

Meeting Date
9/19/17



AGENDA	
Section	New Business
Item No.	VI. B. 1

AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Resolution and Lease Agreement, RE: Space Coast Full Throttle Speedway, Inc. – District 1
DEPT/OFFICE:	Community Services Group / Parks and Recreation Department

Requested Action:
 It is requested the Board approve and authorize the Chairman to execute a Resolution and Lease Agreement with Space Coast Full Throttle Speedway, Inc. for usage of space at Space Coast Communities Sports Complex.

Summary Explanation & Background:
 Space Coast Communities Sports Complex (SCCSC) is a 207+ acre regional Park located off of Canaveral Groves Boulevard in Sharpes. An amateur go-kart track is one of the amenities located at the Park.
 Space Coast Full Throttle Speedway, Inc. (f/k/a Hurricane Karting) is a Not for Profit organization that provides karting classes and oversees asphalt kart racing for participants ranging from novice to stock heavy and sidewinders. Space Coast Full Throttle Speedway, Inc. has operated from SCCSC since the mid 1990s under an agreement with the County. The Parks and Recreation Department has realized the need to update this document to a Lease Agreement authorizing the non-competitive use of this portion of SCCSC.
 The initial term of the lease is three (3) years with the option of one (1) two (2) year renewal. Space Coast Full Throttle Speedway, Inc. is responsible for providing adequate personnel for crowd and traffic control, payment of electricity and for all maintenance of the track in compliance with National Karting Alliance, Inc. specifications. Lease payments in the amount of one hundred dollars (\$100) will be due on the 6th day of each month.
 Brevard County Code of Ordinances, Chapter 2, Section 2-241 through Section 2-251, establishes procedures for the sale, leasing and donation of real property. It requires the intent and County Code to be published on the County Internet Website at least 5 days prior to the public meeting and also requires a supermajority vote by the Board. The posting requirement was successfully completed on September 6, 2017.

Fiscal Impact: Annual revenue collection of \$1,200 from Lease Payments.

Clerk to the Board Instructions:

Exhibits Attached: Resolution, Lease, Exhibit A

Contract /Agreement (If attached): Reviewed by County Attorney	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
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County Manager	Assistant County Manager, John Denninghoff	Mary Ellen Donner, Parks & Recreation Director maryellen.donner@brevardparks.com ; 633-2046 X52516
Frank Abbate	Interim Assistant County Manager, Jim Liesenfelt	

PUBLIC NOTICE
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

As provided in Brevard County Code Section 2-249, notice is hereby given that the Board of County Commissioners will hold a public meeting at 9:00 a.m. on September 19, 2017 at the Brevard County Government Center Board Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida. At the meeting the Board will consider Resolution and Lease Agreement with Space Coast Full Throttle Speedway, Inc. for the leasing of a portion of Space Coast Communities Sports Complex. Any person objecting to the Agreement may submit written objections to the county manager's office or may appear and speak in objection at the meeting. Additional information may be obtained by contacting Mary Ellen Donner, Parks and Recreation Department Director at (321) 633-2046.

If a person desires to appeal any decision made by this Board with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of this proceeding is made, at his/her own expense, which record includes testimony and evidence on which any such appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26, F.S., persons needing accommodations or an interpreter to participate in the meeting should notice County Administration no later than 48 hours prior to the public meeting at 321-633-2012.

LEASE

THIS LEASE, made and entered into this 19 day of September, 2017, by and between the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida, hereinafter referred to as "County", and **SPACE COAST FULL THROTTLE SPEEDWAY, INC.**, a Not For Profit corporation organized under the laws of the State of Florida (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, the Lessee desires to lease a County owned facility which is part of the County public park known as the Space Coast Communities Sports Complex and is for the purpose of providing public recreational activities, hereinafter referred to as "Property,"

WHEREAS, the Lessee has an interest in providing recreational karting and related activities to the citizens of the County, is well situated to do so, and has previously contracted with the County to provide such services;

WHEREAS, the County has an interest in allowing these programs and services to be provided to the citizens of the County;

WHEREAS, the County has by Resolution, a copy of which is attached hereto as **Exhibit "A"**, determined that these programs and services provided will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitute a service that could be provided by local government, and are compatible with the County purposes for which the Property was constructed.

NOW, THEREFORE, in consideration of the mutual promises and terms and conditions contained herein, the parties hereto agree as follows:

1. **Leased Property.** The County hereby leases to the Lessee exclusive use of an area located within the Space Coast Communities Sports Complex, located in Section 36, Township 23, Range 35 Parcel 4 & 752 Part of E ½ of Section 36, Brevard County, Florida, (hereinafter referred to as "Property") and more particularly described and cross marked ///// in **Exhibit B**, which is attached hereto and made a part hereof by this reference.

2. **Representation by Lessee.** The Lessee represents that it is a Florida Not For Profit organized under the laws of Florida as described in Section 501(c)(3) of the Internal Revenue Code as amended, and is exempt from federal income tax pursuant to Section 501(a) of said Code.

3. **Term.** This Lease shall be effective from the date of the last signature for period of three (3) years. It is hereby mutually agreed and understood that the Lessee may request renewal of this Lease for an additional two (2) year term by submitting a completed renewal application received at least thirty (30) days prior to the date of termination of the current term. The Parks and Recreation Director, (herein referred to as the "Director"), shall be authorized to execute any renewals.

4. **Rent.** The rent for the property in this Lease shall be One Hundred Dollars (\$100) per month, plus applicable Florida State Sales Tax due on the 6th day of each month or the first working day thereafter. Checks shall be made payable to Brevard County Parks and Recreation Department, North Area Parks Operations, 475 North Williams Avenue, Titusville, Florida 32796. In the event payment is not properly made by the Lessee, the County is under no obligation to provide access or use of the Property at the time of the first event for which payment is not properly made, nor at any other subsequent month during the term of the Lease. At the County's option, the entire Lease terminates at the time payment is not properly made.

5. **Utilities.** The Lessee shall pay costs of all public utility charges which shall include telephone, electric, gas, water, sanitary sewer, and garbage, as applicable which are provided to the Property by the County, City or any other public agency or public utility. Lessee shall be responsible for causing such utilities and services to be changed to the County's name at the termination or expiration of this Lease, at no cost to the County. County shall be liable for and shall pay all utility bills for services rendered after termination or expiration of this Lease.

6. **Background Investigation Check.** The Lessee shall perform a High Level background screening on the Lessee's staff and volunteers and other persons providing services at the Property at no cost to the County. High Level Background screening includes the following

- Clerk E-Facts – www.brevardclerk.us
- Fingerprinting (FDLE and National FBI Criminal check through VECHS)
- Department of Juvenile Justice check on individuals under the age of 18 when applicable and allowed in lieu of fingerprinting
- National Sex Offender Public Website – www.nsopw.gov
- Reference Checks
- Prior employment check
- Education/Licensing verification (case-by-case)
- Driver's license check (case-by-case)
- Drug Testing (case-by-case)

The President is responsible for compliance and providing written verification that all staff, volunteers, and any other persons providing a service at the Property have been screened. A copy of the background

screening results, for all staff members, volunteers, and all other persons providing a service at the Property shall be submitted to the County. The Director may deny the Lessee the ability to utilize a staff member, volunteer or any other person providing a service at the Property based on the results of the background screening results, at the Director's discretion. The Director shall abide by Brevard County's policy, attached hereto as **Exhibit "C"** in determining if a person shall be disqualified from working or volunteering at the Property. No person shall work or volunteer at the Property without having submitted a completed background check to the County and without having been approved to be present at the Property by the Director.

7. **Indemnification and Insurance**: The Lessee agrees to indemnify and hold harmless the County and its employees from all claims, damages, losses, and expenses, including attorney's fees, arising out of or associated with the use, occupation, management or control of the Property or any improvements or any furniture, furnishings, equipment and fixtures utilized in connection with the Property by the Lessee unless such claims, damages, expenses, or losses are caused solely by acts of the County, its employees, or other persons not a party to this Lease acting on the County's request. Lessee agrees that it will, at its own expense, defend any and all such actions, suits, or proceedings which may be brought against the County in connection with the Lessee's use, occupation, management or control of said Property and that it will satisfy, pay and discharge any and all judgments that may be entered against the County in such action of proceeding

The Lessee agrees to provide and maintain at all times during the term of this Lease, without cost or expense to the County, policies of insurance generally known as general liability policies insuring the Lessee against any and all claims, demands, and causes of action whatsoever for injuries received and damage to property in connection with the use, occupation, and management or control of the property and any improvements thereon by the Lessee. Such policies of insurance shall insure the Lessee in the amount of not less than \$5,000,000 to cover any and all liability claims arising in connection with any particular accident or occurrence and fire damage liability for the premises in the amount of no less than \$50,000 per occurrence. Said insurance policies shall provide that the County is named as an additional insured and shall be entitled to thirty (30) days prior notice of any changes or cancellation in said policies. The Lessee shall notify the County immediately in writing of any potentially hazardous condition existing on or about the premises utilized in conducting said activities.

The Lessee shall provide the described insurance on policies and with insurers acceptable to the County. These insurance requirements shall not relieve or limit the liability of the Lessee. The County does not in

any way represent that these types of amounts of insurance are sufficient or adequate to protect the Lessee's interests or liabilities, but are merely minimums.

Lessee shall provide the county with Certificate(s) of Insurance on all policies of insurance and renewals thereof in a form(s) acceptable to the County. Said certificates shall provide that the County is an additional insured, and that County shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida.

A Certificate of Insurance indicating that the Lessee has coverage in accordance with the requirements of this Lease shall be furnished by the Lessee to the Brevard County Parks and Recreation Department North Area Parks Operations, 475 North Williams Avenue, Titusville, Florida 32796, within ten (10) days from the date of the execution of this Lease.

