

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
ECONOMIC DEVELOPMENT TRANSPORTATION
PROJECT FUND AGREEMENT
(OFF-SYSTEM)

This Economic Development Transportation Project Fund Agreement (Off-System) (“Agreement”) is entered into this _____ day of _____, 20_____, between the **State of Florida, Department of Transportation (“FDOT”)** and the **City of Leesburg, Florida, a Florida Municipal Corporation (“Agency”)**. The FDOT and the Agency are sometimes referred to in this Agreement as a “Party” and collectively as the “Parties.”

RECITALS

A. The Agency has applied for a grant from FDOT’s Economic Development Transportation Project Fund (“EDTPF”) on behalf of Wipaire, Inc., (“EDTPF Business”)

B. FDOT has determined that the transportation project described in the EDTPF Application, incorporated by reference in this Agreement and attached as **Exhibit “A”** and referred to as the “Project,” is necessary to facilitate the economic development and growth of the State, and it is authorized by Section 339.2821, Florida Statutes, to approve an expenditure to the Agency for the direct costs of the Project.

C. The same day the Agency approves this Agreement, the Agency, through its City Commission, shall also adopt a Resolution, in the form attached as **Exhibit “F”** and made a part of this Agreement that inter alia, authorizes its Mayor to execute this Agreement on its behalf.

D. The Project is for the construction of infrastructure improvements at a new or expanding business at the EDTPF Business’s location designated on the map sheet within **Exhibit “A,”** and 60 full-time permanent jobs will result from the Project.

E. The Agency is prepared to complete, or cause to be completed, the Project at an estimated total cost of \$1,250,000 (One Million Two Hundred Fifty Thousand and No/100 Dollars).

F. FDOT is prepared to provide **\$420,000.00 (Four Hundred Twenty Thousand and No/100 Dollars)** toward the total cost of construction of the Project as more fully described in Section 6.0.

AGREEMENT

In consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

1.0 RECITALS: The recitals above are true and correct and are made a part of this Agreement.

2.0 TERM: The term of this Agreement shall commence upon the date of execution by the last party to approve and sign this Agreement (“Effective Date”) and continue through September 30, 2018, unless terminated at an earlier date as provided in Section 10.0 of this Agreement. This Agreement will expire as provided in this Section 2.0 unless an extension of the time period is requested by the Agency prior to the Expiration Date of this Agreement and granted in writing by FDOT. Expiration of this Agreement will be considered termination of the Project. Only Project costs incurred on or after the Commencement Date of the Agreement (as defined in paragraph 3.0 below) and on or prior to the termination date of the Agreement are eligible to be reimbursed by the FDOT.

3.0 COMMENCEMENT AND COMPLETION: Unless terminated earlier under Section 10.0 or modified under Section 24.0, work on the Project shall commence no later than: the 1st day of October, 2014, or the date of issuance of the Notice to Proceed, whichever date is earlier (“Commencement Date”), and shall be completed on or before September 30, 2016. FDOT shall have the immediate option to terminate this Agreement should the Agency fail to meet either of the above-required dates.

4.0 PROJECT DESCRIPTION: 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, identified as Project Number 433803-1-58-01, and the quantifiable, measurable and verifiable units of deliverables, are described more fully in **Exhibit “B,”** Scope of Services, which is attached and incorporated in this Agreement, and is in connection with the location of facilities by the EDTPF Business.

5.0 ADMINISTRATORS:

The FDOT Grant Administrator is:

District 5 Economic Development Transportation Project Fund Coordinator.

The Agency’s Agreement Administrator is:

Leonardo Treggi, Airport Manager.

All approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

6.0 NOTICES: All notices pertaining to this Agreement are in effect upon receipt by either Party, shall be in writing, and shall be transmitted either by personal hand delivery; United States Post Office, return receipt requested; or, overnight express mail delivery. E-mail and facsimile may be used if the notice is also transmitted by one of the preceding forms of delivery. The addresses set forth below for the respective parties shall be the places where notices shall be sent, unless prior written notice of change of address is given.

**STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
DISTRICT 5 ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND
COORDINATOR
LISA L. BUSCHER
LOCAL GOVERNMENT PROGRAM ADMINISTRATOR
719 S. WOODLAND BOULEVARD, MS 4-548
DELAND, FLORIDA 32720
Lisa.Buscher@dot.state.fl.us
PHONE: (386) 943-5452**

**CITY OF LEESBURG
LEO TREGGI
AIRPORT MANAGER
POST OFFICE BOX 490630
LEESBURG, FLORIDA 34749-0630
LEONARDO.TREGGI@LEESBURGFLORIDA.GOV
PHONE: (352) 728-9786 EXT. 1130**

7.0 RELEASE OF FUNDS: Project funds made available by FDOT shall not be released to the Agency until the following have been satisfied:

(a) The Agency has agreed by Resolution to accept future maintenance and other attendant costs occurring after completion of the Project for the portion of the Project on the Agency's system with such Resolution being in the form that is attached hereto and incorporated in this Agreement as **Exhibit "F"**; and

(b) The Agency shall certify to FDOT that the Business Entity has an executed long-term lease of a facility and initiated construction of improvements at such facility, as described in this Agreement. If the

Agency fails to provide such certification to FDOT by December 31, 2014, FDOT may, at its discretion, terminate this Agreement; and

(c) The Agency shall invoice FDOT quarterly for actual costs incurred to undertake and complete the Project. The Agency shall review and approve all invoices, statements, or other related documents from the Agency's design consultant or construction contractor. Invoices shall be submitted by the Agency to FDOT in detail sufficient for a proper pre-audit and post audit thereof, based on the quantifiable, measurable, and verifiable units of deliverables as established in Section 4.0 above and **Exhibit "B"**, Scope of Services. Deliverables must be received and accepted in writing by the pre-audit and approval by the Agency; and

(d) Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Section 4.0 and **Exhibit "B"**, Scope of Services, has been met.

