

**Executive Committee  
Meeting Minutes  
February 15, 2023**

**Members Physically Present:**

Mayor Chris Cloudman, Chairperson  
Mayor David Alfin  
Vice Mayor Bill O'Connor  
Mayor Bill Partington  
Vice Mayor Reed Foley  
Vice Mayor Eric Sander  
Council Member Danny Robins

**Representing:**

DeLand  
Palm Coast  
Orange City  
Ormond Beach  
Port Orange  
South Daytona  
Volusia County

**Others Physically Present:**

Debbie Stewart, Recording Secretary  
Colleen Nicoulin  
Mariel Lemke  
Stephan Harris

**Representing:**

TPO Staff  
TPO Staff  
TPO Staff  
TPO Staff

**Others Virtually Present:**

Pam Blankenship  
Anna Taylor

**Representing:**

TPO Staff  
TPO Staff

**I. Call to Order / Roll Call / Determination of Quorum**

The meeting of the River to Sea Transportation Planning Organization (TPO) Executive Committee was called to order at 9:00 a.m. by Chairperson Chris Cloudman. It was determined that a quorum was physically present. The meeting was held in a hybrid format with remote participation provided; seven voting members were physically present.

**II. Public Comment/Participation**

There were no public comments.

**III. Business Items**

**A. Review and Approval of River to Sea TPO Lease Termination Agreement**

Ms. Nicoulin stated that at the last meeting, the Executive Committee authorized submitting a request for \$85,249.09 to the landlord for relocation fees and the abatement of rent since October along with backup documentation. The landlord forwarded the request and information to their insurance company to include with their claim; she has not received an update as to how long that will take or if it will even be considered.

Chairperson Cloudman asked where that leaves the TPO with regard to signing the termination agreement.

Ms. Nicoulin replied we do not have a termination agreement until that is worked out; she spoke to the TPO's legal counsel regarding the concern that it may extend past the vacate date of February 28, 2023. He suggested contacting the landlord for some type of agreement if they do recover monies after that date, so that the TPO will still be able to receive them. We will not have much leverage if it goes past the vacate date; that date is firm. She also spoke to the attorney about the eviction process and he advised us to not go down that route as it is very expensive and we do not want to risk tarnishing the TPO's good name; it could also make it difficult to enter into future leases. Right now, we do not have agreed upon terms between the parties for the termination agreement; we are waiting on the financial assistance and the dollar amount.

Chairperson Cloudman commented that at this time, there is no action we can take; we are also not signing the termination agreement until there is a conclusion on the monies.

Mayor Alfin suggested having the TPO's attorney draft a letter regarding a future claim on compensation the landlord may receive from their insurance company as this should probably be done in advance.

Members discussed this idea and the termination agreement; they reached a consensus to have the attorney draft a letter that lays out the history of the termination and the TPO's expectations for compensation and abated rent. It was also suggested to ask for the landlord's insurance company's contact information.

**MOTION:** *A motion was made by Mayor Alfin to authorize the Executive Director to work with the TPO's attorney to draft a letter that summarizes our expectations on the insurance claims and refers to the clauses in the lease agreement that need to be properly addressed. The motion was seconded by Vice Mayor Sander and carried unanimously.*

**B. Review and Provide Direction on River to Sea TPO Temporary Office Lease**

(Handout)

Ms. Nicoulin stated she received the final draft of the office lease from the city of Daytona Beach last night and emailed it to the Executive Committee members for their review. The final draft lease was based on the previous marked-up lease provided by the TPO's attorney; Daytona Beach agreed to accept the requested changes and to include the required clauses the TPO must have in all its contracts which are provided as an exhibit in the back of the document. She reviewed those changes which included insurance coverage and indemnification. The city rewrote the entire section regarding indemnification which states neither party is responsible for the neglect of the other and included statute references as well. The city asked for a six-month commitment with the option to renew on a month-to-month basis for up to an additional six months. This lease is going before the city commission tonight for approval.

Members discussed the draft lease; they discussed the new space and the size of the conference room. They discussed outside organizations that use the TPO's conference currently and if there should be an agreement and/or certificate of insurance if they use the TPO's future conference room.

**MOTION:** *A motion was made by Vice Mayor O'Connor to approve the River to Sea TPO temporary office lease. The motion was seconded by Council Vice Chair Robins.*

Mayor Alfin asked if a summary of the lease provisions will be provided to the full TPO Board.

Ms. Nicoulin replied yes; however, this is the final action on the lease for the temporary location; the TPO Board delegated authority to the Executive Committee at the January 25, 2023 TPO Board meeting. However, she will provide an update to the full TPO Board.

*The motion carried unanimously.*

(Handout)

Ms. Nicoulin referred to the handout which is a spreadsheet of approximated moving costs; the most notable change from the previous estimated moving cost is the IT vendor's cost of moving and reinstalling the TPO's server. Now that they have seen the new office space, there is no need for cables, wires, etc.; everything will come into a central location; therefore, the cost is significantly less than previously estimated. The other difference is moving the phone system; currently, the TPO uses Volusia County and they indicated they would not be able to relocate the phone system within our timeframe. It could take up to 120 days to relocate the system. The IT vendor suggested migrating the phone system to Microsoft Teams; each staff member has a laptop that will be their phone. The TPO will have to purchase the software and handsets or headsets for each staff member. She noted that we will not have to change the phone number. This seems to be the best option; however, the estimate did increase due to the software purchase; it will ultimately be a savings over the current monthly cost. She reviewed the costs of the moving company and noted that two of the three companies are coming out later this week to see what will need to be moved and provide an updated quote. There is a

significant savings over the original moving cost from \$33,470 to \$19,492.50. She asked the Executive Committee for authorization for the expenditure of moving expenses up to \$25,00.

Members discussed the expenses including the software and equipment for the phone system. It was noted that each staff member has a laptop that will be their phone; headsets and/or handsets will need to be purchased. It will be an internet-based phone system and work the same way as Microsoft Teams.

**MOTION:** *A motion was made by Vice Mayor Sander to authorize the expenditure for moving expenses up to \$25,000. The motion was seconded by Mayor Partington.*

Vice Mayor Foley commented that Microsoft will try to sell us their equipment (headsets/handsets) but Dell is compatible and may be more economical when buying in bulk; it could be less expensive.

Ms. Nicoulin replied she will look into that; the quote received for the equipment came from the IT vendor regarding the software, etc. Our computers are also purchased directly through them as they handle the warranties, software, setup, etc.

**The motion carried unanimously.**

Vice Mayor Sander asked if the \$25,000 was per vendor or the total amount.

Ms. Nicoulin replied there are different vendors but she is comfortable with a total of \$25,000.

Ms. Nicoulin stated the TPO currently has a contract with a cleaning service, Jani-King, and the contract will need to be amended to change the scope of service. The current fee could potentially be updated. She requested authorization to work with the TPO Chairperson to execute that amendment to the current agreement, change the scope of service, and negotiate the fee.

Chairperson Cloudman commented he thinks it is best to stay with the current company until we identify a long-term office location and then entertain competitive bids for cleaning services.

**MOTION:** *A motion was made by Vice Mayor O'Connor to authorize the Executive Director to work with the TPO Chairperson to amend the current contract for cleaning services including a change to the scope of service and negotiation of the fee. The motion was seconded by Vice Mayor Sander and carried unanimously.*

#### **C. Review and Approval of February 1, 2023 Executive Committee Minutes**

**MOTION:** *A motion was made by Mayor Alfin to approve the February 1, 2023 Executive Committee minutes. The motion was seconded by Vice Mayor Foley and carried unanimously.*

#### **IV. Staff Comments**

Ms. Nicoulin stated that at the Central Florida MPO Alliance (CFMPOA) meeting on Friday, a presentation was given by Mr. Jack Atkins, FDOT District 5, regarding the Moving Florida Forward initiative. The Executive Director of MetroPlan, Mr. Gary Huttman, indicated that they were directed by their board to issue a letter of support for this initiative to send to Tallahassee. It was offered at the meeting for the CFMPOA to support a similar letter, but some members were uncomfortable doing so. She spoke with Chairperson Cloudman about this, and Mr. Huttman provided a copy of MetroPlan's letter; it would be a good idea for the TPO to send a similar letter stating that we fully support this initiative and identifying the specific project within our planning area and the benefits of it.

Chairperson Cloudman added that it is essentially a letter of gratitude; there are 20 projects within the CFMPOA that are being advanced with this initiative; some by a decade. The US 1 interchange project is the project within our planning area that would benefit from this funding opportunity.

Ms. Nicoulin commented that this initiative is not yet funded in the state budget; this is our chance to emphasize the importance of this project and that we really want to see this happen.

Members discussed drafting a letter and to whom it should be addressed; it was suggested to copy House Speaker Paul Renner, the Senate President, Governor DeSantis and FDOT Secretary Jared Perdue. It was also noted that it would give the River to Sea TPO some independence as a separate entity as they are looking at combining some TPOs. Also, the US 1 interchange is the oldest interchange in the state.

Ms. Nicoulin stated she will include a letter of support for approval on the agenda for the February 22, 2023 TPO Board meeting. The TPO has received a request for another letter of support; this one for Amtrak. They are submitting a grant application to the Federal Railroad Administration for improvements to three stations; one of which is the DeLand station. She does not have any further information yet; she will reach out to them for more information and work with the TPO Chairperson to identify whether this is something the TPO should consider. She does not know how it would tie in to the TPO other than the connection to the extension of SunRail.

Mayor Cloudman commented that they are specifically trying to promote Amtrak; the city of Deland staff worked with them and provided a letter of support.

Ms. Nicoulin noted that she would add that letter of support to the agenda as well. She announced that Friday, February 17, 2023 at 11:00 am, a groundbreaking event will be held for the International Speedway Boulevard (ISB) East project. This project was on the TPO's priority list; the TPO worked with the city of Daytona Beach and FDOT to move it forward for funding. It will be held on the east side of the ISB Bridge at Halifax Avenue.

Ms. Nicoulin announced the MPOAC Institute will be held April 14-15, 2023 at the Florida Hotel in Orlando; and May 5-6, 2023 at the Marriott Airport in Tampa. It is a meet-and-greet on Friday evening, and all-day training on Saturday specific to TPO Board members. It has not been held in a couple of years and the last one was held only virtually. The TPO can reserve only one spot for each session; if extra spots are available, the MPOAC will let us know. It is a great opportunity to network with other TPO Board members from TPOs throughout the state. In the past, the MPOAC Institute has been announced at the board meeting and we had three spots available for each session; however, there is a high demand for it now and we only have one spot per session.

