every regular, special, and workshop council meeting attended during that month.



(c) The changes in salary described in (a) and (b) above shall be applied retroactive to the first day of the ~~2021-2022~~ **2022-2023** budget, October 1, ~~2021~~ **2022**.

(d) The Mayor and members of the City Council shall be entitled to participate in the City's insurance coverage, provided they enroll in and pay any costs for such insurance. The Mayor and City Councilmembers may, at their sole option, elect to use the compensation set forth in this section to pay the cost of the insurance.

## **SECTION TWO: CONFLICTS**

Any ordinances or parts of ordinances in conflict herewith are hereby repealed.

## **SECTION THREE: INCLUSION IN THE CODE**

It is the intention of the City Council that the provisions of this ordinance shall become and be made a part of the City of Avon Park Code; and that Sections of this ordinance may be renumbered or relettered and the word ordinance may be changed to section, article, or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the City Manager or his designee without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

## **SECTION FOUR: SEVERABILITY**

If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

## **SECTION FIVE: EFFECTIVE DATE**

This ordinance shall become effective upon passage.

This Ordinance was read for the first time at the regular ☐ special ☐ session of The City Council held on \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Motion made by \_\_\_\_\_ seconded by \_\_\_\_\_.

The vote was as follows:

	Yes	No	Abstain	Absent
Mayor Anderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Deputy Mayor Barnard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember McGuire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Mercure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Taylor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

This Ordinance was read for the second time at the regular ☐ special ☐ session of The City Council held on \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Motion made by \_\_\_\_\_ seconded by \_\_\_\_\_.

The vote was as follows:

	Yes	No	Abstain	Absent
Mayor Anderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Deputy Mayor Barnard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember McGuire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Mercure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Taylor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**CITY OF AVON PARK, FLORIDA**

\_\_\_\_\_  
Garrett Anderson, Mayor

**ATTEST:**

\_\_\_\_\_  
Christian Hardman, City Clerk

**Approved as to form:**

\_\_\_\_\_  
Gerald T. Buhr, City Attorney



## **Agenda Item Summary**

**Date of Action:** October 24, 2022

**Subject: Public Hearing:** Second Reading, Ordinance 18-2022, Code Enforcement Moratorium

**Item No.:** D-10

**Placed on Agenda by:** City Attorney, Jerry Buhr

**Staff Review:** Yes

**Attorney Review:** Yes

**Recommended Motion(s):** Approve of Second Reading of Ordinance 18-2022, Code Enforcement Moratorium

**Documentation:**

- Ordinance 18-2022

**Background:**

The first reading of Ordinance 18-2022 passed during the October 10<sup>th</sup> City Council Regular meeting.

**ORDINANCE NO. 18-2022**

**AN ORDINANCE OF THE CITY OF AVON PARK, FLORIDA  
ESTABLISHING A CODE ENFORCEMENT MORATORIUM FOR  
DEBRIS AND DAMAGE CAUSED BY HURRICANE IAN; PROVIDING  
FOR SUNSET OF MORATORIUM PROVISIONS AND AUTOMATIC  
TERMINATION OF THE ORDINANCE UNLESS EXTENDED BY  
COUNCIL; PROVIDING THAT THE ORDINANCE WILL NOT BE  
CODIFIED; PROVIDING FOR SEVERABILITY AND PROVIDING FOR  
AN EFFECTIVE DATE.**

WHEREAS, the Hurricane Ian has created damaged homes, and large amounts of debris within the City; and

WHEREAS, Florida law requires that enforcement officials such as City Code Enforcement must have clear direction on enforcement of laws; and

WHEREAS, property owners of the City are entitled to clear direction as to when they must have debris cleared and damage repaired when such debris and damage create a code violation; and

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AVON PARK, FLORIDA AS FOLLOWS:**

**SECTION 1. MORATORIUM ON ENFORCEMENT OF CERTAIN CITY CODES.**

The City Code Enforcement Department is directed to not enforce the following code sections except as provided in this Ordinance:

(a) 22-602 (Exterior Property Areas), except that:

- 1) 22-602(d) shall be enforced for areas of lawn that are capable of maintenance;
- 2) 22-602(e) shall be enforced, including without limitation that property owners shall continue to attempt to remove standing water or objects collecting standing water;
- 3) 22-602(i) shall be enforced;
- 4) 22-602(j) shall be enforced.

(b) General Exceptions to Moratorium. There shall be no moratorium for the following circumstances:

- 1) Any condition existing prior to the Hurricane or after the Hurricane, not directly related to Hurricane Ian;

- 2) Any condition that, in the opinion of the City Manager, must be corrected for the purposes of public safety, health and welfare.

## **SECTION 2. SUNSET OF MORATORIUM; AUTOMATIC TERMINATION OF ORDINANCE.**

The moratorium established by this Ordinance shall automatically sunset as follows:

- (a) Enforcement moratorium associated with damage to buildings and accessory structures that creates a condition where the building is not clean, safe, secure, and sanitary, but no permit is required to make repairs, shall sunset November 15<sup>th</sup> 2022;
- (b) Enforcement moratorium associated with damage to buildings that creates a condition where the building is not clean, safe, secure, and sanitary, but a permit is required to make repairs, shall sunset February 15<sup>th</sup> 2023;
- (c) Enforcement moratorium associated with removal of loose vegetation and debris shall sunset on earlier of the date that FEMA completes its contacted pickup of vegetation and debris, or December 1, 2022;
- (d) Except for damage to buildings caused by downed trees covered under (a), (b), or (c) above, enforcement moratorium associated with removal of downed trees shall sunset on January 1, 2023;
- (e) This Ordinance shall terminate, and all remaining enforcement moratoriums of this Ordinance shall sunset on March 1, 2023, unless extended by a supermajority vote of the Council prior to March 1, 2023.

## **SECTION 3. ORDINANCE NOT CODIFIED.**

The provisions of this Ordinance shall NOT become and be made part of the Code of the City.

## **SECTION 4. SEVERABILITY.**

If any section, sentence, clause, part, or provision of this Ordinance is held to be invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

## **SECTION 5. EFFECTIVE DATE.**

This Ordinance shall be effective immediately upon passage.

=====

**IN WITNESS WHEREOF**, the City of Avon Park, Florida, has duly adopted this Ordinance and caused it to be executed by the officers below as follows:

On the \_\_\_\_ day of \_\_\_\_\_, 2022 the Ordinance was read for the first time, and the vote was:



	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Abstain</b></u>	<u><b>Absent</b></u>
Councilperson/Mayor Anderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson /Deputy Mayor Barnard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson McGuire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson Mercure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson Taylor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

On the \_\_\_\_ day of \_\_\_\_\_, 2022 the Ordinance was read for the second time at a public hearing, and the vote was:

	<u><b>Yes</b></u>	<u><b>No</b></u>	<u><b>Abstain</b></u>	<u><b>Absent</b></u>
Councilperson/Mayor Anderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson /Deputy Mayor Barnard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson McGuire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson Mercure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilperson Taylor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(Seal)

**ATTEST:**

**CITY OF AVON PARK, FLORIDA**

By: \_\_\_\_\_  
Christian Hardman, City Clerk

By: \_\_\_\_\_  
Garrett Anderson, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gerald Buhr, City Attorney

## **Agenda Item Summary**

**Date of Action:** October 24, 2022

**Subject:** Kimley-Horn Amendment Number 2 – Post-Design Services During Apron Rehabilitation Construction Phase

**Item No.:** D-11

**Placed on Agenda by:** Finance Director, Melody Sauerhafer

**Staff Review:** Yes

**Attorney Review:**

**Recommended Motion(s):** Approve

**Documentation:**

- Kimley-Horn Amendment Number 2 to Professional Services Agreement
- Attachment A

**Background:**

On September 12, 2022, Council approved FAA's Apron Rehabilitation Grant in the amount of \$2,406,366 (90%) and on October 12, 2022 Council Approved FDOT's agreement, in the amount of \$267,374 (10%), total project cost is \$2,673,740.00

Kimley-Horn's fee of \$247,011 is included in the total project cost and will be funded by the grants. Amendment Number 2 includes the following tasks:

- Task 1 – Services During Construction
- Task 2 – Services Following Substantial Completion of Construction
- Task 3 – Resident Project Representative
- Task 4 – Quality Assurance Materials Testing

For more detailed information on these tasks please see Attachment A – Scope of Services, pages 4-11.

**AMENDMENT NUMBER 2 TO THE AGREEMENT BETWEEN CLIENT AND KIMLEY-HORN  
AND ASSOCIATES, INC.**

This is Amendment number 2 dated \_\_\_\_\_, 2022 to the agreement between The City of Avon Park, Florida ("Client") and Kimley-Horn and Associates, Inc. ("Consultant") dated May 24<sup>th</sup>, 2021 ("the Agreement" a.k.a. IPO 1) concerning the FBO/Terminal Apron Rehabilitation Project (Design, Permitting, and Bidding Services) (the "Project").

The Consultant has entered into the Agreement with Client for the furnishing of professional services, and the parties now desire to amend the Agreement.

The Agreement is amended to include services to be performed by Consultant for compensation as set forth below in accordance with the terms of the Agreement, which are incorporated by reference.

Consultant will perform the following services:

***Refer to Attachment A***

The services currently authorized to be performed by Consultant in accordance with the Agreement and previous amendments, if any, shall be modified as followed:

***NA***

Consultant and Client agree to the following general schedule in connection with the services set forth above:

***Refer to Attachment A***

For the services set forth above, Client shall pay Consultant the following compensation:

***\$195,744 – Lump Sum***

***\$51,267 – Not to Exceed (Expenses and Quality Assurance Testing)***

***\$247,011 - Total***

CLIENT:

\_\_\_\_\_

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

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

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

CONSULTANT:

KIMLEY-HORN AND ASSOCIATES, INC.

By: HA-000

Title: Vice President

Date: 10/6/2022



# **PROFESSIONAL SERVICES FOR FBO/TERMINAL APRON REHABILITATION AT AVON PARK EXECUTIVE AIRPORT (AVO)**

## **Amendment #2 5-24-2022 – Revision 1**

### **Post-Design Services During Construction Phase**

#### **Project Description**

The FBO/Terminal Apron Rehabilitation (the “Project”) at AVO will rehabilitate and reconstruct the FBO/Terminal apron pavements to the adjacent to the AVO terminal building and existing t-hangars. This includes the removal of existing concrete and asphalt pavements and the full depth asphalt reconstruction of pavements in this area as well as the application of a pavement rejuvenator to the pavement immediately south of the AVO terminal building. The project limits as indicated in the Plans dated March 10, 2022 issued to The City of Avon Park, Owner of Avon Park Executive Airport (AVO), for bidding are generally shown Figure 1.

The City of Avon Park (“Client” or “Owner”) has retained Kimley-Horn and Associates (“KH” or “Consultant”) as prime consultant and Engineer of Record for the Project. Kimley-Horn’s scope of services during the design and bidding phases of the Project is shown in Attachment A.

The City of Avon Park has requested KH to prepare Amendment #2 for KH’s scope of services during the construction phase of the Project. Amendment #2 will include limited post-design construction administration services, full-time Resident Project Representative (RPR) during construction, Owner’s Quality Assurance (QA) Materials Testing, and services related to project close-out as described herein.

