



**AGENDA REPORT**  
**July 24, 2018**

**Discussion and Board Direction Re: Valkaria Airport Pending Revision to Board Policy BCC-79; Subleasing Activity; Aircraft Ownership Requirements**

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**SUBJECT:**

Discussion and Board Direction Re: Valkaria Airport Pending Revision to Board Policy BCC-79; Subleasing Activity; Aircraft Ownership Requirements

**DEPT/OFFICE:**

County Manager

**REQUESTED ACTION:**

It is requested that the Board consider and discuss what direction to give Staff to incorporate into the pending revision to Board Policy BCC-79 (current version attached), especially with respect to subleasing activity at Valkaria Airport and addressing aircraft ownership requirements.

**SUMMARY EXPLANATION and BACKGROUND:**

Recently, numerous complaints and concerns have been raised regarding some aspects of the existing Valkaria Airport rules and regulations (Board Policy BCC-79 Exhibit B attached) and some provisions in the current standard hanger lease used by the Airport (see Exhibit D attached). One result of these concerns and complaints was that the County Manager engaged the internal auditor to investigate and report their findings regarding these matters. This report was completed on June 6, 2018, and was immediately provided to the Board. The report is attached to this agenda report ( see Exhibit C). several items associated with the report have been addressed by management and the airport manager. However, a few items remain to be addressed and require Board direction. These matters are issues and concerns associated with subleasing of hangars, hangar leasing/lease wait list concerns, ownership of aircraft requirements and the rates and fees for services charged by the airport. Staff provided a detailed description of these concerns on Attached Exhibit a and have outlined the needed direction options below.

Subleasing Direction Options:

1. Bar additional subleasing tenants but allow the existing subleasing tenants to enter into co-lease arrangements to become legitimate co-tenants. Under this arrangement all existing tenants and subleasing tenants would become co-tenants, jointly and severally responsible for their obligations as tenants. This option protects future prospective tenants on the hangar wait list while allowing for existing sub-

lessors to continue as co-tenants. Under this co-tenant arrangement, in the event any joint tenant drops out of the hangar lease, the hangar would become available to the next wait list candidate. This arrangement would require staff to take steps to assure proper insurance coverages are in place, to monitor the status of co-tenant arrangements and may subject the County to some of the subleasing concerns outlined below.

2. Strictly enforce the existing prohibition on any subleasing. Provide up to 30 days for existing tenants to get any subtenants out of their hangars. Failure to do so would lead to termination of the lease with 30 days of notice as provided for within the lease. This option avoids all subleasing concerns listed in the attached staff report.
3. Allow sub-leasing subjecting the Airport and the County to the subleasing concerns outlined in the attached documentation. This option would require elevated efforts and expenses to control activities and assure proper insurance coverages; may prevent the award of future grants; may result in increased costs for outstanding bonds, and may risk exposure to discrimination claims.
4. Other options as directed by the Board

**Aircraft Ownership Options:**

1. Strict enforcement resulting in termination of the lease upon finding that a tenant does not have a current ownership/lease interest in aircraft stored in the hangar or aeronautical use of hangar approved and authorized by the airport manager.
2. Strict enforcement resulting in termination of the lease upon finding that a tenant does not have a current ownership/lease interest in aircraft stored in the hangar or aeronautical use of hangar approved and authorized by the airport manager with an allowance of 90 days for the tenant to remedy any violations.
3. Allow for a tenant to have up to 6 months without an aircraft in the hanger prior to termination of the lease unless an airport manager approved and authorized aeronautical use of the hangar exists. This would allow for tenants to replace or repair aircraft. It would also allow for snow birds/ tenants who travel with their aircraft to reasonably come and go without loss of their lease.
4. If subleasing is permitted, and the tenant does not have an aircraft in the hangar or an airport manager approved aeronautical use of the hangar, the tenant could be permitted up to 30 days to get a subleasing tenant in the hangar or lose the lease. This option should only be considered with awareness of the above itemized concerns associated with subleasing.
5. Other direction from the Board

**Next Steps:**

After receiving direction from the Board on the above concerns, staff will prepare drafts of revised Board Policy BCC-079, a revised standard hangar lease, Minimum Standards for the Airport, and a revised and updated schedule of rates and fees as soon as practicable. These documents will require revision subject to the referenced Board Direction.

**CLERK TO THE BOARD INSTRUCTIONS:**

Forward Board direction to the County Manager's Office

J. 2.

**Donna Scott**

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**From:** Lewis, Sally A <Sally.Lewis@brevardfl.gov>  
**Sent:** Tuesday, July 24, 2018 11:39 AM  
**To:** Donna Scott  
**Subject:** FW: Valkaria Airport Hangar Lease

Please include the following email in the package for Item J2 Public Comment Thank you, Sally

-----Original Message-----

**From:** Justin Stovall [<mailto:stovallfl@gmail.com>]  
**Sent:** Tuesday, July 24, 2018 7:45 AM  
**To:** Lewis, Sally A  
**Subject:** Valkaria Airport Hangar Lease

Dear Commissioners,

I am a current tenant holder at Valkaria airport. It has been brought to my attention that the leases are under review. I am also to understand that the options to review and vote on are to allow sub-leasing for one entity and also allow that entity to jump the waiting list for a large hangar.

I am currently on the list for a large hangar and I am towards the front of the list. If this was to happen and I was passed up this would be a extremely difficult pill to swallow. I was on the list for years for a smaller hangar and waited my turn like everyone else. I do not support the practice of people jumping the list.

I am also not in support of sub-leasing hangars. How can the county control what an individual would charge and the possibility of someone profiting on the county property. This practice would promote individuals to never give up their hangar and therefore the list would never move.

Thank you for your consideration on this matter and I hope you do the fair thing.

Justin Stovall

Sent from my iPhone

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

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July 25, 2018

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

**TO:** Frank Abbate, County Manager

**RE:** Item J.2., Discussion and Board Direction for Valkaria Airport Pending Revision to Board Policy BCC-79; Subleasing Activity; Aircraft Ownership Requirements

The Board of County Commissioners, in regular session on July 24, 2018, approved Subleasing Direction Option 2 to strictly enforce the existing prohibition on any subleasing; provided up to 30 days for existing tenants to get any subtenants out of their hangars; and directed staff to make the decision on aircraft ownership, not to exceed six months, as long as the Bond Counsel is in agreement.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

/cmw

cc: Valkaria Airport Manager

KI: Option 2, we enforce... there is a second item, should we address those separately, Eden?

Eden: You can do it either way, you can do it together.

KI: Okay, let's do that. So, for subleasing direction I would make a motion that we go with option 2 to strictly enforce the existing prohibition on any subleasing and where we provide 60 days for existing tenants to get any sub-tenants out of their hangars.

CS: Second.

RP: I have a motion and second, Commissioner Tobia?

JT: Just one quick question, and I don't know if this would be the County Attorney or Mr. Denninghoff, with the whole bonding, IRS issue, is that 30-60 days going to make a difference in your opinion? Because I have no problem with the 60 days, if it triggers anything this IRS stuff, it would really scare me.

JD: I don't know that we can really know the answer to that question. It is unlikely that it would happen that quickly, so we are probably safe, I would think, but I can tell you, the IRS is a harsh task master.

JT: So, my question... I'm more concerned with the County's liability with the \$10 million than a few folks that may have to look to get out of there in 30 days as opposed to 60. So, as the Assistant County Manager, over that area, and waiting for our direction, would you feel more comfortable if it was 30 days rather than 60 days?

JD: The lease actually provides for a 30-day termination of a lease, so if they are in violation of the lease, they have 30 days to come into compliance. So, to implement something other than 30 days would sort of disregard what the lease has in it, but I don't know if there is a horrible situation if it goes 60.

JT: Thank you.

JB: First, I don't even know why we're taking a vote on this. We just need to enforce the lease and enforce the rules, bottom line. You know, the... I do have a question. We talked about the one organization that doesn't have aircraft there or whatever. Under FAA requirements it says it has to meet FAA requirements for an aeronautical activity, do they do that or not?

JD: My assessment is that absent sub-leasing, and since they do not own aircraft, by the FAA's definition, it is a non-aeronautical activity and should probably not be on the airport. On the other hand if they have an aircraft then they come into compliance.

JB: I'd like just one last thing, too. I'm for this, where we are going to enforce the law, enforce what the requirements are, but, truly, those who had the lease know they are not supposed to sub-lease, so I mean I think they need to get out immediately, really. That is what the lease says.

RP: I'm almost with you on that. I, one, I was kind of interested because this did come to us. It is something that y'all should have probably just done in house and taken care of the situation. Two, Commissioner Tobia, I would be a little concerned about the IRS issues, I think we should do what we would typically do. I am almost in agreement with Commissioner Barfield. Here's my thought, you have people waiting on this, so you go ahead and get the big hangar and you are going to rent it out to everybody else. I don't know how much money they had coming in, they are paying \$1,100, and on an entity that is run by the government to help give opportunity is wrong in so many ways, and I was just like, mm I gotta fix that. Here's a question, Commissioner Isnardi threw this out, and this concerned me, we allowed this to go on for years?

KI: Yes. We did.

JD: It has taken place for some time, I don't know exactly how long.

RP: Have we known about that and not done anything about it.

JD: I think there was confusion early on with the Piero/VAA relationship that could have been interpreted that the VAA actually had some interest in the Piero aircraft. When we did the aircraft hangar inspection, quite frankly, under my direction, Mr. Borowski did a more thorough inspection and reported back, and part of that was to check on the ownership of the aircraft in compliance with the leases; and that was actually done prior to many of the allegations that come up, and we needed to check the leases and the hangars for compliance with our lease, and it was determined from that that we verified from the records we had available, that none of the aircraft in hangar 71 were under the ownership of the tenant, which made them all in our view sub-tenants, or sub-lesors, and so the issues started to bubble up from that. That is when we knew for sure that we had the issue that we have before you today.

RP: Okay, because I wouldn't like if as a government we were not enforcing our contracts, I think it is really important that we do that, so okay, I will probably not support a 60 day, I probably would handle a 30 day, but I do think this really hasn't been okay. Commissioner Isnardi?

KI: I'd be willing to amend my motion. The only reason why I suggested the 60 days, is because regardless of what staff is saying, this has been going on for years, people have complained about it for a very, very long time. So, whether we chose to turn a blind eye, whether we chose to bring it up and start to enforce the rules and enforce our lease now is on us, but don't be fooled. This has been going on and we've known about it. The problem is, it has never been an issue, it has never been a problem, because these people are complaining and bringing it to the Commissioner's attentions and people are complaining about the manager, and it is like a big soap opera. But the bottom line is we do need to enforce our lease agreements that we have, so I'm okay, I'll amend my motion, if that is okay.

RP: Amending your motion as a whole?

KI: Amending my motion to make it within 30 days.

JB: If this is an issue at this airport, I think we need to do an analysis of other airports to make sure we do not have this situation there.

RP: We are now at...

KI: We have a second motion.

RP: We do?

KI: Yes, Aircraft Ownership Options.

RP: Okay. Alright, Commission?

KI: We have another item on this issue regarding aircraft ownership, and I am open for options as far as, you know... Obviously we will probably all agree that the person should own an aircraft to rent and be the attendant of a hangar, but what kind of time-frame, because I guess there was some concern and issue with people possibly snowbirding.

JD: Yes, Commissioners, we have, in effect, we have right now, two snow bird tenants. They are gone for much of the year, four, five, maybe even six months at a time, and one of the questions is if we consider that not storing an aircraft. Obviously when someone is out flying an airplane, there is no airplane in the hangar, so you have hours of vacancy versus six months, so somewhere in there we need to be able to draw a line, and for some people, if you are high on the waiting list, oh gee whiz, they are gone six months, I want that lease to be terminated, so we were looking for some guidance from the Board on how we might want to try to handle that. So there is a range of time in there that we need guidance on.

KI: Again, that would be my concern. My concern would be if they are renting a hangar, and they own an aircraft, it should make no difference if they are parking in there six months out of the year or ten months out of the year, if they are paying for it, and they legally are allowed to lease it under our terms, I do not see what the issue would be. So would that be Option 3?

JD: Option 3 would allow us to allow a tenant to have up to six months of vacancy, if you will. One of the things that also allows this to be done, is that an aircraft could be flown to another location to get work done on it and it might be gone for several weeks or a couple months of that scenario of being repaired or modified. But, in any event, if we have some guidance on the time frame, we can draw a hard line and then have that as a requirement that we can work into a little standard lease that we could bring back sometime in August and we'd make that so any tenant is aware of the time limit and then there would be no surprises, and we would be able to deal fairly with everyone, including the waitlist.

FA: The additional language that is in there also that six month time period would also provide the opportunity for a current tenant who sells an aircraft, to replace an aircraft and that specific language is included there in Option 3.

RP: Commissioner Tobia.

JT: Thank you Madame Chair, just a couple quick questions, can you tell me what the contract, the voluntary contract that these folks signed, does it say aeronautical purposes, and the second part to that question is, we talked about the time-frame with the IRS bonds and the subleasing, are any of those provisions triggered when it comes to this aeronautical ownership, or are we in your opinion, or should I get the County Attorney's opinion here safe for none of those triggering on any of these options potentially.

JD: If they own the aircraft and are using it, I think... Well, the FAA doesn't have specific rules about how long the tenant... it could be vacant from the hangar, although it does specify that it has to be used for aeronautical activities or use; they have 12 different categories, and I do say categories of use, that qualify for aeronautical uses. This one is principally storage of aircraft. So, we are allowed a certain amount of latitude on what we would allow for a vacancy, I think the question is, is it fair? And I think we are okay if it is defined in the lease. Whenever we make a suggestion on a lease change, we run it to bond counsel to make sure he doesn't have a problem with it and if he does, we will make a modification to make him happy. So, in this case, if it was six months, if it was less than six months, we would go to the less than six months when we bring it back to the Board, and the reason for the less than six months, assuming that is the direction you give us, would say because it better be more like three months. We just don't know right now where he's going to draw that line, we haven't attempted to go there, we didn't know where the Board was going to go with this.

JT: So, Madame Chair, I think we are all, I think we have heard from all of us that we are concerned about the IRS issue, I'd hate to say six months up here and then you find out bond counsel says anything over 90 days and we're in trouble. I think... I know I certainly trust staff to make that decision. I understand there was... I mean we generally have new leadership here in Brevard County that I'm very thankful for, and I really appreciate you riding the ship here on what was astray for it sounds like many, many years, when you were working hard paving roads and had nothing... no mindset on what was going on in the airport, so I guess that would be Option 5 to leave this to an administrative decision, so we don't have to deal with this again in three weeks when bond counsel comes back with something that we direct. I would make a motion to direct staff to make the decision in the fairest amount of time as possible without getting us in any problem with the Federal bonds that are currently out there.

Eden: I agree with Mr. Denninghoff, and the lease provisions are very broad. It would be good if we could clarify them and tighten them up a little bit using the process that you suggested is a great idea.

JT: Motion to leave this administrative decision to the County Manager and staff to make sure that we're in compliance with the bond counsel's recommendation.

JB: Second.

KI: I would just suggest, because, per our... or at least my direction, or at least my suggestion, is that we try to aim for the six months, if possible, unless we are told otherwise. Maybe if the Commission is okay with that, to prevent...

RP: I agree, Do we have a consensus on that, that staff would try to...

KI: if it works.

JT: So, I'll amend the motion to give the County Manager...

FA: We're going to target six months.

JT: to go as long as possible not top exceed six months as long as we get the okay from the bond authority.

KI: I just wanted to say one more thing. The only reason this was brought back to our Board was because of so many moving parts, it wasn't because our manager, or County Management didn't want to enforce the rules, or enforce our leases, we just had a lot going on. So, what they are looking for was we did the audit, and they were looking for Commission direction to make sure this is what we wanted. Because for all they knew, we would have been okay with subleasing and will take the risk, I mean obviously none of us are willing to do that, but it wasn't that they weren't enforcing it, it was just that these people have been allowed to do this for a long time, and we were coming in and now saying these are the new rules, they wanted to make sure the Commission was aware of it. That's why it was brought back to us.

RP: Motion and second on the table.

## Deborah Thomas

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**From:** Lewis, Sally A <Sally.Lewis@brevardfl.gov>  
**Sent:** Thursday, July 26, 2018 9:25 AM  
**To:** Denninghoff, John P; Borowski, Steve  
**Cc:** Christine Mulligan-Willey; Deborah Thomas; Donna Scott; Kimberly Powell; Tammy Rowe  
**Subject:** FW: Changes in hanger allocation.

The following email was in my junk mail and I didn't see it until today.  
Clerks office: Please include this in the public comments for the 7/24/18 agenda item J 2.  
Thank you,  
Sally

**From:** Jim Stovall [mailto:stovall.jim@gmail.com]  
**Sent:** Tuesday, July 24, 2018 7:49 AM  
**To:** Lewis, Sally A  
**Subject:** Changes in hanger allocation.

Dear Commissioners,

I've been made aware a meeting today concerns the above subject. If, as reported, the subject is to allow individual or corporations to jump the queue, to obtain a hanger, despite the fact others have been on the list for years, then I must voice my strong objection. I am actually am on that list. I'm a Brevard County resident and tax payer., and would be surprised if such policies were approved, even as a one exception.

Regards,

Francis Stovall

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**Brevard County, Florida  
Specific Review of Valkaria Airport**

EXHIBIT C



June 6, 2018

THE POWER OF BEING UNDERSTOOD  
AUDIT | TAX | CONSULTING





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## TRANSMITTAL LETTER



RSM US LLP

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June 6, 2018

Frank Abbate  
County Manager  
2725 Judge Fran Jamieson Way  
Building C, Suite 301  
Viera, FL 32940

Per your request during a meeting on April 26, 2018, between RSM US LLP ("RSM") and Brevard County, Florida ("County"), we hereby submit our report on the specific areas of concern regarding Valkaria Airport operations ("Airport") as accumulated by the County Manager's Office. This review focused on allegations around Airport procedures for leasing hangars including enforcement of tenant compliance with terms and conditions of lease agreements, hangar base rates and comparison with market rates, hangar waiting lists, and use of Airport facilities including the Aircraft Operational Area ("AOA") and related compliance with the Federal Aviation Administration ("FAA") rules and regulations.