All personal property housed or placed on the Property shall be at the risk of the Lessee, and the County shall have no liability for any damage or loss to any personal property located thereon for any cause whatsoever. The Lessee agrees and understands that the County does not and shall not carry liability, fire, or theft insurance on the operation of this subject area to cover the Lessee's interest therein

8. Fees. The County hereby agrees to permit the Lessee to collect fees from its members, participants, or spectators at events and other related activities; provided, however, that the Lessee presents a schedule of such fees to Brevard County Parks and Recreation Department North Area Parks Operations Manager, or designee, on an annual basis. Said schedule shall be subject to approval by the Parks and Recreation Director.

9. Obligations of the Lessee.

a. Use of Property by the Lessee shall comply with all National Karting Alliance, Inc., sanctioned rules and regulations during events. The County reserves the right to disapprove any and all activities held on the Property which may be in conflict with the County's administrative orders or policies and agrees to furnish the Lessee with a copy of such rules and regulations, policies and procedures and any amendments thereto. Failure to comply with this provision or the County's request to terminate a particular activity shall be considered a material breach of this Lease, and the Lease shall be subject to immediate termination by the County, whereupon the County shall immediately re-enter and take possession.

b. The Lessee shall provide and administer adequate personnel to supervise all activities sponsored or sanctioned by the Lessee, which take place at the Property. Said personnel shall supervise or provide the following services as required:

(1) Crowd Control.

(2) Traffic Control.

(3) Collection and disposal of garbage and trash.

(4) Maintain track and related facilities described in **Exhibit "B"** equal to or better than the condition at the time of use and in compliance with National Karting Alliance, Inc., specifications.

c. A maintenance plan, traffic control plan, crowd control plan, sanitation plan, and security plan shall all be submitted to North Area Parks Operations for approval prior to the first event and shall be binding on the Lessee for all events unless altered in writing by written agreement of the County and the Lessee.

d. The Property is to be left by the Lessee in a clean and sanitary manner.

e. The Lessee shall be responsible for providing sufficient personal sanitation units for use by participants and spectators as needed for events, and shall be responsible for any costs for said units, including installation and maintenance thereof.

f. All participants, spectators, members of the Lessee's organization shall enter the Property through the main gate off of Canaveral Groves Boulevard.

g. The Lessee shall provide lock and chain for the gate, provide emergency medical personnel during practice and events, provide monthly attendance report reflecting participants, spectators and volunteers for each day of use on the sixth day of the following months or first working day thereafter, mailed to Brevard County Parks and Recreation Departments, North Area Parks Operations, 475 North William Avenue, Titusville, Florida 32796.

h. All scheduled activities must be ended by 10:00 p.m.; all spectators and participants in the events shall vacate the Property by 11:00 p.m.

10. Improvements. By execution of this Lease, the Lessee represents that an authorized representative of the Lessee has inspected the Property; and the Lessee is fully responsible to make all necessary modifications, improvements, or repairs to the Property (including, but not limited to the track or course on which the off-road vehicles are driven or raced) to ensure the safety of the participants in the vehicle events as well as the safety of the public spectators. It is understood and agreed by the parties that any and all such development on the Property shall be at the Lessee's expense.

In addition, all plans, specifications and location for all improvements, structures, landscaping or other appurtenances made by the Lessee to the Property shall be submitted to and shall require the approval of the Director and any applicable regulatory agency, or their duly authorized representatives, prior to the construction or installation of any such improvement, structure, landscaping or appurtenance. The County reserves the right to reject any plans for improvement or construction entirely or to request alterations to the plans. It is hereby mutually agreed and understood that any building, fixture, structure or facility placed on or constructed at the Property, or any facility located thereon and permanently attached thereto, shall become property of the County upon termination of this Lease, whether by breach, termination, or natural expiration of the Lease. The Lessee shall not remove any said building structures, fixtures, or facilities and shall execute any and all documents necessary to effect transfer of title of same to the County. The Lessee shall ensure that no contractor which the Lessee may hire to perform any portion of construction, renovation, or repairs to the facilities shall be entitled to file any liens, mechanics or otherwise, against the facilities involved or any County property to secure the contractor's interests or payments due. Any contract which the Lessee signs or executes with a contractor shall include a provision in which the contractor waives any right to file any such liens and a provision which requires the contractor to include the same waiver by any subcontractors which the contractor may hire in any contract the contractor executes with any subcontractors.

11. Violation of Provisions. Any violation of these provisions will constitute a breach of the conditions of this Lease and may result in the cancellation of same. The County shall notify the Lessee of any violation of the provisions of this Lease in writing. Such notice shall identify the provision which is being violated and how it is being violated. The Lessee shall then have sixty (60) days within which to remedy the violation. It is the intent of this provision for the parties to work together cooperatively towards a positive resolution of all issues. However, if the violation is not fixed or addressed in a reasonable fashion to the County's reasonable satisfaction, the County has the right to issue a notice of termination/cancellation effective immediately at the end of the sixty day period. In the event of cancellation or termination of this Lease, Lessee shall remove its personal property from the Property. Any personal property not removed within ninety (90) days from the effective date of termination of the Lease shall be subject to becoming the property of the County.

12. Reverter and Right of Re-Entry and Repossession. In the event the Property is not used or ceases to be used for the public purposes set forth herein, the Lease shall immediately cease and the Property shall revert to the County which shall thereafter have the right to re-enter and repossess the Property.

13. **ADA Compliance.** The County and Lessee shall conform to current requirements of the Americans with Disabilities Act in the performance of this Lease, and shall not cause or place on the Property any condition causing the Property to become non-compliant. The parties shall work together to remedy any known violations of the ADA that may occur.

14. **Compliance with Statutes.** It shall be the Lessee's and the County's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, state, and federal agencies as applicable.

15. **Right of Entry by County.** Brevard County or its agents may at any time enter onto the subject property for the purpose of inspection of same or for performing such other duties as are required by the terms of this Lease, or the rules, regulation, ordinances or laws of any governmental body.

16. **Emergency Services.** In the case of a general emergency as declared by the County, the County retains the right to immediately resume occupation, management, and maintenance of the Property, to use the facility to meet any emergency needs for the period of that emergency and a reasonable period of time thereafter as deemed necessary by the County. The Lessee will be provided as much notice as is practicable dependent on how suddenly the need arises and predictability of how long the need will continue. The County shall not be responsible for the damage, loss of property or income created by the use of the Property by agencies which support the emergency response and recovery such as Red Cross, Federal Emergency Management Agency and others. The County and Lessee shall work directly with such support agencies to recover the cost of restoration, lost equipment, and supplies used. During the period in which the County or other governmental or non-governmental agency occupies or manages the Property, Lessee occupancy and any duties or obligations hereunder will be suspended. Any maintenance, damage, restoration, or repair necessitated during any suspension of the Lessee's occupancy under this Lease will be the responsibility and the expense of the County occupancy under this Lease will be the responsibility and the expense of the County. Repairs, rehabilitation, restoration or maintenance, the need for which arises as a result of such emergency suspension of the Lessee's occupancy, shall all be diligently completed by the County, at the expense of the County prior to the Lessee reoccupying the Property. As used herein, an "emergency" will be defined as a period of civil unrest or riot, a period during which the military needs the Property for a period of time relating directly to defense of the nation and a likely attack of the nation, a period during which weather such as a hurricane or tornado is likely to cause damage to the community and the Property, is needed for public shelter, distribution of emergency supplies such as food or water, or other related event, or any other circumstance designated by the Emergency Operations Center, "E.O.C." as an emergency.

17. **Lessee's Assignment, Sublease or License for Occupation by Other Persons.** Lessee agrees not to assign or sublease the Property, any part thereof, or any right or privilege connected therewith, without first obtaining the County's written consent, which consent the County may withhold in its sole discretion. Consent on one occasion by the County shall not be consent to a subsequent assignment, sublease, or occupation by other persons. Lessee's unauthorized assignment, sublease or license to occupy shall be void, and shall terminate the Lease at the County's option. Lessee's interest in this Lease is not assignable by operation of law, nor is any assignment of its interest herein, without the County's written consent. Nothing herein is intended to prevent the Lessee from entering into short-term use/rental lease with third parties for up to and including three (3) days (no overnight activities); however, even under such circumstances the Lessee shall remain responsible for each and every of its obligations under this Lease. The Lessee shall be responsible for ensuring that all short term use or rental leases shall only be allowed for activities that are consistent with the remainder of the terms of this Lease.

18. **Alterations, Changes and Additions.** No structural changes, alterations or additions shall be made by the Lessee to the Property without the prior written consent of the County. Any such alterations, changes and additions shall remain for the benefit of and become the property of the County.

19. **No Use that Increases Insurance Risk.** The Lessee shall not use the Property in any manner, even in its use for the purposes for which the Property is leased, that will increase the risk covered by insurance on the building where the Property is located, so as to increase the rate of insurance on the Property, or to cause cancellation to any insurance policy covering the building. Lessee further agrees not to keep at the Property, or permit to be kept, used, or sold thereon, anything prohibited by the policy of fire insurance covering the Property. Lessee shall comply, at its own expense, with all requirements of insurers necessary to keep in force the fire and public liability insurance covering the Property.

20. **Licenses, Permits, and Taxes.** Lessee agrees to secure and maintain all licenses and permits required to operate, including any applicable sales or use tax, which shall be imposed or assessed by any and all governmental authorities, in connection with the business or operation conducted under this Lease, and to meet all federal, state, county and municipal laws, ordinances, policies and rules. Any such licenses and permits shall be maintained and posted, if required, at appropriate places at the Property within thirty (30) days of the execution of this lease by both parties.

