

Board of Directors Meeting

April 25, 2022 09:00 AM



Agenda Topic

Presenter

Agenda

- | | | |
|-------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| I. | Pledge of Allegiance/Moment of Silence | Palmer Clarkson |
| II. | Approval of Minutes - Board of Directors Meeting - March 28, 2022 | Chair Wendy Hamilton |
| III. | Public Comments | |
| IV. | New Business | |
| | AC2022-03-28-09 - Milling & Asphalt Maintenance & Repair Services - Escalation Pars Construction Services, LLC | James Bennett |
| | BD2022-04-01 - Public Transportation Grant Agreement - Blount Island Upland Improvements (facility & rail improvements) | James Bennett |
| | BD2022-04-02 - Southeast Toyota Facilities Lease Agreement | Nick Primrose |
| V. | CEO Update | Eric Green |
| VI. | Reports | |
| | R2022-04-01 Engineering and Construction Update | James Bennett |
| | R2022-04-02 Financial Highlights by Beth McCague | Info Only |
| | R2022-04-03 Financials/Vital Statistics | Mike McClung |
| | R2022-04-04 Commercial Highlights | Robert Peek |
| VII. | Other Business | Chair Wendy Hamilton |
| | Approval of Travel | |
| | Approval of Travel - Chairwoman Wendy Hamilton recommends approval of travel by one or more Board Members of the Authority for business solicitation purposes or to attend any necessary conferences during the months of June/July 2022. | |
| VIII. | Miscellaneous | |
| | A. Awards Committee Meeting Minutes - March 28, 2022 | |

B. Emergency Purchases - None

C. Unbudgeted Transactions - None

IX. Adjourn

Chair Wendy
Hamilton



Minutes for Board of Directors Meeting

03/28/2022 | 09:00 AM - 09:55 AM - Eastern Time (US and Canada)

2831 Talleyrand Avenue, Jacksonville, FL 32206

Board Members Attending:

Ms. Wendy Hamilton, Chairwoman
Mr. Palmer Clarkson, Vice Chairman
Mr. Daniel Bean, Treasurer
Mr. Brad Talbert, Secretary
Mr. Ed Fleming, Member
Mr. Jamie Shelton, Member
Mr. Ceree Harden, Member

Other Attendees:

Mr. Eric Green, Chief Executive Officer
Mr. Fred Wong, Chief Operating Officer
Ms. Beth McCague, Chief Financial Officer/Chief of Staff
Ms. Linda Williams, Chief, Adm. & Corporate Performance
Mr. Nick Primrose, Chief, Regulatory Compliance
Mr. James Bennett, Sr. Director, Engineering & Construction
Mr. Robert Peek, Director & GM, Business Development
Mr. Mike McClung, Director of Finance
Mr. Reece Wilson, Office of General Counsel
Ms. Rebecca Dicks, Board Liaison

Agenda

A meeting of the Jacksonville Port Authority Board of Directors was held on Monday, March 28, 2022 at the Port Central Office Building, 2831 Talleyrand Avenue, Jacksonville, Florida. Chairwoman Wendy Hamilton called the meeting to order at 9:00 a.m. and welcomed all attendees. Board Member Ceree Harden led the audience in the Pledge of Allegiance and a moment of silence.

Approval of Minutes - Special Board of Directors Meeting - February 14, 2022

Chairwoman Hamilton called for approval of the February 14, 2022 Special Board of Directors Meeting Minutes. After a motion by Mr. Bean and a second by Mr. Clarkson, the Board unanimously approved the minutes as submitted.

Public Comments

Chairwoman Hamilton called for comments from the public. There were no public comments.

New Business

BD2022-03-01 - FY2021 Audited Financial Statements

Ms. Beth McCague presented this submission for Board approval to accept the FY2021 clean opinion of JAXPORT's audited financials prepared by RSM US, LLP.

Chairwoman Hamilton stated that the Audit Committee met earlier this morning. She called on Audit Committee Chairman Palmer Clarkson to share some of the highlights of this meeting.

Mr. Clarkson stated that the Audit Committee did meet earlier this morning and that Mr. Jeff Zeichner of RSM briefed the committee and presented a clean unmodified opinion with no adjustments and no recommendations. Mr. Clarkson stated the committee is very proud of JAXPORT's accounting team. Mike McClung's group did a fantastic job. The Audit Committee approved the FY2021 Audited Financial Statements and the committee recommends Board approval of them as well.

After a motion by Mr. Clarkson and a second by Mr. Bean, the Board voted to approve this submission.

BD2022-03-02 - Public Transportation Grant Agreement - Seaport Security

Mr. James Bennett presented this submission for Board approval and acceptance of the Florida Department of Transportation (FDOT) Public Transportation Grant Agreement (PTGA) for JAXPORT's Seaport Security Initiative. The three key components covered by the PTGA are: (1) the purchase and installation of a thermal and/or radar detection system and address certain physical security needs; (2) the purchase and installation of a video streaming system hardware to support situational awareness at cargo and passenger terminals; and (3) the purchase and installation of handheld, backpack, and/or vehicle vessel mounted chemical, biological, radiological, and nuclear (CBRN) detection and identification devices.

After a motion by Mr. Talbert and a second by Mr. Clarkson, the Board voted to approve this submission.

BD2022-03-03 - Public Transportation Grant Agreement - Berth Improvements (Berth 22 Upgrades)

Mr. James Bennett presented this submission for Board approval and acceptance of the Florida Department of Transportation (FDOT) Public Transportation Grant Agreement (PTGA) for improvements

to Berth 22 by installing a breasting dolphin and a mooring dolphin to accommodate larger auto vessels (750' LOA), and also widen a portion of the existing deck to allow for mid-ship ramps to be used simultaneously with the stern quarter-ramp.

After a motion by Mr. Harden and a second by Mr. Fleming, the Board voted to approve this resolution.

**BD2022-03-04 - Public Transportation Grant Agreement - Berth Improvements
(Berth 20 T Berth Construction)**

Mr. James Bennett presented this submission for Board approval and acceptance of the Florida Department of Transportation (FDOT) Public Transportation Grant Agreement (PTGA) for improvements to Berth 20 by extending it from the current "L-Shaped" berth to create a "T-Shaped" berth so as to allow for two 750' LOA RO/RO vessels to berth simultaneously, thereby increasing the capacity for RO/RO operations for auto processing at Blount Island Marine Terminal.

After a motion by Mr. Bean and a second by Mr. Talbert, the Board voted to approve this submission.

CEO Update

Mr. Green began his report by recognizing ILA Local 1408 members Mr. Nathaniel Gardner, Mr. George Spencer, and Mr. Charles Spencer, and thanking them for attending today's meeting.

Mr. Green stated that he is pleased to announce that JAXPORT's global reach is continuing to grow with the addition of another service. Mediterranean Shipping Company (MSC) is adding a new container service through JAXPORT starting in April. MSC's Florida Gulf Feeder will begin calling on the Blount Island Terminal connecting Jacksonville to major transshipment hubs in the Dominican Republic and the Bahamas. Mr. Green stated that growing JAXPORT's connections to these transshipment hubs helps to expand our global reach by adding capacity between Jacksonville and virtually every major port in the world.

He stated that this announcement comes three weeks after Sea Lead Shipping selected Jacksonville as a port of call on its first ever U.S. East Coast service. This service will call on three ports in China and one in South Korea before coming to Jacksonville. Jacksonville's uncongested berths and its soon to be completed 47-foot deepening project were key factors in Sea Lead's decision to choose JAXPORT.

Mr. Green stated that these two new services come on the heels of JAXPORT's recent trip to the Trans-Pacific Maritime (TPM) Conference in California. TPM is one of the world's largest gatherings of cargo decision makers and the port's own Robert Peek served as a panelist during the conference where he

was able to discuss the benefits of using uncongested gateways and furthering JAXPORT's message that it is a port of choice for the industry.

Mr. Green informed the Board that the sales team and C-suite members continue to hold regular meetings with carriers, potential shippers and other cargo decision makers. Based on the feedback he is receiving, he is confident that JAXPORT will continue to have more good news to share in the coming weeks.

Mr. Green stated that JAXPORT will host its Small Business Appreciation Day event on May 24th. This event connects area small businesses with contract opportunities at the port and other area agency experts will be on hand to provide networking and resources. He stated that the port's small business program helps ensure small businesses are included in port opportunities.

Mr. Green informed the Board that the port continues to enjoy a successful cruise restart with approximately 80 to 85 percent occupancy on the first two sailings. During last Tuesday's City Council meeting, Fred Wong, Beth McCague and a representative from Carnival celebrated the cruise line's 50th birthday by presenting a birthday cake to the Jacksonville City Council. Mr. Green also thanked our City Council liaison Ron Salem and the entire City Council for their support of JAXPORT's cruise community and the jobs and economic impact it supports in Jacksonville.

Mr. Green stated that JAXPORT is also maximizing the use of its cruise terminal by serving as the Southeast U.S home port for the luxury small cruise line American Queen voyages. On April 21st, JAXPORT will welcome the Seven Seas Navigator for a one-time port of call. The vessel is operated by Regent, a division of Norwegian Cruise Lines. The ship carries about 750 passengers and is visiting multiple destinations from Bermuda and the U.S east coast up to Canada. All of these sailings build on the economic impact cruise has on our community by attracting tourists from all over the country to Jacksonville.

Reports

R2022-03-01 Engineering and Construction Update

Mr. James Bennett provided an overview of the key capital and engineering projects.

R2022-03-02 Financial Highlights by Beth McCague

Ms. Beth McCague provided Financial Highlights to the Board in their books for the month of February 2022.

R2022-03-03 Financials/Vital Statistics

Mr. Mike McClung provided an overview of the financials and vital statistics.

R2022-03-04 Commercial Highlights

Mr. Robert Peek provided updated commercial highlights to the Board for the month of March 2022.

Other Business

Chairwoman Hamilton called for approval of the settlement agreement in Case Number: 3:20-cv-143-MMH-PDB that each board member had been individually briefed on prior to this meeting. After a motion by Mr. Fleming and a second by Mr. Bean, the Board voted unanimously to approve this settlement agreement.

After a motion by Mr. Clarkson and a second by Mr. Shelton, the Board unanimously approved travel by one or more Board Members of the Authority for business solicitation purposes or to attend any necessary conferences and/or meetings during the months of April/May 2022.

Chairwoman Hamilton asked the Board members if anyone had any comments or remarks before she adjourned the meeting.

Board Member Jamie Shelton stated that he wanted to read a statement into the record at this time in response to some recent notoriety in press reports about the issue surrounding the raising of the power lines over the St. Johns River near Blount Island.

Mr. Shelton stated, "While I typically do not respond to individual news articles, I feel compelled to address several inaccuracies in a March 24 column about the JEA powerlines crossing the St. Johns River near Blount Island. Every journalist, just like any of us, is entitled to his or her own opinion, but they are not necessarily entitled to their own facts. I want to take a minute this morning to share the facts.

I wrote to Governor DeSantis because the State of Florida has invested hundreds of millions of dollars into our port over the last few years. As you see here at each board meeting, and again this morning, the investments they make, including but not limited to hundreds of millions into the deepening project. I believe Governor DeSantis has a right to know about any issue that negatively impacts our ability to provide the project's maximum return on investment for the citizens of the State of Florida.

Another fact: every day we delay we are losing business. The latest example: on February 14, JAXPORT tenant SSA Atlantic turned away a large vessel because it couldn't fit under the powerlines. The ship is operated by one of the world's top five ocean carriers and was attempting to divert to JAXPORT due to congestion at another East Coast port. In addition to losing business on that vessel call, we also lost out on the opportunity to showcase Jacksonville's capabilities to one of the world's largest shipping lines.

Additionally, the fact is that JEA has never formally committed to raising the powerlines or offered a timetable, despite nearly a dozen meetings between JAXPORT and JEA leadership dating back to 2017. JEA CEO Jay Stowe estimates the project will cost about \$30 million dollars, maybe a little more with inflation. Last year, JAXPORT offered JEA \$4 million to help fund the project. That offer was rejected by JEA. In late 2021, in a meeting that I attended, I offered for JAXPORT to pay the project's environmental impact study to again try to move this project along. We sent JEA a memorandum of understanding regarding that offer in December and have yet to even receive a response.

Every day that we delay is wasted economic opportunity for our state, particularly amid the current supply chain crisis. We need JEA to stop dragging their feet, commit to raising the powerlines and, more importantly, join us at the table for a discussion about how to get it done.

If they will commit to raising them, we will commit to being a partner, and those are the facts.

Now off script just a little bit, I just want to say this as well as everyone knows as a board here we are not allowed to communicate without noticing a meeting and that we are a mixed Board. Some were appointed by the Mayor of the City of Jacksonville and confirmed by the City Council and other Board members are appointed by the Governor and confirmed by the Senate.

Prior to sending a letter to Governor DeSantis, in the effort to just continue to help us push this project along, I want everyone to understand that it wasn't just the Governor that I reached out to. I spoke to several individuals. I spoke to Mayor Curry when the Governor was visiting JAXPORT on the day the Governor made the announcement on the signing of a new shipping line, and I spoke to Jason Teal with the Office of General Counsel for the City of Jacksonville. I also had phone conversations with City Council President Sam Newby and Vice President Terrence Freeman, plus another conversation with City Councilman/JAXPORT Liaison Ron Salem, who unfortunately is not with us this morning, but I want you to know that the first call I made was to JEA Board Chairman John Baker, a very close friend and a former JAXPORT Board member here at JAXPORT. John and I had a conversation, which I won't go into details, but it was a very good conversation and there's support, but there was also some surprise and there's certainly frustration on both our parts that this is not getting done.

At the end of the day, we started this process years ago with the dredging for a better economic port here in Jacksonville to create jobs, to enrich our economy, and at the same time to make sure we take care of the natural assets whether it be the turtles that James spoke about earlier today, and we are protecting our river and we are committed to that, but where we are today, and I know this is another comment, I fully believe that the management of JEA has no intentions of raising the power lines. That information is not based on a conversation, it is based on my intuition and the number of meetings that I have participated in. I believe they have members of their Board that will support this, but I do not believe management is ever going to bring it to a level that needs the attention that it needs.

So, where we are is that we just want an answer. It's either their responsibility or it's not. It's not that complicated. Now legally, Nick Primrose may tell you there's some complex things and we believe that it is their responsibility to raise the power lines now that the harbor is dredged. It creates a safety issue, it creates an issue with the Army Corps, and we believe it's their responsibility. It's also my understanding that Jason Teal at the Office of General Counsel has some authority, maybe all authority. It may be a binding authority when there are disputes between government agencies like JEA and the JAXPORT. Have we met with him? No, we have not. I've only spoken to him. There have been meetings with him. I know that Councilman Salem has met with him. I know there have been conversations and all we are looking for is a timely, not six months from now, not a year from now, that it is either their responsibility or it is not. If it is not, then we have to pivot and figure out another way to try to raise the power lines or we don't, but we need an answer as this has been going on for many years.

I think I referenced 2017 in my prepared remarks, but I know that the conversation started early with CEO Paul McElroy and continued with other JEA CEO's and now they are not going anywhere with CEO Jay Stowe.

I don't like doing things without consulting my other colleagues, but unfortunately this was the case because of sunshine laws that I could not do that, but my thought is in the best interest of the port and going forward that at least now we can get this issue in the open and people can write or have opinions and do whatever they choose, but we need an answer and we have to get this done."

Chairwoman Hamilton asked if anyone else had any comments to make on this issue. There being none, she adjourned the meeting at 9:55 a.m.

SUBMISSION FOR AWARDS COMMITTEE AND CHIEF EXECUTIVE OFFICER APPROVAL JACKSONVILLE PORT AUTHORITY

AC-2022-03-28-09
Reference No.

File

03/28/2022
Date

SUBJECT: Milling and Asphalt Maintenance and Repair Services – Escalation
JPA Project G/L No.: 173/175/176/188.5830 JPA Contract No.: 20-08
Pars Construction Services, LLC.

COST: \$700,000

BUDGETED

NON-BUDGETED

BACKGROUND:

On November 1, 2021, JAXPORT entered into Amendment No. 1 of Agreement with Pars Construction Services, LLC to perform certain Milling & Asphalt Maintenance and Repair Services duties, as specified therein. The contract was for four (4) possible one (1) year options whereby three (3) additional one (1) year options remain.

On February 17, 2022, Pars Construction Services LLC issued a letter requesting an escalation price increase of 15% on their current Maintenance, Milling and Paving Contract Unit Price line items in accordance with Section 2.05 Escalation/De-Escalation of the Original Agreement.

Consumer Price Index for FY22:

- Oct, 2021 = + 0.9 %; Nov, 2021 = +0.8%; Dec, 2021 = +0.5 %; overall 2021 calendar year CPI increased 7.0%; Jan, 2022 = +0.6%; 12-month average 7.5%

Producer Price Index for Asphalt paving mixture and block manufacturing FY 22:

- Oct, 2021 = 330.95; Nov, 2021 = 330.54; Dec, 2021 = 334.10 Jan, 2022 365.29.
- Oct, 2021 to Jan, 2022 reflects an increase of 10%
- Twelve-month average shows an increase of 8%
- Jan, 2022 reflects highest PPI industry data for Asphalt paving mixture since recorded

Employment Cost Index, for the year ending December 2021

- Compensation costs over 2021 increased 4.4%
- Wages & salaries increased 5.0%
- Benefits increased 2.8%
- Twelve-month average increase in employment labor costs = 12.2%

Comparative Pricing:

Duval Asphalt:

- Liquid asphalt binder has increased from \$450/ton (1/2021) to \$550/ton (1/22), a 22% increase and the most expensive ingredient in asphalt.
- The tonnage price from asphalt has increased from \$90/ton to \$110/ton, a 22% increase.

Conclusion: 15% increase is a fair and reasonable request.

EXPENSE CATEGORY:

- Renewal of existing services
- Replacement (end of life) or upgrade of equipment
- Related to new opportunity
- Related to or part of cap-ex strategy

This is a budgeted operating expense for FY 22 and will be funded with 100% JPA funds.

RECOMMENDATION:

Management recommends that the Awards Committee approve Amendment No. 2 (unit price escalation) to Pars Construction, LLC for milling and asphalt maintenance and repair services.

AC-2022-03-28-09

Once necessary approvals are obtained by the Awards Committee Chairman, the Chief Executive Officer is authorized to sign purchase orders, agreements or contracts for the Award.

Attachments:

ORIGINATED BY:

SUBMITTED FOR APPROVAL

Lisa Gee
Lisa Gee (Mar 31, 2022 09:28 EDT)

Beth McCague
Beth McCague (Apr 4, 2022 12:48 EDT)

Lisa Gee, Director, Procurement Services

Beth McCague, Chief Financial Officer

AWARDS COMMITTEE ACTION

APPROVED

APPROVED / REJECTED / DEFERRED

CONDITIONS OF APPROVAL (IF ANY):

Retta Rogers
Retta Rogers (Apr 4, 2022 14:28 EDT)

Nicholas Primrose
Nicholas Primrose (Apr 4, 2022 16:05 EDT)

Retta Rogers, Secretary to Awards Committee

Nick Primrose, Chairman to Awards Committee

CHIEF EXECUTIVE OFFICER ACTION

APPROVED

APPROVED / REJECTED / DEFERRED

CONDITIONS OF APPROVAL (IF ANY):

Eric B. Green
Eric B. Green (Apr 5, 2022 17:53 EDT)

Eric B. Green, Chief Executive Officer

CONDITIONS OF APPROVAL (IF ANY):

Date

Rebecca Dicks, Corporate Secretary

BOARD DECISION

APPROVED

REJECTED

DEFERRED

CONDITIONS OF APPROVAL (IF ANY):

Date

Wendy O. Hamilton, Chairwoman

Date

Bradley S. Talbert, Board Secretary

BD2022-04-01



SUBMISSION FOR BOARD APPROVAL

SUBJECT: Public Transportation Grant Agreement – Blount Island Upland Improvements (Facility & Rail Improvements)

Amount: \$16,500,000.00

BUDGETED: N/A

SOURCE OF FUNDS: Florida Department of Transportation (FDOT)

BACKGROUND: JAXPORT has been presented a Public Transportation Grant Agreement (PTGA) with the Florida Department of Transportation (FDOT FM 444623-1-94-02) for JAXPORT's Blount Island Upland Improvements initiative for construction of new Auto Facilities and Two New Rail Spurs at Blount Island. This project allows for the design, construction, and engineering inspection work required to complete the development activities for the project. The project includes items such as building demolition, new construction of buildings, addition of two rail spurs, and paving as required.

STATUS: The estimated cost of the project is \$33,000,000. The Florida Department of Transportation (FDOT) has issued a Public Transportation Grant Agreement (PTGA) to support this project. The total project will be funded 50% (\$16,500,000) by FDOT with a 50% (\$16,500,000) match from tenant contributions.

FDOT requires a resolution authorizing the CEO to execute the PTGA and any supplemental changes to the grant.

RECOMMENDATION: It is recommended the Board of Directors approve the acceptance of the Public Transportation Grant Agreement and adopt the resolution attached hereto.

ATTACHMENTS:

Resolution

Public Transportation Grant Agreement for Blount Island Upland Improvements

BD2022-04-01



**SUBMISSION
FOR
BOARD APPROVAL**

RECOMMENDED FOR APPROVAL:

James Bennett, Sr. Director
Engineering & Construction

Signature: James G. Bennett, PE
James G. Bennett, PE (Apr 20, 2022 10:57 EDT)

Email: James.Bennett@jaxport.com

Signature and Date

SUBMITTED FOR APPROVAL:

Eric Green
Chief Executive Officer

Signature: Eric B. Green
Eric B. Green (Apr 20, 2022 10:59 EDT)

Email: eric.green@jaxport.com

Signature and Date

BOARD APPROVAL:

4/25/2022
Meeting Date

Rebecca Dicks/Recording Secretary

ATTEST:

Bradley S. Talbert, Secretary

Wendy O. Hamilton, Chairwoman

A RESOLUTION OF THE JACKSONVILLE PORT AUTHORITY AUTHORIZING THE EXECUTION OF A PUBLIC TRANSPORTATION GRANT AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND THE JACKSONVILLE PORT AUTHORITY FOR STATE FUNDING IN FDOT FISCAL YEAR 2022 FOR CONSTRUCTION OF AUTO PROCESSING FACILITIES AND TWO NEW RAIL SPURS AT BLOUNT ISLAND TERMINAL

WHEREAS, the Jacksonville Port Authority (JAXPORT) has been presented a Public Transportation Grant Agreement (PTGA) with the Florida Department of Transportation (FDOT) FM 444623-1-94-02 for construction of new Auto Facilities and Two New Rail Spurs at Blount Island; and

WHEREAS, FDOT and JAXPORT have agreed that FDOT will provide funds of \$16,500,000 under Reimbursement Payment Provisions according to the terms and conditions of the PTGA;

NOW THERE, BE IT REOLVED by JAXPORT:

Section 1: JAXPORT confirms its desire to enter into the PTGA with FDOT.

Section 2: The Chief Executive Officer, or his authorized representative, is herein specifically authorized to enter into and sign such documents as may be necessary, including the PTGA and any Supplemental Public Transportation Grant Agreement(s) for the purpose of scope changes, funding adjustments, contract duration changes, additional financial project numbers as well as execute Assurances, Certification and all other documents as may be required to support this project.

Section 3: Effective Date. This resolution shall take effect immediately upon its adoption.

APPROVED AND ADPOTED THIS 25th DAY OF APRIL 2022.

JACKSONVILLE PORT AUTHORITY

Wendy O. Hamilton, Chairwoman

(Official Seal)

ATTEST

Bradley S. Talbert, Secretary

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

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

Financial Project Number(s): <small>(item-segment-phase-sequence)</small> 444623-1-94-02	Fund(s):	GMR	FLAIR Category:	088794
	Work Activity Code/Function:	215	Object Code:	751000
	Federal Number/Federal Award Identification Number (FAIN) – Transit only:		Org. Code:	55022020229
Contract Number:	Federal Award Date:		Vendor Number:	F593730270001
CFDA Number: N/A	Agency DUNS/UEI Number:	06-190- 0957		
CFDA Title: N/A				
CSFA Number: 55.005				
CSFA Title: Seaport Grant Program				

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT (“Agreement”) is entered into _____, by and between the State of Florida, Department of Transportation, (“Department”), and Jacksonville Port Authority, (“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) 311, 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 Jaxport’s Blount Island Upland Improvements initiative, 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 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 01/22

- *Exhibit H: Audit Requirements for Awards of Federal Financial Assistance
- *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 March 31, 2027. 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 01/22

9. Project Cost:

- a. The estimated total cost of the Project is \$33,000,000. 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 \$16,500,000 and, the Department's participation in the Project shall not exceed 50.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

10. Compensation and Payment:

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

- e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:

Travel expenses are NOT eligible for reimbursement under this Agreement.

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

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

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

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

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

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

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

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

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

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

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

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

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- 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 obligated to reimburse for claims or requests for additional work.

12. Contracts of the Agency:

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

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

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

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

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

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

Federal Funded:

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

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

- b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:
- i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “H”, Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
 - ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
 - iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us 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 within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
 - v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency’s audit reporting package, including corrective action plans and

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

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

Office of Comptroller, MS 24
 605 Suwannee Street
 Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

State Funded:

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

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

- ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us 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

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

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

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- 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.
- vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
 - viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
 - c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

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

17. Restrictions, Prohibitions, Controls and Labor Provisions:

- a. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

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

18. Indemnification and Insurance:

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

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subcontractor, in connection with this Agreement. Additionally, 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. 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 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,

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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.
- 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

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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 Jacksonville Port Authority

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: _____

By: _____

Name: _____

Name: Authorized Official or James M. Knight, P.E.

Title: _____

Title: Urban Planning and Modal Administrator

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
Legal Review:

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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)): This Agreement provides for the Department's financial participation in Jaxport's Blount Island Marine Terminal (BIMT) Upland Improvements initiative. Jaxport is one of the nation's busiest seaports for total vehicle handling. Currently the seaport has more than 250 acres of open storage and 300,000 square feet of auto-processing facilities on seaport terminals. This project has two (2) components. The first component includes the construction of two (2) new auto processing facilities, adding approximately 254,400 square feet of processing space at BIMT. The second component constructs two rail spurs totaling to approximately 2,300 linear feet of track adjacent to auto-processing facilities at BIMT.

B. Project Location (limits, city, county, map): Jacksonville, Florida

C. Project Scope (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): This Project includes the environmental, design and construction work required to complete the building development activities described in the Project Description, including: aluminum; anchoring components; asphalt paving activities; assemblage; backfilling; bolt installation; compaction; concrete; concrete repair; concrete sealing treatment; concrete-tub road crossings; construction; construction inspection services; construction management services; consulting services; contractor stand-by; conveyor systems; costs estimates; delivery fees; demobilization; demolition; dewatering; disposal of old railroad materials; drainage systems; doors; drywall; dust control systems; earthwork; electrical components and systems; elevators; engineering services; entrance canopies; erection of pre-fabricated structure(s); exterior finishes; environmental assessments; fasteners and connectors; fencing; fire protection systems; flooring; framing; form work; geotechnical services; glass and glazing; ground covering; handrails; insulation; interior divider walls; interior finishes; joint bolts; lighting systems; line and cross leveling railroad tracks; loading dock leveler; masonry; mitigation assessments; mobilization; permitting; plan development (e.g., 30 / 60 / 90 / 100 % and as-builts); plumbing systems; precast concrete; preconstruction engineering and design; procurement cost; rails; railroad spikes; railroad cross ties and ballast; rail crossing equipment; ramps; rebar; rebar installation; roofing systems; security systems; signage and way finding; soil improvement work; shore and slope protection; siding; steel; stairways; storage rack systems; stormwater management; structural components; surveying; switch gear; temporary structures; temperature control system; thermal barriers; tie box anchoring; tie plates; track operations planning; underlying subgrade; ventilation systems; utilities; walkway systems; and, windows.

D. Deliverable(s):

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): Travel costs are not allowed.

F. Transit Operating Grant Requirements (Transit Only):

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



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EXHIBIT B

Schedule of Financial Assistance

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

A. Fund Type and Fiscal Year:

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
444623-1-94-02	GMR	088794	2022	751000	55.005	Seaport Grant Program	\$16,500,000.00
444623-1-94-02	LF	088794	2022	-	-	Local Matching Funds	\$16,500,000.00
Total Financial Assistance							\$33,000,000.00

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	\$16,500,000.00	\$16,500,000.00	\$0.00	\$33,000,000.00	50.00	50.00	0.00
Capital Equipment/ Preventative Maintenance	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Match to Direct Federal Funding	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Mobility Management (Transit Only)	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Totals	\$16,500,000.00	\$16,500,000.00	\$0.00	\$33,000,000.00			

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

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.

Justin Ryan

Department Grant Manager Name

Signature

Date

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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, FDOT District 2 Seaport Coordinator (email: Justin.Ryan@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.

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- 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 FDOT District 2 Seaport Coordinator.
- 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

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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,

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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): Not Applicable
- 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:

Phone: (904) 360-5457; FAX: (904) 360-5519

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.

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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: _____

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EXHIBIT D

AGENCY RESOLUTION

PLEASE SEE ATTACHED

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**EXHIBIT E
PROGRAM SPECIFIC TERMS AND CONDITIONS – SEAPORTS**

A. General.

1. These assurances 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 seaports and the continued viability of the State Seaport System.
3. The Agency shall comply with the assurances as specified in this Agreement.

B. Required Documents. The documents listed below, as applicable, are required to be submitted to the Department by the Agency in accordance with the terms of this Agreement:

1. Quarterly Progress Reports provided within thirty (30) days of the end of each calendar year quarter, if requested by the Department.
2. Electronic invoice summaries and backup information, including a progress report must be submitted to the District Office when requesting payment.
3. All proposals, plans, specifications, and third party contracts covering the Project.
4. The Agency will upload required and final close out documents to the Department's web-based grant management system (e.g., SeaCIP.com).

C. Duration of Terms and Assurances.

1. 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 a seaport development project, but shall not exceed 20 years from the effective date of this Agreement.
2. 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 the State of Florida.

D. Compliance with Laws and Rules. 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 local governments, which may apply to the Project. Including but not limited to the following (current version of each):

1. Chapter 311, Florida Statutes (F.S.)
2. Local Government Requirements
 - a. Local Zoning/Land Use Ordinance
 - b. Local Comprehensive Plan

E. 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, including but not limited to the following:

1. Federal Requirements
2. Local Government Requirements
 - a. Local Building Codes
 - b. Local Zoning Codes
3. Department Requirements
 - a. Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the “Florida Green Book”)
 - b. Manual on Uniform Traffic Control Devices

F. Consistency with Local Government Plans.

1. 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 seaport.
2. 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.

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3. The Agency assures that the Comprehensive Master Plan, if applicable, is incorporated as part of the approved local government comprehensive plan as required by Chapter 163, F.S.
- G. Land Acquisition Projects.** For the purchase of real property, the Agency assures that it will:
1. Acquire the land in accordance with federal and state laws governing such action.
 2. Maintain direct control of Project administration, including:
 - a. Maintain responsibility for all related contract letting and administrative procedures.
 - b. Ensure a qualified, State certified general appraiser provides all necessary services and documentation.
 - c. Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
 - d. Establish a Project account for the purchase of the land.
 - e. Collect and disburse federal, state, and local Project funds.
 3. The Agency assures that it shall use the land for seaport purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.
- H. Preserving Rights, Powers and Interest.**
1. The Agency will not take or permit any action that 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, it will 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.
 2. If an arrangement is made for management and operation of the funded facility or equipment by any entity or person other than the Agency, the Agency shall reserve sufficient rights and authority to ensure that the funded facility or equipment will be operated and maintained in accordance with the terms and assurances of this Agreement.
 3. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in the funded facility or equipment without prior written approval by the Department. This assurance shall not limit the Agency's right to lease seaport property, facilities or equipment for seaport-compatible purposes in the regular course of seaport business.
- I. Third Party Contracts.** The Department reserves the right to approve third party contracts, except that written approval is hereby granted for:
1. Execution of contracts for materials from a valid state or intergovernmental contract. Such materials must be included in the Department approved Project scope and/or quantities.
 2. Other contracts less than \$5,000.00 excluding engineering consultant services and construction contracts. Such services and/or materials must be included in the Department approved Project scope and/or quantities.
 3. Construction change orders less than \$5,000.00. Change orders must be fully executed prior to performance of work.
 4. Contracts, purchase orders, and construction change orders (excluding engineering consultant services) up to the threshold limits of Category Three. Such contracts must be for services and/or materials included in the Department approved Project scope and/or quantities. Purchasing Categories and Thresholds are defined in Section 287.017, F.S., and Chapter 60, Florida Administrative Code. The threshold limits are adjusted periodically for inflation, and it shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Agreement comply with the current threshold limits. Obligations made in excess of the appropriate limits shall be cause for Department non-participation.
 5. In all cases, the Agency shall include a copy of the executed contract or other agreement with the backup documentation of the invoice for reimbursement of costs associated with the contract.
- J. Inspection or verification and approval of deliverables.** Section 215.422(1), F.S., allows 5 working days for the approval and inspection of goods and services unless the bid specifications, purchase orders, or contracts specifies otherwise. The Agreement extends this timeline by specifying that the inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of an invoice.

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K. Federal Navigation Projects

1. Funding reimbursed from any federal agency for this Project shall be remitted to the Department, in an amount proportional to the Department's participating share in the Project. The Agency shall remit such funds to the Department immediately upon receipt.
2. Department funding, as listed in **Exhibit "B", Schedule of Financial Assistance**, may not be used for environmental monitoring costs.

L. Acquisition of Crane. Department funding, as listed in **Exhibit "B", Schedule of Financial Assistance** will be cost reimbursed using the following schedule, unless stated otherwise in **Exhibit "A", Project Description and Responsibilities**:

1. Sixty (60) percent after landside delivery and acceptance by the Agency.
2. Forty (40) percent after installation and commissioning has been completed.

