



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

F.6.

1/24/2023

### Subject:

Approval, Re: Resolution and Lease with the Department of the Air Force for Land Use at Port St. John Boat Ramp (District 1)

### Fiscal Impact:

None

### Dept/Office:

Parks and Recreation

### Requested Action:

It is requested the Board of County Commissioners authorize the Department of the Air Force (Air Force) to conduct environmental testing at the Port St. John Boat Ramp and to approve and authorize the Chair to execute the Resolution and Lease with the Air Force at the location for installation of weather monitoring equipment. Since this Lease is of nominal value, a **majority plus 1 vote** is required.

### Summary Explanation and Background:

The Air Force reached out to Parks and Recreation requesting access and use of a portion of land at the Port St. John Boat Ramp for installation of weather monitoring equipment. Staff determined the Air Force's proposed location is not currently utilized by Parks and Recreation. The term of the Lease is for 1 year beginning February 1, 2023 with nine 1-year renewal options. In the event the property is not used or ceases to be used for the purpose stated in the Lease, the Lease term shall immediately cease.

The Lease is proposed to be at no cost to the Air Force other than the protection, care, and maintenance of the property. On or before the expiration or termination of the Lease, the Air Force will remove all of its property and restore the leased land to good order and condition.

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 required 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 **majority plus 1 vote** of the Board.

### Clerk to the Board Instructions:

Email Patricia Strickland at [Patricia.Strickland@brevardfl.gov](mailto:Patricia.Strickland@brevardfl.gov) <<mailto:Patricia.Strickland@brevardfl.gov>> or call 321-633-2046 X59134 when the Resolution and Lease are ready for pick up.

**BREVARD COUNTY  
BOARD OF COUNTY COMMISSIONERS**

# CONTRACT REVIEW AND APPROVAL FORM

## SECTION I - GENERAL INFORMATION

1. Contractor: Department of the Air Force		2. Amount:	
3. Fund/Account #:		4. Department Name: Parks and Recreation	
5. Contract Description: Air Force Land Use Agreement for Port St. John Boat Ramp for Environmental Testing			
6. Contract Monitor: Patricia Strickland		8. Contract Type:	
7. Dept/Office Director: Mary Ellen Donner		USE AGREEMENT	
9. Type of Procurement: Exempt from Competition			

## SECTION II - REVIEW AND APPROVAL TO ADVERTISE

### APPROVAL

COUNTY OFFICE	YES	NO	SIGNATURE
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Purchasing	<input type="checkbox"/>	<input type="checkbox"/>	
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	

## SECTION III - REVIEW AND APPROVAL TO EXECUTE

### APPROVAL

COUNTY OFFICE	YES	NO	SIGNATURE
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Strickland, Patricia <small>Digitally signed by Strickland, Patricia Date: 2023.01.05 14:36:24 -05'00'</small>
Purchasing	<input type="checkbox"/>	<input type="checkbox"/>	
Risk Management	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<i>Summer A. Whyllie-Vitt</i> <small>Digitally signed by Whyllie-Vitt, Summer Date: 2023.01.05 09:58:50 -05'00'</small>
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Caron, Justin <small>Digitally signed by Caron, Justin Date: 2023.01.05 14:42:09 -05'00'</small>

## SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status, Title, Type, and Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date, Effective Date, and Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>



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

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Kimberly.Powell@brevardclerk.us

January 25, 2023

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

**TO:** Mary Ellen Donner, Parks and Recreation Director

**RE:** Item F.6., Resolution and Lease with the Department of the Air Force for Land Use at Port St. John Boat Ramp

The Board of County Commissioners, in regular session on January 24, 2023, authorized the Department of the Air Force to conduct environmental testing at the Port St. John boat ramp; executed and adopted the Chair to execute Resolution No. 23-004; and executed and approved the Lease with Air Force at the location for installation of the weather monitoring equipment. Enclosed is a fully-executed Resolution and Lease.

