

Meeting Date
4/28/15



AGENDA	
Section	New Business
Item No.	VI E 2

**AGENDA REPORT**  
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	APPROVAL OF RESOLUTIONS FOR PROJECT EAGLE
DEPT/OFFICE:	MANAGEMENT SERVICES & COMMUNITY SERVICES/COUNTY MANAGER'S OFFICE

Requested Action:  
The North Brevard Economic Development Zone (NBEDZ) requests that the Board of County Commissioners approve a Grant Award Resolution in an amount expected to be \$2,500,000 and a Resolution for the Execution of a Ground Lease for land in the Spaceport Commerce Park, which taken together will be used as an economic development inducement for Project Eagle.

Summary Explanation & Background:

Project Eagle is a publicly traded company with over 5,000 employees. The company has been (and currently is) profitable, with above average operating margins; it has been in business for over 20 years. It has a stock market capitalization in excess of \$2 billion dollars.

Project Eagle will involve the construction of a facility to be used for the design and manufacture of a high-tech product. The company is considering a site in the Spaceport Commerce Park in Titusville, which will require the construction of a new building approximating 50,000 sq. ft. The NBEDZ is the authorized agent of the county for developing or inducing the development of county-owned lots within that business park.

Project Eagle plans to create 150 jobs, with an average wage of approximately \$48,000 each, and to cause to be invested \$3,500,000 in new capital investments. Additional contracts could produce the need for an additional employee headcount.

Offsetting development costs is critical to this project. The proposed North Brevard Economic Development Zone support would be in the form of a \$2,200,000 grant to offset the costs of constructing the new facility in Titusville, along with the provision of a suitably-sized county-owned lot in the park (approximating 15 acres) cleared and prepped for construction, an undertaking that is not expected to exceed \$300,000. NBEDZ monies for building construction would be provided in phases, so as to ensure progress toward building completion. The land would remain in title to the county, with the company executing a long-term ground lease at \$1.00 a year for 10 years, and holding an option to exercise full fee simple ownership of the property at the end of year 10 of the lease term.

**Fiscal Impact:** Grant proceeds would come from the North Brevard Economic Development Zone (NBEDZ).

EDC Contact: [GWeiner@SpaceCoastEDC.org](mailto:GWeiner@SpaceCoastEDC.org), 321-638-2000  
Staff Contact: [Troy.Post@brevardcounty.us](mailto:Troy.Post@brevardcounty.us), 321-264-6750  
V3

Clerk to the Board instruction: Need the adopted Resolution ASAP.

Exhibits Attached: RESOLUTION

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
County Manager		Department Director / Extension					
Stockton Whitten							



Tammy Etheridge, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972

April 29, 2015

**M E M O R A N D U M**

**TO:** Stockton Whitten, County Manager

**RE:** Item VI.E.2., Resolution to Grant Award for North Brevard Economic Development Zone (NBEDZ) – Project Eagle

The Board of County Commissioners, in regular session on April 28, 2015, adopted Resolution No. 15-056, for a grant award in the amount of \$2,500,000; and adopted Resolution No. 15-057, for execution of a ground lease for land in the Spaceport Commerce Park, which taken together will be used as an economic development inducement for Project Eagle. Enclosed are two certified copies of each Resolution.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

Tammy Etheridge, Deputy Clerk

Encls. (4)

cc: NBEDZ Director  
Finance  
Budget

**RESOLUTION NO. 2015 - 056**

**RESOLUTION APPROVING A GRANT AWARD FROM THE NORTH BREVARD ECONOMIC DEVELOPMENT ZONE (NBEDZ) FOR PROJECT EAGLE:**

WHEREAS, the Brevard County Board of Commissioners created the North Brevard Economic Development Zone (NBEDZ) Dependent Special District under the powers vested in the Board under Chapter 125, Florida Statutes, Chapter 189, Florida Statutes and section 200.065(1), Florida Statutes; and

WHEREAS, the Board approved Resolution No. 2012-113, adopting the written Economic Development Plan of the NBEDZ Dependent Special District, as approved by its board of directors; and

WHEREAS, the NBEDZ board of directors, in accordance with its Economic Development Plan, has approved the provision of grant assistance to induce an economic development project known as "Project Eagle" to locate an approximately 50,000 sq. ft. high-tech manufacturing facility in Titusville's Spaceport Commerce Park, said assistance to be in an amount expected to be \$2.5 million; and

WHEREAS, the NBEDZ believes that inducing this project, with its stated goal of creating 150 new, permanent jobs and making a substantial private capital investment of \$3.5 million, will provide a needed economic boost to an area of the county adversely impacted by the end of NASA's Space Shuttle program; and

WHEREAS, the NBEDZ further believes that inducing this project will aid in the future development of additional county-owned lots within the Spaceport Commerce Park by evidencing the viability of this site location.

NOW, THEREFORE BE IT RESOLVED, THAT THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA does hereby approve the NBEDZ's incentive package for "Project Eagle," it being understood that said NBEDZ grant assistance for the project is expected to be \$2.5 million.