-- End of Exhibit E --

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EXHIBIT F

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

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

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

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

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

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

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

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

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

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

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

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

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EXHIBIT G

AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE

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

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~

Awarding Agency: Florida Department of Transportation

State Project Title: Seaport Grant Program

CSFA Number: 55.005

***Award Amount:** \$16,500,000

*The award amount may change with amendments

Specific project information for CSFA Number 55.005 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 55.005 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>

BD2022-04-02



SUBMISSION FOR BOARD APPROVAL

SUBJECT: Southeast Toyota Lease Agreement

COST: N/A

BUDGETED: N/A

BACKGROUND:

JM Family Enterprises d/b/a Southeast Toyota Distributors (SET) has been one of the longest standing tenants at JAXPORT, over 50 years of partnership. SET and JAXPORT most recently entered into a long-term (15 years with maximum 10 years of renewal options) in 2002. SET currently occupies 53.42 acres at Talleyrand Marine Terminal for the processing of vehicles.

STATUS:

SET would like to terminate its Lease Agreement at Talleyrand and enter into a new, long-term Lease Agreement for an expanded leasehold (approximately 86 acres) at Blount Island Marine Terminal. As part of the move to Blount Island, SET and JAXPORT plan to demolish the existing buildings on the premises and construct new buildings to accommodate their processing of vehicles, additionally, JAXPORT will add two additional rail spurs dedicated for SET use.

SET desires to enter into a twenty-five (25) year Lease with three (3), five (5) year mutual renewal options, for a maximum forty (40) year Lease. JAXPORT and SET would begin demolition and construction on August 1, 2022. SET would take possession of the property upon completion of the construction, but no later than May 1, 2025.

RECOMMENDATION: Staff recommends that the Board of Directors:

1. Approve the Operating and Lease Agreement between Jacksonville Port Authority and Southeast Toyota Distributors.
2. Authorize the Chief Executive Officer, or his designee, to execute the Operating and Lease Agreement between Jacksonville Port Authority and Southeast Toyota Distributors.

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SUBMISSION FOR BOARD APPROVAL

ATTACHMENTS:

1. Letter of Intent from Southeast Toyota dated November 11, 2021
2. Operating and Lease Agreement

RECOMMENDED FOR APPROVAL:

Nick Primrose
Chief, Regulatory Compliance

Signature: *Nicholas Primrose*
Nicholas Primrose (Apr 18, 2022 17:26 EDT)
Email: nicholas.primrose@jaxport.com

Signature and Date

SUBMITTED FOR APPROVAL:

Eric Green
CEO

Signature: *Eric B. Green*
Eric B. Green (Apr 18, 2022 16:34 EDT)
Email: eric.green@jaxport.com

Signature and Date

BOARD APPROVAL:

April 25, 2022
Meeting Date

Rebecca Dicks/Recording Secretary

ATTEST:

Bradley S. Talbert, Secretary

Wendy O. Hamilton, Chairwoman



**Southeast Toyota
Distributors, LLC**

November 11, 2021

Mr. Eric Green
CEO
Jacksonville Port Authority
2831 Talleyrand Avenue
Jacksonville, FL 32206

Re: Proposal for Ground Lease between Southeast Toyota Distributors, LLC ("Tenant") and Jacksonville Port Authority, a body politic and corporate ("Landlord") for the Premises (as hereinafter defined) located in Jacksonville, FL

Dear Mr. Green:

On behalf of the above referenced Tenant, we are pleased to extend the following proposal ("**Proposal**") to indicate the key business terms and basis upon which Tenant is prepared to enter into a mutually agreed upon ground lease for the Premises (the "**Ground Lease**"). Only a mutually executed and delivered Ground Lease signed by each of Landlord and Tenant will bind the Tenant and Landlord. The proposed terms are as follows:

1. **Ground Lease.** Within ninety (90) days from the **Acceptance Date** (as hereinafter defined) (as may be extended pursuant to the terms hereof, the "**Negotiation Period**"), the Tenant and Landlord may enter into a formal ground lease agreement in a form, and with terms and conditions, including the negotiated business points set forth in this Proposal, mutually agreed upon by Tenant and Landlord (the "**Ground Lease**"). Notwithstanding the foregoing, so long as Tenant remains engaged in the negotiation of the Ground Lease, the Negotiation Period shall be automatically extended for two (2) periods of thirty (30) days each, unless Tenant delivers written notice to the Landlord prior to the expiration of any applicable extension terminating the Negotiation Period as a result of the failure of the parties to be further negotiating the Ground Lease. The term, "**Effective Date**" shall mean the date on which the Ground Lease is executed by both Landlord and Tenant and delivered to each of Landlord and Tenant.
2. **Premises.** Pursuant to the terms of the Ground Lease, Tenant will lease from Landlord, and Landlord, will lease to Tenant for Tenant's exclusive use **approximately 86/- acres¹** of vacant real property with frontage on Dave Rawls Blvd and William Mills St, with an approximate street address of 8975 Dave Rawls Blvd, Jacksonville, FL 32226, all as more particularly depicted on **Schedule I** attached hereto and incorporated by this reference (collectively, the "**Premises**"), which Premises are located on Blount Island making up a larger development owned by Landlord ("**Blount Island**"). The final survey obtained by Tenant, prepared by a surveyor mutually agreed upon by Landlord and Tenant that is licensed in the State of Florida, signed, and sealed by such surveyor shall be used to determine the final legal description of the Premises. The acreage of the Premises as set forth in such survey shall be conclusive. In addition to the Premises, Tenant shall have specific exclusive and non-exclusive right to use of the following areas within Blount Island (the "**Additional Use Areas**"): (i) exclusive right to use the railroad track spur(s) located within the Premises and non-exclusive rights to use the railroad running along the Premises boundary adjacent with William Mills St and traveling off Blount Island except during military operations, (ii) non-exclusive rights to use the bulkheads located within the Blount Island Channels, and (iii) non-exclusive rights to use the roadways and other common areas. The exact location of the Premises will be depicted in the Ground Lease and be subject to a final survey and the plans and work letter entered into pursuant to the terms of the Ground Lease.

¹ NTD: Property appraiser reflects that 72.39 acres of the site has its own parcel id and is RE# 160243-2800. The remainder of the site is part of a much larger parcel that is RE# 160243-0100.

3. **Inspection Period.**

a. **Initial Inspections/Investigations.** From the **Acceptance Date** through the period that is **ninety (90) days** after the **Acceptance Date** (the "**Inspection Period**"), Tenant and its designees, consultants, agents, contractors, subcontractors, attorneys and lenders (each, a "**Tenant Representative**") shall have the right to inspect and investigate the condition of the Premises and Blount Island (including the Additional Use Areas) and make any non-invasive and non-destructive studies it deems necessary, including, without limitation, any Phase I and II environmental, geotechnical, soil and engineering studies, and conduct such further diligence of the Premises and Blount Island as any of the Tenant or the Tenant Representatives deems necessary or desirable, all of which shall be at Tenant's cost and expense. Tenant and its designees must give Landlord at least twenty-four (24) hours' notice to coordinate inspection and/or investigation of the Premises. After the **Acceptance Date** hereof, Landlord shall notify the current tenant(s) of Tenant's right to access the Premises hereunder and will enter into agreements with the current tenant(s) requiring that they cooperate with the inspections and/or investigations hereunder and confirming that such current tenant(s) will vacate the Premises on or before **July 31, 2022**. Within five (5) business days of the **Acceptance Date** (and thereafter from time to time as received), Landlord shall make available to Tenant either electronically or hard copy (provided, however, that any existing surveys shall be full-sized hard copies) all property records in Landlord's possession or control relating to, impacting, or effecting the Premises and Blount Island, including, without limitation, (i) all surveys of the Premises and Blount Island, including, without limitation, all surveys of Blount Island necessary to evidence the availability of utilities, water and sewer rights, ingress and egress rights and such other matters that could impact the proposed Tenant Improvements (as hereinafter defined), (ii) Landlord's existing title insurance policy, if any, (iii) any and all environmental assessments, geotechnical, soil and engineering studies and reports affecting the Premises and any notices relating to any violations of environmental matters or the presence of hazardous materials or endangered or protected plants or species at the Premises, (iv) any and all site plans for the Premises and Blount Island (or if no final site plans, all proposed site plans), (v) copies of all notices, approvals, consents, permits, licenses or other documentation to or from governmental and military authorities or third parties affecting the Premises and the use thereof, and (vi) any and all documentation related to the MCSF – Blount Island Explosive ARC, use of the Premises or the Additional Use Areas and the property zoning and use information, including without limitation any master site plan. Notwithstanding anything contained herein, Tenant may extend for due cause the **Inspection Period** for two (2) additional periods of thirty (30) days each upon written notice to the Landlord, in which event the **Negotiation Period** shall also automatically extend simultaneous therewith.

b. **Premises and Additional Use Areas.** Landlord represents and warrants that to Landlord's actual knowledge (the "**Use Requirement**") (i) there are no documents, instruments, agreement, ordinances or other rules and regulations that would prohibit Tenant from using the Premises or the Additional Use Areas in connection with the conduct of Tenant's Intended Use, with the exception of the Explosive Safety Quantity Distance (ESQD) Arc Coverage and Easement, (attached and incorporated), limiting no more than forty (40) persons to be permitted inside the ESQD during the period of munitions handling operations which the United States Government intends to conduct from 7:00 PM on Friday to 2:00 AM on Monday, at a minimum of twelve (12) operations per year based on an annual schedule with twenty-four (24) hour advance notice prior to any unscheduled operations; and (ii) subject to the foregoing limitation, Tenant shall have the right to access and use of the Premises 365/366 days per year, 24 hours per day, 7 days per week. During the **Inspection Period**, Tenant will conduct its due diligence to confirm that **Use Requirement** is satisfied, and Landlord will cooperate therewith. However, Tenant's due diligence shall not relieve Landlord of these representations and warranties.

Notwithstanding anything contained herein to the contrary, the Ground Lease shall provide that Tenant may terminate the Ground Lease in the event that the United States Military or other governmental agency changes or amends its rules or operations to such an extent that it materially impacts Tenant's operations, including but not limited to, (i) the size of the ESQD arc coverage area is expanded or increased or (ii) Tenant is not permitted to have the foregoing forty (40) persons within the ESQD on the Premises during military operations. During military operations, if requested by Tenant, Landlord shall use its best efforts to provide Tenant, at no additional cost to Tenant, a place for Tenant to offload Tenant's vehicles from the bulkhead and store them during any period of time that Tenant is not permitted to fully staff and utilize the entire Premises as a result of such military operations or any other governmental regulations (including but not limited to OSHA) or similar restrictions.

c. **Cooperation; Indemnification.** Landlord agrees to reasonably cooperate with Tenant's and the Tenant Representatives' investigations and inspections hereunder and to cause the existing tenant(s) to cooperate therewith. In the event Tenant or any of the Tenant Representatives enters upon the Premises for such purposes, Tenant agrees to indemnify, save harmless and defend Landlord from and against any and all claims, liabilities, loss, costs, damage and expenses (including reasonable attorneys' fees) which Landlord may suffer, sustain or incur by reason of Tenant's and Tenant's Representative's actions in connection with such inspections and investigations; provided, however, that the foregoing indemnity shall not be applicable to (i) the mere discovery of an existing condition, including without limitation, any environmental condition on, about, under or in the Premises, or (ii) the gross negligence or willful misconduct of existing tenant(s), Landlord or the Landlord's representatives. This duty of Tenant to indemnify, defend and hold harmless the Landlord shall survive the expiration or termination of this Proposal to the extent that Tenant or any of the Tenant Representatives access the Premises.

d. **Objections/Termination.** Prior to the expiration of the Inspection Period, Tenant shall have the right to either (i) terminate this Proposal, or the Ground Lease, as the case may be by delivering written notice of such termination to Landlord (the "Termination Notice") or (ii) deliver to Landlord written notice (the "Objection Notice") of any objections to which Tenant has with respect to its inspections and investigations, including, without limitation, any title, survey, and environmental objections (the "Objections"). In the event that Tenant timely delivers a Termination Notice, this Proposal, and the Ground Lease as applicable, will terminate as of the date of such Termination Notice and the parties shall have no further obligations to one another under this Proposal or the Ground Lease, except for those matters that expressly survive termination. In the event that Tenant timely delivers an Objection Notice to Landlord, Landlord shall have the option to either (A) refuse to cure such Objections, in which case Landlord shall deliver written notice of such refusal to Tenant within seven (7) days following Landlord's receipt of the Objection Notice (the "Refusal Notice") or (B) agree to use commercially reasonable efforts to cure such Objection, in which case Landlord shall deliver written notice of such commitment to use commercially reasonable efforts to cure to Tenant within seven (7) days following Landlord's receipt of the Objection Notice (the "Cure Notice") and, in which case, Landlord shall have up to thirty (30) days from its receipt of the Objection Notice to cure the Objections to the reasonable satisfaction of Tenant (provided, however, that in the event Landlord delivers the Cure Notice, the Inspection Period and Negotiation Period shall be automatically extended to include the Cure Period and a period that is ten (10) days thereafter during which time Tenant may re-inspect and/or otherwise accept or reject such cure by Landlord). In the event that Landlord delivers a Refusal Notice or is unable to cure or eliminate the Objections within the time hereinabove allowed, Tenant may elect to terminate this Proposal and the Ground Lease within seven (7) days following the date of Tenant's receipt of Landlord's Refusal Notice, or within seven (7) days following the expiration of the aforesaid thirty (30) day curative period, whichever is applicable, by giving written notice of such termination to Landlord, or, alternatively, Tenant may elect to proceed with the Ground Lease and accept the Premises subject to and notwithstanding the existence of such Objections. Notwithstanding anything herein to the contrary, should any of the Objections included in the Objection Notice include (a) liens or encumbrances caused or created by the Landlord that can be cured by a monetary nature and/or (b) liens or encumbrances caused or created by a third party other than the Landlord, Tenant or the Tenant's agents that can be cured by a monetary nature up to a cap in an amount to be agreed upon in the Ground Lease (the "Monetary Liens"), Landlord shall be required to cure same (by either payment or bonding) and if Landlord does not cure such Monetary Liens, Tenant shall have the right to cure such Monetary Liens and off-set the amount paid by Tenant to cure same against the amounts due under the Ground Lease from Tenant to Landlord. In the event that the Tenant fails to deliver a Termination Notice or an Objection Notice prior to the expiration of the Inspection Period, Tenant shall be deemed to have accepted the Premises with respect to the survey, improvements condition, title and environmental matters and shall have no further right to object to matters arising as a result of survey, improvements condition, title or environmental matters; provided, however, that Tenant shall have the right to object to any new matters arising from and after the expiration of the Inspection Period that are not caused by Tenant.

4. Conditions Precedent to Effectiveness of Ground Lease.

a. **Effectiveness of Ground Lease.** As further set forth in the Ground Lease, Tenant's obligations under the Ground Lease and its obligation to continue to lease the Premises after the Inspection Period shall be contingent upon (a) Landlord delivering to Tenant, good, marketable and insurable leasehold title to

the Premises, (b) receipt of evidence that the Premises are properly zoned for the Tenant Improvements and the Intended Use (as hereinafter defined), and all applicable permits and certificates required for operation of the Intended Use, and (c) delivery of the Premises to Tenant free of any and all other parties in possession, together with evidence thereof as reasonably requested by Tenant (and, if for any reason, Landlord is unable to deliver possession of the Premises to Tenant on **July 31, 2022** or there is litigation related to any parties in possession or prior tenant which is continuing on the date of July 31, 2022, which prevents Tenant from taking possession of the Premises, then, in either event, Tenant shall have a right to terminate the Lease and Landlord shall reimburse Tenant for any and all costs it has incurred in performing its due diligence, including, without limitation, any pre-construction related costs, permitting expenses, costs incurred in connection with the preparation of plans, costs in connection with pre-ordered materials, and engineer, architect, and contractor expenses). In the event Tenant terminates the Lease and Landlord reimburses Tenant for costs incurred, Landlord, subject to any transfer fees, shall be granted complete ownership of any and all engineering, design and construction plans if **assignable**. Landlord shall cooperate with Tenant in providing any and all permits, licenses, approvals, and certificates that are currently available for Blount Island and the Premises, and in confirming any and all necessary approvals for the Tenant's development of the Premises for Tenant's Intended Use.

- b. **Site Plan Approvals Period.** Tenant shall have one hundred eighty (180) days from the **Effective Date** of the Ground Lease (the "**Site Plan Period**") to seek approval of Tenant's site plan with respect to Tenant's Intended Use of the Premises (the "**Site Plan**") from the applicable governmental authorities having jurisdiction over the Premises ("**Governmental Authorities**"), all of which shall be at Tenant's cost and expense. Prior to the Effective Date, the parties acknowledge and agree that Landlord has represented to Tenant that in connection with the Tenant's Intended Use of the Premises and approval of Tenant's Site Plan: (i) Landlord is the sole Governmental Authorities required to approve Tenant's site plan and stormwater drainage, (ii) Landlord has an approved master site plan which has been or will be delivered to Tenant in accordance herewith, and (iii) the sole permits required are building permits through Duval County and/or the City of Jacksonville, as applicable. Tenant shall have the right to terminate the Lease, to be exercised prior to expiration of the Site Plan Period, as may be extended, in the event that, after using continuous, diligent, and good faith efforts and complying with applicable law, the applicable Governmental Authorities reject or deny Tenant's Site Plan or do not provide an approval which shall be valid for construction commencing after the Effective Date, in which event the parties shall be released of all further obligations under the Lease except as expressly set forth therein. Notwithstanding the foregoing, in the event Tenant has not obtained approval of the Site Plan during the Site Plan Period, after using continuous, diligent, and good faith efforts and complying with applicable law, and the Site Plan has not been rejected as provided herein, the Site Plan Period shall automatically extend for an additional ninety (90) day period. Tenant shall keep Landlord apprised of the Site Plan process and shall provide Tenant with copies of all documentation and written correspondence with the Governmental Authorities. Landlord shall cooperate with Tenant with respect to the Site Plan approvals.
5. **Indemnifications.** The Ground Lease shall contain mutually agreed upon cross indemnities. Such indemnities shall include, but are not limited to, allocation of responsibility and liability as between Landlord and Tenant with respect to pre-existing environmental conditions at the Premises.
6. **Term.** The Ground Lease shall be for an initial term of twenty-five (25) years from the Commencement Date (the "**Initial Term**"). The Initial Term shall be subject to renewal, with both parties' consent, which shall not be unreasonably withheld, for three (3), five (5) year terms thereafter (each, a "**Renewal Term**" and collectively, the "**Renewal Terms**"). Tenant may request a renewal by sending notice to the Landlord at least 180 days prior to the end of the Initial Term or applicable Renewal Term.
7. **Construction and Improvements.** Landlord and Tenant shall discuss (i) responsibility for demolition of existing improvements and funds available for demolition and construction of new improvements from the Port Authority as a Tenant improvement allowance or otherwise, if any, and (ii) prorated compensation for Tenant improvements constructed on the Premises in the event the Ground Lease is terminated prior to expiration of the initial twenty-five (25) year term. Tenant may elect to demolish all existing improvements at the Premises, construct, or cause to be constructed new improvements desired for Tenant to operate the Premises for Tenant's Intended Use (the "**Tenant Improvements**"), such Tenant Improvements to be depicted in the final plans and to be further set forth in the work letter to be attached to and incorporated as part of the Ground Lease (the "**Work Letter**"), and to otherwise be completed in accordance with applicable law, by

licensed contractors, and as required by Tenant. All Tenant Improvements shall be owned and maintained by Tenant during the Term, and ownership of such Tenant Improvements shall be transferred in good condition, wear and tear excepted, to Landlord upon expiration or earlier termination of the Ground Lease.

8. **Access and Easements.** As a condition to Tenant's obligations under the Ground Lease, Landlord, at Landlord's cost and expense, will provide evidence of or have established reasonably acceptable easements for access, utilities, water and sewer within Blount Island, including, without limitation, access to and from Blount Island, the bulkheads and the premises required for operation of the Premises for Tenant's Intended Use (as hereinafter defined), and Landlord, at Landlord's cost shall obtain all applicable consents and approvals, including, without limitation, any governmental and military approvals, and cause such conditions to be met for such approvals, as required under applicable law or as required for the Tenant Improvements.
9. **Intended Use/Zoning.** The permitted use of the Premises shall be for the operation of the Premises for the Intended Use and/or any other lawful purpose. Tenant intends to initially use the Premises for the operation of a vehicle processing facility and to offer other full marine services as a terminal operator, including terminal operator and stevedoring services which may include, but are not limited to, the receipt, storage, distribution, parking, handling, processing and delivery of motor vehicles, accessorizing vehicles, making incidental repairs and performing maintenance of vehicle handling and processing equipment and engaging in non-retail processing of automobiles and related business and office functions, to the extent allowed by applicable law, all of the foregoing, together with such administrative and office uses as deemed necessary by Tenant in connection with the foregoing (collectively, the "Intended Use"). All of the above will be subject to all applicable regulatory agency, insurance, and security requirements which shall be delivered by Landlord to Tenant within five (5) days from the Effective Date.
10. **Other Expenses Under Ground Lease.** The Ground Lease shall be triple net, with the following amounts, to be paid by Tenant:
 - a. **Premises Rental Fee:** The parties do hereby agree that the Rent under the Lease shall begin on the Commencement Date in the amount to be determined by the Parties during the Negotiation Period. On a monthly basis, from and after the Commencement Date, Tenant shall pay rent ("Rent") in an amount to be determined by the Parties during the Negotiation Period. No other fees or assessments, including but not limited to Port Authority utilization fees, other fees and charges, and adjustments of the Premises shall be due or payable by Tenant.
 - b. **Insurance and Real Estate Taxes.** Tenant shall be responsible: (i) *annually*, for all ad-valorem taxes and assessments on the Tenant Improvements, to the extent applicable, (ii) *annually*, for all real property taxes and assessments apportionable to the Premises if required by law, and (iii) for insuring the Tenant Improvements and the Premises. The foregoing items shall be further described in the Ground Lease and provide for such exclusions as reasonably agreed upon by the parties.
 - c. **Maintenance, Repair, Replacement:** Tenant shall be responsible for the maintenance, repair, and replacement of the Tenant Improvements. Landlord shall be responsible for any and all fees and expenses associated with any maintenance, repair or replacement arising out of or in connection with environmental matters existing at the Premises on or prior to the Commencement Date or which are not caused by Tenant.

Landlord shall be responsible for all other costs, charges and expenses including, without limitation, all common area expenses (i.e., roadways, bulkheads, security, bridges and other common areas utilized in connection with the Premises).
11. **Relocation and Termination of Existing Lease.** Landlord's affiliate, Jacksonville Seaport Authority, a body politic and corporate entity created and existing under Chapter 2001-319, Laws of Florida, as amended, as landlord, and JM Family Enterprises, Inc. (Tenant's parent company), as tenant, are currently parties to that certain Agreement and Lease dated February 1, 2002 (the "Existing Lease") for premises described therein ("Existing Premises"). The Parties shall have their affiliate companies, under a separate document, cancel the Existing Lease upon the Commencement Date.
12. **Commencement Date.** The obligation of Tenant to pay any of the expenses set forth above shall commence (the "Commencement Date") on the date that is ninety (90) days after Tenant completes construction of the

Tenant Improvements, as evidenced by Tenant's receipt of the final certificate of occupancy for the Tenant Improvements and Tenant's opening for business from the Premises, which shall not exceed two (2) years following the Effective Date (subject to force majeure).

13. **Possession.** Landlord shall deliver and Tenant shall accept, full exclusive leasehold possession of approximately 41.6 acres of the Premises (as depicted in Graphic 1 attached) (the "Construction Acres") on July 31, 2022. Landlord shall deliver and Tenant shall accept, full exclusive leasehold possession of the entire Premises no later than August 1, 2023.
14. **Billboard/Signage.** Tenant shall have the right to install signage and billboards at the Premises as desired by Tenant, as permitted by applicable law.
15. **Sublease and Assignment.** Tenant shall have the right to sublease all or any portion of the Premises with prior written consent of the Landlord (not to be unreasonably withheld). Tenant shall have the right to assign all or any portion of its rights in the Ground Lease with the prior written consent of the Landlord (not to be unreasonably withheld).
16. **Notice and Cure.** The Ground Lease will provide for notice and opportunity to cure all defaults thereunder, as reasonably agreed by the parties.
17. **Waiver of Landlord Lien, Right to Encumber.** The Landlord shall waive the Landlord's statutory lien rights and all other lien rights with respect to the Tenant Improvements and all of the Tenant's inventory, personal property, equipment, fixtures, and other improvements. Landlord shall deliver documentation reasonably requested by Tenant to confirm the foregoing landlord lien waiver and tenant lien rights.
18. **Right of First Offer/Right of First Refusal.** The Landlord and Tenant shall include in the Ground Lease a limited right of first offer and right of first refusal in favor of Tenant on the approximately 13-acre parcel of land located adjacent to the Premises currently being occupied for the sole benefit of Volkswagen, in the event (a) Volkswagen ceases to operate on this parcel and (b) Landlord desires to lease the parcel during the term of the Ground Lease and shall be leased on terms substantially similar to the Ground Lease. Additionally, Landlord and Tenant shall discuss a possible sell/purchase agreement on the existing parcel of property of the Tenant's affiliate, located at 1945 Thelma Street, Jacksonville, Florida.
19. **Real Estate Brokers.** The parties will warrant and represent to each other that there are no real estate brokers with respect to the Ground Lease or the transactions contemplated herein.
20. **Representation of Authority.** Each party warrants and represents that it has the power and authority to execute this Proposal and to enter into a Ground Lease in connection therewith.
21. **Nondisclosure.** The parties agree that the terms and conditions of this Proposal, as well as the Ground Lease, shall be kept in the strictest confidence and shall be disclosed only to such third-party professionals, potential lenders, franchisors, or joint venture partners of the parties on a need-to-know basis, and the foregoing will be advised of this confidentiality requirement, subject to the limitations of Chapter 119, Florida Statutes (the "Public Records Laws")
22. **Proposal.** This Proposal is proposal only. It is not legally binding on either party, except for the indemnification provisions of Paragraph 3(c), the nondisclosure provisions of Paragraph 21 and the standstill provisions of Paragraph 23. It is, however, an indication of the good faith intent of the parties to enter into a binding Ground Lease which shall incorporate the terms and conditions hereof together with such other provisions as the parties may mutually agree.
23. **Standstill/Exclusive Right to Negotiate.** Concurrent with the full execution of this Proposal, Landlord shall promptly cease any negotiations with any third party relating to all or any portion of the Premises. Landlord hereby grants exclusive negotiating rights to the Tenant during the Negotiation Period (the "Exclusive Period"). During the Exclusive Period, Landlord and Tenant will negotiate the Ground Lease in good faith and without unreasonable conditions or delays. In the event a Ground Lease is not entered into within the Exclusive Period, then the Exclusive Period shall terminate, this Proposal shall automatically become null

and void, and neither party shall have any further obligation to one another, except for the provisions of Paragraphs 3(c) and 21 which shall survive the expiration or termination of this Proposal.

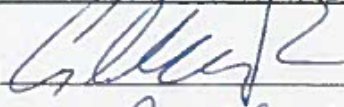
24. **Counterparts.** This Proposal may be executed in several counterparts, each of which will be deemed an original, but all of which will constitute one and the same agreement. Facsimile or PDF signatures will be treated as originals for all purposes.

If the foregoing meets with Landlord's approval, please indicate your approval by signing below and returning one executed copy to the undersigned. This proposal shall be deemed null and void unless Landlord accepts same in writing and delivers an executed copy hereof via facsimile or PDF to the undersigned by November 5, 2021 at 3:00 PM, Eastern Standard Time.

THIS PROPOSAL IS NOT INTENDED TO AND SHALL NOT BE DEEMED TO BE A BINDING CONTRACT OR OFFER TO ENTER INTO A CONTRACT OR LEASE AND WILL NOT CREATE ANY RIGHT OR OBLIGATION ON EITHER PARTY BASED ON ANY LEGAL OR EQUITABLE THEORY INCLUDING THE RIGHT TO CONTINUE ANY NEGOTIATIONS. THE PROPOSED TERMS OF THE TRANSACTION SET FORTH HEREIN ARE ALSO NON-BINDING, EXCEPT AS EXPRESSLY SET FORTH HEREIN AT SECTION 22, AND SUBJECT TO CHANGE.

Sincerely,

Southeast Toyota Distributors, LLC

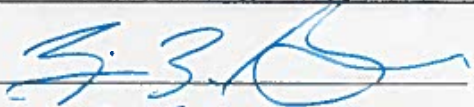
By: 

Print Name: Casey L. Gunnell Jr.

Title: Group VP

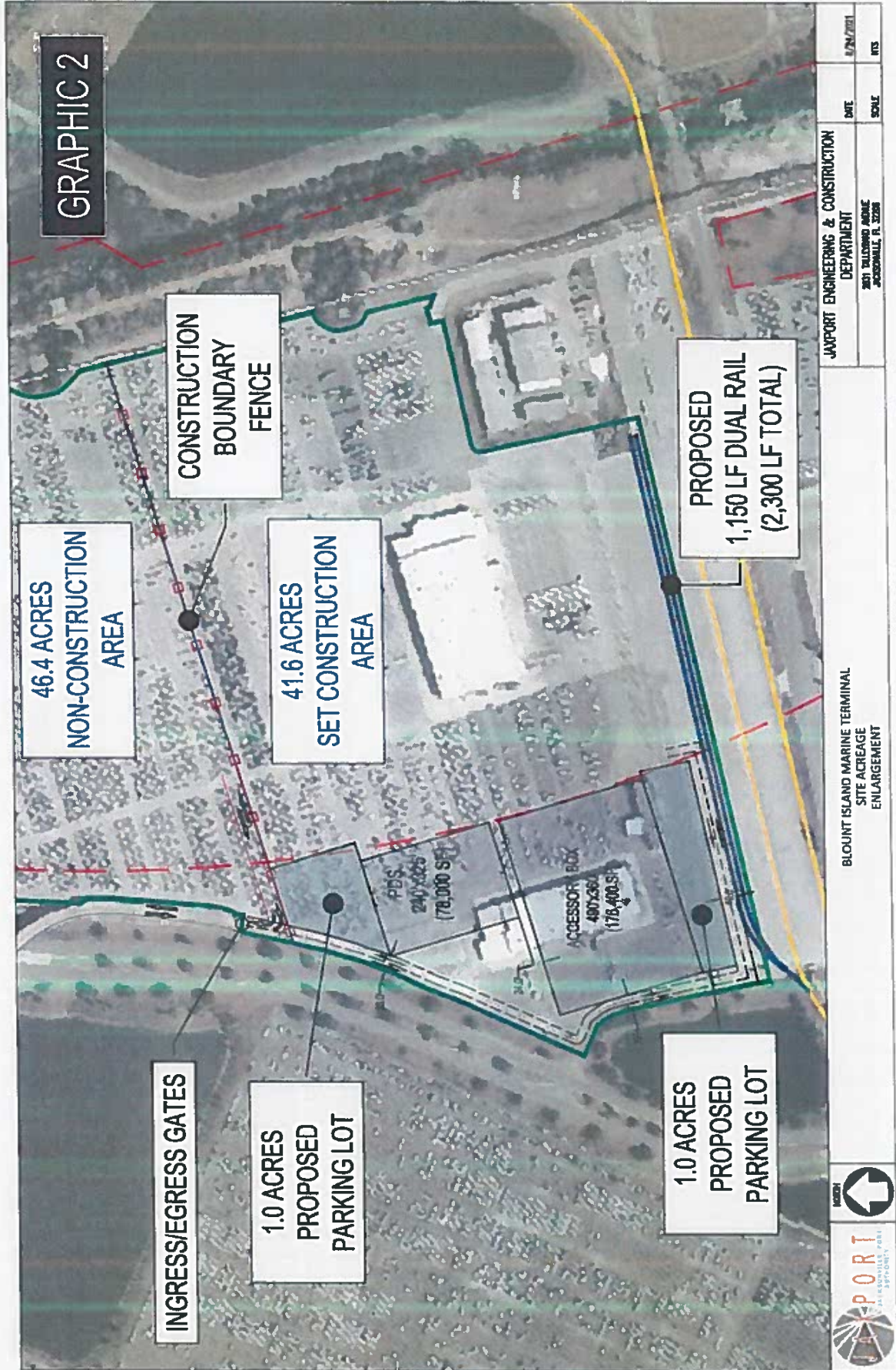
AGREED TO AND ACKNOWLEDGED THIS 12th day of November, 2021 (the "Acceptance Date").