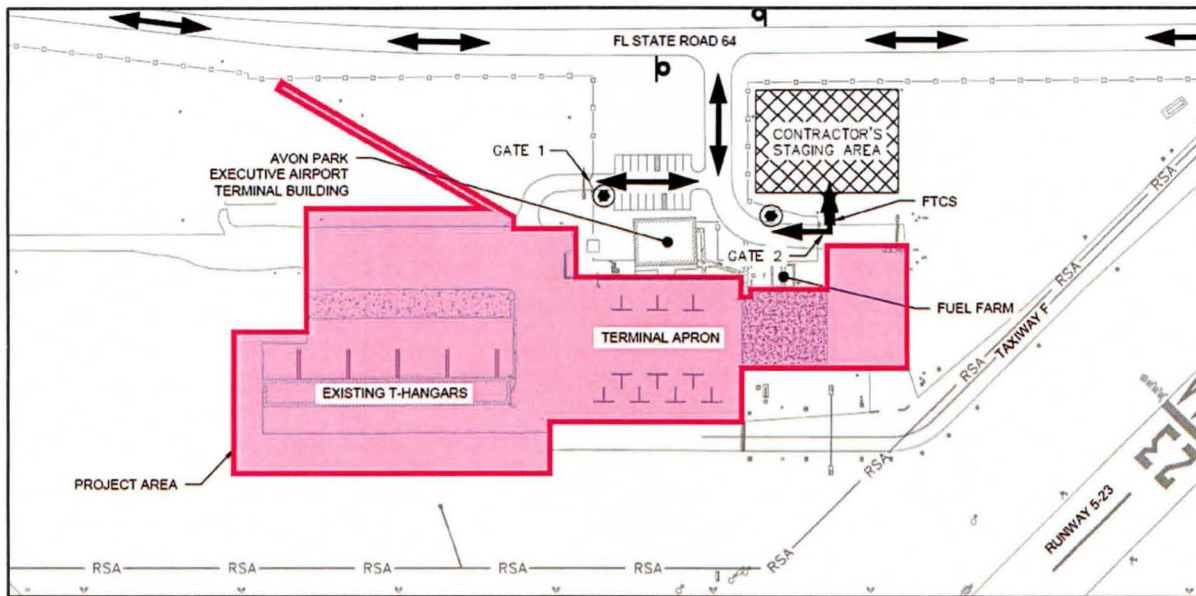
#### **Team:**

##### Kimley-Horn and Associates

- Post-Design Construction Administration Services
- Resident Project Representative
- Project Closeout Documentation

##### Tierra, Inc.

- Owner’s Quality Assurance (QA) Materials Testing



**Figure 1 – AVO FBO/Terminal Apron Rehabilitation – Project Limits**

## **Proposed Project Schedule**

Services performed by KH under Amendment #2 are generally assumed to begin following the City's issuance of the Notice of Proceed (NTP) to the construction Contractor following the City's receipt of grant funding for the Project. KH's services will remain in place for the duration of construction, assumed to be 190 calendar days following the City's issuance of the Contractor's Notice to Proceed to Contractor's achievement of substantial completion. It is assumed up to 60 calendar days will be required for project close-out documentation activities following the Contractor's achievement of substantial completion of construction. KH's services may extend beyond the durations stated above, if required and as requested by the City, for additional fee.

<b>Task 1 - Services During Construction Phase</b>	<b>Approx. 190 calendar days beginning at Contractor's Notice to Proceed (NTP) to Construction Substantial Completion</b>
<b>Task 2 – Services Following Substantial Completion of Construction</b>	<b>Approx. 60 Days beginning at Construction Substantial Completion to Project Closeout</b>
<b>Task 3 – Resident Project Representative (RPR)</b>	<b>Approx. 190 calendar days beginning at Contractor's Notice to Proceed (NTP) to Construction Substantial Completion</b>

**Additional Services Presently Excluded and Assumptions**

The following services are presently excluded from this scope of services; however, they can be added at the discretion of the City for an additional fee:

- Survey, Relocation, or Mitigation of threatened, protected, or endangered species
- Environmental Contamination Assessments
- Modifications to FAA Standards
- Permitting
- Categorical Exclusions, Finding of No Significant Impact or Environmental Assessments
- Payment of permit application fees or mitigation fees
- Hard copy reproduction of documents except where specifically noted in this scope of services.
- This Scope of Services has been developed assuming the construction of the Project will be awarded as a single construction contract. Subdividing the program into multiple bid packages will be considered additional services and a scope and fee negotiated at the appropriate time.
- KH assumes that any as-built data or record drawings of the area will require verification through subsurface utility investigations and topographic survey.
- KH assumes that existing electrical infrastructure and circuits are in a condition that will permit the installation of electrical infrastructure required by the Project. It is assumed that no modifications to or work within the Airfield Electrical Vault will be required.
- Project redesign is excluded.
- Pavement Classification Number (PCN) calculations are excluded.
- Subsurface Utilities Investigation (SUE) – any SUE required will be negotiated under a separate task order
- Updates to the Airport Layout Plan/FAA AGIS required from this project may be negotiated under a separate task order.



**Scope of Services****Task 1 – Services During Construction Phase**

Following Contractor Notice to Proceed, KH will perform the services detailed under Task 1.

KH shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall KH have any authority or responsibility to stop or direct the work of any contractor. KH's visits will be for the purpose of endeavoring to provide The City of Avon Park a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by KH. KH neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the Contract Documents.

- 1.1 Conformed Documents Production** – KH will compile the Conformed Plans for use in construction. The Conformed Plans will incorporate any changes to the Plans made throughout the bidding phase of the Project through the issuance of addenda. Conformed Plans will be issued in .pdf format to The City of Avon Park. Conformed Specifications for the Project will be issued by KH to The City of Avon Park in .pdf format.
- 1.2 General Administration of Construction Contract** – KH will coordinate with The City of Avon Park and act as their representative as provided in the Contract Documents; General administration is inclusive of managing the team's subconsultants.
- 1.3 Clarifications and Interpretations** - KH will respond to reasonable and appropriate Contractor requests for information (RFIs) made in accordance with the Contract Documents and issue necessary clarifications and interpretations. Any orders or direction authorizing variations from the Contract Documents will be made by The City of Avon Park.  
  
KH will, if requested by The City of Avon Park, render written decision on claims of The City of Avon Park and Contractor relating to the acceptability of Contractor's work or the interpretation of the Contract Documents. In rendering such decisions, KH shall be fair and not show partiality to The City of Avon Park or Contractor and shall not be liable in connection with any decision.
- 1.4 Change Orders** - KH may recommend Change Orders to The City of Avon Park and will review and make recommendations related to Change Orders submitted or proposed by the Contractor. The City of Avon Park will authorize Change Orders authorizing variations from the requirements of the Contract Documents. Change Order recommendations and reviews shall be limited to elements of the Project for which KH is Engineer of Record.
- 1.5 Shop Drawings and Samples** - KH will review Shop Drawings and Samples and other data which Contractor is required to submit per the Conformed Contract Documents. Such reviews will be conducted to provide limited commentary regarding the Shop Drawing or Sample's conformance with the information given in the plans and specs. Such reviews

will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.

KH will evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by the Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state, local government entities and The City of Avon Park.

- 1.6 Plan Production and Exhibit Support** – KH will prepare modifications to the Plans as directed by The City of Avon Park, and prepare exhibits required for meeting facilitation, and responses to Contractor Requests for Information (RFI's) or issuance of Engineer's Supplemental Instructions (ESIs). KH will maintain a log that will document plan set modifications throughout Task 1.

- 1.7 Meeting Attendance** – KH will attend (virtually via phone, MS Teams, Zoom, WebEx, or similar teleconferencing platform) up to twenty (20) regularly held progress meetings during the construction phase of the Project. KH anticipates meetings will be of one (1) hour duration.

KH will attend, in-person, up to four (4) regularly held progress meetings during the construction phase of the Project. Each meeting attended in-person by KH is assumed to encompass four (4) hours, including travel.

Preparation of meeting materials, including agendas, sign in sheets, meeting minutes, and meeting facilitation are excluded from KH's scope of services for Task 1. The RPR, under Task 3, shall facilitate project progress meetings, including preparation of meeting materials, agendas, sign in sheets, and meeting minutes.

- 1.8 Site Visits** – KH will conduct four (4) site visits within the estimated duration of construction to observe the progress of the work for elements of the Project. Each site visit is assumed to encompass four (4) hours including travel. Site visits may coincide with in-person meeting attendance under Task 1.7.

Observations will not be exhaustive or extend to every aspect of the Contractor's work, but will be limited to spot checking, and similar methods of general observation. Based on the site visits, KH will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents for elements of the Project for which KH is Engineer of Record, and, if requested by The City of Avon Park, keep The City of Avon Park informed of the general progress of the work.

KH will not supervise, direct, or control the Contractor's work, and will not have authority to stop the Work or responsibility for the means, methods, techniques, equipment choice and use, schedules, or procedures of construction selected by the Contractor, for safety programs incident to the Contractor's work, or for failure of the Contractor to comply with



laws. KH does not guarantee any Contractor's performance and has no responsibility for the Contractor's failure to perform in accordance with the Contract Documents.

KH will recommend to The City of Avon Park that the Contractor's work for elements of the Project for which KH is Engineer of Record be disapproved and rejected while it is in progress if KH believes that such work will not produce a completed Project that generally conforms to the Contract Documents

- 1.9 Contractor Applications for Payment** – Based on its observations and on review of applications for payment and supporting documentation, KH will recommend amounts that Contractor be paid for elements of the Project for which KH is Engineer of Record. Recommendations will be based on KH's knowledge, information, and belief, and will state whether in KH's opinion the Contractor's work has progressed to the point indicated, subject to any qualifications stated in the recommendation. KH's recommendations will not be a representation that its observations to check the Contractor's work have been exhaustive, extended to every aspect of Contractor's work, or involved detailed inspections.
- 1.10 Substantial Completion Site Visit** - KH will, when requested by the Contractor and The City of Avon Park, in company with The City of Avon Park and the Contractor, conduct one (1) site visit to determine if work elements of the Project are substantially complete. Work will be considered substantially complete following satisfactory completion of all items with the exception of those identified on a final punch list.

## **Task 2 – Services Following Substantial Completion of Construction**

- 2.1 Final Notice of Acceptability of the Work** - KH will conduct one (1) final site visit to determine if the completed work elements of the Project are generally in accordance with the Contract Documents and the final punch list so that KH may recommend final payment to Contractor. KH shall provide a notice to The City of Avon Park that the completed work elements of the Project are generally in accordance with the Contract Documents to the best of KH's knowledge, information, and belief based on the extent of its services and based upon information provided to KH upon which it is entitled to rely.
- 2.2 Record Drawings** - KH will prepare record drawings for submittal to The City of Avon Park within 60 days of receipt of acceptable as-built drawings from the Contractor in accordance with Contract Documents. Record Drawings will incorporate all plan modifications made through substantial completion of construction as affected by RFIs, ESIs, and Change Orders. KH shall not transpose or otherwise incorporate the Contractor's as-built drawings, field markups, sketches, or surveys into the Record Drawings. Such items will be attached as an appendix to the Record Drawing plan set. KH will submit the Record Drawings plan set to The City of Avon Park in .pdf format.