Your continued cooperation is greatly appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

*[Signature]*  
for: Kimberly Powell, Clerk to the Board

/ns

Encls. (2)

**RESOLUTION 2023 - 004**

**A Resolution of the Board of County Commissioners of Brevard County, Florida, Pursuant to Section 125.35, Florida Statutes and Section 2-247 of the Brevard County Code of Ordinances, authorizing the lease of real property; and providing for an effective date.**

**Whereas**, The United States of America, acting by its Secretary of the Air Force (hereinafter referred to as "U.S. Government") has applied to the Board of County Commissioners of Brevard County, Florida (hereinafter referred to as the "County"), to lease an area located at the Port St. John Boat Ramp, as described on Exhibit "A" and Exhibit "B", a copy of which is attached hereto (hereinafter referred to as the "Property"); and;

**Whereas**, the U.S. Government desires to use the Property to install weather monitoring equipment; and

**Whereas**, the County finds that the proposed use of the Property will promote the public health, safety or welfare, will serve the public interest, will serve a public purpose, is in the best interest of the County, and will be used in a manner compatible with County purposes; and

**Whereas**, the County desires to cooperate with and assist the U.S. Government in leasing the Property.

**Now, Therefore, be it resolved by the Board of County Commissioners of Brevard County, Florida, that:**

1. The Port St. John Boat Ramp is located at 6650 N. Cocoa Boulevard, Port St. John, Florida 32927.
2. The term of the Lease is 1 year beginning February 1, 2023 with nine 1-year renewal options per the Lease Agreement.
3. The annual rent shall be \$0.00.
4. In the event the Property is not used or ceases to be used for the purpose stated herein, the lease term shall immediately cease.

**Done, Ordered, and Adopted** this 24<sup>th</sup> day of January 24, 2023.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA



---

Rachell M. Sadoff, Clerk



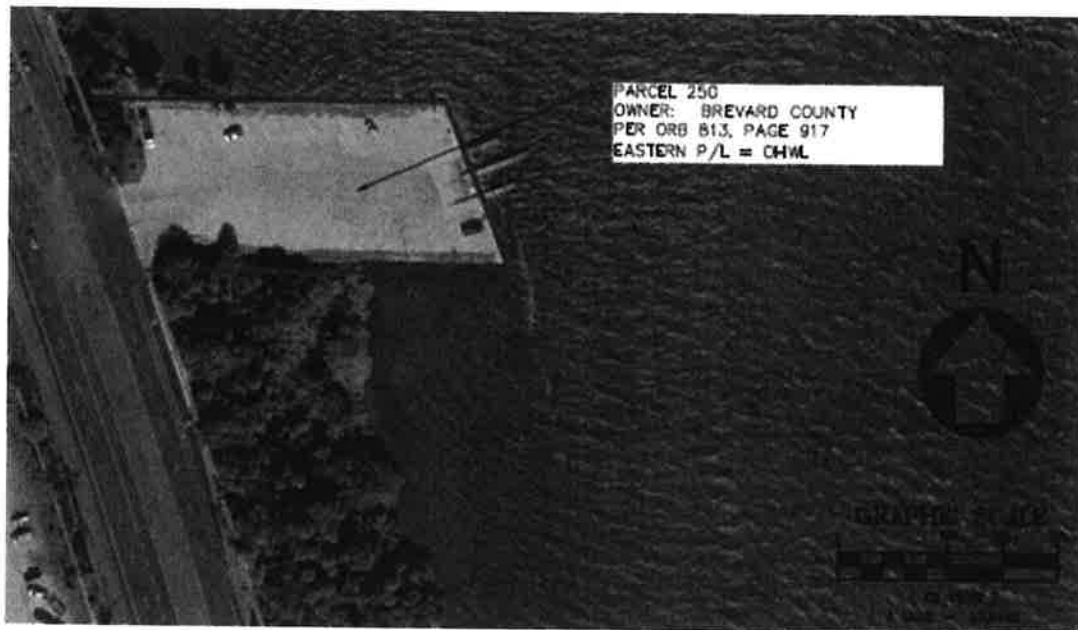
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Rita Pritchett

Chair, Brevard County Board of County  
Commissioners

As approved by the Board on January 24, 2023.