DONE, ORDERED, and ADOPTED, in regular session, this 28 day of April, 2015.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

  
\_\_\_\_\_  
Robin Fisher, Chairman

As approved by the Board on 4-28-2015

**RESOLUTION NO. 2015 - 057**

**RESOLUTION APPROVING THE EXECUTION BY THE NBEDZ DEPENDENT SPECIAL DISTRICT OF A GROUND LEASE IN THE SPACEPORT COMMERCE PARK FOR PROJECT EAGLE:**

WHEREAS, the Brevard County Board of Commissioners created the North Brevard Economic Development Zone (NBEDZ) Dependent Special District under the powers vested in the Board under Chapter 125, Florida Statutes, Chapter 189, Florida Statutes and section 200.065(1), Florida Statutes; and

WHEREAS, the Board approved Ordinance No. 2013-08, designating the NBEDZ Dependent Special District as the county's authorized agent for the negotiation and execution of all contracts regarding the private sale or private lease of county-owned land within the boundaries of the Spaceport Commerce Park in Titusville; and

WHEREAS, the NBEDZ board of directors, in accordance with its county-approved written Economic Development Plan, has approved the provision of grant assistance to induce an economic development project known as "Project Eagle" to locate an approximately 50,000 sq. ft. high-tech manufacturing facility in Titusville's Spaceport Commerce Park, said assistance to include the clearing and preliminary grading of a lot within the aforementioned park; and

WHEREAS, the NBEDZ believes that inducing this project, with its stated goal of creating 150 new, permanent jobs and making a substantial private capital investment of \$3.5 million, will provide a needed economic boost to an area of the county adversely impacted by the end of NASA's Space Shuttle program; and

WHEREAS, the NBEDZ further believes that inducing this project will aid in the future development of additional county-owned lots within the Spaceport Commerce Park by evidencing the viability of this site location.

NOW, THEREFORE BE IT RESOLVED, THAT THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA does hereby approve the execution of a ground lease contract by and between the NBEDZ Dependent Special District and the company identified publicly as "Project Eagle" for use of an approximately 15-acre lot, it being understood that such lease arrangement will extend for a period of ten years and contain a provision for the company to exercise an option to purchase the land at the end of the lease term for nominal consideration.

DONE, ORDERED, and ADOPTED, in regular session, this 28 day of April, 2015.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA



Robin Fisher, Chairman

As approved by the Board on 4-28-2015

**NORTH BREVARD DEVELOPMENT DISTRICT  
ECONOMIC INCENTIVE AGREEMENT**

**THIS ECONOMIC INCENTIVE GRANT AGREEMENT** (hereinafter called the "Agreement") is made and entered into this 14 day of December, 2015, by and between EMBRAER AIRCRAFT HOLDING, INC., ("EAH") and Embraer Aero Seating Technologies, LLC., (an EAH wholly owned subsidiary, hereinafter "EAST"), (together hereinafter called the 'COMPANY') the NORTH BREVARD DEVELOPMENT DISTRICT (hereinafter called the 'DISTRICT'), a dependent special district created by the Brevard County Board of County Commissioners, (hereinafter called the 'COUNTY'), and Brevard County, by and through its Board of County Commissioners (hereafter referred to as the "COUNTY") pursuant to Sections 125.045, Florida Statutes, Brevard County Ordinance No. 2011-16 and Brevard County Ordinance No. 2011-18.

**WHEREAS**, the Florida Legislature has enacted Section 125.045, Florida Statutes, which confers economic development powers to counties and authorizes the expenditure of public funds for economic development activities as a valid public purpose; and

**WHEREAS**, Section 125.045(3), Florida Statutes, specifically authorizes a county to make incentive payments in the form of grants to private enterprise for expanding businesses located within the county, or to attract new businesses to the county; and

**WHEREAS**, Ordinance No. 2011-6 and Ordinance No. 2011-18 (hereafter referred to as "the Ordinances") authorizes the DISTRICT to grant economic incentives to new businesses in accordance with the DISTRICT's written Economic Development Plan, including annual economic development cash incentives; and

**WHEREAS**, the DISTRICT is anticipated to have available budget reserves in the current and future fiscal years for assisting economic development projects in the DISTRICT; and

**WHEREAS**, the Economic Development Commission of Florida's Space Coast (EDC) has worked with the COMPANY and the DISTRICT to develop and consummate an economic development project heretofore known to the public as "Project Eagle;" and

**WHEREAS**, the COMPANY considered a site for "Project Eagle" located outside of the State of Florida, but chose a site within the geography of the DISTRICT, in large part due to the offer of an Economic Incentive from the DISTRICT; and

**WHEREAS**, the COMPANY has filed an application with the DISTRICT for participation in the DISTRICT's forthcoming funds as the source of a grant for up to \$2,500,000 (with \$2.2 million in the form of a cash grant from the DISTRICT and up to \$300,000 to be expended by the DISTRICT for the site preparation referred to in section 2.2 ), the proceeds of which will be used by the COMPANY as the local support necessary to construct a 50,000 sq. ft. manufacturing facility in the Brevard County-owned Spaceport Commerce Park in Titusville for EAST, a wholly-owned subsidiary of the EAH, a project which is expected to result in the creation of at least 150 new jobs to the State of Florida, averaging \$48,000 annually per job; and

**WHEREAS**, the DISTRICT approved an Economic Incentive for the COMPANY at a meeting of its board of directors on April 24, 2015; and

**WHEREAS**, in accordance with the Ordinances, the COUNTY is required to approve any economic incentive grant in excess of \$500,000; and