The objective for this internal audit was to conduct certain procedures around areas of concerns at Valkaria Airport as brought forth by the County Manager's Office. Our approach consisted of the following:

- Review the documentation provided by the County Manager's office to identify the allegations being made by certain tenants of the Airport.
- Conduct interviews with key personnel and others to obtain an understanding of the airport operational activities with a focus on hangar lease agreements, hangar waiting list, and aircraft operational area and related compliance with FAA rules and regulations.
- Take a tour of the facility to gain an understanding of the operations and assess the County's concerns over activities held at Valkaria Airport.
- Perform audit testing and research where applicable.
- Summarize the results of procedures and testing performed into a report, including recommendations to current airport operations.

We held a kickoff meeting on April 26, 2018, with the County Manager and the Assistant County Manager and met with representatives of the Airport on May 2 and May 3, 2018 including the Airport Manager and Assistant Airport Manager. We performed onsite fieldwork through May 26 at the Airport location and met with hangar tenants and consulted with the FAA throughout the process to understand their view of the Airport operations. The results and recommendations have been included in this report.



## TRANSMITTAL LETTER - CONTINUED

### Results

Over the past seven years, the County has expended more than \$10 million in grants to fund a robust capital improvement program at the Valkaria Airport, and the plan includes almost \$8 million in additional improvements in the near future. This includes additional runway, pavement improvements, new hangars, lighting, a terminal, and other projects. As a result of the growth, expanded offerings and more frequent / larger activities at the Airport, a higher level of awareness has been placed upon the Airport. The grants utilized for these improvements include compliance requirements (i.e., Grant Assurances) in addition to FAA and applicable Florida Department of Transportation ("FDOT") rules and regulations, as well as any associated regulations with respect to a Federal quit-claim deed and Chapter 14-60.007, Florida Administrative Code for "Airfield Standard for Licensed Airports." There are also debt covenants and tax considerations with respect to commercial paper loan proceeds that were used for matching grant funds. There are multiple layers of compliance requirements with respect to the Valkaria Airport. With the increased compliance requirements, additional awareness and promotion also comes a deeper level of scrutiny and responsibility for compliance as well as the need to update and implement industry-accepted practices over the operations at the facility.

The following primary themes were revealed as our procedures were completed:

- Poor documentation and communication around the wait list, rules and regulations and general correspondence with the FAA and other regulators;
- General laissez faire attitude regarding compliance with hangar lease terms and conditions, and
- Lack of transparency and accountability.

Where deemed necessary, we have included process improvement recommendations to address these themes.

Respectfully,

*RSM US LLP*

*Internal Auditors*

cc: Audit Committee of Brevard County



## BACKGROUND

### Overview

Valkaria Airport is a 659-acre facility located in a low-density rural residential area within the corporate limits of the Town of Grant-Valkaria and on the southern edge of the Town of Malabar. Originally built by the US Navy in 1942, ownership was transferred to Brevard County in 1958 by the War Assets Administration. Valkaria Airport is a non-towered public-use general aviation airport owned and operated by Brevard County under a 1958 quit claim deed from the US Government. Valkaria Airport is classified by FAA as a "basic" airport, and is used for recreational flying and for landing practice by nearby training schools, and primarily serves the communities of Grant-Valkaria, Malabar, and Palm Bay. The Airport provides operational oversight of two active runways, associated taxiways, parking areas, aircraft tie-down areas and 71 hangar units. Additionally, the Airport provides land and facilities for the Habitat golf course and the County Mosquito Control department. The Airport is led by the Airport Manager and there is one other full-time position, Assistant Manager, who reports to the Airport Manager.

The Airport performs routine maintenance of runways and taxiways and other facilities funded through grants received from the Federal Aviation Administration and the Florida Department of Transportation with matching funds generated from airport revenues and loan proceeds. Ongoing capital improvement projects are also implemented as approved by the Board of County Commissioners ("BOCC" or "Board") and funded through grants and matching funds. The Airport's operational funding is derived from charges for services through hangar space rental and aircraft tie-down permits, as well as fuel sales. The Airport does not receive any funding from the County's general revenue funds.

There are 71 hangars for lease at the Airport, including T-hangars, large hangars and half hangars at 100% occupancy. There are 58 hangar tenants, as several tenants have more than one hangar. The Airport maintains a sizeable waitlist dating back to 2014 for those with a desire to lease space. It is rare that the Airport has a tenant that turns over. As of the date of this report, the Airport waiting list includes:

	T-Hangar	Large Hangar	Half Hangar	Rotorcraft <sup>1</sup>
Waiting Individuals	157	63	24	19

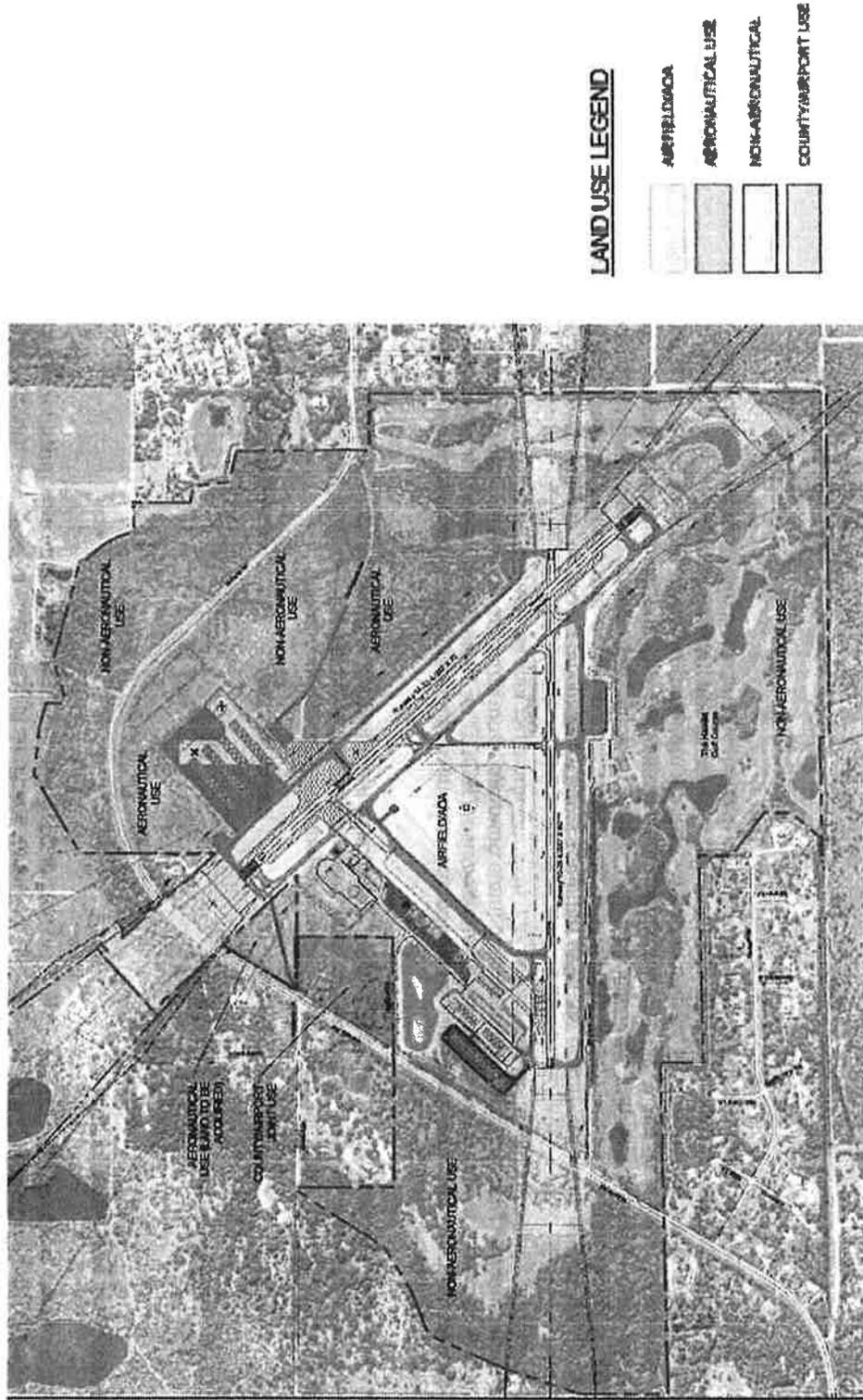
### Airport Master Plan and Airport Layout

The County produced a Master Plan Update ("MPU") in May of 2015 with the intention to serve as a guide for the growth and development of the Airport during the planning period 2015-2034 in a manner consistent with the needs and goals of Brevard County. It was intended for an update to the existing master plan conducted in 2006. This document is a comprehensive plan addressing future needs to remain in compliance with FAA regulations and the needs of the community. The MPU was submitted and accepted by the FAA, and the Airport Layout Plan ("ALP") was approved by the FAA in April 2016.

<sup>1</sup> As of May 2018, there are no rotorcraft hangars located at the Airport. However, a waiting list is maintained in case they are built in the future.

**Airport Master Plan and Airport Layout – continued**

An illustration of the most recently approved ALP is shown below.





## BACKGROUND - CONTINUED

### Airport Growth and Construction

There are several construction projects in progress to address the recommendations outlined in the MPU and meet the demands of the growing County. As noted in the County's Capital Improvement Plan ("CIP") plan, these projects include:

<p><b>Airport Administration and General Aviation Terminal</b></p>	<p>The Airport has experienced tremendous itinerant and local traffic growth over the last several years. Per the CIP, current air traffic operations exceed 53,000 annually. The current airport trailer does not meet the daily demand for pilot planning and training in addition to airport administration requirements. This project will be located adjacent to the existing aircraft parking apron and will include construction of a small pole barn to house expensive equipment. This project is currently in progress and is expected to be completed in Summer 2018.</p>
<p><b>Hangar -- F Complex</b></p>	<p>The Airport is experiencing 100% occupancy and there is an extensive waiting list that continues to grow at a rate out-pacing hangar turnover. The new hangar will accommodate a portion of that demand. Estimated Project Total: \$2,550,000. This project is currently in progress and is expected to be completed in early 2019.</p>
<p><b>Rehabilitation of Primary Runway</b></p>	<p>The primary runway's pavement condition index is below standards. The FAA and FDOT have made recommendations to improve the safety of operations and bring the Airport back to FAA and FDOT standards. Estimated Project Total: \$4,755,840. This project is currently in planning and is expected to be completed in Fall 2018.</p>

The chart below illustrates the 10-year trend and history of grant expenditures for capital improvements at the Airport.

**Valerian Airport  
Grant Expenditure History  
2008 - 2017**

Grant #	Title	Funding Agency	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	10-Year Total
20.106	Airport Improvement Program	US DOT / FAA	\$ -	\$ -	\$ 122,699	\$ 270,369	\$ 2,306,434	\$ 2,980,620	\$ 1,764,235	\$ 133,354	\$ 14,516	\$ 226,407	\$ 7,818,936
55.004	Aviation Grant Program	Florida DOT	\$ 321,476	\$ 637,276	\$ -	\$ -	\$ 128,435	\$ 1,154,998	\$ 400,297	\$ 54,907	\$ 186,982	\$ 815,090	\$ 3,699,461
		<b>Totals:</b>	<b>\$ 321,476</b>	<b>\$ 637,276</b>	<b>\$ 122,699</b>	<b>\$ 270,369</b>	<b>\$ 2,434,869</b>	<b>\$ 4,135,618</b>	<b>\$ 2,164,532</b>	<b>\$ 188,261</b>	<b>\$ 201,800</b>	<b>\$ 1,041,497</b>	<b>\$ 11,518,397</b>

Source: Brevard County Comprehensive Annual Financial Report, Schedule of Expenditures of Federal and State Awards



**BACKGROUND - CONTINUED**

**Airport Growth and Construction - continued**

The chart below illustrates the County's currently approved CIP for the Airport, with associated funding sources.

**Capital Improvements Program FY2017-2018**

Project Description	Funding Source	Total Cost
Rehabilitation Runway 14/32	FAA	\$ 4,050,000
	FDOT	\$ 360,000
	User Fees	\$ 95,840
Hangar F - Complex	FDOT	\$ 1,920,000
	Loan Proceeds	\$ 480,000
Airport Administration Building	FDOT	\$ 848,000
	Loan Proceeds	\$ 212,000
Total Funded for Department		\$ 7,965,840

Source: Brevard County Adopted Budget FY2018

Once completed, there will have been approximately \$20 million in capital improvement projects at the Airport over a 10-year period.



## BACKGROUND - CONTINUED

### Airport Growth and Construction – continued

Below is a brief summary of the Airport's operating revenue and expenditures for the last two fiscal years and current year-to-date as compiled by the County Manager's Office. The below data has not been audited.

REVENUES	FY 2015-2016		FY 2016-2017		(unaudited) FY 2017-2018	
	Actuals	Actuals	Actuals	Actuals	To-Date	Actuals
Operating Revenues	\$651,742.21	\$633,776.27	\$339,980.58			
Balance Forward	\$282,906.00	\$368,946.00	\$497,899.00			
<b>Total Revenues</b>	<b>\$934,648.21</b>	<b>\$1,002,722.27</b>	<b>\$837,879.58</b>			
<b>EXPENDITURES</b>						
Operating Expenditures	\$161,631.74	\$165,541.17	\$109,874.96			
Salaries and Benefits	\$90,163.81	\$99,513.53	\$46,825.46			
Other	\$251,795.55	\$265,054.70	\$156,700.42			
<b>Total Operating Expenditures</b>	<b>\$233,727.50</b>	<b>\$51,112.54</b>	<b>\$13,103.06</b>			
Capital - Construction (non Grant)	\$233,727.50	\$51,112.54	\$13,103.06			
<b>Total Capital Expenditures</b>	<b>\$52,918.35</b>	<b>\$48,450.56</b>	<b>\$44,078.57</b>			
Debt Service Payments	\$52,918.35	\$48,450.56	\$44,078.57			
Total Debt Service	\$114,595.27	\$140,205.58	\$115,403.25			
Fuel						
<b>Total Expenditures</b>	<b>\$653,036.67</b>	<b>\$504,823.38</b>	<b>\$329,285.30</b>			

Source: County Manager's Office



## BACKGROUND - CONTINUED

### Funding Sources

As previously noted, the Airport's operational funding is derived from charges for services through hangar space rental and aircraft tie-down permits, as well as fuel sales. The Airport does not receive any funding from the County's general revenue funds.

The Airport also receives Federal grant funds from the FAA under the Airport Improvement Program ("AIP") as one of 3,355 qualified airports identified by the National Plan of Integrated Airport Systems ("NPIAS"). The NPIAS identifies airports that are eligible to receive Federal grants under the AIP because of their importance to public transportation. Eligible projects under the AIP include those improvements related to enhancing airport safety, capacity, security, and environmental concerns, as well as professional services necessary for eligible projects. Project expenses are reimbursed at a 90% rate by the AIP. Projects related to airport operations, revenue-generating improvements, and operational costs such as salaries, equipment, and supplies, are typically not eligible for funding.

The Airport also receives grant funds through the County from the FDOT, under Joint Participation Agreements. Under Florida law, the FDOT may fund any capital projects on airport property and any services that lead to capital projects, such as planning and design services. The projects must be part of a FDOT-approved airport master plan and/or airport layout plan. The associated projects are reimbursed at 80% by the FDOT, with a 20% match by the Airport.

The County's match portion of the T-Hangar construction is financed by of the Florida Local Government Finance Commission Pooled Commercial Paper Notes program. The commercial paper notes are issued pursuant to an indenture of trust between the Commission and US Bank, as Trustee to the loan program, which was designed to offer participants a more convenient borrowing vehicle with lower interest rates and fees than traditional sources of borrowing, such as bank loans, public offerings of debt, or line of credit financing. Projects typically financed include capital improvement and infrastructure projects involving short-term and intermediate term financing, such as construction loan financing in which the loan will be repaid from the issuance of a long term bond, or pay-as-you-go improvements.



## OBSERVATIONS

### 1. Leases and Subleases

The Valkaria Airport leases hangars to airport users for storage and maintenance of aircraft. The airport uses a template lease agreement that was approved by the County Attorney's office and the Board. The current version of the template has been in use since July 2016. In general, the hangar leases are signed for an initial period of 6-12 months, and then renewed on a month-to-month basis thereafter, with continuing terms and conditions. During our discussions with management, tenant interviews, and review of documentation provided (including emails, handwritten notes and lease agreements), we understand that tenants are subleasing or cost-sharing their leased hangars to others who are not named on the leases and in at least one case running a business without County permission. It has been acknowledged by the Airport Manager that sublease arrangements have been known but not formally approved. We also reviewed written documentation that suggests the tenants knew that they were not to sublease and that they had taken steps to circumvent.

During our interviews and subsequent review of documents, there were indicators that other lease provisions may not have been strictly enforced. We did not substantiate these fully during our fieldwork, which include, but are not limited to the following:

- Tenants may not have ownership or contractual interest in the stored aircraft, which is required by Section II.C.
- Non-aviation equipment (e.g., boats, trailers, furniture, appliances, lawnmowers, etc.) may be stored onsite, which is prohibited by Section II.C.
- General Liability Insurance of \$1 Million may not be in the name of the tenant, as required by Section III.A.