EXHIBIT "A"



## EXHIBIT "B"



# Lease to

Department of the Air Force

From

Brevard County

Florida

For

Land Use at Port St. John Boat Ramp



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## Lease

**THIS LEASE** (this "Lease") is made effective as of January 24, 2023, by and between Brevard County, a political subdivision of the state of Florida, existing under the laws of the state of Florida (the "Lessor") and The United States of America, acting by its Secretary of the Air Force (the "Government"). The Lessor and the Government may sometimes be referred to jointly as the "Parties," and each separately as a "Party." The term "Lessor" includes its successors and assigns, if any. The Government includes its assigns, if any.

The Government is entering into the Lease under the authority contained in 10 U.S.C. § 2663(c).

**NOW, THEREFORE**, the Lessor, for the consideration set forth below, hereby leases to the Government the Leased Premises (defined below), subject to the following conditions:

The Leased Premises includes the real property described on Exhibit "A" and depicted on Exhibit "B" together with the right of the Government and its officers, employees, invitees, licensees, agents and contractors to use the streets, common driving areas, sidewalks, and walkways around the real property for access to and from public streets and highways (the "Leased Premises"), and certain personal property, if any, identified in Exhibit "A" (the "Personal Property"). The Personal Property is an integral part of the Leased Premises and may be used by the Government in connection with its use of the real property included in the Leased Premises.

## Basic Terms

### Section 1. Term

The term of this Lease is one year, beginning on February 1, 2023 (the "Commencement Date"), and ending on January 31, 2024, with 9 annual renewal options at the discretion of the Government from year to year thereafter, upon the same terms and conditions, unless earlier terminated as specified elsewhere in this Lease. To renew this Lease for an additional one-year term, the Government must notify the Lessor in writing of the Government's election to renew this Lease at least 30 days prior written notice to the Lessor prior to the then current Expiration Date of the Lease.

## **Section 2. Rent**

The consideration for this Lease will be at no cost to the Government other than the protection, care, and maintenance of the Leased Premises. If rent commences on a day other than the first day of a calendar month, that portion of the rent which is payable for the period shall be prorated based on the number of days in that month.

## **Section 3. Correspondence**

Any notices or communications that may be permitted or required related to this Lease shall be in writing and shall be deemed to have been duly given and effective as of the date and time the same are personally hand delivered, transmitted electronically by facsimile, or within 3 business days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or within one business day after depositing with FedEx or other overnight delivery service from which a receipt may be obtained, and that have been addressed as follows or to such other address as either Party hereto shall from time to time designate to the other by notice in writing as provided herein.

Real Property Officer  
45 CES/CEIAP  
1224 Jupiter Street  
Patrick Space Force Base, Florida 32925

with a copy to:

Department of the Air Force  
AFCEC/CIT  
2261 Hughes Ave, Suite 155  
JBSA Lackland, Texas 78236-9853

and, if to the Lessor, to:

Brevard County Parks and Recreation Department  
2725 Judge Jamieson Way  
Suite B-203  
Viera, Florida 32940

**Section 4. Access and Inspection**

Lessor shall have the right to access the Leased Premises for purposes of inspection at any reasonable time with reasonable prior notice to the Government.

**Section 5. Default and Termination**

**Section 5.1.** The failure of the Lessor or the Government to comply with any provision of this Lease, where such failure to comply continues for 30 days after delivery of written notice, shall constitute a default or breach of this Lease. If, however, the time required to return to compliance exceeds the 30-day period, the defaulting Party shall not be deemed to be in default if within such period the actions necessary to bring the Lease into compliance have begun and are diligently and continuously pursued to until the default has been cured.

**Section 5.2.** In the event of any default and breach of this Lease, the non-defaulting Party may terminate this Lease at any time after expiration of the cure period provided for upon written notice of the termination. The termination notice shall be effective as of a date to be specified in the notice, which shall be at least seven but not more than 30 days after receipt of the notice.

**Section 5.3.** The Government or Lessor may terminate this Lease at any time by giving the other party at least 90 days' prior written notice.