Chairperson Cloudman stated that he highly recommends it; he has attended and found it to be helpful. Everyone learned something even board members that had been one for twenty years. It provides a lot of information on how funding works, etc. It would be great if this TPO could send someone to each session.

Ms. Nicoulin added that the TPO covers the cost of the hotel, mileage, and a per-diem; there is no registration fee this time. The TPO does have this covered in the budget. In the past, the institute has been offered to the entire board but since we only have one spot and a fairly new Executive Committee, she is only announcing it to them.

Mayor Partington offered to attend the session in May.

Mayor Alfin offered to attend the session in April.

Ms. Nicoulin stated that the focus the last couple of weeks has been on a short-term office space solution and coordinating the move; we are scheduled to begin moving Thursday, February 23, 2023. The server will be relocated that day and the moving company will begin moving furniture and other items; it will take a day and a half to move everything. The new office is mostly furnished so most of the TPO's furniture will go to a storage unit. The annual Call for Projects is open through February 28, 2023, at 4:00 pm; the TPO has encouraged everyone to submit their applications online and not to provide a hard copy. Staff will reach out to the cities and counties to let them know that the TPO will not be in this building but we can have someone here if needed. She referred to the search for a long-term office solution and noted that the spaces previously identified are still available. She looked at spaces at One Daytona last week; the Space Coast Credit Union space is too small for the TPO needs and the logistics of going off-site each week for meetings would make it difficult for staff. She spoke with other MPOs that do that and they agreed it does provide challenges; they also do not meet as often as we do. The space above the entertainment area is an 18,000 square foot shell and would need to be built-out. She will create a conceptual lay-out for the long-term office



options; Vice Mayor Foley provided some leads on spaces that she will also be looking into. Once the short-term move is completed, she will focus on the long-term options.

Members discussed the long-term office location options; One Daytona could create issues when there are special events at the Daytona International Speedway. It was noted that although most events occur on the weekends, there are events held during the week that could impede access. Also, development is continuing to be built on the site. The location needs to be centrally located for members attending from the west side of the county and from Flagler County. The broker has been provided with location criteria; there are not many office buildings or parks in this area. Having an office space with a large conference room is a unique need. They discussed possible locations around the county.

Chairperson Cloudman added that he thinks it would be a good idea to host FDOT public meetings; it would help the public know what the TPO does.

#### **VI. Executive Committee Member Comments**

Mayor Alfin announced he will miss possibly the next two meetings; he will participate virtually, if possible, for next month.

Vice Mayor Foley noted that he may be out of town at the end of the month so will attend the TPO Board meeting virtually if he is.

Ms. Nicoulin reminded members that the March 1, 2023 Executive Committee meeting will be held at the Airline Room at the Daytona Beach International Airport; this will provide an opportunity to test the room and audio/visual equipment before a large meeting is held there and address any issues that may arise. After that, the Executive Committee meetings will be held at the Florida Tennis Center.

#### **VIII. Adjournment**

The Executive Committee meeting adjourned at 10:02 a.m.

**River to Sea Transportation Planning Organization**



**DELAND MAYOR CHRISTOPHER M. CLOUDMAN  
CHAIRPERSON, RIVER TO SEA TPO**

#### **CERTIFICATE:**

The undersigned duly qualified and acting Recording Secretary of the River to Sea TPO certifies that the foregoing is a true and correct copy of the minutes of the February 15, 2023 regular meeting of the Executive Committee approved and duly signed this 1<sup>st</sup> day of March 2023.



**Debbie Stewart, Recording Secretary, River to Sea TPO**

***\*\* A recording of the February 15, 2023 Executive Committee meeting is available upon request.***

FLORIDA TENNIS CENTER LEASE AGREEMENT

BY AND BETWEEN:

THE CITY OF DAYTONA BEACH, FLORIDA, a Florida Municipal Corporation

("Landlord")

and

River to Sea TPO

("Tenant")

for the premises at 1 Deuce Court  
Daytona Beach, Florida 32124

## **COMMERCIAL LEASE AGREEMENT**

THIS COMMERCIAL LEASE AGREEMENT ("Lease") is made as of the date of last execution below ("Effective Date"), by and between: The City of Daytona Beach, Florida, a Florida municipal corporation, (herein after referred to as "Landlord") and The River to Sea, Transportation Planning Organization, ("TPO") (hereinafter referred to as "Tenant"). Landlord and Tenant may also be referred to herein individually as a "Party" or collectively as the "Parties."

The Parties for and in consideration of the mutual obligations contained herein agree as follows:

### **1. FUNDAMENTAL LEASE PROVISIONS.**

A. Premises: Approximately 4,000 square feet of commercial space located in the Building known as Florida Tennis Center, 1 Deuce Court, Daytona Beach, Florida 32124, as further described in Exhibit A, attached hereto and a license over and across the adjacent parking area and Building common area as described in this agreement as shown in Exhibit B attached hereto.

B. Building: 1 Deuce Court, Daytona Beach, Florida

C. Term: Initial Term of six (6) months

D. Commencement Date: March 1, 2023

E. Monthly Base Rent: \$5,000.00. Monthly Base Rent will be subject to adjustments and annual rent increases, as set forth below. See Section 3.

F. Tenant Improvements/Build-Out Credit: None.

G. Security Deposit: \$5,000.00.

H. Initial addresses for Notices:

If to Landlord:

City of Daytona Beach  
c/o City Manager Post Office Box 2451  
Daytona Beach, FL 321 15-2451

If to Tenant:

River to Sea TPO  
1 Deuce Ct.  
Daytona Beach FL 32124

I. Number of guarantees required/name of guarantor: None.

J. Renewal Options: Month to Month with fifteen days' notice to terminate from either party.

K. Permitted Use: Office and governmental meetings.

## **2. PREMISES AND TERM.**

2.1 Premises. In consideration of the Tenants agreement to pay the rent and perform all the covenants and conditions herein contained. Landlord hereby leases to Tenant and Tenant hereby hires and leases from Landlord, upon the terms and conditions set forth herein, the Premises. The Premises consists of approximately 4,000 square feet of rentable area in the Florida Tennis Center, and a license over and across the parking area adjacent to the Building for parking of motor vehicles and ingress/egress of pedestrians and motor vehicles, and the common area of the Building for ingress/egress of pedestrians and access to the office space to be occupied by the Tenant and its guests.

2.2 Term. This Lease shall be for an initial term of six months commencing on Commencement Date and then month to month thereafter until either Party provides at least 15 days' written notice of termination.

## **3. RENT.** Tenant covenants and agrees to pay Rent when due, for and during the Term of this lease. Rent shall consist of Monthly Base Rent and Additional Rent. The remedies of Landlord shall apply with respect to a default in the payment of Additional Rent or Monthly Base Rent.

3.1 Monthly Base Rent. Tenant shall pay Monthly Base Rent, in advance, without need for invoicing on the first day of each calendar month to: City of Daytona Beach, Business Enterprise Management Department, 125 Basin Street, Suite 100, Daytona Beach, FL 32114 The Base Rent will be as follows:

(a) Monthly Base Rent is \$5,000.00.

(b) Annual Monthly Base Rent Increase. Beginning with the thirteenth month following the Commencement Date, the Monthly Base Rent will increase annually by an amount equal to 3% of the previous Monthly Base Rent. For example, Base Rent will be \$5,150 per month for a twelve-month period beginning in the thirteenth month following the Commencement Date and will increase to \$5,304.50 per month for a twelve-month period beginning in the twenty-fifth month following the Commencement Date.

3.2 Additional Rent. The following sums, which are deemed to be Additional Rent, will be due on the date that installments of Base Rent are due unless otherwise provided:

(a) A \$20.00 monthly fee for HVAC unit maintenance.

(b) \$60.00 per month for water, sewer, trash and security monitoring system service.

All internet and phone services as well as electric will be Tenant's cost and in Tenant's Name.

Tenant has indicated it is exempt from taxes and will furnish proof of the same.

All other costs or charges to be borne by the Tenant under this Lease, whether or not advanced to the Landlord.

3.3 Manner of Payment. Where this Lease does not provide a specific time requirement for payment of a component of Rent, the Rent component shall become paid in a timely fashion as it becomes due and payable. All Rent must be paid in United States currency. If Rent is paid by check, the check shall be payable to Landlord or to anyone else whom Landlord, may by notice as provided herein, designate in writing.

3.4 Late Payment Charge. Except as provided and authorized by this Lease, all Rent shall be paid to Landlord without demand (except where otherwise expressly required), and without deduction, set-off or counterclaim (except for a breach by Landlord of its covenant of quiet enjoyment) as and when due. If any amount of Rent is not paid within ten days after the date of notice to Tenant that such payment is past due, then in addition to paying the amount of Rent then due, Tenant shall pay to Landlord a late charge ("Late Charge") equal to five percent of the amount of Rent then required to be paid; provided, however, that Landlord shall not be obligated to deliver more than three notices of late payment in any 12 consecutive month period as a condition precedent to the imposition of a late charge.

3.5 Subject to the limitations contained in this Lease, it is the intention and agreement of the Parties and both hereby agree that Rent shall be net to Landlord, and Landlord will not be liable to Tenant and rent will not abate if any utility service is interrupted because of repairs, construction, or other cause beyond Landlord's control.

3.6 Tenant has indicated it is exempt from taxes and will furnish proof of the same.

**4. SECURITY DEPOSIT.** Tenant shall pay, simultaneously with the execution and delivery of this Lease, a security deposit in the amount of \$5,000.00. Tenant will not be entitled to interest on the deposit. The deposit will be returned to Tenant at expiration or earlier termination of this Lease, except for amounts withheld to cover Base Rent and Additional Rent payments coming due and payable under this Lease but not paid by Tenant.

**5. ACCEPTANCE.** Upon the termination of this Lease and in accordance with Section 9.2, Tenant shall deliver the Premises to Landlord in broom clean condition, reasonable wear, tear and casualty excepted, and subject to any damage which Landlord is obligated to repair pursuant to the terms of this Lease.

**6. USE OF PREMISES AND OPERATION.**

6.1 Permitted Use. Tenant shall use the Premises solely for office use and governmental meetings and in compliance with applicable laws and regulations including the Mandatory Terms and Conditions stated in Exhibit C. Tenant understands and agrees that the Premises shall be used for no other purpose without prior written consent of Landlord, which consent will not be unreasonably conditioned, withheld, or delayed.