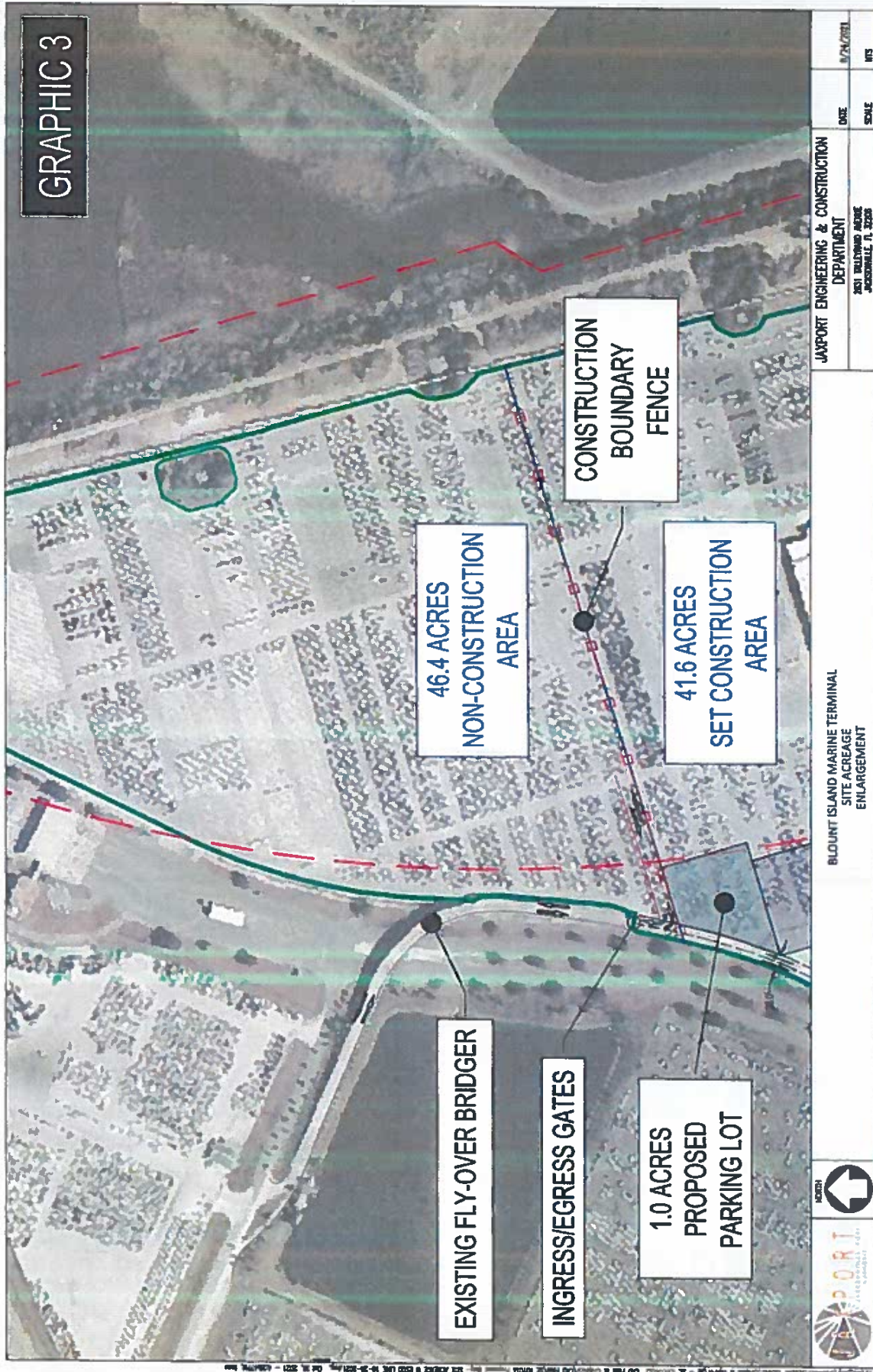
Jacksonville Port Authority, a body politic and corporate

By: 

Name: ERIC B. GREEN

Title: CHIEF EXECUTIVE OFFICER





Facilities Lease Agreement

by and between

Jacksonville Port Authority

and

Southeast Toyota Distributors, LLC

dated April ____, 2022

Facilities Lease Agreement

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FACILITIES LEASE AGREEMENT

THIS FACILITIES LEASE AGREEMENT (this "Agreement") is made and entered into as of this ____ day of April, 2022 (the "Effective Date"), by and between the **JACKSONVILLE PORT AUTHORITY**, a body politic and corporate created and existing under Chapter 2004-465, Laws of Florida, as amended (the "Authority"), and **SOUTHEAST TOYOTA DISTRIBUTORS, LLC**, a Delaware limited liability company (the "Lessee").

WITNESSETH:

WHEREAS, the Authority is the owner of certain vessel berthing, cargo handling and storage facilities known as the Blount Island Marine Terminal ("Terminal Facilities") located in Jacksonville, Florida; and

WHEREAS, the Lessee desires to lease a certain portion of the Terminal Facilities and conduct business operations thereon; and

WHEREAS, the Authority is willing to lease that portion of its Terminal Facilities to the Lessee subject to the terms and conditions contained herein; and

NOW, THEREFORE, for and in consideration of the mutual covenants and benefits herein contained, the Authority and the Lessee do hereby mutually undertake and agree, each for itself and its successors and assigns, as follows:

Article 1. DEFINITIONS

1.1 Defined Terms.

In addition to terms defined elsewhere in this Agreement, the following words and terms as used in this Agreement and the preambles hereto shall have the following meanings unless the context or use clearly indicates another or different meaning or intent.

"Act" means Chapter 2004-465, Laws of Florida, as amended, and other applicable provisions of law.

"Act of Bankruptcy" means any of the following events:

(a) The Lessee shall (1) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee, liquidator or the like of the Lessee (or such other Person) or of all or any substantial part of its property, (2) commence a voluntary case under the Bankruptcy Code, or (3) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts; or

(b) A proceeding or case shall be commenced and not dismissed within ninety (90) days thereafter, without the application or consent of the Lessee in any court of competent jurisdiction, seeking (1) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts, of the Lessee (or any such other Person), (2) the appointment of a trustee,

receiver, custodian, liquidator or the like of the Lessee (or any such other Person) or of all or any substantial part of its property, or (3) similar relief in respect of the Lessee (or any such other Person) under any law relating to bankruptcy, insolvency, reorganization, winding-up or composition or adjustment of debts.

“Applicable Environmental Law” shall include, but shall not be limited to, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. §§9601 et. seq., the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§6901 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§1251 et seq., the Clean Air Act, 42 U.S.C. §§7401 et. seq., Chapters 376 and 403, Fla. Stat., and Chapters 360, 362 and 365, Jacksonville Ordinance Code and the regulations relating thereto, and any other local, state and/or federal laws or regulations whether currently in effect or hereafter enacted that govern (i) the existence, cleanup and/or remedy of contamination on property by a Hazardous Substance; (ii) the protection of the environment from spilled, deposited or otherwise emplaced contamination by a Hazardous Substance; (iii) the control of Hazardous Substances; or (iv) the use, generation, transport, removal or recovery of Hazardous Substances.

“Actual Premises Delivery Date” The date that the Authority delivers full exclusive leasehold possession of the Premises to Lessee in the condition required by this Agreement and being one and the same as the Actual Expansion Premises Delivery Date.

“Actual Expansion Premises Delivery Date” The date that the Authority delivers full exclusive leasehold possession of the Expansion Premises to Lessee in the condition required by this Agreement and being one and the same as the Actual Premises Delivery Date.

“Authority” means the Jacksonville Port Authority, a public body corporate and politic of the State of Florida, created and established pursuant to the Act.

“Authority Delay” means any delay in the substantial completion of the Initial Tenant Improvements resulting from any of the following causes: (i) an act or omission of the Authority, or anyone performing any work on behalf of the Authority, including, without limitation, its contractors, subcontractors, and suppliers, (ii) a default hereunder by the Authority, (iii) the Authority’s failure or delay in obtaining any applicable consents and approvals in connection with the Initial Tenant Improvements, including without limitation, any governmental and military approvals, and/or (iv) the failure of the Authority to meet any specific deadlines agreed to by the Authority and Lessee with respect to the Initial Tenant Improvements.

“Authority’s Work” shall have the meaning set forth in the Work Letter attached hereto as **Exhibit D**.

“Bankruptcy Code” means Title 11 of the United States Code, as amended, and any successor statute or statutes having substantially the same function.

“Berthing Area” means that portion of the Terminal Facilities containing the ro-ro dock and wharf facilities where the ships of the Lessee or the Lessee’s customers will be loaded and off-loaded, which shall include, without limitation, the berthing areas depicted on **Exhibit F** attached hereto.

“City” means the City of Jacksonville, a municipality duly created by and validly existing pursuant to Chapter 92-341, Laws of Florida, as amended.

“Code” means the Internal Revenue Code of 1986, as amended, and the rulings and regulations (including temporary and proposed regulations) promulgated thereunder or under the Internal Revenue Code of 1954, as amended.

“Contract Year” means the twelve (12) month period commencing on the Date of Beneficial Occupancy, and each twelve (12) month period thereafter during the term of this Agreement.

“Date of Beneficial Occupancy” means the date that is ninety (90) days after the date that all Initial Tenant Improvements are substantially completed in accordance with the Work Letter, final approved Plans, and applicable laws, and in a turnkey condition, as evidenced by Lessee’s receipt of the final certificate of occupancy for all Initial Tenant Improvements from the Premises and otherwise in accordance with the provisions of Section 4.1 and the Work Letter (collectively, “Conditions”) and the Actual Premises Delivery Date and Actual Expansion Premises Delivery Date have occurred, provided, however, in no event shall the Date of Beneficial Occupancy be a date (i) later than the date that is thirty-six (36) months from the Effective Date hereof, subject to Force Majeure, Authority Delay, or delays in construction outside of the control of the Authority or Lessee.

“Effective Date” means the date set forth on the first page of this Agreement.

“Equipment” means all installations, fixtures, personalty, and other equipment, including accessions thereto and replacements thereof, required for the operation of the Premises, located on or to be constructed on the Land.

“ESQD Arc Coverage Area” means the area governed by the United States Explosive-Safety Quantity-Distance arc which impacts a portion of the Premises, as more fully outlined in the Grant of Easement.

“Estimated Premises Delivery Date” means July 31, 2022.

“Estimated Expansion Premises Delivery Date” means August 1, 2023.

“Expansion Premises” means that certain portion of the Authority’s property consisting of approximately 46.4 acres of the Land and the Improvements constructed and installed at the Terminal Facilities, as depicted on Exhibit A-2.

“Expansion Premises Delivery Date” means the date that is on or before August 1, 2023.

“Hazardous Material Contamination” shall mean the contamination of the improvements, facilities, soil, groundwater, air or of any other property as a result of Hazardous Substances on, under or emanating from the Premises, in excess of applicable State or Federal action levels, including Hazardous Material Contamination on, under or emanating from the Premises to the extent it migrates from the Premises.

“Hazardous Substance” means any substance:

- (i) the presence of which requires investigation, reporting, removal or remediation under any Applicable Environmental Law;
- (ii) that is or becomes defined as a “hazardous waste,” “hazardous substance,” “hazardous material,” “extremely hazardous substance,” or other type of pollutant or contaminant under any Applicable Environmental Law;
- (iii) that is toxic, reactive, explosive, corrosive, flammable, radioactive, carcinogenic, mutagenic, teratogenic, or otherwise hazardous and is or becomes regulated by any Applicable Environmental Law;
- (iv) that is or contains oil, gasoline, diesel fuel, aviation fuel, or other petroleum hydrocarbons, products or derivatives, other than petroleum, crude oil, and petroleum products to the extent not contained within regularly operated motor vehicles;
- (v) that is or contains PCBs, asbestos, radon or urea formaldehyde;
- (vi) that is fungi or bacterial matter which reproduces through the release of spores or the splitting of cells, including but not limited to, mold (including, without limitation, penicillium/aspergillus and stachybotrys chartarum), and Legionella (legionella pneumophila); or
- (vii) the presence of which causes or threatens to cause a nuisance upon the Property or to adjacent property or poses or threatens to pose a hazard to the health or safety of any person, to plant or animal life, or to the environment, including, but not limited to sewage sludge, industrial slag, solvents and/or any other similar substances or materials.

Notwithstanding the foregoing, “Hazardous Substances” shall not include the following with respect to the operation of the business conducted from the Premises: (i) “de minimis” quantities of such materials; (ii) substances customarily present in the ordinary course of business of ownership, operation and maintenance of a similarly situated commercial property in a prudent manner and otherwise stored and/or used in accordance with Applicable Environmental Laws; or (iii) any quantities of such materials which are permitted to remain in the environment, including soil, sediments, groundwater, or other environmental media pursuant to principles of risk-based corrective action under Applicable Environmental Laws.

“Hazardous Substance Release” shall be interpreted in the broadest sense to mean the spilling, discharge, deposit, injection, dumping, emitting, releasing, leaking or placing of any Hazardous Substance into the air or into or upon any land or waters, except as authorized by a then current and valid permit issued under the Applicable Environmental Laws.

“Improvements” means all of those buildings, improvements, structures and related facilities, including accessions thereto, and alterations, additions and replacements thereof, located on or to be constructed or installed on the Land.

“Initial Tenant Improvements” means that certain collection of Improvements to be constructed or installed on the Land in accordance with the Work Letter attached hereto as **Exhibit D**.

“Land” shall mean, the land as legally described on **0-1** hereto, inclusive of the Premises and the Expansion Premises.

“Lessee” has the meaning set forth in the Preamble.

“Person” means any natural person, firm, partnership, association, corporation, limited liability company, public body, or other legal entity.

“Premises” means that certain portion of the Authority’s property consisting of approximately 42.245 acres of the Land and the Improvements constructed and installed at the Terminal Facilities, as depicted on **Exhibit A-2**, and commonly known as 8975 Dave Rawls Blvd, Jacksonville, FL 32226. Upon delivery of the full exclusive leasehold possession of the Expansion Premises to Lessee in accordance with this Agreement, Premises shall be deemed to include the Expansion Premises.

“Terminal Facilities” means certain vessel berthing, cargo handling and storage facilities known as the Blount Island Marine Terminal located in the City and owned and operated by the Authority.

1.2 **Rules of Construction**.

Unless the context clearly indicates to the contrary, the following rules shall apply to the construction of this Agreement:

(a) Words importing the singular number shall include the plural number and vice versa.

(b) The table of contents, captions, and headings herein are for convenience of reference only and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

(c) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders, and words of the neuter gender shall be deemed and construed to include correlative words of the masculine and feminine genders.

(d) All references in this Agreement to particular “Articles” or “Sections” are references to articles or sections of this Agreement, unless otherwise indicated.

Article 2.
GRANT OF PREMISES

2.1 Premises.

Subject to the provisions and conditions hereinafter specified, the Authority hereby leases the Premises to the Lessee during the Term (as defined hereafter) for the uses identified herein. The effectiveness of this Agreement is conditioned upon the Authority delivering to Lessee (i) good, marketable and insurable leasehold title to the Premises, (ii) evidence that the Premises are properly zoned for the Initial Tenant Improvements and Intended Use and (iii) all applicable permits and certificates for the Intended Use. The Authority shall deliver full exclusive leasehold possession of the Premises to Lessee on or prior to the Estimated Premises Delivery Date. If for any reason the Authority does not deliver full exclusive leasehold possession of the Premises to Lessee on or prior to the Estimated Premises Delivery Date or there is litigation related to any parties in possession or prior tenant which is continuing as of the Estimated Premises Delivery Date that prevents Lessee from taking possession of the Premises, then, in either event, Lessee shall have the option to either (i) terminate this Agreement by providing written notice to the Authority at any time prior to the date that the Authority delivers full exclusive leasehold possession of the Premises to Lessee in accordance with this Agreement and the Authority shall reimburse Lessee for any and all costs Lessee has incurred in performing its due diligence and preparing to occupy the Premises, including, without limitation, any zoning reports, environmental, geotechnical, soil and engineering studies, title searches, pre-construction related costs, permitting expenses, costs incurred in connection with the preparation of plans, costs in connection with pre-ordered materials, and engineer, architect and contractor expenses, and any and all costs Lessee has incurred in connection with the Authority's Work, within thirty (30) days after the Authority's receipt of evidence for such costs or (ii) receive abatement of the Premises Rental Fees until the Actual Expansion Premises Delivery Date. In the event that Lessee terminates this Agreement and the Authority reimburses Lessee for such costs in accordance with this Section, to the extent assignable, Lessee shall assign any and all engineering, design, and construction plans to the Authority, subject to any transfer fees (which shall be at the Authority's sole cost and expense). If the Authority does not deliver full exclusive leasehold possession of the Premises to Lessee on or before the Estimated Premises Delivery Date, the Authority shall provide Lessee with at least five (5) business days' prior written notice of the date that the Authority intends to deliver such possession to the Lessee. Upon the determination of the Actual Premises Delivery Date, Lessee shall deliver to the Authority a letter memorializing such date and the Authority shall countersign such letter within ten (10) days from receipt thereof. This Agreement remains subject to Lessee's review of any and all diligence reports obtained in connection with the Premises and this Agreement.

2.2 Expansion Premises. The Authority shall deliver full exclusive leasehold possession of the Expansion Premises to Lessee on or prior to the Estimated Expansion Premises Delivery Date. Lessee's acceptance of the Expansion Premises shall be conditioned upon the Authority delivering to Lessee (i) good, marketable and insurable leasehold title to the Expansion Premises, (ii) evidence that the Expansion Premises are properly zoned for the Initial Tenant Improvements and Intended Use, and (iii) all applicable permits and certificates for the Intended Use. If for any reason the Authority does not deliver full exclusive leasehold possession of the Expansion Premises to Lessee on or prior to the Estimated Expansion Premises Delivery Date or there is litigation related

to any parties in possession or prior tenant which is continuing as of the Estimated Expansion Premises Delivery Date that prevents Lessee from taking possession of the Expansion Premises, then, in either event, Lessee shall have the option to (a) terminate this Agreement by providing written notice to the Authority at any time prior to the date that the Authority delivers full exclusive leasehold possession of the Expansion Premises to Lessee in accordance with this Agreement and the Authority shall reimburse Lessee for any and all costs Lessee has incurred in performing its due diligence and preparing to occupy the Premises and Expansion Premises, including, without limitation, any zoning reports, environmental, geotechnical, soil and engineering studies, title searches, pre-construction related costs, permitting expenses, costs incurred in connection with the preparation of plans, costs in connection with pre-ordered materials, and engineer, architect and contractor expenses, and any and all costs Lessee has incurred in connection with the Authority's Work (collectively, "Expansion Premises Costs"), within thirty (30) days after the Authority's receipt of evidence for such costs, (b) by written notice to the Authority at any time prior to the date that the Authority delivers full exclusive leasehold possession of the Expansion Premises to Lessee in accordance with this Agreement, elect not to take possession of the Expansion Premises, and in such event, Lessee shall have no obligations or liabilities with respect thereto, the Authority shall reimburse Lessee any and all Expansion Premises Costs within thirty (30) days after the Authority's receipt of evidence for such costs, and the date of delivery of such notice to the Authority shall be deemed the Date of Beneficial Occupancy, provided that the Conditions have been met and the Actual Premises Delivery Date has occurred, or (c) receive abatement of Premises Rental Fees and any and all other charges and fees hereunder until the Actual Expansion Premises Delivery Date. Upon the determination of the Actual Expansion Premises Delivery Date, the Lessee shall deliver to the Authority a letter memorializing such date and the Authority shall countersign such letter within ten (10) days from receipt thereof. On or before the Actual Premises Delivery Date, the Authority shall, at no cost or expense to Lessee, cause a reasonably acceptable fence or other barrier ("Fence") to be installed along the boundary between the Premises and Expansion Premises ("Boundary Line"), which Boundary Line is depicted on **Exhibit A-2**. On or before the Estimated Premises Delivery Date, the Authority may, at no cost or expense to Lessee, construct a temporary structure ("Temporary Structure") on the Expansion Premises for storage and export, in a location reasonably agreed to by Lessee. The Authority shall cause the Fence and Temporary Structure to be removed, at no cost or expense to Lessee, prior to the Actual Premises Delivery Date. At all times during which the Expansion Premises is occupied by a party other than Lessee, the Authority shall take any and all reasonable actions to prevent unreasonable interference with or disturbance of Lessee's use of the Premises by the occupant thereof.

Article 3. TERM OF AGREEMENT

3.1 Term.

The term of this Agreement shall commence upon the Date of Beneficial Occupancy and continue for the period of time set forth on **Exhibit B** attached hereto ("Term") unless this Agreement is terminated sooner as provided herein. The Term of this Agreement shall also include any period of time contained within a renewal term or any holdover period of this Agreement.

3.2 Extension or Renewal.

The Authority and the Lessee agree that the initial Term of this Agreement may be extended for three (3) additional periods of five (5) years each if both the Authority and the Lessee mutually agree in writing to such extension, which agreement by the Authority shall not be unreasonably withheld, before the expiration of the initial Term. The renewal options must be requested by the Lessee by written notice to the Authority on or before the date that is at least one hundred eighty (180) days prior to the end of the initial Term or an extended Term, as applicable. Notwithstanding anything to the contrary herein, the Lessee's exercise of any renewal option is not binding on the Authority, in its sole discretion, if the Lessee is then in an uncured Event of Default. If the Authority determines that the Agreement should be extended per Lessee's request, the Authority shall communicate its approval in writing to Lessee within thirty (30) days of the Authority's receipt of Lessee's written request. Should the Authority fail to so communicate its approval or denial of the extension request within such 30-day period, then the current Term shall be deemed extended for such extended Term, as applicable. Within thirty (30) days from the termination of this Agreement, the Authority shall reimburse Lessee for (i) any unamortized cost of the Authority's Work paid for by Lessee that exceeds the reimbursement received by Lessee under the FDOT Program plus (ii) the unamortized cost of any Amortizable Improvements (as defined below) made by Lessee (collectively, "Termination Fee"). The Authority and Lessee do hereby agree that with respect to the Termination Fee, the Authority's Work and any Amortizable Improvements shall be subject to a twenty (20) year amortization (except HVAC, which shall be subject to a ten (10) year amortization).

3.3 Hold Over Period.

In the event this Agreement is terminated or the Term expires, and the Lessee continues to remain in possession of or use or occupy the Premises, such continuation of possession or use shall not renew the Term but shall establish only a tenancy at sufferance between the parties hereto. Except as provided in this Section 3.3, the Lessee's use of the Premises during a tenancy at sufferance shall be governed by all of the provisions and conditions of this Agreement that were in effect immediately prior to termination. The Authority shall have the right at any time during such tenancy to invoke any remedy provided it under Florida law, including but not limited to, terminating this Agreement upon not less than ninety (90) days' written notice to Lessee. During such tenancy at sufferance, absent written notice from the Authority to the contrary, the Premises Rental Fees shall be charged at one hundred twenty-five percent (125%) of such fee for the period immediately prior thereto.

Article 4. USE OF PREMISES

4.1 Use.

4.1.1 Premises Use. The Lessee is authorized to exclusively use the Premises and the railroad track spurs located thereon in accordance with applicable law for all activities reasonably related to the following purposes (collectively, "Intended Use") and any other lawful purpose:

(a) To operate a vehicle processing facility, to import and/or export vehicles, to store parts and bulk fuel, to utilize fueling and charging stations for vehicles, and to offer other full marine services as a terminal operator and vessel stevedore, including, without limitation, terminal

operator and stevedoring services which may include, but are not limited to, the receipt, storage, distribution, export, parking, handling, processing and delivery of motor vehicles, accessorizing vehicles, making incidental repairs and performing maintenance of vehicle handling and processing equipment and engaging in non-retail processing of automobiles and related business and office functions, together with such administrative and office functions as deemed necessary by Lessee in connection with the foregoing.

(b) The handling, receipt, assembly, distribution, moving, loading, unloading and storing of vehicles and related cargo carried by vessels or rail and related railcar and truck activity and transport of vehicles and related cargo.

(c) Lessee's authorized use may include a cafeteria, gym, medical office, and credit union for use in connection with Lessee's business operations, and general office functions, including trucking satellite offices, and related parking, maintenance of cargo handling equipment and containers, and equipment maintenance activities necessary to support the foregoing activities.

The Lessee shall be prohibited from using any portion of the Premises for any purpose not specified in this Agreement, except with prior written consent of the Authority, which consent shall not be unreasonably withheld.

To the extent there are any applicable regulatory agency, insurance, and security requirements in connection with Lessee's Intended Use, the Authority has delivered such requirements to Lessee prior to the Effective Date. The Authority hereby represents that the Berthing Area is not as of the Effective Date nor shall be during the Term hereof leased to another other tenant.

The Lessee agrees to use the Premises during the Term for the authorized purposes specified in this Section 4.1, to the extent not inhibited by damage or destruction to the Premises, eminent domain or Force Majeure pursuant to Section 11.5, Section 23.13 and Section 23.15, respectively. Notwithstanding the foregoing or anything to the contrary contained in this Agreement, Lessee may close for a reasonable period of time for renovations, alterations, improvements or other modifications to the Premises made in accordance with this Agreement, and Lessee shall not be obligated to operate any business at the Premises and Lessee may "go dark" (i.e. cease operations) at the Premises at any time without being in default hereunder so long as Lessee continues to timely pay the Premises Rental Fees and any other sums as they become due hereunder and maintains the Premises and Improvements thereon in good condition and provides security as necessary to prevent vandalism and damage.

4.1.2 **ESDQ Arc Coverage**. The Authority represents and warrants that to the Authority's actual knowledge, there are no documents, instruments, agreements, ordinances or other rules and regulations that would prohibit the Lessee from using the Premises or Expansion Premises for the Intended Use, with the exception of the use of the ESDQ arc coverage area as depicted on **Exhibit A-2** attached hereto ("**ESDQ Arc Coverage Area**"), which is limited in accordance with that certain Grant of Easement ("**ARC Easement**") dated July 25, 2003 by and between the Authority, as grantor and United States of America, acting by and through the Department of the Navy, Southern Division Naval Facilities Engineering Command, as grantee, recorded on August 1, 2003 in Book 11259, Page 2364, in the Public Records of Duval County,

Florida. The ARC Easement limits the use of the ESDQ Arc Coverage Area to no more than forty (40) persons during the period of munitions handling operations which the United States Government intends to conduct from 7:00 PM on Friday to 2:00 AM on Monday, at a minimum of twelve (12) operations per year based on an annual schedule with twenty-four (24) hour advance notice prior to any unscheduled operations. Subject to the foregoing limitation, the Lessee shall have the right to access and use the Premises and Expansion Premises (following the Actual Expansion Premises Delivery Date) 365/366 days per year, 24 hours per day, 7 days per week. The Authority represents and warrants that at all times during munitions handling operations, Lessee shall have the right to have up to forty (40) persons in the portion of the Premises located within the ESDQ Arc Coverage Area; and the Authority covenants that it will not grant to any other party the right to occupy the ESDQ Arc Coverage Area during munitions handling operations. The Authority shall provide Lessee with copies of any and all communications related to the ARC Easement which may impact Lessee, including without limitation, (i) the foregoing annual schedule and any amendments, modifications or supplements thereto and (ii) any unscheduled operations. The Authority hereby agrees to provide written notification immediately upon the Federal Government notifying the Authority of its intent to amend, modify or supplement the ARC Easement. The Authority agrees to not provide consent to any amendment, modification, or supplement of the ARC Easement without first consulting with the Lessee.

4.1.3 **Change in ESDQ Arc; Railroad.** Notwithstanding anything contained herein to the contrary, in the event that the United States Military or other governmental agency changes or amends its rules or operations in effect as of the Effective Date to such an extent that it materially impacts Lessee's operations, including, but not limited to, (i) the size of the ESDQ Arc Coverage Area is expanded or increased or (ii) Lessee is not permitted to have the foregoing forty (40) persons within the ESDQ Arc Coverage Area on the Premises during military operations, then Lessee, at its option, may either terminate this Agreement or receive an equitable reduction in the Premises Rental Fees. If Tenant elects to terminate this Agreement due to such changes or amendments, then within thirty (30) days from the termination of this Agreement, the Authority shall reimburse Lessee the Termination Fee. If requested by Lessee, Authority shall use its best efforts to provide Lessee, at no additional cost to Lessee, space for Lessee to conduct Lessee's Intended Uses that it would otherwise operate in the ESDQ Arc Coverage Area, including, without limitation for offloading and storage of Lessee's cargo from the Berthing Area, during any period of time that Lessee is not permitted to fully staff and utilize the entire Premises as a result of such military operations or any other governmental regulations (including but not limited to OSHA) or similar restrictions. Notwithstanding anything contained herein to the contrary, Lessee (together with other parties necessary in connection with the operation of Lessee's business operations) shall have the exclusive right to negotiate with (i) the operator of the railroad with respect to the use of the railroad tracks and spurs located on the Premises, and (ii) stevedores, longshoremen or other third parties in connection with the Intended Use of the Premises, and the non-exclusive right to negotiate with the operator of the railroad with respect to the use of the railroad tracks and spurs located outside the Premises and within the Terminal Facilities; and the Authority shall cooperate in good faith in connection therewith. In the event that Lessee is unable to use any portion of the Premises that are not located within the ESDQ Arc Coverage Area, Lessee shall receive a proportionate abatement of Premises Rental Fees.

4.2 **Representation.**

Neither the Authority nor its members, officers, employees or agents have made any representations or promises whatsoever with respect to the Premises or services to be provided by the Authority in connection with their use, except as expressly set forth herein or otherwise in a writing signed by the parties hereto. Except as expressly set forth herein or otherwise in a writing signed by the parties here, the taking of possession of the Premises shall be “as-is” by the Lessee and shall be conclusive evidence that the Premises were in an acceptable and safe condition at the time possession was initially taken by the Lessee regardless of any subsequent claim by the Lessee to the contrary.

4.3 **Signage.**

Lessee shall, at its sole cost and expense, have the right to install signage at the Premises, including, without limitation, billboard signage and advertising as desired by Lessee, as permitted by applicable law. In addition to the foregoing, in the event there is any additional signage for tenants or other occupants of the Terminal Facilities, Lessee shall have the right to its pro rata share of any such signage.

Article 5. RIGHT OF FIRST REFUSAL

5.1 **Right of First Refusal.**

Identified on **Exhibit A-2** hereto is an approximately 13-acre parcel of land owned by the Authority and located adjacent to the Premises that is being occupied for the sole benefit of Volkswagen as of the Effective Date and is subject to a one time right of first refusal by the Lessee as set forth herein (the “**ROFR Parcel**”). If (i) Volkswagen ceases to operate on the ROFR Parcel and (ii) the Authority desires to lease all or any portion of the ROFR Parcel to any Person (a “**Potential Lessee**”) during the Term (and any extension) of this Agreement, the Authority agrees not to lease all or any portion of the ROFR Parcel to a Potential Lessee without first offering Lessee the right to lease such ROFR Parcel on the terms set forth on **Exhibit B** (the “**Right of First Refusal**” or “**ROFR**”). The Authority shall notify Lessee in writing of the Authority’s desire to lease the ROFR Parcel (the “**Rental Offer**”). For a period of thirty (30) days after Lessee’s receipt of the Rental Offer, the Authority shall grant Lessee and its contractors, agents, and employees access to the ROFR Parcel for the purpose of inspection and investigation of the condition of the ROFR Parcel, including, without limitation to conduct reasonable environmental investigations, provided that Lessee’s access is in compliance with all applicable laws. Lessee shall then have thirty (30) days from the expiration of the foregoing 30-day period to notify the Authority in writing of its acceptance or rejection of the Rental Offer (the “**Notice Period**”). If Lessee timely accepts the Rental Offer, then Lessee shall be entitled to lease the applicable ROFR Parcel (a) on the terms set forth in **Exhibit B**, (b) which ROFR Parcel shall be delivered in the condition as required for delivery of the Premises pursuant to Section 2.1 of this Agreement, and (c) upon delivery and execution of a memorandum, such ROFR Parcel shall become a part of the Premises. If Lessee fails to timely notify the Authority of its acceptance or rejection of the Rental Offer or if Lessee declines the Rental Offer, then Lessee’s Right of First Refusal shall terminate and the Authority shall have the right to lease the ROFR Parcel to any Potential Lessee at any time thereafter.

Article 6.
APPURTENANT RIGHTS

6.1 Access to Premises.

Subject to the terms and conditions of this Agreement, and the common use with other users of the Terminal Facilities, the Lessee, its employees, licensees, invitees, agents, vendors, affiliates, licensees, and contractors and its or their suppliers of materials and/or services, and all other persons doing business with Lessee (collectively, "Lessee Parties") shall have unimpeded and unobstructed right of ingress to and egress from the Premises and the Berthing Area over roads, ways, railroads and other access areas on the Terminal Facilities where now located or as hereinafter replaced with substantially similar access routes or expanded by the Authority for that purpose (collectively, "Access Routes"), subject to TWIC and Federal requirements. Absent an emergency Force Majeure event, such as an accident, hurricane or other storm event, or fire, that preclude such ingress and egress, the Lessee shall have twenty-four (24) hours, seven (7) days per week use of the Access Routes for the purpose of ingress and egress to and from the Premises and the Berthing Area. No vehicle, piece of equipment or machinery shall be left in an inoperable condition or stored in the Access Routes by the Lessee or its agents, contractors, customers or suppliers. At any time, the Authority may close, relocate, reconstruct or modify any or all means of access to the Premises, either temporarily or permanently; provided, that the Authority shall locate and provide a suitable alternative means of access for the Lessee. The suitability of such alternative means of access shall be determined by the Authority and Lessee, each acting in its reasonable discretion. As a condition to Lessee's obligations under this Agreement, Authority, at Authority's sole cost and expense, will provide evidence of or have established reasonably acceptable easements for access within the Terminal Facilities, including without limitation, access to and from the Terminal Facilities, the Berthing Area and the Premises.

6.2 Berthing Rights.

Lessee and Lessee Parties may use the Berthing Area in connection with Lessee's business operations. During periods of non-use or idle dockage by the Lessee and/or Lessee Parties, third parties who are guests, agents, or invitees of the Authority ("Authority Invitees") may use the Berthing Area, as provided in the Authority's published tariff or its reissue, and the Authority shall have the right to require any vessel (other than any vessel which is scheduled to use such Berthing Area at that time), during periods of non-use or idle dockage, to vacate the Berthing Area if necessary to accommodate the scheduled loading or discharge of a vessel owned or operated by Authority Invitees; provided that such use shall not unreasonably interfere with or unreasonably delay the Lessee's business operations.

(a) Repairs. Further, the Authority shall have priority use of the Berthing Area when necessary to perform maintenance dredging or to perform other necessary repairs (collectively, "Berthing Area Maintenance"), provided the Authority shall provide reasonable advance written notice to Lessee and employ reasonable efforts to schedule such work to avoid interference with the Lessee's business operations on the Premises.

(b) No Priority Use. The Authority agrees that no other party shall have priority use over the Berthing Area, and if the Authority expands or constructs any additional berthing area

serving the Terminal Facilities, then the Lessee and/or Lessee Parties shall have rights to use such area in connection with its business operations. Notwithstanding anything contained herein to the contrary, the Authority shall not, during the term of this Agreement (i) grant exclusive or superior use of the Berthing Area to others or (ii) except in cases of emergency or during Berthing Area Maintenance in accordance with this Section, block, impede, close, prohibit, or otherwise limit the Lessee's use of or access to the Berthing Area during its scheduled periods of use.