- 2.3 Project CloseOut Documentation** – KH will prepare project closeout documentation as required by FAA and FDOT, as current at the time of this amendment's execution, summarizing compliance with funding agency requirements. Closeout documentation is expected to summarize project costs, modifications or changes to the project following construction contract award, summarize materials testing results, and document the Owner's acceptance of the Project.

### **Task 3 – Resident Project Representative (RPR)**

KH will provide one (1) full-time on-site Resident Project Representative (RPR) for project observations.

The RPR effort estimated for this Project is based on an estimated 80 working days of full-time RPR inspection within the 190-calendar-day contract duration from Notice-to-Proceed (NTP) to Substantial Completion. The computation of RPR effort is as follows:

- A. Phase 0 – Mobilization – Assumed 10 Days of on-site RPR
- B. Phase 1A – 10 Calendar Days – full time RPR
- C. Phase 1B – 10 Calendar Days – full time RPR
- D. Phase 1C – 21 Calendar Days – full time RPR
- E. Phase 2 – 21 Calendar Days – full time RPR
- F. Phase 3A – 4 Calendar Days – full time RPR
- G. Material Cure Time – no RPR required
- H. Phase 3B – 4 Calendar Days – full time RPR
- I. Following Substantial Completion – 10 calendar days – full time RPR
- J. Total RPR hours – 10 hours on site per Calendar Day x 90 = 900 hours

The RPR effort is variable and is dependent on many factors including the performance of the Contractor. Providing the RPR for this effort will require reimbursement by the City of Avon Park for RPR vehicle mileage, lodging, meals, field supplies, and incidentals. If the project needs demand, upon approval by The City of Avon Park, KH may request additional fee under a supplemental work order.

- 3.1** General: Resident Project Representative (RPR) will be The City of Avon Park's agent at the project site, will act as directed by and under the supervision of KH, and will confer with The City of Avon Park regarding RPR actions. The RPR's primary role is to observe that the construction is carried out in reasonably close conformity with the contract documents.
- 3.2** The RPR shall measure, compute, and/or monitor quantities of work performed and quantities of materials in-place for partial and final payments to the contractor. The RPR will prepare and maintain cost estimates and construction quantity estimates for use in preparing monthly payment reimbursement requests and for monitoring the progress of the project. The RPR will prepare daily construction progress reports of the construction activities that are observed and will submit the reports to The City of Avon Park for review. The RPR will prepare monthly construction summary reports of completed work that has

been accepted and approved and will submit the reports to The City of Avon Park for review.

**3.4 Duties and Responsibilities of the RPR shall include:**

- 3.4.1 Schedules: Review the progress schedule, schedule of shop drawings submission and schedule of values prepared by Contractor and consult with The City of Avon Park concerning acceptability.
- 3.4.2 Conferences and Meetings: Attend meeting with the Contractor, Project Manager and The City of Avon Park such as preconstruction conferences and other conferences. RPR will prepare and distribute agenda, sign in sheet, and minutes of meetings and conferences.
- 3.4.3 Liaison: Serve as KH's liaison with the Contractor, working principally through Contractor's superintendent and assist him in understanding the intent of the contract documents. Assist in serving as The City of Avon Park's liaison with the Contractor when the Contractor's operations affect the Avon Park Executive Airport's onsite operations.
- 3.4.4 Shop Drawings and Samples: Receive and maintain file of shop drawings and samples electronically. Review of Contractor's master shop drawing list for completeness against the contract documents.
- 3.4.5 Review of Work, Rejection of Defective Work, Inspection and Tests: Conduct onsite observations of the work in progress to assist The City of Avon Park and KH in determining if the work is proceeding in general accordance with the contract documents and that completed work will conform to the contract documents.
- 3.4.6 Report to The City of Avon Park whenever RPR believes that any work is unsatisfactory, faulty, or defective or does not conform to the contract documents or does not meet the requirements of any inspections, tests, or approval required to be made or has been damaged prior to final payment and advise The City of Avon Park when the RPR believes work should be corrected or rejected or should be uncovered for observation or requires special testing, inspection, or approval.
- 3.4.7 Accompany visiting inspectors representing public or other agencies having jurisdiction over the project, record the results of these inspections, and report to The City of Avon Park.
- 3.4.8 Interpretation of Contract Documents: Maintain current record of Engineer's Supplemental Instruction (ESIs) and Change Orders (CO).



- 3.4.9 Modifications: Consider and evaluate Contractor's suggestions for modifications in drawings or specifications and report them with RPR's recommendations to The City of Avon Park.
- 3.4.10 Maintain at the job site orderly files for correspondence, reports of job conferences, shop drawings and samples submissions, reproductions of original contract documents including all addenda, change orders, field orders, additional drawings issued subsequent to the execution of the contract, KH's clarifications and interpretations of the contract documents, progress reports and other project related documents.
- 3.4.11 Keep a daily diary or logbook, recording hours on the job site, weather conditions, data relative to Contractor's questions or extras or deductions, quantities of materials installed on the project, listing of visiting officials and representatives of manufacturers, fabricators, suppliers, and distributors, daily activities, decision, observations in general and specific observations in the case of the observing test procedures. RPR shall send copies of all reports to The City of Avon Park.
- 3.4.12 Record names, addresses, and telephone numbers of all contractors, subcontractors, and major suppliers of materials and equipment on site.
- 3.4.13 Review up-to-date record drawings completed by and received from the Contractor. Maintain a separate set of red-lines for consolidation with the Contractor's red-line annotations of the construction plans and for incorporation into the as-built record drawings.
- 3.4.14 Furnish to The City of Avon Park, FDOT, and the Federal Aviation Administration periodic reports as required of the progress of the work and Contractor's compliance with the approved progress schedule and schedule of shop drawing submissions.
- 3.4.15 Consult with The City of Avon Park in advance of scheduled major tests, inspections, or start of important phases of the work.
- 3.4.16 Report immediately to The City of Avon Park upon the occurrence of any accident.
- 3.4.17 Review and make recommendations to certify Contractor's payroll submittals for compliance with Federal law pertaining to classification and wage rates. Review and approve the Contractor's payroll and wage rates per federal standards, prior to forwarding to The City of Avon Park for further review and approval. The RPR will conduct Federal wage rate surveys of the Contractor's personnel and their sub-contractor's personnel to ensure compliance with the U.S. Department of Labor regulations for federally funded construction projects. The RPR will submit the wage rate survey records to The City of Avon Park for review.
- 3.4.18 Review applications for payment with Contractor for compliance with the established procedure for their submission and forward them with



recommendations to The City of Avon Park, noting particularly their relation to the schedule of values, work completed, and material and equipment delivered at the site but not incorporated in the work.

- 3.4.19 During the work, verify that certificates, maintenance and operations manuals and other data required to be assembled and furnished by Contractor are applicable to the items actually installed; and deliver this material to The City of Avon Park for review and prior to final acceptance of the work.
- 3.4.20 Before the City of Avon Park issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.
- 3.4.21 Conduct a final inspection in the company of The City of Avon Park and Contractor and prepare a final list of items to be completed or corrected.
- 3.4.22 Verify that all items on final list have been completed or corrected and make recommendations to The City of Avon Park concerning acceptance.

**3.5** Limitations of Resident Project Representative's Authority:

- 3.5.1 The RPR shall not perform any of the following:
  - 1) Will not authorize any deviation from the contract documents or approve any substitute materials or equipment.
  - 2) Will not exceed limitations of KH's authority as set forth in the contract documents.
  - 3) Will not undertake any of the responsibilities of Contractor, subcontractors, or Contractor's superintendent, to stop or expedite the work.
  - 4) Will not advise on or issue directions relative to any aspect of the means, methods, techniques, sequences, or procedures of construction unless such is specifically called for in the contract documents.
  - 5) Will not issue directions as to safety programs in connections with the work.
  - 6) Will not accept Shop Drawings or sample submittals from anyone other than Contractor.
  - 7) Will not authorize any party to occupy or use the project in whole or in part, without the approval of The City of Avon Park.
  - 8) Will not participate in specialized field or laboratory tests, or inspections conducted by others except as specifically authorized by KH.

**Task 4 – Quality Assurance (QA) Materials Testing**

Please refer to the attached scope of work from Tierra, Inc. for Owner's Quality Assurance (QA) Materials Testing to be completed.

**SECTION INTENTIONALLY LEFT BLANK**

# TIERRA

April 12, 2022

Kimley-Horn

Attention: Mr. Brian Goodling, P.E.  
[brian.goodling@kimley-horn.com](mailto:brian.goodling@kimley-horn.com)

RE: QA Inspection and Materials Testing Fee Estimate  
Avon Park Executive Airport (AVO)  
FBO/Terminal Apron Rehabilitation  
Phases 1A, 1B, 1C and Phase 2  
Tierra Proposal No: 61-22-082

Mr. Goodling:

Tierra, Inc. appreciates the opportunity to submit the attached proposal to provide quality assurance (QA) inspection and materials testing services for the above-referenced project.

## Project Information

The project consists of the re-construction and modifications to the existing asphalt apron at the FBO and the T-Hangers. The construction schedule is 100 days. Avon Park is approximately 180 miles round trip from our Tampa Office. This estimate assumes our involvement will be approximately 25 percent of the 100 days which translates to 25 trips to the project as scheduled by your appointed representative.

Based on our review of the information provided, the following Scope of Services is proposed.

## Scope of Services

- P-152 and P-211 – Perform soil density tests during proofrolling, structural fill placement, pavement subgrade and pavement base course on a part time basis as scheduled. Prior to performance of the field testing, laboratory tests including Modified Proctors, soil classification test series and Limerock Bearing Ratio (LBR) tests will be required.
- P-610 Concrete: Perform compression testing of concrete placed in dumpster pad footings and slab. Testing will include slump, entrained air content and temperature tests and casting compression test cylinders each placement day.
- Perform asphalt plant during paving operations by P-401 specifications. Tierra will be present at the asphalt plant during paving and perform all acceptance tests required by that specification. In order to estimate the amount of inspector hours required, we estimate an average of 500 tons of asphalt per 12-hour shift including travel. All asphalt cores will be obtained by Contractor personnel as specified in P-401 and delivered to the asphalt plant lab to be tested by the QA inspectors.



QA Inspection and Materials Testing Fee Estimate  
Avon Park Executive Airport (AVO)  
FBO/Terminal Apron Rehabilitation  
Phases 1A, 1B, 1C and Phase 2  
Tierra Proposal No: 61-22-082  
Page 2 of 2

**Service Fee**

Please refer to Schedule "A" attached for our total estimated fee to perform the proposed scope of services. An itemized breakdown of the estimates fees is attached. The labor-hours and lab test quantities estimated are based on the schedules and specifications provided in the bid documents. The actual work progress and scheduling is solely controlled by the contractor and Tierra has no control over the final man-hours or test quantities however we will invoice for actual services provided only.


We appreciate the opportunity to offer our services to your firm and we look forward to working with you on the project. Should you have any questions regarding this proposal, please do not hesitate to contact this office.