21. **No Waiver of Covenants or Conditions.** The failure of either party to insist on strict performance of any covenant or condition hereof, or to exercise any option herein contained, shall not be

construed as a waiver of such covenant, condition, or option in any other instance. This Lease cannot be changed or terminated orally.

22. **Successors in Interest.** This Lease and the covenants and conditions hereof apply to and are binding on the heirs, successors, legal representatives, and assigns of the parties.

23. **Severability.** If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

24. **Venue.** Venue for any legal action brought by any party to this Lease to interpret, construe or enforce this Lease shall be in court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

25. **Attorney's Fees.** In the event of any legal action to enforce the terms of this Lease each party shall bear its own attorney's fees and costs.

26. **Governing Law.** This Lease shall be deemed to have been executed and entered into within the State of Florida and this Lease, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

27. **Compliance with Statutes.** It shall be the Lessee's and the County's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, state, and federal agencies as applicable.

28. **Independent Contractor.** Lessee shall perform the services under this Lease as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Lease shall be interpreted or construed to constitute the Lessee or any of its agents or employees to be the agent, employee or representative of the County.

29. **Right to Audit Records.** In performance of this Lease, the Lessee shall keep books, records, and accounts of all activities related to this Lease in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the Lessee in conjunction with this Lease and the performance of this Lease shall be open to inspection during regular business hours by an authorized representative of the County. The Contractor shall retain all documents, books and records for a period of five (5) years after termination of this Contract, unless such records are exempt from section 24(a) of Article I of the State Constitution and Ch. 119, Florida

Statutes. All records or documents created by or provided to the Lessee by the County in connection with this Lease are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the County in a format compatible with the information technology systems of the County.

Lessee shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Lease and following termination of the Lease if the Lessee does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Lease, the Lessee may transfer, at no cost to the County, all public records in possession of the Lessee. If the Lessee transfers all public records to the County upon termination of the Lease the Lessee shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

30. Florida Public Records Law. Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Lease must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Lessee of the request and the Lessee must provide the records to the county or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so the County can comply with the requirements of Section 119.07. The Lessee may also provide a cost estimate to produce the requested documents consistent with the policy set for in Brevard County Administrative Order AO-47, incorporated here by this reference. A copy AO-47 is available upon request from the County's public records custodian designated below.

If the Lessee fails to provide the requested public records to the County within a reasonable time, the Lessee may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. See Sections 119.0701, 119.110, Florida Statutes. The Lessee's failure to comply with public records requests is considered a material breach of this Lease and grounds for termination.

Should the County face any legal action to enforce inspection or production of the records within the Lessee's possession and control, the Lessee agrees to indemnify the County for all damages and expenses, including attorney's fees and costs. The Lessee shall hire and compensate attorney(s) to represent the Lessee and County in defending such action. The Lessee shall pay all costs to defend such action and any costs and attorneys fees awarded pursuant to Section 119.12

IF THE LESSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LESSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS Melissa Renninger AT (321) 633-2046 X32 or Melissa.renninger@brevardfl.gov.

31. **Construction of Lease.** The parties hereby acknowledge that they have fully reviewed this Lease and its attachments and have had the opportunity to consult with legal counsel of their choice, and that this Lease shall not be construed against any party as if they were the drafter of this Lease.

32. **Surrender of Premises.** Lessee shall surrender the Property to the County at the end of the Lease term in generally the same condition as when Lessee took possession, allowing for changes and modifications agreed to by the parties over time, reasonable wear and tear, damages by acts of God, including fire and storm. The Lessee shall remove all business signs or symbols placed on the Property by the Lessee before surrendering the Property and restore the portion of the Property on which they were placed in the same condition as before placement. Lessee shall have ninety (90) days notice to surrender.

33. **Partial Destruction of Premises.** Partial destruction of the Property shall not render this Lease void, or terminate it except as herein provided. If the Property is partially destroyed during the term of this Lease, County may endeavor to make repairs, providing the County has the fiscal means to do so, and when such repairs can be made in conformity with local, state, and federal laws and regulations, within ninety (90) days of the partial destruction. If the repairs cannot be so made in ninety (90) days and the County does not elect to make them within a reasonable time, either party hereto has the option to terminate this Lease. If the leased Property is more than one-third destroyed, County or Lessee may at its option terminate this Lease, giving ninety (90) day notice to Lessee.

34. **County's Entry for Inspection and Maintenance.** The County reserves the right to enter the Property at reasonable times to inspect, to perform required maintenance and repair, or to make additions or alteration to any part of the building in which the Property under Lease is located, and Lessee agrees to permit the County to do so. The County may, in connection with such alterations, additions, or repairs, erect scaffolding, fences, and similar structures, post relevant notices, and place moveable equipment without incurring liability to Lessee for disturbance of quiet enjoyment of the Property, or loss of occupation thereof, unless done so in an unreasonable, willful, or negligent manner.

35. **Modifications.** No modification of this Lease shall be binding on the County or the Lessee unless reduced to writing and signed by a duly authorized representative of County and the Lessee.

36. **Notice.** Notice under this Lease shall be given to the County at Brevard County Parks and Recreation: North Area Parks Operations, 475 North Williams Avenue, Titusville, Florida 32796. Notice shall be given to Lessee by mailing written notice, postage prepaid to the President of the Space Coast Full Throttle Speedway, Inc., 756 Penguin Avenue, Palm Bay, Florida 32907. Notice shall be effective upon receipt or five (5) days from mailing, whichever ever occurs first.

37. **Unauthorized Alien Workers.** Brevard County will not intentionally award publicly-funded contracts to any Lessee who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act "INA"). The County shall consider the employment by the Lessee of unauthorized aliens a violation of Section 274A (e) of the INA and such violation shall be grounds for unilateral cancellation of this Lease by the County.

38. **Public Entity Crimes.** A person or affiliate who had been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

39. **Termination for Convenience.** Either party may terminate this Lease for their own convenience upon providing thirty (30) day written notice to the other party. The County authorizes the Director to terminate this Lease if the Director finds the termination to be in the best interest of the County. In the event of a termination for convenience, the parties agree that the only termination damages payable by either party will be prorated rent up to the date of termination. Upon the expiration of the term of this Lease or upon its termination for any cause, Tenant shall restore the Premises to the condition that Lessee received the Property, reasonable wear and tear excepted, unless County advises Lessee to not remove any structural changes.

40. **Illegal, Unlawful, or Improper Use.** The Lessee shall make no unlawful, improper, immoral, or offensive use of the Leased Property nor will the Lessee use the Leased Property or allow the use of the Leased Property for any purpose other than that hereinabove set forth. Failure of Lessee to comply with this provision shall be considered a material default under this Lease.

41. **Copyright.** No reports, data, programs or other materials produced, in whole or in part, for the benefit and use of the County under this Lease shall be subject to copyright by the Lessee in the United States or any other country.

42. **Music Performance.** The Lessee shall not use, play or perform copyrighted music without appropriate licensing or other permission. The Lessee shall be solely responsible for obtaining appropriate licensing or permission to use, play or perform copyrighted music. The use or performance of copyrighted music without appropriate licensing or other permission shall constitute a breach of this Lease. The Lessee agrees to indemnify and hold harmless the County from damages for unauthorized use or performance of copyrighted music.

43. **Entire Lease.** This Lease, together with any Exhibits, constitutes the entire Lease between the County and Lessee and supersedes all prior written or oral understandings. This Lease and any Exhibits may only be amended, supplemented or canceled by a written instrument duly executed by both parties hereto. As of the Effective Date of this Lease, all authority, permission, and right, express or implied, heretofore granted or inferred to be granted by the County to Lessee to operate a Property shall be terminated, and Lessee shall cease operating any Property other than as permitted by this Lease.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the day and year first above written.

ATTEST:

By:

Scott Ellis, Clerk

BOARD OF COUNTY COMISSIONERS
OF BREVARD COUNTY, FLORIDA

By:

Curt Smith, Chair

As approved by the Board on 9/19/17.

WITNESSES:

SPACE COAST FULL THROTTLE
SPEEDWAY, INC.

By:

Mark Renzetti, President

Date: 8/31/2017

WITNESSES:

SPACE COAST FULL THROTTLE
SPEEDWAY, INC.

By:

Dan Smith, Vice President

Date: 8-31-2017

Reviewed for legal form and content:

Matthew Soss, Assistant County Attorney

Exhibit "A" to the Agreement
(replace with copy of executed resolution)

RESOLUTION NO. 2017-____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, PURSUANT TO SECTION 125.35, FLORIDA STATUTES AND SECTION 2-247 BREVARD COUNTY CODE OF ORDINANCES, AUTHORIZING THE LEASING OF REAL PROPERTY TO A NOT FOR PROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the **SPACE COAST FULL THROTTLE SPEEDWAY, INC.**, a 501(c)(3) tax exempt Not For Profit Corporation organized under the laws of the State of Florida (hereinafter referred to as "Lessee") has applied to the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as "County") to lease a County owned facility which is a part of the County public park known as the Space Coast Communities Sports Complex (hereinafter referred to as the "Property");

WHEREAS, the Lessee desires to provide recreational karting and related activities for the benefit and enjoyment of the citizens of Brevard County; and

WHEREAS, the County finds that the Lessee's proposed use of the Property will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitutes a service that could be provided by the local government, and is compatible with the County purposes for which the Property was constructed.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

1. The Space Coast Communities Sports Complex is a County owned facility and was constructed for the purpose of being used for public recreational activities.
2. The County has determined that the Property located at Space Coast Communities Sports Complex is not needed by the County.
3. The Lessee shall operate and maintain the Property for the benefit and enjoyment of the citizens of Brevard County.
4. The Lessee shall provide recreational karting and related activities.
5. The County shall enter into a lease, attached hereto as **Exhibit "A"**, with the Lessee beginning on the date of the last signature on the Lease Agreement for a term of three (3) years and may request renewal for an additional two (2) year term.
6. The consideration for the Lease shall be \$100.00 per month.