(e) FDOT will pay to the Agency, after receipt of a detailed invoice, an amount equal to the invoice received by the Agency from the Agency's consultant or contractor. The Agency must certify on the invoice that the costs from the consultant and/or contractor are valid, reasonable, necessary, and allowable and the costs have been incurred by the consultant or construction contractor prior to the date of the invoices. All invoices submitted to the FDOT must provide complete documentation, including a copy of the consultant's or construction contractor's invoice(s), to substantiate the cost on the invoice. Each invoice subsequent to the first invoice from the Agency must contain a statement from the Agency that the previous quarterly costs incurred by the consultant or contractor have been paid by the Agency to the consultant or contractor; and

(f) The Agency shall provide to FDOT a certification and a copy of appropriate documentation that all required right-of-way necessary for the Project have been obtained; and

(g) The Agency shall provide to the FDOT written notification of its intent to:

(i) Award, or cause to be awarded by the Business Entity, the construction of the Project to a contractor which is the lowest and best bidder in accordance with applicable state and federal statutes, rules, and regulations, in which case, the Agency shall then submit a copy of the bid tally sheet(s) and awarded bid contract to the District 5 Construction Project Manager.

7.1 REIMBURSEMENT OF FUNDS:

When the Agency has complied with Section 7.0, the FDOT shall pay to the Agency, after receipt of a detailed invoice, an amount equal to the invoice received from the Agency's or the EDTPF Business's construction contractor. The Agency is aware of the following time frames. Upon receipt of an invoice, the FDOT has 20 working days to inspect and approve the invoice. FDOT has a 20 day calendar period to deliver a request for reimbursement (voucher) to the Department of Financial Services ("DFS"). The 20 calendar day period to deliver such request is measured beginning from the date the invoice is received, inspected, and approved.

If a reimbursement is not made by the FDOT to the Agency within 40 calendar days from the date the FDOT delivers a request for reimbursement to the DFS, 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 dollar will not be enforced unless the Agency requests payment. Invoices returned to the Agency because of Agency preparation errors may result in a delay in the reimbursement. The invoice reimbursement requirements do not start until a properly completed invoice is provided to the FDOT.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for entities who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516 or by calling the Division of Consumer Services at 1-877-693-5236.

7.2 USE OF REIMBURSED FUNDS: Funds reimbursed to the Agency by FDOT pursuant to this Agreement shall be expended solely for the purpose of paying the direct costs of the Project as reflected in the invoices for the Project. No such funds shall be used for the purchase of any landscaping, mitigation planting, water and sewer lines, for any legal action against FDOT, or costs associated with preparation of the application for use of Economic Development Transportation funding.

7.3 ASSURANCES: As an inducement to the reimbursement of funds referred to in Section 7.1 above, the Agency hereby certifies that, if initiated, the Project will be carried through to its completion and will not require

the expenditure of any additional EDTPF funds from the FDOT, and that the Agency is liable for all cost overruns on the Project (if any).

8.0 DESIGN AND CONSTRUCTION STANDARDS AND REQUIRED APPROVALS:

(a) The Agency agrees to undertake, or cause to be undertaken, the design, construction, and Consultant Construction Engineering Inspection (“CCEI”) of the Project in accordance with all applicable federal, state and local statutes, rules and regulations, including Agency standards and specifications. A professional engineer, registered in Florida, shall provide the FDOT with the certification that all design and construction for the Project meets the minimum construction standards established by the Agency.

(b) The Agency understands that it is responsible for the preparation of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project using the Agency’s normal procurement procedures to perform the design services for the Project.

(c) Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase of the Project. Any design work performed prior to the execution of this Agreement is not subject to reimbursement.

(d) The Agency will provide one copy of the final design plans and specifications and final bid documents to FDOT’s Construction Project Manager prior to commencing construction of the Project.

(e) The Agency shall hire a qualified contractor using the Agency’s normal bid procedures to perform the construction work for the Project.

(f) Prior to commencing construction of the Project described in this Agreement, the Agency shall request a Notice to Proceed from FDOT’s Construction Project Manager, Jim Wikstrom, at (407) 482-7874, or from an appointed designee. Any construction work performed prior to the issuance of the Notice to Proceed for construction is not subject to reimbursement.

(g) The Agency shall hire a qualified CCEI firm to perform construction oversight, including the obligation to assure that any and all verification testing is performed in accordance with the 2013 Standard

Specifications for Road and Bridge Construction, as amended from time to time. FDOT shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project.

(h) The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with Section 337.18(1), Florida Statutes.

(i) The Agency shall be responsible to ensure that construction of the Project under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable Agency standards.

(j) Upon completion of construction of the Project authorized by this Agreement, the Agency shall notify FDOT in writing of the completion of construction of the Project; and for all design work that originally required certification by the County Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto and incorporated herein as **Exhibit "D"**. 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, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

(k) The Agency must submit the final invoice to FDOT within one hundred eighty (180) days after the final acceptance of the Project.

(l) Upon completion of the Project, the Agency shall be responsible for the perpetual maintenance of the facilities on its system that are constructed under this Agreement. The terms of this provision shall survive the termination of this Agreement.

9.0 AVAILABILITY OF FUNDS: The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the following provisions of Section 339.135(6)(a), F.S., are incorporated herein:

"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 dollars and which have a term for a period of more than one year."

10.0 TERMINATION OF AGREEMENT: FDOT may terminate this Agreement upon no less than thirty (30) days notice in writing delivered by certified mail, return receipt requested, or in person with proof of delivery. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall return funds in accordance with Section 11.0 of this Agreement within thirty (30) days of the termination of this Agreement.

10.1 TERMINATION REPORT: Upon termination prior to the Expiration Date of this Agreement set forth in Section 2.0, the Agency will provide the following:

(a) Certification that the portion of the Project that has been completed is in compliance with the terms and conditions of this Agreement and meets minimum construction standards established in accordance with Section 336.045, Florida Statutes.

(b) A report specifying the following: (i) the total direct Project costs paid from funds made available by FDOT pursuant to this Agreement; (ii) the balance of any unexpended Project funds; (iii) the actual amount of the EDTPF Business's capital investment; and (iv) the actual number of permanent, full-time jobs created by the EDTPF Business.

11.0 EXPENDITURES IN VIOLATION OF AGREEMENT: Any Project funds made available by FDOT pursuant to this Agreement which are determined by FDOT 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 FDOT. Acceptance by FDOT of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of FDOT's rights as the funding agency to verify all information at a later date by audit or investigation.

12.0 LEGAL REQUIREMENTS:

(a) This Agreement is executed and entered into in the State of Florida and will be construed, performed, and enforced in all respects in strict conformity with local, state, and federal laws, rules, and regulations. Any and all litigation arising under this Agreement shall be brought in the appropriate court in Leon County, Florida, applying Florida law.