**WHEREAS**, the COUNTY adopted Resolution No. 15-056 (attached hereto as EXHIBIT "A") on April 28, 2015, approving the provision of the DISTRICT's Economic Incentive to the COMPANY and acknowledging that the source of the local financial support would be the DISTRICT; and

**WHEREAS**, information heretofore and hereafter delivered to the DISTRICT by the COMPANY and its affiliated companies or guarantors, if any, including without limitation, any information relating to the financial condition of the COMPANY accurately represents the condition of the subject thereof; and

**WHEREAS**, the COMPANY acknowledges that the DISTRICT is subject to the Florida Public Records Act, Chapter 119, Florida Statutes (the "Public Record Act") and to certain provisions of Chapter 286, Florida Statutes, relating to public meetings and records, both of which specifically are made applicable to governmental parties by Section 286.011 Florida Statutes; and

**WHEREAS**, the DISTRICT has established terms and conditions which, if complied with by the COMPANY, will allow the COMPANY to receive the benefits outlined in this Agreement; and

**WHEREAS**, the DISTRICT finds and declares that this Agreement serves a public purpose which includes promotion of economic development, job growth, and the future expansion of projects within the DISTRICT, along with the expansion of the County's tax base.

**NOW THEREFORE**, in consideration of the mutual promises and agreements contained herein, and other valuable and good consideration, DISTRICT and the COMPANY agree as follows:

## **1. RECITALS**

The above recitals are true and correct and, are hereby incorporated and made part of this Agreement.

## **2. DEFINITIONS**

2.1 "Building" shall mean the approximately 50,000 sq. ft. manufacturing facility to be constructed by the COMPANY in the Spaceport Commerce Park in Titusville.

2.2 "Economic Incentive" shall mean the extension to the COMPANY of grant funds more fully described in paragraph 3.2 of this Agreement, and the provision of a fifteen (15) acre tract of land in the Spaceport Commerce Park, as defined in paragraph 2.5



herein, a portion of which shall be cleared and rough-graded with all necessary utilities provided to the land leased under the ground lease.

2.3 "Effective Date" is the date upon which the last party executes this agreement. The Agreement shall not be effective against any Party until said date.

2.4 "Project" shall mean the project described in paragraph 3.1 of this Agreement.

2.5 "Project Site" shall mean the tract of land in the Spaceport Commerce Park in Titusville, more particularly described as Parcel 1 on the site plan shown under EXHIBIT "B" to this Agreement.

2.6 "Job" shall mean permanent or full-time equivalent employees at the Project. Each person or combination of persons who work at least thirty-five (35) hours a week at the Project, under the control and supervision of the COMPANY, shall be counted as one full-time equivalent Job. The percentage full-time equivalent employees will not exceed thirty-five percent (35%) of the combined total number of permanent full-time equivalent employees and full-time equivalent employees as measured on an annual basis.

2.7 "Average Project Wage" shall mean the annualized average of all wages and salaries paid to employees who hold Jobs at the Project. Such payments may include wages, salaries, commissions, bonuses, drawing accounts, vacation and sick pay, but exclude employee benefit packages.

2.8 "Required Jobs Created" shall mean 150 Jobs with an Average Project Wage of \$48,000, and according to paragraph 3.4 of this Agreement. Notwithstanding the foregoing, the COMPANY may request, and the DISTRICT may approve, changes to the hiring timeline as may be more fully described herein.

2.9 "Ground Lease" means the lease between the DISTRICT, as the COUNTY'S authorized agent, and the COMPANY relating to the Project Site, a copy of which is attached hereto as EXHIBIT "C."

### 3. DISTRICT, COUNTY AND COMPANY OBLIGATIONS

#### 3.1 Project Description.

The COMPANY agrees and commits to undertake the following:

The Project will involve the construction and completion of a 50,000 sq. ft., more or less, industrial building with offices at the Spaceport Commerce Park in Titusville (hereinafter referred to as "Building"), not later than 24 months from the date of this Agreement, in order to manufacture components used in the assembly of aircraft. The COMPANY anticipates making a capital investment in the Building and in the acquisition of capital equipment totaling \$3.5 million. The Project is expected to create one hundred fifty (150) Jobs on or before December 31, 2019, with an Average Annual Wage of \$48,000.00 per Job, as more fully described in paragraph 3.4 of this Agreement.



3.2 COUNTY Approval and Designation of DISTRICT as Ground Lease Agent.

3.2.1 In accordance with the requirements of section 98-246(b)(4), Code of Ordinances of Brevard County, Florida, the COUNTY hereby approves the cash incentive grant to the COMPANY under the terms and conditions set forth in this Economic Incentive Agreement.

3.2.2 To implement the authority granted to the COUNTY under chapter 82-264, Special Acts of Florida, and the authority granted by the COUNTY to the DISTRICT under section 98-247(13), Code of Ordinances of Brevard County, Florida, the COUNTY hereby approves the attached Ground Lease for the Project Site between the COMPANY and the DISTRICT, acting as agent for the COUNTY, under the terms and conditions set forth in the Ground Lease attached hereto as EXHIBIT "C."