Respectfully submitted,

**TIERRA, INC.**



Manuel J. Valdes  
NICET Level IV  
Construction Services



Graham T. Zoeller, P.E.  
Construction Services

Attachments: Schedule of Services and Fees

Schedule "A"  
Quality Assurance (QA) Scope of Services and Estimated Fees  
Avon Park Executive Airport  
FBO/Terminal Apron Rehabilitation  
Phases 1A, 1B, 1C and Phase 2  
Tierra Proposal No. 61-22-082

**TOTAL BASE BID PLUS BID ALTERNATE 1**

<b><u>A. FIELD QA TESTING</u></b>	<b><u>Unit</u></b>	<b><u># of Units</u></b>	<b><u>Unit Price</u></b>		<b><u>Total</u></b>
1. Engineering Technician for soil density testing and concrete testing. (Geotech Technician)	hrs	250	\$	69.00	\$ 17,250.00
<b><u>B. LABORATORY TESTING SOILS</u></b>					
1. Modified Proctor (ASTM D-1557)	ea	3	\$	115.00	\$ 345.00
2. Grain Size Analysis (ASTM D-422)	ea	3	\$	67.00	\$ 201.00
3. Liquid / Plastic Limits (ASTM D-4318)	ea	3	\$	130.00	\$ 390.00
4. Organic Content (AASHTO T-267)	ea	3	\$	42.00	\$ 126.00
<b><u>C. LABORATORY TESTING CONCRETE</u></b>					
1. Compression Tests of Concrete Cylinders (ASTM C-39)	ea	20	\$	12.00	\$ 240.00
<b><u>D. LABORATORY TESTING LIMEROCK BASE</u></b>					
1. LBR	ea	2	\$	340.00	\$ 680.00
2. Gradation (ASTM D-422)	ea	2	\$	85.00	\$ 170.00
3. Percent Carbonates (FM5-514)	ea	2	\$	100.00	\$ 200.00
<b><u>E. ASPHALT PLANT TESTING</u></b>					
1. Engineering Technician to perform QA testing at the asphalt plant. (Sr Engineering Technician) Assume 500 tons/day	per hr	72	\$	82.00	\$ 5,904.00
<b><u>F. ENGINEERING SERVICES</u></b>					
21.. Senior Engineer, P.E. Report sign / seal	per hr	25	\$	170.00	\$ 4,250.00
<b>TOTAL FEE ESTIMATE:</b>				<b>\$</b>	<b>29,756.00</b>

# FEE SUMMARY - AVO FBO/TERMINAL APRON REHABILITATION

Project Fee Proposal - Kimley-Horn Team - Summary Sheet						
FBO/Terminal Apron Rehabilitation						
Avon Park Executive Airport (AVO) - City of Avon Park, FL						
5/24/2022- Amendment 2 - Post Design Services and RPR						
<b>Basic Design Services - Lump Sum</b>			<b>TASK 1</b>	<b>TASK 2</b>	<b>TASK 3</b>	<b>TOTAL</b>
	Kimley-Horn and Associates		\$ 52,360.00	\$ 12,884.00	\$ 130,500.00	\$ 195,744.00
		<b>Sub Total</b>	<b>\$ 52,360.00</b>	<b>\$ 12,884.00</b>	<b>\$ 130,500.00</b>	<b>\$ 195,744.00</b>
<b>Reimbursible Expenses - Not To Exceed</b>						
	Kimley-Horn and Associates		\$ 1,989.00	\$ 117.00	\$ 19,405.00	\$ 21,511.00
	QA Testing - Tierra, Inc.		\$ 29,756.00			\$ 29,756.00
		<b>Sub Total</b>	<b>\$ 31,745.00</b>	<b>\$ 117.00</b>	<b>\$ 19,405.00</b>	<b>\$ 51,267.00</b>
		<b>TOTAL</b>	<b>\$ 84,105.00</b>	<b>\$ 13,001.00</b>	<b>\$ 149,905.00</b>	<b>\$ 247,011.00</b>



# TASK 1-SERVICES DURING CONSTRUCTION PHASE

Project Fee Proposal - Kimley-Horn Team								
FBO/Terminal Apron Rehabilitation								
Avon Park Executive Airport (AVO) - City of Avon Park, FL								
5/24/2022- Amendment 2 - Post Design Services and RPK								
Scope/Task	Chief Engineer	Project Manager	Senior Engineer	Professional Engineer	Engineer	Designer	Secretary /Clerical	Total
Basic Design Services: <b>Kimley-Horn and Associates</b>	Hours	Hours	Hours	Hours	Hours	Hours	Hours	
<b>TASK 1 - SERVICES DURING CONSTRUCTION PHASE</b>								
1.1 Conformed Documents Production				2	16		2	20
1.2 General Administration of Construction Contract		32		32			20	84
1.3 Clarifications and Interpretations		16		24				40
1.4 Change Orders		8		16				24
1.5 Shop Drawings and Samples		4		8	8			20
1.6 Plan Production and Exhibit Support				8	16			24
1.7 Meeting Attendance		36						36
1.8 Site Visits		16						16
1.9 Contractor Applications for Payment		4		4				8
1.10 Substantial Completion Site Visit		4						4
<b>Subtotal Hours</b>	-	120.00	-	94.00	40.00	-	22.00	132
<b>Rate</b>	\$ 250.00	\$ 242.00	\$ 215.00	\$ 175.00	\$ 125.00	\$ 110.00	\$ 85.00	
<b>Total Burdened Labor</b>	\$ -	\$ 29,040.00	\$ -	\$ 16,450.00	\$ 5,000.00	\$ -	\$ 1,870.00	\$ 52,360.00

## TASK 2 - SERVICES FOLLOWING SUBSTANTIAL COMPLETION OF CONSTRUCTION

Project Fee Proposal - Kimley-Horn Team								
FBO/Terminal Apron Rehabilitation								
Avon Park Executive Airport (AVO) - City of Avon Park, FL								
5/24/2022- Amendment 2 - Post Design Services and RPR								
Scope/Task	Chief Engineer	Project Manager	Senior Engineer	Professional Engineer	Engineer	Designer	Secretary /Clerical	Total
Basic Design Services: <b>Kimley-Horn and Associates</b>	Hours	Hours	Hours	Hours	Hours	Hours	Hours	
<b>TASK 2 - SERVICES FOLLOWING SUBSTANTIAL COMPLETION OF CONSTRUCTION</b>								
2.1 Final Notice of Acceptability of Work		4						4
2.2 Record Drawings		2		8	16			26
2.3 Project Closeout Documentation		16		16			16	48
<b>Subtotal Hours</b>	-	22.00	-	24.00	16.00	-	16.00	78
Rate	\$ 250.00	\$ 242.00	\$ 215.00	\$ 175.00	\$ 125.00	\$ 110.00	\$ 85.00	
<b>Total Burdened Labor</b>	\$ -	\$ 5,324.00	\$ -	\$ 4,200.00	\$ 2,000.00	\$ -	\$ 1,360.00	<b>\$ 12,884.00</b>

TASK 3 -  
RESIDENT PROJECT REPRESENTATIVE (RPR)

Project Fee Proposal - Kimley-Horn Team								
FBO/Terminal Apron Rehabilitation								
Avon Park Executive Airport (AVO) - City of Avon Park, FL								
5/24/2022- Amendment 2 - Post Design Services and RPR								
Scope/Task	Hours	Hours	Hours	Hours	RPR Hours	Hours	Hours	Total
Basic Design Services: Kimley-Horn and Associates								
<i>TASK 3 - RESIDENT PROJECT REPRESENTATIVE (RPR)</i>								
3.1 Resident Project Representative					900			900
<b>Subtotal Hours</b>	-	-	-	-	900.00	-	-	900
<b>Rate</b>					\$ 145.00			
<b>Total Burdened Labor</b>	\$ -	\$ -	\$ -	\$ -	\$ 130,500.00	\$ -	\$ -	\$ 130,500.00



KIMLEY-HORN -  
EXPENSES

[illegible]

KIMLEY-HORN -  
TIERRA - OWNER'S QA TESTING

Schedule "A"  
Quality Assurance (QA) Scope of Services and Estimated Fees  
Avon Park Executive Airport  
FBO/Terminal Apron Rehabilitation  
Phases 1A, 1B, 1C and Phase 2  
Tierra Proposal No. 61-22-082

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<u>F. ENGINEERING SERVICES</u>					
21.. Senior Engineer, P.E. Report sign / seal	per hr	25	\$	170.00	\$ 4,250.00
<b>TOTAL FEE ESTIMATE:</b>				<b>\$</b>	<b>29,756.00</b>

## **Agenda Item Summary**

**Date of Action:** October 24, 2022

**Subject:** Draft Airport Commercial Lease Agreement with Nasgrass, Inc.  
(Lawn Mower Race Track)

**Item No.:** D-12

**Placed on Agenda by:** City Manager, Mark Schrader

**Staff Review:** Yes

**Attorney Review:** Yes

**Recommended Motion(s):** Discussion with possible motion

### **Documentation:**

- Draft Florida Airport Commercial Lease Agreement with Nasgrass, Inc. (Lawn Mower Race Track).
- Email from Nasgrass, Inc. (Christine Smith)

### **Background:**

This is a month-to-month draft agreement, Nasgrass would like Section #6 removed and the rental fees per month has been left blank for discussion. The prior agreement was \$1,200.00 annually. FAM feels this to low of a fee the amount of land they are leasing.



## The City of Avon Park, Florida Airport Commercial Lease Agreement

**THIS LEASE AGREEMENT** is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2022, by and between the **City of Avon Park** a Florida municipal corporation, 110 East Main Street, Avon Park, FL 33825, herein called "LESSOR," and **NASGRASS, Inc.**, 2155 Herrick Rd. W., Avon Park, FL 33825, a Florida nonprofit corporation, herein called "LESSEE." Either LESSOR or LESSEE shall be referred to in context as "Party" and both LESSOR and LESSEE together shall be referred to as the "Parties".

### WITNESSETH:

**WHEREAS**, LESSOR is the owner of certain real property located at Avon Park Airport in the County of Highlands, State of Florida; and,

**WHEREAS**, LESSOR has agreed to lease property to LESSEE, subject to certain federal and state grants and loans, statutes and rules, City ordinances and resolutions as amended from time-to-time, and the terms and conditions herein (hereinafter, "LESSOR's Rules"); and,

**WHEREAS**, LESSEE wishes to lease said property from LESSOR, and in consideration of the Premises, the covenants, terms, and conditions to be performed as set forth hereinafter, the parties have agreed and agree as follows:

1. **TERM:** Commencing on the first day after the date of this Lease, and on each day thereafter, the term of this Lease (the "Term of this Lease") shall automatically be extended for one additional day so that a constant thirty-day term will always be in effect, unless either Party elects not to extend the Term of this Contract by giving written notice of termination to the other Party, with or without cause, in which case the thirty-day Term of this Contract will become fixed and will end on the thirtieth day after such written notice.

2. **PROPERTY:** The property subject to this Lease shall be identified as:

TOWN OF AVON PARK in 20-33-28 N ½ of NW ¼ of SE ¼ 20 acres – City Dump

As shown in the map provided in Exhibit "A" (herein called the "Premises"). LESSEE shall have the right to use only those other surrounding areas shown on Exhibit "B" ("Common Areas"), and such use shall be in compliance with the LESSOR's Rules. LESSEE has inspected the Premises, and accepts the Premises along with the structures and appurtenances AS-IS and WHERE-IS, situated in the City of Avon Park, County of Highlands, and the State of Florida. City makes no representation or warranty whatsoever as to the condition of the Premises. As used in this Lease, the term "Premises" refers to the real property described above and to any improvements located on the property from time to time during the term of this Lease. LESSEE is fully aware that the

property is a former landfill site and agrees that such previous use will have no impact on the Lessee's ability to utilize the property.