(c) Berthing Area Expansion. The Authority shall, at its sole cost and expense, within a reasonable time frame for design, permitting, and construction, which is anticipated not to exceed three (3) years after the Effective Date, subject to events of Force Majeure, extend the Berthing Area at Berth 20 as set forth on Exhibit F attached hereto. The Authority shall provide Lessee with the construction schedule for Berth 20 extension promptly upon availability. To the extent that the Berthing Area is not available to Lessee and/or Lessee Parties during its scheduled periods of use for any reason other than the gross negligence or willful misconduct of Lessee, the Authority shall immediately make reasonable alternate berthing areas serving the Terminal Facilities available to Lessee for use, and if such unavailability continues for a period of fifteen (15) consecutive days or more, Lessee shall be entitled to an equitable abatement of Premises Rental Fees.

6.3 Common Use.

Subject to the terms and conditions of this Agreement, the Lessee and the Lessee Parties are hereby also granted the right and privilege to non-exclusive use of all Berthing Areas, bulkheads located within the Blount Island channels as shown on Exhibit F attached hereto, the existing and future railroad track spurs located adjacent to the Premises and Expansion Premises, including, without limitation, the railroad running along the Premises boundary adjacent with William Mills St. and travelling off of Blount Island, (except when such railroad and railroad track spurs are being used in connection with military operations, provided that prior written notice thereof is delivered by the Authority to Lessee), all wharf and dock areas of the Terminal Facilities other than the portion constituting the Premises, together with any existing and all future improvements thereto affording common access to and for common use of all other tenants of the Authority (collectively, "Common Areas"). At all times the Lessee's use of such areas and other improvements affording access shall, without exception, be in common with other users of the Terminal Facilities, as authorized or permitted by the Authority. Such common use of these facilities shall be subject to and utilized in accordance with all applicable federal, state and local laws and ordinances and such reasonable rules and regulations as may be adopted by the Authority for the regulation and control of its Terminal Facilities. The Lessee understands and agrees that it is not granted any exclusive right to use the Berthing Area pursuant to this Agreement. Nothing contained in this Agreement shall prohibit the Authority from barring any person or entity from the Terminal Facilities that fails to comply with such laws, ordinances and rules and regulations. Except as specifically provided for in this Agreement, no other appurtenant or other rights are granted to the Lessee under this Agreement. Except for damages caused by the gross negligence or willful misconduct of the Lessee, the Authority shall be solely responsible for all costs, charges, and expenses for the Common Areas, including, without limitation, maintenance, repairs, replacements, insurance, and security costs. The Authority represents and warrants that the Authority owns and controls the railroad tracks and spurs located within the Common Areas.

Article 7.
FEES AND CHARGES

7.1 Premises Rental Fee.

As compensation for the use of the Premises, the Lessee agrees to pay rent to the Authority in the amount of the total annual Premises Rental Fees stipulated in **Exhibit B**, payable on a monthly basis. Except for the Premises Rental Fees or as otherwise expressly set forth in this Agreement, there are no other costs, fees, assessments or other charges due from Lessee in connection with the Premises.

(a) Payments. The monthly installments of the annual Premises Rental Fees for the Premises shall commence as of the Date of Beneficial Occupancy and shall be due and payable on the first day of each month in advance and without demand. The monthly installments of the annual Premises Rental Fees for the Expansion Premises shall commence as of the Date of Beneficial Occupancy and shall be due and payable on the first day of each month in advance and without demand. Failure by the Lessee to pay the Authority the Premises Rental Fees when due each month, if not cured within the time period provided in Section 7.1(b) hereof, shall constitute an event of default as contemplated by Article 22 of this Agreement. Upon the determination of the Date of Beneficial Occupancy, Lessee shall deliver to the Authority a letter memorializing such date and the Authority shall countersign such letter within ten (10) days from receipt thereof.

(b) Late Fee Assessments For Non-Payment of Premises Rental Fees. A late fee assessment of one and one-half percent (1.5%) per month (assessed on a daily basis at the rate of .000493 per day) on the outstanding balance of the Premises Rental Fees shall be imposed on any Premises Rental Fees not received by the Authority within ten (10) days of the due date. Upon expiration of this period of ten (10) days, a late fee shall begin to accrue from the due date and shall continue to accrue for as long as payment of any Premises Rental Fees remains delinquent. The imposition of a late fee or the Authority's acceptance of a late or partial payment of any installment(s) of the Premises Rental Fees and/or any late fee assessment(s) shall not constitute a waiver of an event of default nor shall it prevent the Authority from exercising any other rights and remedies granted to it under this Agreement or by law. So long as any Premises Rental Fees and/or late fee assessments that are due remain unpaid, Lessee shall remain in default as defined in Article 22 and shall be obligated to pay all such fees and assessments even if the Authority has accepted a partial or late payment of such fees and assessments.

(c) Proration of Premises Rental Fees. If the Date of Beneficial Occupancy or Actual Expansion Premises Delivery Date, as applicable, commences on any day other than the first day of the month, or terminates on any day other than the last day of the month, the monthly installment of the annual Premises Rental Fees will be prorated by the Authority for such partial months.

(d) Adjustments to Premises Rental Fees.

The Premises Rental Fees stipulated in **Exhibit B** shall be adjusted each year as provided for in **Exhibit B**.

Adjustment of the Premises Rental Fees described in **Exhibit B** shall apply without the necessity of formal amendment of this Agreement as contemplated in Section 23.3.

7.2 **Record Keeping and Reports.**

Within five (5) business days after the end of each month during the Term, Lessee shall provide the Authority with an activity report citing the number of vehicles that were received from or delivered to the Premises by vessel for such prior month. These documents shall be signed by an authorized representative of the Lessee certifying the accuracy of the count. In addition, the Lessee shall provide the Authority a duplicate of (i) the vessel manifest for that vessel as reported to U.S. Customs , or (ii) the final vessel manifest for the vessel provided to the Lessee of U.S. domestic transport.

The Lessee shall maintain true and complete records and accounts of all vehicles processed by it pursuant to its operations on the Premises for five (5) years following the termination of this Agreement. The Authority shall retain the right, at any time, to audit all of the records of the Lessee relating to the number of vehicles processed on the Premises.

7.3 **Security and Harbor Fees.**

Security Escort Fees shall be assessed and paid in accordance with the rates and procedures established in the Authority's published tariff, or its reissue, for any non-TWIC escorts that are required by the Lessee. Additionally, any wharfage, harbor and dockage fees will be billed directly to the vessel agent.

7.4 **Intentionally Deleted.**

7.5 **Intentionally Deleted.**

7.6 **Intentionally Deleted.**

7.7 **Intentionally Deleted.**

7.8 **Intentionally Deleted.**

7.9 **Intentionally Deleted.**

7.10 **Net Lease.**

Except as expressly provided herein to the contrary, the parties agree that this Agreement shall be construed as a "net lease" whereby, unless an expense is specifically deemed to be payable by the Authority in this Agreement, the Lessee shall be solely responsible for any expense or cost relating to the Premises, this Agreement or the Lessee's use of the Premises during the Term of this Agreement, including, without limitation, personal property taxes and sales or use taxes; insurance (as described herein); utilities; and repairs, replacement and maintenance of the Tenant's Improvements; provided, however, that (i) to the extent Lessee is responsible for payment of any such taxes to the Authority, then the Authority shall be responsible for collecting and remittance thereof to the appropriate governmental or quasi-governmental agency, as applicable, and (ii) the Authority does hereby agree to accept Florida Department of Revenue form DR-97 from Lessee granting Lessee the maximum exemptions available to Lessee thereunder with respect to cargo handling, loading and/or unloading. Notwithstanding anything contained herein, the Authority

agrees that during the term of this Agreement, there shall be no taxes due from Lessee in connection with the Premises, including without limitation, ad valorem taxes.

Article 8.
UTILITIES AND OTHER SERVICES

8.1 Utility Charges.

The Lessee shall be responsible for procuring electrical, water and waste water services for its operation on the Premises and shall be responsible for promptly paying those persons or entities furnishing or providing it with these services or any other utility service or related service. Other utility services or related services may include, but are not necessarily limited to, gas service, fuel, janitorial service, trash removal service, data communication service and telephone service.

The Authority shall be responsible for the provision and maintenance of all electrical, water and wastewater supply and distribution lines connecting to the meters on the Premises and shall ensure that any and all such utilities are available to the Premises and sufficient for Lessee to operate for its Intended Use. Lessee shall bear the responsibility for the maintenance of all such supply and distribution lines located within the Premises for the foregoing meters.

8.2 Utility Line Easements.

Subject to the giving of reasonable prior written notice to the Lessee, the Authority reserves to itself and others the right to locate, relocate, construct, install, repair, operate, replace and maintain sewers and utilities upon and across the Premises at locations which do not unreasonably interfere with the Lessee's use of the Premises. The Authority also reserves to itself and others the right to maintain existing utilities and other facilities to the extent same are not located within the Premises and do not interfere with Lessee's business operations. As a condition to Lessee's obligations under this Agreement, Authority, at Authority's sole cost and expense, shall provide evidence of or have established reasonably acceptable easements for utilities, water and sewer within the Terminal Facilities, including, without limitation access to and from the Terminal Facilities, Berthing Areas, the bulkheads and the Premises required for operation of the Premises for Lessee's Intended Use, and Landlord, at Landlord's cost shall obtain all applicable consents and approvals, including, without limitation, any governmental and military approvals, and cause such conditions to be met for such approvals, as required under applicable law or as required for the Authority's Work.

Article 9.
TAXES AND ASSESSMENTS

9.1 Payment of Taxes and Assessments.

The Authority represents and warrants that as of the Effective Date, the Premises are exempt from ad valorem taxes and other taxes and assessments. In the event of any change in Florida law relating to the taxation of Premises or other change in circumstances which require ad valorem taxation of the Premises, Lessee may offset the amount of such taxes against the Premises Rental Fees; provided, however, that Lessee does hereby agree to cooperate with Authority and

join in any appeal, contest, litigation or dispute related thereto and participate in such action if and upon the request of the Authority, at no cost or expense to Lessee.

None of the provisions, covenants or conditions of this Agreement shall constitute or be construed to be a release or waiver on the part of any lawfully empowered taxing authority of its right or obligation to assess, levy and collect from the Lessee any license, personal, intangible, occupation, ad valorem or other tax which shall be lawfully imposed on the business or personal property of the Lessee.

The Lessee shall be responsible for any sales taxes imposed on the Lessee, this Agreement, or on the payments hereunder by the laws of the State of Florida.

Notwithstanding anything contained in this Agreement to the contrary (i) to the extent Lessee is responsible for payment to the Authority of any taxes due by Lessee hereunder, then the Authority shall be responsible for collecting and remittance thereof to the appropriate governmental or quasi-governmental agency, as applicable, and (ii) the Authority does hereby agree to accept Florida Department of Revenue form DR-97 from Lessee granting Lessee the maximum exemptions available to Lessee thereunder with respect to cargo handling, loading and/or unloading.

Article 10. INDEMNIFICATION

10.1 Indemnification/Hold Harmless of the Authority.

(a) Except to the extent caused by the negligence or intentional misconduct of the Authority or the United States Military, and their respective employees, agents, representatives, contractors, subcontractors and invitees (all of the foregoing being subject, however, to the provisions and limitations of Section 768.28, Florida Statutes, and any other sovereign immunity limitations of applicable law, which are not waived or modified whatsoever), the Lessee hereby agrees that it shall protect, indemnify, defend and hold the Authority harmless from and against any and all claims, actions, demands, losses, penalties, costs, causes of action, expenses, including reasonable attorneys' fees and expenses, liabilities, settlements, judgments and damages of whatsoever kind of nature, whether prosecuted by the Lessee or third parties, resulting from any act, action, or omission, including, but not limited to, personal injuries including death, property damage or any other loss arising out of, incidental to or in any way connected to the Lessee's activities on or its use and occupation of the Premises and/or the Terminal Facilities; any act of the Lessee or any of its agents, contractors, or licensees, including any claim, action, demand, loss, penalty, cost, expense, liability, settlement, judgment, damage or injury occasioned by the escape, discharge, dispersal, release, seepage, leakage or spillage of any Hazardous Substance brought upon the Premises and/or Terminal Facilities by the Lessee, including the acts of its agents, employees, contractors and subcontractors ("Lessee's Release"). Each party shall give to the other party notice of any claim made or suit instituted that, in any way, affects the other party or its insurers. The Lessee and/or its insurers shall have the right to compromise and defend the same to the extent of their own interest. Any final judgment rendered against the Authority for any cause for which the Lessee is liable under this Agreement shall be conclusive against the Lessee as to

liability and amount. Notwithstanding anything contained herein to the contrary, (i) Lessee shall have no liability or obligation in connection with any investigation, clean-up, remedial, removal, restoration or other response costs related to any Hazardous Substance on, under, in or about the Premises and/or Terminal Facilities, except to the extent resulting from a Lessee's Release, and the Authority hereby releases Lessee from all liability and obligations in connection with such matters, and (ii) the Authority shall be solely responsible for the clean-up, removal, remediation or other responses costs of any Hazardous Substances existing on, under, in or about the Premises, including, without limitation asbestos containing materials, except to the extent resulting from a Lessee's Release. Lessee hereby expressly disclaims any representation or warranty as to any insurer's future insolvency or ability to pay. For purposes of this Article 10, the term "Authority," as it relates to parties for whose actions the Authority is responsible, shall include its governing board, officers, employees, agents, contractors, subcontractors, licensees, and assigns and the term "Lessee," as it relates to parties for whose actions the Lessee is responsible, shall include its subsidiaries, contractors, subcontractors, agents, employees, subtenants, licensees and assigns. In any and all claims or demands against the Authority by any employee of the Lessee or any of the Lessee's contractors, subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligations under this Article 10 shall not be restricted or reduced by any limitation on the amount or type of the damages, compensation or benefits payable by or for the Lessee or any of the Lessee's subcontractors under Worker's Compensation Acts, Disability Acts or other employee benefits laws.

(b) If any claim, action or proceeding is made or brought against the Authority against which the Authority is indemnified pursuant to this Section 10.1 or any other provision of this Agreement, then, the Lessee, at its sole cost and expense, shall diligently resist or defend such claim, action or proceeding in the Authority's name. The foregoing notwithstanding, the Authority may engage its own attorneys to defend it or to assist in its defense, the reasonable cost and expense of which shall be paid by the Lessee.

(c) The provisions of this Section 10.1 shall survive the expiration or termination of the Term as such provisions may relate to any claim or demand that arose during the time this Agreement was in force and effect.

10.2 **Environmental Indemnification.**

(a) The Lessee hereby agrees that it shall indemnify, defend and hold the Authority harmless against any and all claims, actions, injuries, demands, losses, liabilities, penalties, costs, expenses and damages incurred by the Authority arising as a result of the Lessee's activities on or its use and occupation of the Premises or the Terminal Facilities that are in violation of any Applicable Environmental Laws or that lead to an environmental claim or penalty against the Authority, which either (i) were created or caused by the Lessee or any Person acting by, through or under the Lessee or (ii) did not exist on the Premises prior to the Effective Date. In the event the joint acts or omissions of the Authority and the Lessee should give rise to any environmental claim, action, injury, demand, loss, liability, penalty, cost, expense or damage, the responsibility for such environmental liability shall be apportioned according to each party's pro rata share of the entire liability. In determining the pro rata share of each party in the entire liability, their relative degrees of fault shall be the basis for allocation of liability. The principles of equity applicable to contribution generally shall apply. Each party shall give to the other party notice of

any claim made or suit instituted that, in any way, affects the other party or its insurers. The Lessee or its insurers shall have the right to compromise and defend the same to the extent of their own interest. Any final judgment rendered against the Authority for any cause for which the Lessee is liable under this Agreement shall be conclusive against the Lessee as to liability and amount. For purposes of this Article 10, the term “Authority,” as it relates to parties for whose actions the Authority is responsible, shall include its governing board, officers, employees, agents, contractors, subcontractors, licensees, and assigns and the term “Lessee,” as it relates to parties for whose actions the Lessee is responsible, shall include its subsidiaries, contractors, subcontractors, agents, employees, subtenants, licensees and assigns.

(b) The provisions of this Section 10.2 shall survive the expiration or termination of the Term as such provisions may relate to any environmental claim or demand that arose during the time this Agreement was in force and effect.

(c) The Authority hereby agrees that it shall indemnify, defend and hold Lessee and Lessee’s agents, employees, officers, directors and invitees harmless from and against any and all claims, actions, demands, losses, penalties, costs, expenses, including attorneys’ fees and expenses, liabilities, and damages of whatsoever kind or nature, whether prosecuted by the Authority or third parties, in connection with or resulting from the escape, discharge, dispersal, release, seepage, leakage or spillage of any Hazardous Substance on, under or about the Premises and/or the Terminal Facilities to the extent such Hazardous Substances exist on the Premises as a result of the acts of third parties or were present on the Premises or the Terminal Facilities on the date Lessee takes possession of the Premises, but which were not caused by Lessee. Each party shall give to the other party notice of any claim made or suit instituted that, in any way, affects the other party or its insurers. Notwithstanding anything contained in this Agreement to the contrary, the Authority hereby waives the limitations set forth in Section 768.28, Florida Statutes, in connection with the indemnity provided in this Section 10.2(c). The Authority and/or its insurers shall have the right to compromise and defend the same to the extent of their own interest. The provisions of this Section 10.2(c) shall survive the Term of this Agreement as such provisions may relate to any claim or demand that arose during the time this Agreement was in force and effect.

Article 11. INSURANCE

11.1 Procurement and Maintenance of Insurance.

Throughout the Term, without limiting its liability, or the sovereign immunity of the Authority under Section 768.28, Florida Statutes and other sovereign immunity limitations of applicable law, the Lessee shall procure and/or maintain, at its sole cost and expense, insurance policies or self-insurance mechanisms covering the type and with the minimum limits as stipulated in **Exhibit C**. The insurance policies must be issued by a company or companies meeting the following criteria (the “Insurer Criteria”): (i) such company or companies shall be either (a) authorized to do business in the State of Florida or (b) an eligible surplus lines insurer under Florida laws; and (ii) such company or companies shall have a Best’s Rating of “A” or better and a Financial Size Category of “VII” or better, according to the latest edition of Best’s Key Rating Guide, published by A.M. Best Company. If, during this period when an insurer is providing the insurance as required by this Agreement, an insurer shall fail to comply with the Insurer Criteria,

as soon as the Lessee has knowledge of any such failure, the Lessee shall immediately notify the Authority and replace the insurance provided by the insurer with an insurer meeting Insurer Criteria within thirty (30) business days. Prior to commencement of operations or occupation of the Premises, Lessee's third party vendors shall provide to Authority and Lessee evidence of insurance coverage shown on **Exhibit C-1** attached hereto.

This insurance must insure the Lessee and the Authority against all liabilities for death, injuries or damages arising out of or in connection with the Lessee's use and occupancy of the Premises and/or the Terminal Facilities or the Lessee's business operation conducted thereon. The Lessee must also procure and maintain in force, throughout the Term, fire and extended coverage on all of the Improvements in the amount of the cost to rebuild or replace the same naming both the Authority and the Lessee as insureds. The Lessee shall furnish to the Authority certificates evidencing such insurance, naming and endorsing the Authority as an additional insured under the Lessee's Commercial General Liability Coverage and Terminal Operator's and Stevedores Liability Coverage. Certificates or binders evidencing the existence thereof, all in such form as the Authority's risk manager may reasonably require, shall be delivered to the risk manager upon the execution of this Agreement. Each such policy or certificate shall contain a valid provision or endorsement stating that:

"The Jacksonville Port Authority ("Authority"), Board members, officers, employees and agents of the Authority are additional insureds on this Policy."

"This policy will not be canceled or materially changed or altered without first giving sixty (60) days written notice in advance thereof to the Risk Manager, Jacksonville Port Authority, P.O. Box 3005, Jacksonville, Florida 32206."

11.2 **Review and Adjustment of Insurance.**

The insurance requirements stipulated on **Exhibit C** shall be subject to periodic review and adjustment by the Authority to ensure compliance with current industry standards. Adjustment of insurance requirements shall apply without the necessity of formal amendment of this Agreement. The Authority may also require the Lessee to provide new policies if the carrier(s) issuing its (their) policies shall be or become reasonably unsatisfactory to the Authority. The parties agree to exercise reasonable judgment and good faith in adjusting insurance requirements to reflect market conditions and changes in industry standards.

11.3 **Authority's Insurance.**

The Authority is a body politic and corporate chartered by the State of Florida, and as such, is subject to the provisions of Section 768.28, Florida Statutes. Accordingly, the Authority maintains a program of self-insurance that will respond to any liability of the Authority arising under this Agreement. The Lessee understands that the Authority's self insurance coverage will not cover physical damage, theft or other loss of the cargo or property or equipment of the Lessee stored or used on the Premises except and only to the extent such loss or damage is caused by the negligence or willful misconduct of the Authority. It is incumbent upon the Lessee to carry and maintain such types and amounts of insurance it deems necessary to fully protect its Equipment, personal property, contents and/or cargo.

11.4 **Lessee's Self Insurance.**

The insurance required under this Agreement may be provided in whole or in part by Lessee or an entity that is directly or indirectly a wholly owned subsidiary of Lessee and any reinsurance shall be provided in the reinsurance market with reputable insurance companies possessing an AM Best rating of A-Rating Strength and Class 6 Financial Size and/or Lloyds companies or equivalent. The sum of (i) the amount of insurance required pursuant to this Article 11 maintained by Lessee and its related companies with the Insurance Company which is not reinsured, and (ii) the amount which Lessee otherwise self-insures (whether by means of a deductible, self-insurance retention or otherwise) shall not exceed Ten Million Dollars (\$10,000,000.00) per policy period of not less than twelve (12) months.

11.5 **Damage or Destruction.**

(a) If the Premises and/or Terminal Facilities are damaged as a result of fault or negligence of the Lessee or the Lessee's servants, employees, guests, invitees, agents, visitors, licensees, subsidiaries, contractors, subcontractors, subtenants or assigns, the Lessee shall pay all costs of repair necessary to restore the Premises and/or the Terminal Facilities to substantially similar condition existing before the damage occurred, and there shall be no abatement of Premises Rental Fees or other fees and charges set forth in Exhibit B, or the real property taxes during the time such repair is in progress. The Authority shall have no obligation or duty to make repairs or do restoration, except if caused by the Authority's negligence or willful misconduct, in which event the Authority shall bear the cost of repair and restoration and the Authority shall restore and repair the damaged or destroyed improvements to substantially similar condition existing before the damage or destruction to the reasonable satisfaction of Lessee as promptly as reasonably possible to minimize disruption to Lessee's operations.

(b) If the Premises, excluding those improvements owned by the Lessee, should be partially damaged or become unusable or otherwise inaccessible as a result of fire, flood, windstorm, action of the elements, or other cause not caused by the negligence or willful misconduct of the Authority, the Authority shall have no obligation or duty to make repairs or do restoration.

(c) The Lessee shall immediately notify Authority in case of any material damage by fire, flood, windstorm, the elements or other cause.

(d) If the Premises, including those improvements owned by the Lessee, should be partially damaged or become unusable or otherwise inaccessible as a result of fire, flood, windstorm, action of the elements ("Casualty Damage"), or other cause not caused by the negligence or willful misconduct of the Lessee, Lessee shall be entitled to a proportionate abatement of Premises Rental Fees. In the event of any Casualty Damage, Lessee shall be entitled to receive all insurance proceeds and shall restore and repair the Premises as promptly as reasonably possible (except to the extent such restoration or repair is the obligation of the Authority in accordance with this Agreement). Notwithstanding anything contained herein to the contrary, in the event of Casualty Damage or damage or destruction of the Premises or any part thereof during the last five (5) years of the Term, Lessee shall have the option to terminate this Agreement upon written notice to the Authority within thirty (30) days from the date of such damage. In the

event that Lessee elects to terminate this Agreement, the Authority shall be entitled to receive the insurance proceeds sufficient to demolish or otherwise restore the existing Improvements located at the Premises.

(e) In the event that the Berthing Area or any part thereof is damaged or destroyed for any reason other than Lessee's gross negligence or willful misconduct, the Authority shall restore and repair the damaged or destroyed Berthing Area to substantially similar condition existing before the damage or destruction as promptly as reasonably possible to minimize disruption to Lessee's operations and during such restoration shall make reasonable alternate berthing areas serving the Terminal Facilities available to Lessee for use.

**Article 12.
INTENTIONALLY DELETED**

**Article 13.
MAINTENANCE, REPAIRS, AND SAFETY INSPECTIONS**

13.1 Maintenance and Repairs.

Except as expressly set forth herein, during the Term the Lessee shall perform all maintenance, repairs, and replacements on the Premises at its sole cost and expense. The Lessee shall keep the Premises and any improvements located thereon in a good and clean state of repair and preservation, making all necessary and proper replacements and repairs including, but not limited to, replacing all light bulbs and performing all ballast maintenance on lights on the Premises. The accumulation of trash, discarded equipment or parts on the Premises and adjoining road rights-of-way, shall be prohibited and the Lessee must maintain a trash and waste disposal service for the Premises. The Lessee shall provide, at its own cost, such custodial and housekeeping services for the Premises as it may desire.

13.2 Railroad Spur Track. Notwithstanding anything contained herein to the contrary, the Lessee shall be responsible, at its sole cost and expense, for the maintenance, repairs and replacements of any existing and future railroad spur track located within the Premises, except to the extent caused by Authority. Lessee (together with other parties necessary in connection with the operation of Lessee's business operations) shall be authorized to enter into agreements with any railroad track servicers, companies, and contractors as are desired by Lessee in connection with the operation of Lessee's business from the Premises, including, without limitation, any railroad spur track located within the Premises. In the event that the Lessee (together with other parties necessary in connection with the operation of Lessee's business operations) cannot utilize existing or future railroad spur tracks located within the Common Areas and/or Terminal Facilities (other than the Premises) for more than three (3) consecutive business days as a result of any necessary maintenance, repairs, or replacements, the Lessee may complete such maintenance, repairs, or replacements, and the Authority shall promptly reimburse Lessee for its reasonable out-of-pocket expenses incurred in connection therewith or Lessee may, at its option, offset such amount against the Premises Rental Fees.

13.3 Authority's Inspection and Entry Rights Relating To Maintenance and Repairs.

The authorized representatives of the Authority shall have the right at all reasonable times and upon reasonable advance written notice, during normal working hours or at any time without notice in case of an emergency, to enter upon the Premises for the following purposes, provided that the Authority uses its best efforts to minimize disruption of Lessee's business:

(a) To inspect the Premises to determine whether the Lessee has materially complied and is materially complying with the provisions and conditions of this Agreement. This right of inspection reserved to the Authority imposes no obligation on the Authority to make inspections to ascertain the condition of repair or preservation of the Premises or the improvements thereon and imposes no liability upon the Authority for failure to make such inspections.

(b) To perform maintenance and make repairs and replacements in any case where the Lessee is so obligated and has materially failed to do so within thirty (30) days after receipt of written notice from the Authority to act, provided that Lessee need not complete such repairs and replacements that are incapable of being accomplished within that thirty (30) day period so long as Lessee is pursuing completion in a reasonable manner. The entire cost of said repair, maintenance and replacement, plus fifteen percent (15%) in administrative costs, shall be paid by the Lessee to the Authority within thirty (30) days from the date of the Authority's invoice.

(c) To perform any emergency repairs deemed necessary by the Authority to eliminate any dangerous condition for which immediate repairs are required under the circumstances (i.e., imminent risk of death or serious injury to persons or property) and Lessee does not immediately respond or otherwise undertake repair thereof. The entire cost of such repair, maintenance and replacement, plus fifteen percent (15%) in administrative costs, shall be paid by the Lessee to the Authority within thirty (30) days of the date of the Authority's invoice.

13.4 **Effect of Entry.**

No method of entry authorized herein and made by the Authority shall cause or constitute grounds for the termination of this Agreement by the Lessee or be deemed to constitute an interference with the Lessee's possession or use of the Premises if made in accordance with the terms of this Agreement and applicable law. The Authority shall not use force to effect entry onto the Premises unless reasonably necessary under the circumstances giving rise to the need for entry.

13.5 **Safety Inspection.**

Authorized safety representatives of the Authority who are certified safety professionals shall have the right at all reasonable times and upon reasonable advanced written notice to Lessee (i.e. not less than ten (10) business days' advance notice), during normal working hours, to enter upon the Premises accompanied by a representative of Lessee at all times, for the purpose of conducting a limited visual inspection of the Premises (not more frequently than two (2) times per calendar year), provided that the Authority uses its best efforts to minimize disruption of Lessee's business.

The authorized safety representatives of the Authority will inspect the Premises to determine whether the Lessee is maintaining the Premises and conducting operations in a safe manner, using OSHA as best practices. The Authority will provide Lessee with a report, within ten (10) business days of its inspection of its findings, including any recommendations to improve

safety. The Lessee shall provide the Authority with a written response to the findings within thirty (30) calendar days of receipt of the report and Lessee may present alternative safety recommendations from Lessee's authorized safety representatives. However, the Lessee is under no obligation to concur with and/or implement any of the safety recommendations made by the Authority within a certain time period. If Authority determines, using reasonable discretion, that a serious safety risk exists on the Premises in violation of OSHA, and the Lessee fails and/or refuses to make the recommended changes to cure the OSHA violation or the alternative safety recommendations from Lessee's authorized safety representatives to cure OSHA violations, then, after prior written notice to Lessee the Authority shall be authorized to perform any action deemed necessary to eliminate the dangerous and/or unsafe condition existing at the Premises in violation of OSHA. The entire cost of such repair, action, maintenance and/or replacement, plus fifteen percent (15%) in administrative costs, shall be paid by the Lessee to the Authority within thirty (30) days of the date of the Authority's invoice. Notwithstanding anything contained herein, the safety and elimination of dangerous and/or unsafe conditions existing within the Common Areas, Terminal Facilities and/or Berthing Areas shall be the Authority's sole responsibility at no cost or expense to Lessee.

Article 14.

ALTERATIONS AND IMPROVEMENTS

14.1 Improvements.

In the event that Lessee desires to make any improvements, alterations, modifications, or other changes to the Premises, other than repairs and replacements made by Lessee in accordance with Sections 11.5 and Article 13 and the Initial Tenant Improvements, (i) so long as Lessee has provided advance notice of such planned construction, improvement or capital project for each calendar year (collectively, "Capital Project") within thirty (30) days after the start of such calendar year, then Authority consent shall not be required ("Annual Capital Project List"), provided, however, that in no event shall Lessee be required to include on the Annual Capital Project List any Capital Project that does not exceed \$100,000.00), and (ii) in the event that Lessee desires to make a Capital Project that is not set forth on the Annual Capital Project List and the cost of which is in excess of One Million No/100 Dollars (\$1,000,000.00), Lessee shall obtain the Authority's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. Any Improvements which are completed by Lessee and are not set forth in the Annual Capital Project List or are otherwise not consented to by the Authority shall not be deemed Amortizable Improvements. "Amortizable Improvements" for purposes hereof means (a) Capital Projects completed at the Premises by Lessee in accordance with the foregoing (i) and (ii), and (b) repairs and replacements made by Lessee in accordance with Sections 11.5 and Article 13, expressly excluding any personal property, trade fixtures, or equipment of Lessee, that the Authority and Lessee discuss on an annual basis. For the avoidance of doubt, the Authority's consent is not required for any improvements, alterations, modifications or other changes to the Premises that are not Capital Projects. However, Lessee shall provide the Authority with notice thirty (30) days prior to construction of any project that is not included on the Capital Projects.

The Lessee shall present any Capital Project to the Authority in writing, together with plans and specifications for construction of the proposed Capital Project, and all required permits prior to the commencement of construction. The Lessee shall provide all designs, drawings, and

calculations carrying the stamp and signature of a Florida Licensed Professional Engineer and/or Florida Licensed Architect, as applicable. Any alterations, additions, modifications or improvements made by the Lessee to the Premises shall become and remain the property of the Authority at the termination of this Agreement or at the time Lessee surrenders occupancy of the Premises. At its option, the Authority may, at the time Lessee requests the Authority's consent to a Capital Project, require the Lessee to remove or cause to be removed the Capital Project and restore the Premises to the condition existing at the Date of Beneficial Occupancy, ordinary wear and tear excepted.

Unattached trade fixtures, office furniture and such other personal property shall remain the property of the Lessee.

14.2 **Indemnification.**

The Lessee shall indemnify and save Authority harmless from all loss, damage or liability of any kind or nature by reason of or resulting from Lessee's making any alterations, additions or improvements to the Premises. Except as otherwise expressly provided for herein, any alterations, additions or improvements made by the Lessee to the Premises shall become and remain the property of the Authority at the termination of this Agreement or at the time Lessee surrenders occupancy of the Premises. Except for the Initial Tenant Improvements, at its option, the Authority may, however, upon the expiration or earlier termination of this Agreement require the Lessee to remove or cause to be removed any such alterations, additions or improvements that do not comply with applicable law and restore the Premises to the condition existing at the Date of Beneficial Occupancy, ordinary wear and tear, casualty and condemnation excepted.

14.3 **"As Built" to be Provided.**

After construction of the Initial Tenant Improvements and any and all structural alterations, additions or improvements are completed, the Lessee shall promptly provide a set of as built drawings to the Authority at no cost to the Authority.

Article 15. ASSIGNMENT, SUBLETTING AND TRANSFER

The Lessee shall not assign or otherwise transfer any of the rights granted to it by this Agreement, nor shall the Lessee sublease, assign or otherwise transfer any interest in or to the Premises or any improvement located thereon to any third party without the prior written consent of the Authority, which consent may not be unreasonably withheld. This prohibition shall not apply to any such assignment, sublease, or other transfer made by Lessee to any entity that is an affiliate, to a direct or indirect wholly-owned subsidiary of Lessee, or to any other business entity or land trust in which Lessee either owns a controlling interest or owns a controlling beneficial interest, and shall not apply with respect to any licenses granted by the Lessee to any third party vendor that is required in connection with Lessee's business operations. No assignment, sublease or transfer will release the Lessee from any of its obligations or responsibilities under this Agreement unless the Authority grants the Lessee a release in writing.