3.3 Economic Incentive.

3.3.1 The DISTRICT agrees to provide a grant from DISTRICT funds to the COMPANY in an amount not to exceed \$2,200,000.00 for the purpose of enabling the construction of the Building. The payout schedule for grant funds shall be as follows:

3.3.1.1 Fifty percent (50%) of the grant, an amount determined to be ONE MILLION ONE HUNDRED THOUSAND and NO/100 DOLLARS (\$1,100,000.00), shall be paid to the COMPANY by the DISTRICT upon completion of the following events, but not before October 1, 2015:

(a) Execution of this Agreement and the Ground Lease Agreement with the COUNTY, through its authorized agent, the DISTRICT;

(b) Public announcement of the COMPANY's intent to locate the Project in the Spaceport Commerce Park in Titusville, including mention of efforts by the DISTRICT and the EDC to recruit the Project to the state;

(c) Approval and receipt of all necessary permitting from local and state regulatory bodies for the commencement of construction activities on the Building;

(d) Contract execution and mobilization at the Project site of a licensed and bonded general contractor(s) secured by the COMPANY for construction of the Building; and

(e) Poured concrete foundation for Building and initiation of vertical construction elements.

3.3.1.2 Twenty-five percent (25%) of the grant funds, an amount determined to be FIVE HUNDRED FIFTY THOUSAND and NO/100 DOLLARS (\$550,000.00), shall be paid to the COMPANY upon completion of the following events:

(a) Issuance of a Certificate of Occupancy from the Building and Inspection Services Department of the City of Titusville; and



3.3.1.3 The balance of grant funds, an amount determined to be FIVE HUNDRED FIFTY THOUSAND and NO/100 DOLLARS (\$550,000.00) shall be paid to the COMPANY upon completion of the following events:

(a) Receipt by the DISTRICT of documentation evidencing the creation of Fifty (50) Jobs at the Project, it being understood that the COMPANY will use its best efforts to attain this job creation threshold by December 31, 2017; and

(b) Receipt by the DISTRICT of documentation verifying the Average Annual Wage paid for Jobs created by the Project.

3.3.1.4 Company shall have a one-time right to extend the job creation requirements by one year. Such extension shall be approved by the District upon request by the Company.

3.3.2 In connection with the construction of the Building at the Project Site, the COMPANY agrees to:

- (a) Obtain all necessary permitting and regulatory approvals for construction activities at the Project Site;
- (b) Utilize a licensed and bonded general contractor(s), and pay all obligations due in connection with said construction activities, keeping the Project Site free and clear of mechanics and/or builders liens;
- (c) Use commercially reasonable efforts to seek out and use local construction firms and labor;
- (d) Comply with all local building codes and ordinances; and
- (e) Retain title to the improvements constructed at the Project Site during the term of this Agreement, subject to the terms of the Ground Lease.

3.3.3 The DISTRICT, in its capacity as agent for the COUNTY, further agrees to enter into a Ground Lease Agreement with the COMPANY for the provision of land in the Spaceport Commerce Park in Titusville upon which to construct the Building, land more particularly described as Parcel 1 on the site plan shown under EXHIBIT B to the Agreement, and herein referred to as the "Project Site."

3.3.3.1 The Ground Lease Agreement, which is attached to this Agreement as EXHIBIT "C", provides that:

(a) The Project Site shall consist of fifteen (15) acres of zoned industrial property, made available to the Project for a ten (10) year initial lease term at nominal consideration;

(b) The Project Site shall have connections to existing water lines, storm sewer and sanitary sewer systems, data fiber optic cable, and to electrical lines;



(c) The Project Site shall be delivered to the COMPANY cleared and graded to a rough compaction, per civil engineering plans to be prepared by the DISTRICT and approved and initialed by the COMPANY;

(d) Pursuant to Section 11.4 of the Ground Lease, COMPANY shall have the right to purchase to Parcel 1 at a nominal amount; and

(e) A "Right of First Refusal" shall be provided to the COMPANY for a tract of land in the Spaceport Commerce Park contiguous to Parcel 1, more particularly described as Parcel 2 on the site plan shown under EXHIBIT "B" to this Agreement and approximating five (5) acres in size. The Right of First Refusal for Parcel 2 shall exist at any time during the Ground Lease Agreement term.

### 3.4 **Capital Investment.**

3.4.1 The COMPANY agrees to make capital investments in facilities, tooling, and equipment at the Project Site in an amount not less than \$3.5 million by December 31, 2019 ("Capital Investment Requirement"). If the dollar amount specified herein for capital investments is not made at the Project Site by the COMPANY by said date, the DISTRICT shall have the right to request a return of the Economic Incentive grant funds paid to the COMPANY under this agreement in accordance with the following:

(a) For a capital investment by the COMPANY below \$2.0 million, the DISTRICT shall be entitled to a reimbursement of 50% of grant funds paid to the COMPANY.

3.4.2 The COMPANY shall have a one-time right extend the Capital Investment Requirement by one year. Such extension shall be approved by the DISTRICT upon request by the COMPANY.

### 3.5 **Job Creation.**

3.5.1 The COMPANY agrees to create at least One Hundred Fifty (150) Jobs at the Project Site on or before December 31, 2019, said date hereinafter referred to as the "Effective Date of Job Completion," except that COMPANY shall have the right to extend Effective Date of Job Completion by one year only. Jobs shall have an Average Annual Wage of not less than \$48,000.00 such wages shall include bonuses paid to employees. The COMPANY may provide paid employee benefits in connection with Jobs created at the Project Site, but the value of such benefits shall not be included in the Average Annual Wage calculation unless such benefits can be converted to cash by the employee.