6.2 Manner of Operation. Tenant shall operate its business in a manner commensurate with the service, dignity, and ambiance of similar first-class office establishments comparable to those permitted hereunder located in Central Florida metropolitan areas, and commensurate with the standards of the building. Tenant's operation of its business shall not adversely affect either the first-class reputation of the Building or the Building's desirability as a high-quality building. Tenant will be responsible, to Landlord's reasonable satisfaction, to make sure that Tenant's clients or customers do not impede pedestrian traffic flow or become disorderly.

6.3 Restrictions on Use. In addition to the restrictions set forth in Section 6.1, Tenant agrees (i) not to commit waste on the Premises, (ii) not to use the Premises for any unlawful purpose or in violation of any municipal laws or regulations, insurance requirements or any certificate(s) of occupancy, and (iii) not to suffer any dangerous article to be brought on the Premises unless safeguarded as required by law. Tenant agrees not to permit any offensive odors, excessive exhaust fumes, or excessive noises to emanate outside the Premises. In the



event offending odors, excessive exhaust fumes, or excessive noises do so emanate, Landlord may after providing written notice, take such actions as it deems necessary, in its reasonable discretion, to prevent such emanation of odors, exhaust fumes, or noises, and Tenant shall be liable for any reasonable expenses incurred by Landlord for such attempts at preventing the emanating odors, exhaust fumes, or noises as Additional Rent. Tenant shall not allow any nuisances, public or private, in the Premises or any use of the Premises which is a source of annoyance, disturbance, or embarrassment to Landlord or which is deemed by Landlord as not in keeping with the character of the Facility or Building. The Premises shall not be used for any unlawful, immoral, improper purpose.

6.4 Material Effect. Tenant acknowledges that the value of the Building depends in part upon Tenant's compliance with the high standards of operation and the restrictions on use set forth herein and that Tenant's failure to comply with such standards in any material respect shall, at Landlord's option, constitute a default under this Lease.

6.5 Insurance Restrictions on Use. Tenant will not conduct or permit to be conducted any activity or place any equipment or property in or about the Premises or Building, which will, in any way, invalidate or which may make void or voidable the insurance coverage in effect or which will increase the rate of fire insurance or other insurance on the Building or Premises. If any invalidation of coverage or increase in the rate of fire or other insurance is stated by any insurance company or by the applicable Insurance Rating Bureau to be due to any activity or equipment of Tenant in or about the Premises or the Building, such statement shall be conclusive evidence that the increase in such rate is due to such activity or equipment. Without limiting the generality of the foregoing, Tenant shall not keep gasoline or other dangerous, inflammable, toxic, or explosive material in the Premises except in compliance with law. Tenant agrees to conform to all rules and regulations from time to time established by the applicable Insurance Rating Bureau. Tenant hereby represents that its business operations in other premises have not created the necessity for special insurance premiums. In reliance on the foregoing representation, Landlord hereby represents that it does not know of any special insurance coverages required by the insurer of the Premises or Building or increased premiums which it would incur due to Tenant's use of the Premises pursuant to the terms hereof.

6.6 Environmental Provisions. Tenant hereby warrants and represents to Landlord that Tenant will comply with all federal, state, and local environmental laws and regulations relating to the use, storage, or disposal of hazardous materials, hazardous or toxic substances, hazardous waste, or other environmentally regulated substances (including, without limitation, any materials containing asbestos) by Tenant or its agents, employees, contractors, subleases or assigns. Tenant further warrants and represents to the Landlord that Tenant will obtain and maintain all licenses, permits and approvals required with respect to its use of the Premises and any environmentally regulated substances used in connection therewith. Tenant shall transmit to Landlord copies of any citations, orders, notices, or other communications received with any respect to any hazardous materials, hazardous or toxic substances, hazardous wastes or any other environmentally regulated substances affecting the Premises. For and in consideration of payment by Landlord of \$10.00, receipt of which is hereby acknowledged by Tenant, Tenant shall indemnify and hold Landlord harmless from and against any and all damages, penalties, fines, claims, liens, liabilities, costs, judgments and expenses (including reasonable attorney's, consultant's or expert's fees and expenses) incurred

by or asserted against Landlord as a result of any warranty or representation made by Tenant in this paragraph being false or untrue in any material respect. Landlord warrants to the best of Landlord's knowledge that there are no hazardous substances within the demised Premises or Building, and that Landlord will comply with all applicable laws and regulations relating to the use, storage or disposal of hazardous materials, hazardous or toxic substances, hazardous waste or other environmentally regulated substances (including, without limitation, any materials containing asbestos). Nothing in this Lease shall be deemed to reduce or eliminate the liability that Landlord may otherwise have under such laws and regulations.

## **7. SUBLETTING, ASSIGNMENT AND CANCELLATION.**

7.1 Prohibition Against Subletting and Assignment Without Consent. Except as provided by this Lease, Tenant will not assign or sublet any or all of the Premises or transfer possession or occupancy thereof to any person, firm or corporation (including, without limitation, concessionaires or licensees of Tenant), or transfer, assign, mortgage or encumber this Lease, without in each instance the prior written consent of Landlord, which consent will not be unreasonably conditioned, withheld, or delayed. For purposes herein, the term, "assignment," includes the transfer of a controlling interest in Tenant, unless such transfer is "exempt" as described in Section 7.5 below, and "controlling interest" means the ownership of, directly or indirectly, or other legal right to direct the voting of, 50% or more of the voting interests in Tenant, or the possession through any other means of the power to direct Tenant's management and policies as such concepts are commonly interpreted under U.S. federal securities laws. Except as otherwise specifically provided herein, no subletting or assignment hereof shall be effected by merger, by liquidation, by operation of law, or otherwise except with the prior written consent of the Landlord, which consent will not be unreasonably withheld, delayed, or conditioned. Any attempted transfer, assignment, subletting, license, or concession agreement or hypothecation without Landlord's consent shall be void and confer no rights upon any third party.

7.2 Landlord's consent to a sublease or an assignment under this Section may be conditioned upon the following: (i) the proposed subtenant or assignee's financial status, including rent payment history with respect to other leases; (ii) the proposed subtenant's or assignee's experience in operating the business proposed from within the Leased Premises; (iii) the suitability of the proposed subtenant's or assignee's proposed use, given the restrictions on use set forth in this Lease; (iv) the subtenant's or assignee's ability to comply with other provisions of this Lease and all applicable federal, state, and local laws in regard to occupancy of the Leased Premises; (v) the curing of any uncured material breaches in Tenant's obligations under this Lease; and (vi) Tenant's prompt payment to Landlord, as a condition of reviewing such subtenancy or assignment, reasonable legal and other reasonable expenses (not exceeding \$750 per request) actually incurred by Landlord in connection with the review. Under no circumstances shall Landlord be obliged to accept a proposed sub-lease or assignment where the Landlord has reason to believe that the sub-tenant or assignee will use the Leased Premises for a Prohibited Activity.

(a) A "Prohibited Activity" for purposes of this provision shall include uses which will, in Landlord's reasonable judgment: (i) introduce undue amounts of public traffic in the building, (ii) place a strain on the existing plumbing, electrical, and mechanical systems, and (iii) generate unusually high densities of employees per square foot of rentable space.

7.3 Limitations on Consent. If Landlord consents to any requested transfer, assignment, sublease, hypothecation, license, and/or concession ("Transfer"), such consent shall be deemed a consent to that particular transaction only and shall not be deemed consent to any other or future Transfer, as the case may be. Any permitted Transfer shall be expressly subject to each and every term, covenant, and condition of this Lease, unless otherwise specifically provided by Landlord in writing, and Tenant shall remain fully liable and obligated under all of such terms, covenants, and conditions.

7.4 Obligations of Permitted Subtenant or Assignee. In the event an assignment or sublease is permitted under this Lease, it shall be upon the express condition, inter alia, that the assignee or subtenant shall execute and deliver to Landlord (i) a duplicate original instrument of assignment or sublease in form and substance satisfactory to Landlord, duly executed by Tenant and (ii) an agreement in form and substance satisfactory to Landlord, duly executed by the assignee, whereby the assignee shall unconditionally assume observance and performance of and agree to be personally bound by all of the terms, covenants, and conditions of this Lease on Tenant's part to be performed and observed including, without limitation, the provisions of this Section. Notwithstanding the execution of such agreement by the assignee, however, the original Tenant shall remain liable for all of the terms, covenants, and conditions of this Lease.

7.5 Exemptions. Tenant may assign or sublet this Lease in whole or in part without Landlord's consent, to any subsidiary, affiliate or parent company of Tenant that shall control, be under the control of, or be under common control with Tenant. In addition, the following shall not be deemed to be an assignment or sublease requiring Landlord's consent under this Section: (i) the sale, exchange or other transfer of any capital stock of Tenant or of any of Tenant's affiliates (as defined below) on a public exchange or in any registered placement or offering; (ii) the distribution of other transfer of any capital stock of Tenant to shareholders of Tenant's parent corporation; or (iii) the distribution or other transfer of any capital stock of Tenant's parent corporation to shareholders of parent corporation, or any direct or indirect change in controlling interest (as defined in Section 7.1) of parent corporation. For purposes of this subsection: "Affiliate" means an entity controlled by, controlling or under common control with Tenant.

## **8. TENANT'S ALTERATIONS.**

### **8.1 Alterations.**

8.1.1 Other than reasonable and normal wiring within the Premises that is necessary to install Tenant's standard office equipment (e.g. wireless access points, telephones, printers, televisions, fax machines, etc.) ("Office Equipment"), Tenant shall not, without Landlord's prior written consent, which consent will not be unreasonably withheld, delayed or conditioned, do any construction work or make any alterations, modification or changes, structural or otherwise, to any part of the Premises, either exterior or interior, including, but not limited to, installation or modifications of partitions, counters, doors, air conditioning ducts, plumbing, piping, lighting fixtures, wiring of any kind, hardware, locks, and ceilings (collectively, the "Alterations"). Tenant shall notify Landlord prior to making Alterations, excluding Office Equipment, and shall apply for Landlord's consent for such Alterations in accordance with this Section.