(b) If any term or provision of the Agreement is found to be illegal and unenforceable, the remainder of the Agreement will remain in full force and effect and such term or provision will be deemed stricken.

(c) The Agency shall allow public access to all non-exempt public records, such as documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Agency in conjunction with this Agreement. Failure by the Agency to grant such public access shall be grounds for termination of this Agreement by the FDOT under Section 10.0.

(d) The Agency shall comply with all federal, state and local laws and ordinances applicable to the work on the Project or payment for work thereof.

(e) The Agency and the FDOT agree that the Agency, its employees, contractors, subcontractors, consultants, and sub-consultants are not agents of FDOT as a result of this Agreement.

13.0 PUBLIC AGENCY CRIME: The Agency affirms that it is aware of the provisions of Section 287.133(2)(a), Florida Statutes. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public agency crime may not submit a bid on a contract to provide any goods or services to a public agency, may not submit a bid on a contract with a public agency for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public Agency, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public Agency, and may not transact business with any public Agency in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. The Agency agrees that it shall not violate Section 287.133(2)(a), Florida Statutes, and further acknowledges and agrees that any conviction during the term of this Agreement may result in the termination of this Agreement.

14.0 UNAUTHORIZED ALIENS: FDOT will consider the employment of unauthorized aliens, by any contractor or subcontractor, as described by Section 274A (e) of the Immigration and Nationalization Act, cause for termination of this Agreement.

15.0 NON-DISCRIMINATION: The Agency will not discriminate against anyone employed in the performance of this Agreement, or against any applicant for employment because of age, ethnicity, race, religious belief, disability, national origin, or sex. The Agency shall provide a harassment-free workplace, with any allegation of harassment given priority attention and action by management. The Agency shall insert similar provisions in all contracts and subcontracts for services by this Agreement.

The Agency affirms that it is aware of the provisions of Section 287.134(2)(a), Florida Statutes. An Agency or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public Agency, may not submit a bid on a contract with a public Agency for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public Agency, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public Agency, and may not transact business with any public Agency.

The Agency further agrees that it shall not violate Section 287.134(2)(a), Florida Statutes, and acknowledges and agrees that placement on the list during the term of this Agreement may result in the termination of this Agreement.

16.0 ATTORNEY FEES: Unless authorized by law and agreed to in writing by FDOT, FDOT will not be liable to pay attorney fees, interest, or cost of collection.

17.0 TRAVEL: There shall be no reimbursement for travel expenses under this Agreement.

18.0 PRESERVATION OF REMEDIES: No delay or omission to exercise any right, power, or remedy accruing to either Party upon breach or default by either Party under this Agreement, will impair any such right, power or remedy of either party; nor will such delay or omission be construed as a waiver of any breach or default or any similar breach or default.

19.0 AUDIT AND MONITORING REQUIREMENTS:

(a) The administration of resources awarded by FDOT to the Agency may be subject to audits and/or monitoring by FDOT, as described in this section. In addition to reviews of audits conducted in accordance with OMB Circular A-133, as revised, and Section 215.97, Florida Statutes, monitoring procedures may include, but not be limited to, on-site visits by FDOT staff, limited scope audits as defined by OMB Circular A-133, as revised, and/or other procedures. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the FDOT. In the event the FDOT determines that a limited scope audit of the Agency is appropriate, the Agency agrees to comply with any additional instructions provided by FDOT staff regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the state Chief Financial Officer (CFO) or Auditor General.

(b) The Agency, as a non-state Agency as defined by Section 215.97(2)(m), Florida Statutes, is required to have audits performed annually using the following criteria:

i. In the event that the Agency expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year of the Agency, the Agency must have a state single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Executive Office of the Governor and the state CFO; and Chapters 10.550 (Agency entities) or 10.650 (non-profit and for-profit organizations), Rules of the Auditor General. **Exhibit “E”** to this Agreement indicates state financial assistance awarded through FDOT by this Agreement. In determining the state financial assistance expended in its fiscal year, the Agency shall consider all sources of state financial assistance received from FDOT, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state Agency 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 (Agency entities) or 10.650 (non-profit and for-profit organizations), Rules of the Auditor General.

iii. If the Agency expends less than \$500,000 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the Agency expends less than \$500,000 in state financial assistance in its 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 non-state Agency's resources (i.e., the cost of such an audit must be paid from Agency's resources obtained from other than State entities).

iv. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

v. The Agency shall follow up and take corrective action on audit findings. Preparation of a summary schedule of prior year audit findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

vi. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved. Access to project records and audit work papers shall be given to FDOT, the state CFO, and the Auditor General. This section does not limit the authority of FDOT to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

vii. Copies of financial reporting packages, reports, or management letters required by this Agreement shall be submitted by or on behalf of the Agency directly to the following offices:

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

State of Florida Auditor General
Room 401, Claude Pepper Building
111 West Madison Street
Tallahassee, FL 32399-1450

viii. Any reports, management letter, or other information required to be submitted to FDOT pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Florida

Statutes, and Chapters 10.550 (local government entities) or 10.650 (non-profit or for-profit organizations), Rules of the Auditor General, as applicable.

ix. The Agency, when submitting financial reporting packages to FDOT for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local government entities) or 10.650 (non-profit or for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

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

(c) The Agency must include the audit and record keeping requirements in this Section 19.0 in contracts and subcontracts entered into by the Agency with any party for work required in the performance of this Agreement.

(d) The Agency shall, three (3) months after the date of execution of this Agreement and every three (3) months thereafter, provide FDOT with quarterly progress reports until the Project is completed. Each quarterly report shall contain a narrative description of the work completed and whether the work is proceeding according to the Project schedule; a description of any change orders executed by the Agency; a budget summary detailing planned expenditures compared to actual expenditures; and identification of each small or minority business enterprise used as contractors or subcontractors. Records of all progress payments made for work in connection with such transportation projects, and any change orders executed by the Agency and payments made pursuant to such orders shall be maintained by the Agency in accordance with accepted governmental accounting principles and practices and shall be subject to financial audit as required by law.

(e) Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to FDOT at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to FDOT 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 FDOT for a proper audit of costs.