3.5.2 The COMPANY anticipates the following schedule for the creation of Jobs at the Project Site:



Year	2016	2017	2018	2019
Additional Jobs	50	50	25	25
Cumulative Total	50	100	125	<b>150</b>

3.5.3 In the event that the COMPANY creates less than 100 Jobs at the Project Site by the Effective Date of Job Completion, the DISTRICT shall have the right to request a return of a percentage of the \$2.2 million Economic Incentive grant funds in accordance with the following:

(a) For the creation by the COMPANY of Jobs totaling less than 25, the DISTRICT shall be entitled to receive a reimbursement of 100% of grant funds paid to the COMPANY;

(b) For the creation by the COMPANY of Jobs totaling less than 50 but 25 or more, the DISTRICT shall be entitled to a reimbursement of 75% of grant funds paid to the COMPANY;

(c) For the creation by the COMPANY of Jobs totaling less than 70 but 50 or more, the DISTRICT shall be entitled to a reimbursement of 50% of grant funds paid to the COMPANY; and

(d) For the creation by the COMPANY of Jobs totaling less than 100 but 70 or more, the DISTRICT shall be entitled to a reimbursement of 25% of grant funds paid to the COMPANY.

3.5.4 The COMPANY further agrees to maintain at least 100 Jobs at the Project Site for a period of five (5) years following the Effective Date of Job Completion. Failure on the part of the COMPANY to maintain the number of Jobs at the Project Site for said five-year period will entitle the DISTRICT to a reimbursement of 25% of grant funds paid to the COMPANY.

3.5.5 The DISTRICT and the COMPANY acknowledge that the ability of COMPANY to reach the Effective Date of Job Completion is dependent upon and subject to the timely issuance of all necessary permits and approvals in connection with construction activities on the Building at the Project Site. The DISTRICT and COMPANY further agree that an unreasonable delay in the issuance of necessary permits and approvals for construction activities shall be considered cause to allow the COMPANY to request the one year delay authorized under section 3.4.1 above.

### 3.6 Reporting Requirements.

3.6.1 The COMPANY agrees to keep detailed accounts and records demonstrating the creation of Jobs at the Project Site, the Capital Investment



Requirement and of the Average Annual Wages paid for said Jobs. Subject to applicable public records laws exemptions the including trade secret and other exemptions and confidentiality provisions set forth in section 288.075, Florida Statutes, the COMPANY will comply with DISTRICT requests for annual status reports on job creation activities at the Project Site. COMPANY certifications and reports on Jobs Creation and maintenance; Project Wage; and private capital investment and maintenance prepared for and submitted to the Division of Strategic Business Development of the Department of Economic Opportunity (DSBD) pursuant sections 5(e) and 7 of the Quick Action Closing Fund Agreement executed by DSBD June 30, 2015 and EAH on June 24, 2015 shall be deemed sufficient to satisfy the requirements of this section, provided such reports are delivered on or before March 31 of each year during the term of this agreement.

### 3.7 Audit and Public Records.

3.7.1 The COMPANY acknowledges and understands that the DISTRICT has certain obligations to allow for the inspection and copying of public records pursuant to Article 1, Section 24 of the Constitution of the State of Florida (the "Constitution," and together with the Public Records Act and the applicable parts of Chapter 286, Florida Statutes, hereinafter referred to together as the "Sunshine Laws"). With the exception of any COMPANY written request for an exemption set forth in section 288.075, Florida Statutes, the DISTRICT will be subject to certain disclosure requirements under the Sunshine Laws, and such disclosure requirements shall be superior to and shall supersede any confidentiality restrictions previously imposed upon the DISTRICT for a period of not more than six (6) months after the date of public announcement of "Project Eagle, unless a six-month extension is requested under the provisions of section 288.075, Florida Statutes." In addition, either party may disclose all or any portion of the Confidential Information without liability (a) if required by law or regulation, (b) if requested by any governmental authority by any representative of any thereof with legal authority to compel disclosure, (c) pursuant to subpoena or legal process, or (d) in any action of proceeding arising out of or related to this Agreement to the extent and only to the extent such disclosure is necessary for the parties involvement in such action

3.7.2. The COMPANY also acknowledges that, unless exempt under Florida law, the COMPANY's records relating to the acceptance and use of the DISTRICT's Economic Incentive grant are considered public records that may be subject to production and delivery to the public upon request. The COMPANY grants to the DISTRICT the right to review and audit all COMPANY records directly related to the DISTRICT's Economic Incentive grant, to the extent such records are not exempt under state law.

## 4. DEFAULT TRIGGERS & SPECIFIC REMEDIES

### 4.1 General Default:

4.1.1 Either Party is in default of this Agreement if that Party has materially breached any covenant contained in this Agreement and such breach has not been corrected or cured within thirty (30) days after written notice thereof, provided, however, that if the COMPANY does not satisfy the applicable Capital Investment



Requirements and/or Job Creation Requirements, then such failure shall not constitute a default under this Section 4; provided, that (i) the Company provides evidence to the DISTRICT's reasonable satisfaction that the Company intends to proceed with the Project substantially in accordance with this Agreement, or (ii) the COMPANY has fulfilled its obligations pursuant to Section 3.4.1(a), Section 3.5.3(a)-(d) and Section 3.5.4 of this Agreement .