**Results** – Section II.B of the approved lease agreement states that the "Premises will not be assigned or sublet to another party." As mentioned, this provision has not been enforced in the past. It does not contemplate that an exception can be made, even upon approval by the County. We have seen policy exceptions allowed in other agreements, such as the Lease Agreement between the County and the Space Coast Quarter Midget Association, Inc. for the use of airport real property to conduct racing events. Paragraph 11 of that agreement states that the "Organization may not assign or sublet any portion of the Property without the express written consent of the County." Sublease arrangements, including assignments or similar cost-share activities, may present certain risks to the County, such as inadequate insurance coverage, storage of prohibited items, damage or theft of lessor property, unrestricted access to property by unknown parties, unconscious noncompliance with FAA rules, etc. Further, after consulting with Bond Counsel, the County Attorney's office believes that subleases may create a tax situation, which could increase the County's interest rate, related payments, and could adversely impact the County's credit rating. In addition to compromising the public purpose provisions of the debt agreements, subletting may also be perceived as a way to circumvent the tenant waiting list for hangars, which are in high demand. See Observation #3 with regard to the wait list, and additional support in the Appendix with regard to this issue.

**Recommendation** – The County Attorney's office should be involved at all levels prior to any changes in related contractual arrangements, ordinance or resolutions, policy or procedures. We recommend the County consider amending the leases, with legal and debt-related requirements to be recommended by the County Attorney or Bond Counsel, and with respect to FAA rules and approved by the BOCC; then all provisions consistently enforced by the management of the County and Airport, as applicable. Based upon further legal advice, options may include the following:

- keep the lease provision as-is, thereby not allowing subleases which would include current tenant defined cost-sharing arrangements or similar activities;
- allow subleasing by first utilizing the existing waiting list to identify sublease participants;
- allow subleasing by the tenants with exception approval of the tenants by the BOCC if not on the waiting list, with justification.

It is our understanding that the County Attorney is currently involved and reviewing the legal matters outlined in this observation, including a possible joint tenancy agreement for existing sublease arrangements. If there is legal determination to do so without jeopardizing tax status, all subtenants would be documented and approved by the BOCC. All insurance, aircraft ownership and licensing requirements would be maintained and monitored on a routine basis for compliance with the contracts by the Airport. Copies of any subleases or joint tenant agreements would be provided to and maintained by the Airport, and, upon approval by the County Attorney's office, the primary tenant's lease agreement would prevail in any instances of inconsistency or future change.



## OBSERVATIONS - CONTINUED

### 2. Proper use of and access to Airport Operational Area

The Valkaria Aviation Association ("VAA"), a tenant of the Airport, has been hosting a monthly pancake breakfast on airport property for more than 20 years. The breakfasts were originally held at the picnic and pavilion area outside of the airport operational area ("AOA"), but was subsequently moved into a large hangar upon its completion in 2014, and which is currently leased by VAA. This change was verbally approved by the Airport Manager. The event does not appear to have been approved by the FAA at any time. In February 2018, the FAA notified the Airport Manager of a complaint related to the potentially unsafe use of the AOA during the pancake breakfast. In the letter, the FAA notes that the complainant stated that a portion of the event takes place on an active taxiway, includes a large number of people, and may not be properly managed. With respect to this complaint, we noted the following:

1. FAA regulations define the AOA as "All airport areas where aircraft can operate, either under their own power or while in tow. The AOA includes runways, taxiways and apron areas." The map on page 4 of the Background section of this report shows Valkaria Airport designated AOA as well as "aeronautical use" support areas. The hangars are located in the aeronautical use area, which is adjacent to the AOA.

**Results -** We confirmed with the FAA that the hangar apron and walkway area are considered AOA for the purposes of this issue.

2. The FAA distinguishes between an "aeronautical activity" and a "non-aeronautical activity." An aeronautical activity "involves, makes possible or is required" for the operation of aircraft or their related safety. The FAA confirmed the pancake breakfast as a non-aeronautical activity in an email dated April 11, 2016, to the VAA. We noted that FAA policy allows for the temporary closure of the AOA for special non-aeronautical activities, with certain local approvals. However, acceptance of Federal AIP grant funds further obligates the airport with additional grant assurances that do not allow such events without prior specific FAA approval. Valkaria Airport receives AIP grant funds, and must therefore comply with the more restrictive Grant Assurances in addition to the general FAA compliance rules. The FAA recently (May 2018) sent a reminder letter to the airport regarding its obligations to coordinate all such activities with the FAA and that failure to do so could jeopardize future grant funding.

**Results -** We confirmed with the FAA that the approval is required for all non-aeronautical events held on the AOA, regardless of number of attendees. A copy of the letter from the FAA is included in the Appendix.

3. Notwithstanding the FAA approval noted above, Section III.A.6 of Brevard County Policy BCC-79 "Rules and Regulations for Valkaria Airport (X59)" prohibits unauthorized use of the AOA or any other restricted area on the Airport. BCC-79 also requires a special event permit be approved by the County for any events with over 50 persons. These permits are pre-screened and approved by the Airport Manager. In March 2016, the Airport issued a cease and desist letter to the VAA due to the pancake breakfast having attendance over 50 persons and no special events permit. The VAA subsequently applied for a special events permit, which was approved, along with a reduced fee of \$90 per event. Though the permit expired in December 2016, it appears the monthly events have continued to occur. As a result of the FAA complaint, resulting discussion and the respective attempts to bring the breakfast event back into compliance, in April 2018, the VAA applied for a new special event permit.

**Results -** We noted that there is no current fee resolution for the special events permit fee charged by the Airport, or a formalized process for reducing or waiving the fee. The Airport special event permit fee seems to somewhat mirror the Parks and Recreation facility rental fees, but does not have a fee resolution of its own. We also noted that there are other requirements for the airport special events permit for events with a large numbers of attendees, including a portable toilet if the event should have over 100 people, which does not appear to occur for the breakfast.



## OBSERVATIONS - CONTINUED

### 2. Proper use of and access to Airport Operational Area - continued

4. While awaiting for an additional information request from the VAA, the Airport Manager sought guidance from the FAA on the non-aeronautical activity.

**Results** - In early May 2018, the FAA provided a letter to the Airport Manager stating that all non-aeronautical events (including the breakfast) needed to be coordinated with the FAA with assurances from the airport with respect to the AIP grant. As of the date of this report, the non-aeronautical activity has not been submitted for approval by the Airport to the FAA. Per discussion with the FAA, the event will not automatically be approved upon submission and will undergo careful consideration as needed, and the representative we spoke with stated that there may be further considerations with respect to the quit claim deed from the federal government, as well.

**Recommendation** - We recommend the County continue to seek guidance from the FAA on whether to proceed with approval of this event, and address the specific AOA safety and grant assurances concerns noted in the letters from the FAA, as well as any other prevailing regulations and requirements. Please refer to the supporting FAA correspondence located in the appendix to this report.



## OBSERVATIONS - CONTINUED

### 3. Hangar Rental Waiting List

The Airport maintains a sizable waitlist dating back to 2014 for those with a desire to lease space. The list currently has more than 250 contacts for rental space. In addition to #1 above regarding subleases, there have been complaints that the wait list information is not accurate and upon availability of a hangar, calls are not made in attempt to reach the next person on the list. There is also a perception that the list is not maintained properly and that space is arbitrarily granted as desired by the Airport Manager.

Due to high demand, it can take 3-4 years for a hangar to become available, and thus, the contact information in many cases is outdated. We noted that the waitlist form was updated in 2017 to include an email, and clearly states that the requestor is responsible for keeping phone numbers / contact information updated as needed. The previous form stated this as well. The form states there will be 3 attempts to make contact with the potential lessee, with messages left (if possible) over two days. This two-day turnaround is geared towards keeping the timing of rental payments consistent. When attempts are unsuccessful, the Airport will move to the next person; if they decline then they are removed from the list. A copy of the current wait list request form is included in the Appendix.

**Results** – Based upon our testing of the wait list contacts and review of the available wait list documentation, we noted that the wait list lacks transparency and accountability, is not readily available for review, and the contact procedures are not well documented. With regard to the subleases noted in observation #1, subleasing without consideration of the wait list could be considered overriding the wait list procedures. By allowing tenants to sublease, including cost-share arrangements, those on the waiting list are being denied access on a first-come, first-serve basis.

**Recommendation** - There are numerous opportunities to improve the transparency and accountability of the wait list. They include the following:

- When a person is added to the wait list, they should receive confirmation or receipt that they were added, including the date, requisition number and current list position number. Since the list is perpetually maintained, their requisition number will not change; only the position number with respect to the open positions before them will vary. Providing a signed copy of the wait list request form with the requisition and position information, dated with signature of both parties would satisfy the receipt requirement.
- The wait list (requisition number and/or last names, without contact information) should be maintained and updated at least monthly on the Airport's website. This will allow interested parties the ability to monitor and identify where they and others are on the list.
- When a hangar becomes available, it should be clearly documented what attempts were made to contact the next available participant. This should include what methods (phone, email, etc.) were used to make contact, as well as the dates and results of the attempts. Documentation should be complete and consistent.
- There should be a link included on the website for a participant to email the Airport directly if there is a concern about the list or to update contact information.
- Procedures should be updated to include more customary methods of contact. Further, the current two-day timeframe may not be realistic. While it is understandable that the lease payments cannot lapse for too long in order to meet the required bond debt service payments, a 30-day lapse of one hangar rental while processing the agreement and gaining BOCC approval will not have records for the overall cash flow.
- The County may also consider automating the wait list application via the County's website, similar to other local airports such as Merritt Island Airport (which is part of the Titusville-Cocoa Airport Authority) and Sebastian Municipal. There will be an associated cost and a cost-benefit analysis should be considered.



## OBSERVATIONS - CONTINUED

### 4. Wait List Conflict of Interest / Ethics Complaint

An accusation was made that the Airport Manager asked for donated flight tickets for the Boy Scouts of America from a pilot on the wait list and thus bumped the pilot up on the waitlist in return. The Airport Manager's son was in the receiving Boy Scout troop at the time. Per the complaint received by the County Manager's office, the tickets were offered to the Boy Scouts from Elite Airways, and then the pilot was offered a hangar.

We confirmed that Elite Airways is currently leasing hangar 41, and appears to have leased the hangar in early-Summer 2017. There is no documentation to establish the timeline of events with regard to the ticket offering. As such, we interviewed the complainant, the Airport Manager and the owner of Elite Airways. All parties acknowledge that the tickets were offered but not used. While the Airport Manager acknowledges that there was a discussion about the tickets, he maintains that there was never a correlation between the tickets and the hangar lease; that he was generally seeking support for the Boy Scout troop. He also maintains that the hangar was rented before the tickets were offered, and that the pilot offered the tickets and connected directly with the Boy Scout Troop Master after being introduced by the Airport Manager. There is a discrepancy on whether the ticket offer was initially prompted by the tenant or the Airport Manager, but there is no dispute that the offer was made.

Both the Airport Manager and the pilot / owner of Elite Airways maintain that the offer of the tickets occurred after the hangar rental, and neither was contingent upon the other. The Airport Manager noted that he connected the pilot and Scout Master after the Airport Manager inquired whether the company supported to charities such as the Boy Scouts. Further, the pilot stated in our interview that he offered the ticket donation, and asked for an introduction to the Boy Scout Master. The pilot noted Elite Airways donates services to several charitable organizations in Vero, Indian River and Brevard including the Boy Scouts and others and that the offer was not out of the ordinary.

The discrepancies lie in the timeline and who, if anyone, was benefitting from the exchange, regardless of whether the tickets were used. A conflict of interest is defined as "a situation in which a person is in a position to derive personal benefit from actions or decisions made in their official capacity." The Airport Manager's son was in the troop, and had the tickets been used there would have been a direct benefit to the Airport Manager. Even if the tickets had been offered to the troop by the tenant without prompting from the Airport Manager, there could have been the perception of a conflict of interest.

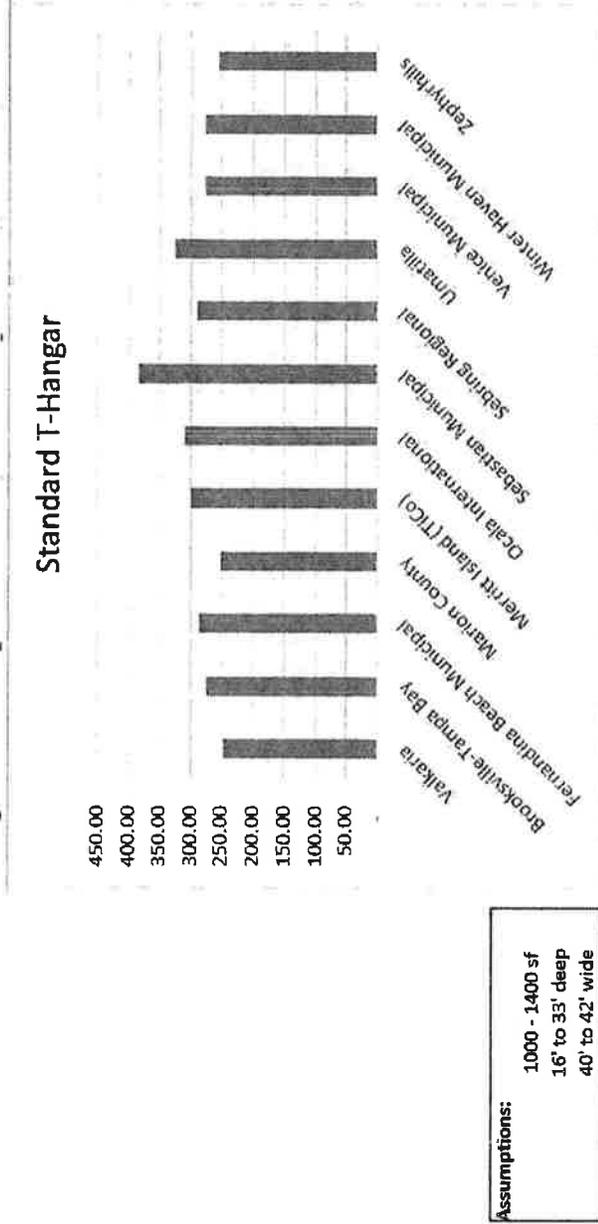
**Results** – Due to the lack of documentation to support the timeline and events in question, we cannot conclude on the complaint in terms of timing of the lease vs. the ticket offering. However, per the County's Conflict of Interest Policy BCC-003, the actions of the Airport Manager, based on his recollection, are inconsistent with the policy. It is our interpretation that this is a perceived conflict of interest even though the tickets were not used and will not be used. During our initial conversations with the Assistant County Manager, he was aware of the matter and had verbally addressed with the Airport Manager. Upon release of this report the matter will be further documented by the Assistant County Manager.



## OBSERVATIONS - CONTINUED

### 5. Charges for Services – Hangar Rental Fees

FAA Grant Assurance 24 "Fee and Rental Structure" requires an airport sponsor (the County) to maintain a self-sustaining fee and rental structure whenever possible, considering local circumstances. As such, we conducted a review of the hangar rental fees against other airports for comparison. A standard T-hangar is generally sized to hold an aircraft with up to a 42-foot wingspan. While not all airport hangars are the same size, and the square footage was not readily available in all instances, we were able to derive a "Standard T-Hangar" list of assumptions for the group below, with their associated rental fees.



**Results** - The results above show that Valkaria currently charges the least of this group. The average monthly fee is \$286, with the median at \$280. Valkaria's current monthly rate for a standard T-hangar is \$246. It should be noted that, while Sebastian Municipal is the highest, their rentals are fully administered by a contracted tenant and there may be a markup on the rentals. If so, they are an outlier and without them, the average is \$280, with the median at \$275.

**Recommendation** - The County may wish to consider revising its rental fees. The fees were last approved by the Board of County Commissioners in May 2009 when the Valkaria Airport Rate and Charges Adjustment Plan was presented and approved. A one-time adjustment of \$11/month occurred in 2012, and thereafter, the hangar lease allows for an annual Consumer Price Index adjustment, which occurs in October of each year. A rental adjustment would provide for additional property maintenance as new facilities and improvements are brought online.



## OBSERVATIONS - CONTINUED

### 6. Airport Maintenance, Access and Safety Measures

There have been complaints against the Airport with respect to a lack of general maintenance and access to airport property. The maintenance complaints include unmowed grounds, restrooms out of order, unchanged light bulbs, and broken security cameras. Interviews with multiple tenants and the Airport Manager noted that the public-use restrooms have been repaired. We noted during site visits that some areas appeared to be in general disorder, though the site has been under development for the new terminal and additional hangar construction.

**Grass Mowing-** During two site visits in May 2018, we noted that the grounds were not recently mowed, with grass in some areas up to the mid-calf. We confirmed with the FAA that there are no specific requirements for an airport of this type with regard to airfield maintenance, though there are guidelines where runway and taxiway lighting must be visible, and the grounds should be maintained so as not to attract local wildlife and potentially disrupt the AOA. We obtained a copy of the "Wildlife Hazard Management Plan" for Valkaria Airport dated May 7, 2014. Section 3.4.1 Grass Management states, "FAA Certaletr No. 98-05 advises that airport operators should ensure that grass species and other varieties of plants attractive to hazardous wildlife are not used on the airport. In addition, grasses that produce large seeds and are known to be attractive to wildlife will be avoided when planting new areas. Grass heights are routinely cut shorter than the FAA recommended height range of between 6 and 12 inches. Grass that remains on airport property will be monitored and management actions to prevent seed production will be implemented. The goal is to establish a healthy monotypic stand that prevents erosion and can withstand drought, flooding, and other normal climatic conditions, and be somewhat unpalatable to foraging birds such as mourning doves, pigeons, ducks, and geese. The grasses will be monitored for insects and rodents that may attract hawks, owls, grackles, starlings, kestrels, and other hazardous wildlife species." We discussed this with the Airport Manager and he noted the Airport used to have a hawk problem and thus the grass is intentionally left higher to avoid birds, which could obstruct the AOA and impact the ability to fly.