20.0 LOBBYING: Funds may not be used for the purpose of lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

21.0 MINORITY VENDORS: The Agency is encouraged to use small businesses, including minority and women-owned businesses as subcontractors or sub-vendors under this Agreement. The directory of certified minority and women-owned businesses can be accessed from the website of the Department of Management Services, Office of Supplier Diversity. The Agency shall report on a quarterly basis its expenditures with minority and women-owned businesses. The report shall contain the names and addresses of the minority and women-owned businesses; the aggregate dollar figure disbursed that quarter for each business; the time period; type of goods or services; and the applicable code. If no expenditures were made to minority or women-owned businesses, the Agency shall submit a statement to this effect.

22.0 INDEMNITY AND INSURANCE:

(a) The Agency agrees to include the following indemnification in all contracts with contractors, subcontractors, consultants, and sub-consultants, who perform work in connection with this Agreement:

"The contractor/subcontractor/consultant/sub-consultant shall indemnify, defend, save and hold harmless the State of Florida, Department of Transportation and all of its officers, agents or employees from all suits, actions, claims, demands, liability of any nature whatsoever arising out of, because of, or due to any negligent act or occurrence of omission or commission of the contractor/subcontractor/ consultant/sub-consultant, its officers, agents or employees."

(b) The Agency shall carry or cause its contractor/subcontractor/consultant/ sub-consultant to carry and keep in force during the period of this Agreement a general liability insurance policy or policies with a company or companies authorized to do business in Florida, affording public liability insurance with combined

bodily injury limits of at least \$100,000 per person and \$300,000 each occurrence, and property damage insurance of at least \$100,000 each occurrence, for the services to be rendered in accordance with this Agreement. In addition to any other forms of insurance or bonds required under the terms of the Agreement, when it includes construction within the limits of a railroad right-of-way, the Agency must provide or cause its contractor to provide insurance coverage in accordance with Section 7-13 of the FDOT's Standard Specifications for Road and Bridge Construction (2013), as amended.

(c) The Agency shall also carry or cause its contractor/subcontractor/ consultant/sub-consultant to carry and keep in force Worker's Compensation insurance as required for the State of Florida under the Worker's Compensation Law.

23.0 FOLLOW-UP REPORT: Two years after the EDTPF Business has completed the construction associated with this Project, the Agency will provide FDOT with the actual number of new, permanent, full-time jobs created by the EDTPF Business.

24.0 MODIFICATION OF AGREEMENT: In the event the Agency desires to modify any of the terms and conditions of this Agreement, the Agency shall make such request for modification in writing to FDOT at any time during the term of this Agreement. However, if the request for modification relates to changes in the Project Commencement Date and/or the Project Completion Date, such request must be received by FDOT prior to the expiration of the Commencement Date or Completion Date, whichever is applicable. If such a request is made after the expiration of the above referenced date, FDOT shall have the option to terminate this Agreement.

25.0 E-VERIFY: The Agency:

(a) shall 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

(b) shall 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.

26.0 NON-ASSIGNMENT: Neither party may assign, sublicense, or otherwise transfer its rights, duties, or obligations under this Agreement without the prior written consent of the other party, which consent will not be unreasonably withheld. Any assignment, sublicense, or transfer occurring without the required written approval will be null and void; provided, however that FDOT will at all times be entitled to assign or transfer its rights, duties, or obligations under this Agreement to another governmental agency in the State of Florida, upon giving prior written notice to the Agency. In the event that FDOT approves transfer of the Agency’s obligations, the Agency remains responsible for all work performed and all expenses incurred in connection with this Agreement.

27.0 ENTIRE AGREEMENT: This instrument embodies the entire Agreement of the parties. There are no provisions, terms, conditions, or obligations other than those contained in this Agreement. This Agreement supersedes all previous communication, representation, or agreement, either verbal or written, between the parties. No amendment will be effective unless reduced to writing and signed by an authorized officer of the Agency and the authorized officer of FDOT or his/her delegate.

28.0 DUPLICATE ORIGINALS: This Agreement may be executed in duplicate originals.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) below.

FDOT
State of Florida
Department of Transportation

AGENCY
City of Leesburg, Florida
By: Board of City Commissioners

By: _____
Frank J. O’Dea, P.E.
Director of Transportation Development

By: _____
David Knowles
Mayor

Date: _____

Date: _____

Attest:

Executive Secretary

Attest: as Clerk of the Board of City
Commissioners

Legal Review:

By: _____
City Clerk
Print Name: Betty Richardson

EXHIBIT “A”

PROJECT APPLICATION

Financial Management Number: 433803-1-58-01

(See next 8 pages)

ECONOMIC DEVELOPMENT TRANSPORTATION FUND APPLICATION INSTRUCTIONS

Name of Business

| | | |
|------------------|--------------|----------------|
| FOR EFI USE ONLY | | |
| Date Received | Date Revised | Date Completed |

1. KEY EDTF PROGRAM INFORMATION AND APPLICATION INSTRUCTIONS

Please carefully review all application instructions. Contact Enterprise Florida, Inc., (EFI) to discuss the project and application before submitting a formal proposal.

Application Instructions: Each Economic Development Transportation Fund (EDTF) application must be accompanied by:

1. The **General Project Overview** (separate document) completed by a representative from the company on whose behalf the application is being submitted.
2. The **Economic Development Transportation Fund Attachment** (this document) completed by the governmental entity applying for the grant.
3. Department of Transportation project cost estimate (last page of this document) form to be completed by a FDOT representative from the local FDOT district.
4. A letter from the company (on company letterhead and signed by an authorized company officer) indicating:
 - a. The transportation impediment that exists and required improvements needed to eliminate the impediment; and
 - b. A statement indicating the project will not occur in Florida without the proposed transportation improvements and only one Florida site is under consideration.
5. A 1:24,000 (1 inch = 2,000 feet) **U.S.G.S. quadrangle sheet** which shows the transportation project and the company's proposed site.
6. Recent digital photographs of the project site showing the location of the facility relative to required transportation improvements and confirming that construction has not yet begun on the facility or transportation project.
7. A small **sketch or diagram** (no more than 8 ½" by 14") showing:
 - a. All existing transportation facilities in proximity to the project site (clearly labeled);
 - b. The business project property boundaries;
 - c. General outline of the facility within the property (existing and / or proposed);
 - d. All existing transportation entry and exit points; and
 - e. The proposed transportation project (clearly designated as the proposed project).

Note: The diagram need not be professional, and the scale may be rough, but it should be in sufficient detail to present the observer with a clear understanding of the current situation and the proposed project.