3. **USE:** The Premises are to be used by the LESSEE for the purpose of conducting lawn mower racing and related activities on specific, predetermined dates provided to LESSOR at least six (6) months in advance. LESSEE shall not reside in the Premises, nor shall LESSEE conduct any other unlawful, improper, or offensive use of the Premises.

4. **CITY RESERVATION OF RIGHTS TO OCCUPATION:** LESSEE acknowledges and agrees that on dates other than pre-determined dates provided to LESSOR, LESSOR may lease out the Premises to others (Temporary Lessees), so long as:

- i. The Temporary Lessees do not store, transfer, or discharge petroleum products; and
- ii. The Temporary Lessee provides insurance at least equivalent to that of LESSEE; and
- iii. The Temporary Lessee does not use any of LESSEE's structures without the express, written permission of LESSEE,
- iv. The Temporary Lessee agrees to repair any damages to LESSOR's structures, improvements, track, or any other damages to the Premises

5. **RENTAL FEES:** The LESSEE hereby agrees to pay the LESSOR a monthly rental fee of \$ [REDACTED], in advance during the term of the Lease. The first payment shall be made on [REDACTED], 2022. Nevertheless, in the event that the LESSEE refuses to quit the Premises when lawfully demanded and becomes a holdover, the holdover Lease payment shall be \$10,000 per month until the LESSEE quits the Premises in compliance with this Lease.

6. **LESSEE BEST MANAGEMENT PRACTICES.** specifically recognizes that the use and temporary storage of gasoline and other fuels, fuel additives and lubricants are used by LESSEE and its members at the Premises, incidental to the lawnmower racing. LESSEE agrees that it is strictly liable for any contamination of the soil and/or ground water by those petrochemicals, and indemnifies the City against any damages, remediation or cleanup of any kind due to any discharges of such materials, whether by negligence, OR UNINTENTIONAL DISCHARGES. LESSEE shall pay to the City, a nonrefundable fee of \$ [REDACTED] for an environmental assessment to be performed by a firm selected by the City prior to the termination date of this Lease, and shall perform, at its own expense, any remedial actions recommended by the environmental assessment. This Lease and this subsection do not authorize storage of petrochemicals on the Premises for longer than one (1) day in containers used and approved by law for such storage and containment. LESSEE shall NOT store gasoline, fuels, fuel additives or any form of petrochemical on the Premises longer than one (1) day.

7. **INDEMNIFICATION:** To the fullest extent permitted by applicable law, LESSEE agrees to defend, indemnify, and hold harmless LESSOR, its elected officials, agents, employees, managers, officers and directors from and against any and all liabilities, claims,



demands, regulatory enforcement by state, federal or local government entities having jurisdiction over the subject matter in contention, and actions at law and equity including court costs and attorneys' fees, including appeals, that may hereafter at any time be brought by anyone which arise or are alleged to have arisen out of, or are connected in any way with, LESSEE's performance or non-performance of its activities described in this Agreement, including the acts or inaction of LESSEE's employees, agents, contractors, subcontractors, or anyone acting under FAM's direction or control, or anyone for whose acts LESSEE may be liable, unless caused by LESSOR's sole negligence. In all situations in which the foregoing indemnity obligation may potentially apply, LESSEE shall initially defend LESSOR until and unless it is finally determined in a court proceeding or arbitration that all liability was caused by LESSOR's negligence. LESSEE's duty to defend arising under this Section shall be with counsel selected by LESSOR and reasonably acceptable to LESSEE. LESSOR shall control the defense of any indemnified claim. However, nothing contained herein shall be construed to waive or modify the provisions of sovereign immunity under chapter 768.28 Florida Statutes with respect to any party to this Agreement. This paragraph shall survive the termination of this Agreement.

8. **INSURANCE.** LESSEE agrees to maintain the following insurance written by a company satisfactory to LESSOR and at LESSEE's expense:

LESSEE shall maintain at all times during the pendency of this Agreement Commercial General Liability insurance coverage with a minimum of Two Million Dollars (\$2,000,000.00) per occurrence for bodily injury, property damage, and personal injury liability. LESSEE shall maintain said insurance with insurance carrier(s) authorized to do business in the State of Florida, with an A.M. Best rating of at least A, with financial size at least VII. LESSEE shall furnish LESSOR with a certificate of insurance as proof that such coverage has been procured. LESSEE shall provide to LESSOR a full copy of its liability insurance polic(ies) upon request by LESSOR. LESSEE's liability insurance shall contain a Waiver of Subrogation in favor of LESSOR and shall add LESSOR as an additional insured with a "name in lights" endorsement that specifically names LESSOR. The scope of the additional insured coverage afforded LESSOR shall be just as broad as LESSEE's named insured coverage and shall be primary to and non-contributory with any insurance that might be carried by LESSOR. The policy shall also have a thirty (30) day notice in favor of the LESSOR prior to any cancellation or substantial change in coverage. Although the policy is not required to cover pollution remediation, the policy shall not have a "pollution exclusion" clause of any type excluding coverage for injuries or damage caused by pollutants. Coverages must include:

- a. Broad Form Contractual Coverage applicable to this specific Contract, including any hold harmless and/or indemnification agreement; and
- b. Bodily Injury Coverage with no employer's liability exclusion.
- c. It is furthered agreed that LESSEE shall not do or permit to be done anything upon any portion of the Premises or bring or keep anything thereon which will in any way conflict with the conditions of any insurance policy upon the Premises,



or in any way increase the rate of fire insurance upon the Premises, or which will in any way obstruct or interfere with the rights of other tenants at the airport.

- d. In the event that LESSEE shall at any time fail to furnish LESSOR with the certificate or certificates of insurance required or allow such policy to lapse or terminate, LESSOR shall have the option to immediately terminate this Lease and demand LESSEE to quit the Premises, or to secure the required insurance at the cost and expense of LESSEE, and LESSEE agrees to promptly reimburse LESSOR for the cost thereof, which costs shall be additional rent hereunder.

9. **TERMINATION:** In addition to termination by thirty-day notice as provided in Section 1 above, this Lease can be terminated for cause, and LESSOR may demand LESSEE to immediately quit the Premises under the following conditions:

10. **ASSIGNMENT BY LESSEE:** This Lease shall not be assignable by LESSEE.

11. **REMOVAL OF PERSONAL PROPERTY AND IMPROVEMENTS UPON TERMINATION:** Upon termination of this Lease, LESSEE shall remove all surface and subsurface improvements made by the LESSEE from the Premises and properly dispose of all demolition debris. LESSEE shall then have the right to remove all of its personal property, including machinery and equipment which it has installed or placed on the Premises, which shall be accomplished no later than the termination date. LESSEE shall also remove all other trash and debris caused or related to the LESSEE's use of the property. In the event LESSEE fails to remove all improvement and its personal property by the termination date, LESSOR reserves the right to remove and store all such property left, at the risk and expense of LESSEE, with the cost of such storage and work to be paid by LESSEE.

12. **ABANDONMENT OF PREMISES BY LESSEE:** Abandonment of the Premises by LESSEE shall terminate this Lease, requiring removal of improvements and personal property as provided above.

13. **NO LIENS CREATED:** LESSEE has no power to incur any indebtedness giving a right to a lien of any kind or character upon the Premises. No third person shall be entitled to any lien against the Premises or any structure thereon, derived through or under LESSEE. All persons contracting with LESSEE, or furnishing materials or labor to LESSEE shall be bound by this provision. Should any such lien be filed, LESSEE shall have the same discharged within sixty (60) days thereafter by paying the same or by filing a bond, or otherwise as permitted by law. LESSEE is not the agent of LESSOR so as to confer upon a laborer bestowing labor upon the leased property, or upon a materialman who furnishes material incorporated in the construction of improvements upon the leased property of Chapter 713, Florida Statutes, or any subsequent revision of that law.

14. **SUBORDINATION; AIRPORT MASTER PLAN:** This Lease shall be subordinate to the provisions of any existing or future agreement between LESSOR and the United



States of America or the State of Florida 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 state or Federal funds for development or improvement of Avon Park's Airport. Except to the extent required for the performance of the obligations of LESSEE in this Lease, nothing contained in this Lease shall grant LESSEE any rights whatsoever in the airspace above the Premises, other than those rights which are subject to Federal Aviation Administration orders, regulations or advisory circulars currently or subsequently effective.

15. **NON-DISCRIMINATION:** LESSEE hereby agrees and covenants that:

a. No person shall be excluded from participation or denied the benefits of, or be otherwise subject to discrimination in the use of the facility on the grounds of race, color or national origin.

b. In the construction of any improvements, on the Premises and the furnishing of labor, services or materials in connection therewith, no persons on the grounds of race, color, or national origin shall be excluded from participation in, or otherwise be subject to discrimination.

c. LESSEE shall use the Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulation, Department of Transportation, Subtitle A, Office of the Secretary Part 21, Non-Discrimination in Federally assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as such Regulations may be amended.

d. LESSEE shall operate the Premises in accordance with the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and will assure that no qualified handicapped person shall be solely by reason of such person's handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination, including discrimination in employment.

16. **MAINTENANCE AND REPAIRS:** LESSEE will be responsible for all maintenance, repair, and upkeep of the Premises. Reasonable repairs shall be made in a timely manner.

17. **DAMAGE OR DESTRUCTION TO LEASED PROPERTY:** Except as otherwise provided in this Lease, if any leasehold improvements shall be damaged or destroyed, LESSEE shall repair or replace the same and return them to pre-damage condition so that the replacement will be equivalent in value to the original facilities within a reasonable period of time. Any other terms or provision of the Lease pertaining to repair, alteration, construction or reconstruction by LESSEE shall be binding upon LESSEE in repairing or reconstruction of the leased property under the terms and provisions of this Lease. If a substantial portion of the leased property is destroyed so that the LESSOR and LESSEE mutually agree that LESSEE cannot reasonably continue to utilize the leased property until the same is repaired or replaced, then LESSEE may elect to either repair or replace same, in which event the rent shall be abated until such time as LESSEE can reasonably resume operation of its business.

18. **ALTERATIONS:** LESSEE is hereby granted the right to make reasonable alterations to the fixed improvements located on the leased property hereunder as from time-to-time it shall desire to make, provided however that any alteration requiring a building permit must be approved in advance in writing by LESSOR as discussed above.

19. **EXCLUSIVE USE:** This Lease shall in no way convey the exclusive use of any part of the Airport, except the Premises, and shall not be construed as providing any special privilege for any public portion of the Airport. LESSOR reserves the right to lease to other parties any other portion of the Airport property for any purpose deemed suitable for the Airport by LESSOR. LESSOR agrees that it will not grant a future party an exclusive right to provide the services described in this Lease.

20. **FUTURE AGREEMENTS OF THE AIRPORT:** The terms and conditions hereof shall not be construed to prevent LESSOR from making commitments to the Federal Government or to the State of Florida to qualify for the expenditure of State or Federal funds upon the Airport. In the event that there is any conflict between such financing commitments to the Federal Government and this Lease or LESSEE's use of the Premises or Common Areas, such Federal Government commitments shall prevail.

21. **NATIONAL EMERGENCY:** During any national emergency declared by the President or by the Congress, the United States shall have the right to take exclusive or non-exclusive control and possession of the Premises, or of such portion thereof it may desire, with the rent to be abated accordingly in proportion to said occupancy.