4.1.2 COMPANY is in default if any representation or warranty made by the Company herein or in any report, statement, invoice, certificate, application, or other documentation furnished to the DISTRICT that induces the DISTRICT's grant payment or other performance under the Agreement proves to be untrue in a material respect and the effect of that material misrepresentation has not been cured or mitigated by the COMPANY within thirty (30) days after written notice thereof to the COMPANY by the DISTRICT.

4.1.3 COMPANY is in default if it fails to provide to the DISTRICT the written verification, satisfactory to the DISTRICT, of its performance of the COMPANY'S obligations as set forth herein.

## 5. REMEDIES

5.1 COMPANY'S remedy for default by DISTRICT shall be a claim for the funds for which the DISTRICT'S obligation to pay has ripened by virtue of the COMPANY'S compliance with all conditions precedent established under the terms of this Agreement. Such claims do not include consequential, incidental, punitive or special damages, and shall not exceed the total Project Economic Incentive.

5.2 DISTRICT remedies for default by COMPANY shall include, but shall not be limited to, a claim for reimbursement under the terms specified in this Agreement, if any funds have been paid by the DISTRICT to the COMPANY.

## 6. TERM AND TERMINATION

6.1 Unless terminated earlier in accordance with its terms, this Agreement shall terminate on the earlier of:

6.1.1 Five (5) years following the Effective Date of Job Completion and the satisfactory performance by the COMPANY of all terms of this Agreement.

6.1.2 The execution by all Parties of a written agreement terminating this Agreement;

6.1.3 At the option of a non-defaulting Party, for cause in the event the other Party is in default; or

6.1.4 At the option of DISTRICT if COMPANY suffers an event of bankruptcy or



9.2 This Agreement shall be binding upon the successors and assigns of the parties hereto to the extent such assignment has been consented to by the DISTRICT.

#### **10. GOVERNING LAW, VENUE AND WAIVER OF REMOVAL TO FEDERAL COURT, SERVICE OF PROCESS, REMEDY FOR UNLAWFUL PAYMENTS**

10.1 This Agreement shall be governed by, interpreted and construed in accordance with the laws of the State of Florida. Venue in any litigation arising out of this agreement shall be Brevard County, Florida in the state court with jurisdiction. COMPANY hereby consents and waives any objection or defenses relating to Florida state court having jurisdiction over any dispute or claim arising out of this agreement and consents to process being served upon its Florida registered agent. COMPANY expressly waives removal of any claim or action arising under this agreement to federal court.

10.2 COMPANY agrees that any public expenditure found to be unlawful by a court of competent jurisdiction shall be reimbursed to the DISTRICT.

#### **11. MODIFICATION**

This Agreement may not be changed or modified except by written instrument signed by all of the Parties hereto.

#### **12. SURVIVAL**

All covenants, agreements, representations, warranties and endowments made herein relating to repayment by the COMPANY in the event of the COMPANY'S default shall survive the termination of this Agreement until any claim or claims made under this Agreement by the DISTRICT are resolved.

#### **13. FURTHER ASSURANCES**

Each Party, without further consideration, shall take such action, execute and deliver such documents as the other may reasonably request to correct or effectuate the purpose of this Agreement.

#### **14. RELATIONSHIP OF THE PARTIES**

Nothing in this Agreement, nor any act of the parties, shall be deemed or construed by the Parties hereto or by any third party to create a relationship of principal and agent, partnership, joint venture or of any similar association whatsoever between COMPANY and DISTRICT.

#### **15. PROMOTION OF ECONOMIC INCENTIVES**

As to those matters not covered by a lawful confidentiality agreement, with the consent of the COMPANY, the DISTRICT may issue news releases, public announcements, advertisements, or other forms of publicity concerning its efforts in connection with this Agreement. However, the



COMPANY must consent to any written or oral material to be published by the DISTRICT or Brevard County prior to publication.

#### **16. COMPANY'S WARRANTIES/REPRESENTATIONS AND INDEMNIFICATION**

- 16.1 COMPANY represents that it is possessed with all requisite lawful authority to enter into this Agreement, and the individual executing this Agreement is possessed with the authority to so sign and bind COMPANY.
- 16.2 COMPANY further warrants that it has not entered into any agreement nor has any obligations which would prohibit COMPANY from locating its facility in Brevard County, Florida.
- 16.3 To the extent permitted by law, COMPANY shall indemnify and hold DISTRICT and COUNTY harmless for any claims or actions arising out of or related to the negligence or intentional actions by any COMPANY officer, director or employee causing physical or economic injury or damages of any nature to one or more third parties including, but not limited to, actions arising out of the performance of this agreement or out of the construction or operation of COMPANY facilities on the Project Site.
- 16.4 To the extent permitted by law, the DISTRICT shall indemnify and hold COMPANY harmless for any claims or actions arising out of or related to the negligence or intentional actions by any DISTRICT or COUNTY official or employee causing physical or economic injury or damages of any nature to one or more third parties as a result of or arising out of their performance of this agreement.

#### **17. SEVERABILITY**

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The parties shall use their best efforts to rehabilitate and replace the unenforceable provision or provisions of this Agreement with lawful terms and conditions approximating the original intent of the parties.