Applicants are encouraged to submit electronic copies of the application and all supporting materials, in addition to one original, signed copy of the General Project Overview, EDTF attachment, USGS map, and additional maps. If materials cannot be submitted electronically, multiple copies may be required.

Program Overview:

- The EDTF grant must be approved by the Department of Transportation (FDOT) prior to the company making its decision to locate or expand in Florida.
- EDTF may be used to alleviate a transportation impediment as an inducement for a business to remain, expand, or locate in Florida. The grant may not exceed total eligible project costs, up to \$7,000 per job retained or created. Exceptions to the per job limit may be allowed. Contact Enterprise Florida, Inc. for details.
- EDTF applications are accepted throughout the year (there is no application deadline); however, the state's fiscal year runs from July 1 to June 30 and the annual appropriation is made on July 1.
- Pursuant to section 339.2821, Florida Statutes, EDTF funds cannot be used to induce a company to locate from one Florida community to another unless, without the relocation, the company will move outside the state. Contact Enterprise Florida, Inc. if the project involves the relocation of a business.
- EDTF is a reimbursement of eligible costs. The applicant must follow all standard contract bid and purchasing procedures.
- Economic Development Transportation Fund: [Section 339.2821, Florida Statutes](#).

Economic Development Transportation Fund Attachment to the General Project Overview

*To add text outside of the gray fields or click the statutory reference link,
de-select the "Protect Form" (lock) button on the Forms toolbar.*

Name of Business

IMPORTANT NOTE: This application must be filed and the incentive approved *prior* to a company's decision to expand or locate in Florida.

1. APPLICANT

A. Government Applicant: City of Leesburg

B. Government Federal Employee Identification Number: 59-6000362

C. Name of Primary Contact: Ken Thomas
 Title: Director of Economic Development & Housing
 Mailing Address: 600 Market Street
Street Address

| | | |
|--|--|---|
| <u>Leesburg</u> <small>City</small> | <u>Fla</u> <small>State</small> | <u>34748</u> <small>Zip Code</small> |
| <u>Telephone: 352-728-9765</u> | <u>Fax: 352-728-9739</u> | |
| <u>Email Address: Ken.thomas@leesburgflorida.gov</u> | <u>Website: www.leesburgflorida.gov</u> | |

D. DOT District Number: 5

2. TRANSPORTATION OVERVIEW

Be sure to attach a rough site plan showing the facility in relation to the requested transportation improvements to be funded from the EDTF.

- A. Briefly describe the transportation problem and why it is an impediment to the company's location decision.
 The Leesburg Airport does not have a seaplane ramp into adjacent Lake Harris to support removal of straight float aircrafts for required servicing. This is a limitation to the company's ability to support all seaplane aircrafts. This is extremely important to because servicing straight float aircrafts comprises 30% of the company floatplane business.
- B. Briefly describe the proposed transportation project that will alleviate the transportation impediment.
 The construction of a seaplane ramp into Lake Harris would support additional business and open new business opportunities to the airport. The ramp would be constructed 50' wide to accommodate large floatplanes (caravans, twin otters etc.), and 859' in length, a floating dock, floating breakwater and dredged channel. The construction will alleviate the transportation impediment for companies such _____ and allow for additional company expansion and public use of the ramp facility.

Economic Development Transportation Fund Attachment to the General Project Overview

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de-select the "Protect Form" (lock) button on the Forms toolbar.*

3. ESTIMATED COSTS AND SOURCES OF FUNDING

Include all transportation project costs and sources, even costs not eligible for reimbursement under EDTF, but part of the total transportation project.

A. Transportation Project Costs:

| | |
|----------------------------|--------------------|
| Construction | \$1,000,000 |
| Right of Way ¹ | \$0 |
| Design & Engineering | \$ 250,000 |
| Total Project Costs | \$1,250,000 |

B. Transportation Project Funding Sources:

| | |
|--------------------------------------|------------------|
| City | \$580,000 |
| County | \$250,000 |
| Company | \$0 |
| Other (govt. grants, developer, etc) | \$0 |
| Total Non-EDTF Funding | \$830,000 |

Please Specify: _____

EDTF Requested Amount² \$420,000

Note: Requested amount must equal the difference between the transportation project costs in 3A. and the transportation project funding sources in 3B.

4. PROJECT INFORMATION

A. Number of full-time permanent jobs created and retained:

Net new jobs: 60 Retained jobs 0 Total Jobs 60

B. New capital investment generated: \$ _____

C. Average wage for new and retained jobs: \$52,000

D. Number of days required to complete construction of the transportation project: 150 days

E. What is the location of the project (provide road number, if applicable)?

US: America State: Florida County: Lake City: Leesburg

F. Who is responsible for maintenance and upkeep? (indicate if more than one are applicable)

US: State: County: City:

G. What is the length of the transportation project (if applicable): 859 Feet

1 Right-of-Way cost may be included in the cost estimate if acquisition is required from a third party in order to construct the transportation project; however, EDTF will not provide funds to acquire the right-of-way. These right-of-way costs must be funded by a source other than EDTF in Section 4B.

2 Maximum requested amount is \$3 million. Award amount will be up to \$7,000 per job created or retained, unless extraordinary circumstances exist, which warrant an increased per job award. Contact Enterprise Florida for more information.

Economic Development Transportation Fund Attachment to the General Project Overview

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de-select the "Protect Form" (lock) button on the Forms toolbar.

5. OTHER CONSIDERATIONS

- A. Is there an alternative that would provide a more cost-effective solution to the transportation problem?
Yes No If yes, explain: _____
- B. Are there additional traffic impacts?
Yes No
If yes, does the project provide for/address these additional impacts?
Yes No If no, explain: _____
- C. Is the adopted local government comprehensive plan for the jurisdiction in compliance with Chapter 163, Part II, Florida Statutes³?
If not, what is the expected time frame for compliance?
Yes No _____
- D. What is the future land use map designation for the proposed project site?
Public _____
- E. Are the transportation project and business facility consistent with the adopted local government comprehensive plan?
If not, describe the inconsistency and give the time frame for amending the plan:
Yes No _____
- F. Does the adopted plan include an economic development element?
Yes No
- G. Is the applicant's transportation project linked to other publicly funded economic development programs?
If so, list the programs and discuss the role they will play in this project: The program is part of the City's economic development plan to expand businesses and create new jobs. In addition, Lake County Government has adopted a economic development plan that supports aviation expansion when jobs are created.
Yes No
- H. Is the proposed site part of a current or previous DRI?
Yes No If yes, explain (including concurrency issues): _____
- I. Will low to moderate income workers be eligible for employment within this facility?
Yes No If yes, please describe: _____
- J. Is the proposed transportation project already included in future capital improvement plans?
Yes No If yes, explain: _____