7. This Resolution shall take effect immediately upon its adoption. No obligation to Lease the Property to the Lessee shall arise until the Lease is executed by both parties.
8. In the event the Lessee fails to comply with the Lease, then Property shall immediately revert to the County which shall thereafter have the right to reenter and repossess the property.

DONE, ORDERED AND ADOPTED this 19th day of September, 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

Scott Ellis, Clerk

Curt Smith, Chair

As approved by the Board on 9/19/17.

Space Coast Communities Sports Complex

662 Canaveral Groves Boulevard
Sharpes, FL 32959

Exhibit "B"



Brevard County Parks and Recreation

2725 Judge Fran Jamieson Way
Viera, FL 32940

2016 Aerial



DISCLAIMER: This map is intended for display purposes only and is not intended for any legal representation.

Exhibit "C"

**ADMINISTRATIVE
ORDER**

TITLE: Background Investigation
Checks

NUMBER: AO - 26

CANCELS: August 4 2010

APPROVED: April 24, 2012

ORIGINATOR: Human Resources

REVIEW: April 24, 2015

I. PURPOSE AND SCOPE

To establish a consistent, county-wide procedure for conducting background investigation checks.

II. DEFINITIONS AND REFERENCES

- A. Applicant – An external applicant or volunteer being considered for a position or a current employee being considered for a position with a higher security level as the result of a promotion, transfer or demotion.
- B. At-Risk Population – Children, elderly, disabled, and those whom can not defend themselves. Example of settings in which individuals come into contact with at-risk populations include, but are not limited to:
- Daycare: senior citizen centers and community day programs for children.
 - Group Home: placements for children under the care of the State as a result of abuse or neglect or as a consequence of delinquency.
 - Program activities involving children on school property.
 - Shelters: homeless, domestic violence or special needs emergency shelters.
 - Youth development programs.
 - Volunteer programs for the elderly or individuals with disabilities; such as, Meals on Wheels or other community/volunteer programs.
 - Library areas/programs designated for children.
 - Park areas/programs designated for children.
- C. Background Investigation Handbook – a handbook with detailed information about how to complete and interpret the background checks.
- D. Background Checklist – a form used to track the results of the background checks performed by the Department/Office.

AO-26: Background Investigation Checks

- E. Conviction – defined as a law violation where there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

NOTE: A "yes" answer to the question of law violation on the application will not automatically bar the applicant from employment. The nature, job-relatedness, severity and date of the offense in relation to the position for which they are applying will be considered.

- F. Recertification – Frequency which each Department/Office reinvestigates each employee's or volunteer's criminal history.

G. **SECURITY LEVELS:**

High Level (Level I) – Applies to an employee or volunteer who has unsupervised access and/or contact with individuals identified as being in the at-risk population.

Moderate Level (Level II) – Applies to an employee or volunteer who has supervised access and/or contact with individuals identified as being in the at-risk population.

Low Level (Level III) – All other employees or volunteers who do not fit into the High or Moderate security levels.

- H. VECHS – an acronym for the Volunteer & Employee Criminal History System at the Florida Department of Law Enforcement (FDLE). The VECHS program agreement allows Brevard County to submit state and national checks for employees and volunteers, as needed.
- I. F.S. 112.011 – Felon; removal of disqualifications for employment, exceptions.
- J. F.S. 943.04351 – Search of registration information regarding sexual predators and sexual offenders required prior to appointment or employment.

III. RESPONSIBILITIES

- A. Each Department/Office Director shall establish a background investigation check procedure which ensures that the guidelines in this Administrative Order are met.
- B. Each Department/Office will utilize the guidelines in this Administrative Order or will adhere to statutory/contractual requirements, whichever is more stringent.

AO-26: Background Investigation Checks

- C. Each Department/Office shall be responsible for verifying that each applicant meets the requirements for the job, including educational and/or licensing verification, driver's license check.
- D. Each Department/Office shall be responsible for checking and documenting a total of three (3) of the applicant's employment and/or personal references. Document if the applicant has insufficient work history (i.e.; a student with no experience or someone returning to the workforce after a long absence) or is a volunteer. Due diligence must be used in obtaining these references, but if no response is received, documentation should be made of what efforts were made. Reference checks are not mandatory for those temporary employees hired on a seasonal basis.

The Background Investigation Handbook has detailed instructions and reference forms to be used in checking these references.

- E. Each Department/Office shall perform the required minimum criminal background investigation checks at the appropriate security level for applicants under final consideration and document the results on the Background Checklist, which shall be provided to the Office of Human Resources with the background documents.
 - 1. High-Level Security Check (Level I):
 - Fingerprints - submit fingerprints to FDLE under the VECHS agreement using digital fingerprint machine or using the fingerprint card provided for FDLE and National FBI criminal investigation check.
 - Brevard County Clerk E-Facts – www.brevardclerk.us.
 - 2. Moderate-Level Security Check (Level II):
 - FDLE – <https://web.fdle.state.fl.us/search/app/default>
 - Brevard County Clerk E-Facts – www.brevardclerk.us.
 - National Sex Offender Public Website - www.nsopw.gov
 - Out-of-State criminal checks based on past seven (7) years address history (on-line checks may be done, if available), or alternatively a national background check.
 - 3. Low-Level Security Check (Level III):
 - Brevard County Clerk E-Facts – www.brevardclerk.us.
 - National Sex Offender Public Website - www.nsopw.gov
 - Florida Department of Corrections – www.dc.state.fl.us.
 - Out-of-Area criminal checks based on past two (2) years address history (on-line checks may be done, if available).

AO-26: Background Investigation Checks

- F. Applicants under final consideration for positions classified as high security level shall be subject to the following guidelines for criminal background checks.

Consistent with F.S. 112.011, a person shall not be disqualified from employment by the County solely because of a prior conviction for a crime. However, a person may be denied employment by the County by reason of the prior conviction for a crime if the crime was a felony or first degree misdemeanor and directly related to the position of employment sought.

- 1. A prior conviction of any of the following criminal offenses, if a felony or first degree misdemeanor, is considered to be directly related to any high level security position, irregardless of when it occurred, and will disqualify an applicant from further consideration:**

- Child Abuse, Neglect or Abandonment
- Extortion
- Extreme Violence (Aggravated Assault/Aggravated Battery, Murder, Attempted Murder, Vehicular Homicide)
- False Imprisonment
- Hate Crime
- Indecent Exposure if Sexual in Nature
- Kidnapping
- Manslaughter
- Child Pornography
- Illegal Possession of Guns or Weapons
- Robbery
- Sale of Controlled Substance
- Sexual Offense (Lewd and Lascivious – Sexual Battery)
- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

- 2. A prior conviction of any of the following criminal offenses, if a felony or first degree misdemeanor, is considered to be directly related to a high security level position if it occurred within five (5) years of the date of the background check, and will disqualify an applicant from further consideration:**

- Battery/Assault
- Domestic Violence
- Misdemeanor Drug and/or Paraphernalia
- Resisting Arrest with Violence
- Sale of Alcohol or Tobacco to a Minor
- Contributing to the Delinquency of a Minor

AO-26: Background Investigation Checks

- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

A prior conviction of one of the above criminal offenses, if a felony or first degree misdemeanor, that occurred beyond five (5) years of the date of the background check, shall be carefully reviewed by the appointing authority on a case-by-case basis to determine if it is directly related to a high security level position and the applicant is disqualified from further consideration.

- 3. A prior conviction for any of the following criminal offenses, if a felony or a first degree misdemeanor, shall be carefully reviewed by the appointing authority on a case-by-case basis to determine if it is directly related to a high security level position and if the applicant is disqualified from further consideration:**

- Disorderly Conduct/Trespassing
- Driving While Under the Influence (DUI), one incident only (more than one must show proof of rehabilitation)
- Petty Theft
- Worthless Checks
- Other Crimes
- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

- G. When determining whether a prior criminal conviction for any of the criminal offenses listed in Section F above are directly related to a high, moderate or low level security position, an appointing authority shall take the following factors into consideration:

- The classification of the crime as a felony or first degree misdemeanor.
- The relationship between the incident and the type of employment or service that the applicant will provide.
- The nature, severity, number, and consequences of the incidents disclosed.
- The amount of time elapsed since the incident(s) occurred.
- The applicant's efforts and success at rehabilitation.
- The age of the applicant at the time of the incident.

If there is any question about whether the criminal offense is directly related to the position, contact the County Attorney's Office.

- H. After the background investigation checks are satisfactorily completed, the Department/Office can initiate the request for the applicant to be hired to a paid position or coordinate a start date for a volunteer placement.

AO-26: Background Investigation Checks

IV. RESERVATION OF AUTHORITY

The authority to issue and/or revise this Administrative Order is reserved for the County Manager.

A handwritten signature in blue ink, appearing to be 'HT', is written over a horizontal line. To the right of the signature, the date '4/24/12' is written in blue ink.

Howard Tipton
County Manager
Brevard County, Florida

RESOLUTION NO. 2017- 164

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, PURSUANT TO SECTION 125.35, FLORIDA STATUTES AND SECTION 2-247 BREVARD COUNTY CODE OF ORDINANCES, AUTHORIZING THE LEASING OF REAL PROPERTY TO A NOT FOR PROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the **SPACE COAST FULL THROTTLE SPEEDWAY, INC.**, a 501(c)(3) tax exempt Not For Profit Corporation organized under the laws of the State of Florida (hereinafter referred to as "Lessee") has applied to the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as "County") to lease a County owned facility which is a part of the County public park known as the Space Coast Communities Sports Complex (hereinafter referred to as the "Property");

WHEREAS, the Lessee desires to provide recreational karting and related activities for the benefit and enjoyment of the citizens of Brevard County; and

WHEREAS, the County finds that the Lessee's proposed use of the Property will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitutes a service that could be provided by the local government, and is compatible with the County purposes for which the Property was constructed.