**Section 5.4.** The Government shall vacate and surrender the Leased Premises to the Lessor on or before the date of expiration of the Lease, or its earlier termination. The Government will remove all of its property from the Leased Premises and restore them to as good order and condition, reasonable wear and tear and damage beyond the control of the Government excepted, as that existing on the Commencement Date, subject to Section 7 below. In the alternative and at the Government's discretion, the Government may convey any remaining improvements to lessor and/or compensate the Lessor for the diminution in value of the promises in lieu of removal and/or restoration.

**Operation of Premises****Section 6. Condition of Leased Premises**

**Section 6.1.** Prior to the Commencement Date, the following reports will be prepared and signed by the Parties and attached as Exhibits:

**Section 6.2.** A Physical Condition Report (PCR) signed by representatives of the Lessor and the Government is attached to this Lease as Exhibit "C 1". The PCR sets forth the agreed physical appearance and condition of the Leased Premises on the Commencement Date as

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determined from a joint inspection by the Parties. The PCR shall be preserved by the Government for the term of this Lease and for a period of one year thereafter. Any failure on the part of the Lessor to fully disclose any known latent defect on the Leased Premises shall be grounds for termination of this Lease by the Government.

**Section 6.3** An Environmental Baseline Survey (EBS), similar to an environmental condition report, or EBS Waiver is attached to this Lease as Exhibit "C 2". The EBS/EBS Waiver sets forth those environmental conditions and matters on and affecting the Leased Premises on the Commencement Date, as determined from the records and analyses reflected in the EBS/EBS Waiver. Any failure on the part of the Lessor to fully disclose any known environmental condition or hazard on the Leased Premises shall be grounds for termination of this Lease by the Government.

**Section 6.4.** A separate PCR for the Leased Premises shall be prepared by the Government after the expiration or earlier termination of the Lease (Final PCR). The Final PCR shall document the physical appearance and condition of the Leased Premises on the Expiration Date as determined from the records reflected therein.

**Section 6.5.** A separate EBS/EBS Waiver shall be prepared by the Government after the expiration or earlier termination of the Lease (Final EBS/EBS Waiver). The EBS/EBS Waiver will set forth those environmental conditions and matters on and affecting the Leased Premises on the Expiration Date from the records reflected therein.

**Section 6.6.** The Final PCR and Final EBS/EBS waiver will be used by the Government to determine any obligations to maintain and restore the Leased Premises under this Lease.

## **Section 7. Construction and Alterations**

The Government may place, construct, or make substantial improvements, structures, alterations, or additions to, or installations upon, and otherwise modify or alter the Leased Premises ("Alterations") with (or without) the prior written consent of the Lessor. Unless otherwise agreed in writing, all Alterations shall remain the property of the Government.

## **Section 8. Maintenance of Leased Premises**

The Government shall keep the Leased Premises in good order and repair during the term of this Lease. The Lessor shall not bear any expense concerning the premise.

**Section 9. Utilities and Services**

The Government shall be responsible for all utilities, janitorial services, building maintenance, and grounds maintenance for the Leased Premises.

**Section 10. Use of Leased Premises**

The Leased Premises are to be used for Government purposes subject, however, to all applicable provisions of this Lease. The Government may use the Leased Premises for any use not otherwise prohibited by this Lease. In the event the Leased Premises is not used or ceases to be used for its stated purpose, the lease term shall immediately cease and the Lessee will have 30 days to remove all of its property from the Leased Premises.

**Environment****Section 11. Environmental Protection**

**Section 11.1. Compliance with the Law.** The Government shall comply, at its sole cost and expense, with the Federal, state, and local environmental compliance, conservation and protection, restoration, and planning laws, regulations, and standards that are or may become applicable to its activities on the Leased Premises, including, without limitation, obtaining any environmental authorizations and permits required for its operations under this Lease. The Government, however, shall not be responsible for any act or omission of the Lessor that contaminates the Leased Premises, and the Lessor agrees to comply with all applicable environmental laws and regulations as a result of any such act or omission, and to the extent permitted by law, the Lessor agrees to hold the Government harmless from, and indemnify and defend the Government against, any action activity or event that results in or causes contamination to be released on, the Leased Premises by the Lessor.