³ Chapter 163, Part II: Growth Policy; County and Municipal Planning; Land Development Regulation

Economic Development Transportation Fund Attachment to the General Project Overview

*To add text outside of the gray fields or click the statutory reference link,
de-select the "Protect Form" (lock) button on the Forms toolbar.*

6. TRAFFIC IMPACTS

*Only REQUIRED for projects involving state highways.
Information is optional for all other projects.*

A. Traffic generation estimates: (in number of vehicles daily)

Number of cars N/A Number of trucks N/A

B. AM Peak Hour: N/A a.m. to N/A a.m.

Number of inbound cars N/A Number of inbound trucks N/A

Number of outbound cars N/A Number of outbound trucks N/A

C. PM Peak Hour: N/A p.m. to N/A p.m.

Number of inbound cars N/A Number of inbound trucks N/A

Number of outbound cars N/A Number of outbound trucks N/A

7. SIGNATURE

To the best of my knowledge, the information included in this application is accurate.



Signature of chief elected official

Name: Sanna Henderson
Title: Mayor

- Signature must be that of the chief elected city or county official.
- If this application is for a city or county road, the city or county, respectively, must agree to maintain the road (via passage of a resolution following state approval of the EDTF grant). This will be stipulated in all contracts involving expenditure of the Economic Development Transportation Fund.

***** PLEASE BE SURE TO ATTACH THE GENERAL PROJECT OVERVIEW *****

ECONOMIC DEVELOPMENT TRANSPORTATION FUND PROJECT COST ESTIMATE

**FOR SUBMISSION TO THE EDTF COORDINATOR
IN THE FDOT DISTRICT IN WHICH THE PROJECT IS LOCATED**

FDOT TRANSPORTATION PROJECT CONSTRUCTION COST ESTIMATE:

Based on information provided with this application:

| | |
|--|-----------------|
| Estimated cost of construction | \$ _____ |
| Estimated cost of right of way | \$ _____ |
| Estimated cost of design and engineering | \$ _____ |
| Total estimated cost: | \$ _____ |

Was cost overrun considered in total cost?

Yes No

If yes, how much? \$ _____ or % _____

Has design and engineering been completed?

Yes No

If yes, is design in accordance with DOT specifications?

Yes No

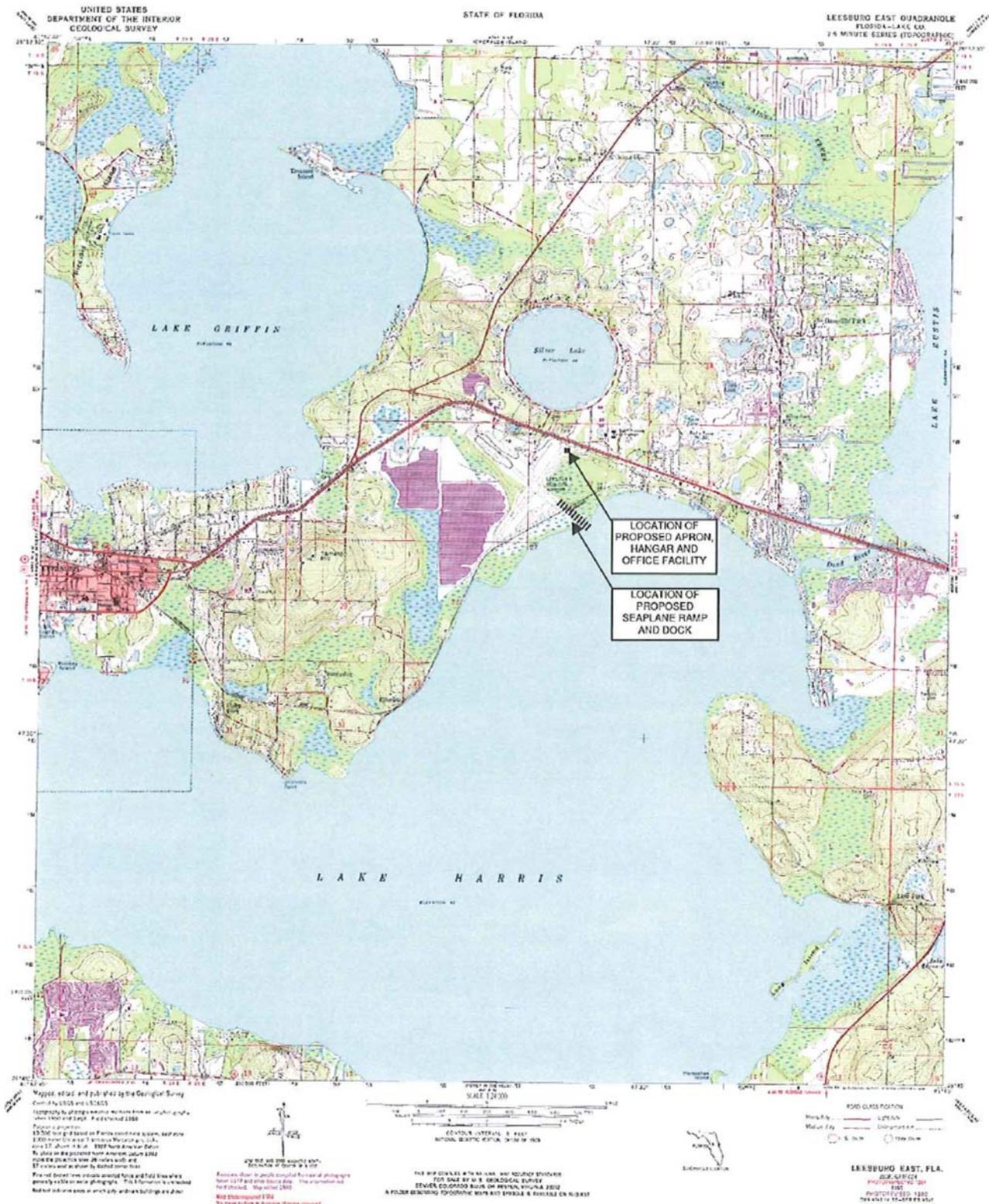
How many days are estimated for completion of the transportation project? _____

FDOT Comments: _____

Signature of FDOT District EDTF Coordinator

FDOT district number: _____

- The signature of the FDOT District representative attests only to the cost estimates for the EDTF transportation project and does not commit FDOT to the approval of the EDTF award request or any FDOT permits associated with this project.
- Applications submitted without this completed and signed page are incomplete and will not be processed until received by Enterprise Florida, Inc.