**Results** – Based on our review of the Wildlife Hazard Management Plan, discussion with the FAA and Airport Manager, the current grass height is not a violation of any kind, though in some areas may be unsightly and difficult to walk through. We noted that FDOT will be conducting a site inspection during early Fall 2018 and the issue may be further addressed at that time.

**NonPrimary AIP Funds** - It was further alleged that the Airport receives \$150,000 for maintenance that is not used for this purpose, and as such the funds are not being used appropriately. We reviewed the requirements of the AIP grant, noting that under this program, the Airport receives \$150,000 in NonPrimary entitlement funds per year. Although the rest of the AIP funding must be used for capital improvement, these funds are eligible to be used for limited maintenance concerns, including airport pavement maintenance, as well as limited revenue-generating areas such as terminals, hangars and fuel farms. The NonPrimary entitlement funds are not required to be used for maintenance, but can be if desired. We confirmed this with the FAA.

**Results** – Based on the information provided, there does not appear to be any specific violation of procedures or misuse of NonPrimary entitlement funds.

**Access** - There has been a complaint that the Airport Manager denies access to facilities by changing the gate combination and not allowing tenants to access property when needed.

**Results** – We noted, per discussion with the Airport Manager, that the gate combination was recently changed as a result of the sublease issue that was previously noted, as well as vandalism of a fenced in area on more than one occasion. The tenants requested access to the property for subtenants or their customers during periods when the tenants would not be onsite. Referring to issue #1 with regard to subleasing, only tenants receive the access code at this time and they are to accompany any guests while on the property. Until the sublease issue is addressed, gate combination access should be limited to the tenants.

**Recommendation** –The Airport should update its maintenance and safety plan to include a mowing schedule, as well as addressing any light fixtures that enhance the security of the airport and visibility of the AOA, and repair the security cameras. Per the hangar lease, we noted that hangar inspections are conducted annually by the Airport. The County may wish to consider performing airside AOA and landside formal inspections on a more routine (e.g., quarterly) basis to ensure that any maintenance concerns are addressed in a timely manner. The County may also wish to consider automating maintenance work orders to be submitted online.



## OBSERVATIONS - CONTINUED

### 7. Staffing / Succession Planning

The FAA has staffing regulation and requirements for airports that have tower control as well as passenger flights that include luggage checking, etc. Per discussion with the FAA, there are currently no mandatory requirements for staffing small (basic) general aviation airports such as Valkaria Airport. As such, staffing at the Airport is managed by the airport sponsor (County) and has been fairly consistent, with two full-time positions, occasionally supplemented by an intern. There was a vacant part-time position at one time, which was removed when the Specialist position was upgraded to an Assistant Airport Manager position.

The airport operates 7 days a week, with instructional flight school and other activities occurring on the weekends, when there is no airport staff required to be onsite. Additionally, with the added facilities and expansion at the airport, there is no groundskeeper or facilities manager. The updated Airport Master Plan (2015) does not appear to contemplate the additional staff needed to manage, maintain and operate the facility over the course of the 20-year plan.

**Results** – When performing benchmarking analysis on FTEs per the Airports peer group, we noted significant variables in data and circumstances. Thus, results and comparisons were not useful.

**Recommendation** – The County should consider, at a minimum, specifically defining the roles and responsibilities of the Airport Manager and Assistant Airport Manager in order to identify workload and potential gaps. As the expansion plan is realized, the County should continue to evaluate the need for a revised staffing structure and a formal schedule to include weekend rotation. The addition of a terminal and increased number of hangars/tenants will impact the workload and administrative responsibilities. Weekend and flexible shifts should also be considered to allow for management during periods of frequent tenant and other user activity.



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## APPENDIX

**T-HANGAR LEASE AGREEMENT**  
**VALKARIA AIRPORT**

This LEASE AGREEMENT, made and entered into this [REDACTED] by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as the owner, sponsor and governing body for Valkaria Airport, hereinafter referred to as "LANDLORD" or "COUNTY" and [REDACTED] hereinafter referred to as "TENANT," having the following mailing address: [REDACTED] and phone number [REDACTED]

**WITNESSETH:**

WHEREAS, Brevard County is the owner of certain improved real property located at the Valkaria Airport in the County of Brevard, State of Florida; and,

WHEREAS, Brevard County has agreed to lease such property to the TENANT subject to the terms and conditions set forth in this lease agreement; and,

WHEREAS, the TENANT desires to lease said property from Brevard County;

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

**I. TERM OF LEASE AND RENTAL RATES**

A. The TENANT hereby rents Hangar Number [REDACTED] (the "Premises") at Valkaria Airport for the term beginning on the first of [REDACTED] 2018, and ending on the [REDACTED] 2018, both dates inclusive, at the Base Rent rate of \$246.09 per month, plus applicable sales tax (currently 7.0%), due and payable on the first day of each month during the term of this lease. If the term of this Lease Agreement commences on any day other than the first of the month, the TENANT shall pay in advance pro-rata rent for the first month. Pro-rata rent shall be the number of days from the commencement date of this Lease Agreement to the end of the month, multiplied by the daily rental charge, plus applicable sales tax. The daily rental charge shall be the Base Rent divided by the number of days in the applicable month.

B. At the conclusion of the term set forth in the preceding paragraph, this lease shall continue on a month-to-month basis, with the same terms, conditions, covenants and stipulations herein set forth. Either party may terminate such month-to-month tenancy by providing thirty (30) days written notice of termination to the other party.

C. Beginning in 2017, the base rent shall be adjusted annually. For purposes of this Lease, the LANDLORD and the TENANT recognize and agree that the purchasing power of the United States dollar is evidenced by the Consumer Price Index (CPI) published by the Federal Government. The capitalized terms used herein are

defined below. Effective on each Adjustment Date, Base Rent shall be increased (or decreased) in the same proportion as the CPI. The increases will be calculated as follows: (i) subtract one point zero (1.0) from a fraction, the numerator of which shall be the Variable Index, and the denominator of which shall be the Base Index; then (ii) multiply the result obtained in (i) above by the Base Rent immediately prior to the Adjustment Date. Notwithstanding the foregoing, in no event shall the new Base Rent be less than the initial Base Rent established in paragraph I.A. above. In applying the foregoing formula for Base Rent adjustments, the following terms shall have the following meaning:

“Adjustment Date” shall mean the first day of each October, beginning on October 1, 2017 and each year thereafter so long as this Lease shall remain in effect.

“Base Index” shall mean the CPI for the month of June in the year prior to the then current Adjustment Date. For example, for the first adjustment date (October 1, 2017), the Base Index shall mean the CPI for the month of June 2016.

“CPI” shall mean the Consumer Price Index for All Urban Consumers, All Items, U.S.A. Area, 1982-1984 = 100, as published by the Bureau of Labor Statistics, United States Department of Labor (U.S. City Average). If such index is discontinued, CPI shall then mean the most nearly comparable index published by the Bureau of Labor Statistics or other official agency of the United States Government as determined by the LANDLORD.

“Variable Index” shall mean the CPI for the month of June prior to the then current Adjustment Date. For example, for the first adjustment date (October 1, 2017), the Variable Index shall mean the CPI for the month of June 2017.

D. The TENANT agrees to pay the first and the last month's rent prior to taking possession of the Premises.

E. Rental payments shall be considered delinquent after the 1<sup>st</sup> of each month, and shall constitute a default if not paid by the 5<sup>th</sup> of each month. A service charge of \$50.00 will be assessed if payment of the rent is not received by the 5<sup>th</sup> of each month.

## II. OBLIGATIONS OF TENANT

A. The TENANT agrees to promptly notify the LANDLORD in writing of any changes to the address or phone number of TENANT that may occur during the term of this lease agreement.

B. The TENANT agrees and covenants that the Premises will not be assigned or sublet to another party.

C. The TENANT hereby covenants that he or she has an ownership or contractual interest in the stored aircraft, and agrees that the leased Premises shall be solely used for the storage of aircraft. Except for the TENANT'S private motor vehicle while the above listed aircraft is in use, vehicles or other non-aviation equipment such as boats, trailers, furniture, appliances, lawnmowers, etc., may not be stored in the leased Premises.

D. The TENANT hereby covenants and agrees to maintain the leased Premises in a clean and orderly manner.

E. The TENANT will notify the LANDLORD of any damage to the Premises, and when that damage is the fault of the TENANT, the TENANT will reimburse the LANDLORD for the cost of repairs.

### III. INSURANCE

A. The TENANT hereby covenants that he has, and will maintain in force and effect, General Liability Insurance in the amount of ONE MILLION (\$1,000,000.00) DOLLARS or greater. The TENANT shall provide a valid Certificate of Insurance ("COI") to the LANDLORD demonstrating that the aforementioned insurance requirements have been met prior to the Lease becoming effective, during the annual hangar inspection, and whenever there has been any change in insurance, such as modifying coverage or a change in the insurance provider. The COI(s) shall indicate that the policy has been endorsed to cover the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as an additional insured. Additionally, upon any policy cancellation or modification, the insurer shall send a written notice to the LANDLORD with 30 days.

B. The insurance coverage enumerated above constitutes the minimum requirement and shall in no way lessen or limit the liability of the TENANT under the terms of this lease.

### IV. INDEMNIFICATION

A. The TENANT shall indemnify the LANDLORD and hold the LANDLORD harmless for any and all liability, claims, damages, expenses (including attorney's fees and costs for trial or appeal), proceedings and causes of action of every kind and nature arising out of or connected with the use, maintenance, operation or control of the leased Premises by the TENANT.

B. Neither the LANDLORD nor its employees or agents shall be responsible or liable for any damage or loss from any cause whatsoever to any property of the TENANT stored, installed or located upon the leased Premises described in this lease; except that the LANDLORD may be liable for any damage or loss to TENANT'S property directly caused by the negligence of the LANDLORD, its employees or agents.

Nothing herein shall be construed as a waiver of the provisions of section 768.28, Florida Statutes.

V. GENERAL PROVISIONS

A. The LANDLORD, or its representatives, shall have the right to enter the Premises at any reasonable hour for the purpose of examining the same, making repairs to the leased property, or for any other lawful purpose. The LANDLORD, or representatives, will inspect the leased Premises and its contents at least once per year. The TENANT will supply the LANDLORD with a key for entry into the hangar.

B. The TENANT will not make alterations of any kind to the leased Premises without the advance written authorization of the Airport Manager.

C. The leased Premises may be used for the assembly of experimental or "homebuilt" aircraft as long as construction or repairs are conducted within applicable Federal Aviation Regulations and the then-current Valkaria Airport Rules and Regulations.

D. The TENANT covenants and agrees to comply with all applicable Federal, State and County rules, laws and ordinances as well as the Valkaria Airport Rules and Regulations that are presently in force or that subsequently may be enacted with respect to the operation of TENANT'S aircraft and use of the leased Premises at Valkaria Airport.

E. The TENANT covenants and agrees to return said Premises to the LANDLORD at the expiration of this lease in good condition and repair as when first received, except for natural wear and tear, damage by storm, fire, or other casualty for which the TENANT is not liable.

VI. TERMINATION

A. The LANDLORD may terminate this lease agreement for cause by giving thirty (30) days written notice of termination. For the purpose of this provision, cause is defined as follows:

1. Failure of the TENANT to comply with any of the terms or conditions of this agreement.
2. Failure of the TENANT to comply with any applicable Federal, State, or County laws, rules and ordinances or the Valkaria Airport Rules and Regulations in utilizing the TENANT'S aircraft and the leased Premises at Valkaria Airport.

B. The LANDLORD may terminate this lease agreement if the TENANT is in default of the requirement to pay rent as defined in Paragraph I-E.

C. Should the leased premises be destroyed or so damaged by fire, act of God, public enemy, accident, vandalism or casualty as to be untenable, this lease will be terminated from the date of such occurrence.

D. This lease may be terminated by the LANDLORD, if the TENANT shall die, become insolvent or bankrupt, or make an assignment for the benefit of his creditors.

**VII. MISCELLANEOUS PROVISIONS**

A. This lease shall be subordinate to the provisions of any existing or future agreement between the LANDLORD and the United States of America, relative to said Airport property and the operation and maintenance of the Airport.

B. Notice to the LANDLORD shall be sent to the Airport Manager, Valkaria Airport, 1 Pilot's Place, Valkaria, FL 32950, and notices sent to the TENANT shall be sent to the address contained in this lease unless changed by the TENANT under the terms of this agreement listed in Paragraph II-A.

C. It is the intention of both parties hereto that the provisions of this lease shall be severable in respect to a declaration of invalidity of any provision hereto.

D. In the event of any legal action to enforce the terms of this contract, each party shall bear its own attorney's fees and costs.

E. Tenant has received, read, understood and agrees to abide by the Valkaria Airport Rules and Regulations contained in Brevard County Policies. (Tenant Initials).

F. 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.

**VIII. LEASE CLAUSES REQUIRED BY FAA**

A. **Nondiscrimination:** The tenant for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination, (3) that the tenant shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted

programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. That in the event of breach of any of the above nondiscrimination covenants, Airport Owner shall have the right to terminate the lease and to re-enter and as if said lease had never been made or issued. The provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.

**B. Airport Protection:** It shall be a condition of this lease, that the lessor reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property hereinafter described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on the airport. That the Tenant expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the hereinafter described real property to such a height so as to comply with Federal Aviation Regulations, Part 77. That the Lessee expressly agrees for itself, its successors and assigns, to prevent any use of the hereinafter described real property which would interfere with or adversely affect the operation or maintenance of the airport, or otherwise constitute an airport hazard.

**C. Property Rights Reserved:** This lease and all provisions hereof are subject and subordinate to the terms and conditions of the instruments and documents under which the Airport Owner acquired the subject property from the United States of America and shall be given only such effect as will not conflict or be inconsistent with the terms and conditions contained in the lease of said lands from the Airport Owner, and any existing or subsequent amendments thereto, and are subject to any ordinances, rules or regulations which have been, or may hereafter be adopted by the Airport Owner pertaining to the Valkaria Airport.

**D. Exclusive Rights:** Notwithstanding anything herein contained that may be, or appear to be, to the contrary, it is expressly understood and agreed that the rights granted under this agreement are non-exclusive and the Lessor herein reserves the right to grant similar privileges to another Lessee or other Lessees on other parts of the airport.

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA  
"LANDLORD":



FLORIDA'S SPACE COAST



VALKARIA AIRPORT  
2865 GREENBROOKE STREET  
VALKARIA, FL 32950

Version 11-2-14

321-952-4590  
FAX 321-952-4592

### VALKARIA AIRPORT RAMP SPACE TIE-DOWN PERMIT

This use permit is issued by the Board of County Commissioners of Brevard County, Florida, (hereinafter referred to as "AIRPORT"), to the owner or operator of an aircraft who has signed below, (hereinafter referred to as "Customer"), and provides the conditions under which the AIRPORT permits Customer's use of the AIRPORT'S tie-down ramp space for the Customer's aircraft.

1. The AIRPORT provides ramp space for tie-down service for the Customer's aircraft inside the open fenced FBO area. A specific ramp space may be assigned.
2. The AIRPORT reserves the right to move the aircraft should the need arise.
3. The ramp space shall be used only for the tie-down of the aircraft described in this permit. No commercial activity of any kind shall be conducted by the Customer in, from or around the space. Customer shall keep the space clean and free of debris at all times. Customer agrees to and shall comply with all rules established by the AIRPORT and all applicable resolutions, rules and regulations established by any federal, state or local government agency. However, Customer must notify Airport Management of any aircraft Customer may substitute into the space.
4. The Customer understands and agrees that the AIRPORT does not warrant the ability of the tie-down facility to withstand any level of storm event or inclement weather conditions.
5. The Customer has sole responsibility for securing his or her aircraft.
6. Brevard County does not provide security for the ramp space tie-down FBO area.
7. The Customer shall evacuate Customer's aircraft from the ramp when official tropical storm or hurricane warnings are issued by the National Weather Service. Customer shall bear the responsibility of any damages occurring due to failure to evacuate Customer's aircraft.
8. The Customer shall strictly adhere to any and all environmental regulations. The Customer agrees to properly handle and dispose of all used oil, used oil filters, contaminated fuel or other environmentally hazardous substances used by the Customer on the airport ramp. The Customer shall not dispose of used oil or used oil filters in trash receptacles provided by the AIRPORT. It is the Customer's sole responsibility to clean up or cause to be cleaned up any spill of oil, fuel, or other environmentally hazardous substances from the Customer's aircraft whether the spill is intentional or unintentional on the part of the Customer. The clean up of such a spill shall be to the satisfaction of any appropriate county, state or federal inspectors.
9. The Customer shall indemnify Brevard County and hold Brevard County harmless for any and all liability, claims, damages, expenses (including attorney's fees and costs for trial or appeal), proceedings and causes of action of every kind and nature arising out of or connected with the customer's use, maintenance, operation or control of the ramp space occupied by the Customer. The AIRPORT shall be responsible for any damage or loss to Customer's property directly caused by the negligence of the AIRPORT, its employees or agents.

APPENDIX A-2: Tie Down Agreement - continued

VALKARIA AIRPORT RAMP SPACE TIE-DOWN PERMIT  
2

Page

10. The Customer agrees to hold Brevard County harmless for Acts of God, fire, theft or other damage or loss to Customer's aircraft while tied-down on the AIRPORT'S ramp space.