#### **18. ENTIRE AGREEMENT AND DUPLICATE AGREEMENTS**

This Agreement contains the entire understanding of the Parties and supersedes all prior agreements and negotiations respecting such matter. This Agreement is executed in duplicate originals.

[THIS SPACE INTENTIONALLY LEFT BLANK.]



IN WITNESS WHEREOF, the DISTRICT and the COMPANY have caused this agreement to be executed and delivered by their duly authorized representatives.

Signed, Sealed and Delivered in the presence of:

EMBRAER AIRCRAFT HOLDING, Inc.

[Signature]  
Witness  
[Signature]  
Witness  
[Signature]  
Witness  
[Signature]  
Witness

BY: [Signature]  
[NAME & TITLE]  
12/22/15  
Date  
BY: [Signature]  
[NAME & TITLE]  
12-22-15  
Date

EMBRAER AERO SEATING TECHNOLOGIES, LLC.

[Signature]  
Witness  
[Signature]  
Witness  
[Signature]  
Witness  
[Signature]  
Witness

BY: [Signature] MANAGING DIRECTOR/CEO  
[NAME & TITLE] [Signature] CONTROLLER/TW  
12/31/2015  
Date  
BY: [Signature] Christopher Appleton  
[NAME & TITLE] Chief Financial Officer  
Date

ATTEST:

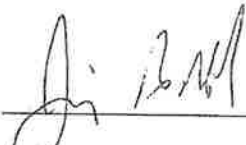
NORTH BREVARD DEVELOPMENT DISTRICT

BY: [Signature]

BY: [Signature]  
Chairman

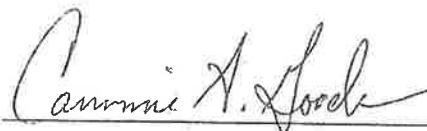


BREVARD COUNTY

BY:   
Chairman

(As approved by the Board on September 1, 2015)

ATTEST:

BY: 



## EXHIBIT "A"

### Resolutions from Brevard County

Resolution No. 15-056 – Grant Agreement

Resolution No. 15-057 – Ground Lease Approval



**RESOLUTION NO. 2015 · 056**

**RESOLUTION APPROVING A GRANT AWARD FROM THE NORTH BREVARD ECONOMIC DEVELOPMENT ZONE (NBEDZ) FOR PROJECT EAGLE:**

WHEREAS, the Brevard County Board of Commissioners created the North Brevard Economic Development Zone (NBEDZ) Dependent Special District under the powers vested in the Board under Chapter 125, Florida Statutes, Chapter 189, Florida Statutes and section 200.065(1), Florida Statutes; and

WHEREAS, the Board approved Resolution No. 2012-113, adopting the written Economic Development Plan of the NBEDZ Dependent Special District, as approved by its board of directors; and

WHEREAS, the NBEDZ board of directors, in accordance with its Economic Development Plan, has approved the provision of grant assistance to induce an economic development project known as "Project Eagle" to locate an approximately 50,000 sq. ft. high-tech manufacturing facility in Titusville's Spaceport Commerce Park, said assistance to be in an amount expected to be \$2.5 million; and

WHEREAS, the NBEDZ believes that inducing this project, with its stated goal of creating 150 new, permanent jobs and making a substantial private capital investment of \$3.5 million, will provide a needed economic boost to an area of the county adversely impacted by the end of NASA's Space Shuttle program; and

WHEREAS, the NBEDZ further believes that inducing this project will aid in the future development of additional county-owned lots within the Spaceport Commerce Park by evidencing the viability of this site location.

NOW, THEREFORE BE IT RESOLVED, THAT THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA does hereby approve the NBEDZ's incentive package for "Project Eagle," it being understood that said NBEDZ grant assistance for the project is expected to be \$2.5 million.

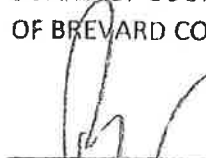
DONE, ORDERED, and ADOPTED, in regular session, this 28 day of April, 2015.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA



Robin Fisher, Chairman

As approved by the Board on 4-28-2015



**RESOLUTION NO. 2015 - 057**

**RESOLUTION APPROVING THE EXECUTION BY THE NBEDZ DEPENDENT SPECIAL DISTRICT OF A GROUND LEASE IN THE SPACEPORT COMMERCE PARK FOR PROJECT EAGLE:**

WHEREAS, the Brevard County Board of Commissioners created the North Brevard Economic Development Zone (NBEDZ) Dependent Special District under the powers vested in the Board under Chapter 125, Florida Statutes, Chapter 189, Florida Statutes and section 200.065(1), Florida Statutes; and

WHEREAS, the Board approved Ordinance No. 2013-08, designating the NBEDZ Dependent Special District as the county's authorized agent for the negotiation and execution of all contracts regarding the private sale or private lease of county-owned land within the boundaries of the Spaceport Commerce Park in Titusville; and

WHEREAS, the NBEDZ board of directors, in accordance with its county-approved written Economic Development Plan, has approved the provision of grant assistance to induce an economic development project known as "Project Eagle" to locate an approximately 50,000 sq. ft. high-tech manufacturing facility in Titusville's Spaceport Commerce Park, said assistance to include the clearing and preliminary grading of a lot within the aforementioned park; and

WHEREAS, the NBEDZ believes that inducing this project, with its stated goal of creating 150 new, permanent jobs and making a substantial private capital investment of \$3.5 million, will provide a needed economic boost to an area of the county adversely impacted by the end of NASA's Space Shuttle program; and

WHEREAS, the NBEDZ further believes that inducing this project will aid in the future development of additional county-owned lots within the Spaceport Commerce Park by evidencing the viability of this site location.