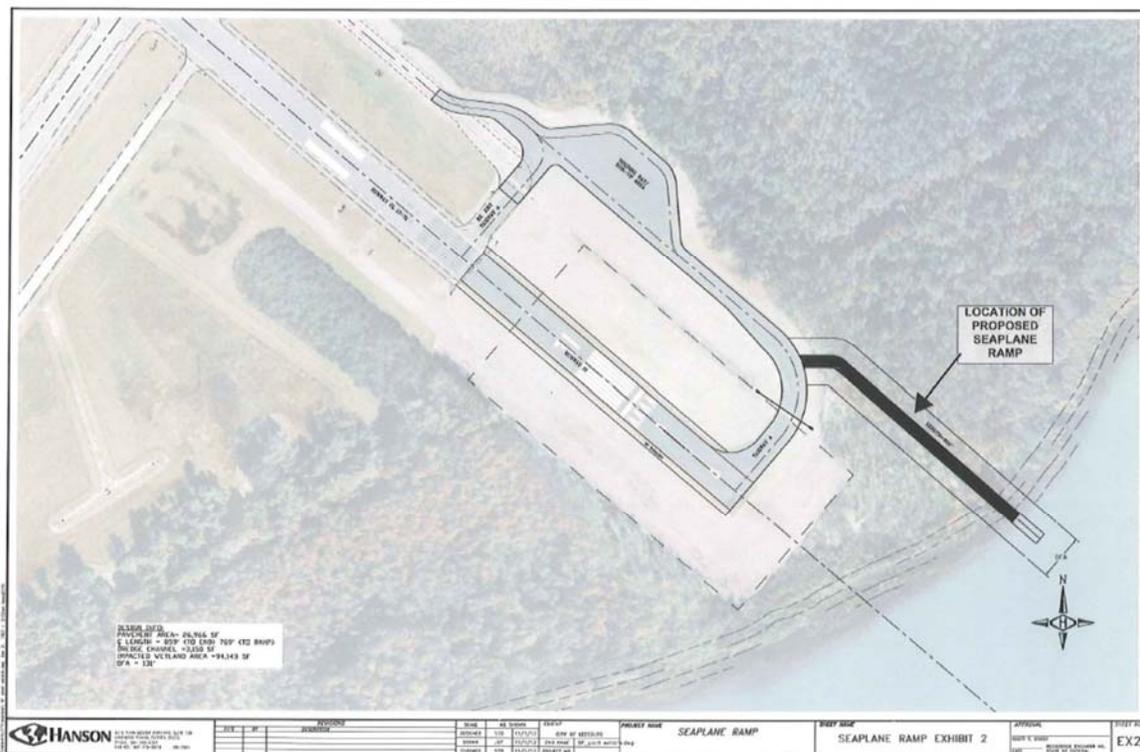
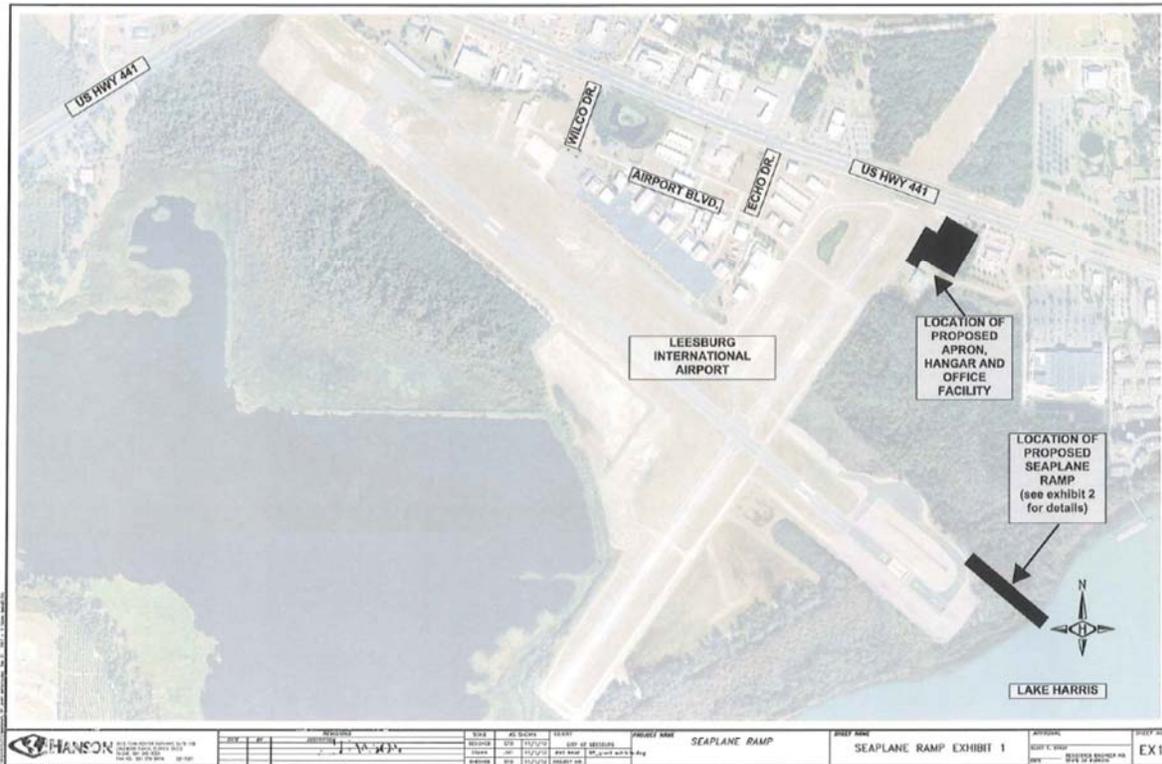


EXHIBIT “B”

SCOPE OF SERVICES

Financial Management Number: 433803-1-58-01

Leesburg International Airport
Extend Taxiway “A” - Seaplane Ramp – Construction Services

This scope of services will be for the construction of the Seaplane Ramp. This Seaplane Ramp will provide for seaplanes to land in Lake Harris and taxi onto the airport operations area via the Taxiway “A” extension.