8.1.2 Notwithstanding anything to the contrary contained herein, Tenant shall have the right to make Cosmetic Alterations to the Premises and to replace equipment with equipment of equal or lower utility consumption according to manufacturer's specifications without Landlord's consent. "Cosmetic Alterations" shall mean nonstructural Alterations in or to the Premises (e.g. changes to paint, wallpaper, carpet or fixtures) which are contained entirely within the Premises, which are consistent with the design standards of the Initial Improvements previously approved by Landlord and which do not affect the structure or systems of the Building.

8.2 Conditions to Landlord's Consent. Neither Landlord nor Landlord's agents shall be liable for any labor or materials furnished or to be furnished to Tenant on credit, and no mechanic's, construction or other lien for labor or materials shall attach to or any estate or interest of Landlord in and to the Building. Tenant shall remove or bond any mechanic's or materialmen's liens within 25 days of the filing thereof. All materials and equipment to be incorporated in the Premises as a result of any Alterations shall be new or first quality and (other than furniture, furnishings, office equipment and other personal property not affixed to the Premises) shall not be subject to any lien, encumbrance, chattel mortgage, title retention or security agreement. Such Alterations shall be performed only under the supervision of a licensed architect, licensed professional engineer, or licensed general contractor reasonably satisfactory to Landlord. Except in connection with work for which Landlord is obligated to reimburse Tenant (such as that portion of the work required due to the negligence or willful misconduct of Landlord or Landlord's employees or agents), if any, Tenant shall save Landlord harmless from and against all expenses, liens, claims, or damages to either property or person which may or might arise by reason of the making of any such Alterations.

8.3 Alteration Without Consent; "As Built" Plans. Unless otherwise agreed by Landlord when it grants consent to Tenant for their construction, any Alterations made by Tenant (except items permitted to be removed by Tenant under Section 9) shall become and remain a part of the Building and be and remain Landlord's property upon the termination of Tenant's occupancy of the Premises; provided, however, That Landlord may by written notice at the expiration or other termination of this Lease require Tenant to remove any Alterations which were made to the Premises by Tenant without Landlord's consent (where such consent was required) and restore such portion of the Premises to their condition prior to the installation of any such improvements that required Landlord's consent, ordinary wear and tear excepted. In addition, if any Alteration is made without the prior written consent of Landlord (where such consent was required), Landlord may, after written notice, correct or remove the Alteration at Tenant's expense. Following completion of any Alterations requiring Landlord's consent, Tenant shall deliver to Landlord a complete set of As Built plans showing the Alterations, or if such plans are not delivered shall reimburse Landlord for any expense incurred by Landlord in causing the Building's plans to be modified to reflect the Alterations. Any and all sums due to Landlord from Tenant under this Section 8.3 shall be deemed Additional Rent. Notwithstanding anything herein to the contrary, trade fixtures and equipment for which Tenant has paid from its own sources (as opposed to from any allowance provided or paid by Landlord) shall not be deemed part of the Alterations for the purposes of removal thereof upon the Termination Date, and Tenant shall be entitled to remove such property from the Premises upon termination of the Lease provided Tenant repairs any damage to the Premises resulting from such removal.



## **9. SERVICES, REPAIRS, UTILITIES AND CLEANING.**

9.1 Landlord's Maintenance Obligations. Landlord shall, at Landlord's sole cost, maintain and repair in first class, clean, and safe conditions the exterior walls, roof, structural columns, structural ceiling, structural floor, and any latent defects of the Premises. In addition, Landlord shall maintain all heating, ventilating, and air conditioning exclusively serving the Premises, the plumbing, electrical, mechanical or other building systems in first-class, clean and safe condition unless such repair was necessitated by reason of the negligence or willful misconduct of the Tenant, its servants, agents, employees, contractors, customers, invitees, or anyone claiming under Tenant, in which case Landlord will make the repairs or cause them to be made at Tenant's expense. Prior to the Commencement Date, Tenant may inspect the Premises to assess the heating, ventilation, and air conditioning systems exclusively serving the Premises and will notify the Landlord of any required maintenance or repair to such systems no later than 3 days prior to the Commencement Date. Tenant may cancel this lease upon notice to the Landlord within 5 days after the Commencement Date if such heating, ventilation, and air conditioning systems are not in good working order.

9.1.1 Security and Safety Systems. Landlord shall at its cost maintain and operate the existing security monitoring, fire and life safety systems serving the Building, including the Premises, to provide for the efficient operation of the same and for efficient response to service providers. Landlord shall at all times provide Tenant with a contact person who can disarm the security system and who is familiar with the functions of the system in the event of a malfunction, and Landlord shall provide Tenant with the alarm codes or other necessary information required to disarm the security system in the event Tenant must enter the Premises.

9.2 Tenant's Maintenance Obligations. Except for the items to be performed by Landlord under Section 9.1, the Tenant agrees, at its expense, (i) to maintain all IT systems, telephone and cable, (ii) to maintain the Premises in a first-class, clean and safe condition and in good repair, including, without limitation, the floors, interior walls, ceiling, doors, windows, plumbing lines (except for main waste lines), fixtures, equipment, and meters for all utilities located within and/or exclusively serving the Premises, (iii) to maintain and clean all doors, windows, and plate glass in or about the Premises and to replace the same when damaged or broken, and (iv) Tenant, at its expense, shall repair, replace, and/or restore all portions of the Premises to the extent that the Premises are damaged by the negligent acts or omissions of Tenant or its agent's, contractors, employees, customers, servants, invitees, or anyone claiming under Tenant, or by breach by Tenant of its obligations under the Lease. Tenant shall keep the Premises and all such equipment and fixtures in good repair, in clean, safe, and sanitary condition and shall suffer no waste or injury thereto. Tenant shall surrender the Premises at the expiration or other termination of this Lease broom clean and shall surrender the Premises and all equipment, fixtures and other property therein provided or paid for by the Landlord in the same condition in which they are on the Commencement Date, ordinary wear, tear and casualty excepted. Tenant also agrees to repair any damage to the common areas of the Building caused by the operation of its business in or about the Premises, except for ordinary wear and tear, including without limitation any damage to loading areas caused by the operation of delivery vans, trucks or vehicles servicing Tenant's business or the Premises. Notwithstanding anything herein to the contrary, Tenant shall have no obligation to perform the obligations of Landlord set forth in Section 9.1.



9.3 Utilities. Tenant shall be responsible for and shall pay all charges when due for all gas, electricity, heat, air conditioning, phone, cable, internet service, and any other utility or energy charges and taxes incurred by Tenant in connection with the use of the Premises; provided that, Tenant's sole obligation for charges for water, sewer, garbage removal and security system shall be the amount set forth in Section 3.2.(b). Tenant, at Tenant's expense, may cause to be installed separate utility meters for gas and electricity to serve the Premises. If separate utility meters are installed for gas and electricity, Tenant shall at Tenant's expense maintain, repair, and replace them so as to be at all times in good order and repair. In the event Tenant does not pay such utility charges when due, Landlord shall have the right, but not the obligation, to pay said charges and Tenant shall reimburse Landlord therefor as Additional Rent. Landlord shall have no liability to Tenant or any other person for any loss, damage, expense, or inconvenience which Tenant may sustain or incur by reason of any failure, interruption, curtailment, cessation, inadequacy or defect in the character, quantity or supply of the utilities furnished to the Premises or the failure of any heating, ventilating or air conditioning equipment, except where the same is due to the negligence or willful misconduct of Landlord, its agents, employees, contractors or invitees.

9.3.1 Access to Systems. Landlord acknowledges that portions of Tenant's technology equipment and systems will be located within a common area (shared) electrical room located adjacent to the buildings entryway, and agrees to provide Tenant with continuous, unescorted, access to such electrical room, equipment and systems, as well as, the existing wiring and equipment racks located therein.

9.4 Governmental Requirements. If any public utility or governmental body shall require either Party to restrict the consumption of any utility or reduce any service for the Premises or the Building, each Party shall comply with such requirements whether or not the utilities and services referred to in this Section 9 are thereby reduced or otherwise affected, without any reduction or adjustment to Rent hereunder.

9.5 Cleaning and Trash. Tenant will keep the Premises and the sidewalks adjacent to the Premises in a clean, orderly, and sanitary condition and free of insects, rodents, vermin, other pests, trash, and dirt accumulations and shall furnish adequate and proper receptacles, if necessary, for trash and garbage in locations designated by the Landlord and shall clean and wash the inside of the windows of the Premises to the satisfaction of the Landlord. Landlord will furnish garbage and trash collection service for the building on a regular basis.

## **10. RIGHTS OF LANDLORD.**

10.1 The Landlord reserves the following rights:

- (a) To change the name of the Building without notice or liability to the Tenant;
- (b) To approve the design, location, number, size, and color of all signs or lettering on Premises (except for Tenant's door signage);
- (c) Except for the exclusive rights granted to Tenant under this Lease, to grant to anyone the exclusive right to conduct any other particular business or undertaking in the Building but such exclusive right will not interfere with Tenant's right to operate under the Lease; and

(d) To enter the Premises at any time in the event of any emergency, or upon reasonable advance notice during Tenant's normal business hours for inspection, to supply any service to be provided by Landlord hereunder, to submit the Premises to prospective purchasers or mortgagees, to post notices of nonresponsibility, and to make repairs, alterations, additions or improvements to the Premises or the Building. Notwithstanding the foregoing, except in the event of an emergency, no entry by Landlord or others shall be permitted unless Landlord has provided Tenant with reasonable advance notice thereof and a reasonable opportunity to be present at the time of such entry. Landlord agrees to use its reasonable efforts to minimize interruption of Tenant's business in exercising its rights to enter the Premises pursuant to this Section, except in the event of an emergency.

10.2 Without limiting the generality of the provisions of Section 10.1, and subject to the limitations contained in this Lease. Landlord shall have the right to remove, alter, improve, or rebuild all or any portion of the Building. In connection with making repairs, alterations, additions, and improvements under the terms of Section 10.1, Landlord shall have the right to access through the Premises or any other part of the Building, all materials that may be required to make such repairs, alterations, additions, or improvements, as well as the right in the course of such work to close entrances, doors, corridors, elevators, or other Building facilities, or temporarily to abate the operations of such facilities without being deemed or held guilty of an eviction of Tenant, so long as the business of Tenant shall not be interfered with unreasonably. If Landlord's work as described herein makes the Premises untenable in whole or in part for more than two consecutive business days, Rent shall abate during that period.