11. The Customer hereby covenants that Customer has, and will maintain in force and effect, Bodily Injury Liability and Property Damage Liability Insurance on the aircraft described below, in the amount of \$1,000,000. The Customer shall provide a certificate of insurance to the County demonstrating that the aforementioned insurance requirements have been met prior to this permit being issued. The certificates of insurance shall indicate that the policy has been endorsed to cover the County as an additional insured and that this policy may not be cancelled or modified without thirty (30) days prior written notice to the County

12. Brevard County reserves the right to revoke and terminate this permit, for any reason, upon 30 days written notice to Customer at the address shown below. Upon termination of this permit by expiration or otherwise, the Customer shall immediately surrender possession of the space and remove, at Customer's sole expense, the aircraft and all other property therefrom, leaving the space in the same condition as when received, ordinary wear and tear excepted. The Customer may, within ten (10) days of such notification, advise the AIRPORT of his or her objection to the termination and has the right to appear before the Board of County Commissioners of Brevard County, Florida ), to state said objection. Termination will not be effective until the Advisory Board or the Board of County Commissioners has affirmed the AIRPORT'S election to terminate the permit.

13. This ramp space tie-down use permit is not transferable.

14 The Customer understands and agrees that the current ramp space tie-down permit cost is \$30.00 per month plus applicable taxes. Total Payment made out to BOCC is currently \$32.10. This permit will remain in effect month to month so long as monthly payments are made by the Customer. Failure to make proper payments may result in legal action.

15. The monthly ramp permit costs are payable in advance and are due on the 1st day of each month. No bill will be sent to the Customer. It is the Customer's responsibility to ensure that payment is received by the Airport at 1 Pilots' Place, Grant Valkaria, FL 32950, not later than the 1st day of each month. Accounts are considered late if payment is not received by the 5th of the month and will be assessed a \$10.00 late fee.

**CUSTOMER**

Aircraft type: \_\_\_\_\_

Registration #: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

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

**AIRPORT**

\_\_\_\_\_

\_\_\_\_\_  
**Manager Valkaria Airport**

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

**Wall, Katherine**

---

**From:** Miller, Steve <[smiller@ngn-tampa.com](mailto:smiller@ngn-tampa.com)>  
**Sent:** Thursday, May 24, 2018 11:54 AM  
**To:** Soss, Matthew  
**Cc:** Caraveo, Selenia; Wilson, Shannon L; Wall, Katherine; Denninghoff, John P  
**Subject:** RE: Outstanding bonds for Valkaria Airport

Matt – it is my understanding that the airport has a waiting list for usage of hangars. Under the applicable tax rules, if the County finances hangars with tax-exempt debt and then leases them to private persons or entities, the County must comply with certain specific tax law provisions. One of them is that the hangars must be reasonably available for use by all members of the general public, natural persons and businesses alike, on the same basis. By allowing some tenants to violate the sub-leasing provision in the lease, I think it could be determined that the County is not complying with this tax provision. First, this could prevent or delay persons from coming off the wait list as intended. Second, not enforcing the lease with respect to some tenants with regard to this issue is effectively allowing them to use the hangar in a manner that is different from those that are complying with the lease (ie, some tenants are now also landlords). The tax provisions also require that a lease be no longer than 200 days. To the extent any of the sub-leases are longer than 200 days, the County could be considered in violation of this tax provision.

The County recently issued a tax-exempt Note to Raymond James to refinance certain debt related to Valkaria hangars and to refinance and finance other County projects. If the IRS were to determine that the County was violating the applicable tax rules as a result of allowing sub-leases in violation of the underlying leases, they could declare the entire Note as taxable. Pursuant to the provisions of that Note, Raymond James would then increase the interest rate on the Note to such a rate as to provide them with same after-tax yield they would have had if the Note has remained tax-exempt. This rate increase would apply to the entire Note, not just the portion related to the refinancing of the Valkaria hangars. The County would also be liable for any penalties and interest that the IRS may impose.

Let me know if you would like to discuss any further or have any other questions.

**Nabors  
Giblin &  
Nickerson**

Steven E. Miller, Esq.  
Nabors, Giblin & Nickerson, P.A.  
2502 Rocky Point Drive, Suite 1060  
Tampa, Florida 33607  
Phone 813/281-2222  
Fax 813/281-0129  
[smiller@ngn-tampa.com](mailto:smiller@ngn-tampa.com)

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**From:** Soss, Matthew [<mailto:Matthew.Soss@brevardfl.gov>]  
**Sent:** Wednesday, May 23, 2018 1:49 PM  
**To:** Miller, Steve

APPENDIX A-3: Bond Counsel's Opinion Valkaria Sublease - continued

**Cc:** Caraveo, Selenia; Wilson, Shannon L; Wall, Katherine; Denninghoff, John P

**Subject:** Outstanding bonds for Valkaria Airport

Steve:

As you know, the County leases hangars at Valkaria airport to the public. It has come to the County's attention that certain tenants are subleasing their hangars, in violation of their lease agreement with the County, to third parties. It is my understanding that there are still outstanding bonds involving the airport projects, does, or could, the subleasing of hangars by tenants cause any issues for the County as it relates to the outstanding bonds and potential tax liability? Call me with any questions.

Thanks,

Matthew Soss

Assistant County Attorney

Brevard County Attorney's Office

2725 Judge Fran Jamieson Way, Suite 308

Viera, FL 32940

Telephone: 321/633-2090

Fax: 321/633-2096

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U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

Orlando Airports District Office  
8427 SouthPark Circle, Ste 524  
Orlando, FL 32819  
Phone: (407) 487-7720  
Fax: (407) 487-7135

May 14, 2018

Mr. Steve Borowski  
Valkaria Airport Manager  
#1 Pilots Place  
Grant Valkaria, FL 32950

Dear Mr. Borowski:

I am in receipt of a May 11, 2018 letter from you to the Valkaria Aviation Association, Inc. regarding a proposed non-aeronautical event (pancake breakfast) utilizing an aircraft operational area (AOA) on the Valkaria Airport. As explained in previous communications, the County is obligated to review and coordinate all non-aeronautical events with the Federal Aviation Administration (FAA). This coordination is required to ensure that the County remains in compliance with its federal obligations, the event is conducted safely, there are no impacts to current airport users and the County is compensated fair market value for the use of the airport.

More specifically, and as a condition precedent to providing airport development assistance under the Airport Improvement Program (AIP), the Secretary of Transportation and, by extension, the FAA must receive certain assurances from the airport sponsor. Upon acceptance of an AIP grant, the assurances become a binding contractual obligation between the airport sponsor and the federal government. The assurances made by airport sponsors in AIP grant agreements are important factors in maintaining a viable national airport system.

Title 49 U.S.C. § 47107(a)(8) requires the FAA to receive the County's written assurance that a proposal to close the airport temporarily, including partial closure of any taxiway and closure of any runway for a non-aeronautical purpose must first be approved by Secretary of Transportation, as delegated to the FAA. This statutory requirement is reflected in Grant Assurance 19, *Operation and Maintenance*.

Current FAA policy allows airport sponsors to permit *limited* use of airport facilities for non-aeronautical activities when safeguards are established to protect the aeronautical use of the airport while the non-aeronautical activities are in progress. Airport sponsors proposing to conduct non-aeronautical activities on the airport must ensure the activity does not inadvertently result in a violation of the sponsor's federal obligations, including:

- Grant Assurance 19, *Operation and Maintenance*, states that airport sponsors may not cause or permit any activity or action on the airport which would interfere with its use for airport purposes. This includes operating the airport's aeronautical facilities whenever required and promptly notifying airmen of any condition affecting aeronautical use of the airport. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary of Transportation.

- Grant Assurance 22, *Economic Nondiscrimination*, requires the airport be available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds, and classes of aeronautical activities.
- Grant Assurance 24, *Fee and Rental Structure*, and the FAA's Policy and Procedures Concerning the Use of Airport Revenue requires airport sponsors to establish a fee and rental structure that will make the airport as self-sustaining as possible under the particular airport circumstances, including charging Fair Market Value commercial rates for non-aeronautical uses of airport property and aeronautical rates for aeronautical uses.
- Grant Assurance 25, *Airport Revenues*, requires airport sponsors to ensure that all revenues generated by the airport will be expended for the capital or operating costs of the airport or local airport system.

In addition, the County is advised that the FAA's consideration of non-aeronautical event requests is based on the tangible benefits that will accrue directly to the airport. In our experience, events which do not promote the airport, aviation users, and/or aviation-related charities do not promote awareness about a community's airport. Moreover, the FAA cannot consider increased local spending or taxes generated by individuals attending a non-aeronautical event as a benefit to the airport absent a mechanism that transfers these funds directly to the airport.

Recently, the FAA received a complaint questioning the safety of this particular event. This letter serves as a reminder to the County that the grant assurances are contractual obligations that the county agreed to when accepting federal funding for their airport projects. In 2017, the FAA issued a grant to the County for over \$4.0 Million for the rehabilitation of the primary runway at Valkaria Airport. It is prudent for the County to follow these grant assurances to ensure the highest level of safety at Valkaria Airport. Not complying with your federal obligations could jeopardize future federal funding.

Sincerely,



Bart Vernace, P.E.  
Manager

Cc:  
Jim Wikstrom, FDOT/5  
Frank Abbate, County Manager  
John Denninghoff, Assistant County Manager  
Matt Soss, Assistant County Attorney  
Kathy Wall, Special Projects Coordinator IV



U.S. Department  
of Transportation  
Federal Aviation  
Administration

FAA Orlando FSDO-15  
8427 South Park Cr., Suite 500  
Orlando, FL 32819  
(407) 487-7000, Fax: (407) 487-7125

April 17, 2018

Stephen Borowski, Valkaria Airport Manager  
#1 Pilots' Place  
Grant Valkaria, FL 32950

Good morning Mr. Borowski:

This office had a conversation with you on April 16, and we appreciate the opportunity to do so. To reiterate, the Orlando Flight Standards District Office (FSDO) has received a complaint regarding the monthly pancake breakfasts at the Valkaria Airport. The complainant described him/herself as an experienced aviator and was concerned that in his/her opinion, the breakfasts present a significant safety issue. The complainant stated there was large crowds of people in/on the airport operations area (AOA), to include active taxiways, etc. The complainant also stated they felt the breakfasts were not properly managed, i.e. there were not enough people to safely run the event, security protocols have potentially been breached, and the event has grown "out of control", etc. As an Aviation Safety Inspector in the Orlando FSDO, I am concerned about the safety of this event; it does not seem safe to have people and aircraft potentially mixing in the AOA.

You had mentioned the Special Event Permit for these events has expired and needs to be renewed and future events may require FAA/Airports District Office approval, amongst others, to ensure the event can be conducted safely. As discussed, if this event could perhaps be conducted in the new terminal to keep patrons away from the AOA, this may result in a much safer event.

Thank for you communicating with this office on this important safety issue.

Sincerely,

LARRY D  
HAMMERBECK  
Digitally signed by LARRY  
D HAMMERBECK  
Date: 2018.04.17  
12:04:18 -0500

Larry Hammerbeck  
Aviation Safety Inspector (GA-OPS)  
Flight Standards District Office  
Orlando, Florida  
(407) 487-7061--Desk  
(407) 487-7001--Main

VALKARIA AIRPORT  
DATE: 4/26/2018

4/12/2016

Print

**Subject:** FAA Comments on the Valkaria Aviation Association Lease  
**From:** Deandra.Brooks@faa.gov (Deandra.Brooks@faa.gov)  
**To:** artiv@bellsouth.net;  
**Date:** Monday, April 11, 2016 11:51 AM

Mr. Irvine-

This email summarizes our conversation from this morning and provides links to additional information you may find useful.

I understand that the Valkaria Aviation Association (VAA) leases a hangar at the Valkaria Airport. The hangar houses a total of four aircraft; two of the planes are owned by a VAA member, and the VAA subleases the other two spaces. The hangar also houses the only public restrooms that are available for several other hangars, and the VAA believes that it has an obligation to make these restrooms available to other aeronautical users at the airport. For the past 25 years, the VAA has hosted a monthly pancake breakfast in order to raise funds for the local EAA chapter and a Boy Scout troop. The airport sponsor is now proposing to charge the VAA for this activity which is not contemplated in the VAA's lease. The VAA is now seeking FAA guidance regarding this situation.

The FAA believes that written agreements between airport sponsors and airport tenants are important. The terms of a lease agreement are the primary protection of tenants for the continued occupancy of a leasehold, and not the grant assurances. [See Thermco Aviation, Inc., and A-26 Company v. City of Los Angeles, Los Angeles Board of Airport Commissioners, and Los Angeles World Airports, FAA Docket No. 16-06-07, (December 17, 2007) (Final Agency Decision) at 27] The FAA does not enforce or negotiate leases between airport sponsors and airport users. The FAA's interest in leases is limited to the impact of the agreement on the airport sponsor's ability to meet its federal obligations. With that said, the FAA is often asked to review lease agreements in order to assist airport sponsors in understanding how these agreements may impact their ability to meet their federal obligations. Our office uses the attached cheat sheet when reviewing lease agreements.

When reviewing a lease agreement, the FAA must first determine if the lease is for an aeronautical versus a nonaeronautical activity. The FAA defines "aeronautical activity" in FAA Order 5190.6B, FAA Airport Compliance Manual (see [http://www.faa.gov/airports/resources/publications/orders/compliance\\_5190\\_6/](http://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/)), in Appendix Z, as:

**Aeronautical Activity** - Any activity that involves, makes possible, or is required for the operation of aircraft or that contributes to or is required for the safety of such operations. It includes, but is not limited

4/12/2018

Print

to:

- Air taxi and charter operations.
- Scheduled or nonscheduled air carrier services.
- Pilot training.
- Aircraft rental and sightseeing.
- Aerial photography.
- Crop dusting.
- Aerial advertising and surveying.
- Aircraft sales and service.
- Aircraft storage.
- Sale of aviation petroleum products.
- Repair and maintenance of aircraft.
- Sale of aircraft parts.
- Parachute activities.
- Ultralight activities.
- Sport pilot activities
- Military flight operations

The FAA permits airport sponsors to charge aeronautical users an aeronautical rate, which is generally less than a Fair Market Value rate, for use of the airport and its facilities. However, the FAA's Policy and Procedures Concerning the Use of Airport Revenue, at Section VII.C. (see <http://www.gpo.gov/fdsys/pkg/FR-1999-02-16/pdf/99-3529.pdf>) explains that the FAA interprets Grant Assurance 24, *Fee and Rental Structure*, as requiring the airport receive Fair Market Value for the provision of nonaeronautical facilities and services.

While aircraft storage is an aeronautical activity, hosting fundraisers and/or pancake breakfasts, is a nonaeronautical activity. The FAA would not object to the airport sponsor charging the VAA a fee for this activity and would recommend the airport sponsor consider a fee based on the Fair Market Value of the activity. Nonaeronautical activities are not protected under the Grant Assurances, and the airport sponsor may limit or prohibit the use of aeronautical leaseholds and infrastructure for nonaeronautical activities.

4/12/2016

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A copy of the standard airport grant assurances is available at:  
[http://www.faa.gov/airports/aip/grant\\_assurances/media/airport-sponsor-assurances-aip.pdf](http://www.faa.gov/airports/aip/grant_assurances/media/airport-sponsor-assurances-aip.pdf)

An electronic brochure entitled Airport Sponsor and Airport User Rights and Responsibilities can be accessed at:  
[http://www.faa.gov/airports/airport\\_compliance/media/airportSponsorAndUserRightsBrochure.pdf](http://www.faa.gov/airports/airport_compliance/media/airportSponsorAndUserRightsBrochure.pdf)

Please let me know if you have any additional questions.

Deandra Brooks

Airport Compliance Specialist

Tel: 404-305-6739

[deandra.brooks@faa.gov](mailto:deandra.brooks@faa.gov)

---

### Attachments

- Lease Review Cheat Sheet.pdf (164.75KB)

## Valkaria Airport X-59

### Hangar Wait List Application Form

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

Phone Number: (     )                      Email Address \_\_\_\_\_

Hangar Type Desired:     Standard     Large     Rotorcraft     Other \_\_\_\_\_

It is my desire to be added to the voluntary hangar waiting list. I have read and understand the hangar wait list policy and procedure.

\_\_\_\_\_ I understand that it is **MY RESPONSIBILITY** to keep my contact information up to date.

Signature: \_\_\_\_\_

#### POLICY AND PROCEDURE

**OBJECTIVE:** It is the objective of Valkaria Airport to maintain a Hangar Waiting List (HWL) for the benefit of all airport users and to help the airport determine the demand for hangar space. The HWL is a voluntary document and in no way guarantees hangar space to any individual or entity. The county manager or representative may supersede the HWL when it is deemed necessary and beneficial to the Airport/County. An example would be the assignment to a government entity; Federal, State, FAA/NTSB, and US Armed forces, Police, Civil Air patrol, etc.

The HWL is a single electronic formatted spreadsheet that is located and maintained in the airport administrative office computer. Only Airport and County Staff have access to the HWL.

**PROCEDURE:** Any individual or entity that desires to be added to the HWL must comply as follows: Apply in person at the airport administrative office with any airport staff. Show some form of official identification for verification and complete the Hangar Wait List application. The Name, Date and Phone Number will be placed on the HWL in the consecutive number permanently. **It is the sole responsibility of the individual/entity to keep its contact information up to date.**

When hangar facilities become available, airport staff will utilize the HWL to fill the vacancy. The lowest number will be called first and given the option to lease. Airport staff will try to contact each individual/entity at least three times; leave a message if possible, over a two day period. If contact is unsuccessful after this period, staff will move on to the next highest number on the list. If an individual/entity elects not to accept the available hangar at that time, its name will be removed and/or considered no longer valid on the HWL.