22. **SOVEREIGN IMMUNITY.** Nothing in the Lease shall be construed as a waiver of, or to extend LESSOR's liability beyond that provided in Florida law, including without limitation, the limitations provided in section 768.28, Florida Statutes.

23. **NOTICES:** Any notice, demand, consent, approval, request, or other communication or document to be provided under this Lease:

- a. shall be in writing to the address stated above, and for the LESSOR shall be addressed to the "City Manager" and for LESSEE, be addressed to Wes T. Pyburn, President ; and
- b. shall be deemed to have been provided on the earlier of:
  - i. forty-eight (48) hours after having been sent as certified or registered mail in the United States mails, postage prepaid, return receipt requested;



- ii. the next business day after having been deposited (in time for delivery by such service on such business day) with Federal Express or another courier service; or
  - iii. immediately if such party's receipt is acknowledged in writing as having been given by hand or other actual delivery to such party.
- c. In each case to the address of the party provided in this Agreement or to such other address as the party may designate to each other party.

24. **WAIVER OF BREACH:** The waiver by LESSOR or LESSEE of any breach of the terms, covenants, or conditions herein contained shall not be deemed a waiver of any subsequent breach.

25. **SEVERABILITY:** It is the intention of both of the parties hereto that the provisions of this Lease shall be severable in respect to a declaration of invalidity of any provisions hereof.

26. **ATTORNEYS' FEES AND COSTS:** If either party takes legal action to enforce the terms or conditions of this Lease, the prevailing party will be entitled to an award of all costs of the action, including reasonable attorneys' and paralegal's fees, including appeals.

27. **ENVIRONMENTAL PROTECTION:** LESSEE will not allow any hazardous substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 USC 9604 (14), pollutants or contaminants as defined in CERCLA, 42 USC 9604 (A) (2), or hazardous waste as defined in the Resources Conservation and Recovery Act ("RCRA"), 42 USC 6903 (5), or other similar applicable Federal or State Laws or regulations, including, but not limited to, asbestos, PCB's and urea formaldehyde, to be generated, released, stored, or deposited over, beneath, or on the Premises or on any structures located on the Premises from any source whatsoever. LESSEE shall at all times comply with all applicable Environmental Laws applicable to LESSEE's use of the Premises. "Environmental Law" means any federal, state, or local statute, regulation, or ordinance, relating to the protection of human health or the environment in effect as of the date of execution of this Lease, and includes, but is not limited to, The Florida Air and Water Pollution Control Act (Chapter 403, Florida Statutes), the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") (42 U.S.C. §9601, et. seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901 et. seq.), the Clean Water Act (33 U.S.C. §1251, et. seq.), the Toxic Substances Control Act (15 U.S.C. §2602, et. seq.), and the Safe Drinking Water Act (42 U.S.C. §300f, et. seq.), as such are amended during the term of this Lease. LESSEE further covenants to hold the LESSOR harmless from all claims, demands, damages, fines, costs, cleanup, attorney's fees, and court costs arising from

LESSEE'S discharge (either intentional or accidental, at trial and appeals) of such matters to the soil, air, water, or waste water treatment facility. LESSOR is unaware of any unlawful discharges or contamination in violation of these Environmental Laws onto the Premises. The LESSEE and LESSOR both acknowledge that the site is a former landfill site that both Parties may lack full knowledge as to the present condition of the Premises. The LESSEE accepts the Premises and all structures for AS-IS WHERE-IS. This clause shall be specifically included as a LESSOR Rule.

28. **AMENDMENT:** No amendment, modification, or alteration of the terms hereof shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by each party.

29. **TAXES.** Any taxes (including, without limitations Highlands County ad valorem real property taxes and Florida sales or use taxes) on the Lease, the lease payments or the Premises shall be paid by LESSEE when due. Should said taxes be billed to LESSOR, they shall be considered unpaid additional rent if not paid when due and failure to pay said taxes shall be considered a default hereunder.

30. **UTILITIES AND SERVICES.** LESSEE is required to use the LESSOR'S water and sewer system. LESSEE further agrees to pay when due all charges and expenses for water, sewer services, and fire protection, and all other utilities and services used in connection with the Premises as such charges and expenses are added or amended from time-to-time LESSEE shall arrange for and pay any and all utility service or commodity procured or consumed by LESSEE, or otherwise required to be paid by LESSOR's Rules.

31. **REMEDIES CUMULATIVE.** All remedies conferred on LESSOR shall be deemed cumulative and no one exclusive of the other, or of any other remedy conferred by law.

32. **SECTION CAPTIONS.** The captions appearing under the section number designations of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease.

33. **DOCUMENT IS THE RESULT OF MUTUAL DRAFTSMANSHIP.** The terms and conditions in this Lease are the product of mutual draftsmanship by both Parties, each being the opportunity to be represented by counsel, and any ambiguities in this Lease or any documentation prepared pursuant to it shall not be construed against any of the Parties because of authorship. The parties acknowledge that all the terms of this Lease were negotiated at arms' length, and that each party is acting to protect its, his, her, or their own interest.



34. **RECORDATION.** This Lease may not be recorded without the LESSOR's prior written consent, and LESSEE agrees, upon request of the LESSOR, to execute a memorandum hereof for recording purposes.

35. **RADON GAS.** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

36. **COUNTERPARTS AND FACSIMILE (FAX) DOCUMENTS.** This Lease may be signed in counterparts, and each counterpart bearing an original signature shall be considered one document with all others bearing original signature. Also, facsimile transmission of any signed original document and re-transmission of any signed facsimile transmission shall be the same as delivery of an original.

37. **EFFECTIVE DATE.** This Lease shall be effective on the date executed by both parties, and all terms and conditions stated herein shall apply as of that day.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**LESSEE**

**NASGRASS OF FLORDIA, INC.**

**Witnesses:**

\_\_\_\_\_  
Printed name: \_\_\_\_\_

\_\_\_\_\_  
Printed name: \_\_\_\_\_

By: \_\_\_\_\_  
Wes T. Pyburn, President

**LESSOR**

**ATTESTED:**

**CITY OF AVON PARK, FLORIDA**

\_\_\_\_\_  
Christian Hardman, City Clerk

By: \_\_\_\_\_  
Garrett Anderson, Mayor



**APPROVED AS TO FORM AND  
CONTENT:**

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Gerald T. Buhr, City Attorney

DRAFT

## Mark Schrader

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**From:** Christine Smith <pestlady12@gmail.com>  
**Sent:** Monday, September 26, 2022 2:11 PM  
**To:** Mark Schrader  
**Subject:** Nasgrass

**Caution:** This email was sent from outside the City of Avon Park's organization.

Hello Mark.. Just spoke to my attorney and all looks good except paragraph 6. We can't be held liable for a City dump property. We have maintained a Bmp practice and will continue to do so. If your attorney could eliminate paragraph 6 we are ready to sign please.

Thank you  
Christine Smith

## **Agenda Item Summary**

**Date of Action:** October 24, 2022

**Subject:** CRA Advisory Board: Designate Rick Hayes to Airport CRA, Appoint new-CRA Advisory Board Member Laura Wade to Main Street

**Item No.:** D-13

**Placed on Agenda by:** City Manager, Mark Schrader

**Staff Review:** Yes

**Attorney Review:** Yes

**Recommended Motion(s):** Discussion with possible motion

**Documentation:**

- Laura Wade Volunteer Application

**Background:**

The CRA District was not designed when Rick Hayes was appointed to the CRA Advisory Board in January 2020. Hayes qualifies to serve on the CRA Advisory Board under the Airport CRA District. Staff is requesting Hayes be appointed to the Airport and that Laura Wade be appointed to fill the Main Street vacancy.



## VOLUNTEER APPLICATION

### FOR BOARDS AND COMMISSIONS

Thank you for your interest in serving the City of Avon Park. Your completion of this application is necessary so that the members of the City Council can thoroughly review each application as part of their consideration for your appointment.

Please choose the Board(s) and/or Commissions(s) for which you wish to apply:

\_\_\_\_\_ Main Street CRA Advisory Board

\_\_\_\_\_ Southside CRA Advisory Board

\_\_\_\_\_ Airport CRA Advisory Board

\_\_\_\_\_ Housing Authority

\_\_\_\_\_ Pension Boards\*

☒ Planning & Zoning Board\*

\_\_\_\_\_ Police \_\_\_\_\_ Fire

ALL OF THE ABOVE ARE SUBJECT TO THE "SUNSHINE LAW"

\*MEMBERS OF THE BOARD(S) AND/OR COMMISSIONS WITH AN  
ASTERISK ARE REQUIRED TO FILE FINANCIAL DISCLOSURES. \*

#### 1. PERSONAL:

Name: Laura Wade E-Mail: puregritboot@gmail.com

Address: 1555 N. C. Hill Rd. Avon Park, FL 33825

Telephone: 863-368-2138 Business #: \_\_\_\_\_

Are you a registered voter in Avon Park? ☒ Yes \_\_\_\_\_ No

How long have you been a resident of Avon Park? Since 2008

Are you currently serving on a City Board? \_\_\_\_\_ Yes ☒ No

If yes, when and which Board? \_\_\_\_\_

#### 2. REFERENCES: Please list 3 references (Business and/or Personal) include Name, Address, and Phone Number.

- #1 Carrett Andersen - 1-863-443-0608 18 Butler Ave. AP 33825
- #2 Mike Souther - 863-243-3984 1103 W. Circle St. Avon Park, 33825
- #3 Daniel Barber - 863-235-0190 3502 Bill Sachsenmaier Memorial Dr. Avon Park, FL

3. Education:

High School: Sebring HS 1998 Date Graduated: 1998  
College: University of LA, Date Graduated: 2002  
Other: University of Alabama Degree: 2004

4. Work Experience:

Teaching 6 years - Chamber Director, 1.5 years  
Webber-J Marketing Director 2 years  
Business Owner 10 years. Director of  
Student Life SFSC - 2 years

5. Interests/Activities:

Theatre, Teaching, Music, Business

6. Community Involvement:

Highlands Lakeside Theatre - Run education  
committee, youth theatre, lounge

7. Why do you desire to serve on this and/or these Board(s)?

I care about Avon Park & what happens  
here. I have two businesses on Main Street  
so I care about zoning.

8. A resume or separate sheet with additional information may be included.

I understand the responsibilities associated with being a Board member, and I have adequate time to serve if appointed.

Paula Wade  
Signature

May 16, 2022  
Date

NOTE: If you have any questions concerning the duties and responsibilities of any of the above Boards and/or Commissions, please contact the City Manager's Office at 452-4400.

Please return this form to the City Manager's Office, 110 E. Main Street, Avon Park, FL 33825 between the hours of 8:00 a.m. and 5:00 p.m.

## REFERENCE CHECK PLANNING AND ZONING BOARD

Laura Wade

- **Reference 1: Mike Souther**

Mr. Souther has done work for the candidate's business, Pure Grit. He describes her as being friendly and easy to work with. When asked about dependability, Mr. Souther responded he trusts Ms. Wade having a personal and professional relationship. She is dependable and involved with a lot of different projects, including the Little Highlands Theater. Mr. Souther said that she always gets things done. When asked about relationships between peers and colleagues, he said the candidate is very positive and he has never seen her upset or negative towards anyone. She handles herself professionally. He said that the candidate has strong leadership qualities, is a team player, and adapts well- having no issue with learning and adapting as a business owner. Mr. Souther recommends the candidate for the position.