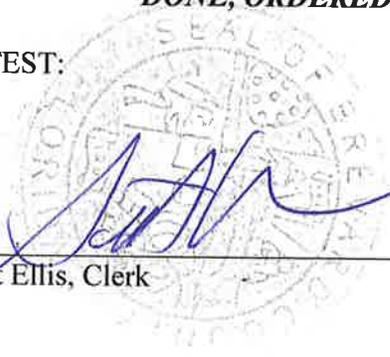
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

1. The Space Coast Communities Sports Complex is a County owned facility and was constructed for the purpose of being used for public recreational activities.
2. The County has determined that the Property located at Space Coast Communities Sports Complex is not needed by the County.
3. The Lessee shall operate and maintain the Property for the benefit and enjoyment of the citizens of Brevard County.
4. The Lessee shall provide recreational karting and related activities.
5. The County shall enter into a lease, attached hereto as **Exhibit "A"**, with the Lessee beginning on the date of the last signature on the Lease Agreement for a term of three (3) years and may request renewal for an additional two (2) year term.
6. The consideration for the Lease shall be \$100.00 per month.

7. This Resolution shall take effect immediately upon its adoption. No obligation to Lease the Property to the Lessee shall arise until the Lease is executed by both parties.
8. In the event the Lessee fails to comply with the Lease, then Property shall immediately revert to the County which shall thereafter have the right to reenter and repossess the property.

DONE, ORDERED AND ADOPTED this 19th day of September, 2017.

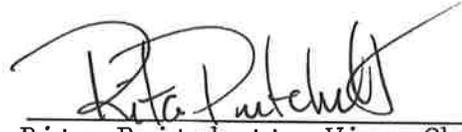
ATTEST:





Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA



Rita Pritchett, Vice Chair

As approved by the Board on 9/19/17.

Exhibit "A" to the Resolution
LEASE

THIS LEASE, made and entered into this ____ day of _____, 2017, by and between the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida, hereinafter referred to as "County", and **SPACE COAST FULL THROTTLE SPEEDWAY, INC.**, a Not For Profit corporation organized under the laws of the State of Florida (hereinafter referred to as "Lessee").

WITNESSETH:

WHEREAS, the Lessee desires to lease a County owned facility which is part of the County public park known as the Space Coast Communities Sports Complex and is for the purpose of providing public recreational activities, hereinafter referred to as "Property,"

WHEREAS, the Lessee has an interest in providing recreational karting and related activities to the citizens of the County, is well situated to do so, and has previously contracted with the County to provide such services;

WHEREAS, the County has an interest in allowing these programs and services to be provided to the citizens of the County;

WHEREAS, the County has by Resolution, a copy of which is attached hereto as **Exhibit "A"**, determined that these programs and services provided will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitute a service that could be provided by local government, and are compatible with the County purposes for which the Property was constructed.

NOW, THEREFORE, in consideration of the mutual promises and terms and conditions contained herein, the parties hereto agree as follows:

1. **Leased Property.** The County hereby leases to the Lessee exclusive use of an area located within the Space Coast Communities Sports Complex, located in Section 36, Township 23, Range 35 Parcel 4 & 752 Part of E ½ of Section 36, Brevard County, Florida, (hereinafter referred to as "Property") and more particularly described and cross marked /////// in **Exhibit B**, which is attached hereto and made a part hereof by this reference.

2. **Representation by Lessee.** The Lessee represents that it is a Florida Not For Profit organized under the laws of Florida as described in Section 501(c)(3) of the Internal Revenue Code as amended, and is exempt from federal income tax pursuant to Section 501(a) of said Code.

3. **Term.** This Lease shall be effective from the date of the last signature for period of three (3) years. It is hereby mutually agreed and understood that the Lessee may request renewal of this Lease for an additional two (2) year term by submitting a completed renewal application received at least thirty (30) days prior to the date of termination of the current term. The Parks and Recreation Director, (herein referred to as the “Director”), shall be authorized to execute any renewals.

4. **Rent.** The rent for the property in this Lease shall be One Hundred Dollars (\$100) per month, plus applicable Florida State Sales Tax due on the 6th day of each month or the first working day thereafter. Checks shall be made payable to Brevard County Parks and Recreation Department, North Area Parks Operations, 475 North Williams Avenue, Titusville, Florida 32796. In the event payment is not properly made by the Lessee, the County is under no obligation to provide access or use of the Property at the time of the first event for which payment is not properly made, nor at any other subsequent month during the term of the Lease. At the County’s option, the entire Lease terminates at the time payment is not properly made.

5. **Utilities.** The Lessee shall pay costs of all public utility charges which shall include telephone, electric, gas, water, sanitary sewer, and garbage, as applicable which are provided to the Property by the County, City or any other public agency or public utility. Lessee shall be responsible for causing such utilities and services to be changed to the County’s name at the termination or expiration of this Lease, at no cost to the County. County shall be liable for and shall pay all utility bills for services rendered after termination or expiration of this Lease.

6. **Background Investigation Check.** The Lessee shall perform a High Level background screening on the Lessee’s staff and volunteers and other persons providing services at the Property at no cost to the County. High Level Background screening includes the following

- Clerk E-Facts – www.brevardclerk.us
- Fingerprinting (FDLE and National FBI Criminal check through VECHS)
- Department of Juvenile Justice check on individuals under the age of 18 when applicable and allowed in lieu of fingerprinting
- National Sex Offender Public Website – www.nsopw.gov
- Reference Checks
- Prior employment check
- Education/Licensing verification (case-by-case)
- Driver’s license check (case-by-case)
- Drug Testing (case-by-case)

The President is responsible for compliance and providing written verification that all staff, volunteers, and any other persons providing a service at the Property have been screened. A copy of the background

screening results, for all staff members, volunteers, and all other persons providing a service at the Property shall be submitted to the County. The Director may deny the Lessee the ability to utilize a staff member, volunteer or any other person providing a service at the Property based on the results of the background screening results, at the Director's discretion. The Director shall abide by Brevard County's policy, attached hereto as **Exhibit "C"** in determining if a person shall be disqualified from working or volunteering at the Property. No person shall work or volunteer at the Property without having submitted a completed background check to the County and without having been approved to be present at the Property by the Director.

7. **Indemnification and Insurance**: The Lessee agrees to indemnify and hold harmless the County and its employees from all claims, damages, losses, and expenses, including attorney's fees, arising out of or associated with the use, occupation, management or control of the Property or any improvements or any furniture, furnishings, equipment and fixtures utilized in connection with the Property by the Lessee unless such claims, damages, expenses, or losses are caused solely by acts of the County, its employees, or other persons not a party to this Lease acting on the County's request. Lessee agrees that it will, at its own expense, defend any and all such actions, suits, or proceedings which may be brought against the County in connection with the Lessee's use, occupation, management or control of said Property and that it will satisfy, pay and discharge any and all judgments that may be entered against the County in such action of proceeding

The Lessee agrees to provide and maintain at all times during the term of this Lease, without cost or expense to the County, policies of insurance generally known as general liability policies insuring the Lessee against any and all claims, demands, and causes of action whatsoever for injuries received and damage to property in connection with the use, occupation, and management or control of the property and any improvements thereon by the Lessee. Such policies of insurance shall insure the Lessee in the amount of not less than \$5,000,000 to cover any and all liability claims arising in connection with any particular accident or occurrence and fire damage liability for the premises in the amount of no less than \$50,000 per occurrence. Said insurance policies shall provide that the County is named as an additional insured and shall be entitled to thirty (30) days prior notice of any changes or cancellation in said policies. The Lessee shall notify the County immediately in writing of any potentially hazardous condition existing on or about the premises utilized in conducting said activities.

The Lessee shall provide the described insurance on policies and with insurers acceptable to the County. These insurance requirements shall not relieve or limit the liability of the Lessee. The County does not in

any way represent that these types of amounts of insurance are sufficient or adequate to protect the Lessee's interests or liabilities, but are merely minimums.

Lessee shall provide the county with Certificate(s) of Insurance on all policies of insurance and renewals thereof in a form(s) acceptable to the County. Said certificates shall provide that the County is an additional insured, and that County shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida.

A Certificate of Insurance indicating that the Lessee has coverage in accordance with the requirements of this Lease shall be furnished by the Lessee to the Brevard County Parks and Recreation Department North Area Parks Operations, 475 North Williams Avenue, Titusville, Florida 32796, within ten (10) days from the date of the execution of this Lease.

All personal property housed or placed on the Property shall be at the risk of the Lessee, and the County shall have no liability for any damage or loss to any personal property located thereon for any cause whatsoever. The Lessee agrees and understands that the County does not and shall not carry liability, fire, or theft insurance on the operation of this subject area to cover the Lessee's interest therein

8. Fees. The County hereby agrees to permit the Lessee to collect fees from its members, participants, or spectators at events and other related activities; provided, however, that the Lessee presents a schedule of such fees to Brevard County Parks and Recreation Department North Area Parks Operations Manager, or designee, on an annual basis. Said schedule shall be subject to approval by the Parks and Recreation Director.