NOTE: Occasionally Half Hangars become available and will be offered in accordance with the above procedure. Accepting or declining a half hangar will not affect your position on the Hangar Wait List

APPENDIX C-2: Waiting List Call Results

No.	Pos.	Date Added to List	Results of 5/29 - 30/18 calls
247	4	06/27/2014	Number is active, but no voicemail option, could not leave message.
248	5	07/01/2014	Left Message on Day 1, called back on Day 2 and said he wasn't sure if he still wanted to be on the list.
249	6	08/14/2014	Day 1 - wants to remain on the list, ready to move in immediately
250	7	08/20/2014	Day 1 - wants to remain on the list, ready to move in immediately
251	8	08/25/2014	Number is active, but no voicemail option, could not leave message.
252	9	08/27/2014	Day 1 - wants to remain on the list, ready to move in immediately
253	10	09/18/2014	Day 1 - wants to remain on the list, ready to move in immediately
254	11	09/28/2014	Day 2 - No Longer Interested
255	12	09/25/2014	Left Message on Both Days - no return call
256	13	09/29/2014	Left Message on Day 1, called back on Day 2 and said he was still interested and ready to move in immediately.
257	14	10/13/2014	Left Message on Both Days - no return call
258	15	10/16/2014	Busy signal on both days - Number inactive
259	16	10/28/2014	Day 1 - wants to remain on the list, ready to move in immediately
260	17	11/12/2014	Day 1 - No Longer Interested
261	18	11/12/2014	Day 1 - No Longer Interested
262	19	11/21/2014	Day 1 - wants to remain on the list, ready to move in immediately
263	20	11/26/2014	Left Message on Day 1, called back on Day 2 and said he was still interested and ready to move in immediately.
264	21	11/26/2014	Left Message on Day 1, called back on Day 2 and said he was still interested and ready to move in immediately.
265	22	12/01/2014	Number is active, but no voicemail option, could not leave message.
266	23	12/04/2014	Busy signal on both days - Number inactive
267	24	12/09/2014	Day 1 - Wrong Number
268	25	12/23/2014	Number is active, but no voicemail option, could not leave message.
269	26	01/05/2015	Left Message on Both Days - no return call
270	27	01/14/2015	Emailed on both days - international phone
271	28	02/22/2015	Left Message on Day 1, called back on Day 2 and said he was still interested and ready to move in immediately.

Results:

11 Response was positive and ready to rent a hangar	44%
3 Respondent is no longer interested in a hangar	12%
7 Inactive Numbers or Inability to Leave a Message	28%
4 Left two messages with no response by third day	16%



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EXHIBIT D

**T-HANGAR LEASE AGREEMENT**  
**VALKARIA AIRPORT**

This LEASE AGREEMENT, made and entered into this **TBD**, by and between the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as the owner, sponsor and governing body for Valkaria Airport, hereinafter referred to as "LANDLORD" or "COUNTY" and **TBD**, hereinafter referred to as "TENANT," having the following mailing address: **TBD**, and phone number: **TBD**.

WITNESSETH:

WHEREAS, Brevard County is the owner of certain improved real property located at the Valkaria Airport in the County of Brevard, State of Florida; and,

WHEREAS, Brevard County has agreed to lease such property to the TENANT subject to the terms and conditions set forth in this lease agreement; and,

WHEREAS, the TENANT desires to lease said property from Brevard County;

NOW, THEREFORE, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

I. **TERM OF LEASE AND RENTAL RATES**

A. The TENANT hereby rents Hangar Number #**TBD** (the "Premises") at Valkaria Airport for the term beginning on the first of **TBD**, and ending on the **TBD**, both dates inclusive, at the Base Rent rate of \$246.09 per month, plus applicable sales tax (currently 7.0%), due and payable on the first day of each month during the term of this lease. If the term of this Lease Agreement commences on any day other than the first of the month, the TENANT shall pay in advance pro-rata rent for the first month. Pro-rata rent shall be the number of days from the commencement date of this Lease Agreement to the end of the month, multiplied by the daily rental charge, plus applicable sales tax. The daily rental charge shall be the Base Rent divided by the number of days in the applicable month.

B. At the conclusion of the term set forth in the preceding paragraph, this lease shall continue on a month-to-month basis, with the same terms, conditions, covenants and stipulations herein set forth. Either party may terminate such month-to-month tenancy by providing thirty (30) days written notice of termination to the other party.

C. Beginning in 2017, the base rent shall be adjusted annually. For purposes of this Lease, the LANDLORD and the TENANT recognize and agree that the purchasing power of the United States dollar is evidenced by the Consumer Price Index (CPI) published by the Federal Government. The capitalized terms used herein are defined below. Effective on each Adjustment Date, Base Rent shall be increased (or

decreased) in the same proportion as the CPI. The increases will be calculated as follows: (i) subtract one point zero (1.0) from a fraction, the numerator of which shall be the Variable Index, and the denominator of which shall be the Base Index; then (ii) multiply the result obtained in (i) above by the Base Rent immediately prior to the Adjustment Date. Notwithstanding the foregoing, in no event shall the new Base Rent be less than the initial Base Rent established in paragraph I.A. above. In applying the foregoing formula for Base Rent adjustments, the following terms shall have the following meaning:

“Adjustment Date” shall mean the first day of each October, beginning on October 1, 2017 and each year thereafter so long as this Lease shall remain in effect.

“Base Index” shall mean the CPI for the month of June in the year prior to the then current Adjustment Date. For example, for the first adjustment date (October 1, 2017), the Base Index shall mean the CPI for the month of June 2016.

“CPI” shall mean the Consumer Price Index for All Urban Consumers, All Items, U.S.A. Area, 1982-1984 = 100, as published by the Bureau of Labor Statistics, United States Department of Labor (U.S. City Average). If such index is discontinued, CPI shall then mean the most nearly comparable index published by the Bureau of Labor Statistics or other official agency of the United States Government as determined by the LANDLORD.

“Variable Index” shall mean the CPI for the month of June prior to the then current Adjustment Date. For example, for the first adjustment date (October 1, 2017), the Variable Index shall mean the CPI for the month of June 2017.

D. The TENANT agrees to pay the first and the last month’s rent prior to taking possession of the Premises.

E. Rental payments shall be considered delinquent after the 1<sup>st</sup> of each month, and shall constitute a default if not paid by the 5<sup>th</sup> of each month. A service charge of \$50.00 will be assessed if payment of the rent is not received by the 5<sup>th</sup> of each month.

## II. OBLIGATIONS OF TENANT

A. The TENANT agrees to promptly notify the LANDLORD in writing of any changes to the address or phone number of TENANT that may occur during the term of this lease agreement.

B. The TENANT agrees and covenants that the Premises will not be assigned or sublet to another party.

C. The TENANT hereby covenants that he or she has an ownership or contractual interest in the stored aircraft, and agrees that the leased Premises shall be

solely used for the storage of aircraft. Except for the TENANT'S private motor vehicle while the above listed aircraft is in use, vehicles or other non-aviation equipment such as boats, trailers, furniture, appliances, lawnmowers, etc., may not be stored in the leased Premises.

D. The TENANT hereby covenants and agrees to maintain the leased Premises in a clean and orderly manner.

E. The TENANT will notify the LANDLORD of any damage to the Premises, and when that damage is the fault of the TENANT, the TENANT will reimburse the LANDLORD for the cost of repairs.

### III. INSURANCE

A. The TENANT hereby covenants that he has, and will maintain in force and effect, General Liability Insurance in the amount of ONE MILLION (\$1,000,000.00) DOLLARS or greater. The TENANT shall provide a valid Certificate of Insurance ("COP") to the LANDLORD demonstrating that the aforementioned insurance requirements have been met prior to the Lease becoming effective, during the annual hangar inspection, and whenever there has been any change in insurance, such as modifying coverage or a change in the insurance provider. The COI(s) shall indicate that the policy has been endorsed to cover the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as an additional insured. Additionally, upon any policy cancellation or modification, the insurer shall send a written notice to the LANDLORD with 30 days.

B. The insurance coverage enumerated above constitutes the minimum requirement and shall in no way lessen or limit the liability of the TENANT under the terms of this lease.

### IV. INDEMNIFICATION

A. The TENANT shall indemnify the LANDLORD and hold the LANDLORD harmless for any and all liability, claims, damages, expenses (including attorney's fees and costs for trial or appeal), proceedings and causes of action of every kind and nature arising out of or connected with the use, maintenance, operation or control of the leased Premises by the TENANT.

B. Neither the LANDLORD nor its employees or agents shall be responsible or liable for any damage or loss from any cause whatsoever to any property of the TENANT stored, installed or located upon the leased Premises described in this lease; except that the LANDLORD may be liable for any damage or loss to TENANT'S property directly caused by the negligence of the LANDLORD, its employees or agents. Nothing herein shall be construed as a waiver of the provisions of section 768.28, Florida Statutes.

V. GENERAL PROVISIONS

A. The LANDLORD, or its representatives, shall have the right to enter the Premises at any reasonable hour for the purpose of examining the same, making repairs to the leased property, or for any other lawful purpose. The LANDLORD, or representatives, will inspect the leased Premises and its contents at least once per year. The TENANT will supply the LANDLORD with a key for entry into the hangar.

B. The TENANT will not make alterations of any kind to the leased Premises without the advance written authorization of the Airport Manager.

C. The leased Premises may be used for the assembly of experimental or "homebuilt" aircraft as long as construction or repairs are conducted within applicable Federal Aviation Regulations and the then-current Valkaria Airport Rules and Regulations.

D. The TENANT covenants and agrees to comply with all applicable Federal, State and County rules, laws and ordinances as well as the Valkaria Airport Rules and Regulations that are presently in force or that subsequently may be enacted with respect to the operation of TENANT'S aircraft and use of the leased Premises at Valkaria Airport.

E. The TENANT covenants and agrees to return said Premises to the LANDLORD at the expiration of this lease in good condition and repair as when first received, except for natural wear and tear, damage by storm, fire, or other casualty for which the TENANT is not liable.

VI. TERMINATION

A. The LANDLORD may terminate this lease agreement for cause by giving thirty (30) days written notice of termination. For the purpose of this provision, cause is defined as follows:

1. Failure of the TENANT to comply with any of the terms or conditions of this agreement.
2. Failure of the TENANT to comply with any applicable Federal, State, or County laws, rules and ordinances or the Valkaria Airport Rules and Regulations in utilizing the TENANT'S aircraft and the leased Premises at Valkaria Airport.

B. The LANDLORD may terminate this lease agreement if the TENANT is in default of the requirement to pay rent as defined in Paragraph I-E.

C. Should the leased premises be destroyed or so damaged by fire, act of God, public enemy, accident, vandalism or casualty as to be untenable, this lease will be terminated from the date of such occurrence.

D. This lease may be terminated by the LANDLORD, if the TENANT shall die, become insolvent or bankrupt, or make an assignment for the benefit of his creditors.

#### VII. MISCELLANEOUS PROVISIONS

A. This lease shall be subordinate to the provisions of any existing or future agreement between the LANDLORD and the United States of America, relative to said Airport property and the operation and maintenance of the Airport.

B. Notice to the LANDLORD shall be sent to the Airport Manager, Valkaria Airport, 1 Pilot's Place, Valkaria, FL 32950, and notices sent to the TENANT shall be sent to the address contained in this lease unless changed by the TENANT under the terms of this agreement listed in Paragraph II-A.

C. It is the intention of both parties hereto that the provisions of this lease shall be severable in respect to a declaration of invalidity of any provision hereto.

D. In the event of any legal action to enforce the terms of this contract, each party shall bear its own attorney's fees and costs.

E. **Tenant has received, read, understood and agrees to abide by the Valkaria Airport Rules and Regulations contained in Brevard County Policies.**  
\_\_\_\_\_ (Tenant Initials).

F. 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.

#### VIII. LEASE CLAUSES REQUIRED BY FAA

A. **Nondiscrimination:** The tenant for himself, his personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination, (3) that the tenant shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights

Act of 1964, and as said Regulations may be amended. That in the event of breach of any of the above nondiscrimination covenants, Airport Owner shall have the right to terminate the lease and to re-enter and as if said lease had never been made or issued. The provision shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.

**B. Airport Protection:** It shall be a condition of this lease, that the lessor reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the real property hereinafter described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on the airport. That the Tenant expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the hereinafter described real property to such a height so as to comply with Federal Aviation Regulations, Part 77. That the Lessee expressly agrees for itself, its successors and assigns, to prevent any use of the hereinafter described real property which would interfere with or adversely affect the operation or maintenance of the airport, or otherwise constitute an airport hazard.

**C. Property Rights Reserved:** This lease and all provisions hereof are subject and subordinate to the terms and conditions of the instruments and documents under which the Airport Owner acquired the subject property from the United States of America and shall be given only such effect as will not conflict or be inconsistent with the terms and conditions contained in the lease of said lands from the Airport Owner, and any existing or subsequent amendments thereto, and are subject to any ordinances, rules or regulations which have been, or may hereafter be adopted by the Airport Owner pertaining to the Valkaria Airport.

**D. Exclusive Rights:** Notwithstanding anything herein contained that may be, or appear to be, to the contrary, it is expressly understood and agreed that the rights granted under this agreement are non-exclusive and the Lessor herein reserves the right to grant similar privileges to another Lessee or other Lessees on other parts of the airport.

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA  
"LANDLORD":

By: \_\_\_\_\_  
Manager, Valkaria Airport

WITNESS

\_\_\_\_\_

TENANT

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

EXHIBIT E

**Wall, Katherine**

---

**From:** Miller, Steve <smiller@ngn-tampa.com>  
**Sent:** Thursday, May 24, 2018 11:54 AM  
**To:** Soss, Matthew  
**Cc:** Caraveo, Selenia; Wilson, Shannon L; Wall, Katherine; Denninghoff, John P  
**Subject:** RE: Outstanding bonds for Valkaria Airport

Matt – it is my understanding that the airport has a waiting list for usage of hangars. Under the applicable tax rules, if the County finances hangars with tax-exempt debt and then leases them to private persons or entities, the County must comply with certain specific tax law provisions. One of them is that the hangars must be reasonably available for use by all members of the general public, natural persons and businesses alike, on the same basis. By allowing some tenants to violate the sub-leasing provision in the lease, I think it could be determined that the County is not complying with this tax provision. First, this could prevent or delay persons from coming off the wait list as intended. Second, not enforcing the lease with respect to some tenants with regard to this issue is effectively allowing them to use the hangar in a manner that is different from those that are complying with the lease (ie, some tenants are now also landlords). The tax provisions also require that a lease be no longer than 200 days. To the extent any of the sub-leases are longer than 200 days, the County could be considered in violation of this tax provision.

The County recently issued a tax-exempt Note to Raymond James to refinance certain debt related to Valkaria hangars and to refinance and finance other County projects. If the IRS were to determine that the County was violating the applicable tax rules as a result of allowing sub-leases in violation of the underlying leases, they could declare the entire Note as taxable. Pursuant to the provisions of that Note, Raymond James would then increase the interest rate on the Note to such a rate as to provide them with same after-tax yield they would have had if the Note has remained tax-exempt. This rate increase would apply to the entire Note, not just the portion related to the refinancing of the Valkaria hangars. The County would also be liable for any penalties and interest that the IRS may impose.

Let me know if you would like to discuss any further or have any other questions.

**Nabors  
Giblin &  
Nickerson**

Steven E. Miller, Esq.  
Nabors, Giblin & Nickerson, P.A.  
2502 Rocky Point Drive, Suite 1060  
Tampa, Florida 33607  
Phone 813/281-2222  
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**From:** Soss, Matthew [<mailto:Matthew.Soss@brevardfl.gov>]  
**Sent:** Wednesday, May 23, 2018 1:49 PM  
**To:** Miller, Steve

**Cc:** Caraveo, Selenia; Wilson, Shannon L; Wall, Katherine; Denninghoff, John P  
**Subject:** Outstanding bonds for Valkaria Airport

**Steve:**

As you know, the County leases hangars at Valkaria airport to the public. It has come to the County's attention that certain tenants are subleasing their hangars, in violation of their lease agreement with the County, to third parties. It is my understanding that there are still outstanding bonds involving the airport projects, does, or could, the subleasing of hangars by tenants cause any issues for the County as it relates to the outstanding bonds and potential tax liability? Call me with any questions.

Thanks,

Matthew Soss

Assistant County Attorney

Brevard County Attorney's Office

2725 Judge Fran Jamieson Way, Suite 308

Viera, FL 32940

Telephone: 321/633-2090

Fax: 321/633-2096

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*Aero Valkaria LLC*  
1721 Banaghen Way  
Melbourne Florida 32940  
321-626-4438  
aerovalkaria@aol.com

June 15, 2018

Commissioner Kristine Isnardi (Vice Chair)  
490 Centre Lake Drive  
Suite 175  
Palm Bay, FL 32907

Re: Hangar subleases at Valkaria Airport

Dear Commissioner Isnardi,

I am the President/owner of Aero Club Valkaria LLC, a club of twenty to thirty members who operate four to five aircraft at Valkaria Airport. We have been in operation since 2010, and I have been affiliated with the Valkaria Airport since 2003 as a user, tenant, and a member of the now defunct Valkaria Airport Advisory Board. In addition to being a tenant I have extensive aviation experience, having been the manager of two airports, Johnnycake Airport (22B) and Meriden Airport (KMMK), a city owned airport. Additionally, I'm a FAA Designated Pilot Examiner and provide check rides to pilots at the airport.

Our club provides flying events, social activities and educational programs for our members. As a user of the Valkaria Airport, we rent a number of hangars and tie downs, and purchase approximately 8,000 gallons of fuel from the airport annually.

Late last year, a fellow airport tenant, Mr. Mark Lenhart, had sold one of his airplanes, and while waiting to purchase another aircraft, offered me his hangar to store one of our club's aircraft. I accepted his offer and paid him directly the monthly hangar rent.

As you will recall Commissioner Isnardi, in late January or early February of this year, Brevard County conducted an inspection of each hangar at the airport and the aircraft in it. Just prior to this inspection, the airport manager, Mr. Steve Borowski, asked me to remove my aircraft from Mr. Lenhart's hangar, as the County considered my arrangement with Mr. Lenhart to be a sublease. According to the County rules governing the operation of the airport, the subleasing of hangars is not permitted. I immediately complied with the Airport Manager's request, and removed my aircraft from Mr. Lenhart's hangar and tied it down on the outside tie down area.