**Section 11.2. Reporting Notices of Noncompliance.** The Government shall notify the Lessor of any notices of noncompliance, notices of violation, consent orders, or other notification the Government receives from any Federal, state, or local government agency that alleges the Government has violated or may be in risk of violating an applicable environmental law, regulation, permit, or administrative order. The Government shall make notifications under this section in a timely manner, but no later than 36 hours after receipt of a notification from a Federal, state, or local government agency.

**Section 11.3. Wetlands.** The Government shall protect any wetlands found or identified on the Leased Premises from destruction, loss, or degradation, consistent with the requirements of applicable law.

**Section 12. Historical Property**

The Government will comply with all laws applicable to historical property located on the Leased Premises, if any.

**Changes in Ownership or Control****Section 13. Assignments, Subleases and Licenses**

**Section 13.1.** The Government may not assign this Lease or sublet the Leased Premises for any purpose not provided in this agreement without the prior written consent of the Lessor, which shall not be unreasonably withheld, delayed, or qualified.

**Section 13.2.** Any assignment or sublease granted by the Government shall be consistent with all of the terms and conditions of this Lease and shall terminate immediately upon the expiration or any earlier termination of this Lease. Under any assignment made, with or without consent, the assignee shall be deemed to have assumed all of the obligations of the Government under this Lease.

**Section 13.3.** The Government shall deliver to the Lessor, for its prior written consent, a copy of each agreement of sublease or assignment it proposes to execute. Consent or rejection by the Lessor shall be given within 10 business days of receipt of the proposed agreement.

**Section 13.4.** Any agreement of sublease or assignment must expressly provide the following:

- A. The sublease or assignment, as the case may be, is subject to all of the terms and conditions of the Lease.
- B. The sublease shall terminate on the expiration or earlier termination of this Lease.
- C. The sublessee or assignee, as the case may be, shall assume all of the obligations of the Government.
- D. In case of any conflict between any provisions of this Lease and any provisions of the agreement of sublease or assignment, this Lease will control. A copy of this Lease must be attached to the agreement of sublease or assignment.

**Section 14. Easements and Rights of Way**

**Section 14.1.** This Lease is subject to all existing easements, rights-of-way, and rights in the nature of an easement or right-of-way (collectively "Outgrants") related to the Leased Premises.



**Section 14.2.** The Lessor has identified all Outgrants in the attached Exhibit "D".

**Section 14.3.** The holders of such Outgrants shall have reasonable rights of ingress and egress over the Leased Premises in order to carry out the purpose of the Outgrants.

## **General Provisions**

### **Section 15. Headings or Titles**

The brief headings or titles preceding each section are merely for purposes of identification, convenience, and ease of reference, and will be completely disregarded in the construction of this Lease.

### **Section 16. Counterparts**

This Lease may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page of this Lease by facsimile or other electronic means shall be effective as the delivery of a manually executed counterpart of this Lease. The Parties agree that such electronically exchanged or stored copies will be enforceable as original documents.

### **Section 17. Entire Agreement**

It is expressly agreed that this written instrument, together with the provisions of other documents that are expressly incorporated by reference by the terms of this Lease, embodies the entire agreement between the Parties regarding the use of the Leased Premises by the Lessee. In the event of any inconsistency between the terms of this Lease and of any provision that has been incorporated by reference, the terms of this Lease shall govern. There are no understandings or agreements, verbal or otherwise, between the Parties except as expressly set forth in this Lease.

### **Section 18. Prior Leases**

This Lease supersedes all prior Leases if any, to the Government for the Premises, but does not terminate any obligations of the Government under such prior Leases that may by their terms survive the termination or expiration of those prior Leases, except to the extent such obligations are inconsistent with this Lease. In the event that any prior lease or license between the Parties for the use and occupancy of the Premises has expired prior to the execution of this Lease, the Parties acknowledge that the Government has had continuous use and occupancy of the Premises pursuant to the prior agreement since the expiration of the prior agreement.