10.3 Landlord shall have the right to use any and all means which Landlord may deem proper to open all the doors in, upon, and about the Premises, excluding Tenant's vaults and safes, in any emergency in order to obtain entry to the Premises. Any such entry to the Premises obtained by Landlord by any of the means shall not be construed or deemed to be a forcible or unlawful entry into, or a detainer of, the Premises, or an eviction of Tenant from any or all of the Premises.

## **11. LIABILITY OF PARTIES.**

11.1 Each party undertakes and assumes for its officers, agents, affiliates, contractors, subcontractors, and employees, all risk of dangerous conditions brought about by its acts and omissions with regard to this Lease and the Premises. Tenant will not be responsible for the negligent acts or omissions of the Landlord, and accordingly, does not indemnify or hold the other harmless. Both Parties expressly retains all rights, benefits, and immunities of sovereign immunity in accordance with common law and the limited waiver pursuant to Section 768.28, Florida Statutes (2023), as amended. Regardless of anything set forth in any section or part of this Lease to the contrary, nothing in this Lease may be deemed as a waiver of immunity of the limits of liability of either Party beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida Legislature. Nothing in this Agreement inures to the benefit of any third party for the purpose of allowing any claim against either Party Tenant, which claim would otherwise be barred under the doctrine of sovereign immunity or by operation of law, nor may anything in this Lease be interpreted or otherwise construed to require either Party to indemnify or otherwise insure the the other Party for the other Party's own negligence in contravention of § 768.28, Florida Statutes.

11.2 This Lease shall not be read as a pledge of Tenant's revenue or revenue sources.

## **12. INSURANCE.**

12.1 Tenant shall maintain at all times during the Term and at its sole cost and expense, comprehensive liability insurance for bodily injury and property damage naming Landlord as an additional insured, in such amounts as are adequate to protect Landlord and Landlord's managing agents against liability for injury to or death of any person in connection with the use, operation, or condition of the Premises. Such insurance at all times shall be in an amount of not less than two Million Dollars (\$2,000,000) for injuries to persons in one accident, not less than One Million Dollars (\$1,000,000) for injury to any one person, and not less than Five Hundred Thousand Dollars (\$500,000) with respect to damage to property, subject to Tenant's deductible for which Tenant shall self-insure. In no event shall the limits of such policy be considered as limiting the liability of Tenant under this Lease.

12.2 Tenant shall at all times during the Term maintain in effect policies of insurance covering its leasehold improvements (including any alterations, additions, or improvements as may be made by Tenant), trade fixtures, merchandise, and other personal property from time to time in or on the Premises, providing protection against all risks covered by standard form of "Fire and Extended Coverage Insurance," together with insurance against vandalism and malicious mischief. Tenant shall also maintain at its sole cost and expense workmen's compensation insurance in the maximum amount required by law.

12.3 All insurance required to be carried by Tenant shall be issued by responsible insurance companies, qualified to do business in the State of Florida. Each policy shall name Landlord, as an additional insured and shall contain a provision that the same may: not be canceled without providing Landlord not less than 30 days prior written notice. Copies of all certificates evidencing the existence and amounts of such insurance shall be delivered to Landlord no later than the day before the Commencement Date, and renewals thereof shall be delivered to Landlord upon expiration of any such policy or at any time upon Landlord reasonable request. A certificate of insurance issued to the Landlord by the Tenant's insurer(s) consistent with the requirements of this Section 12, shall be conclusive proof of compliance with this Section 12.

If Tenant fails to adhere to the requirements of this Section, Landlord may, after written notice, order such insurance at Tenant's expense and such amount shall be payable by Tenant within thirty days of written demand, which shall include the insurer's invoice or receipt. Tenant's failure to provide and keep in force the insurance required under this Section shall be regarded as a material default, entitling Landlord to exercise any or all of the remedies provided in this Lease. Any policy may be carried under so-called "blanket coverage" form of insurance policies.

## **13. DAMAGE.**

13.1 Casualty Damage. If the Premises shall be partially or totally destroyed or damaged by any risk covered by Landlord's insurance, then Landlord shall, as soon as practical after such damage occurs (taking into account the time necessary to effectuate a satisfactory settlement with any insurance company and reasonable delay on account of "labor troubles" or any other cause beyond Landlord's reasonable control) repair or rebuild the Premises; provided, however, that in no event shall Landlord be obligated to expend in such repair or

rebuilding any sums in excess of the amount of insurance proceeds paid to Landlord in connection with such damage. If the Premises is rendered untenantable and provided that such casualty is not caused by the negligence of Tenant, its agents, servants, employees, contractors or suppliers, then Base Rent and Additional rent shall be abated until the end of such period of untenantability.

13.2 Tenant's Personal Property. Notwithstanding anything to the contrary herein contained in the Lease, in no event shall Landlord be required to repair, restore, or rebuild any portions of the Premises constituting a part of Tenant's leasehold improvements (unless comprising Landlord's Work); other tenant work; or Tenant's personal property, furnishings, equipment or trade fixtures ("Personal Property"), all of which shall be rebuilt or replaced by Tenant at Tenant's sole expense, unless Landlord receives insurance proceeds (either from Landlord's insurance or Tenant's insurance) to pay for same.

13.3 Termination. Notwithstanding anything to the contrary herein contained in the Lease, if the Premises are rendered wholly untenantable by fire or other cause and Landlord shall decide not to rebuild the same, or if the Building is so damaged that Landlord shall decide that substantial reconstruction is required, then, or in any of such events, Landlord or Tenant may cancel and terminate this Lease by giving the other written notice within 60 days from the date of such damage, whereupon this Lease shall cease and terminate upon the tenth day after such notice is given, and Tenant shall vacate the Premises and surrender the same to Landlord. In the event the Premises is rendered untenantable under this Section and such untenantability cannot in the reasonable judgement of Landlord's architect be substantially cured within 180 days of its occurrence, Landlord will notify Tenant thereof within 60 days after the casualty and Tenant may, at its option, and in addition to any other termination rights Tenant may have, terminate this Lease by written notice to Landlord delivered within ten days of Tenant's receipt of Landlord's notice. In addition, in such event, Landlord may, at its option, within 60 days after the casualty, terminate this Lease by written notice to Tenant.

13.4 No Liability. Except as otherwise specifically set forth herein, no compensation or reduction of Rent shall be paid or allowed by Landlord for inconvenience, annoyance, or injury to Tenant's business arising from the need to repair the Premises or the Building. Landlord shall not be liable for any damages (including, without limitation, business interruption) that may be suffered by reason of any casualty to the Premises or the Building and/or Landlord's or Tenant's repairing or rebuilding thereof and/or the deprivation of Tenant's use and possession of the Premises unless due to the negligence or willful misconduct of Landlord or Landlord's agents.

13.5 Damage By Tenant. Notwithstanding any other provisions of this Lease which may limit Tenant's responsibility for repair, replacement or maintenance of items which are within and serve the Premises, all injury to the Premises or the Building caused by moving the property of Tenant into or out of the Building and all damage and breakage done by Tenant or the agents, servants, or employees of Tenant shall be repaired by Tenant, at the sole expense of Tenant. If Tenant shall fail to do so after written notice from Landlord, then Landlord shall have the right to make such necessary repairs, alterations, and replacements (structural, nonstructural, or otherwise) and any charge or cost so incurred by Landlord shall be paid by Tenant. This provision shall be construed as an additional remedy granted to the Landlord and



not in limitation of any other rights or remedies which the Landlord has or may have in such circumstances.

#### **14. EMINENT DOMAIN.**

14.1 Compensation. If all or part of the Building shall be taken by a governmental or quasi-governmental authority (excluding Landlord) pursuant to the power of eminent domain or deed in lieu thereof, then (i) Tenant agrees to make no claim for compensation in the proceedings and hereby assigns to Landlord any rights which Tenant may have to any portion of any award made as a result of such taking, (ii) this Lease shall terminate as to the portion of the Premises taken by the condemning authority or shall terminate in its entirety if the Leased Premises are rendered untenable as a result of such condemnation and (iii) the then current Base Rent shall be adjusted (based upon the proportion of floor area in the Premises so taken) to such date. The foregoing notwithstanding, Tenant shall be entitled to claim, prove, and receive in the condemnation proceedings such awards as may be allowed for relocation expenses, loss of business, and for fixtures and other equipment installed by it which shall not, under the terms of this Lease, be or become the property of Landlord at the termination hereof, but only if such awards shall be made by the condemnation court in addition to and not in diminution of the award to Landlord and is stated separately from the award made by the condemnation court of the Building or part thereof so taken.

##### **14.2 Substantial Taking.**

14.2.1. If nature, location, or extent of any proposed condemnation affecting the Building is such that all or a substantial part of the Building, or the Premises, or the parking in the common areas shall be then Landlord or Tenant may terminate this Lease by giving at least 60 days written notice of termination to the other at any time after such condemnation and this Lease shall terminate on the date specified in such notice. For purposes of this Section, a substantial part of the Building, or the Premises, or the parking shall be considered to have been taken or condemned (i) if 25% or more of the Premises, or the Building, or the parking is taken or condemned or (ii) if, in the sole opinion of the Landlord, the taking or condemnation shall render it commercially undesirable to continue operating the Building.

14.2.2. If the condemnation does not involve a substantial part of the Building, or the Premises, or the parking in the Common Areas, or if a substantial part of the Premises is taken or condemned, and Landlord and Tenant do not elect to terminate this Lease, the then current Base Rent shall be equitably adjusted as of the date title vests in the condemning authority and this Lease shall otherwise continue in full force and effect.

#### **15. BANKRUPTCY.**

15.1 Acts of Bankruptcy. Tenant agrees that in the event that (i) Tenant shall be adjudicated bankrupt or adjudged to be insolvent, (ii) Tenant shall file or acquiesce in a petition in any court in any bankruptcy, reorganization, composition, extension, arrangement or insolvency proceedings, (iii) Tenant shall make an assignment or other conveyance in trust for the benefit of its creditors, (iv) any execution or attachment shall be issued against Tenant



or Tenant's property whereupon the Premises shall be taken, occupied or attempted to be taken or occupied by someone other than Tenant and such execution or attachment shall not be dismissed, vacated, discharged or bonded within thirty (30) days after issuance of same, or (v) a receiver or trustee shall be appointed for the property and assets of the Tenant and such receivership shall not be discharged within twenty (20) days from the date of such appointment (collectively, "Act of Bankruptcy"), the Term shall, at the option of the Landlord, cease and terminate, it being expressly agreed that the covenant contained in Section 17 against the assignment of this Lease shall cover the case of the assignment of this lease by operation of law as well as the assignment of this Lease by a voluntary act of the Tenant.