Notwithstanding the foregoing, if at any time during the Term of this Agreement, Lessee sells or otherwise transfers its right to distribute Toyota motor vehicles to the entity now known

as Toyota Motor Sales USA, Inc., the Authority shall approve the transfer of any of Lessee's rights under this Agreement to Toyota Motor Sales USA, Inc. If at any time during the Term of this Agreement, Lessee sells or otherwise transfers its right to distribute Toyota motor vehicles to a third party other than Toyota Motor Sales USA, Inc. ("Third Party"), the Lessee shall cause the Third Party to provide financials or a Letter of Credit to the Authority for its consent and approval of the transfer of rights. The Authority shall have ninety (90) days from the receipt of financials or a Letter of Credit to provide deliver notice to Lessee of the Authority's approval or disapproval of the transfer of rights to the Third Party. The Authority shall have the right to consent to the transfer of rights to a Third Party, which consent shall not be unreasonably withheld.

Notwithstanding anything contained herein to the contrary, the Authority shall not transfer the Premises or any part thereof to a private entity; provided, further, that in the event of any other transfer of the Premises or this Agreement, such transfer shall be subject to the terms and conditions of this Agreement and in no event shall Lessee's obligations hereunder increase as a result of such transfer.

Article 16.
NO INDIVIDUAL LIABILITY

No appointed member of the Authority, or officer, agent, director or employee of either party hereto shall be held contractually or personally liable under this Agreement because of any breach of the Agreement or because of its execution or attempted execution by such individual.

Article 17.
LAWS, ORDINANCES, RULES AND REGULATIONS TO BE OBSERVED

17.1 Unauthorized Use.

The Lessee shall not use or permit the use of the Premises or the Terminal Facilities for any purposes not authorized by this Agreement.

17.2 Unlawful or Hazardous Use Prohibited.

The Lessee shall not use or occupy the Premises or permit it to be used or occupied for any unlawful purpose or for any purpose not contemplated by Article 4 that is reasonably determined by the Authority to be hazardous.

17.3 Compliance with the Law.

The Lessee shall comply with and shall cause its officers, employees, agents, invitees, guests, contractors and any other persons over whom it has control to comply in all material respects with all applicable municipal, state and federal laws, ordinances, and rules and regulations, including, but not limited to, those adopted by the United States Occupational Safety and Health Administration, United States Customs and Border Protection, United States Coast Guard, United States Environmental Protection Agency, Florida Department of Environmental Protection, Florida Department of Transportation, United States Department of Transportation, Florida Department of Highway Safety and Motor Vehicles, Florida Department of Law Enforcement, Florida Department of Transportation Office of Motor Carrier Compliance, and the

Jacksonville Port Authority Security Division. The Lessee shall also ensure compliance with the Oil Pollution Act of 1990, 33 C.F.R. Part 105, Section 311.12, Florida Statutes, the Authority's rules and regulations governing the use of its Terminal Facilities by its tenants including the Authority's Seaport Security Plan adopted in accordance with 33 C.F.R. Part 105 and Section 311.12, Florida Statutes, and the Authority's published tariff or its reissue. In the event any municipal, state or federal agency implements any law, ordinance, statute, rule or regulation requiring the Authority, as the Terminal owner, to perform any protective or preventative operating function, it shall be the responsibility of the Lessee to perform these functions at its expense, provided that the necessity of such function or functions is due to the presence of Lessee's operation on the Premises and/or the Terminal Facilities. Notwithstanding the foregoing, Lessee shall not be responsible for taking any actions or performing any duties for which the Authority has accepted responsibility under this Agreement.

Lessee shall grant unimpeded access to its leased areas to the Florida Department of Law Enforcement, as well as Authority and its assigned agents, to include Authority's security personnel, security contractors, and when directed, Jacksonville Sheriff's officers to carry out routine and unannounced inspections of the Premises for compliance with Section 311.12, Florida Statutes and the Maritime Transportation Security Act. Additionally, the Authority's Director of Security or his or her designee will function as the incident commander during man-made or natural disasters or incidents occurring on the Authority's property in accordance with its approved Section 311.12, Florida Statutes and 33 C.F.R. Part 105 security plans. The Authority will retain full authority during any and all emergency situations to take such actions deemed necessary to ensure the safety and security of public seaport property and personnel.

17.4 **Permits and Licenses.**

The Lessee shall be responsible for obtaining all local, state and federal permits, approvals, and/or licenses as may be necessary for it to operate the Premises according to the terms of this Agreement. The Lessee shall maintain, in accordance with applicable law, permits, approvals and licenses it has obtained under this Section 17.4 throughout the Term and shall submit copies to the Authority if requested to do so at no cost to the Authority. The Authority shall cooperate with Lessee in obtaining and confirming any and all such permits, approvals, and licenses.

17.5 **Fines or Penalties.**

The Lessee will defend, hold harmless and reimburse the Authority for any fine or penalty assessed against the Authority that is imposed as a result of the Lessee's failure to comply with any law, ordinance, rule or regulation.

17.6 **Inspection of Premises to Verify Compliance.**

The authorized representatives of the Authority shall have the right, at all reasonable times and upon reasonable advance written notice, during normal working hours, to enter upon any part of the Premises to verify the Lessee's material compliance with applicable laws and regulations and with the material provisions and conditions of this Agreement. The authorized representatives of the Authority shall have the right to enter upon any part of the Premises at any time without

notice in the case of emergency, provided that it uses its best efforts to minimize disruption of Lessee's business.

17.7 Other Rules and Regulations.

Unless stated otherwise in this Agreement, all rules and regulations stipulated in Authority's published tariff or its reissue shall apply to Lessee's operations on the Premises and Terminal Facilities. To the extent that the terms and conditions of Authority's published tariff conflict with the provisions of this Agreement, this Agreement shall supersede Authority's tariff, and the terms in this Agreement shall prevail. The Authority shall provide Lessee with copies of the published tariff, its reissue, or any amendments thereof.

Article 18.

ENVIRONMENTAL MANAGEMENT, COMPLIANCE AND RESPONSIBILITY

18.1 General Environmental Obligations of the Lessee.

The Lessee shall:

(a) except with respect to the Authority's obligations hereunder, maintain the Premises in compliance in all material respects with any Applicable Environmental Law and be responsible for making any notification or report required to be made under such law concerning the Premises to the designated governmental authority;

(b) obtain and maintain in full force and effect all material governmental approvals required by any Applicable Environmental Law for Lessee's operations on the Premises;

(c) expeditiously cure at its expense and to the reasonable satisfaction of the Authority any material violation of Applicable Environmental Law at the Premises and/or Terminal Facilities, at Lessee's sole cost and expense, to the extent such violation is attributable to events or conditions that arose from Lessee's operations on the Premises and/or the Terminal Facilities on or after the Beneficial Occupancy Date, as applicable;

(d) not create or operate at the Premises and/or the Terminal Facilities any (i) landfill or dump or (ii) hazardous waste facility or solid waste disposal facility as defined pursuant to RCRA or comparable state or local law; and

(e) not manufacture, use, generate, transport, store, release, dispose of or handle any Hazardous Substance at the Premises and/or Terminal Facilities except in the ordinary course of business as of date the Lessee took occupancy of the Premises, as applicable, or otherwise in *de minimis* amounts, in compliance with Applicable Environmental Law, without the prior written permission of the Authority or if permitted under the Authority tariff or its reissue.

Notwithstanding the foregoing, in the event there is a change in the requirements or application of Applicable Environmental Law that require changes to any portion of the infrastructure of the Terminal Facilities, including, without limitation, the stormwater management system, all costs associated with such required changes will be borne by the Authority.

18.2 Fueling and Maintenance Areas.

In the event the Premises contains a site designated for maintenance and fueling of vehicles, equipment or containers, the Lessee shall maintain, or cause such site to be maintained, in a safe and orderly manner in compliance with applicable law. The Lessee shall allow no material discharge or leakage of Hazardous Substances (including petroleum and petroleum products) on the Premises, nor any *de minimis* discharge or leakage which, when combined with other discharges or leakages would qualify as a material discharge or leakage. Any above ground fuel tanks or mobile tanks that may be installed or used on the Premises shall be protected and operated in compliance with all Applicable Environmental Laws and in accordance with this Article 18.

18.3 Remediation of Environmental Damage.

Lessee, at its sole cost and expense, shall expeditiously conduct or cause to be conducted to the reasonable satisfaction of the Authority and in accordance with any Applicable Environmental Law any response or action necessary to remove, remediate, clean up, or abate any material Hazardous Substance Release, threatened Release, or disposal of Hazardous Substances not permitted under Applicable Environmental Law to the extent such response action is attributable to the use or occupancy of the Premises by Lessee, or its employees, agents, contractors, licensees, subtenants, or invitees. Lessee shall be responsible for the remediation of any contamination to the environment caused by any Hazardous Substance Release resulting from operations of Lessee, or its employees, agents, contractors, licensees, subtenants or invitees conducted on the Premises and/or the Terminal Facilities during the Term (or that occurs during any period of holding over as contemplated by Section 3.3), including without limitation, the payment of all investigative, clean up or restoration costs associated therewith.

Notwithstanding anything contained in this Agreement to the contrary, the Lessee shall have no liability for Hazardous Substance Releases: (i) that existed on the Premises prior to Lessee's occupancy thereof, as applicable, (ii) that were or are caused by the Authority, its employees, agents, invitees, or tenants, or (iii) which the Lessee can demonstrate were caused by a third party that is not Lessee's employee, agent, contractor, invitee or supplier and which were not exacerbated by the actions of the Lessee.

Notwithstanding anything contained in this Agreement to the contrary, the Authority, at its sole cost and expense, shall expeditiously conduct or cause to be conducted to the reasonable satisfaction of the Authority and in accordance with any Applicable Environmental Law any response or action necessary to remove, remediate, clean up, or abate any Hazardous Substance Release, threatened Release, or disposal of Hazardous Substances not permitted under Applicable Environmental Law to the extent such response action is attributable to Hazardous Substances existing at the Premises on or prior to the Effective Date or which were not caused by Lessee, or its employees, agents, contractors, licensees, subtenants, or invitees (collectively, "Remediation"). To the extent that the Authority does not complete the Remediation as provided in this Section, Lessee may complete the Remediation, and the Authority shall promptly reimburse Lessee for its reasonable out-of-pocket expenses incurred in connection therewith or Lessee may, at its option, offset such amount against the Premises Rental Fees.

18.4 Lessee's Duty to Report; Authority's Right of Entry.

The Lessee shall give immediate oral and written notice to the Authority upon receiving notice of the happening of any event involving an emission, spill, release, or discharge of a reportable quantity of a Hazardous Substance into or upon (i) the air, (ii) soils or any improvements located thereon, (iii) surface water or groundwater, or (iv) the sewer, septic system or waste treatment, storage or disposal system serving the Premises. The Lessee shall also immediately report and submit a written notice to the Authority upon receiving a complaint, order, directive, claim, citation or notice by any governmental authority or any other person or entity with respect to (v) air emissions, (vi) spills, releases, or discharges to soils or any improvements located thereon, surface water, ground water or the sewer, septic system or waste treatment, storage or disposal systems serving the Premises and/or portion of the Terminal Facilities used by the Lessee, (vii) noise emissions, (viii) solid or liquid waste disposal, (ix) the use, generation, storage, transportation, or disposal of toxic or Hazardous Substances or wastes, or (x) other material environmental, health or safety matters affecting the Lessee, the Premises, or any improvements located thereon, or the business conducted thereon.

Without limiting the foregoing, the Authority shall have the option, but shall not be obligated, to exercise any of its rights as provided in this Agreement and may enter onto the Premises for the following purposes:

(i) To inspect the Premises during regular business hours upon reasonable advance written notice, or at any time without notice in case of emergency (the Authority will use its best efforts to do so without disruption of Lessee's business) to determine whether Lessee is complying with the terms and conditions of this Article 18. This right of inspection reserved to the Authority shall impose no obligation on the Authority to make such inspections and imposes no liability upon the Authority for failure to make such inspections

(ii) Upon at least ten (10) days' prior written notice to Lessee, to take any actions it deems necessary or advisable to monitor, clean up, remove, resolve, or minimize the impact of, or otherwise deal with, any Hazardous Substances Release, or complaint upon the Authority's receipt of any notice from any person or entity asserting the happening of a Hazardous Substance Release or a complaint on or pertaining to the Premises and/or Terminal Facilities.

All costs and expenses incurred by the Authority in the exercise of such rights shall be deemed additional costs hereunder and shall be payable by Lessee to the Authority upon demand, unless the Authority is solely responsible for the occurrence or the circumstances relating to the complaint.

No entry by the Authority upon the Premises as outlined above shall cause or constitute grounds for the termination of this Agreement by the Lessee or be deemed by the Lessee to constitute an interference with the Lessee's possession.

18.5 **Environmental Inspection.**

The Authority reserves the right and may, during normal business hours on business days and upon reasonable advance written notice or at any time without notice in case of an emergency

enter upon the Premises for the purpose of determining the Lessee's compliance with the provisions of this Agreement relating to environmental matters, provided that the Authority uses its best efforts to minimize disruption of Lessee's business. Throughout the Term, the Authority shall be granted complete access to all records maintained by the Lessee relating to the use or storage of Hazardous Substances on the Premises. The Lessee shall provide the Authority with copies of any and all reports prepared by its environmental consultants pertaining to "reportable events" and the environmental condition of the Premises within twenty-four (24) hours of receipt by the Lessee's management. Nothing in this Agreement is intended to provide access to the Authority to documents that are attorney-client privileged or covered under the attorney work product doctrine or waive Lessee's rights in regard to such documents.

18.6 Removal of Hazardous Substances and Equipment.

The Lessee shall remove, or cause to be removed, from the Premises at its expense, as appropriate, by the date of termination of this Agreement any Hazardous Substances that arose from Lessee's operations on the Premises and/or the Terminal Facilities on or after the date the Lessee took occupancy of the Premises, as applicable, or equipment utilized to manufacture, generate, transport, treat, store, release, dispose or handle any Hazardous Substance used by the Lessee in the course of the Lessee's business. Lessee shall deliver to the Authority any and all environmental and asbestos reports obtained by the Lessee prior to the Date of Beneficial Occupancy.

Article 19. SECURITY

The Lessee assumes all responsibility for the security and protection of the Premises, including, but not limited to compliance at Lessee's expense with Section 311.12, Florida Statutes, and the Federal Maritime Transportation Security Act, 33 C.F.R., Part 105. Any additional security deemed necessary by the Lessee for the Premises or its business operations on the Terminal Facilities shall be the responsibility of Lessee and shall be procured by the Lessee at its sole expense. Notwithstanding the foregoing, the Authority, for itself, or through a vendor, will provide guard services at the entrance to the Terminal Facilities and shall provide a twenty-four (24) hours per day, seven (7) days per week, roving guard service on the Terminal Facilities staffed using Authority's reasonable judgement and discretion. Absent a separate written agreement between Authority and Lessee, however, Lessee will not be considered to be a third party beneficiary of this guard service by the Authority nor shall Authority have responsibility to guard the Premises.

19.1 Burden of Compliance.

Pursuant to the requirements of Section 17.3 hereof, the Lessee must comply with all laws imposing security requirements and measures relative to the Lessee's use and occupation of the Premises and the Terminal Facilities. Specifically, the Lessee understands and agrees that it shall bear the primary responsibility of compliance with the requirements of Section 311.12, Florida Statutes, as amended and 33 C.F.R., Part 105. Such compliance includes the payment of the costs and expenses of all operational requirements related to mandated security measures as well as the payment of all costs for security related infrastructure that must be installed or maintained on the Premises, including the cost of interfacing the information technology features of Lessee's security

system with the security system of the Authority. The Lessee agrees that it shall be responsible for the payment of all such costs and expenses. The Authority agrees that it shall reasonably cooperate with the Lessee by coordinating the efforts of the parties whenever the security measures required of each can best be served by a cooperative effort. The Lessee recognizes that the Authority has certain security responsibilities imposed on it by law as the owner of the Premises and in its capacity as a public deep water port. The Lessee therefore agrees that the Authority retains full and final decision-making authority for all non-emergency security related matters occurring outside of the Premises not under control of Lessee.

19.2 **Security Access.**

The Lessee agrees that it will grant the Authority access to the Premises in order for Authority to determine and ensure compliance with, and to carry out any day-to-day implementation of security plans and policies necessary to achieve compliance with, any and all applicable local, state or federal laws and/or regulations, provided that the Authority provides Lessee with reasonable advance written notice, except in cases of emergency, and uses its best efforts to minimize disruption of Lessee's business. The Lessee shall promptly take such corrective action as is directed by the Authority as reasonably necessary to achieve compliance with such laws and/or regulations.

The Lessee shall allow unrestricted access to the Premises through a gate to be designated by the Authority, subject to the terms and conditions hereof. The Authority shall issue a lock to the Lessee to be maintained on the designated gate and keys to said lock and the Lessee shall maintain proper key control as required by 33 CFR Part 105, Section 311.12, Florida Statutes, the Florida Seaport Security Standard Minimum Requirements and the Authority's Seaport Security Plan and shall be subject to audit by the Authority as required by such. Every effort shall be made by the Authority and Lessee to identify a mutually agreed-upon gate for the emplacement of the Authority's access control lock. If a mutual agreement cannot be reached, the Authority's Facility Security Officer shall designate the security access gate. The Lessee shall not alter, tamper, modify, remove, destroy or install additional locks or conduct other such activities to prohibit or delay access by the Authority or its designee. The gate will be marked with signage furnished and installed by the Authority. The Lessee shall immediately report to the Authority any damage or loss of any lock, key or sign. In the event the Authority or its designee is unable to gain access through the designated gate due to actions of the Lessee (including, but not limited to, all persons invited or welcomed by the Lessee for any purpose), the Authority as owner and under the requirements of law shall remove and/or replace any such impediments to access. Any such expense of removal, repair or replacement caused by Lessee shall be the responsibility of the Lessee, including but not limited to the actual cost of materials, labor or fines levied by any regulatory or enforcement body. The Lessee shall maintain operational control of the designated security access gate to perform regular business activities.

19.3 **Indemnification.**

In those instances when the Authority is providing security services, oversight or assistance to the Lessee in matters of security, the Lessee agrees that, absent the negligence or willful misconduct of the Authority or its security vendors, it shall hold the Authority harmless from and not prosecute any claim against the Authority for direct or consequential damages occurring as a

result of the loss of business or any other loss resulting from the suspension or delay of the Lessee's business operations occasioned by the enforcement of any security requirement imposed by federal, state or local law and/or regulation.

Article 20.
DISPUTE RESOLUTION

20.1 First Phase of Dispute Resolution for Construction Disputes - Negotiation.

Each party to this Agreement specifically reserves its right to institute suit or other appropriate legal proceeding for the purpose of resolving any dispute arising out of the operation or interpretation of this Agreement; however, the parties shall first attempt to settle the dispute through negotiation at the operating level. The aggrieved party shall provide written notice of the dispute and the basis for its position to the other party as set forth in Section 23.7. After receipt of this written notice, the authorized representatives of the Authority and the Lessee shall in good faith attempt to negotiate a settlement of the dispute during the next sixty (60) days. Any negotiated resolution of the dispute shall not be binding on the Authority and the Lessee until the settlement is reduced to writing and signed by the authorized representatives of the Authority and the Lessee.

20.2 Authorized Representatives in First Phase Dispute Resolution for Disputes.

The Executive Director of the Authority, or his designee, will represent the Authority in all matters pertaining to the first phase dispute resolution, as described in Section 20.1 above, and will be empowered to bind the Authority, subject to review and approval by the Authority's Board of Directors ("Board"), if required. In the event the Board approval is required, the settlement document must contain a statement to that effect. It is further understood and agreed that the Lessee's representative shall act in its behalf and represent the Lessee in all matters pertaining to dispute resolution and shall be empowered to bind the Lessee.

20.3 Second Phase Dispute Resolution for Disputes - Mediation.

The parties agree that in the event of any dispute to which Section 20.1 is applicable is not resolved according to Section 20.1, prior to filing any suit, action or other legal proceeding, the parties shall submit their dispute to mediation, as defined in Section 44.1011(2), Florida Statutes. The mediation shall be conducted as if it were a court-ordered mediation under Section 44.102, Florida Statutes, for actions filed in courts of records in the State of Florida, in Duval County. Mediation proceedings shall be held in Jacksonville, Florida.

(a) Duty of Mediator. The mediator's duties shall be to interpret this Agreement, to make determinations of fact applicable to the dispute to determine whether there was, in fact, a breach of this Agreement, and to offer action necessary to resolve the dispute so as to further implement this Agreement. In resolving the dispute, the mediator shall not amend the provisions of this Agreement. Florida law shall govern the interpretations and factual determinations of the mediator.

(b) Mediator's Cost. The fees and charges of the mediator shall be borne equally by the Authority and the Lessee, but each party shall bear its own attorneys' fees, expert witness fees and other costs.

20.4 **Litigation; Prevailing Party.**

In the event that the parties are unable to resolve any dispute arising out of this Agreement which is not governed by or resolved according to Section 20.1 or Section 21.3, either party may elect to file an action in any court with jurisdiction over the matter that is located in Duval County, Florida. In the event an action is filed by either the Authority or Lessee to enforce the terms, conditions and covenants of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs incurred in connection therewith at both the trial and appellate levels.

20.5 **Non-Waiver of Immunity.**

Nothing contained in this Article 20 shall be construed as modifying, limiting, restricting or otherwise adversely affecting the sovereign immunity defenses and limitations available to the Authority under Section 768.28, Florida Statutes and other sovereign immunity limitations of applicable law.

Article 21.
SURRENDER OF LEASED PREMISES

21.1 **Condition of the Premises and Improvements.**

The Lessee covenants that, at the expiration of the Term of this Agreement or at any earlier termination, it will surrender the Premises to the Authority in a good and clean state of repair and preservation, ordinary wear and tear, casualty and condemnation excepted. Ordinary wear and tear shall not include deterioration of the Premises that could have been prevented by proper maintenance practices on the part of the Lessee or by the Lessee properly performing its obligations under this Agreement.

21.2 **Title to Improvements.**

During the Term of this Agreement, any and all Initial Tenant Improvements and other Improvements made by or on behalf of Lessee shall be owned by Authority, but exclusively leased to the Lessee. Notwithstanding anything contained in this Agreement to the contrary, to the extent all or any portion of the Authority's Work or other Improvements are paid for by Lessee same shall be treated as leasehold improvements for purposes of generally accepted accounting principles and federal income taxation. Upon expiration or termination of the Term, the Initial Tenant Improvements, and all buildings, fixtures and other Improvements built on, or made to, the Premises by the Lessee shall remain on the Premises and shall immediately become the exclusive property of the Authority. Upon surrender of the Premises, Lessee shall remove all equipment, trade fixtures and personal property belonging to it or leased from third parties which have not assumed the characteristics of a permanent fixture or will not cause damage to the Premises upon removal. All personal property of Lessee not removed from the Premises upon termination or natural expiration of this Agreement shall be deemed abandoned and shall become property of the Authority, unless the Authority elects not to assume ownership, in which case the Authority may dispose of the same or store the same for Lessee's benefit, in either case at Lessee's sole cost and expense. Upon the expiration or earlier termination of this Agreement, Lessee shall transfer the Initial Tenant Improvements and any Improvements to the Authority in good condition, reasonable

wear and tear, casualty and condemnation excepted, subject to the terms and conditions of this Agreement.

21.3 Damage to Property.

Any damage caused to the Premises or the Authority's property by the removal of any of the Lessee's equipment, trade fixtures, improvements, or personal property shall be repaired by the Lessee at its sole expense within a reasonable period from the time the damage occurs.

21.4 Leasehold Improvement Liens.

The Lessee shall not pledge, assign or grant any liens or encumbrances relating to the use and occupancy of the Premises or to any improvements made to or on the Premises by the Lessee that would be considered a fixture or permanent improvement. Nothing in this Section 22.4 shall prevent Lessee from pledging or granting a lien or encumbrance against any moveable equipment placed on the Premises by Lessee or any other assets of Lessee. The Authority shall reasonably cooperate with Lessee and Lessee's lenders with respect to any financing arrangement of Lessee related to the Premises.

Article 22.

DEFAULTS; INTERRUPTIONS; TERMINATIONS

22.1 Events of Default.

Any of the following events shall constitute an "Event of Default" of this Agreement by the Lessee:

(a) If the Lessee transfers greater than twenty-five percent (25%) control of its assets and/or its business operations or activity to a Third Party unless such transfer is approved by the Authority or Authority approval is not required, in each case, as stipulated in Article 15; or

(b) If the fees, charges or other payments which the Lessee agrees to pay or is obligated to pay hereunder, are not received by the Authority within ten (10) days after written notice from the Authority to Lessee that same was not received on or before the due date;

(c) If the Lessee files a voluntary petition for bankruptcy, or makes a general assignment for the benefit of creditors, and in either event same is not withdrawn within sixty (60) days; or

(d) If the Lessee is adjudicated bankrupt and is not dismissed or terminated within sixty (60) days; or

(e) If at any time the Lessee uses or permits the Premises to be used for any purpose which has not been authorized by this Agreement or by a subsequent written agreement between the Lessee and the Authority, which is not remedied within thirty (30) days after Authority has provided Lessee with written notice of such violation, provided, however, such time period shall be extended if such violation is not reasonably capable of being cured in such thirty (30) day period

and Lessee commences to cure in such thirty (30) day period and thereafter diligently prosecutes such cure to completion; or

(f) If the Lessee uses or permits the use of the Premises in violation of any applicable law, rule or regulation, which is not remedied within thirty (30) days after Authority has provided Lessee with written notice of such violation, provided, however, such time period shall be extended if such violation is not reasonably capable of being cured in such thirty (30) day period and Lessee commences to cure in such thirty (30) day period and thereafter diligently prosecutes such cure to completion; or

(g) If the Lessee materially violates any of the provisions of this Agreement and such violation is not remedied within thirty (30) days after the Authority has provided Lessee with written notice of such violation, provided, however, such time period shall be extended if such violation is not reasonably capable of being cured in such thirty (30) day period and Lessee commences to cure in such thirty (30) day period and thereafter diligently prosecutes such cure to completion.

22.2 **Remedies on Event of Default.**

Upon the happening and during the continuance of any Event of Default specified in Section 22.1, and after the expiration of any applicable cure period set forth in Section 22.1, the Authority may, at its sole and absolute discretion, avail itself of any remedy provided by law and/or equity, including without limitation, any one or more of the following remedies:

(a) Without initially terminating this Agreement, the Authority may reenter and take possession of the Premises, and the Lessee shall continue to timely make such payments as required under this Agreement. The Authority may thereafter enter into a new lease of the Premises with any party, or operate the same on its own behalf. Immediately prior to commencement of the Authority's operation of the Premises or the effective date of the new lease, as applicable, the Authority shall notify the Lessee of such event.

(b) The Authority may immediately terminate this Agreement, enter the Premises and exclude the Lessee from possession of the Premises, declare any charges and amounts which are then due and payable and costs of the Authority to prepare the Premises for reletting to be immediately due and payable. The Authority shall make reasonable attempts to mitigate the damages caused by Lessee's Event of Default and amounts recovered by the Authority from the use of the Premises subsequent to the Event of Default shall offset the amounts that the Authority recovers hereunder.

(c) The Authority may take whatever other action at law or in equity that it considers to be necessary or desirable in order to collect any amounts then due and thereafter to become due from Lessee, or to enforce performance and observance of any obligation, agreement or covenant of Lessee under this Agreement, or may exercise all rights and remedies that are available under Florida and federal law. No method of entry authorized herein and made by the Authority shall cause or constitute a default of this Agreement or be deemed to constitute an interference with the possession or use of the Premises by the Lessee if made in accordance with the terms of this Agreement and applicable law.

22.3 **Remedies not Exclusive.**

No remedy under this Article 22 is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or existing in law or equity. No delay or omission to exercise any right upon breach shall impair any such right or shall be construed to be a waiver thereof.

22.4 **Termination by Lessee.**

In addition to all other rights, remedies, covenants, conditions, terms and provisions contained in this Agreement, Lessee may, at its option, declare this Agreement terminated in its entirety upon the happening of any one or more of the following events, in which event the Authority shall reimburse Lessee the Termination Fee within thirty (30) days after termination of this Agreement pursuant to this Section:

(a) If a court of competent jurisdiction issues an injunction against the Authority or any successor thereto preventing or restraining the use of the Premises, Access Routes, and/or Berthing Areas in its entirety, or any part thereof which may be vital to the Lessee for its operation; provided, however, that such injunction must remain in full force for a period of ninety (90) days or more before the Lessee can declare this Agreement terminated; or

(b) If the Premises, Access Routes, and/or Berthing Areas is damaged through no fault or omission of the Lessee and becomes unusable in whole or substantial part for the purposes specified herein, and the Authority does not proceed as promptly as reasonably practicable with the repairs required of it pursuant to this Agreement necessary to restore the Premises, Access Routes, and/or Berthing Areas to the condition that existed prior to the occurrence of the damage, however, such time period shall be extended if the repairs are not reasonably capable of being cured; or

(c) If the Authority fails to provide and maintain means for unobstructed ingress and egress to and from the Premises, Access Routes, and/or Berthing Areas in accordance with the provisions of this Agreement which is not remedied within thirty (30) days after Lessee has provided the Authority with written notice of such violation, provided, however, such time period shall be extended if such violation is not reasonably capable of being cured in such thirty (30) day period and Lessee commences to cure in such thirty (30) day period and thereafter diligently prosecutes such cure to completion; or

(d) If by reason of any willful act or omission in violation of this Agreement, the Authority shall substantially interfere with the use by the Lessee of the Premises, Access Routes, and/or Berthing Areas for the purposes authorized by this Agreement; or

(e) If any part of the Premises, Access Routes, and/or Berthing Areas which is vital to the Lessee in its operation is taken or condemned under power of eminent domain by any governmental authority during the Term of this Agreement; or

(f) If this Agreement is terminated prior to the expiration of the initial Term by no fault of Lessee.

Notwithstanding anything contained herein in this Section 22.4, in the event that any of the matters described in (a)-(e) above occur and Lessee has not elected to terminate in accordance with this Agreement, the Authority shall use its best efforts to find another location on the Authority's Terminal Facilities which is reasonably suitable for Lessee to conduct its business operations (in connection with the Premises and/or Terminal Facilities) and which does not increase Lessee's cost of doing business during the Term, minimizing disruption to Lessee's business operations at all times in connection therewith.

22.5 Time of Termination.

Except as may be specifically otherwise provided for in this Agreement, no termination declared by either party shall be effective unless and until thirty (30) days have elapsed after written notice of the termination is received by the other party specifying when such termination shall take effect and detailing the cause for termination of the Agreement. If such termination is by reason of a default for which termination is authorized under this Agreement, that default must be specified. No termination shall be effective if such default shall have been cured during such thirty (30) day period, nor shall such termination be effective if correction of the default is commenced within said thirty (30) days and completed as promptly as reasonably practicable. If this Agreement is to be terminated for failure of the Lessee to pay Premises Rental Fees or any other fees and charges stipulated in **Exhibit B** within thirty (30) days of the date due, the Authority shall give the Lessee notice of its intent to terminate this Agreement within thirty (30) days after said thirty (30) day period has expired. However, if payment in full is made within this thirty (30) day period, this Agreement shall not terminate.

22.6 Interruption of Utilities, Services or the use of Facilities.

The Authority does not warrant that the provision of utilities or services or the use of the Premises or other facilities contemplated herein will be free from interruptions caused by repairs, renewals, improvements or alterations; strikes or lockouts; accidents; electrical failures, interruptions or surges; the inability of the Authority to obtain utilities or supplies; or any other cause beyond the reasonable control of the Authority. In those instances wherein the Authority has control over the duration of a disruption, the Authority shall have the obligation to keep the length of the disruption to Lessee to a minimum. Except as otherwise provided herein, no such interruption shall constitute grounds for termination of this Agreement by the Lessee, or render the Authority liable to the Lessee for damages resulting from such interruption or relieve the Lessee from performing its obligations under this Agreement; provided that if there is an interruption in utilities or services that is caused by the act or omission of the Authority, and the interruption continues for more than three (3) days, then all amounts due hereunder shall equitable abate until such services or utilities are restored. The Authority shall promptly complete any repairs or alterations to any improvements located upon the Premises required to be performed by the Authority under this Agreement (or promptly complete any repairs or alterations the Authority commences that are not otherwise required to be performed by the Authority).

22.7 Termination of Agreement for Reasons other than Default.

A. If, as contemplated by Section 23.13, any part of the Premises are taken or condemned under power of eminent domain by any governmental authority during the Term and,

as a result of such taking, the parties mutually agree that the part so taken causes the Premises to be no longer commercially viable for the Lessee's operation, the Lessee shall have the option, upon full payment of all Premises Rental Fees and any other amounts due and payable to the Authority through the date of such taking, to cancel this Agreement in its entirety without penalty as long as the Authority cannot offer the Lessee acceptable replacement premises.

B. If the Premises cannot be used for the uses contained by this Agreement for reasons of Force Majeure for at least thirty (30) consecutive days, and the parties hereto cannot agree on terms and conditions necessary for the continuance of this Agreement within a ninety (90) day period immediately following the thirty (30) day period of nonuse, Lessee may cancel this Agreement in its entirety without penalty.

22.8 Termination of Existing Lease.

Authority's affiliate, Jacksonville Seaport Authority, a body politic and corporate entity created and existing under Chapter 2001-319, Laws of Florida, as amended, as landlord, and JM Family Enterprises, Inc., a Florida corporation (Lessee's parent company), as tenant, are currently parties to that certain Agreement and Lease dated February 1, 2002 (the "Existing Lease") for premises described therein. Authority and Lessee shall cause their affiliate companies, under a separate document, to terminate the Existing Lease on or before the Date of Beneficial Occupancy.

**Article 23.
GENERAL PROVISIONS**

23.1 Non-Waiver.

A waiver by either party of any of the provisions, conditions, or covenants of this Agreement shall not be deemed by the other party at any time thereafter to be a waiver of the same or any other provision, condition, or covenant herein contained, or to be a waiver of the requirement for the strict and prompt performance thereof. No notice by either party is required to restore or revive any right, power, remedy, privilege or option following a waiver by either party of any requirement, obligation or default of the other. No right, power, remedy, privilege or option of either party shall be construed as being exhausted or discharged by the exercise thereof on more than one occasion.