9. Obligations of the Lessee.

a. Use of Property by the Lessee shall comply with all National Karting Alliance, Inc., sanctioned rules and regulations during events. The County reserves the right to disapprove any and all activities held on the Property which may be in conflict with the County's administrative orders or policies and agrees to furnish the Lessee with a copy of such rules and regulations, policies and procedures and any amendments thereto. Failure to comply with this provision or the County's request to terminate a particular activity shall be considered a material breach of this Lease, and the Lease shall be subject to immediate termination by the County, whereupon the County shall immediately re-enter and take possession.

b. The Lessee shall provide and administer adequate personnel to supervise all activities sponsored or sanctioned by the Lessee, which take place at the Property. Said personnel shall supervise or provide the following services as required:

(1) Crowd Control.

(2) Traffic Control.

(3) Collection and disposal of garbage and trash.

(4) Maintain track and related facilities described in **Exhibit "B"** equal to or better than the condition at the time of use and in compliance with National Karting Alliance, Inc., specifications.

c. A maintenance plan, traffic control plan, crowd control plan, sanitation plan, and security plan shall all be submitted to North Area Parks Operations for approval prior to the first event and shall be binding on the Lessee for all events unless altered in writing by written agreement of the County and the Lessee.

d. The Property is to be left by the Lessee in a clean and sanitary manner.

e. The Lessee shall be responsible for providing sufficient personal sanitation units for use by participants and spectators as needed for events, and shall be responsible for any costs for said units, including installation and maintenance thereof.

f. All participants, spectators, members of the Lessee's organization shall enter the Property through the main gate off of Canaveral Groves Boulevard.

g. The Lessee shall provide lock and chain for the gate, provide emergency medical personnel during practice and events, provide monthly attendance report reflecting participants, spectators and volunteers for each day of use on the sixth day of the following months or first working day thereafter, mailed to Brevard County Parks and Recreation Departments, North Area Parks Operations, 475 North William Avenue, Titusville, Florida 32796.

h. All scheduled activities must be ended by 10:00 p.m.; all spectators and participants in the events shall vacate the Property by 11:00 p.m.

10. Improvements. By execution of this Lease, the Lessee represents that an authorized representative of the Lessee has inspected the Property; and the Lessee is fully responsible to make all necessary modifications, improvements, or repairs to the Property (including, but not limited to the track or course on which the off-road vehicles are driven or raced) to ensure the safety of the participants in the vehicle events as well as the safety of the public spectators. It is understood and agreed by the parties that any and all such development on the Property shall be at the Lessee's expense.

In addition, all plans, specifications and location for all improvements, structures, landscaping or other appurtenances made by the Lessee to the Property shall be submitted to and shall require the approval of the Director and any applicable regulatory agency, or their duly authorized representatives, prior to the construction or installation of any such improvement, structure, landscaping or appurtenance. The County reserves the right to reject any plans for improvement or construction entirely or to request alterations to the plans. It is hereby mutually agreed and understood that any building, fixture, structure or facility placed on or constructed at the Property, or any facility located thereon and permanently attached thereto, shall become property of the County upon termination of this Lease, whether by breach, termination, or natural expiration of the Lease. The Lessee shall not remove any said building structures, fixtures, or facilities and shall execute any and all documents necessary to effect transfer of title of same to the County. The Lessee shall ensure that no contractor which the Lessee may hire to perform any portion of construction, renovation, or repairs to the facilities shall be entitled to file any liens, mechanics or otherwise, against the facilities involved or any County property to secure the contractor's interests or payments due. Any contract which the Lessee signs or executes with a contractor shall include a provision in which the contractor waives any right to file any such liens and a provision which requires the contractor to include the same waiver by any subcontractors which the contractor may hire in any contract the contractor executes with any subcontractors.

11. Violation of Provisions. Any violation of these provisions will constitute a breach of the conditions of this Lease and may result in the cancellation of same. The County shall notify the Lessee of any violation of the provisions of this Lease in writing. Such notice shall identify the provision which is being violated and how it is being violated. The Lessee shall then have sixty (60) days within which to remedy the violation. It is the intent of this provision for the parties to work together cooperatively towards a positive resolution of all issues. However, if the violation is not fixed or addressed in a reasonable fashion to the County's reasonable satisfaction, the County has the right to issue a notice of termination/cancellation effective immediately at the end of the sixty day period. In the event of cancellation or termination of this Lease, Lessee shall remove its personal property from the Property. Any personal property not removed within ninety (90) days from the effective date of termination of the Lease shall be subject to becoming the property of the County.

12. Reverter and Right of Re-Entry and Repossession. In the event the Property is not used or ceases to be used for the public purposes set forth herein, the Lease shall immediately cease and the Property shall revert to the County which shall thereafter have the right to re-enter and repossess the Property.

13. **ADA Compliance.** The County and Lessee shall conform to current requirements of the Americans with Disabilities Act in the performance of this Lease, and shall not cause or place on the Property any condition causing the Property to become non-compliant. The parties shall work together to remedy any known violations of the ADA that may occur.

14. **Compliance with Statutes.** It shall be the Lessee's and the County's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, state, and federal agencies as applicable.

15. **Right of Entry by County.** Brevard County or its agents may at any time enter onto the subject property for the purpose of inspection of same or for performing such other duties as are required by the terms of this Lease, or the rules, regulation, ordinances or laws of any governmental body.

16. **Emergency Services.** In the case of a general emergency as declared by the County, the County retains the right to immediately resume occupation, management, and maintenance of the Property, to use the facility to meet any emergency needs for the period of that emergency and a reasonable period of time thereafter as deemed necessary by the County. The Lessee will be provided as much notice as is practicable dependent on how suddenly the need arises and predictability of how long the need will continue. The County shall not be responsible for the damage, loss of property or income created by the use of the Property by agencies which support the emergency response and recovery such as Red Cross, Federal Emergency Management Agency and others. The County and Lessee shall work directly with such support agencies to recover the cost of restoration, lost equipment, and supplies used. During the period in which the County or other governmental or non-governmental agency occupies or manages the Property, Lessee occupancy and any duties or obligations hereunder will be suspended. Any maintenance, damage, restoration, or repair necessitated during any suspension of the Lessee's occupancy under this Lease will be the responsibility and the expense of the County occupancy under this Lease will be the responsibility and the expense of the County. Repairs, rehabilitation, restoration or maintenance, the need for which arises as a result of such emergency suspension of the Lessee's occupancy, shall all be diligently completed by the County, at the expense of the County prior to the Lessee reoccupying the Property. As used herein, an "emergency" will be defined as a period of civil unrest or riot, a period during which the military needs the Property for a period of time relating directly to defense of the nation and a likely attack of the nation, a period during which weather such as a hurricane or tornado is likely to cause damage to the community and the Property, is needed for public shelter, distribution of emergency supplies such as food or water, or other related event, or any other circumstance designated by the Emergency Operations Center, "E.O.C." as an emergency.

17. **Lessee's Assignment, Sublease or License for Occupation by Other Persons.** Lessee agrees not to assign or sublease the Property, any part thereof, or any right or privilege connected therewith, without first obtaining the County's written consent, which consent the County may withhold in its sole discretion. Consent on one occasion by the County shall not be consent to a subsequent assignment, sublease, or occupation by other persons. Lessee's unauthorized assignment, sublease or license to occupy shall be void, and shall terminate the Lease at the County's option. Lessee's interest in this Lease is not assignable by operation of law, nor is any assignment of its interest herein, without the County's written consent. Nothing herein is intended to prevent the Lessee from entering into short-term use/rental lease with third parties for up to and including three (3) days (no overnight activities); however, even under such circumstances the Lessee shall remain responsible for each and every of its obligations under this Lease. The Lessee shall be responsible for ensuring that all short term use or rental leases shall only be allowed for activities that are consistent with the remainder of the terms of this Lease.

18. **Alterations, Changes and Additions.** No structural changes, alterations or additions shall be made by the Lessee to the Property without the prior written consent of the County. Any such alterations, changes and additions shall remain for the benefit of and become the property of the County.

19. **No Use that Increases Insurance Risk.** The Lessee shall not use the Property in any manner, even in its use for the purposes for which the Property is leased, that will increase the risk covered by insurance on the building where the Property is located, so as to increase the rate of insurance on the Property, or to cause cancellation to any insurance policy covering the building. Lessee further agrees not to keep at the Property, or permit to be kept, used, or sold thereon, anything prohibited by the policy of fire insurance covering the Property. Lessee shall comply, at its own expense, with all requirements of insurers necessary to keep in force the fire and public liability insurance covering the Property.

20. **Licenses, Permits, and Taxes.** Lessee agrees to secure and maintain all licenses and permits required to operate, including any applicable sales or use tax, which shall be imposed or assessed by any and all governmental authorities, in connection with the business or operation conducted under this Lease, and to meet all federal, state, county and municipal laws, ordinances, policies and rules. Any such licenses and permits shall be maintained and posted, if required, at appropriate places at the Property within thirty (30) days of the execution of this lease by both parties.

21. **No Waiver of Covenants or Conditions.** The failure of either party to insist on strict performance of any covenant or condition hereof, or to exercise any option herein contained, shall not be

construed as a waiver of such covenant, condition, or option in any other instance. This Lease cannot be changed or terminated orally.

22. **Successors in Interest.** This Lease and the covenants and conditions hereof apply to and are binding on the heirs, successors, legal representatives, and assigns of the parties.

23. **Severability.** If any provision of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

24. **Venue.** Venue for any legal action brought by any party to this Lease to interpret, construe or enforce this Lease shall be in court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

25. **Attorney's Fees.** In the event of any legal action to enforce the terms of this Lease each party shall bear its own attorney's fees and costs.

26. **Governing Law.** This Lease shall be deemed to have been executed and entered into within the State of Florida and this Lease, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

27. **Compliance with Statutes.** It shall be the Lessee's and the County's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, state, and federal agencies as applicable.