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**Section 19. Time of the Essence**

Time shall be of the essence with this Lease.

**Section 20. Taxes**

The Lessor shall pay to the proper authority, when and as the same become due and payable, all taxes, assessments, and similar charges that, at any time during the term of this Lease, may be imposed upon the Lessor with respect to the Leased Premises.

**Section 21. General Indemnification by Government**

To the extent permitted by law, including but not limited to the Federal Tort Claims Act (28 U.S.C. §§ 2671 et seq.), the Government shall not be relieved of responsibility for loss or damage that is solely the result of the negligence or willful misconduct of the Government in and from its use of the Leased Premises. Nothing in this Lease shall be construed to constitute a waiver of Federal Supremacy or Federal Sovereign Immunity.

**Section 22. Insurance**

The Government is self-insured.

**Section 23. Disputes**

The Parties shall at all times try to resolve disputes in an amicable manner. However, the Parties reserve all rights afforded them under law to resolve any such dispute by any lawful means.

**Section 24. Amendments**

This Lease may be amended at any time by mutual agreement of the Parties in one writing and signed by a duly authorized representative of each Party.

**Section 25. Report To Congress**

This Lease is not reportable under 10 U.S.C. § 2662.

**Section 26. Damage to Government Property**

The Lessor shall not be responsible for damage to Government property pursuant to any grants provided under this agreement, except those of gross negligence or willful misconduct on the part of lessor, lessor's agents, and lessor's assigns.

### **Section 27. Compliance with Applicable Law**

The Government will comply with all applicable laws in its use and occupancy of the Leased Premises. Nothing in this Lease shall be construed to constitute a waiver of Federal Supremacy or Federal sovereign immunity.

### **Section 28. Holding Over**

If the Government shall remain in possession of the Leased Premises after the expiration of the Term hereof, or any extension of the term as herein provided, then such holding over shall be construed as a tenancy at will from month to month at the monthly Rent payable hereunder and, subject to all other terms and conditions of this Lease insofar as the same may be made applicable to a month to month tenancy.

### **Section 29. Restrictions on Use of Leased Premises**

Reserved.

### **Section 30. Exhibits**

Four exhibits are attached to and made part of this Lease, as follows:

Exhibit "A" – Description of Leased Premises

Exhibit "B" – Map of the Leased Premises

Exhibit "C-1"- Physical Condition Report (PCR)

Exhibit "C-2"- Environmental Baseline Survey (EBS) or EBS Waiver

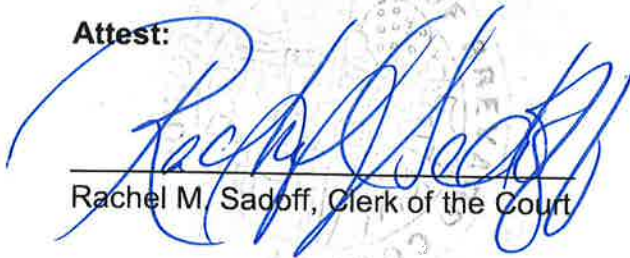
Exhibit "D" – List of Outgrants

(Remainder of Page Left Intentionally Blank)

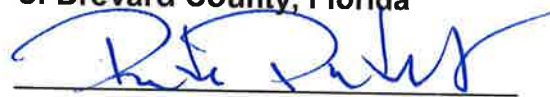
## Lessor Signature Page to Lease

**In Witness Whereof**, the parties hereto have caused this Lease to be executed by its duly authorized representatives effective as of the last date below.