- **Reference 2: Daniel Barber**

Mr. Barber knows the candidate through his business. They shared a location for a few years. He describes the candidate as great to work with, knowledgeable, bright, smart, and a great businesswoman. Because they have worked with each other for a long time, Mr. Barber spoke of the candidate's demeanor, saying she works well with customers, employees, and co-workers. She is great at giving instruction and has never had any issues with the aforementioned people. Mr. Barber went on to say that the candidate is creative; she comes up with ideas that provide optimal solutions through out-of-the-box thinking. He knows that no matter what she does, the candidate will excel. He would highly recommend her for the position.



## **Agenda Item Summary**

**Date of Action:** October 24, 2022

**Subject:** Resolution 2022-30, to Accept FDOT Public Transportation Aviation Grant Program

**Item No.:** D-14

**Placed on Agenda by:** City Manager, Mark Schrader

**Staff Review:** Yes

**Attorney Review:** Yes

**Recommended Motion(s):** Approve Resolution 2022-30 to Accept FDOT Public Transportation Aviation Grant Agreement for a total of \$50,000

### **Documentation:**

- Resolution 2022-30
- Florida Department of Transportation Public Transportation Grant Agreement Contact # G2D88

### **Background:**

This Grant is funded at 100%.

This grant will pay for two (2) urgently needed airport runway closure markers.

Mike Powell, Airport Manager (FAM) spearheaded requesting the grant through FDOT, for the runway closure markers, which are required to be in place when a runway is closed.

**RESOLUTION 2022-30**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AVON PARK FLORIDA, PROVIDING FOR THE ADOPTION OF A GRANT AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION AND PROVIDING FOR AN EFFECTIVE DATE.**

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF AVON PARK, FLORIDA**, in a public meeting assembled this 24<sup>th</sup> day of October, 2022: Having considered the advantages and disadvantages of adoption, the City Council does hereby adopt the Grant Agreement attached hereto as Exhibit "A."

**IN WITNESS WHEREOF**, the City of Avon Park, Florida, has duly adopted this Resolution and caused it to be executed by the officers below on the 24<sup>th</sup> day of October, 2022. The vote was:

---

	Yes	No	Abstain	Absent
Mayor Anderson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Deputy Mayor Barnard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember McGuire	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Mercure	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Councilmember Taylor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTEST:

\_\_\_\_\_  
Christian Hardman, City Clerk

\_\_\_\_\_  
Garrett Anderson, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
Gerald T. Buhr, City Attorney

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

Form 725-000-01  
 STRATEGIC  
 DEVELOPMENT  
 OGC 07/22

Financial Project Number(s): (item-segment-phase-sequence) 451992-1-94-01	Fund(s):	DPTO	FLAIR Category: 088719
	Work Activity Code/Function:	215	Object Code: 751000
	Federal Number/Federal Award		Org. Code: 55012020129
	Identification Number (FAIN) – Transit only:	N/A	Vendor Number: VF596000269001
Contract Number: G2D88	Federal Award Date:	N/A	
CFDA Number: N/A	Agency SAM/UEI Number:		
CFDA Title: N/A			
CSFA Number: 55.004			
CSFA Title: Aviation Grant Program			

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

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

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

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

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

- ☒ Exhibit A: Project Description and Responsibilities
- ☒ Exhibit B: Schedule of Financial Assistance
- ☐ \*Exhibit B1: Deferred Reimbursement Financial Provisions
- ☐ \*Exhibit B2: Advance Payment Financial Provisions
- ☐ \*Exhibit B3: Alternative Advanced Pay (Transit Bus Program)
- ☒ \*Exhibit C: Terms and Conditions of Construction
- ☒ Exhibit D: Agency Resolution
- ☒ Exhibit E: Program Specific Terms and Conditions
- ☒ Exhibit F: Contract Payment Requirements
- ☒ \*Exhibit G: Audit Requirements for Awards of State Financial Assistance



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

Form 725-000-01  
 STRATEGIC  
 DEVELOPMENT  
 OGC 07/22

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

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

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

**6. Term of Agreement.** This Agreement shall commence upon full execution by both Parties ("Effective Date") and continue through June 30, 2025. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

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

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

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

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

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

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

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 07/22

**9. Project Cost:**

- a. The estimated total cost of the Project is \$50,000. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.
- b. The Department agrees to participate in the Project cost up to the maximum amount of \$50,000 and, the Department's participation in the Project shall not exceed 100.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

**10. Compensation and Payment:**

- a. **Eligible Cost.** The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.
- b. **Deliverables.** The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.
- c. **Invoicing.** Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.
- d. **Supporting Documentation.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.
- e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:

☒ Travel expenses are NOT eligible for reimbursement under this Agreement.

☐ Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061,



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

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 07/22

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

- f. Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.
- g. Invoice Processing.** An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

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

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

- h. Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- i. Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.
- j. Submission of Other Documents.** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department



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

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 07/22

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

- k. **Offsets for Claims.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- l. **Final Invoice.** The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- m. **Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.
- n. **Limits on Contracts Exceeding \$25,000 and Term more than 1 Year.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."
- o. **Agency Obligation to Refund Department.** Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- p. **Non-Eligible Costs.** In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for

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

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 07/22

not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A", Project Description and Responsibilities**.

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

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



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

Form 725-000-01  
 STRATEGIC  
 DEVELOPMENT  
 OGC 07/22

- g. Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

**12. Contracts of the Agency:**

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



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

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 07/22

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

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

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

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

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

**Federal Funded:**

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

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

Form 725-000-01  
 STRATEGIC  
 DEVELOPMENT  
 OGC 07/22

through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

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



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

Form 725-000-01  
 STRATEGIC  
 DEVELOPMENT  
 OGC 07/22

management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

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

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

**State Funded:**

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



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

Form 725-000-01  
 STRATEGIC  
 DEVELOPMENT  
 OGC 07/22

Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance**, to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

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

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

And

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

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

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

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 07/22

10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.

viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

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

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

a. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.



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

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 07/22

- d. **Prohibition on Using Funds for Lobbying.** No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.
- e. **Unauthorized Aliens.** The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. **Procurement of Construction Services.** If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.
- g. **E-Verify.** The Agency shall:
  - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and
  - ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- h. **Executive Order 20-44.** Pursuant to Governor's Executive Order 20-44, if the Agency is required by the Internal Revenue Code to file IRS Form 990 and is named in statute with which the Department must form a sole-source, public-private agreement; or through contract or other agreement with the State, annually receives 50% or more of its budget from the State or from a combination of State and Federal funds, Recipient shall submit an Annual Report to the Department, including the most recent IRS Form 990, detailing the total compensation for each member of the Agency executive leadership team. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Agency shall inform the Department of any changes in total executive compensation during the period between the filing of Annual Reports within 60 days of any change taking effect. All compensation reports shall detail the percentage of executive leadership compensation received directly from all State and/or Federal allocations to the Agency. Annual Reports shall be in the form approved by the Department and shall be submitted to the Department at [fdotsingleaudit@dot.state.fl.us](mailto:fdotsingleaudit@dot.state.fl.us) within 180 days following the end of each tax year of the Agency receiving Department funding.
- i. **Design Services and Construction Engineering and Inspection Services.** If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

**18. Indemnification and Insurance:**

- a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any



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

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 07/22

subcontractor, in connection with this Agreement. Additionally, to the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28, Florida Statutes, the Agency shall indemnify, defend, and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the Department's or the Agency's sovereign immunity. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

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

This indemnification shall survive the termination of this Agreement."

- b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.
- c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the

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

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 07/22

coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

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

**19. Miscellaneous:**

- a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.
- b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.



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

Form 725-000-01  
 STRATEGIC  
 DEVELOPMENT  
 OGC 07/22

- f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.
- g. **Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- h. **Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).
- i. **Inspector General Cooperation.** The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.
- j. **Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

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

AGENCY City of Avon Park

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

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

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

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

Name: John M. Kubler, P.E.

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

Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
 Legal Review:

Don Conway, Senior Attorney (as to legality and form)

DS  




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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

**EXHIBIT A**

**Project Description and Responsibilities**

**A. Project Description** (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): **AVON PARK EXECUTIVE AIRPORT LIGHTED RUNWAY CLOSURE MARKERS**

**B. Project Location** (limits, city, county, map): Avon Park Executive Airport/Avon Park, FL/Highlands

**C. Project Scope** (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): As required by 215.971, F.S., this scope of work includes but is not limited to consultant and design fees, survey and geotechnical costs, permitting, construction inspection and material testing costs, mobilization and demobilization, purchase, delivery, testing, and commissioning of said equipment. Site preparation (earthwork, electrical, mechanical, and utilities) is to be included in the cost of equipment purchase and delivery. It includes all materials, equipment, labor, and incidentals to purchase, install and commission a new piece of equipment. The Sponsor will comply with Aviation Program Assurances.

**D. Deliverable(s):** **AVON PARK EXECUTIVE AIRPORT LIGHTED RUNWAY CLOSURE MARKERS**

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

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

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

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

12/13/2017

AC 150/5370-2G

### 2.18.3 Lighting and Visual NAVAIDs.

This paragraph refers to standard runway and taxiway lighting systems. See below for hazard lighting. Lighting installation must be in conformance with AC 150/5340-30, Design and Installation Details for Airport Visual Aids, and fixture design in conformance with AC 150/5345-50, Specification for Portable Runway and Taxiway Lights. When disconnecting runway and taxiway lighting fixtures, disconnect the associated isolation transformers. See AC 150/5340-26, Maintenance of Airport Visual Aid Facilities, for disconnect procedures and safety precautions. Alternately, cover the light fixture in such a way as to prevent light leakage. Avoid removing the lamp from energized fixtures because an excessive number of isolation transformers with open secondaries may damage the regulators and/or increase the current above its normal value. Secure, identify, and place any above ground temporary wiring in conduit to prevent electrocution and fire ignition sources. Maintain mandatory hold signs to operate normally in any situation where pilots or vehicle drivers could mistakenly be in that location. At towered airports certificated under Part 139, holding position signs are required to be illuminated on open taxiways crossing to closed or inactive runways. If the holding position sign is installed on the runway circuit for the closed runway, install a jumper to the taxiway circuit to provide power to the holding position sign for nighttime operations. Where it is not possible to maintain power to signs that would normally be operational, install barricades to exclude aircraft. Figure 2-1, Figure 2-2, Figure 2-3, and Figure 2-4 illustrate temporary changes to lighting and visual NAVAIDs.

#### 2.18.3.1 **Permanently Closed Runways and Taxiways.**

For runways and taxiways that have been permanently closed, disconnect the lighting circuits.

#### 2.18.3.2 **Temporarily Closed Runways and New Runways Not Yet Open to Air Traffic.**

If available, use a lighted X, both at night and during the day, placed at each end of the runway on or near the runway designation numbers facing the approach. (Note that the lighted X must be illuminated at all times that it is on a runway.) The use of a lighted X is required if night work requires runway lighting to be on. See AC 150/5345-55, Specification for L-893, Lighted Visual Aid to Indicate Temporary Runway Closure. For runways that have been temporarily closed, but for an extended period, and for those with pilot controlled lighting, disconnect the lighting circuits or secure switches to prevent inadvertent activation. For runways that will be opened periodically, coordinate procedures with the FAA air traffic manager or, at airports without an ATCT, the airport operator. Activate stop bars if available. Figure 2-6 shows a lighted X by day. Figure 2-7 shows a lighted X at night.