28. **Independent Contractor.** Lessee shall perform the services under this Lease as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Lease shall be interpreted or construed to constitute the Lessee or any of its agents or employees to be the agent, employee or representative of the County.

29. **Right to Audit Records.** In performance of this Lease, the Lessee shall keep books, records, and accounts of all activities related to this Lease in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the Lessee in conjunction with this Lease and the performance of this Lease shall be open to inspection during regular business hours by an authorized representative of the County. The Contractor shall retain all documents, books and records for a period of five (5) years after termination of this Contract, unless such records are exempt from section 24(a) of Article I of the State Constitution and Ch. 119, Florida

Statutes. All records or documents created by or provided to the Lessee by the County in connection with this Lease are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the County in a format compatible with the information technology systems of the County.

Lessee shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Lease and following termination of the Lease if the Lessee does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Lease, the Lessee may transfer, at no cost to the County, all public records in possession of the Lessee. If the Lessee transfers all public records to the County upon termination of the Lease the Lessee shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

30. **Florida Public Records Law.** Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Lease must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Lessee of the request and the Lessee must provide the records to the county or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so the County can comply with the requirements of Section 119.07. The Lessee may also provide a cost estimate to produce the requested documents consistent with the policy set for in Brevard County Administrative Order AO-47, incorporated here by this reference. A copy AO-47 is available upon request from the County's public records custodian designated below.

If the Lessee fails to provide the requested public records to the County within a reasonable time, the Lessee may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. See Sections 119.0701, 119.110, Florida Statutes. The Lessee's failure to comply with public records requests is considered a material breach of this Lease and grounds for termination.

Should the County face any legal action to enforce inspection or production of the records within the Lessee's possession and control, the Lessee agrees to indemnify the County for all damages and expenses, including attorney's fees and costs. The Lessee shall hire and compensate attorney(s) to represent the Lessee and County in defending such action. The Lessee shall pay all costs to defend such action and any costs and attorneys fees awarded pursuant to Section 119.12

IF THE LESSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LESSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS Melissa Renninger AT (321) 633-2046 X32 or Melissa.renninger@brevardfl.gov.

31. **Construction of Lease.** The parties hereby acknowledge that they have fully reviewed this Lease and its attachments and have had the opportunity to consult with legal counsel of their choice, and that this Lease shall not be construed against any party as if they were the drafter of this Lease.

32. **Surrender of Premises.** Lessee shall surrender the Property to the County at the end of the Lease term in generally the same condition as when Lessee took possession, allowing for changes and modifications agreed to by the parties over time, reasonable wear and tear, damages by acts of God, including fire and storm. The Lessee shall remove all business signs or symbols placed on the Property by the Lessee before surrendering the Property and restore the portion of the Property on which they were placed in the same condition as before placement. Lessee shall have ninety (90) days notice to surrender.

33. **Partial Destruction of Premises.** Partial destruction of the Property shall not render this Lease void, or terminate it except as herein provided. If the Property is partially destroyed during the term of this Lease, County may endeavor to make repairs, providing the County has the fiscal means to do so, and when such repairs can be made in conformity with local, state, and federal laws and regulations, within ninety (90) days of the partial destruction. If the repairs cannot be so made in ninety (90) days and the County does not elect to make them within a reasonable time, either party hereto has the option to terminate this Lease. If the leased Property is more than one-third destroyed, County or Lessee may at its option terminate this Lease, giving ninety (90) day notice to Lessee.

34. **County's Entry for Inspection and Maintenance.** The County reserves the right to enter the Property at reasonable times to inspect, to perform required maintenance and repair, or to make additions or alteration to any part of the building in which the Property under Lease is located, and Lessee agrees to permit the County to do so. The County may, in connection with such alterations, additions, or repairs, erect scaffolding, fences, and similar structures, post relevant notices, and place moveable equipment without incurring liability to Lessee for disturbance of quiet enjoyment of the Property, or loss of occupation thereof, unless done so in an unreasonable, willful, or negligent manner.

35. **Modifications.** No modification of this Lease shall be binding on the County or the Lessee unless reduced to writing and signed by a duly authorized representative of County and the Lessee.

36. **Notice.** Notice under this Lease shall be given to the County at Brevard County Parks and Recreation: North Area Parks Operations, 475 North Williams Avenue, Titusville, Florida 32796. Notice shall be given to Lessee by mailing written notice, postage prepaid to the President of the Space Coast Full Throttle Speedway, Inc., 756 Penguin Avenue, Palm Bay, Florida 32907. Notice shall be effective upon receipt or five (5) days from mailing, whichever ever occurs first.

37. **Unauthorized Alien Workers.** Brevard County will not intentionally award publicly-funded contracts to any Lessee who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274A(e) of the Immigration and Nationality Act "INA"). The County shall consider the employment by the Lessee of unauthorized aliens a violation of Section 274A (e) of the INA and such violation shall be grounds for unilateral cancellation of this Lease by the County.

38. **Public Entity Crimes.** A person or affiliate who had been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

39. **Termination for Convenience.** Either party may terminate this Lease for their own convenience upon providing thirty (30) day written notice to the other party. The County authorizes the Director to terminate this Lease if the Director finds the termination to be in the best interest of the County. In the event of a termination for convenience, the parties agree that the only termination damages payable by either party will be prorated rent up to the date of termination. Upon the expiration of the term of this Lease or upon its termination for any cause, Tenant shall restore the Premises to the condition that Lessee received the Property, reasonable wear and tear excepted, unless County advises Lessee to not remove any structural changes.

40. **Illegal, Unlawful, or Improper Use.** The Lessee shall make no unlawful, improper, immoral, or offensive use of the Leased Property nor will the Lessee use the Leased Property or allow the use of the Leased Property for any purpose other than that hereinabove set forth. Failure of Lessee to comply with this provision shall be considered a material default under this Lease.

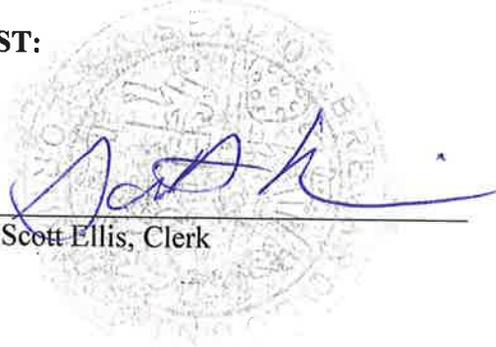
41. **Copyright.** No reports, data, programs or other materials produced, in whole or in part, for the benefit and use of the County under this Lease shall be subject to copyright by the Lessee in the United States or any other country.

42. **Music Performance.** The Lessee shall not use, play or perform copyrighted music without appropriate licensing or other permission. The Lessee shall be solely responsible for obtaining appropriate licensing or permission to use, play or perform copyrighted music. The use or performance of copyrighted music without appropriate licensing or other permission shall constitute a breach of this Lease. The Lessee agrees to indemnify and hold harmless the County from damages for unauthorized use or performance of copyrighted music.

43. **Entire Lease.** This Lease, together with any Exhibits, constitutes the entire Lease between the County and Lessee and supersedes all prior written or oral understandings. This Lease and any Exhibits may only be amended, supplemented or canceled by a written instrument duly executed by both parties hereto. As of the Effective Date of this Lease, all authority, permission, and right, express or implied, heretofore granted or inferred to be granted by the County to Lessee to operate a Property shall be terminated, and Lessee shall cease operating any Property other than as permitted by this Lease.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals on the day and year first above written.

ATTEST:



By:

Scott Ellis, Clerk

**BOARD OF COUNTY COMISSIONERS
OF BREVARD COUNTY, FLORIDA**

By:

Rita Pritchett, Vice Chair

As approved by the Board on 9/19/17.

WITNESSES:

**SPACE COAST FULL THROTTLE
SPEEDWAY, INC.**

By: _____

Mark Renzetti, President

Date: _____

WITNESSES:

**SPACE COAST FULL THROTTLE
SPEEDWAY, INC.**

By: _____

Dan Smith, Vice President

Date: _____

Reviewed for legal form and content:

Matthew Soss, Assistant County Attorney

**Exhibit "A" to the Agreement
(replace with copy of executed resolution)**

RESOLUTION NO. 2017-_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, PURSUANT TO SECTION 125.35, FLORIDA STATUTES AND SECTION 2-247 BREVARD COUNTY CODE OF ORDINANCES, AUTHORIZING THE LEASING OF REAL PROPERTY TO A NOT FOR PROFIT CORPORATION ORGANIZED UNDER THE LAWS OF THE STATE OF FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the **SPACE COAST FULL THROTTLE SPEEDWAY, INC.**, a 501(c)(3) tax exempt Not For Profit Corporation organized under the laws of the State of Florida (hereinafter referred to as "Lessee") has applied to the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida (hereinafter referred to as "County") to lease a County owned facility which is a part of the County public park known as the Space Coast Communities Sports Complex (hereinafter referred to as the "Property");

WHEREAS, the Lessee desires to provide recreational karting and related activities for the benefit and enjoyment of the citizens of Brevard County; and

WHEREAS, the County finds that the Lessee's proposed use of the Property will promote public health, safety or welfare, will serve the public interest, will serve a public purpose, constitutes a service that could be provided by the local government, and is compatible with the County purposes for which the Property was constructed.