**Attest:**

  
Rachel M. Sadoff, Clerk of the Court

**Board of County Commissioners  
of Brevard County, Florida**

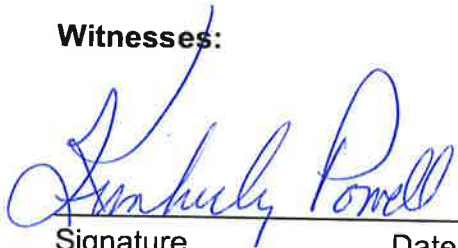


Rita Pritchett, Chair

As Approved by the Board on January 24, 2023

**SEAL**

**Witnesses:**

 1/25/2023  
Signature Date

  
Printed Name

 1/25/23  
Signature Date

  
Printed Name

## Government Signature Page to Lease

**THE UNITED STATES OF AMERICA**

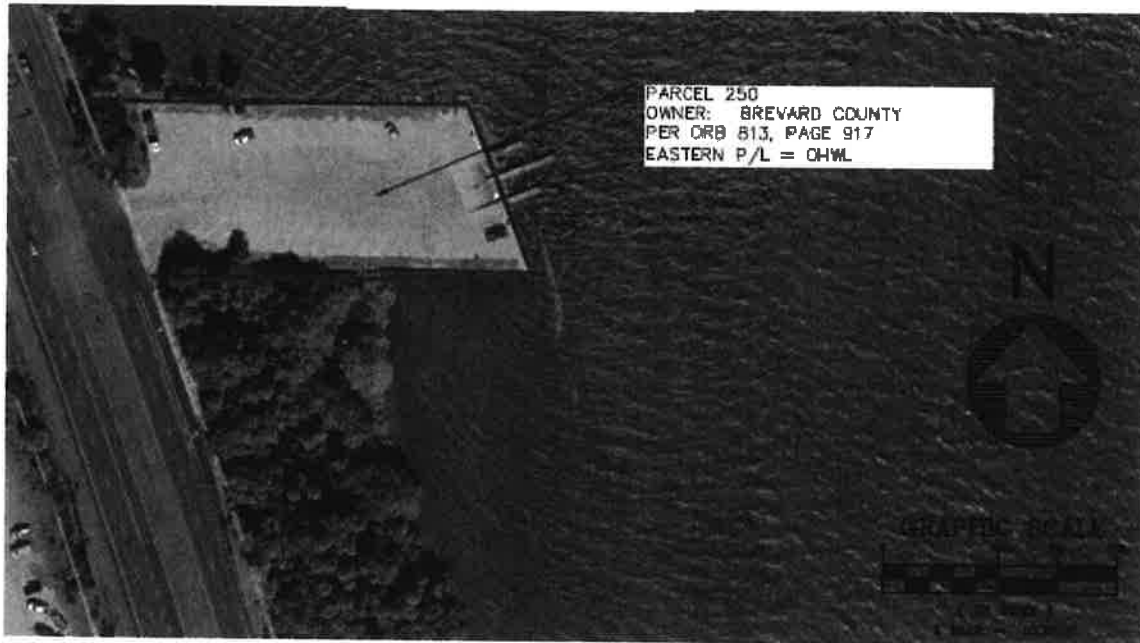
By the Secretary of the Air Force

Date: \_\_\_\_\_

By: \_\_\_\_\_  
**Name**

\_\_\_\_\_  
**Title or Position**

**Exhibit "A"**  
**Description of the Premises**



*Figure 1 Aerial View of Port St. John Boat Ramp Outlined in Blue*

# **Exhibit "B"** **Map of Premises**

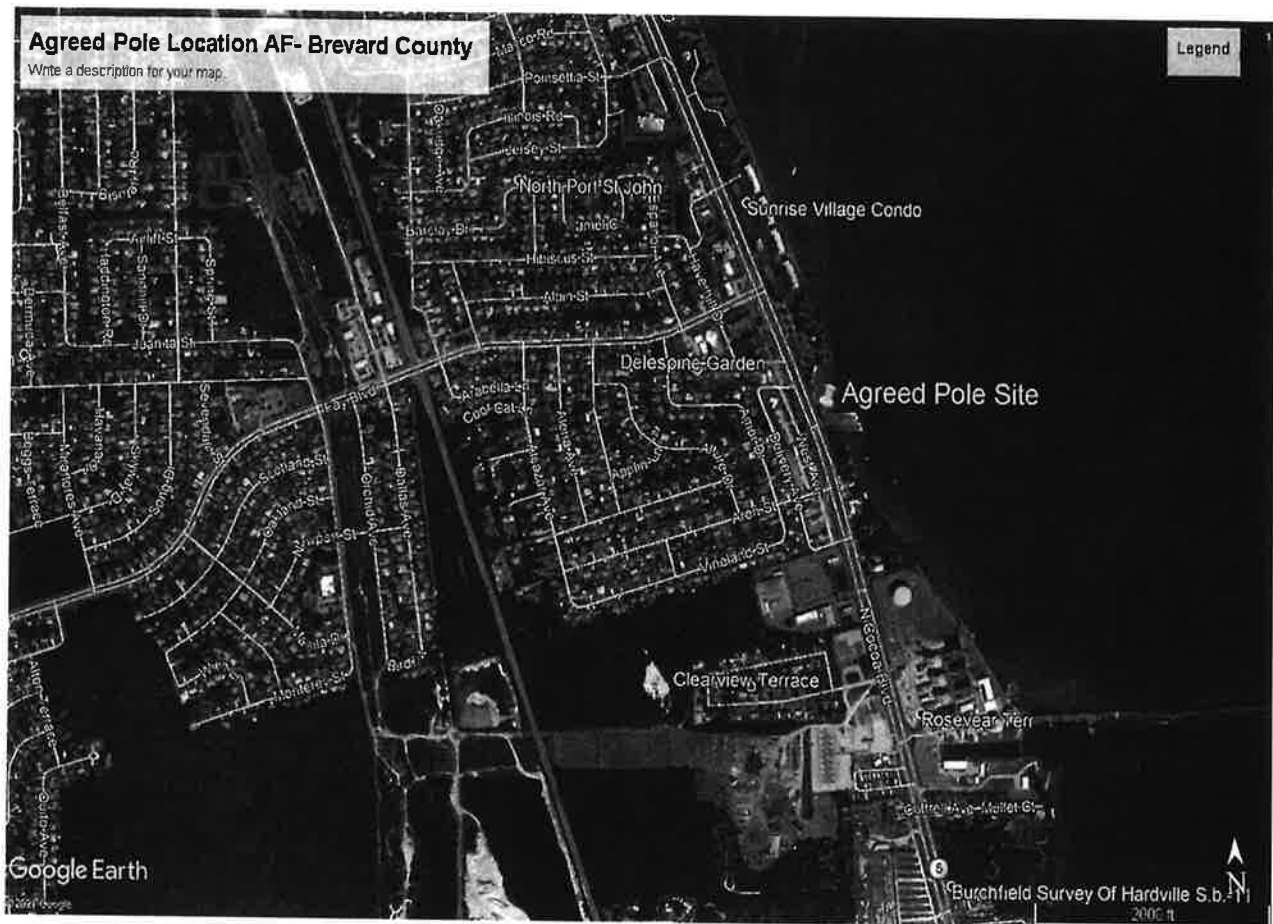


Figure 2 Aerial Map of Port St. John Boat Ramp and Surrounding Area with Agreed Pole Site Identified with Yellow Push Pin



Figure 3 Aerial View of Port St. John Boat Ramp with Agreed Pole Location Identified by Yellow Push Pin





*Figure 4 Photo taken from Port St. John Boat Ramp Parking Lot of Agreed Pole Location Identified by a Red Dot*



*Figure 5 Photo Taken From the North East Corner of Port St. John Boat Ramp with Agreed Pole Location Identified by Red Dot*

Lease No. \_\_\_\_\_

**Exhibit "C 1"**  
**Physical Condition Report (PCR)**

The PCR Title \_\_\_\_\_ and dated \_\_\_\_\_  
incorporated by this reference.

Lease No. \_\_\_\_\_

**Exhibit "C 2"**  
**EBS or EBS Waiver**

**Page 21 of 22**

Form approved by  
SAF/GCN-5 Aug 21  
Previous versions are obsolete

**Exhibit "D"**  
**List of Outgrants**

None. No Outgrants shall be granted from the Leased Premise.