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

Form 725-000-02  
 STRATEGIC  
 DEVELOPMENT  
 OGC 09/22

**EXHIBIT B**

**Schedule of Financial Assistance**

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

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

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
451992-1-94-01	DPTO	088719	2023	751000	55.004	Aviation Grant Program	\$50,000.00
<b>Total Financial Assistance</b>							<b>\$50,000.00</b>

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

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Planning	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Environmental/Design/Construction	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Capital Equipment/ Preventative Maintenance	\$50,000.00	\$0.00	\$0.00	\$50,000.00	100.00	0.00	0.00
Match to Direct Federal Funding	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Mobility Management (Transit Only)	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
<b>Totals</b>	<b>\$50,000.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$50,000.00</b>			

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

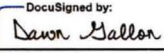
<b>Scope Code and/or Activity Line Item (ALI) (Transit Only)</b>	
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**BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:**

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

Dawn Gallon, CPM, FCCM

Department Grant Manager Name

DocuSigned by:  
  
 Signature

10/18/2022 | 7:55 AM EDT

Date



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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

**EXHIBIT C**

**TERMS AND CONDITIONS OF CONSTRUCTION**

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

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

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

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

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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

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



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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

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

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



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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

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

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

Insert District PIO contact info:

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

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

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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

**ENGINEER'S CERTIFICATION OF COMPLIANCE**

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

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

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

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

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

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

SEAL:

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

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

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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

**EXHIBIT D**

**AGENCY RESOLUTION**

***PLEASE SEE ATTACHED***



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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

**EXHIBIT E**

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

**A. General.**

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

**B. Agency Compliance Certification.**

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

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

**b. Florida Administrative Code (FAC)**

- Chapter 73C-41, FAC, Community Planning; Governing the Procedure for the Submittal and Review of Local Government Comprehensive Plans and Amendments
- Chapter 14-60, FAC, Airport Licensing, Registration, and Airspace Protection
- Section 62-256.300, FAC, Open Burning, Prohibitions
- Section 62-701.320(13), FAC, Solid Waste Management Facility Permit Requirements, General, Airport Safety

### c. Local Government Requirements

- Airport Zoning Ordinance
- Local Comprehensive Plan

#### d. Department Requirements

- Eight Steps of Building a New Airport
- Florida Airport Revenue Use Guide
- Florida Aviation Project Handbook
- Guidebook for Airport Master Planning
- Airport Compatible Land Use Guidebook

2. **Construction Certification.** The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, as well as Federal Aviation Administration (FAA) Advisory Circulars (AC's) and FAA issued waivers thereto, including but not limited to, the following:

### a. Federal Requirements

- FAA AC 70/7460-1, Obstruction Marking and Lighting
- FAA AC 150/5300-13, Airport Design
- FAA AC 150/5370-2, Operational Safety on Airports During Construction
- FAA AC 150/5370-10, Standards for Specifying Construction of Airports

### b. Local Government Requirements

- Local Building Codes
- Local Zoning Codes

### c. Department Requirements

- Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the "Florida Green Book")
- Manual on Uniform Traffic Control Devices
- Section 14-60.007, FAC, Airfield Standards for Licensed Airports
- Standard Specifications for Construction of General Aviation Airports
- Design Guidelines & Minimum Standard Requirements for T-Hangar Projects

**3. Land Acquisition Certification.** The Agency hereby certifies, regarding land acquisition, that it will comply with applicable federal and/or state policies, regulations, and laws, including but not limited to the following:

### a. Federal Requirements

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- National Environmental Policy of 1969
- FAA Order 5050.4, National Environmental Policy Act Implementing Instructions for Airport Projects
- FAA Order 5100.37B, Land Acquisition and Relocation Assistance for Airport Projects

### b. Florida Requirements

- Chapter 73, F.S., Eminent Domain (re: Property Acquired Through Condemnation)
- Chapter 74, F.S., Proceedings Supplemental to Eminent Domain (re: Condemnation)
- Section 286.23, F.S., Public Business: Miscellaneous Provisions



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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

**C. Agency Authority.**

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

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

**1. Accounting System.**

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

**2. Good Title.**

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

**3. Preserving Rights and Powers.**

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

**4. Hazard Removal and Mitigation.**



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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

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

**5. Airport Compatible Land Use.**

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

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

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

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

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

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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

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

**8. Airport Financial Plan.**

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

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

**10. Fee and Rental Structure.**

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

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

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

**12. Economic Nondiscrimination.**

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



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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

- 2) The Agency may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.
  - b. The Agency assures that each airport Fixed-Based Operator (FBO) shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other FBOs making the same or similar uses of such airport and utilizing the same or similar facilities.
- 13. Air and Water Quality Standards.** The Agency assures that all projects involving airport location, major runway extension, or runway location will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.
- 14. Operations and Maintenance.**
  - a. The Agency assures that the airport and all facilities, which are necessary to serve the aeronautical users of the airport, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable federal and state agencies for maintenance and operation, as well as minimum standards established by the Department for State of Florida licensing as a public-use airport.
    - 1) The Agency assures that it will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.
    - 2) Except in emergency situations, any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Department.
    - 3) The Agency assures that it will have arrangements for promptly notifying airmen of any condition affecting aeronautical use of the airport.
  - b. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when adverse weather conditions interfere with safe airport operations.
- 15. Federal Funding Eligibility.**
  - a. The Agency assures it will take appropriate actions to maintain federal funding eligibility for the airport and it will avoid any action that renders the airport ineligible for federal funding.
  - b. If the Agency becomes ineligible for federal funding of airport projects, such determination will render the Agency ineligible for state funding of airport projects.
- 16. Project Implementation.**
  - a. The Agency assures that it will begin making expenditures or incurring obligations pertaining to this Project within one year after the effective date of this Agreement.
  - b. The Agency may request a one-year extension of this one-year time period, subject to approval by the Department District Secretary or designee.
  - c. Failure of the Agency to make expenditures, incur obligations or receive an approved extension may allow the Department to terminate this Agreement.
- 17. Exclusive Rights.** The Agency assures that it will not permit any exclusive right for use of the airport by any person providing, or intending to provide, aeronautical services to the public.
- 18. Airfield Access.**
  - a. The Agency assures that it will not grant or allow general easement or public access that opens onto or crosses the airport runways, taxiways, flight line, passenger facilities, or any area used for emergency



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

Form 725-000-02  
 STRATEGIC  
 DEVELOPMENT  
 OGC 09/22

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

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

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

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

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

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

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

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

Form 725-000-02  
 STRATEGIC  
 DEVELOPMENT  
 OGC 09/22

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

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

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



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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

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

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

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

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

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

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

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

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

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



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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

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

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

**- End of Exhibit E -**

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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

**EXHIBIT F**

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

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

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

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

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

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

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

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

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

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

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

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

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

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/22

**EXHIBIT G**

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

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

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

**Awarding Agency:** Florida Department of Transportation  
**State Project Title:** Aviation Grant Program  
**CSFA Number:** 55.004  
**\*Award Amount:** \$50,000

\*The award amount may change with amendments

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

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

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

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



To: Dawn.Gallon@dot.state.fl.us

## FLORIDA DEPARTMENT OF TRANSPORTATION FUNDS APPROVAL

G2D88

10/14/2022

### CONTRACT INFORMATION

Contract:	G2D88
Contract Type:	GD - GRANT DISBURSEMENT (GRANT)
Method of Procurement:	G - GOVERNMENTAL AGENCY (287.057,F.S.)
Vendor Name:	CITY OF AVON PARK
Vendor ID:	F596000269001
Beginning Date of This Agreement:	10/13/2022
Ending Date of This Agreement:	06/30/2025
Contract Total/Budgetary Ceiling:	ct = \$50,000.00
Description:	Avon Park Executive Airport Lighted Runway Closure Markers

### FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 10/14/2022

Action:	Original
Reviewed or Approved:	APPROVED
Organization Code:	55012020129
Expansion Option:	A8
Object Code:	751000
Amount:	\$50,000.00
Financial Project:	45199219401
Work Activity (FCT):	215
CFDA:	
Fiscal Year:	2023
Budget Entity:	55100100
Category/Category Year:	088719/23
Amendment ID:	O001
Sequence:	00
User Assigned ID:	
Enc Line (6s)/Status:	0001/04

**Total Amount: \$50,000.00**

## Certificate Of Completion

Envelope Id: 333D30F559F646819A27B70BCDA64167	Status: Completed
Subject: Complete with DocuSign: AVO_G2D88_451992-1_Lighted Runway Closure Markers_Original PTGA_Draft f...	
Contract Number (ex. C9A12, optional): G2D88	
Document Contains Confidential Information?: No	
Fin Proj Num (ex. 123456-1-32-01, Optional): 451992-1-94-01	
Office (contact Procurement if add is needed):	
Aviation	
HR Action?: No	
Source Envelope:	
Document Pages: 38	Signatures: 1
Certificate Pages: 2	Initials: 1
AutoNav: Enabled	
Envelopeld Stamping: Enabled	
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	
Envelope Originator:	
Dawn Gallon	
605 Suwannee Street	
MS 20	
Tallahassee, FL 32399-0450	
dawn.gallon@dot.state.fl.us	
IP Address: 156.75.252.6	

## Record Tracking

Status: Original	Holder: Dawn Gallon	Location: DocuSign
10/18/2022 7:50:03 AM	dawn.gallon@dot.state.fl.us	

## Signer Events

Dawn Gallon  
dawn.gallon@dot.state.fl.us  
Florida Department of Transportation  
Security Level: Email, Account Authentication (None)

## Signature

DocuSigned by:  
  
9EA4269114E440A...  
Signature Adoption: Pre-selected Style  
Using IP Address: 156.75.252.6


## Timestamp

Sent: 10/18/2022 7:55:08 AM  
Viewed: 10/18/2022 7:55:30 AM  
Signed: 10/18/2022 7:55:40 AM

## Electronic Record and Signature Disclosure:

Not Offered via DocuSign

Don Conway  
don.conway@dot.state.fl.us  
Senior Attorney  
Florida Department of Transportation  
Security Level: Email, Account Authentication (None)

DS  
  
Signature Adoption: Pre-selected Style  
Using IP Address: 156.75.252.6

Sent: 10/18/2022 7:55:41 AM  
Viewed: 10/18/2022 10:58:17 AM  
Signed: 10/18/2022 11:01:13 AM

## Electronic Record and Signature Disclosure:

Not Offered via DocuSign

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp

Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	10/18/2022 7:55:08 AM
Certified Delivered	Security Checked	10/18/2022 10:58:17 AM
Signing Complete	Security Checked	10/18/2022 11:01:13 AM
Completed	Security Checked	10/18/2022 11:01:13 AM
Payment Events	Status	Timestamps



## **Agenda Item Summary**

**Date of Action:** October 10, 2022

**Subject:** City Manager Updates

**Item No.:** H-15

**Placed on Agenda by:**

**Staff Review:**

**Attorney Review:**

**Recommended Motion(s):**

**Documentation:**

Updates

- Hurricane Debris Pickup
- AIP Grant