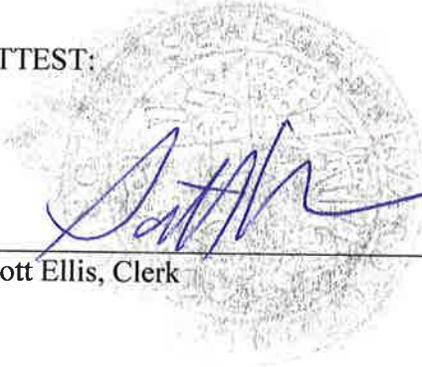
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

1. The Space Coast Communities Sports Complex is a County owned facility and was constructed for the purpose of being used for public recreational activities.
2. The County has determined that the Property located at Space Coast Communities Sports Complex is not needed by the County.
3. The Lessee shall operate and maintain the Property for the benefit and enjoyment of the citizens of Brevard County.
4. The Lessee shall provide recreational karting and related activities.
5. The County shall enter into a lease, attached hereto as **Exhibit "A"**, with the Lessee beginning on the date of the last signature on the Lease Agreement for a term of three (3) years and may request renewal for an additional two (2) year term.
6. The consideration for the Lease shall be \$100.00 per month.

7. This Resolution shall take effect immediately upon its adoption. No obligation to Lease the Property to the Lessee shall arise until the Lease is executed by both parties.
8. In the event the Lessee fails to comply with the Lease, then Property shall immediately revert to the County which shall thereafter have the right to reenter and repossess the property.

DONE, ORDERED AND ADOPTED this 19th day of September, 2017.

ATTEST:





Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA



Rita Pritchett, Vice Chair

As approved by the Board on 9/19/17.

Space Coast Communities Sports Complex

662 Canaveral Groves Boulevard
Sharpes, FL 32959

Exhibit "B"



Brevard County Parks and Recreation

2725 Judge Fran Jamieson Way
Viera, FL 32940

0 100 200 400
Feet

2018 Aerial



DISCLAIMER: This map is intended for display purposes only and is not intended for any legal representation.

Exhibit "C"

**ADMINISTRATIVE
ORDER**

TITLE: Background Investigation
Checks

NUMBER: AO - 26

CANCELS: August 4 2010

APPROVED: April 24, 2012

ORIGINATOR: Human Resources

REVIEW: April 24, 2015

I. PURPOSE AND SCOPE

To establish a consistent, county-wide procedure for conducting background investigation checks.

II. DEFINITIONS AND REFERENCES

- A. Applicant – An external applicant or volunteer being considered for a position or a current employee being considered for a position with a higher security level as the result of a promotion, transfer or demotion.
- B. At-Risk Population – Children, elderly, disabled, and those whom can not defend themselves. Example of settings in which individuals come into contact with at-risk populations include, but are not limited to:
- Daycare: senior citizen centers and community day programs for children.
 - Group Home: placements for children under the care of the State as a result of abuse or neglect or as a consequence of delinquency.
 - Program activities involving children on school property.
 - Shelters: homeless, domestic violence or special needs emergency shelters.
 - Youth development programs.
 - Volunteer programs for the elderly or individuals with disabilities; such as, Meals on Wheels or other community/volunteer programs.
 - Library areas/programs designated for children.
 - Park areas/programs designated for children.
- C. Background Investigation Handbook – a handbook with detailed information about how to complete and interpret the background checks.
- D. Background Checklist – a form used to track the results of the background checks performed by the Department/Office.

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- E. Conviction – defined as a law violation where there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

NOTE: A "yes" answer to the question of law violation on the application will not automatically bar the applicant from employment. The nature, job-relatedness, severity and date of the offense in relation to the position for which they are applying will be considered.

- F. Recertification – Frequency which each Department/Office reinvestigates each employee's or volunteer's criminal history.

G. **SECURITY LEVELS:**

High Level (Level I) – Applies to an employee or volunteer who has unsupervised access and/or contact with individuals identified as being in the at-risk population.

Moderate Level (Level II) – Applies to an employee or volunteer who has supervised access and/or contact with individuals identified as being in the at-risk population.

Low Level (Level III) – All other employees or volunteers who do not fit into the High or Moderate security levels.

- H. VECHS – an acronym for the Volunteer & Employee Criminal History System at the Florida Department of Law Enforcement (FDLE). The VECHS program agreement allows Brevard County to submit state and national checks for employees and volunteers, as needed.
- I. F.S. 112.011 – Felon; removal of disqualifications for employment, exceptions.
- J. F.S. 943.04351 – Search of registration information regarding sexual predators and sexual offenders required prior to appointment or employment.

III. RESPONSIBILITIES

- A. Each Department/Office Director shall establish a background investigation check procedure which ensures that the guidelines in this Administrative Order are met.
- B. Each Department/Office will utilize the guidelines in this Administrative Order or will adhere to statutory/contractual requirements, whichever is more stringent.

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- C. Each Department/Office shall be responsible for verifying that each applicant meets the requirements for the job, including educational and/or licensing verification, driver's license check.
- D. Each Department/Office shall be responsible for checking and documenting a total of three (3) of the applicant's employment and/or personal references. Document if the applicant has insufficient work history (i.e.; a student with no experience or someone returning to the workforce after a long absence) or is a volunteer. Due diligence must be used in obtaining these references, but if no response is received, documentation should be made of what efforts were made. Reference checks are not mandatory for those temporary employees hired on a seasonal basis.

The Background Investigation Handbook has detailed instructions and reference forms to be used in checking these references.

- E. Each Department/Office shall perform the required minimum criminal background investigation checks at the appropriate security level for applicants under final consideration and document the results on the Background Checklist, which shall be provided to the Office of Human Resources with the background documents.
1. High-Level Security Check (Level I):
 - Fingerprints - submit fingerprints to FDLE under the VECHS agreement using digital fingerprint machine or using the fingerprint card provided for FDLE and National FBI criminal investigation check.
 - Brevard County Clerk E-Facts – www.brevardclerk.us.
 2. Moderate-Level Security Check (Level II):
 - FDLE – <https://web.fdle.state.fl.us/search/app/default>
 - Brevard County Clerk E-Facts – www.brevardclerk.us.
 - National Sex Offender Public Website - www.nsopw.gov
 - Out-of-State criminal checks based on past seven (7) years address history (on-line checks may be done, if available), or alternatively a national background check.
 3. Low-Level Security Check (Level III):
 - Brevard County Clerk E-Facts – www.brevardclerk.us.
 - National Sex Offender Public Website - www.nsopw.gov
 - Florida Department of Corrections – www.dc.state.fl.us.
 - Out-of-Area criminal checks based on past two (2) years address history (on-line checks may be done, if available).

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- F. Applicants under final consideration for positions classified as high security level shall be subject to the following guidelines for criminal background checks.

Consistent with F.S. 112.011, a person shall not be disqualified from employment by the County solely because of a prior conviction for a crime. However, a person may be denied employment by the County by reason of the prior conviction for a crime if the crime was a felony or first degree misdemeanor and directly related to the position of employment sought.

1. **A prior conviction of any of the following criminal offenses, if a felony or first degree misdemeanor, is considered to be directly related to any high level security position, irregardless of when it occurred, and will disqualify an applicant from further consideration:**
 - Child Abuse, Neglect or Abandonment
 - Extortion
 - Extreme Violence (Aggravated Assault/Aggravated Battery, Murder, Attempted Murder, Vehicular Homicide)
 - False Imprisonment
 - Hate Crime
 - Indecent Exposure If Sexual in Nature
 - Kidnapping
 - Manslaughter
 - Child Pornography
 - Illegal Possession of Guns or Weapons
 - Robbery
 - Sale of Controlled Substance
 - Sexual Offense (Lewd and Lascivious – Sexual Battery)
 - Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

2. **A prior conviction of any of the following criminal offenses, if a felony or first degree misdemeanor, is considered to be directly related to a high security level position if it occurred within five (5) years of the date of the background check, and will disqualify an applicant from further consideration:**
 - Battery/Assault
 - Domestic Violence
 - Misdemeanor Drug and/or Paraphernalia
 - Resisting Arrest with Violence
 - Sale of Alcohol or Tobacco to a Minor
 - Contributing to the Delinquency of a Minor

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- Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

A prior conviction of one of the above criminal offenses, if a felony or first degree misdemeanor, that occurred beyond five (5) years of the date of the background check, shall be carefully reviewed by the appointing authority on a case-by-case basis to determine if it is directly related to a high security level position and the applicant is disqualified from further consideration.

- 3. A prior conviction for any of the following criminal offenses, if a felony or a first degree misdemeanor, shall be carefully reviewed by the appointing authority on a case-by-case basis to determine if it is directly related to a high security level position and if the applicant is disqualified from further consideration:**
- Disorderly Conduct/Trespassing
 - Driving While Under the Influence (DUI), one incident only (more than one must show proof of rehabilitation)
 - Petty Theft
 - Worthless Checks
 - Other Crimes
 - Any Offense of similar nature and severity to those listed above (contact the County Attorney's Office if there is a question)

- G. When determining whether a prior criminal conviction for any of the criminal offenses listed in Section F above are directly related to a high, moderate or low level security position, an appointing authority shall take the following factors into consideration:
- The classification of the crime as a felony or first degree misdemeanor.
 - The relationship between the incident and the type of employment or service that the applicant will provide.
 - The nature, severity, number, and consequences of the incidents disclosed.
 - The amount of time elapsed since the incident(s) occurred.
 - The applicant's efforts and success at rehabilitation.
 - The age of the applicant at the time of the incident.

If there is any question about whether the criminal offense is directly related to the position, contact the County Attorney's Office.

- H. After the background investigation checks are satisfactorily completed, the Department/Office can initiate the request for the applicant to be hired to a paid position or coordinate a start date for a volunteer placement.

AO-26: Background Investigation Checks

IV. RESERVATION OF AUTHORITY

The authority to issue and/or revise this Administrative Order is reserved for the County Manager.

A handwritten signature in blue ink, appearing to read 'HT', is written over a horizontal line. To the right of the signature, the date '4/24/12' is written in blue ink.

Howard Tipton
County Manager
Brevard County, Florida