23.2 Options, Rights, Powers and Remedies are Independent.

Each of the options, rights, powers, or remedies given to either party according to this Agreement shall be cumulative, and no one of them shall be exclusive of the other or exclude any remedies provided by law. The exercise of one option, right, power or remedy shall not preclude the exercise of any other option, right, power or remedy, except in those cases where it is expressly so provided.

23.3 Modifications.

No change in, modification to, or amendment to this Agreement shall be valid or enforceable unless it is approved by the Lessee and the Authority, reduced to writing and executed by the duly authorized representatives of the Authority and the Lessee.

23.4 **Severability.**

In the event any covenant, condition or provision of this Agreement is held to be invalid by any court of competent jurisdiction, such determination of invalidity will not materially prejudice either the Authority or the Lessee as to their respective rights or other obligations contained in the valid covenants, conditions or provisions of this Agreement that shall remain and continue in full force and effect.

23.5 **Exhibits.**

All exhibits or schedules referenced in this Agreement or that may be referenced from time to time in any duly executed amendment to this Agreement are by this reference incorporated herein and shall be deemed to be a part of this Agreement as if fully set forth herein. Any exhibit or schedule attached to this Agreement may be adjusted by mutual consent of Lessee and the Authority without the necessity of formal amendment to the body of this Agreement. Upon adjustment of any exhibit or schedule, a revised exhibit or schedule shall be prepared and executed by the Authority and Lessee. Each new exhibit or schedule, which supersedes the effective date of a previous exhibit or schedule, shall replace such exhibit or schedule and shall constitute a formal amendment that shall be deemed a part of this Agreement.

23.6 **Withholding Required Approvals.**

Whenever approval by the Authority or the Lessee is required by the provisions of this Agreement, no such approval shall be unreasonably withheld, conditioned or delayed.

23.7 **Notices, Consents and Approvals.**

All notices, consents or approvals required by or otherwise contemplated by this Agreement shall be provided in writing and signed by a duly authorized representative of the party on whose behalf they are given. Such notice, consent or approval shall be deemed to be validly and sufficiently served (i) three (3) business days from the date a properly addressed letter with sufficient postage is deposited in any U. S. Post Office and sent certified or registered mail, return receipt requested, or (ii) on the date of delivery if sent by a nationally recognized overnight carrier.

- (a) Notice to the Authority shall be addressed to:

Jacksonville Port Authority
Attn: Chief, Administration and Corporate Performance
Post Office Box 3005
Jacksonville, Florida 32206-3005

With copy to:

Office of General Counsel
Attn: Government Operations
117 West Duval Street, Suite 480
Jacksonville, Florida 32202

(b) Notice to the Lessee shall be addressed to:

Southeast Toyota Distributors, LLC
 Attn: Casey Gunnell Jr, Group VP
 9985 Pritchard Rd
 Jacksonville, FL 32219

With copy to:

Southeast Toyota Distributors, LLC
 Attn: Maurice Jemison, Esq.
 Deputy General Counsel
 250 Jim Moran Blvd
 Deerfield Beach, FL 33442

23.8 Place of Payment.

Payments required pursuant to this Agreement shall be made by Lessee to:

Lockbox:	Jacksonville Port Authority PO Box 947820 Atlanta, GA 30394-7820 Lockbox number: 865820
ACH: Bank:	Wells Fargo Bank, N.A. 1 Independent Drive Jacksonville, FL 32202
Account #:	4613062413
Account Name:	Jacksonville Port Authority Concentration Account
Wire ABA:	121000248

The Authority may, upon at least ten (10) days written notice to Lessee, modify the place payment is received.

23.9 Headings.

The headings of the articles and sections of this Agreement are included only as a matter of convenience and for reference and in no way define or limit the scope or intent of the provisions of this Agreement. They shall not be construed to affect the provisions of this Agreement or to define or limit the interpretation or construction of this Agreement.

23.10 **Counterpart.**

This Agreement may be signed in any number of counterparts and delivered by facsimile, .pdf, or other electronic format, each of which shall be deemed an original so long as it bears the signature of the authorized representatives of both parties.

23.11 **Independent Contractor.**

The parties hereto agree that the Lessee is an independent contractor and as such is not subject to the direction or control of the Authority except that the Lessee shall be required to comply at all times with the Authority's reasonable general rules and regulations governing the use of the Terminal Facilities that are applicable to all tenants of the Authority. This Agreement shall not be construed so as to establish a joint venture or partnership between the parties hereto.

23.12 **Non-Discrimination.**

The Lessee agrees that it shall use the Premises in compliance with all non-discrimination requirements imposed by any applicable federal, state or local law. The Lessee also agrees that it will not discriminate against any employee or applicant for employment because of race, religion, color, creed, sex, age, national origin, disability, veteran or family status neither will it discriminate in hiring nor fail to make reasonable accommodation for qualified disabled employees.

23.13 **Eminent Domain.**

If any part of the Premises is taken under power of eminent domain by any governmental authority during the Term of this Agreement, and Lessee can still operate its business from the Premises in the same manner as operated immediately prior thereto as reasonably determined by Lessee, then this Agreement shall be amended to exclude the part so taken from the Premises and the Premises Rental Fees shall be equitably adjusted in proportion to the reduced production capacity of the Premises attributable to the part so taken, subject to Section 22.7.

The Lessee shall have no right to share in any award made to the Authority as a result of a taking of the Authority's ownership interest in all or a portion of the Premises or any improvements wholly owned by the Authority located thereon by eminent domain. The Lessee shall not be entitled to seek apportionment of such an award based on its leasehold interest; provided, however, that nothing herein contained shall be construed to preclude Lessee from prosecuting any claim directly against the condemning or taking authority for damages as may be recoverable by Lessee to the extent that such claim does not diminish the award recoverable by the Authority in connection with the taking, including, without limitation, awards or proceeds available for Lessee's relocation costs, loss of business value, loss of profits, loss of goodwill and Lessee's personal property, equipment and fixtures. In addition to other termination rights of Lessee in this Agreement, if fifty percent (50%) or more of the Premises is taken under the power of eminent domain as aforesaid, Lessee may elect to terminate the Agreement.

23.14 **Quiet Enjoyment.**

The Authority covenants that, if and as long as the Lessee shall faithfully perform the agreements, terms, covenants and conditions hereof and there is not then an Event of Default, the

Lessee and any Person who lawfully and in conformity with the provisions hereof claims through or under the Lessee shall and may peaceably and quietly have, hold and enjoy the Premises, subject to the terms and conditions of this Agreement, for the term hereby granted without molestation or disturbance by or from the Authority or any person claiming through or under the Authority. This covenant shall be construed as a covenant running with the Land, to and against successors to the Authority's interest in the lease under this Agreement, and is not, nor shall it operate or construed as, a personal covenant of the Authority.

23.15 **Force Majeure.**

Neither the Authority nor the Lessee shall be deemed to be in breach of this Agreement if either party is prevented from performing any obligations required of it hereunder by reason of strikes, boycotts, shortages of materials, labor disputes, use by the United States Government of the ESDQ Coverage Area which restricts the use and occupation of the Premises, pandemics, epidemics, embargoes, shipwrecks or obstructions to navigation, acts of God, acts of public enemy, acts of superior governmental authority, floods, windstorms, hurricanes, riots, rebellion, or any other similar circumstances for which it is not reasonably responsible and which is not within its control ("Force Majeure"); provided nothing stated in this Section 23.15 shall relieve Lessee of its obligation to pay Premises Rental Fees and any other fees and charges.

23.16 **Governing Law.**

This Agreement is to be read and construed in accordance with Florida law. Any disputes relating to this Agreement must be resolved in accordance with Florida law. Venue for any action arising under this Agreement shall be in the courts vested with jurisdiction for Duval County, Florida.

23.17 **Liens and Encumbrances.**

Lessee agrees to keep the Premises free and clear of all liens and encumbrances arising or growing out of the use and occupancy of the Premises by the Lessee, its agents, licensees, subtenants, contractors and subcontractors.

Authority hereby waives any statutory lien rights and any and all other lien rights it may have with respect to the Initial Tenant Improvements, other Improvements by Lessee, and Lessee's inventory, personal property, equipment and fixtures. Authority shall deliver any documentation reasonably requested by Lessee to confirm the foregoing.

23.18 **Intentionally Deleted.**

23.19 **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 the Duval County public health unit.

23.20 **Asbestos.**

Asbestos is an incombustible, chemical-resistant, fibrous mineral form of impure magnesium silicate often used for fire proofing, electrical insulation and building materials. When the materials containing asbestos are disturbed causing the asbestos to flake and the asbestos fibers to become airborne, the fibers can be inhaled causing serious health risks. In the event any renovations, changes, alterations or improvements are made to the Premises which would disturb or involve materials in the Premises containing asbestos, all federal, state and local laws involving the removal of asbestos shall be followed. For purposes of this Agreement, asbestos shall be considered a “Hazardous Substance”. The Authority acknowledges that as part of the Authority’s Work, the existing buildings are anticipated to be demolished, which contain asbestos. The costs and expenses in connection with the removal of the asbestos contained within the existing buildings on the Premises shall be included in the Authority’s Work, and all removal shall be in compliance with all federal, state and local laws.

23.21 **Construction.**

Both parties acknowledge that they have had meaningful input into the provisions and conditions contained in this Agreement. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared this Agreement. The rule sometimes referred to as “Fortius Contra Proferentum” shall not be applied to the interpretation of this Agreement.

23.22 **Non-licensed Spectrum Devices in Outdoor Premises.**

The Lessee agrees that it will consult and submit to the Authority the plan for design of RF Systems utilizing the IEEE 802.11 spectrum to be used within the Lessee’s outdoor Premises.

The plan will include a map or illustration which details the location and placement of IEEE 802.11 access points within the Lessee’s outdoor Premises, a heat map that illustrates radial feet of coverage and the 802.11 bands/frequencies used (a, b, g, n, ac, etc.).

The plan will include point of contact information for the Lessee who will handle coordination and review requests related to the RF Systems.

Submission of plans will be forwarded to the Authority’s Director of Information Technology who will respond within ten (10) business days to acknowledge and approve the submission, provided the intended usage does not interfere with other tenants or the Authority’s current or planned initiatives.

Modifications to this plan that result in changes to the illustration which details the location and placement of IEEE 802.11 access points within the Lessee’s outdoor Premises, and/or the heat map that illustrates radial feet of coverage and primary 802.11 bands/frequencies used (a, b, g, n, ac, etc.) must be submitted to the Authority’s Director of Information Technology for review and approval.

In the event the Authority is tasked with resolving wireless interference disputes between two or more tenants of the Authority, the Authority will complete a wireless site survey. The

Authority will review the site survey and make recommendations which could include but are not limited to the use of other frequencies or a change in transmission power. The Authority encourages all tenants of the Authority in any wireless interference dispute to cooperate reasonably to avoid wireless interference with the other tenants of the Authority and the Authority.

Any tenant of the Authority found to be in violation of their approved RF Systems plan will be notified by the Authority, with the Authority providing recommendations to resolve interference/conflicts. The Lessee has 30 days from the date of the notification to respond to the recommendation(s) submitted to them by the Authority. The response will include a plan to correct the interference. The timeline shall not extend past 60 days from initial submission of recommendations by the Authority. The Authority may seek reimbursement for a wireless site survey from Lessee if the wireless site survey indicates that the Lessee is operating in violation of their approved RF Systems plan.

23.23 Survival.

Any obligations and duties that by their nature extend beyond the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement and remain in effect. Without limiting the foregoing, all obligations for the payment of fees or other sums accruing up to the expiration or termination of this Agreement shall survive the expiration or termination of this Agreement.

23.24 Non-Waiver of Immunity.

Except as expressly set forth herein, nothing contained in this Agreement shall be construed as modifying, limiting, restricting or otherwise adversely affecting the sovereign immunity defenses and limitations available to the Authority under Section 768.28, Florida Statutes, and other sovereign immunity limitations of applicable law.

23.25 No Third Party Beneficiaries.

This Agreement shall be binding upon and inure solely to the benefit of each party hereto. Nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement.

23.26 Annual Appropriation.

Obligations of the Authority hereunder are subject to annual appropriation.

23.27 Representations and Warranties.

A. The Lessee, as of the Effective Date, hereby represents and warrants to the Authority that it has corporate power to enter into this Agreement and to perform all acts required to be performed by the Lessee and that its execution and delivery have been duly authorized by all necessary corporate action.

B. The Authority, as of the Effective Date, warrants and represents to Lessee that it has corporate power to enter into this Agreement and to perform all acts required to be performed

by the Authority and that its execution and delivery have been fully authorized by all necessary corporate action. The Authority further warrants and represents to Lessee that it is empowered to lease the Premises and related facilities to Lessee and to grant Lessee all of the rights, licenses and privileges contemplated herein.

C. Lessee and Authority represent and warrant each to the other that neither has engaged or used the services of a real estate broker, salesmen, agent or other finder in connection with this Agreement. Lessee and Authority shall indemnify, defend and hold harmless the other from any and all claims of real estate brokers, salesmen, agents or finders arising through such parties' actions in connection with this Agreement.

23.28 Further Assurances.

Lessee agrees that it will, from time to time, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required by the Authority for carrying out the expressed intention of this Agreement.

The Authority and Lessee acknowledge that while this Agreement creates no partnership or joint business endeavor whatsoever as between the parties, nevertheless it is to the mutual benefit of the parties that each party realize the intended benefits of this Agreement. Accordingly, without in any manner limiting, enlarging or modifying the specific rights and obligations of the parties set forth in this Agreement, if at any time during the term of this Agreement either the Authority or the Lessee, in the exercise of its commercially reasonable judgment and in good faith, believes modification(s) to the terms of this Agreement is necessitated by way of an event of Force Majeure or a material change of circumstances such as the acts of Lessee's importer or manufacturer which cause a substantial or detrimental effect in the ability of Lessee to perform in accordance with its past practices and history or in accordance with its distributorship agreement, surtax, or foreign or domestic import or export quotas or the curtailing or suspension of the manufacture or importing of motor vehicles or parts, whether or not due to factors or conditions outside the control of either party, the other party agrees to cooperate by meeting with the requesting party to discuss, review and consider such proposed modification(s).

23.29 Consequential Damages.

Each party hereto acknowledges and agrees that the other party shall not be liable for consequential, indirect, special, multiplied, punitive, exemplary or other similar damages arising out of, relating to, resulting from or in connection with this Agreement, the Premises or a party's performance, non-performance or breach of this Agreement, except as (a) expressly payable or recoverable hereunder and (b) to the extent that a party sustains losses, damages, liability, costs and expenses as a result of the willful misconduct of the other party.

**Article 24.
ENTIRE AGREEMENT**

The parties hereto understand and agree that this instrument contains the entire agreement between the Authority and the Lessee for the use of the Premises and/or the Terminal Facilities by the Lessee. The parties understand and agree that neither party nor its agents have made any

representation or promise with respect to this Agreement except as expressly set forth herein; and that no claim or liability shall arise for any representations or promises not expressly stated in this Agreement. Any other written or oral agreement regarding the Premises with the other party is expressly nullified upon the execution of this Agreement unless otherwise specifically provided herein.

[SIGNATURE PAGE FOLLOWS:]

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized representatives as of the date first written above.

Witness:

Jacksonville Port Authority

By: _____
Print Name: _____

By: _____
Name: Eric Green
Its: Executive Director

Witness:

By: _____
Print Name: _____

Approved as to Form:

By: _____
Office of the General Counsel

Witness:

Southeast Toyota Distributors, LLC

By: _____
Print Name: _____

By: _____
Name: Brent Sergot
Its: President

Witness:

By: _____
Print Name: _____

EXHIBIT A-1
LEGAL DESCRIPTION OF PREMISES (INCLUDING EXPANSION PREMISES)¹

March 8, 2022
Page 1 of 4

Work Order No. 22-034.00
File No. 128F-27.00A

Lease Parcel

A portion of Sections 19 and 30, Township 1 South, Range 28 East, Duval County, Florida, being a portion of those lands described and recorded in Official Records Book 1956, page 476 of the current Public Records of said county, being more particularly described as follows:

For a Point of Reference, commence at the Northeast corner of said Section 30; thence South 89°59'45" West, along the Northerly line of said Section 30, a distance of 3296.80 feet to the Point of Beginning.

From said Point of Beginning, thence South 11°02'16" East, departing said Northerly line, a distance 123.64 feet; thence South 79°19'10" West, 77.50 feet; thence South 09°08'40" East, 125.04 feet; thence South 79°19'10" West, 1312.33 feet; thence North 10°07'52" West, 320.78 feet to the point of curvature of a curve concave Easterly having a radius of 165.51 feet; thence Northerly along the arc of said curve, through a central angle of 04°48'33", an arc length of 13.89 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 12°32'09" West, 13.89 feet; thence North 14°56'25" West, 41.80 feet to the point of curvature of a curve concave Northeasterly having a radius of 144.65 feet; thence Northwesterly along the arc of said curve, through a central angle of 19°24'34", an arc length of 49.00 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 24°38'43" West, 48.77 feet; thence North 34°21'00" West, 12.52 feet to the point of curvature of a curve concave Northeasterly having a radius of 13.50 feet; thence Northwesterly along the arc of said curve, through a central angle of 29°31'01", an arc length of 6.95 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 49°06'30" West, 6.88 feet; thence North 63°51'08" West, 73.89 feet; thence North 25°46'51" East, 391.31 feet to the point of curvature of a curve concave Easterly having a radius of 1869.35 feet; thence Northerly along the arc of said curve, through a central angle of 14°48'13", an arc length of 482.99 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 18°22'45" East, 481.65 feet; thence South 79°43'32" East, 53.73 feet to the point of curvature of a curve concave Westerly having a radius of 1923.09 feet; thence Northerly along the arc of said curve, through a central angle of 06°32'24", an arc length of 219.51 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 07°41'16" East, 219.39 feet; thence North 04°25'03" East, 167.21 feet; thence North 37°01'05" West, 23.12 feet; thence North 05°28'19" East, 143.75 feet to the point of curvature of a curve concave Easterly having a radius of 1495.91 feet; thence Northerly along the arc of said curve, through a central angle of 22°21'13", an arc length of 583.62 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 16°38'56" East, 579.93 feet; thence North 27°49'32" East, 450.55 feet to the point of curvature of a curve concave Easterly having a radius of 1778.58 feet; thence Northerly along the arc of said curve, through a central angle of 12°53'06", an arc length of 399.98 feet to the point of tangency of said curve, said arc being subtended by a chord bearing

¹ The Lessee and Authority do each hereby acknowledge and agree that Exhibit A-1 and Exhibit A-2 may be modified or amended by the mutual written agreement of the parties during the Plan Period in connection with the determination of the location of the railroad spur track in accordance with the Work Letter.

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Work Order No. 22-034.00
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Lease Parcel (continued)

and distance of North 21°22'59" East, 399.14 feet; thence North 76°59'00" West, 71.12 feet to the point of curvature of a curve concave Easterly having a radius of 2446.66 feet; thence Northerly along the arc of said curve, through a central angle of 08°54'27", an arc length of 380.37 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 07°48'27" East, 379.99 feet; thence North 37°11'28" East, 19.02 feet; thence North 01°36'14" West, 21.38 feet; thence North 60°14'48" East, 5.53 feet; thence North 00°11'31" East, 7.44 feet; thence North 48°00'12" West, 8.77 feet; thence North 00°31'20" East, 73.77 feet to the point of curvature of a curve concave Easterly having a radius of 287.29 feet; thence Northerly along the arc of said curve, through a central angle of 04°26'14", an arc length of 22.25 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 01°41'47" West, 22.24 feet; thence North 03°54'54" West, 90.66 feet to the point of curvature of a curve concave Easterly having a radius of 405.71 feet; thence Northerly along the arc of said curve, through a central angle of 04°19'21", an arc length of 30.61 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 06°04'35" West, 30.60 feet; thence North 08°14'16" West, 98.41 feet to the point of curvature of a curve concave Easterly having a radius of 2364.18 feet; thence Northerly along the arc of said curve, through a central angle of 02°14'39", an arc length of 92.60 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 09°21'35" West, 92.59 feet; thence North 10°28'54" West, 29.50 feet to the point of curvature of a curve concave Southeasterly having a radius of 29.88 feet; thence Northeasterly along the arc of said curve, through a central angle of 87°49'43", an arc length of 45.81 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 33°25'57" East, 41.45 feet; thence North 77°20'49" East, 80.64 feet to the point of curvature of a curve concave Southeasterly having a radius of 29.97 feet; thence Northeasterly along the arc of said curve, through a central angle of 90°03'19", an arc length of 47.10 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 32°19'09" East, 42.40 feet; thence North 12°42'30" West, 389.51 feet to the point of curvature of a curve concave Northeasterly having a radius of 37.48 feet; thence Northwesterly along the arc of said curve, through a central angle of 78°56'38", an arc length of 51.64 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 52°10'49" West, 47.65 feet; thence North 12°40'17" West, 131.42 feet; thence North 31°37'38" West, 160.80 feet to the point of curvature of a curve concave Southeasterly having a radius of 31.75 feet; thence Northeasterly along the arc of said curve, through a central angle of 122°31'19", an arc length of 67.89 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 29°38'02" East, 55.67 feet; thence South 89°06'18" East, 161.48 feet; thence South 12°45'09" East, 557.27 feet to the point of curvature of a curve concave Westerly having a radius of 64.74 feet; thence Southerly along the arc of said curve, through a central angle of 15°21'10", an arc length of 17.35 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 05°04'35" East, 17.30 feet; thence South 02°36'00" West, 84.82 feet; thence South 12°38'20" East, 79.92 feet; thence South 22°18'11" East, 141.38 feet; thence South 12°44'01" East, 654.50 feet; thence South 75°21'50" West, 54.53 feet to the point of curvature of a curve concave Northwesterly having a radius of 42.00 feet; thence Southwesterly along the arc of said curve, through a central angle of 88°39'28", an arc length of 64.98 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 31°02'06" West, 58.69 feet; thence

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Lease Parcel (continued)

South 13°17'38" East, 61.44 feet to the point of curvature of a curve concave Southwesterly having a radius of 45.49 feet; thence Southeasterly along the arc of said curve, through a central angle of 90°18'20", an arc length of 71.70 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 58°26'48" East, 64.51 feet; thence North 76°24'02" East, 50.54 feet; thence South 12°34'45" East, 211.43 feet; thence South 77°25'15" West, 7.09 feet; thence South 11°33'33" East, 111.92 feet; thence North 77°40'28" East, 4.62 feet; thence South 12°19'32" East, 760.54 feet; thence South 49°09'27" East, 6.03 feet; thence South 12°22'22" East, 101.39 feet; thence South 50°24'19" East, 4.62 feet; thence South 12°58'48" East, 252.44 feet to a point on a non-tangent curve concave Westerly having a radius of 120.08 feet; thence Southerly along the arc of said curve, through a central angle of 89°33'35", an arc length of 187.70 feet to a point on said curve, said arc being subtended by a chord bearing and distance of South 13°01'50" East, 169.17 feet; thence South 12°29'43" East, 584.54 feet; thence South 72°34'10" West, 5.49 feet to the point of curvature of a curve concave Northwesterly having a radius of 58.26 feet; thence Southwesterly along the arc of said curve, through a central angle of 84°12'42", an arc length of 85.62 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 30°27'49" West, 78.12 feet; thence South 11°38'32" East, 23.88 feet to the point of curvature of a curve concave Southwesterly having a radius of 46.73 feet; thence Southeasterly along the arc of said curve, through a central angle of 64°58'39", an arc length of 52.99 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 44°07'52" East, 50.20 feet; thence South 13°06'31" East, 38.44 feet; thence South 12°22'49" East, 40.73 feet; thence South 13°20'41" East, 98.68 feet; thence South 79°22'32" West, 376.14 feet to the point of curvature of a curve concave Northwesterly having a radius of 19.28 feet; thence Southwesterly along the arc of said curve, through a central angle of 90°24'48", an arc length of 30.42 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 34°10'08" West, 27.36 feet; thence South 11°02'16" East, 141.90 feet to the Point of Beginning.

Containing 3922520 square feet or 90.0487 acres, more or less.

LESS AND EXCEPT

PARCEL A

For a Point of Reference, commence at Northeast corner of said Section 30; thence South 89°59'45" West, along the Northerly line of said Section 30, a distance of 2703.96 feet to a point lying on the Easterly line of that certain JEA Easement as recorded in Official Records Book 2695, Page 884 of said current public records; thence North 15°08'25" West, departing said Northerly line and along said Easterly line a distance of 1798.89 feet; thence South 76°59'16" West, departing said Easterly line a distance of 116.54 feet to the Point of Beginning.

From said Point of Beginning; thence continue South 76°59'16" West, 56.88 feet to the point of curvature of a curve concave Northerly having a radius of 24.49 feet; thence Westerly along the arc of said curve, through a central angle of 61°08'57", an arc length of 26.14 feet to the point of

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Lease Parcel (continued)

tangency of said curve, said arc being subtended by a chord bearing and distance of North 72°26'26" West, 24.91 feet; thence North 41°52'05" West, 43.50 feet; thence North 15°38'13" West, 78.07 feet; thence North 29°31'31" East, 74.32 feet; thence North 76°36'28" East, 59.57 feet to the point of curvature of a curve concave Southwesterly having a radius of 21.45 feet; thence Southeasterly along the arc of said curve, through a central angle of 89°56'28", an arc length of 33.67 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 58°25'18" East, 30.32 feet; thence South 13°27'04" East, 132.88 feet to the point of curvature of a curve concave Northwesterly having a radius of 29.53 feet; thence Southwesterly along the arc of said curve, through a central angle of 90°26'09", an arc length of 46.61 feet to the Point of Beginning, said arc being subtended by a chord bearing and distance of South 31°46'01" West, 41.92 feet.

Containing 21507 square feet or 0.4937 acres, more or less.

LESS AND EXCEPT

PARCEL B

For a Point of Reference, Commence at the Northeast Corner of said Section 30; thence South 89°59'45" West, along the Northerly line of said Section 30 a distance of 2703.96 feet to a point lying on the Easterly line of that certain JEA Easement described and recorded in Official Records Book 2695, Page 884 of said current public records; thence North 15°08'25" West departing said Northerly line and along said Easterly line a distance of 3186.82 feet; thence South 73°46'20" West, departing said Easterly line a distance of 49.91 feet to the Point of Beginning.

From said Point of Beginning; thence continue South 73°46'20" West, 153.87 feet to the point of curvature of a curve concave Northeasterly having a radius of 55.07 feet; thence Northwesterly along the arc of said curve, through a central angle of 103°11'19", an arc length of 99.18 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 54°38'02" West, 86.31 feet; thence North 03°02'13" West, 104.66 feet to the point of curvature of a curve concave Southeasterly having a radius of 18.82 feet; thence Northeasterly along the arc of said curve, through a central angle of 79°04'19", an arc length of 25.97 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 36°29'57" East, 23.96 feet; thence North 76°01'55" East, 168.73 feet to the point of curvature of a curve concave Southwesterly having a radius of 26.07 feet; thence Southeasterly along the arc of said curve, through a central angle of 91°33'34", an arc length of 41.66 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 58°11'18" East, 37.37 feet; thence South 12°24'26" East, 130.88 feet to the point of curvature of a curve concave Northwesterly having a radius of 20.37 feet; thence Southwesterly along the arc of said curve, through a central angle of 86°10'49", an arc length of 30.64 feet to the Point of Beginning, said arc being subtended by a chord bearing and distance of South 30°40'59" West, 27.83 feet.

Containing 39649 square feet or 0.9102 acres, more or less.

Exhibit A-2
DEPICTION OF PREMISES, EXPANSION PREMISES & ROFR PARCEL

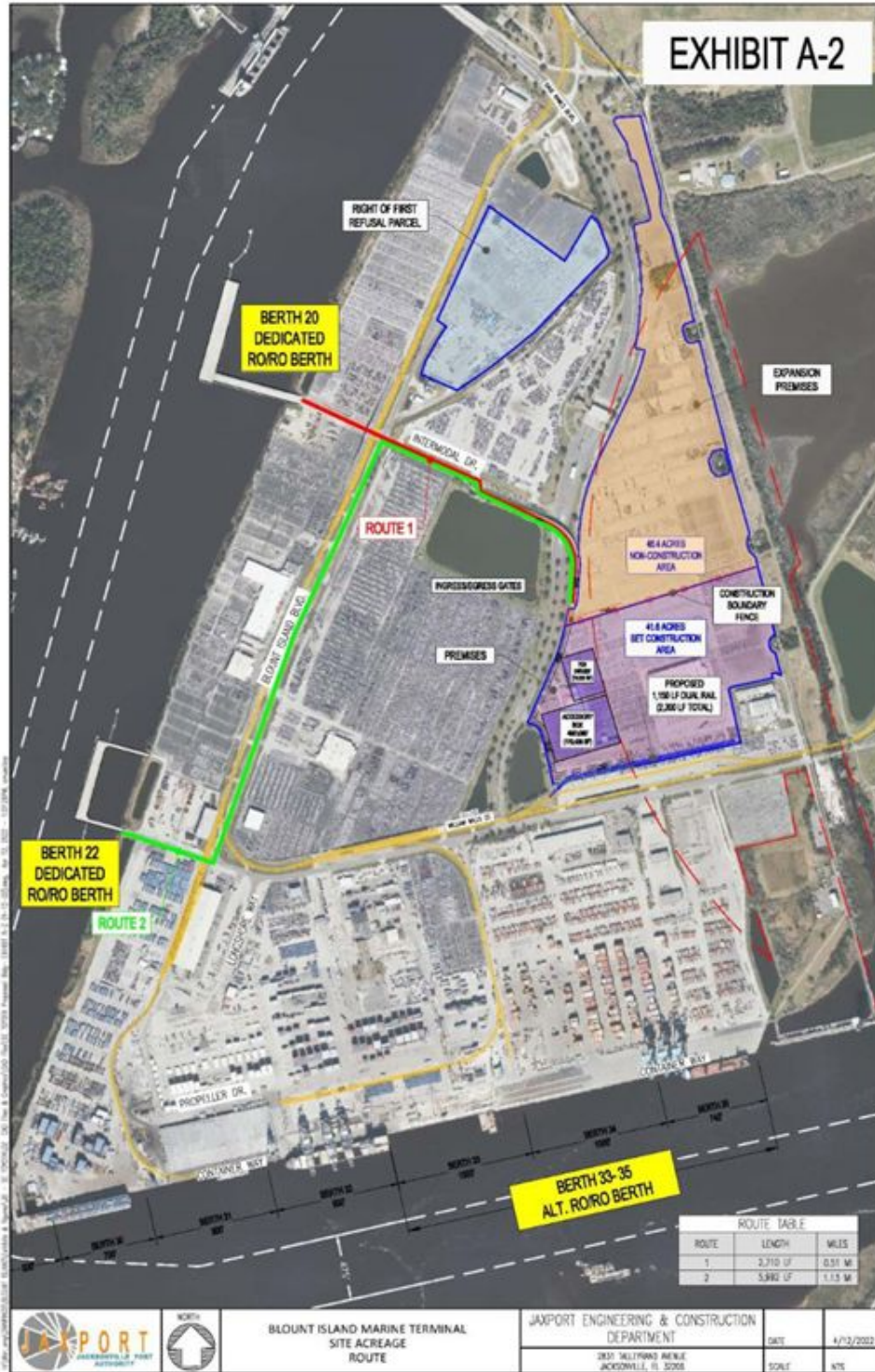


EXHIBIT B
TERM AND SCHEDULE OF FEES AND CHARGES

I. TERM:

The Term of this Agreement shall commence on the Date of Beneficial Occupancy and terminate twenty-five (25) years from the Date of Beneficial Occupancy.

II. PREMISES RENTAL FEE: Lessee shall pay the Authority premises rental fees at the rate of \$44,000 per acre per year, as more fully set forth below (“Premises Rental Fees”). All Premises Rental Fees are subject to Florida State Sales Tax, which shall be Lessee’s sole obligation; provided, however, that to the extent Lessee is responsible for payment to the Authority of any taxes due by Lessee hereunder, then the Authority shall be responsible for collecting and remittance thereof to the appropriate governmental or quasi-governmental agency, as applicable.

PREMISES	MONTHLY RENTAL FEE	ANNUAL RENTAL FEE
88.645 acres @ Blount Island Marine Terminal @ \$44,000 per acre per year for Premises and Expansion Premises	\$324,866.67	\$3,898,400.00

III. ANNUAL INCREASE IN FEES:

On each anniversary of the Date of Beneficial Occupancy throughout the Term of this Agreement, the Premises Rental Fees shall be increased by the same percent of increase that occurred in the Consumer Price Index (“CPI”) for the twelve month period that ended three (3) months just prior to the first day of the month of the Date of Beneficial Occupancy, which in no event shall exceed 4%. The percent of increase in the CPI for this twelve month period will be computed utilizing the index for Urban Wage Earners and Clerical Workers 1982-84 = 100, All Items, as published by the Bureau of Labor Statistics of the U. S. Department of Labor or any successor agency. This annual increase in fees shall be self-executing and shall automatically take effect on the anniversary of the Date of Beneficial Occupancy of each Contract Year without the necessity of any formal amendment being made to this Agreement in order to implement an increase. If there has been a negative fluctuation in the CPI at the time an annual increase would have otherwise been implemented, such negative fluctuation shall not be used to reduce the amount of any fees previously paid by Lessee and therefore the ensuing year, Lessee shall pay fees and charges calculated according to the same rates that were in effect for the previous year. If the CPI becomes unavailable or is revised, a substitute shall be used to obtain substantially the same results as would be obtained if the CPI had not been discontinued or revised.

IV. OTHER FEES AND CHARGES: Any other fees and charges due and payable to the Authority by the Lessee, not stipulated by this Agreement, shall be assessed and handled in accordance with the Authority’s published tariff or its reissue.