The Construction Contractor for the referenced project will be determined at a later date via public competitive bidding process. The Contractor scope of work will include the construction of the referenced project described above as required and included in the construction contract.

Construction performed by the Contractor can generally be described as the construction of the Taxiway “A” extension from the Airport Property Line to Lake Harris to include the construction of the Seaplane Ramp. Generally, the Contractor will furnish all materials, labor, incidentals, and supplies required to construct the project and deliver the same to the Owner, ready for use. The Contractor will provide performance and payment bonds; all work required to maintain traffic and meet the construction safety requirements; final clean-up and restoration; and all paperwork that is required.

Payment to the Contractor will be based on actual constructed quantities at the contract unit prices, along with any authorized changes.

Payment Deliverables/Milestones: Payment for the Contractor will be made after the following deliverables are received or milestones occur:

- Payment will be made on a quarterly basis, based on Periodic Pay Requests listing all work in-place. All work must be in place; there is no provision for payment for “materials delivered to site.”
- The Pay Requests will be reviewed by the RPR and the Engineer, who will make any required adjustments and deliver the pay request to the Owner with recommendation for payment.
- Upon completion of the work, execution of the final change order, and submittal of all required project completion documents, the final (100%) payment will be made.

EXHIBIT "C"
SCHEDULE OF FUNDING
 Financial Management Number: 433803-1-58-01

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

| State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.: | | | | | | |
|---|----------------|-------------------|-------------|--|----------------|------------------------------|
| State Program Number | Funding Source | State Fiscal Year | CSFA Number | CSFA Title or Funding Source Description | Funding Amount | State Appropriation Category |
| 433803-1-58-01 | SEID | 2014 | 55.032 | Economic Development Transportation Projects – Road Fund | \$420,000.00 | 088865 |
| Total Award | | | | | \$420,000.00 | |

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/catalog.aspx>]. The services/purposes for which the funds are to be used are included in the Agreement scope of services/work. Any match required by the recipient is clearly indicated in the Agreement.

EXHIBIT “D”

NOTICE OF COMPLETION AND ENGINEER’S CERTIFICATION OF COMPLIANCE

NOTICE OF COMPLETION

ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT FUND AGREEMENT

Between

THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

And

THE CITY OF LEESBURG

PROJECT DESCRIPTION: Construction of a seaplane ramp into Lake Harris

FINANCIAL MANAGEMENT ID# 433803-1-58-01

In accordance with the Terms and Conditions of the Economic Development Transportation Project Fund Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of _____, 20__.

By: _____

Name: _____

Title: _____

ENGINEER’S CERTIFICATION OF COMPLIANCE

In accordance with the Terms and Conditions of the Economic Development Transportation Project Fund 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 FDOT a set of “as-built” plans certified by the Engineer of Record/CEI.

By: _____, P.E.

SEAL:

Name: _____

Date: _____

Exhibit “E”

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

SUBJECT TO SECTION 339.2821, FLORIDA STATUTES:

State Project: Economic Development Transportation Projects – Road Fund

State Awarding Agency: Florida Department of Transportation

Catalog of State Financial Assistance (CSFA) Number: 55-032

Grant Amount: \$420,000.00

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

Objectives of the Project: Alleviate transportation problems that adversely affect the decision of a specific company to locate or expand in the State of Florida.

Project Restrictions:

Eligibility for Economic Development Transportation Projects funding is limited to the direct cost of transportation projects that:

1. Attract new employment opportunities to the State or expand or retain employment in existing companies operating within the State; or
2. Allow for the construction or expansion of a state or federal correctional facility that creates, expands or retains employment in a county with a population of 75,000 or less.

Eligible transportation projects are reviewed for funding by considering the following:

1. Cost per job created or retained considering the amount of transportation funds requested;
2. Average hourly wages of the jobs created;
3. Reliance on programs as an inducement to determine the project’s location;
4. Amount of capital investment to be made by a business;
5. Demonstrated local commitment;
6. Location of the project in an enterprise;
7. Location of the project in a spaceport territory;
8. Unemployment rate of the surrounding area; and
9. Poverty rate of the area.

Eligible Applicant:

An instrumentality of the state, or a county, municipality, district, authority, board, or commission, or an agency thereof, within whose jurisdiction the eligible transportation project is located.

Equipment and Real Property Management:

If the transportation project is constructed on a county or municipal system, the governing board must adopt a resolution accepting responsibility for maintenance and related costs when the transportation project is complete.

Reporting:

Governmental bodies that receive Economic Development Transportation Projects funding must:

- 1) Provide FDOT with quarterly progress reports that contain:
 - A narrative description of the work completed and whether the work is proceeding according to the transportation project schedule;
 - A description of each change order executed by the governmental body;
 - A budget summary detailing planned expenditures compared to actual expenditures; and
 - The identity of each small or minority business used as a contractor or subcontractor.
- 2) Maintain records in accordance with accepted governmental accounting principles and practices for:
 - Each progress payment made for work performed in connection with the transportation project;
 - Each change order executed by the governmental body, and;
 - Each payment made pursuant to a change order.
- 3) Provide FDOT with a financial audit of the governmental body conducted by an independent certified public accountant.

Sub-recipient Monitoring:

The construction or building site for each transportation project that receives Economic Development Transportation Projects funding will be monitored to ensure compliance with Section 339.2821, Florida Statutes, and contractual requirements, which includes but is not limited to the construction of the business facility.

EXHIBIT "F"

AGENCY RESOLUTION

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR AN ECONOMIC DEVELOPMENT TRANSPORTATION PROJECT AT THE LEESBURG INTERNATIONAL AIRPORT; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF LEESBURG, FLORIDA:

THAT the Mayor and City Clerk are hereby authorized to execute an agreement with Florida Department of Transportation, whose address is 719 S. Woodland Boulevard MS 4-520, Deland, Florida 32720, for Economic Development Transportation Project at Leesburg International Airport, FM No. 433803-1-58-01.

THAT the City accepts future maintenance and other attendant costs occurred after completion of the Project.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg, Florida, at a regular meeting held the ____ day of _____ 2014.

John Christian, Mayor

ATTEST:

Betty Richardson, City Clerk