15.2 Requirement to Vacate. If this Lease shall be so canceled and terminated as set forth in Section 15.1, neither Tenant nor any person claiming through or under Tenant by virtue of any statute or order of any court shall be entitled to remain in possession of the Premises but shall immediately quit and surrender the Premises. In no event, without prior written approval of Landlord, at Landlord's sole discretion, shall this Lease be or be considered to be an asset of Tenants estate in bankruptcy or insolvency or of any receivers or trustee ("Trustee") with respect thereto.

15.3 Legal Restrictions. To the extent that Landlord's right to cancel this Lease in accordance with the provisions of Sections 15.1 and 15.2 is invalid or unenforceable under the Bankruptcy Reform Act of 1978, as the same may be amended from time to time (the "Act"), or any other statute or rule of law, then the following provisions shall apply to the extent valid and enforceable:

(a) If there has been a Default by Tenant under any provision of this Lease (other than this Section), the Trustee (as such term is defined in the Act) may not assume this Lease, unless, at the time of assumption of this Lease, the Trustee:

(i) Cures or provides adequate assurance (to Landlord's reasonable satisfaction) that the Trustee will promptly cure such Default; and

(ii) Provides adequate assurance (to Landlord's reasonable satisfaction) of future performance under the Lease. which shall include, without limitation, adequate assurances to the source of rent and other conditions due under such Lease and satisfaction of the conditions set forth in Section 7.2.

(b) If there has been a Default by Tenant, the Trustee may not require the Landlord to provide services or supplies incidental to this Lease before assumption of this Lease unless the Landlord is compensated under the terms of this Lease for any services and supplies provided under this Lease before assumption of this Lease. (If no Trustee is appointed under the Act, the foregoing provisions will nevertheless apply to the extent permitted under the Act.)

15.4 Recovery of Damages. If this Lease is terminated under the provisions of this Section, or by reason of rejection by the Trustee (or by the bankruptcy court, if no Trustee is appointed), Landlord shall be entitled to the recovery of damages and such other remedies as are provided for in this Lease. The foregoing sentence shall not, however, limit or prejudice the right of Landlord to prove and obtain as liquidated damages in any bankruptcy, insolvency, receivership, reorganization or arrangement proceeding an amount equal to the maximum

allowed by the Act or any other statute or rule of law governing such proceedings and in effect at the time when such damages are to be proved, whether or not such amount be greater, equal to or less than the amount of the excess referred to in the preceding sentence.

## **16. DEFAULT.**

### **16.1 Tenant's Default.**

16.1.1 If Tenant fails to pay any component of Rent when due, and then fails to pay within 10 days after receipt of written notice by Landlord, Tenant shall be in default.

16.1.2 If any of the following occurs and continues for more than 30 days after Landlord provides Tenant written notice thereof (except that such 30-day period shall be extended for such additional period of time as may reasonably be necessary to cure such Default, provided such Default, by its nature, cannot be cured within such 30 day period and Tenant is, at all times thereafter, in the process of diligently curing the same), Tenant shall be in default:

- (a) Tenant refuses to take possession of the Premises on the Commencement Date.
- (b) Tenant fails to comply with the Environmental Provisions in this Lease.
- (c) Tenant fails to obtain Landlord's written consent to an assignment or sublease.
- (d) Tenant fails to obtain or maintain insurance in compliance with this Lease.

16.1.3 If Tenant fails to perform or observe any other term, provision, covenant, condition or requirement of this Lease (not hereinbefore specifically referred to) on the part of Tenant to be performed or observed, and such failure continues for 30 days after written notice from Landlord (except that such 30 day period shall be extended for such additional period of time as may reasonably necessary to cure such Default, provided such Default, by its nature, cannot be cured within such 30 day period and Tenant is, at all times thereafter, in the process of diligently curing the same).

16.2 Landlord's Default. Landlord shall be in default under this Lease if Landlord fails to perform any obligation of Landlord or to comply with any material provision that this Lease requires the Landlord to comply with, and such failure continues for 30 days after written notice from Tenant (except that such 30 day period shall be extended for such additional period of time as may be reasonably necessary to cure such Default, provided such Default, by its nature, cannot be cured within such 30 day period and Landlord is, at all times thereafter, in the process of diligently curing the same).

## **17. REMEDIES.**

17.1 Upon the occurrence of a Default, in addition to remedies set forth in Section 17.2, Landlord and Tenant shall have all of rights and remedies now or hereafter existing under Florida law. All such rights and remedies shall be cumulative.

17.2 In the event of any breach by either party hereto or any persons claiming through either Party hereto of any of the provisions contained in this Lease, Landlord shall be entitled to enjoin such breach and shall have the right to invoke any right or remedy allowed at law,

in equity, or otherwise, as if reentry, summary proceedings, or other specific remedies were not provided for in this Lease.

17.3 All rights and remedies of Landlord and Tenant under this Lease shall be cumulative and shall not be exclusive of any other rights and remedies provided to Landlord and Tenant now or hereafter existing under law.

17.4 In the event that this Lease is terminated by notice and the Tenant shall hereafter seek protection under the Act or any equivalent state bankruptcy laws or regulations, then the Tenant (if a debtor-in-possession) agrees to consent to any application by the Landlord to terminate the automatic stay provisions of the Act on the grounds that there is no equity in the Lease as a result of the pre-petition termination notice.

**18. VOLUNTARY SURRENDER.** The voluntary or other surrender of this Lease by Tenant, or a mutual cancellation thereof, shall not work a merger, and shall, at the option of Landlord, terminate all or any existing subleases or subtenancies, or may, at the option of Landlord, operate as an assignment to it of any or all such subleases or subtenancies.

**19. ABANDONMENT OF PERSONAL PROPERTY.** In the event of termination of this Lease in any manner whatsoever, Tenant shall immediately remove Tenant's goods and effects and those of any other persons claiming under Tenant, or subtenancies assigned to it, and quit and deliver the Premises to the Landlord peaceable and quietly after written notice. Goods and effects not removed by Tenant after termination of this Lease (or within 48 hours after a termination by reason of Tenant's default) shall be considered abandoned. Landlord shall give Tenant notice of right to reclaim abandoned property pursuant to applicable local law and may thereafter dispose of the same as it deems expedient, including storage in a public warehouse or elsewhere at the cost and for the account of Tenant, but Tenant shall promptly reimburse Landlord for any expenses incurred by Landlord in connection therewith, including reasonable attorney's fees.

**20. HOLD-OVER.** If Tenant shall not immediately surrender the Premises at the expiration of the Term, then (i) Tenant shall, by virtue of the provisions of this Section 20 become a tenant by the month at 150% of the amount of then current Base Rent plus any Additional Rent that may then be payable under this Lease, commencing such monthly tenancy with the first day next after the end of the Term; and (ii) Tenant, as a monthly tenant, shall be subject to all of the conditions and covenants of this Lease as though the same had originally been a monthly tenancy, except as otherwise provided above this respect to the payment of Rent. Each party shall give to the other at least 30 days written notice to quit the Premises in the event that Tenant shall hold over after expiration of the Term.

**21. NOTICES.** Any and all notices, demands, requests, approvals, consents or other instruments required or permitted herein shall be in writing served (i) by certified mail, return receipt requested, (ii) by guaranteed overnight courier or (iii) hand delivery, at the addresses provided in Section 1.H above. Service shall be conclusively deemed made 48 hours after the deposit hereof in the United States mail, postage prepaid, pursuant to this Section. If served by overnight courier, service shall be conclusively deemed made one business day after delivery to such courier. Notice given by hand delivery shall be deemed given only when actually received by the recipient. Either party may specify a different address according to the terms of this Section.

**22. QUIET ENJOYMENT.** Landlord covenants that, if Tenant is not in default hereunder beyond any applicable grace period, Tenant shall at all times during the Term peaceably and quietly have, hold and enjoy the Premises without any interruption or disturbance from Landlord or anyone claiming by, through or under Landlord, subject to the terms of this Lease and (subject to the limitations and provisions of this Lease).

**23. MISCELLANEOUS PROVISIONS.**

a. Time of the Essence. Time is of the essence with respect to this Lease and each of its provisions.

b. Waiver. The waiver by Landlord or Tenant of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition on any prior or subsequent break of the same or any other term, covenant or condition herein contained.

The subsequent acceptance of Rent by Landlord shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenants or condition of this Lease, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

c. Modification. This Lease, including any Exhibits or Addenda, constitutes the entire agreement between the parties and supersedes any prior agreements or understandings between them. The provisions of this Lease may not be modified in any way except by written agreement signed by both parties.

d. Applicable Law. This Lease shall be subject to and construed in accordance with the laws of the State of Florida.

e. Successors and Assigns; Transfer of Landlord's Interest. Except as expressly otherwise provided in this Lease all of the provisions of this Lease shall bind and inure to the benefit of the parties and to their heirs, successors, representatives, executors, administrators, transferees and assigns as permitted. The term "Landlord" shall mean only the owner at the time in question of the Building or of a lease of the Building, so that in the event of any transfer or transfers of title to the Building or of Landlord's interest in a lease of the Building, the transferor shall be and hereby is relieved and freed of all obligations of Landlord under this Lease accruing after such transfer, if and only if such transferee has assumed and agreed in a written instrument delivered to Tenant to perform and observe all obligations of Landlord herein during the period it is the holder of landlord's interest under this Lease. In any event, Tenant shall look only to Landlord's estate and property in the Building and the land on which it is located, any deposits of accounts of Landlord, and any rents, issues, and profits derived from the Building for satisfaction of Tenant's remedies for the collection of a judgment (or other judicial process) requiring the payment of money by Landlord in the event of any default by Landlord hereunder. and no other property or assets of Landlord or its partners, principals or agents, disclosed or undisclosed, shall be subject to levy, execution or other enforcement procedure for the satisfaction of Tenants remedies under or with respect to this Lease, the relationship of Landlord and Tenant hereunder, or Tenant's use or occupancy of the Premises.

f. Tenant's obligations hereunder shall not be limited to any extent by the Term of this Lease and, as to any act or occurrence prior to the expiration or termination of this Lease



which gives rise to liability hereunder. Tenant's obligations shall continue, survive, and remain in full force and effect notwithstanding the expiration or termination of this Lease.