V. OTHER RULES AND REGULATIONS: Unless stated otherwise in the Agreement, all Rules and Regulations stipulated in the Authority's published tariff or its reissue shall apply to Lessee's operations on the Terminal Facilities.

EXHIBIT C
LESSEE INSURANCE REQUIREMENTS

Prior to commencement of operations or occupation of the Premises Lessee must have procured the insurance coverage as follows:

I. WORKERS COMPENSATION/EMPLOYERS LIABILITY:

- a. Part I State Requirement
- b. Part II Each Accident \$1,000,000
 Disease-Policy Limit \$1,000,000
 Disease-Each Employee \$1,000,000
- c. In addition to coverage for the Florida Workers' Compensation Act, coverage will be for the Longshore and Harbor Workers' Compensation Act, Maritime Employer Liability.

II. COMMERCIAL GENERAL LIABILITY:

- a. The Authority shall be named and endorsed as an additional insured.
- b. Combined Single Limit of Liability for Personal and Bodily Injury and Property Damage including Fire Legal Liability as follows:

General Aggregate	\$10,000,000
Each Occurrence	\$2,000,000
Fire Legal Liability	\$1,000,000

III. COMPREHENSIVE AUTOMOBILE LIABILITY: Coverage shall include all owned, non-owned or hired automobiles.

Combined Single Limit of Liability \$1,000,000

IV. PROPERTY INSURANCE/ALL RISK: Coverage for the Improvements shall be in the amount of the cost to rebuild or replace the same for hazards, including wind, flood and earthquake insurance. It is also incumbent upon the Lessee to carry and maintain such types and amounts of insurance it deems necessary to fully protect its Equipment, personal property, contents and/or cargo.

V. TERMINAL OPERATOR'S AND STEVEDORE'S LIABILITY: Lessee shall carry Terminal Operator's and Stevedore's Liability Insurance in an amount of not less than \$3,000,000 per occurrence.

VI. POLLUTION LEGAL LIABILITY: LESSEE shall carry Pollution Environmental Legal Liability Insurance in an amount no less than \$5,000,000 per incident/aggregate for pollution and/or environmental harm/damage resulting in bodily injury, property damage, business interruption and extra expense covering process, operations and transportation/vehicles, loading and unloading.

VII. UMBRELLA LIABILITY INSURANCE: \$25,000,000 excess to the foregoing on the form basis set forth in this Exhibit. The excess policy shall also schedule Pollution Liability if separately placed, Employer's Liability and Maritime Employer's Liability.

[SIGNATURE PAGE FOLLOWS:]

IN WITNESS WHEREOF, the parties have caused these Lessee Insurance Requirements to be signed by their duly authorized representatives.

Southeast Toyota Distributors, LLC

Jacksonville Port Authority

By: _____
Name: Brent Sergot
Its: President

By: _____
Name: _____
Its: _____

Reviewed and Approved:

By: _____
Name: _____
JAXPORT Risk Manager

Exhibit C-1
THIRD PARTY INSURANCE REQUIREMENTS

Prior to commencement of operations or occupation of the Premises, Lessee’s third party vendors shall provide to Authority and Lessee evidence of insurance coverage as follows. The insurance policies must be issued by a company or companies meeting the following criteria: (i) such company or companies shall be either (a) authorized by subsisting certificates of authority by the Department of Insurance of the State of Florida or (b) an eligible surplus lines insurer under Florida Statutes; and (ii) such company or companies shall have a Best’s Rating of “B” or better and a Financial Size Category of “VI” or better, according to the latest edition of Best’s Key Rating Guide, published by A.M. Best Company.

I. COMMERCIAL GENERAL OR MARINE LIABILITY:

- a. The Authority and Lessee shall be named and endorsed as an additional insured.
- b. Combined Single Limit of Liability for Personal and Bodily Injury and Property Damage including Fire Legal Liability as follows:

General Aggregate	\$2,000,000
Each Occurrence	\$2,000,000
Fire Legal Liability	\$1,000,000

II. TERMINAL OPERATORS AND STEVEDORES LIABILITY: The third party shall carry Terminal Operator’s and Stevedore’s Liability Insurance in an amount of not less than \$2,000,000 per occurrence.

Insurance provided pursuant to sections I and II above shall include, but not be limited to, coverage for care, custody and control of watercraft and cargo in transit and depot storage, debris removal, wharfingers legal liability, broad form contractual liability, personal injury, completed operations, liability for non-licensed vehicles on the Terminal Facilities, action over and borrowed servants. The foregoing may be written on a combined package basis or separately placed.

Warehouseman’s legal liability insurance shall be evidenced, as applicable.

If utilization of Lessee’s cranes is required, the secondary user shall waive subrogation in favor of Lessee and shall provide evidence to Authority and Lessee “all risk” direct damage insurance for the cranes for replacement cost insurance while utilized. At the option of Lessee, liability evidence may be accepted for the operations and the care, custody and control of the cranes while in the control and operation of the secondary user.

III. COMPREHENSIVE AUTOMOBILE LIABILITY: Coverage shall include all owned, non-owned or hired automobiles.

Combined Single Limit of Liability	\$1,000,000
------------------------------------	-------------

IV. WORKERS COMPENSATION/EMPLOYERS LIABILITY:

- | | | | |
|----|---------|-----------------------|-------------------|
| a. | Part I | | State Requirement |
| b. | Part II | Each Accident | \$500,000 |
| | | Disease-Policy Limit | \$500,000 |
| | | Disease-Each Employee | \$500,000 |
- c. In addition to coverage for the Florida Workers' Compensation Act, coverage will be for the Longshore and Harbor Workers' Compensation Act.

V. EXCESS LIABILITY INSURANCE: \$25,000,000 excess to the foregoing on the form basis set forth in this Exhibit. The excess policy shall also schedule Pollution Liability if separately placed, Employer's Liability, Maritime Employer's Liability, and, to the extent applicable, FELA for railroad workers.

VIII. The foregoing Commercial placement insurances shall also include Pollution Liability insurance for bodily injury and property damage (including clean up and defense costs resulting from sudden and accidental pollution conditions into or upon the land, the atmosphere or any water course or body of water).

EXHIBIT D
WORK LETTER

This WORK LETTER (this “**Work Letter**”) made as of the _____ day of April, 2022, by and between the **JACKSONVILLE PORT AUTHORITY**, a body politic and corporate created and existing under Chapter 2004-465, Laws of Florida, as amended (the “Authority”, and **SOUTHEAST TOYOTA DISTRIBUTORS, LLC**, a Delaware limited liability company (the “Lessee”).

Reference is made to the Facilities Lease Agreement dated of even date herewith, including all exhibits, schedules, addenda and attachments thereto (collectively, the “Agreement”) for the Premises as described in the Agreement. The Authority’s construction and completion of the Authority’s Work (defined below) shall be performed in accordance with the provisions of this Work Letter.

1. **Construction of Initial Tenant Improvements.**

(a) **Plans.** Lessee shall prepare the site plan and the plans and specifications (collectively, “Plans”), using the design-build firm of its choice (“Design Firm”), for the Lessee’s desired Initial Tenant Improvements and deliver such Plans to the Authority for approval, which approval shall not be unreasonably withheld, conditioned or delayed. The Authority shall provide its approval or comments to Lessee’s Plans within ten (10) days after receipt thereof. The Authority’s failure to approve or provide comments within such 10-day period shall be deemed approval of Lessee’s Plans by the Authority. Lessee shall, at Lessee’s sole cost and expense, have the right to make such modifications and change orders to the Plans for the Initial Tenant Improvements from time to time as are necessary or desired by Lessee in connection with the Initial Tenant Improvements, subsequent to the Authority’s approval thereof. The Authority represents and warrants that Lessee may install charging stations within the ESQD Arc Coverage Area for plug-in electric vehicles to the extent desired by Lessee.

(b) **Plan Approval.** Lessee shall have two hundred seventy (270) days from the Effective Date (“Plan Period”) to seek approval of Lessee’s Plans (including stormwater drainage) for the Lessee’s desired Initial Tenant Improvements, which Plans approvals shall be at Lessee’s sole cost and expense. The Authority represents and warrants to Lessee that in connection with Lessee’s Intended Use of the Premises and approval of Lessee’s Plans the Authority is the sole Governmental Authority required to approve Lessee’s Plans, including, without limitation, stormwater drainage. Notwithstanding anything contained herein or in the Agreement to the contrary, Lessee shall have the right to terminate the Agreement, to be exercised prior to the expiration of the Plan Period, as may be extended as set forth herein, in the event that, after using continuous, diligent, and good faith efforts and complying with applicable law, the Authority rejects or denies Lessee’s Plans or does not provide all of the approvals which shall be necessary for constructing the Initial Tenant Improvements in accordance with the Lessee’s Plans commencing after the Effective Date or after using continuous, diligent, and good faith efforts and complying with applicable law the Authority does not obtain the necessary Approvals and Permits (defined below) required for the Authority’s Work, in which event the parties shall be released from further

obligations under this Work Letter and the Agreement, except as expressly set forth therein. Notwithstanding the foregoing, in the event that the Lessee has not obtained approval of Lessee's Plans or the Authority has not obtained the necessary Approvals and Permits for the Initial Tenant Improvements during the Plan Period, after using continuous, diligent, and good faith efforts and complying with applicable law, the Plan Period shall be automatically extended for an additional ninety (90) day period. Each party shall keep the other party apprised of the approvals for the Initial Tenant Improvements, including, without limitation, the Plans and Approvals and Permits, and shall provide the other party with copies of all documentation and written correspondence with the Governmental Authorities, contractors, and other parties in connection with the Initial Tenant Improvements upon written request of the other party from time to time. The Authority shall reasonably cooperate with Lessee with respect to Lessee's Plans approval. The Lessee and Authority do each hereby acknowledge and agree that Exhibit A-1 and Exhibit A-2 may be modified or amended by the mutual written agreement of the parties during the Plan Period in connection with the determination of the location of the railroad spur track in accordance with the Plans.

(c) **Consents, Approvals, and Permits**. The Authority, at the Authority's sole cost and expense, shall be solely responsible for obtaining all applicable consents, approvals and building permits (collectively, "Approvals and Permits"), including without limitation, any governmental and military approvals, zoning approvals, variances, conditional or special use permits or other comparable documentation in connection with the Authority's Work and Lessee's intended use of the Premises, and cause such conditions to be met for such approvals, as required under applicable law or as required for the Authority's Work in accordance with the Plans, the Agreement and this Work Letter, provided, however that Lessee shall cooperate with Authority in connection with the foregoing. The Authority shall provide Lessee with copies of all Approvals and Permits promptly upon written request by Lessee.

(d) **Procurement**. The procurement of all design (other than Lessee's Plans and other design related matters completed by Lessee), contract administration and contractual services in connection with the Authority's Work shall be in accordance with Florida law (including Sections 255.05 and 287.055, Florida Statutes, as amended) and published Authority procedures (including ENG 700). The Authority shall promptly provide Lessee with copies of any and all (i) published Authority procedures and any amendments thereto from time to time, and (ii) documentation, communications, agreements, and other written material received in connection with the Initial Tenant Improvements. The Authority shall cause not less than three (3) representatives of Lessee (collectively, "Lessee Committee Representatives") to be selected to serve on the committee of five (5) members for the selection of the engineering consultants for the Authority's Work and shall permit such Lessee Committee Representatives to attend any and all meetings, conference calls, hearings, and formal and informal discussions with respect to the Authority's Work.

(e) **Proposals**.

- i. **Preconstruction**: Within one hundred twenty (120) days after the Effective Date, the Authority shall obtain written proposals (collectively, the "**Preconstruction Proposals**") from contractors, subcontractors, and suppliers for any and all costs for the Preconstruction Work. "Preconstruction Work" means any and all work required to prepare the Premises for construction of the Initial Tenant Improvements, including, without limitation, demolition, site work, dirt work, installation of utilities from the Premises boundary, infrastructure and proposed railroad spur tracks to be located within the Premises, only to the extent the completion of same do not require the Lessee's final Plans to complete and are located within the Premises; provided, however, that in the event that the Lessee's final Plans would otherwise be required, if Lessee provides written consent for any other work to be completed by the Authority at the Premises prior to the approval of the Lessee's final Plans, same shall be deemed Preconstruction Work. "Authority's Work" as used herein shall mean the Preconstruction Work together with the Initial Tenant Improvements. All Preconstruction Proposals shall be subject to Lessee's reasonable approval. Notwithstanding anything contained herein, in the Agreement, or in the Guidelines (as defined below) to the contrary, in the event that the Preconstruction Proposals obtained from time to time for the Preconstruction Work exceed Lessee's Budget with respect to any component of the Preconstruction Work or Lessee's Budget as a whole, then Lessee shall have the right to (i) review and revise the Preconstruction Proposals obtained with respect thereto and/or (ii) to require the Authority to re-bid and obtain new or additional Preconstruction Proposals (for all or any portion of such work). "Lessee's Budget" means Lessee's budget for the costs and expenses to be incurred in connection with the Authority's Work. Notwithstanding anything contained herein, the Agreement, or in the Guidelines to the contrary, in the event that the Agreement is terminated after the commencement and/or completion of the Preconstruction Work (other than as a result of a Lessee default, after applicable notice, cure and grace periods) but prior to receipt of approval of the Lessee's final Plans and Permits and Approvals, the Authority shall reimburse Lessee for costs incurred by Lessee in connection with the Preconstruction Work as follows: (i) 100% of all costs incurred by Lessee in connection with the railroad spur tracks and (ii) 50% of all costs incurred by Lessee for the other Preconstruction Work (including, without limitation, site work, dirt work, installation of utilities to the Premises boundary and infrastructure), and thereafter the parties shall have no further liability hereunder or under the Agreement in connection therewith.
- ii. **Construction of Initial Tenant Improvements**: Within sixty (60) days from the date that Lessee's Plans are approved, the Authority shall obtain formal bids (collectively, "**Plans Proposals**", together with the Preconstruction

Proposals, the “Proposals”) from contractors, subcontractors, and suppliers for any and all costs in connection with Lessee’s Plans for the Initial Tenant Improvements. All Plans Proposals shall be subject to Lessee’s reasonable approval. Notwithstanding anything contained herein, in the Agreement, or in the Guidelines to the contrary, in the event that the Plans Proposals obtained from time to time for the Initial Tenant Improvements exceed Lessee’s Budget with respect to any component of the Preconstruction Work or Lessee’s Budget as a whole, then Lessee shall have the right to modify any and all Plans as desired by Lessee, in which event, the Authority shall obtain new or modified Plans Proposals based upon all or any portion of such modified Plans. The Authority shall provide its approval or comments to Lessee’s Plans within ten (10) days after receipt thereof. The Authority’s failure to approve or provide comments within such 10-day period shall be deemed approval of Lessee’s Plans by the Authority.

(f) **Construction Contracts**. Promptly upon Lessee’s approval of the final Proposals for each component of the Authority’s Work in accordance with Section 1(e) above (and in any event within thirty (30) days from Lessee’s approval of the Proposals, from time to time), the Authority shall enter into contracts pursuant to such Proposals (collectively, “Construction Contracts”), which shall include (i) a guaranteed maximum price for the work to be performed thereunder, (ii) a minimum of one (1) year warranty commencing on the date of the issuance of the final certificate of occupancy for the Initial Tenant Improvements or, with respect to any component thereof the date such component of the Authority’s Work is completed, whichever is latest, (iii) that the applicable contractor, subcontractor or supplier shall comply in all material respects with all building, zoning and other laws, statutes, ordinances, rules, regulations, orders and requirements of all federal, state, county and municipal governmental authorities and the approved Plans, and (iv) a budget for the work to be completed, which in no event shall exceed Lessee’s Budget for such work. The Authority shall promptly provide Lessee with copies of each of the final Construction Contracts. The Authority agrees that the Design Firm that completes the Plans for Lessee shall have the right to submit a proposal(s) for the Initial Tenant Improvements. Lessee shall have the right to communicate with Governmental Authorities and the Blount Island Command in connection with the completion of the Authority’s Work. Notwithstanding anything contained herein or in the Agreement to the contrary, in the event the actual costs of the Authority’s Work exceeds the actual final Construction Contracts approved by Lessee (“Excess Costs”) then (a) if such Excess Costs are due to Lessee’s actions or change orders, then Lessee shall pay the Excess Costs, and (b) if such Excess Costs are due to the actions of or change orders by the Authority for the Authority’s Work, then, unless resulting from (a) above, the Authority shall pay any and all additional costs necessary to complete the Authority’s Work.

(g) **Authority’s Work**. In connection with construction of the Authority’s Work, the Authority agrees that it shall comply in all material respects with all building, zoning and other laws, statutes, ordinances, rules, regulations, orders and requirements of all federal, state, county and municipal governmental authorities, the final approved Proposals, Plans and Construction Contracts. The Authority is responsible for ensuring that the Authority’s

Work complies with the applicable Florida Department of Transportation funds programs (collectively, “FDOT Program”) in connection with the Reimbursement (as defined below). All materials used with respect to the Authority’s Work shall be new materials (unless otherwise reflected in the Plans or Proposals approved by the Lessee in accordance with this Work Letter), and the Authority’s Work shall be performed in a good and workmanlike manner, diligently prosecuted to completion, and completed to the reasonable satisfaction of Lessee. The Authority will manage all aspects of the Authority’s Work, and will otherwise use good faith efforts to comply with the Construction Schedule, subject to Force Majeure. The Authority will provide an Administrative Notice to Proceed to the contractor no later than thirty (30) days after the date the Construction Contract is entered. The Authority shall reasonably cooperate with Lessee in connection with Lessee’s compliance with TWIC and federal requirements, including, without limitation, obtaining TWIC badges and other TWIC related requirements and approvals for Lessee’s contractors, agents, and employees, including, without limitation, the Construction Supervisor. The Authority shall use commercially reasonable efforts to obtain a final certificate of occupancy for the Initial Tenant Improvements on or before the date that is thirty-six (36) months after the Effective Date, subject to Force Majeure, Authority Delay, or delays in construction outside of the control of the Authority or Lessee. Notwithstanding anything contained herein to the contrary, in any and all events, the Authority’s Work shall not be deemed substantially complete unless and until the Authority shall have delivered the following to Lessee: (i) a certificate of substantial completion from the architect of record that the Initial Tenant Improvements have been completed in accordance with the final approved Plans and applicable laws, and in a turnkey condition, such that Lessee may open for business from the Premises for its Intended Use other than Lessee’s furnishing of the Premises with furniture, fixtures, equipment and other personal property; (ii) as-built plans and specifications for Initial Tenant Improvements; (iii) lien waivers from all contractors, materialmen and subcontractors for the Authority’s Work accompanied by such supporting data, including, without limitation, receipts, vouchers, invoices, waivers of construction liens, and AIA Forms G702 and G703 certified by the general contractor and architect or engineer for the Authority’s Work; (iv) evidence that all permits obtained in connection with the Authority’s Work have been closed; (v) a final certificate of occupancy and evidence of any other approval, permit or license required by any governmental authority to the extent that any such approval is a condition to the lawful use and occupancy of the Premises and the Authority’s Work therein, and/or the availability of the same to the public, (vi) the Authority’s Work is sufficiently complete in accordance with the Lessee’s final Plans to permit the Premises to be occupied and fully utilized by Lessee for its intended purpose, subject only to minor “punch-list” items which the Authority can reasonably be expected to correct to the satisfaction of Lessee within thirty (30) days (or such longer period as may be agreed upon in writing by Lessee), and (vii) all Permits and Approvals authorizing Lessee’s full use and occupancy of the Premises. Authority’s Work and after completion thereof, the Premises, shall comply in all respects with the following: (a) the Building Code of the City and State in which the Premises are located and all legal requirements (including all State, County, City or other laws, codes, ordinances and regulations, as each may apply according to the rulings of the controlling public official, agent or other such person, including without limitation, the ADA), (b) applicable standards of the National Board of Fire Underwriters and National

Electrical Code, (c) building material manufacturers' specifications, and (d) the provisions of this Work Letter and the Agreement.

(h) **Lessee Construction Supervision**. The Authority acknowledges and agrees that Lessee may have an owner representative and/or may engage a third-party company to monitor the construction and completion of the Authority's Work (collectively, for purposes hereof, the "Construction Supervisor"). Lessee and/or its Construction Supervisor may periodically inspect the Authority's Work for compliance with this Work Letter from time to time and Lessee's acceptance of the Authority's Work shall be subject to Lessee's inspection and written approval thereof.

2. Commencement and Completion of Initial Tenant Improvements; Early Access.

The parties shall agree on a mutually acceptable schedule for the commencement and completion of the Authority's Work prior to the expiration of the Plan Period, as may be extended as set forth herein ("Construction Schedule"). During construction of the Authority's Work, the Authority shall coordinate weekly meetings with Lessee and Lessee's Construction Supervisor to provide progress updates. Notwithstanding anything contained herein or in this Work Letter or the Agreement to the contrary, Lessee and its contractors, agents, and employees shall have the right at Lessee's option, without being deemed to have begun its occupancy or otherwise having commenced the term of the Agreement, to enter the Premises for the purpose of inspection and investigation of the condition of the Premises and the Authority's Work and to prepare the Premises for Lessee's occupancy and operation of business, including without limitation to install Lessee's equipment, furniture, trade fixtures, and personal property, for space layout planning and other preparation related to Lessee's business and opening thereof, subject to reasonable notice and coordination of the timing of such access with the Authority and provided that Lessee's access is in compliance with all applicable laws and Lessee does not unreasonably interfere with or delay the work to be performed by the Authority ("Early Access Rights"). Lessee's Early Access Rights shall be subject to: (i) provision of insurance as required in Article 12, and (ii) the Lessee's indemnification provisions as set forth in Article 11. All parties performing on behalf of the Authority in connection with the Authority's Work shall be subject to the insurance requirements set forth on Exhibit C-1 of the Agreement, which insurance certificates shall include Lessee as an additional insured. The Authority shall provide Lessee with evidence of such insurance prior to the commencement of the Authority's Work.

In the event that the Authority does not deliver the Premises to Lessee on or before the date that is thirty-six (36) months after the Effective Date, then Lessee (or Lessee's parent company, as applicable) shall have the right to remain in occupancy of the Existing Lease premises without holdover, penalty or fine until the Premises are delivered in accordance with the Agreement.

3. Initial Tenant Improvements Costs.

The Authority represents and warrants that as of the date hereof there is up to a minimum of approximately \$16,500,000.00 in FDOT Program funds ("FDOT Funds") available to fund approximately fifty percent (50%) of the costs of the Authority's Work ("Reimbursement"); provided, however, that (i) the Reimbursement is not anticipated to cover costs associated with Lessee's inventory, personal property, furniture, equipment, trade fixtures, or other items of a non-

permanent nature installed in the Premises, and (ii) the Lessee may elect to allocate the portion of the Authority's Work for which Lessee remits payment for, Reimbursement is sought, and FDOT Funds are utilized, it being understood that the Authority's Work and the available Reimbursement is expected to exceed the available FDOT Funds. The Reimbursement hereunder shall be deemed costs to construct the Authority's Work. Attached hereto as **Exhibit E** are the procurement and construction guidelines (collectively, "Guidelines") of the Authority to be utilized by the parties in connection with the construction of the Authority's Work. Notwithstanding anything to the contrary contained in this Work Letter or the Agreement, the installation and/or necessary upgrades to utility lines and infrastructure to the Premises boundary required in connection with and to provide sufficient uninterrupted services the Authority's Work and thereafter for Lessee's business operations from time to time, including without limitation, for water, sewer, storm water, electric, and data cables, shall be completed by the Authority at its sole cost and expense, to the reasonable satisfaction of Lessee and shall not reduce the amount of the FDOT Funds available to Lessee for the Reimbursement. The Authority shall reasonably cooperate with Lessee in determining the utility capacity required for Lessee's business operations. The Lessee and Authority do each hereby acknowledge and agree that the Guidelines may be modified or amended by the mutual written agreement of the parties, from time to time.

Lessee agrees that it will provide the Authority with periodic lump sums for costs associated with the Project Construction Engineering and Inspection Services (the "CEI") (which may or may not be the same as the Construction Supervisor, and which CEI may or may not be paid utilizing FDOT Funds which are subject to the procurement process, in Lessee's sole discretion) and Construction Contracts as further described in **Exhibit D-1** pursuant to written request by the Authority in form and sums reasonably agreed to by the Authority and Lessee in accordance with the Guidelines. The lump sums will be deposited in a designated account by the Authority for the complete benefit of the CEI and Construction Contracts. The contracts will be managed via the e-builder application. All invoices will be submitted by the CEI and contractor for approval by Lessee, the construction and inspection management consultant and the Authority before payment is made. The Authority will provide copies of all invoices paid and checks documenting payment no less than monthly to Lessee. The Authority shall promptly and timely submit to the FDOT all necessary information for the Reimbursement and diligently and timely pursue such Reimbursement, which shall be deposited promptly to the designated account for the benefit of the construction contacts. The parties hereby acknowledge and agree that the Premises Rental Fees were determined with the understanding that Lessee would receive benefit of the Reimbursement of the lesser of a minimum of up to \$16,500,000 dollars hereunder or 50% of eligible costs of the project, and the Authority would be responsible for the application and diligent and good faith efforts to obtain the Reimbursement in accordance with the FDOT Program for the benefit of Lessee in connection with the Authority's Work. In the event the foregoing Reimbursement is not available, the Authority does hereby agree that the Premises Rental Fees shall be reduced pro rata throughout the initial Term by each such Reimbursement dollars that are not obtained as provided hereunder.

THE PARTIES AGREE THAT THE PROVISIONS OF THIS WORK LETTER ARE HEREBY INCORPORATED BY THIS REFERENCE INTO THE AGREEMENT FULLY AS THOUGH SET FORTH THEREIN. Capitalized terms used herein shall have the meaning given in the Agreement (including any exhibits, attachments and riders to the Agreement), unless otherwise defined herein. In the event of any express inconsistencies between the Agreement and

this Work Letter, the latter shall govern and control. Any default by the other party hereunder shall constitute a default under the Agreement and shall be subject to the remedies and other provisions applicable thereto under the Agreement.

[SIGNATURE PAGE FOLLOWS:]

The parties have executed this Work Letter on the date first above written.

Jacksonville Port Authority

Southeast Toyota Distributors, LLC

By: _____
Name: Eric Green
Its: Executive Director

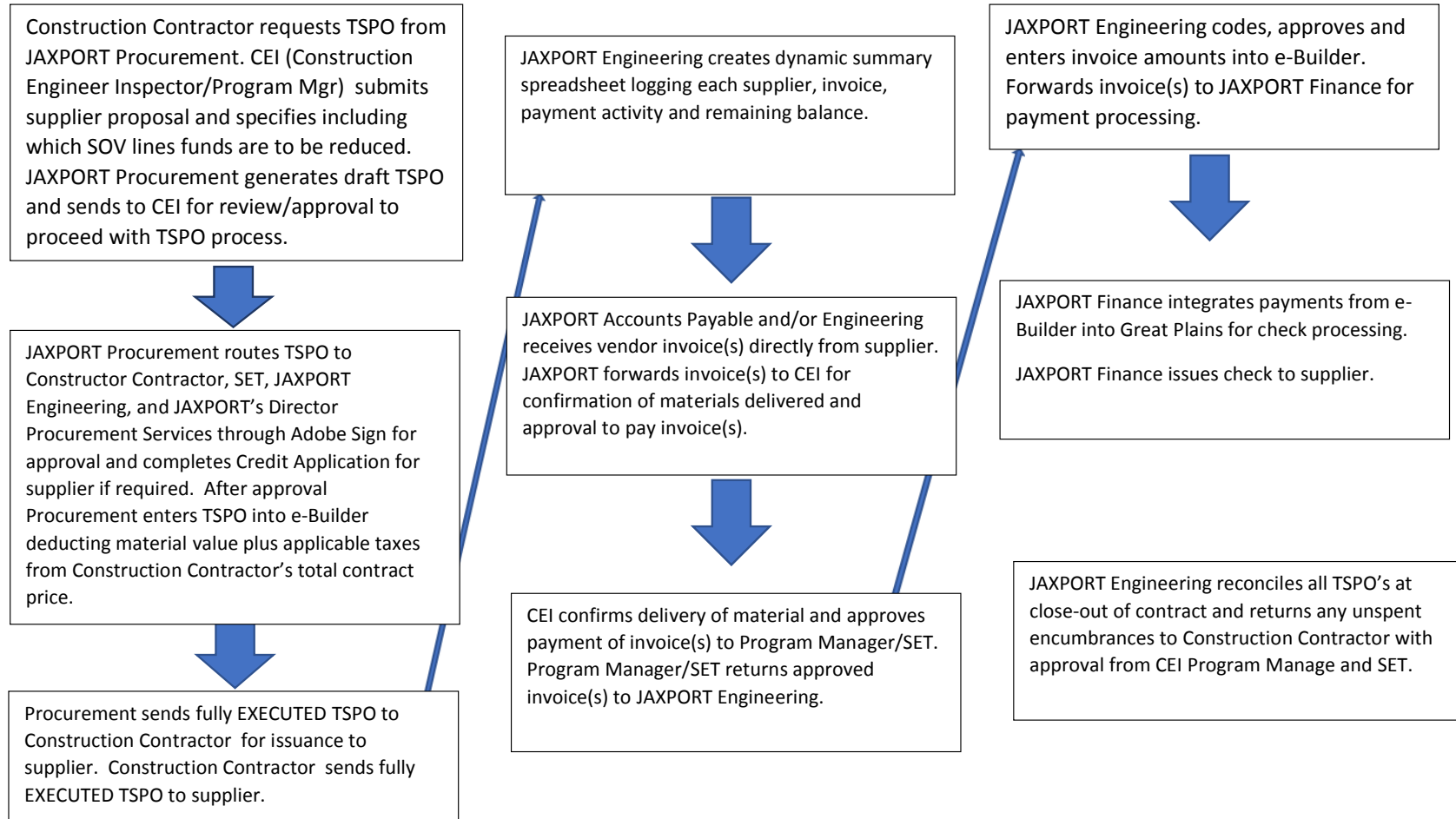
By: _____
Name: Brent Sergot
Its: President

EXHIBIT D-1
SCHEDULE OF CONSTRUCTION PAYMENTS

To Be Determined Once Design Plans Are Completed

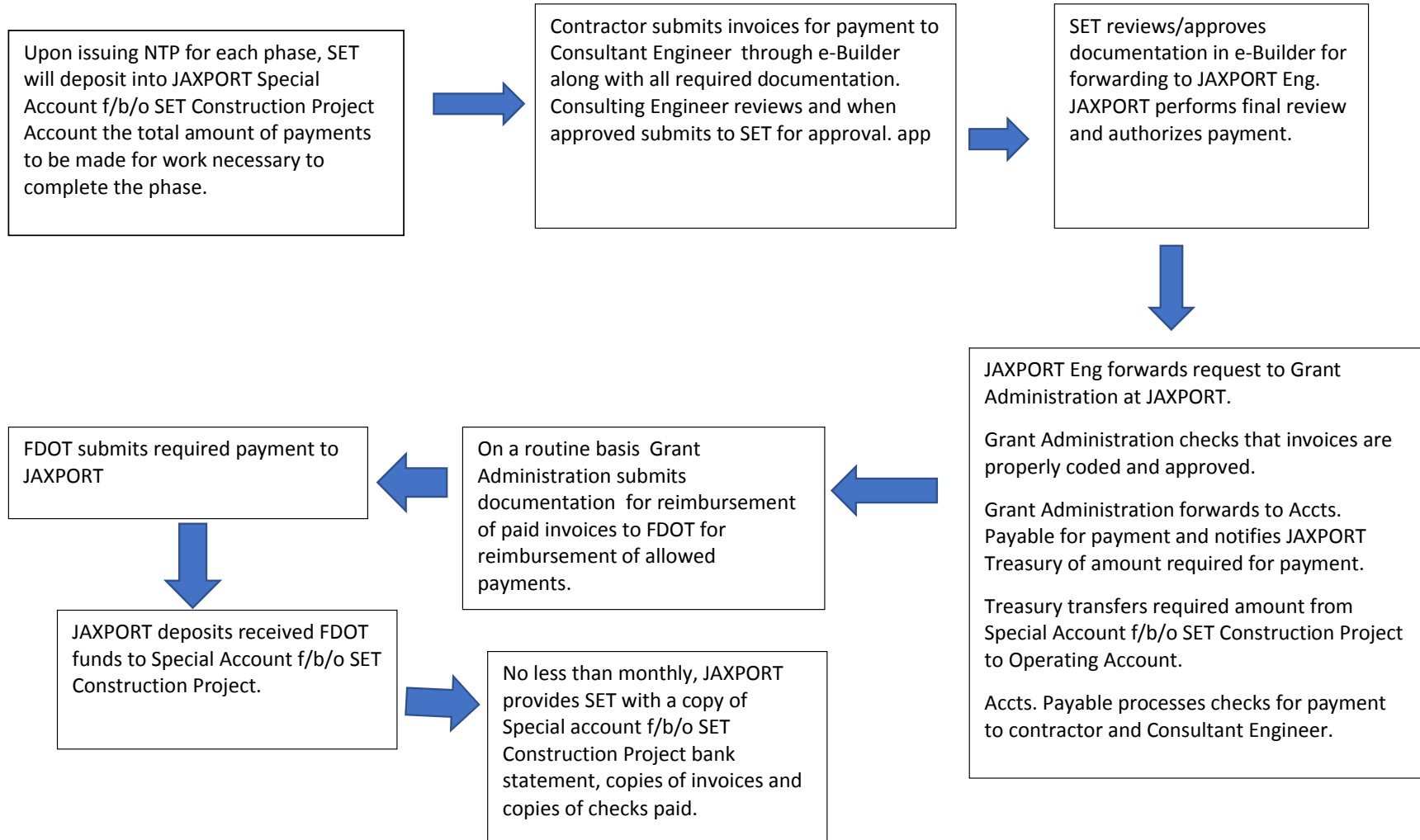
EXHIBIT E
GUIDELINES

Process for Administration of Tax Saving Purchase Orders (TSPO's) -SET Project



:\Users\bmccague\Documents\SET\ProcessDocuments\TSPO Process

Process for Administration of FDOT Grant SET Construction Contract



Build Grant Post Award Activities

Process for Administration of FDOT Grant Consultant Engineering /Program Management