Subleasing a hangar is addressed in the BOCC lease agreement with each tenant. Paragraph II, subparagraph B. states, in whole "The TENANT agrees and covenants that the Premises will not be assigned or sublet to another party".

It is now June and my aircraft has been outside in the elements since February. Outside storage is detrimental to an aircraft as it accelerates corrosion, fading of the paint, crazing of the windshields and deterioration of the interior. This situation adds to the cost of ownership, which our members have to bare.

I have observed that Pi Aero LLC, an aircraft rental and flight instruction operation, subleases their hangar space from Mr. Arthur Irvine, Valkaria Aviation Association. Pi Aero's aircraft have not been removed from the hangar after this inspection, but continue to remain in their subleased hangar. Pi Aero's subleasing is against airport policy.

I find that the County is discriminating against me. If our club operates in compliance with the County directives, I expect the County to enforce their directives equally on all users. This has not been the case with me. Your random enforcement is discriminatory.

I respectfully request that the County immediately remove Pi Aero's aircraft from the hangar they are currently subleasing, and force them to act in accordance with their County lease.

I thank you for your attention in this matter, Commissioner Isnardi. Please feel free to contact me concerning this matter at any time.

Respectfully submitted,

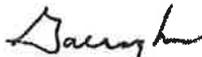
  
Frank Gallagher  
President/Owner

EXHIBIT F2

**From:** Roig, Janette **On Behalf Of** Commissioner, D5  
**Sent:** Tuesday, July 3, 2018 9:01 AM  
**To:** Stern, Danielle; Isnardi, Kristine; Luebker, Vic  
**Subject:** FW: Hangar subleases at Valkaria Airport

D5

---

**From:** David Lopez [mailto:thedlopez@gmail.com]  
**Sent:** Monday, July 2, 2018 9:42 PM  
**To:** Commissioner, D5  
**Subject:** Hangar subleases at Valkaria Airport

Dear Commissioner Kristine Isnardi,

I am a member of Aero Club Valkaria LLC, a club of twenty to thirty members who operate four to five aircraft at Valkaria Airport. We have been in operation since 2010. Our club provides flying events, social activities and educational programs for our members. As a user of the Valkaria Airport, we rent a number of hangars and tie downs, and purchase approximately 8,000 gallons of fuel from the airport annually.

In late January or early February of this year, Brevard County conducted an inspection of each hangar at the airport and the aircraft in it. Just prior to this inspection, the airport manager, Mr. Steve Borowski, asked us to remove one of our aircraft from a hangar we had been renting from another airport tenant, as the County considered our arrangement to be a sublease. According to the County rules governing the operation of the airport, the subleasing of hangars is not permitted. We immediately complied with the Airport Manager's request, and removed our aircraft from this hangar and tied it down on the outside tie down area.

Subleasing a hangar is addressed in the BOCC lease agreement with each tenant. Paragraph II, subparagraph B. states, in whole "The TENANT agrees and covenants that the Premises will not be assigned or sublet to another party".

It is now July and our aircraft has been outside in the elements since February. Outside storage is detrimental to an aircraft as it accelerates corrosion, fading of the paint, crazing of the windshields and deterioration of the interior. This situation adds to the cost of ownership, which our members have to bare.

I have observed that Pi Aero LLC, an aircraft rental and flight instruction operation, subleases their hangar space from Mr. Arthur Irvine, Valkaria Aviation Association. Pi Aero's aircraft have not been removed from the hangar after this inspection, but continue to remain in their subleased hangar. Pi Aero's subleasing is against airport policy.

I find that the County is discriminating against us. If our club operates in compliance with the County directives, we expect the County to enforce their directives equally on all users. This has not been the case with our club. Your random enforcement is discriminatory.

I respectfully request that the County immediately remove Pi Aero's aircraft from the hangar they are currently subleasing, and force them to act in accordance with their County lease.

I thank you for your attention in this matter, Commissioner Kristine Isnardi. Please feel free to contact me concerning this matter at any time.

Regards,

David Lopez

727.741.5161

## Exhibit A

### DETAILED BACKGROUND

On April 26, 2018 the County Manager engaged the Internal Auditor RSM to perform an audit of the Airport in response to various complaints and concerns raised by two Hangar 71 tenants. The results of the audit are found in a report that was provided to each of the Commissioners dated June 6, 2018, and is attached hereto (see Agenda Report Exhibit C).

Among the complaints and concerns were several minor issues, many of which are being addressed by the Airport Manager and by the County Manager's Office. These include maintenance concerns such as mowing grass on the airport. There are four remaining concerns that are significant and require further action. Board direction is needed regarding subleasing and tenant aircraft ownership. The third concern involves transparency of the hangar wait list management. The fourth item involves modifying and updating the Airport's Controlling documents. Each of these matters is detailed below.

The primary two concerns that require Board direction is the current Board policy's prohibition against subleasing hangars at the airport. Included with this prohibition is a requirement that the tenant have an ownership interest in the aircraft stored in the hangar. This prohibition is clearly included in the actual lease documents signed by all hangar tenants (blank copy attached, see Agenda Report Exhibit D). However, in recent years some examples of subleasing have developed, under the pretext and using the term "cost-sharing arrangement" the tenants claim not to be subleasing. It is the auditor's and staff's position that this is a subleasing arrangement without proper authorization.

These subleasing arrangements typically are associated with a tenant allowing a friend to use their hangar for aeronautical uses such as building or storing an aircraft. With one exception, all of these situations have recently come into compliance with the terms of the lease. In one case, however, (hangar #71), a portion of the subleasing activity is commercial in nature and the original tenant has no ownership interest in any of the five aircraft being stored in the hangar (hangar #71 is a large hangar capable of housing up to five smaller aircraft). The subleasing tenant in this situation also has their own hangar lease (hangar #8) for commercial use, and that tenant has recently sought a subleasing tenant in violation of the current lease.

Staff and the auditor have sought input from the FAA and through the County Attorney's Office from the County's Bond Counsel regarding this matter. Allowing subleasing presents several concerns about which Board direction is sought to clarify if the subleasing provisions of BCC #79 (see Agenda Report Exhibit B attached) are to continue and be enforced.

### **SUBLEASING CONCERNS:**

- A. **Potential violation of bond covenants:** The airport has tax free municipal bond debt which requires the hangars to have a public purpose and to be reasonably accessible to the public. This debt was issued under a tax-exempt Note that included other county projects. A public purpose means, in summary, that the hangars be reasonably available to the public for leasing. This requirement is, in part, met through the use of the hangar wait list (see below) to allow the public to sign up to get an opportunity to lease a hangar. Subleasing inherently is controlled by the tenants not by the landlord (Airport/County) and thus may be viewed as subverting or circumventing public access to get a lease for the hangars.

**ATTACHMENTS:**

**Description**

- ▣ **Exhibit A Detailed Background**
- ▣ **Exhibit B Board Policy BCC-79**
- ▣ **Exhibit C RSM Report**
- ▣ **Exhibit D Standard Hangar Lease**
- ▣ **Exhibit E Bond Counsel Email**
- ▣ **Exhibit F1 Letter from Frank Gallagher Aero Valkaria LLC President/Owner**
- ▣ **Exhibit F2 Email from David Lopez Aero Valkaria LLC Membere**

## Exhibit A

While Bond Counsel didn't definitively state that subleasing is a violation of the bond covenants, Bond Counsel stated it could be and, if determined to be so by the IRS, the bond Note would lose its tax-exempt status and the County would be required to pay the resulting tax liability, penalties and interest. (see attached Agenda Report Exhibit E, email from Steve Miller, Bond Counsel). This consequence would impact not only the bond issued for the Valkaria Airport hangar project, but all other bonds for count projects issued from the same debt Note.

- B. **Hangar wait lists:** The deed to the Airport, FDOT grant requirements and FAA Grant Assurance 22 require fair and equal, nondiscriminatory use of the Airport. The Airport currently maintains a hangar waiting list which provides the public the mechanism or access to sign up for a hangar lease opportunity. There are actually several such lists for the different sizes and types of hangars at the airport. Subleasing circumvents that waiting list by allowing the current tenant to sublease to someone or an entity of their choosing. Thus, the wait list can be rendered ineffective. Circumventing the Hangar Wait list is a concern or allegation made by the tenant and subtenant of Hangar #71 and was the subject of a part of the recently completed audit (it is further addressed below). The FAA also imposes grant assurances (see E below) which, among other things, require that the airport sponsor (the County) "should ensure that length of time on a waiting list of those in need of a hangar is minimized" (see Federal Register Vol. 81 no. 115, Policy the non-aeronautical use of Airport hangars, docket No. FAA 2014-0463).
- C. **Lack of control of required insurance policies:** Currently all tenants are required to provide insurance policies naming the County as 'Additional Insured'. This requirement is intended to protect the County from liability that is associated with any tenant's normal use as understood from the execution of their lease. As a result of auditing efforts staff has determined that some subleasing tenant's activities are under insured and could subject the County to financial liability. Staff intends to revise the lease document and bring it to the Board for approval to address the insurance provisions by requiring Risk Management to identify the insurance requirements for each tenant and to also identify the tenant use more clearly. Subleasing introduces difficulty to identifying and controlling existing tenant insurance and more difficulty with subtenant insurance needed to protect the County.
- D. **Lack of control of airport activities:** Currently the leasing process requires disclosure of the purpose of the activity associated with the leased hangar. As an example, any commercial use requires airport authorization. Subleasing at least inhibits and may obstruct the ability of the landlord (the Airport/County) from being aware of the activities of the 'subtenant(s)'. Such lack of control has potential security and safety concerns. Staff, however, is not aware of such concerns at this time outside of the insurance concerns outlined in item C above.
- E. **Airport Revenue may be diverted:** While the FAA doesn't have rules that prevent subleasing, Grant Assurance 25 requires that the airport receive the benefit of the revenue generated by the airport. Subleasing presents an opportunity for a leasing tenant to sublease their hangar at a 'profit' which represents a diversion of revenue from the Airport. This could be viewed as a violation of FAA rules and grant requirements. In recent years, the airport has received over \$20 million in FAA grants. Such violations could jeopardize future grants from the FAA.
- F. **Discrimination Claims:** Staff has received complaints that the County is unjustly favoring the subleasing tenant discussed herein over those on the wait list by not enforcing the no subleasing provisions of the Board Policy and the terms of the lease. See attached Agenda Report Exhibits F1 and F2.

## Exhibit A

In light of the aforementioned concerns, staff is requesting the Board consider the following options and provide direction regarding subleasing of hangars at the airport:

1. Bar additional subleasing tenants but allow the existing subleasing tenants to be added to the existing lease to become co-tenants. Under this arrangement all existing tenants and subleasing tenants would become co-tenants, jointly and severally responsible for their obligations as tenants. This option protects future prospective tenants on the hangar wait list while allowing existing sub-lessors to continue their existing arrangements. Under this arrangement, in the event the original tenant drops out of the hangar lease the lease would be terminated and the hangar would become available to the next wait list candidate. This arrangement would require staff to take steps to assure proper insurance coverages are in place for every tenant/co-tenant to monitor the status of each individual tenant/co-tenant and may subject the County to some of the subleasing concerns outlined below.
2. Enforce the existing prohibition on subleasing. Consider providing up to 30 days for the existing tenant to get the subtenant out of the hangar. Failing that, the lease would be terminated with 30 days of notice as provided for within the lease. This option avoids all listed subleasing concerns.
3. Allow subleasing, subjecting the Airport and the County to all subleasing concerns listed above. It would require elevated efforts and expenses to control activities, to assure proper insurance coverages.
4. Other direction from the Board.

### **AIRCRAFT OWNERSHIP CONCERNS:**

The next item for which staff is seeking Board direction relates to requirements about tenant ownership of aircraft in the tenant's hangar. This question is or can be associated with subleasing and the integrity of the hangar wait list. Currently the hangar lease and Board Policy require that the aircraft in a hangar must be at least partially owned by the tenant or under a contractual obligation to the tenant (e.g., the aircraft is being leased by the tenant). This means if a tenant no longer has an ownership or lease interest in their aircraft, they must give up their lease, otherwise the hangar is not being used for aeronautical purposes and becomes a storage unit on the airport. Note that some tenants use a hangar for authorized aeronautical activity (as defined by the FAA) which does not require aircraft storage. This is acceptable under current policy and FAA rules. One example of this is the aircraft mechanic business that leases hangar 70. Staff requests Board direction as to enforcement of this provision. Of course, if subleasing is approved by the Board, then the ownership requirement might not be applicable. Options the Board could consider are:

1. Strict enforcement resulting in termination of the lease upon finding that a tenant does not have a current ownership/lease interest in aircraft stored in the hangar or aeronautical use of hangar approved and authorized by the airport manager.
2. Strict enforcement resulting in termination of the lease upon finding that a tenant does not have a current ownership/lease interest in aircraft stored in the hangar or aeronautical use of hangar approved and authorized by the airport manager with an allowance of 90 days for the tenant to remedy any violations.
3. Allow for a tenant to have up to 6 months without an aircraft in the hangar prior to termination of the lease. This would allow for tenants to replace or repair aircraft. It would also allow for out-of-state

## Exhibit A

- tenants (e.g. snow birds) or tenants who travel with their aircraft to reasonably come and go without loss of their lease.
4. If subleasing is permitted, and the tenant does not have an aircraft in the hangar or an airport manager approved aeronautical use of the hangar, the tenant could be permitted up to 30 days to get a subleasing tenant in the hangar or lose the lease. This option should only be considered with awareness of the above itemized concerns associated with subleasing.
  5. Other direction from the Board.

### **HANGAR WAIT LIST CONCERNS:**

As referenced in items A and B above, one of the auditor's concerns is the hangar rental wait list which determines who next has an opportunity to lease a hangar from the airport. There are actually four wait lists for different types of hangars. There are currently 71 hangars which are 100% leased (no vacancies). There are a total of 274 individuals and businesses currently on the wait list to rent the next hangar that becomes available. The airport is currently constructing an additional 24 hangars scheduled for completion approximately March 2019. The concern expressed by the tenant and one of the unauthorized subtenants of hangar 71 was that the wait list was potentially being manipulated by the Airport Manager. This manipulation allegedly was to benefit or demonstrate favoritism toward or against individuals on the wait list. Such alleged favoritism would result in those that were legitimately close to the top of the list waiting longer for an opportunity to get a hangar lease.

In examining this concern, the auditor did not find evidence to support the allegations. However, the auditors did find that record keeping on this matter in one case failed to indicate accurately the result of the process. The audit found that the wait list was not as transparent as it could be. The auditor commented that if transparency were improved it would result in improved confidence regarding the integrity of the process. The Airport, under County Manager's Office direction, is in the process of developing a web-based posting of the wait list. It is intended that the site would be accessible to the public at all times. With the development of a transparent wait list County Management is confident that this matter will be appropriately addressed. However, if subleasing is permitted as noted above, the wait list could be circumvented.

### **AIRPORT CONTROLLING DOCUMENTS, RATES AND FEES:**

The final item for Board consideration is revised airport controlling documents. The controlling documents for the airport are Board Policy #079, the standard hangar lease, the Airport Minimum Standards, and the rates and fee schedule. Revisions to several of these documents are dependent on the Board direction regarding subleasing and a tenant's interest in the aircraft being stored. Therefore, upon receiving Board direction, staff intends to bring updated rates and fees and the other items after developing potential revisions. Subject to Board direction, staff intends to bring drafts of these documents to the Board for consideration and approval during the month of August or soon thereafter.



# POLICY

Number: BCC-79

Cancels: 11/17/2008

Approved: 11/10/2009

Originator: Valkaria Airport

Review: 11/12/2012

**Title: Rules and Regulations for Valkaria Airport (X-59)**

## RULES AND REGULATIONS FOR VALKARIA AIRPORT (X-59)

### I. OBJECTIVE

Pursuant to Chapter 18, Brevard County Code of Ordinances, this document prescribes the Rules and Regulations for users of Valkaria Airport, owned and operated by the Brevard County Board of County Commissioners. Prudent and proper administration requires that rules and regulations establishing the minimum acceptable conduct for Airport users be adopted. The requirement to impose such rules and regulations is in the public interest. This requirement provides protection from irresponsible and/or unsafe operations.

### A. APPLICABILITY

These Rules and Regulations apply to any person or entity utilizing the Airport.

### B. VIOLATIONS, PENALTIES AND PROCEDURES

If the County Manager or designee determines that any of these Rules and Regulations have been violated, and that he or she cannot resolve the matter satisfactorily by notice to, and discussion with, the offending party, then the County Manager or designee may take formal action against the offending party. Such action may include, but is not limited to, reprimand, suspension of airport operations by the party, or revocation of the party's right to utilize the Airport.

### C. AMENDMENT TO EXISTING RULES AND REGULATIONS

These rules and regulations shall for all purposes be deemed to be an amendment and restatement of **Chapter 18, Article II, Division 3. Rules and Regulations, Sec. 18-81**

through 18-84, of the Brevard County Code of Ordinances, which were in effect immediately prior to the adoption of these standards. On or after the Effective Date of these Rules and Regulations, any reference to such prior rules and regulations shall be deemed to be a reference to these Rules and Regulations.

**D. RIGHT TO AMEND STANDARDS**

The County reserves the right to adopt such amendments to these Rules and Regulations from time to time as it determines are necessary or desirable to reflect current trends of airport activity for the benefit of the general public or the operation of the Airport.

**E. EFFECTIVE DATE**

These Rules and Regulations shall become effective upon approval by the Board of County Commissioners.