**24. LIMITATION OF LIABILITY BY REASON OF FORCE MAJEURE.** Except as may otherwise be expressly provided in this Lease and except for financial obligations (which are expressly excluded from this Section), no conduct or act or failure to act on the part of either Landlord or Tenant or failure to perform any covenant, condition or provision of this Lease on the part of either Landlord or Tenant to be performed shall constitute a default hereunder if such conduct or act or failure to act or perform was due to causes beyond the reasonable control of Landlord or Tenant, as the case may be, and including any conduct or act or failure to act or perform caused by or resulting from act of God, or the public enemy, strike, lockout, other labor disputes or disturbances, riot or civil commotion, fire, or other casualty, or such other similar event. Nothing in this Section shall be construed to prevent the abatement of Rent pursuant to the express provisions of this Lease. This Section shall not be construed to excuse Landlord or Tenant from making any payments due hereunder in a timely manner as set forth in this Lease or performing any covenant or obligation imposed under this Lease by reason of the financial inability of Landlord or Tenant, as the case may be. Such obligation to make payments or such obligation to perform such covenants or obligations (by reason of the financial inability of Landlord or Tenant) shall be expressly excepted from coverage by this Section. This provision shall not excuse Landlord from its fundamental obligation to lease to Tenant the Premises or Tenant from Tenant's obligation to lease the Premises from Landlord, subject to any contrary provisions that may be contained in Section 14 in the event of casualty to the Building or to the Premises and to the other terms of this Lease.

**25.** Any additional agreements between the parties shall be written and attached as an addendum hereto which shall be signed by both parties and then incorporated as part of Lease Agreement.

**26. RADON:** As required by Section 404.056, Florida Statutes, the Tenant is advised:

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

**27. ENTRYWAY SIGNAGE.** The Tenant, at its own expense, shall have the right and is hereby granted a license to erect a sign on the front of the Building in a conspicuous location noting that the Building is the location of the Tenant's office. The Sign shall say: River to Sea TPO. The sign may also include the Tenant's logo. The location shall be mutually agreed to by the Tenant and the Landlord, and the sign shall be no larger than 4 feet x 4 feet. The Tenant, at its own expense, is hereby granted a license to place on the door to its office space inside the Building a sign which shall state: River to Sea TPO. The sign may also include the Tenant's logo. The foregoing signage licenses shall be for the erection, repair, replacement, installation, connection, disconnection, maintenance, and operation of signage. Tenant shall obtain Landlord's written approval of the sign to be installed prior to installation.

**28. USE OF LEASED PROPERTY PRIOR TO TENANT TAKING POSSESSION.** Notwithstanding any other provision of this Agreement, the Tenant shall have the right to enter



the Premises and move its desks and equipment into the Premises on any date after February 19, 2023, and the Landlord shall furnish keys to the Tenant to the Premises at such time to enter and secure the Premises.

[Intentionally left blank. Signatures to follow.]

IN WITNESS WHEREOF, duly authorized representatives of Landlord and Tenant have executed this Lease Agreement under seal as of the Effective Date.

<b>Landlord: The City of Daytona Beach</b>	<b>Tenant: River to Sea TPO</b>
By _____ Derrick L. Henry, Mayor	By: _____ Colleen Nicoulin, Executive Director
Date: _____	Attest: _____ Debbie Stewart, Recording Secretary,
Attest: _____ Letitia LaMagna, City Clerk	Date: _____
Approved as to legal form:	
By: _____ Robert Jagger, City Attorney	

# Exhibit A

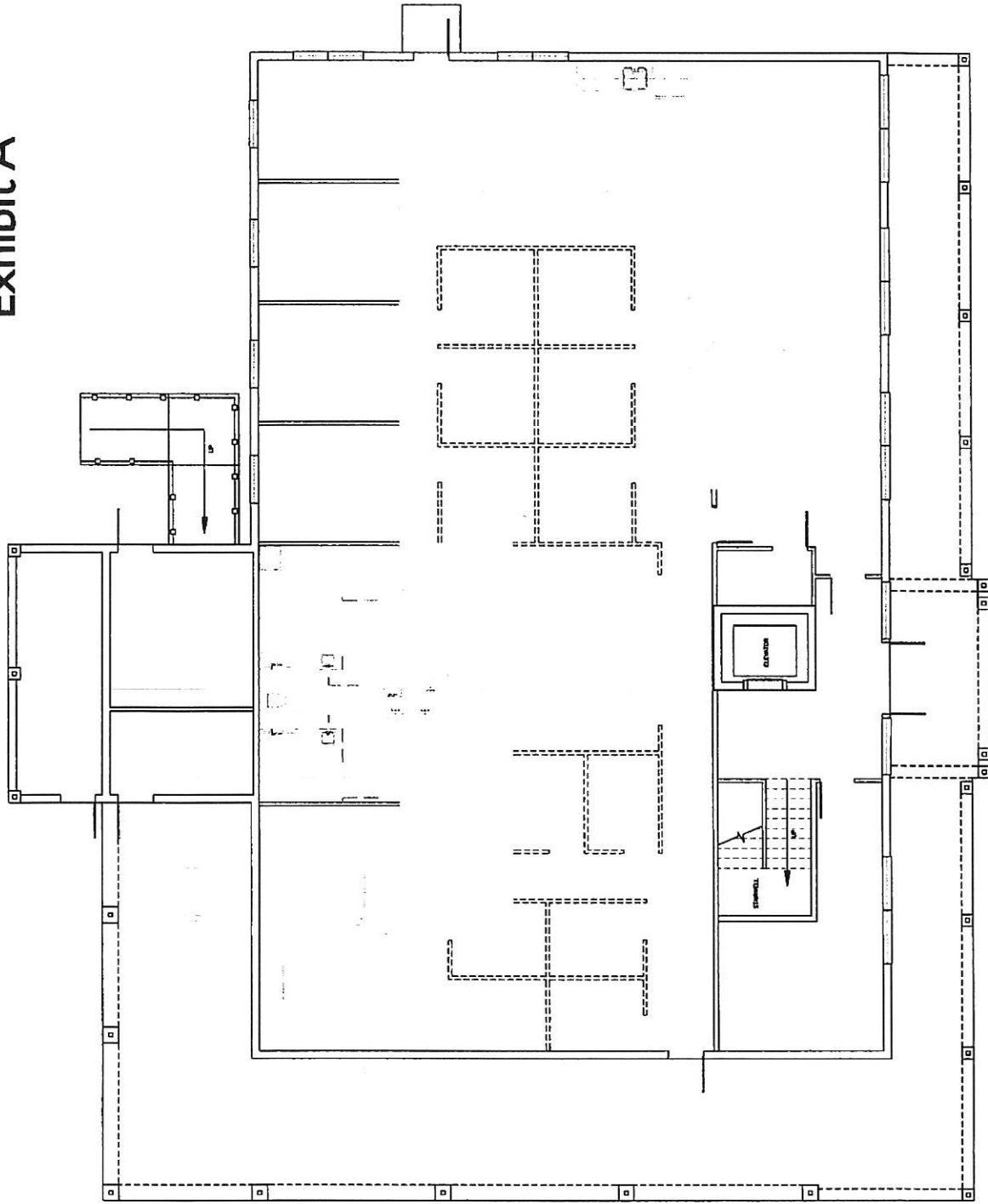


Exhibit B



## EXHIBIT "C"

### MANDATORY TERMS AND CONDITIONS

#### (NOT TO LIMIT ANY OTHER REQUIREMENTS OF THIS AGREEMENT)

(A). The TPO is required to comply and require its contractors and consultants to comply with all terms and conditions of the agreements with the Florida Department of Transportation and all Federal, state, and local laws and regulations.

(B). The TENANT and LANDLORD agree that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, national origin or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age, national origin, sexual orientation or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or their forms or compensation; and selection for training, including apprenticeship. The TENANT and LANDLORD, moreover, shall comply with all the requirements as imposed by the *Americans with Disabilities Act* and the *Americans with Disabilities Amendment Act*, the regulations of the Federal government issued thereunder, and any and all requirements of Federal or State law related thereto. Notwithstanding the generality of the foregoing, the TENANT and LANDLORD agree to adhere to the specific obligations set forth in this Section.

(C). During the term and performance of this Agreement, the TENANT and LANDLORD, for themselves, their assignees and successors in interest agree as follows as it pertains to Title VI Assurances:

(1). Compliance with Regulations: The TENANT and LANDLORD shall comply with the Regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (hereinafter, "USDOT") Title 49, *Code of Federal Regulations*, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

(2). Nondiscrimination: The TENANT and LANDLORD, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subvendor, including procurements of materials and leases of equipment. The TENANT and LANDLORD shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3). Solicitations for subvendors, including Procurements of Materials and Equipment: In all solicitations made by the TENANT or LANDLORD, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of



materials or leases of equipment; each potential subcontract supplier shall be notified by the TENANT or LANDLORD of the TENANT or LANDLORD's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.

(4). Information and Reports: The TENANT and LANDLORD shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a TENANT or LANDLORD is in the exclusive possession of another who fails or refuses to furnish this information the TENANT or LANDLORD shall so certify to the Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

(5). Sanctions for Noncompliance: In the event of the TENANT or LANDLORD's noncompliance with the nondiscrimination provisions of this contract, the Florida Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration and/or the Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to:

- (a). Withholding of payments to the TENANT or LANDLORD under the contract until the TENANT or LANDLORD complies; and/or
- (b). Cancellation, termination or suspension of the contract, in whole or in part.

(6). Incorporation of Provisions: The TENANT and LANDLORD shall include the provisions of paragraphs (1) through (7) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant hereto. The TENANT and LANDLORD shall take such action with respect to any subvendor or procurement as the Florida Department of Transportation, the Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event a TENANT or LANDLORD becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a result of such direction, the TENANT or LANDLORD may request the Florida Department of Transportation to enter into such litigation to protect the interests of the Florida Department of Transportation, and in addition, the TENANT or LANDLORD may request the United States to enter into such litigation to protect the interests of the United States.