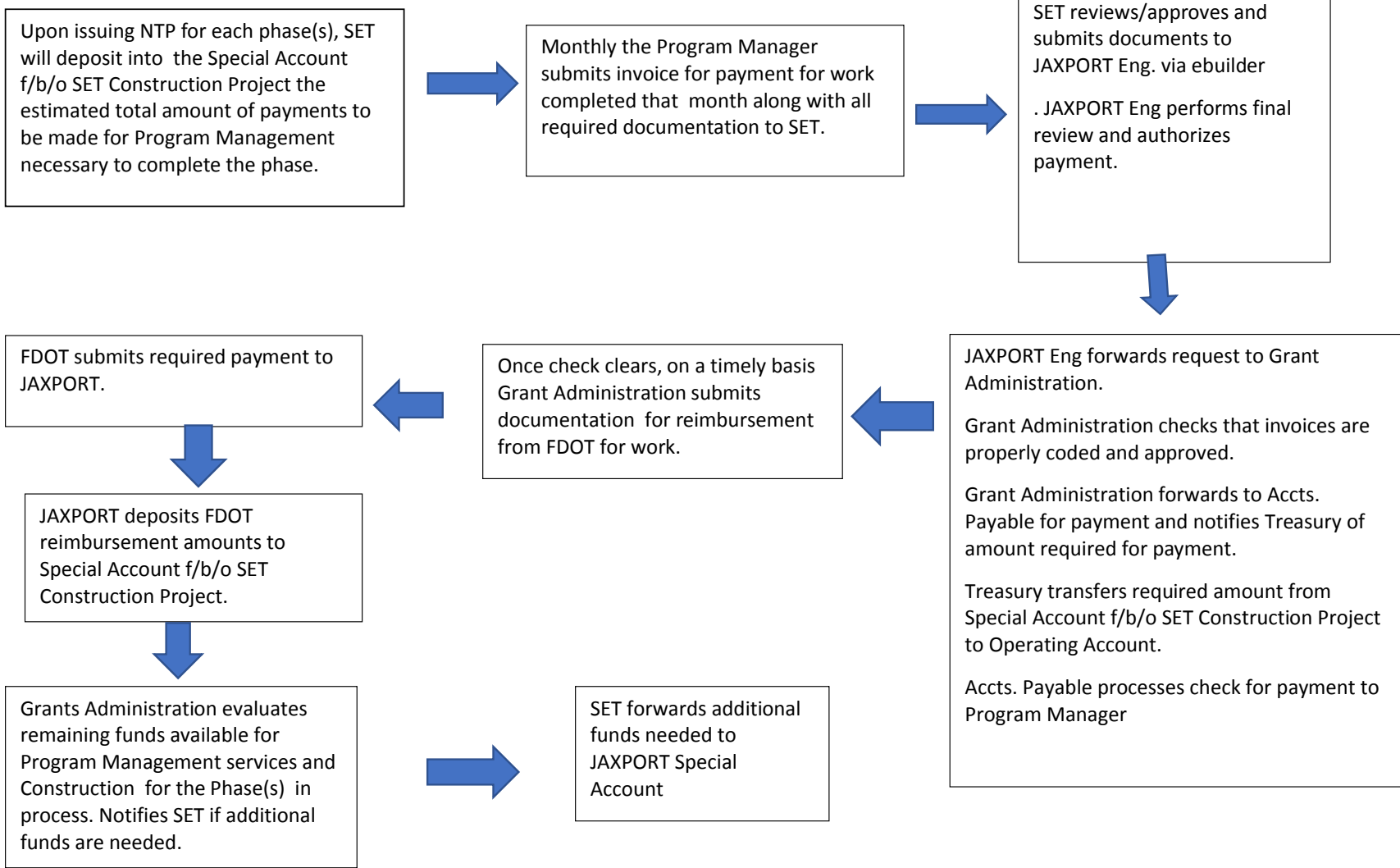
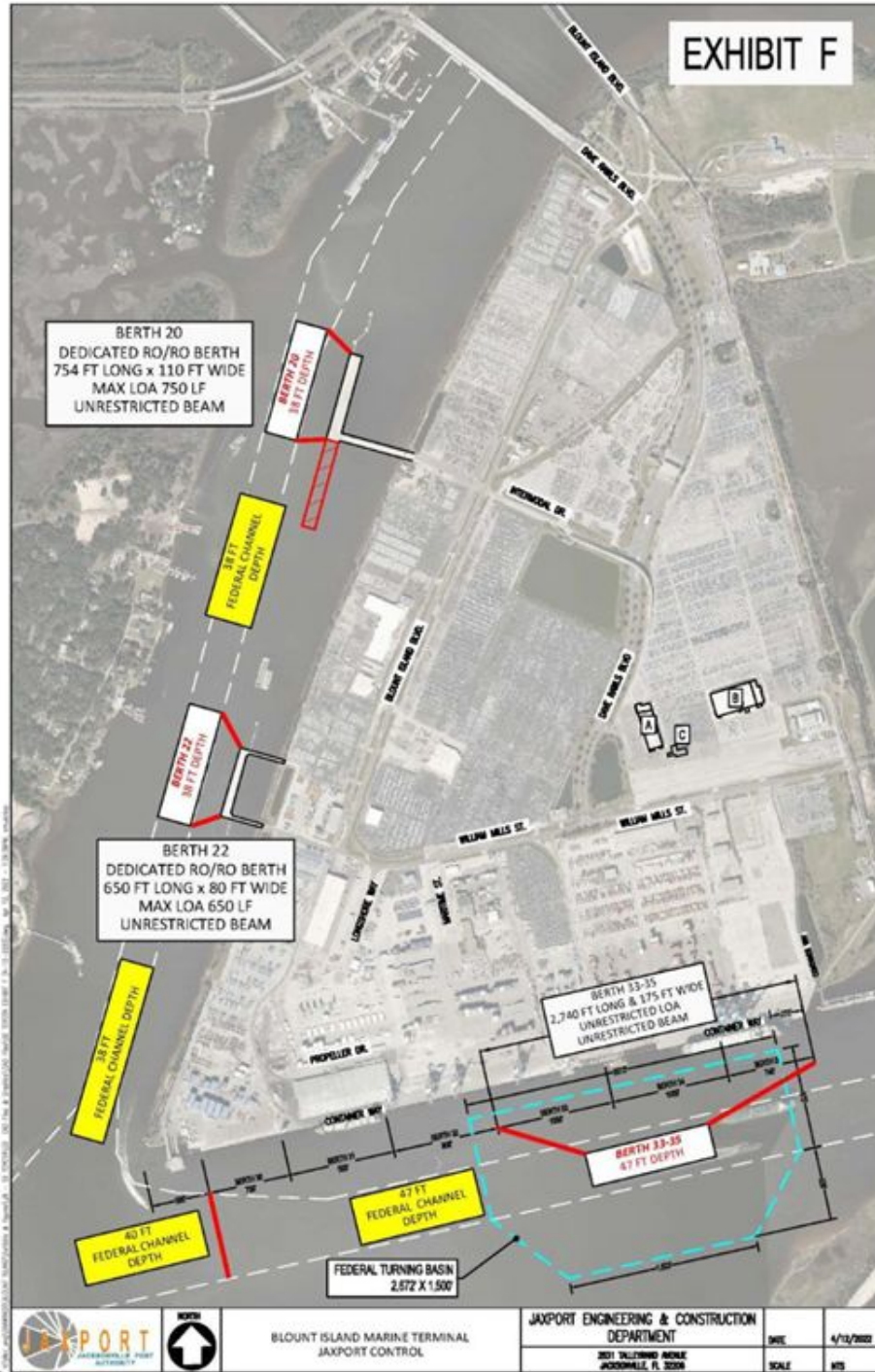


EXHIBIT F
BERTHING AREA



Board of Directors Meeting - R2022-04-01 Engineering and Construction Update

KEY CAPITAL PROJECTS APRIL 2022

No.	Contract Number	Project Description	Vendor	Scope	Original Contract Amt. (\$)	Approved Change Orders To Date	Total Contract as Amended	Payments to Date	Work Remaining To Invoice	Proposed Change Orders (PCO's)	Remarks				
1	AE-1436D	Rehabilitate Wharfs 33 & 34	HDR Eng., Inc.	Engineering Services During Construction BIMT Wharf Reconstruction Phase II	\$1,813,479	\$828,000	\$2,641,479	\$2,624,822	\$16,657	\$0	HDR awarded contract for Services During Construction. HDR is performing on-site daily observation including reports. Their services are critical in answering RFI's to keep the contractor working expeditiously.				
	C-1436C		Manson Construction	BIMT Wharf Rehabilitation Phase II	\$51,021,172	\$510,157					\$51,531,329	\$48,649,183	\$2,882,146	\$0	Manson Construction Co was awarded the construction contract to build Phase 2A and 2B on BIMT wharf. Construction NTP was issued on December 3, 2018. Contract completion date is February 6, 2021. Contractor is behind schedule but making every effort to improve the schedule. Phase 2B Construction: All concrete deck pours have been completed. Bollards and fenders are being installed. Sitework has started with limerock subbase installed. Asphalt paving started week of April 18. Rail installation is in progress. The Substantial Completion Date has been scheduled for April 26,
2	AE-1658	Upland Dredge Material Management Design & Construction	HDR Engineering	Engineering Design & Services During Construction for Toe Dike at Buck Island	\$340,055	\$58,967	\$399,022	\$360,455	\$38,567	\$0	HDR completed the design documents and will be performing administrative services during construction which includes reviewing submittals, RFI's, change order requests, and monthly inspections.				
	C-1737		Brance Diversified Inc.	Upland DMMA Construction Phase 1 - Buck Island	\$3,987,200	\$1,136,500					\$5,123,700	\$4,989,700	\$134,000	\$0	Brance Diversified received a Notice to Proceed on November 24, 2020. Contract duration is 450 calendar days. Brance Diversified has completed the construction of the toe dike and has placed 100% of material in new holding cell. Substantial Completion has been issued. Additional slope grassing/stabilizing is still required.
	C-1737A		Brance Diversified Inc.	Remove Dredge Materials DMMA Cell "B" Buck Island	\$5,950,000	\$2,700,000					\$8,650,000	\$2,275,593	\$6,374,407	\$0	NTP issued September 21st 2021. Contractor is pumping material to Reed Island. Change Order #1 authorized additional 200,000 CY to be pumped to Reed Island. Approximately 35% of material has been pumped to Reed Island.
3	AE-1611A	Pile Cap & Beam Rehab - TMT	HDR Engineering, Inc.	Design Services for Pile Jacket Program	\$141,569	\$71,200	\$212,769	\$183,201	\$29,568	\$0	HDR Engineering provided design services and is providing Services During Construction for the pile jacket repair project at Berth 4 at TMT.				
	MC-1611		Underwater Mechanix, Inc	Facilities Wide Underwater Pile Cleaning Berth 5	\$867,800	\$486,200					\$1,354,000	\$313,360	\$1,040,640	\$0	Underwater Mechanix is cleaning piles in Berth 5. To date they have cleaned 381 of 694 piles (55%). All 381 piles have been inspected.
						Option Yr 2									

Board of Directors Meeting - R2022-04-01 Engineering and Construction Update

No.	Contract Number	Project Description	Vendor	Scope	Original Contract Amt. (\$)	Approved Change Orders To Date	Total Contract as Amended	Payments to Date	Work Remaining To Invoice	Proposed Change Orders (PCO's)	Remarks
	C-1611		Underwater Mechanix, Inc	TMT Pile Jacket Repair - Berth 4	\$630,299	\$278,985 CO #3 01/20/22	\$909,284	\$857,199	\$52,085	\$0	Underwater Mechanix, Inc. was awarded the contract to provide pile jacket repairs at TMT Berth 4. All pile jackets have been poured. Project completion is scheduled for April 30.
	AE-1780		JACOBS Engineering Group	Engineering Inspection & Design Services Pile Jacket Repairs Berth 5	\$143,950	\$0	\$143,950	\$51,365	\$92,585	\$0	JACOBS was directed to design the pile jacket repairs on Berth 5 on May 25, 2021. JACOBS inspection team has made two visits and inspected 381 piles to date. No additional piles have been inspected this month.
4	AE-1588B	Rehabilitate Underdeck Concrete Phase 4	C&ES Construction & Engineering Services	Engineering & Inspection Services for Rehabilitate Underdeck Concrete Phase 4	\$52,440	\$0	\$52,440	\$6,604	\$45,836	\$0	C&ES has been awarded the contract to inspect the underdeck repairs for Phase 4 at TMT.
	C-1588A		Southern Road & Bridge LLC	Rehabilitate Underdeck Concrete Phase 4	\$2,143,244	\$61,776 Last CO #01 11/02/21	\$2,205,020	\$685,219	\$1,519,801	\$0	Southern Road & Bridge LLC was awarded the contract to make concrete spall repairs on the underside of the deck at TMT Berths 5-8. This is final phase of underdeck repairs for TMT. Southern Road & Bridge continues working on the repairs.
	AE-1742	Bartram Island Cell C Expansion Design/Permitting	Taylor Engineering, Inc.	Bartram Island DMMA Cell C Concept Development Design & Permitting	\$854,134	\$85,668 Last CO #04 08/25/21	\$939,802	\$926,919	\$12,883	\$0	Taylor Engineering has completed design documents. FDEP permit has been obtained. Taylor Engineering is making site visits to confirm compliance with contract documents.
	C-1795		Branche Diversified Inc.	DMMA Cell C Restoration & Capacity	\$7,775,000	\$0	\$7,775,000	\$0	\$7,775,000	\$0	Branche Diversified was awarded the contract to expand Cell C at Bartram Island. The Notice to Proceed was issued on February 24, 2022. Branche Diversified has installed the silt fence. Heavy equipment will be mobilized in May.
6	AE-1772	Container Terminal Upgrades - SSA	AECOM Technical Services	Program Management & Inspection Svcs for C-1772 SSA Container Yard Improvements	\$3,215,597	\$0	\$3,215,597	\$462,476	\$2,753,121	\$0	Program management services are being performed to manage the contractors work and progress.
	C-1772		Superior Construction Company Southeast, LLC	SSA JCT Container Yard Improvements	\$48,876,120	\$160,539 Last CO #01 03/26/22	\$49,036,659	\$ 4,188,457.00	\$44,848,202	\$0	Contractor has mobilized to jobsite. Limerock material is being stockpiled on BIMT. NTP for Construction was issued on 1/10/22. Contractor has milled Phase 1 and has started excavation of subgrade and placement of limerock. Phase 1 is scheduled for completion on July 18, 2022.
7	AE-1631	Seaonus Warehouse Roof Rehab	Jacobs Engineering	Engineering Services for Roof-Over Replacement Design	\$141,728	\$98,150 Last CO #01 02/14/22	\$239,878	\$136,913	\$102,965	\$0	Jacobs has designed the roofing project and will be performing Services During Construction. Change Order #1 added Services During Construction.
	C-1631A		Register Roofing & Sheetmetal	TMT Warehouse #1 Re-roof	\$3,859,000		\$3,859,000	\$1,474,149	\$2,384,851	\$0	Register Roofing received a notice to proceed on April 18, 2022. All roofing material had been ordered and delivered to the site prior to the NTP.

Financial Highlights

March 2022

March revenues at \$5.7 million are the best year-to-date. The number of vessel calls, total Tonnage, total TEU's, and Auto activity were highest for the year. Container revenue for tenants SSA and Cowley was highest year-to-date in March. Both Cruise Revenue at \$384 thousand and increased Breakbulk activity at \$521 thousand added to positive revenue results. Carnival Cruise, which resumed sailings on March 7th, is reporting 85% occupancy on average. Both SSA and Seaonus (now Enstructure) reported very strong Breakbulk results. Enstructure continues to broaden its cargo types, in March handling fertilizer and steel as well as the main cargo type, wood pulp.

Container Revenues are 8% above prior year; however, Container TEU's are down by 7%. This difference is the result of cargo shifting from TraPac to SSA which provides higher revenue per container. While Auto Units are 10% less than prior year, Auto Revenue is off by only 1%, as much of our Auto Revenue is generated from fixed lease amounts.

EXPENSES

We remain underbudget for all Expense, although we continue to see overages in Services & Supplies, largely fuel costs. Again, this month Dredge expense was less than expected as no dredging activity was needed during the month. We continue to be under budget in Security Services, the result of 9 positions shifting from outsourced to JAXPORT employees in November of this year and Allied Universal still experiencing higher than desired vacancies.

Non-Operating Income, largely Shared Revenue from the City remains on track.

In the Non-Operating category, we booked the SWAP termination fee on March 1st. This represents one of the transactions associated with the Surrender and Termination of the MOL TraPac lease. The early termination fee was split 50/50 with MOL. JAXPORT's share was \$4.2 million. This amount was partly offset in the amount of \$1.6 million by advance ETR (Excise Tax Revenue) rents paid by MOL and the elimination of the ongoing SWAP fees paid by JAXPORT.

YEAR-TO-DATE

With March's revenue results, we have surpassed budget expectations through the first six months of the year. Total revenues are \$28.75 million, \$296 thousand over budget YTD. Expenses are below budget by \$869 thousand. With no dredge event in March, the unfavorable dredge expense variance has been reduced to \$364 thousand. We expect to be at or below the budget in this category by year end. Even with the SWAP Termination fee included in the Debt Service category, we are currently below budget largely due to lower than expected balances on our line of credit and other savings in interest expense.

Income Before Depreciation is \$6.83 million, \$1.25 million ahead of plan.

Compared to 2021, Total Revenues are short of prior year by \$1.1 million and Income Before Depreciation is \$2.5 million short of prior year. The most significant cause for this is reduction in Other Income, specifically Tipping Fees, as we have allowed fewer spoil site deposits from neighbors in the harbor in order to maintain our own capacity requirements. Expenses are \$1.7 million over same period last year due to higher costs in the areas of Salaries/Benefits, Fuel, Repairs & Maintenance as well as Berth Dredge Expense caused by early in the year dredge events.

BALANCE SHEET

The Balance Sheet remains stable with nearly \$16 million in Operating Cash. Grants Receivable ticked up slightly as we billed FDOT and MARAD for invoices related to construction projects funded in part by grants. Restricted Cash, which represents funds deposited by SSA to pay for construction costs at their terminal and Federal Funds received from ARPA (American Rescue Plan Act), increased as we recorded the final ARPA funds received of the total \$17 million awarded.

CONCERNS

We are keeping a close eye on the impact of increased fuel prices, but with successful cruise sailings in place and reduced dredge activities we are optimistic that we will surpass our 2022 budget expectations.

VITAL STATISTICS

MARCH FY2022 - Cargo Performance

CARGO INDICATORS

	VARIANCE					YEAR-TO- DATE			VARIANCE	
	Actual	Budget	Prior	Budget	Prior	Actual	Budget	Prior	Budget	Prior
Vessel Calls	140	119	136	18%	3%	744	713	754	4%	-1%
Total Tons	872,742	868,612	997,245	0%	-12%	4,685,824	5,211,671	5,183,110	-10%	-10%
Total Revenue	\$5,700,174	\$4,887,932	\$5,073,311	17%	12%	\$28,749,402	\$28,453,212	\$29,839,462	1%	-4%

OPERATING REVENUE / STATISTICS

	VARIANCE					YEAR-TO- DATE			VARIANCE	
	Actual	Budget	Prior	Budget	Prior	Actual	Budget	Prior	Budget	Prior
Container Revenue	\$2,720,346	\$2,488,061	\$2,509,135	9%	8%	\$14,624,221	\$14,928,366	\$13,740,054	-2%	6%
Container TEU's	114,916	113,239	123,784	1%	-7%	637,548	679,433	701,630	-6%	-9%
ICTF Rail Lifts	2,765	1,500	1,460	84%	89%	15,180	9,000	7,936	69%	91%
Auto Revenue	\$1,366,042	\$1,268,377	\$1,372,950	8%	-1%	\$7,407,425	\$7,610,262	\$7,796,712	-3%	-5%
Auto Units	50,350	60,306	56,050	-17%	-10%	268,572	361,837	332,783	-26%	-19%
Military Revenue	\$42,721	\$83,177	\$119,113	-49%	-64%	\$190,633	\$499,062	\$473,327	-62%	-60%
Breakbulk Revenue	\$520,954	\$344,452	\$449,840	51%	16%	\$2,704,104	\$2,066,712	\$2,810,655	31%	-4%
Breakbulk Tons	82,744	63,966	78,712	29%	5%	445,409	383,796	362,508	16%	23%
Liquid Bulk Revenue	\$122,629	\$124,243	\$109,252	-1%	12%	\$784,844	\$745,458	\$710,674	5%	10%
Liquid Bulk Tons	35,163	35,845	31,156	-2%	13%	218,357	215,072	210,383	2%	4%
Dry Bulk Revenue	\$194,813	\$173,184	\$243,638	12%	-20%	\$1,019,408	\$1,039,104	\$1,073,267	-2%	-5%
Dry Bulk Tons	66,519	67,500	129,038	-1%	-48%	285,463	405,000	414,480	-30%	-31%
Cruise Revenue	\$384,245	\$174,876	\$0	120%	0%	\$472,793	\$174,876	\$0	170%	0%
Cruise Passengers	11,587	5,714	-	103%	0%	11,763	5,714	-	106%	0%
Total Cargo Revenue	\$5,351,750	\$4,656,370	\$4,803,929	15%	11%	\$27,203,427	\$27,063,840	\$26,604,690	1%	2%
Other Revenue	\$348,424	\$231,562	\$269,382	50%	29%	\$1,545,974	\$1,389,372	\$3,234,771	11%	-52%

Jacksonville Port Authority
Comparative Income Statement (Unaudited)
For the 6 months ending 03/31/2022

	Current Month Actual	Current Month Budget	Budget Variance	Prior Year Month Actual	Current YTD Actual	Current YTD Budget	Budget Variance	Prior Year YTD Actual
OPERATING REVENUES								
CONTAINERS	2,720,346	2,488,061	232,285	2,509,135	14,624,221	14,928,366	(304,145)	13,740,054
AUTOS	1,366,042	1,268,377	97,665	1,372,950	7,407,425	7,610,262	(202,837)	7,796,712
MILITARY	42,721	83,177	(40,456)	119,113	190,633	499,062	(308,429)	473,327
BREAK BULK	520,954	344,452	176,502	449,840	2,704,104	2,066,712	637,392	2,810,656
LIQUID BULK	122,629	124,243	(1,614)	109,252	784,845	745,458	39,387	710,674
DRY BULK	194,813	173,184	21,629	243,638	1,019,407	1,039,104	(19,697)	1,073,267
CRUISE	384,245	174,875	209,370	-	472,793	174,875	297,918	-
OTHER OPERATING REVENUE	348,424	231,562	116,862	269,382	1,545,974	1,389,372	156,602	3,234,771
TOTAL OPERATING REVENUES	5,700,174	4,887,931	812,243	5,073,311	28,749,402	28,453,211	296,191	29,839,462
OPERATING EXPENSES								
SALARIES & BENEFITS	1,632,720	1,661,812	(29,092)	1,483,899	9,238,791	9,497,280	(258,489)	8,589,891
SERVICES & SUPPLIES	481,896	412,401	69,495	307,695	2,359,041	2,474,406	(115,365)	1,839,737
SECURITY SERVICES	335,631	450,181	(114,550)	366,201	2,148,521	2,701,086	(552,565)	2,276,540
BUSINESS TRAVEL AND TRAINING	10,980	48,065	(37,085)	1,937	79,036	288,390	(209,354)	58,832
PROMO,ADV,DUES & MEMBERSHIPS	60,859	61,193	(334)	72,580	358,590	367,158	(8,568)	282,138
UTILITY SERVICES	56,010	65,162	(9,153)	54,446	322,764	390,972	(68,208)	325,740
REPAIRS & MAINTENANCE	220,197	173,122	47,075	110,238	1,018,368	1,038,732	(20,364)	799,078
CRANE MAINTENANCE PASS THRU	(27,597)	(37,500)	9,903	(22,669)	(198,059)	(225,000)	26,941	(176,140)
BERTH MAINTENANCE DREDGING	3,679	444,596	(440,917)	169,671	3,031,699	2,667,576	364,123	2,627,398
MISCELLANEOUS	6,479	13,595	(7,116)	12,953	54,554	81,570	(27,016)	78,313
TOTAL OPERATING EXPENSES	2,780,852	3,292,627	(511,776)	2,556,952	18,413,303	19,282,170	(868,867)	16,701,526
OPERATING INC BEFORE DS AND DEPR	2,919,323	1,595,304	1,324,019	2,516,359	10,336,098	9,171,041	1,165,057	13,137,936
NON OPERATING INCOME								
INVESTMENT INCOME	1,635	725	910	832	7,791	4,350	3,441	5,005
SHARED REVENUE FROM CITY	803,610	803,516	94	804,333	4,880,335	4,821,096	59,239	4,962,930
TOTAL NON OPERATING ITEMS	805,245	804,241	1,004	805,165	4,888,126	4,825,446	62,680	4,967,935
NON OPERATING EXPENSE								
DEBT SERVICE/SWAP TERMINATION	1,669,830	1,402,310	267,520	1,337,616	8,390,977	8,413,863	(22,886)	8,102,242
CRANE RELOCATION	-	-	-	-	-	-	-	706,429
OTHER NON OP EXPENSE	(81)	428	(509)	668	5,149	2,568	2,581	3,641
TOTAL NON OPERATING EXPENSE	1,669,749	1,402,738	267,011	1,338,284	8,396,126	8,416,431	(20,305)	8,812,312
INCOME BEFORE DEPRECIATION	2,054,819	996,807	1,058,013	1,983,240	6,828,099	5,580,056	1,248,043	9,293,559

Jacksonville Port Authority
Balance Sheet (in thousands)
At March 31, 2022

	<u>March 31, 2022</u>	<u>February 28, 2022</u>	<u>September 30, 2021</u>
Current Assets			
Cash & cash equivalents	15,952	15,909	17,004
Restricted cash & cash equivalents	4,886	3,665	8,149
Accounts receivable, net	6,322	5,404	7,309
Notes and other receivables	625	535	494
Grants receivable	23,692	20,187	26,491
Inventories and other assets	1,854	2,026	1,773
Total Current Assets	53,331	47,726	61,220
Noncurrent Assets			
Restricted cash & cash equivalents	16,000	16,009	15,917
Restricted Cash for Cap Projects	27,199	25,196	345
Deferred outflow of resources	9,083	9,113	9,266
Capital Assets, net	847,747	850,525	849,826
Total Noncurrent Assets	900,029	900,843	875,354
Total Assets	953,360	948,569	936,574
Current liabilities			
Accounts payable	1,286	1,662	2,744
Construction accounts payable	1,016	3,207	1,784
Accrued expenses	1,014	844	1,066
Accrued interest payable	2,717	2,174	2,928
Retainage payable	1,382	1,382	1,382
Unearned Revenue	6,987	6,987	6,987
Bonds and Notes Payable	7,672	7,672	7,672
Total Current Liabilities	22,074	23,928	24,563
Noncurrent liabilities			
Unearned Revenue	132,778	133,117	120,952
Accrued Expenses	3,261	3,232	3,291
Line of credit	8,379	8,379	15,479
Bonds and notes payable	207,062	207,078	214,291
Short Term Borrowings - COJ	15,200	15,200	25,000
Other Obligations	8,537	8,537	8,537
Net Pension Liability	6,690	6,690	6,690
Deferred inflows - Pension	9,869	9,869	9,869
Total Non Current Liabilities	391,776	392,102	404,109
Total Liabilities	413,850	416,030	428,672
Net Position	539,510	532,539	507,902



COMMERCIAL

REPORT

JAXPORT BOARD MEETING

April 2022

COMMERCIAL OVERVIEW

PERSISTENT CONTAINERIZED SHIPPING ISSUES NATIONWIDE

- **Pre-Pandemic foundation of international supply chain disruption:**
 - Decades-long shift of manufacturing overseas
 - Pre-existing supply chain issues (*i.e.* over reliance on a few gateway U.S. ports; long-standing truck driver shortage)
- **Pervasive problem exacerbated by Pandemic:**
 - Labor, equipment and vessel capacity shortages
 - Production disruptions: parts shortages; labor issues in China

JAXPORT: Part of the nation's solution

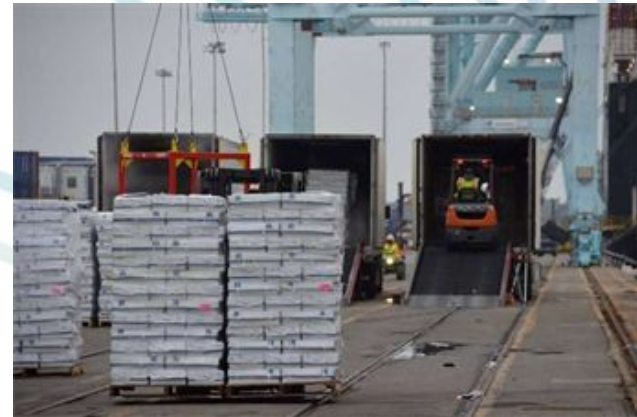
- Near-term: Charter/diverted vessels
- Long-term: New vessel service = additional capacity



COMMERCIAL OVERVIEW

BREKKBULK GROWTH: Tonnage +23% YOY (through March 2022)

- **Cargoes shifting out of containers to breakbulk:**
 - **Food products: *e.g.* exported poultry; imported coffee; canned goods; distilled spirits; sugar.**
- **FTZ Expansion to support breakbulk**
- **Traditional breakbulk also strong; *e.g.* woodpulp, steel.**



NEW BUSINESS EXAMPLES

NEW BUSINESS	CARGO TYPE	COMMODITY	PROJECTED NEW REVENUE
CHARTER VESSELS	Container charters	Two vessels	\$40,000 (one time)
PROJECT GROW	Breakbulk imports	Fertilizer	\$73,000 annually
PROJECT CYRUS	Breakbulk imports	Distilled Spirits	\$119,000 annually
PROJECT KANSAS	Breakbulk imports	Canned Food	\$127,000 annually
PROJECT JAVA	Breakbulk imports	Coffee	\$129,000 annually
PROJECT OWL	Breakbulk imports	Steel	\$174,000 annually



COMMERCIAL

REPORT

JAXPORT BOARD MEETING

April 2022



Post Office Box 3005
2831 Talleyrand Avenue
Jacksonville, Florida 32206-0005

AWARDS COMMITTEE GO TO MEETING MINUTES
March 28, 2022

Awards Committee Attending:

- Mr. Nick Primrose – Chairman
- Mr. Robert Peek
- Ms. Beth McCague
- Ms. Chelsea Kavanagh
- Ms. Lisa Gee
- Ms. Retta Rogers, Recording Secretary

Other Attendees:

- James Bennett
- Marv Grieve
- Frederick Wessling
- Kathy Seabrook
- Neil Stephens
- Brandon Blanton
- Chris Good
- Suzanne Hamrock
- Sandra Platt
- Ellen Carmosino

Nick Primrose called the meeting to order at 1:00 PM

Item No. 1

AC2022-03-28-01

Engineering Services for NPDES Multi-Sector Generic Permit Consolidation
JPA Project G/L No.: 179.5851 JPA Contract No.: AE-1775 CO#1
Jacobs Engineering
\$112,747

A motion was made and seconded. The Awards Committee voted unanimously to award this contract.

Item No. 2

AC2022-03-28-02

Purchase of Trolley Rail Systems and Components for Hanjung Cranes
JPA Project G/L No.: 003.2044.177/178 JPA Contract No.: EQ-1813B (Single Source)
Gantrex Inc.
\$170,951

A motion was made and seconded. The Awards Committee voted unanimously to award this contract.

Item No. 3

AC2022-03-28-03

Purchase of Braking Systems and Components for Hanjung Cranes
JPA Project G/L No.: 003.2044.177 JPA Contract No.: EQ-1813C (Single Source)
Dellner Bubenzer USA, LLC
\$239,730

A motion was made and seconded. The Awards Committee voted unanimously to award this contract.

Item No. 4

AC2022-03-28-04

American Dynamics Software Maintenance Renewal
JPA Project G/L No.: 193.5840 JPA Contract No.: IT-1774A

Johnson Controls Security Solutions, LLC
\$25,963

A motion was made and seconded. The Awards Committee voted unanimously to award this contract.

Item No. 5

AC2022-03-28-05

Maximo License Trade-Up, HSE Licenses & HSE Training Module Implementation
JPA Project G/L No.: 193.5840 JPA Contract No.: IT-1540F
IBM Corporation
\$98,701

A motion was made and seconded. The Awards Committee voted unanimously to award this contract.

Item No. 6

AC2022-03-28-06

e-Builder Software License Renewal
JPA Project G/L No.: 172.5840 JPA Contract No.: MC-1595E
e-Builder, Inc.
\$77,841

A motion was made and seconded. The Awards Committee voted unanimously to award this contract.

Item No. 7

AC2022-03-28-07

Gopher Tortoise Relocation for the Bartram Cell "C" Restoration Project - Ratification
JPA Project No.: G2021.06 JPA Contract No.: MC-1795A CO#1
Lykes Bros, Inc.
\$24,000

A motion was made and seconded. The Awards Committee voted unanimously to award this contract.

Item No. 8

AC2022-03-28-08

Office Supplies – Renewal Option No. 2
JPA Project G/L No.: Various JPA Contract No.: 17-14
Mister Paper Business Products
\$35,000 (Annual Estimate)

A motion was made and seconded. Committee Member Beth McCague recused herself from voting, three Awards Committee members voted unanimously to award this contract.

Item No. 9

AC2022-03-28-09

Milling and Asphalt Maintenance and Repair Services – Escalation
JPA Project G/L No.: Various JPA Contract No.: 20-08
Pars Construction Services, LLC
\$700,000 (Annual Estimate)

A motion was made and seconded. Committee Member Beth McCague recused herself from voting, three Awards Committee members voted unanimously to award this contract.

(Item No. 9 requires Board Approval)

The meeting was adjourned at 2:00 PM.