NOW, THEREFORE BE IT RESOLVED, THAT THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA does hereby approve the execution of a ground lease contract by and between the NBEDZ Dependent Special District and the company identified publicly as "Project Eagle" for use of an approximately 15-acre lot, it being understood that such lease arrangement will extend for a period of ten years and contain a provision for the company to exercise an option to purchase the land at the end of the lease term for nominal consideration.

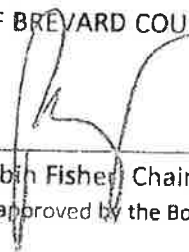
DONE, ORDERED, and ADOPTED, in regular session, this 28 day of April, 2015.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

  
Robin Fisher, Chairman

As approved by the Board on 4-28-2015





LEGAL DESCRIPTION:

PARCEL 1

A PARCEL OF LAND BEING A PART OF PARCEL "D" AS SHOWN ON THE PLAT OF ENTERPRISE PARK AS RECORDED IN PLAT BOOK 32, PAGE 74 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE MOST EASTERLY CORNER OF SAID PARCEL "D", SAID CORNER LYING ON THE NORTHWESTERLY RIGHT OF WAY LINE OF ARMSTRONG DRIVE, THENCE ALONG SAID RIGHT OF WAY LINE, THE FOLLOWING FIVE COURSES AND DISTANCES: THENCE S.69°24'37"W., 84.15 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 561.09 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 01°51'42", 18.23 FEET TO THE SOUTHWEST CORNER OF THE RETENTION AREA AS SHOWN ON SAID ~~PLAT OF ENTERPRISE PARK~~ AND SAID POINT BEING THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 36°21'54", 356.12 FEET TO THE POINT OF TANGENCY; THENCE S.31°11'26"W., 164.23 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 1562.72 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 17°20'37", 473.04 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE, ON A BEARING OF N.81°32'46"W., 756.98 FEET; THENCE N.28°58'38"E., 399.46 FEET; THENCE N.61°32'46"W., 60.00 FEET; THENCE N.28°58'38"E., 376.20 FEET; THENCE S.81°32'46"E., 357.22 FEET; THENCE N.28°27'14"E., 70.02 FEET TO A POINT LYING ON THE WESTERLY BOUNDARY OF THE AFOREMENTIONED RETENTION AREA; THENCE ALONG SAID BOUNDARY OF SAID RETENTION AREA, THE FOLLOWING FIVE COURSES AND DISTANCES: THENCE S.37°11'05"E., 31.29 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 150.00 FEET; THENCE EASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 88°03'29", 230.54 FEET TO THE POINT OF TANGENCY; THENCE N.54°45'26"E., 105.19 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHERLY AND HAVING A RADIUS OF 90.00 FEET; THENCE EASTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 92°04'52", 144.64 FEET TO THE POINT OF TANGENCY; THENCE S.33°09'41"E., 161.29 FEET TO THE POINT OF BEGINNING.  
CONTAINING 15.00 ACRES MORE OR LESS

LEGAL DESCRIPTION:

PARCEL 2

A PARCEL OF LAND BEING A PART OF PARCEL "D" AS SHOWN ON THE PLAT OF ENTERPRISE PARK AS RECORDED IN PLAT BOOK 32, PAGE 74 OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA. SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE MOST EASTERLY CORNER OF SAID PARCEL "D", SAID CORNER LYING ON THE NORTHWESTERLY RIGHT OF WAY LINE OF ARMSTRONG DRIVE, THENCE ALONG SAID RIGHT OF WAY LINE, THE FOLLOWING FIVE COURSES AND DISTANCES: HAVING A RADIUS OF 561.09 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, CONCAVE SOUTHEASTERLY AND 3813'36". 374.35 FEET TO THE POINT OF TANGENCY; THENCE S.31°11'26"W., 164.23 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 1562.72 FEET; THENCE SOUTHWESTERLY, ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 172°37', 473.04 FEET; THENCE DEPARTING SAID RIGHT OF WAY LINE, ON A BEARING OF N.61°32'46"W., 756.98 FEET; THENCE N.28°58'38"E., 399.46 FEET; THENCE N.61°32'46"W., 60.00 FEET; THENCE N.28°58'38"E., 91.99 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE WESTERLY (BOUNDARY LINE OF THE RETENTION AREA INSIDE PARCEL "D" AS SHOWN ON SAID PLAT OF ENTERPRISE PARK; THENCE N.37°11'05"W., 284.21 FEET; THENCE S.61°32'46"E., 357.22 FEET; THENCE N.28°27'14"E., 70.02 FEET TO A POINT LYING ON THE NO.407; THENCE S.31°03'52"W., ALONG SAID BOUNDARY LINE, 687.79 FEET TO THE SOUTHEASTERLY RIGHT OF WAY LINE OF STATE ROAD POINT OF BEGINNING.  
CONTAINING: 5.00 ACRES MORE OR LESS.



EXHIBIT "C"

Copy of Ground Lease