(7). Compliance with Nondiscrimination Statutes and Authorities: Title VI of the *Civil Rights Act of 1964* (42 U.S.C. S2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; the *Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970*, (42 U.S.C. S 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); *Federal-Aid Highway Act of 1973*, (23 U.S.C. S 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the *Rehabilitation Act of 1973*, (29 U.S.C. S 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; the *Age Discrimination Act of 1975*, as amended, (42 U.S.C. S6101 et. Seq.), (prohibits discrimination on the basis of age); *Airport and Airway Improvement Act of 1982*, (49 U.S.C. S 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); the *Civil Rights Restoration Act of 1987*, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the *Civil Rights Act of 1964*, The *Age Discrimination Act of 1975* and Section 504 of the *Rehabilitation Act of 1973*, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and vendors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. SS 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; the Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. S 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*, which ensures non-discrimination against minority populations by discouraging programs, policies and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the *Education Amendments of 1972*, as amended, which prohibits from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

(D). During the term and performance of this Agreement, the TENANT and LANDLORD, for themselves, their assignees and successors in interest agree as follows as it pertains to Disadvantaged Business Enterprise (DBE) Assurance:

(1). In accordance with 49 *Code of Federal Regulations* Part 26.21, and the Florida Department of Transportation’s Disadvantaged Business Enterprise (DBE) Program Plan, DBE participation on Federal Highway Administration-assisted contracts must be achieved through race-neutral methods. ‘Race neutral’ means that the TPO can likely

achieve the overall DBE goal of 10.65% through ordinary procurement methods. Therefore, no specific DBE contract goal may be applied to this project. Nevertheless, the TPO is committed to supporting the identification and use of DBEs and other small businesses and encourages all reasonable efforts to do so. Furthermore, the TPO recommends the use of certified DBE's listed in the Florida Unified Certification Program (UCP) DBE Directory, who by reason of their certification are ready, willing, and able to provide and assist with the services identified in the scope of work. Assistance with locating DBEs and other special services are available at no cost through Florida Department of Transportation's Equal Opportunity Office DBE Supportive Services suppliers. More information is available by visiting <http://www.fdot.gov/equalopportunity/serviceproviders.shtm> or calling 850-414-4750.

(2). Consistent with 49 *Code of Federal Regulations* Part 26.13(b), the contractor, and any and all sub-recipients or subvendors, shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The contractor shall carry out applicable requirements of 49 *Code of Federal Regulations* Part 26 in the award and administration of Florida Department of Transportation-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this Agreement or such other remedy as the TPO deems appropriate which may include, but is not limited to the following:

- (a). Withholding monthly progress payments;
- (b). Assessing sanctions;
- (c). Liquidated damages; and/or
- (d). Disqualifying the contractor from future bidding as non-responsible.

(E). During the term and performance of this Agreement, the TENANT and LANDLORD, for themselves, their assignees and successors in interest agree as follows as it pertains to Federal Transit Administration (FTA) terms:

(1). No Federal Government Obligation to Third Parties. The Contractor acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

(2). Program Fraud and False or Fraudulent Statements or Related Acts. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness

and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(3). The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

(4). The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

(5). Access to Record and Reports.

(a). Record Retention. The Contractor will retain and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.

(b). Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. §200.333. The Contractor shall maintain all books, records, accounts, and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

(c). Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to the performance of this contract as reasonably may be required.

(d). Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractor's access to the sites of performance under this contract as reasonably may be required.

(5). Federal Changes. Contractor shall at all times comply with all applicable FTA regulations, policies, procedures, and directives, including without limitation those listed directly or by

reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to so comply shall constitute a material breach of this contract.

(6). Civil Rights and Equal Opportunity. The TPO is an Equal Opportunity Employer. As such, the TPO agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the TPO agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

(a). Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(b). Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e *et seq.*, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of DocuSign Envelope ID: 64934202-FCFD-4A68-B0BC-435B369C9BB0 Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c). Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.



(d). Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(7) Incorporation of Federal Transit Administration (FTA) Terms. The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E or subsequent revisions, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any TPO requests which would cause TPO to be in violation of the FTA terms and conditions.

(F) During the term and performance of this Agreement, the TENANT and LANDLORD shall for themselves, their assignees and successors in interest agree to the following:

(1) 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, subconsultant 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 thirty-six (36) months from the date of being placed on the convicted vendor list.

(2) 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.

(3) 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 TPO.

(4) Neither the TPO nor any of its contractors and consultants or their subcontractors and subconsultants shall enter into any contract, subcontract or arrangement in

connection with the Project or any property included or planned to be included in the Project in which any member, officer or employee of the TPO or the entities that are part of the TPO during tenure or for two (2) years thereafter has any interest, direct or indirect. If any such present or former member, officer or employee involuntarily acquires or had acquired prior to the beginning of tenure any such interest, and if such interest is immediately disclosed to the TPO, the TPO, with prior approval of the Department, may waive the prohibition contained in this paragraph provided that any such present member, officer or employee shall not participate in any action by the TPO or the locality relating to such contract, subcontract or arrangement. The TPO shall insert in all contracts entered into in connection with the Project or any property included or planned to be included in any Project, and shall require its contractors and consultants to insert in each of their subcontracts, the following provision:

"No member, officer or employee of the TPO or of the locality during his or her tenure or for 2 years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof."

The provisions of this paragraph shall not be applicable to any agreement between the TPO and its fiscal depositories or to any agreement for utility services the rates for which are fixed or controlled by a governmental agency.

(5). No member or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or any benefit arising therefrom.

(6). The parties agree to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes.

(7). Government-wide Debarment and Suspension. If this Agreement has a value of \$25,000 or more, this procurement is a covered transaction for purposes of 49 CFR Part 29. As such, the LANDLORD is required to verify that neither it nor its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945 and does so hereby certify. The LANDLORD agrees to comply with and does hereby assure and certify the compliance of each third-party contractor and sub-recipient at any tier, with 49 CFR 29, Subpart C, while its proposal, offer or bid is pending and throughout the period that any agreement arising out of such offer, proposal or bid is in effect. The Landlord further agrees to include a provision requiring such compliance in its subcontracts or any lower tier covered transaction it enters into.

(8). Restrictions on Lobbying. The TPO agrees that to no federally-appropriated funds have been paid, or will be paid by or on behalf of the TPO, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract,

grant, loan or cooperative agreement. If any funds other than federally-appropriated funds have been paid by the TPO to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. The TPO shall require that the language of this paragraph be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch or a state agency.

(9). Conflicts of Interest. No official or employee of a State or any other governmental instrumentality who is authorized in his official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any contract or subcontract in connection with a project shall have, directly or indirectly, any financial or other personal interest in any such contract or subcontract. No engineer, attorney, appraiser, inspector or other person performing services for a State or a governmental instrumentality in connection with a project shall have, directly or indirectly, a financial or other personal interest, other than his employment or retention by a State or other governmental instrumentality, in any contract or subcontract in connection with such project. No officer or employee of such person retained by a State or other governmental instrumentality shall have, directly or indirectly, any financial or other personal interest in any real property acquired for a project unless such interest is openly disclosed upon the public records of the State highway department and of such other governmental instrumentality, and such officer, employee or person has not participated in such acquisition for and in behalf of the State. It shall be the responsibility of the State or TPO to enforce the requirements of this section.

(10). E-Verify. The TPO has agreements with FDOT which require the TPO to agree and assure the FDOT that the U.S. Department of Homeland Security's E-Verify System (the "System") will be used to verify the employment eligibility of all new employees hired by the tenant during the term of the contract and shall expressly require any contractor, consultant, subcontractors, subconsultants 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 or subconsultant during the contract term.

(11). Energy Conservation. The TENANT and LANDLORD agree to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

### Estimated Relocation Expenses - **UPDATED**

Vendor	Description	1st Move (Temporary)	2nd Move (Long Term)
<b>MOVING EXPENSES</b>			
James Moore	Move and Install the server to new location	\$ 1,930.50	\$ 15,000.00
Moving company	Move all furniture to new location/storage	\$ 8,300.00	\$ 8,300.00
James Moore	Phone System migration to Microsoft Teams	\$ 2,572.00	\$ -
ADS	Move/Install Copiers	\$ 1,200.00	\$ 1,200.00
Weiss	Legal Services (lease termination and new lease)	\$ 3,000.00	\$ 3,000.00
Misc Expenses	Reconnection fees, vendor services, PO Box	\$ 500.00	\$ 500.00
<b>MOVING EXPENSES TOTAL</b>		<b>\$ 17,502.50</b>	<b>\$ 28,000.00</b>
<b>EXPENSES RELATED TO THE RELOCATION</b>			
Storage	Extra Space Storage 10 x 20 Climate Controlled First Floor approx. \$ 240.00/month x 6 months - <u>We might need 2 units</u>	\$ 1,440.00	
Printing	Change of address and (phone number) on <b>TPO Business Cards</b> - 250cnt \$ 150, <b>Address stamps</b> - 6cnt. \$ 25each \$ 150.00, and <b>Checks</b> - 1,000 cnt. \$ 250.00.	\$ 550.00	\$ 550.00
<b>EXPENSES RELATED TO THE RELOCATION TOTAL</b>		<b>\$ 1,990.00</b>	<b>\$ 550.00</b>
<b>TOTAL ESTIMATED RELOCATION EXPENSES</b>		<b>\$ 19,492.50</b>	<b>\$ 28,550.00</b>

### Estimated Relocation Expenses - Original

Vendor	Description	1st Move (Temporary)	2nd Move (Long Term)
<b>MOVING EXPENSES</b>			
James Moore	Move and Install the server to new location	\$ 15,000.00	\$ 15,000.00
Moving company	Move all furniture to new location/storage	\$ 8,300.00	\$ 8,300.00
Volusia County	Phone System migration to Microsoft Teams	\$ 500.00	\$ 500.00
ADS	Move/Install Copiers	\$ 1,200.00	\$ 1,200.00
Weiss	Legal Services (lease termination and new lease)	\$ 3,000.00	\$ 3,000.00
Misc Expenses	Reconnection fees, vendor services, PO Box	\$ 1,000.00	\$ 1,000.00
<b>MOVING EXPENSES TOTAL</b>		<b>\$ 29,000.00</b>	<b>\$ 29,000.00</b>
<b>EXPENSES RELATED TO THE RELOCATION</b>			
Storage	<b>20x20 Outside unit \$495.00 - 6 months</b> 10x20 Outside unit \$275.00 - 6 months = \$1,650	\$ 2,970.00	
Printing	Change of address and (phone number) on Business Cards, address stamps, letterheads, envelopes, checks, etc.	\$ 1,500.00	\$ 1,500.00
<b>EXPENSES RELATED TO THE RELOCATION TOTAL</b>		<b>\$ 4,470.00</b>	<b>\$ 1,500.00</b>
<b>TOTAL ESTIMATED RELOCATION EXPENSES</b>		<b>\$ 33,470.00</b>	<b>\$ 30,500.00</b>