**II. DEFINITIONS AND REFERENCES**

This policy is adopted pursuant to the authority vested in the Brevard County Board of County Commissioners as owner and sponsor of the Valkaria Airport, and consistent with the September 8, 1958 Quitclaim Deed of the airport from the United States of America to Brevard County, sections 18-37, 18-38 and 18-62, Brevard County Code of Ordinances, and other applicable laws and rules as stated herein.

**A. OTHER LAWS**

Air traffic rules promulgated by and under the authority of the laws of the United States shall be deemed a controlling part of these Rules and Regulations, whether the aircraft is engaged in a commercial or non-commercial activity, or in foreign, intrastate or interstate navigation or flight, and whether or not the aircraft is registered or flying in a civil airway. All laws and regulations pursuant thereto governing the operations of aircraft now or hereinafter enacted by Congress or promulgated pursuant to its authority, are hereby adopted by reference and are made a part hereof, and are declared applicable to the Airport as if the same were completely set forth in these Rules and Regulations, and these Rules and Regulations shall be deemed supplemental and additional thereto, and in aid thereof. If any provision of these Rules and Regulations or any other rules, resolutions or ordinances of the County or any regulations promulgated under such rules, resolutions or ordinances shall be repugnant to such federal law or regulation, such federal law or regulation shall be controlling. The County retains the right, however, to set and require more restrictive criteria. All other laws of the United States and of the state and all ordinances of the County, and all rules and regulations promulgated under any of the foregoing pertinent to the operation of the Airport are made a part of these Rules and Regulations and are declared applicable on the Airport as if the same were fully set forth herein.

**B. DEFINITIONS**

Unless specifically defined otherwise herein, or unless a different meaning is apparent from the context, the terms used in these Rules and Regulations shall have the following definitions:

**Abandon** - shall mean to forsake, desert, give up and/or surrender one's claim or right, license, use or privilege.

**Airport Movement Area (AMA)** – shall mean the runways, taxiways and other areas of the Airport that are utilized for taxiing, air taxiing, takeoff and landing of aircraft.

**Airport Operations Area (AOA)** – shall mean the area of the Airport used for aircraft landing, takeoff, or surface maneuvering including the areas around hangars and tie-down aprons.

**Aircraft** – shall mean any device used or designed for navigation or flight in the air including, but not limited to, an airplane, sailplane, glider, helicopter, gyrocopter, ultra-light, balloon or blimp.

**Airport** - shall mean Valkaria Airport (X59).

**Airport Manager** - shall mean that individual or their designee having immediate charge of the Airport and acting under the direction of the County Manager, who shall be considered an agent of the County.

**Airport Layout Plan** – shall mean the current Airport Layout Plan and each of its elements.

**Airport Master Plan** – shall mean the Valkaria Airport Master Plan Update prepared for the County by the Florida Institute of Technology Center for Airport Management and Development and adopted by the Board of County Commissioners on August 29, 2007.

**Apron or Ramp** - shall mean those areas of the airport within the AOA designated for loading, unloading, servicing or parking of aircraft.

**Authorized Area** - shall mean a specified location, approved by the County, as accessible to specifically authorized person(s).

**County** – shall mean Brevard County, a political subdivision of the State of Florida.

**Code** - shall mean the code of laws of any Local, State, or Federal Agency, as may be amended from time-to-time.

**Commercial activity** – shall mean any activity conducted with an intention to profit, whether or not resulting in a profit or gain.

**County** - shall mean the Board of County Commissioners of Brevard County, Florida.

**FAA** - shall mean the United States Federal Aviation Administration.

**Flammable Liquids** - shall mean liquid that is combustible and can burn or can cause a flame.

**Gross Weight** - shall mean the maximum allowable gross landing weight of aircraft as determined by the Federal Aviation Administration or other governmental agency having jurisdiction to define gross weight in the respective context.

**Helicopter** - shall mean a rotorcraft that, for its horizontal motion, depends principally on its engine driven rotors.

**Law Enforcement Agency** - shall mean each law enforcement agency having jurisdiction over the respective Airport.

**Motor Vehicle** - shall mean a self-propelled device in, upon or by which a person or property may be transported, carried or otherwise moved from point-to-point, except aircraft or devices moved exclusively upon stationary rails or tracks.

**NFPA** - shall mean the National Fire Protection Association.

**Non-Commercial Activity** - shall mean activities undertaken not for profit, but solely for recreational, philanthropic, religious, charitable, benevolent, humane, public interest, or similar purpose and no consideration for same is received, pledged or promised for any part of the respective activity.

**Operator** - shall mean individual directly controlling or maneuvering equipment, vehicles or aircraft.

**Owner** - shall mean person(s) possessing a fee interest in real property or ownership interest in personal property.

**Park** - shall mean to put or leave or let a motor vehicle or aircraft or ultra-light stand or stop in any location whether the operator thereof leaves or remains in such vehicle or aircraft or ultra-light when such standing or stopping is not required by traffic controls or by conditions beyond the control of the operator.

**Permit** - shall mean leases, space use permits, concession agreements, landing fee agreements, or other written grants of permission authorized by the Board of County Commissioners to use the Valkaria Airport, or part thereof, for the conduct of a commercial activity.

**Person** – shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

**Private Vehicle** - shall mean a vehicle transporting individual(s) or property for which no charge is paid directly or indirectly by the passenger or by any other individual or entity.

**Public Areas** - shall mean a specified location maintained or planned for community use to the extent of activities that are allowed as any “community use.”

**Public Parking Facilities** - shall mean all parking facilities provided for the public at the Airport.

**Ramp** – See Apron.

**Restricted Area** - shall mean any area of the Airport designated to prohibit or limit entry or access to authorized persons.

**Rotorcraft** - shall mean a heavier-than-air aircraft that depends principally for its support in flight on the lift generated by one or more rotors.

**Rules And Regulations** - shall mean these Rules and Regulations of the Airport, properly adopted by resolution of the County, as may be amended from time-to-time.

**Runway** - shall mean a restricted area used solely for take-off and landing of aircraft.

**Taxi Lane or Taxiway** - shall mean those portions of the AOA authorized or designated in the Valkaria Airport Master Plan for the surface maneuvering of aircraft.

**Tenant** – shall mean any person who occupies space at the Airport under a lease, permit, franchise, or concession agreement.

**Tie-down** – shall mean to secure light aircraft to the ground or a paved surface by means of rope or chain devices to prevent movement or damage during windy conditions.

**Town** – shall mean the Town of Grant-Valkaria.

**Touch and go** – shall mean an operation by an aircraft that lands and departs on a runway without stopping or exiting the runway.

**Transient Aircraft** - shall mean an aircraft not using the Airport as its permanent base of operations.

**Ultralight Aircraft** - shall mean an aircraft as defined in Federal Aviation Regulations Part 103 that is used or intended to be used for manned operation in the air by one or more occupants.

**Unicom** – shall mean the common UNICOM frequency for the airport.

**Vehicle** - shall mean a device in, upon or by which a person or property may be propelled, moved, or drawn, including device moved by human or animal power, except aircraft, or devices moved exclusively upon stationary rails or tracks.

**Weapon** - shall mean a gun, knife, blackjack, slingshot, metal knuckles, tear gas or any explosive device or any other substantiating instrument that can be utilized to coerce, intimidate or injure an individual.

**Words relating to aeronautical practices, processes and equipment shall be construed according to their general usage in the aviation industry.**

### **III. DIRECTIVES**

#### **A. GENERAL REGULATIONS**

##### **1. COMPLIANCE WITH RULES AND REGULATIONS**

a. The County Manager or designated representative has authority to take such action as may be necessary to safeguard the public in attendance at the Airport, and facilities. All persons employed on or using the Airport shall cooperate with the County Manager or designated representatives responsible for enforcing these Rules and Regulations.

b. Any permission granted by the County, directly or indirectly, expressly, or by implication or otherwise, to any person to enter or to use the Airport or any part thereof, is conditioned upon strict compliance with the Rules and Regulations of the County.

c. Any permission granted by the County under these Rules and Regulations is conditioned upon the payment of any and all applicable fees and charges established by the County.

##### **2. COMMERCIAL ACTIVITY**

No person shall occupy or rent space; nor conduct any business, commercial enterprise or activity, or other form of revenue or non-revenue producing activity on the Airport without first obtaining a written lease, contract, permit or other form of written authorization from the County or authorized representative.

3. **LIABILITY**

The County assumes no responsibility for loss, injury, or damage to persons or property by reason of fire, theft, vandalism, wind, earthquake, hurricane, collision, strikes, or acts of God; nor does it assume any liability for injury to persons while on the Airport.

4. **ADVERTISING AND DISPLAY/COMMERCIAL SPEECH**

a. No person, for a commercial purpose, shall post, distribute, or display signs, advertisements, circulars, pictures, sketches, drawings, or engage in other forms of commercial speech without a written contract, permit or other form of written authorization from the County.

b. Signage or other items may not be left unattended on the Airport. Unattended items could be considered suspicious, and cause a potential security threat.

c. Nothing in this policy shall be construed to prohibit displaying non-commercial signs (in a non-disruptive manner) of a reasonable size in the public areas of the Airport.

5. **OBSTRUCTION OF AIRPORT USE AND OPERATIONS AREAS**

No person shall obstruct, impair or interfere with the safe and orderly use of the Airport by any other person, vehicle or aircraft.

6. **RESTRICTED AREAS AND AIR OPERATIONS AREA**

a. Except as otherwise provided herein, no person may, without the prior written authorization of the County, enter the AOA or any Restricted Area on the Airport, except:

1. Persons assigned to duty thereon.
2. Passengers who, under appropriate supervision, enter upon the Aircraft Apron for the purposes of enplaning or deplaning an aircraft.
3. Persons to the extent authorized by the County Manager or the Airport Manager.
4. Persons engaged, or having been engaged, in the operation of aircraft.

b. The security of vehicle and pedestrian gates, doors, fences, walls, and barricades leading from a tenant or lessee, or contractor's use area, to or from the AOA, or any other Restricted Area, shall be the responsibility of the tenant, lessee or contractor abutting the AOA.

c. No person shall walk or drive across the AMA of the Airport without permission from the Airport Manager at the Airport, and such activities must be in compliance with all applicable rules and regulations set forth herein, including those contained in section III.E.4.

7. **PICKETING, MARCHING AND DEMONSTRATION**

Airports have special safety considerations. No person or entity has any right to conduct any of the following activities except to the extent and at the specific places as authorized in writing by the County Manager. No person shall walk in a picket line as a picketer or take part in any form of demonstration including, but not limited to, parades, marches, patrols, sit-ins and public assemblies on any part of the Airport, except in or at the place specifically assigned by means of prior arrangements in writing by the County for such picketing or other permitted demonstration and any such picketing or demonstration shall be conducted as follows:

a. In the peaceful and orderly manner contemplated by law, without physical harm, molestation, threat or harassment of any person, without obscenities, any violence, any breach of the peace, or other unlawful conduct whatsoever.

b. Without obstructing the use of the Airport by others and without hindrance to or interference with the proper, safe, orderly and efficient operation of the Airport and activities conducted thereupon.

c. In strict accordance with the County policies governing such activities on County Property and pursuant to directions and conditions outlined in writing by the County Manager in each instance.

8. **INSURANCE CERTIFICATES**

a. If required, a valid certificate of insurance, or true copies of it, shall be delivered to the Airport Manager by each tenant holding a written agreement, lease, sublease, license, contract and/or permit executed with or from the County.

b. A valid certificate of insurance shall also be delivered to the Airport Manager by any contractor, subcontractor, sub-subcontractor, material man, supplier, laborer and/or construction company or other form or entity functioning on or in the respective Airport property. All policies shall name the County, its officers, servants, agents and employees as additional insured.

9. **DAMAGE INSPECTION**

At the earliest opportunity, a damage inspection of any Airport facilities involved in an accident or incident shall be made by the Airport Manager and the aircraft, or vehicle owner or operator to determine the extent of damages to the field, facilities or buildings of the Airport and otherwise. Damages so sustained will be assessed by the Airport

Manager as a claim against the owner or operator of the aircraft, vehicle, or operator as may be appropriate in the specific instance.

**10. RESPONSIBILITY FOR DAMAGES**

Any person causing damage to, or destroying, Airport property of any kind, including buildings, fixtures, or appurtenances, whether through violation of these Rules and Regulations, or through any act or omission, shall be fully liable to the County. Any and all such damage and/or destruction shall be reported immediately to the Airport Manager.

**11. ACCIDENT REPORTS**

Any person involved in any accident, whether personal, aircraft or automotive, or otherwise occurring anywhere on the Airport, shall make a full report to the Airport Manager as soon as possible after the accident. The report shall include, but not be limited to, the names and addresses of all principals and witnesses, if known, and a detailed statement of the facts and circumstances.

**12. NON-AVIATION STORAGE OF EQUIPMENT**

Unless otherwise provided for by lease, or other agreement, or permit, no person shall use any area of the Airport, including buildings, either privately owned or publicly owned, for any storage of cargo or any other property or equipment without permission from the County Manager or designee. If, notwithstanding this prohibition, a person, firm or corporation uses such areas for storage without first obtaining such permission, the County Manager or designee shall have the authority to order the cargo or any other property removed, or to cause the same to be removed and stored at the expense of the owner or consignee without any responsibility or liability there for.

**13. SPECIAL EVENTS**

A special event permit is required when: (1) the proposed activity is open to the public with an anticipated attendance of 50 or more; or (2) the proposed activity includes amplified music. The Airport Manager has the authority to approve special events at the airport and to prohibit other activities at the airport. The Airport Manager is authorized to post designated areas when in his or her discretion such a posting is appropriate.

**14. SPECIAL EVENT APPROVAL**

- a. The Airport Manager shall issue a special event permit when all of the following conditions are met:
- 1) The desired area has not been reserved for other use at the time requested.
  - 2) The applicant has provided current photo identification and has requested a special event permit.

- 3) The applicant is in full compliance with all applicable laws, ordinances, rules and regulations, permitting and licensing requirements, including Federal Aviation Regulations.
- 4) The applicant has provided current proof of public insurance when required in subsection (d) below.
- 5) The applicant has provided a plan and/or payment for security when required in subsection (c) below.
- 6) The proposed activity or activities will occur in an area designated for such activity or activities.
- 7) The applicant has agreed to indemnify and hold the County harmless.
- 8) If the proposed activity includes commercial activity and/or is open to the public, the applicant must show proof that the applicant or applicant's organization is a non-profit or a not for profit organization.

b. The Airport Manager shall deny a special event permit if any of the above conditions are not met, or if the proposed activity will substantially interfere with the general or recreational aviation use of the Airport.

c. The applicant shall provide a security plan for the proposed event if such event involves commercial activity, is open to the public and may reasonably be expected to draw 200 persons or more to the Airport. Such plan shall provide for at least one security personnel on duty at all times for the initial 201 attendees and thereafter one additional security personnel for every 500 additional persons attending the proposed event, with no security personnel working more than one eight-hour shift in any 24-hour period. As an alternative to providing a security plan, the applicant may pay the cost for providing security, in accordance with the above stated guidelines, under any interlocal agreement that the County may have with any law enforcement agency.

d. If any proposed activity may constitute a hazard to any person or property as determined by the Airport Manager, the Airport Manager as a condition to the issuance of a permit, shall require public liability insurance in an amount sufficient to protect such person or property. The amount and requirements of such insurance shall be subject to approval by the County Insurance Director.

e. The Airport Manager shall notify the applicant within five days, excluding weekends and holidays, whether the permit request is granted or denied, and if the permit is denied, the reason for such denial.

f. The Airport Manager shall have the authority to revoke a permit upon finding a violation of any rule or regulation, or a material misrepresentation.

g. The applicant may appeal the refusal of a permit to the County Manager within five days after notification of such refusal by filing a written notice. However, the denial of a permit may not be appealed if the basis for denial was (i) that the Airport, or applicable portion thereof, was previously reserved; or (ii) due to a

prior material misrepresentation of the applicant. If the department decision is upheld, the appeal may be referred to the Board of County Commissioners. The Board of County Commissioners may consider the appeal at a regularly scheduled meeting. In the event the Board affirms the denial of the permit the applicant may immediately request review by a court of competent jurisdiction subject to the rules and laws governing application to such court.

## **B. PERSONAL CONDUCT**

### **1. COMPLIANCE WITH SIGNS**

All individuals shall observe and obey all posted signs, fences, and barricades governing activities and/or demeanor of the respective individual while at the Airport.

### **2. USE AND ENJOYMENT OF AIRPORT PREMISES**

a. No individual singularly or in association with others shall by his, her, or their conduct or by congregating with others, prevent any other individual(s) lawfully entitled thereto from the use and enjoyment of the Airport and its facilities or any part thereof, or prevent any other individual(s) lawfully entitled thereto from free and unobstructed passage from place-to-place, or through entrances, exits or passageways on the Airport.

b. It shall be unlawful for any individual to remain in or on any public area, place or facility at the Airport, in such a manner as to hinder or impede the orderly passage in or through or the normal or customary use of such area, place, or facility by individuals or vehicles entitled to such passage or use.

c. No individual shall commit any disorderly, obscene, or indecent act, or commit any nuisance, or abandon any property.

d. No individual shall throw, shoot, or propel any object in such a manner as to interfere with or endanger the safe operation or any aircraft taking off from, landing at, or operating on the Airport, or any vehicle on the Airport.

e. No individual shall knowingly or willfully make any false statement or report to the County or its authorized representative.

### **3. ENVIRONMENTAL POLLUTION & SANITATION**

To the maximum extent possible, each individual or entity while on Airport property shall limit activities thereon in such a manner as not to cause littering or any other form of environmental pollution.

a. No person (which includes each individual and entity) shall dispose of garbage, papers, refuse, or other form of trash including cigarettes, cigars, and matches, except in receptacles provided for such purpose.

b. No person shall dispose of any fill or building materials or any other discarded or waste materials on Airport property except as approved in writing by the County and no liquids shall be placed in storm drains or the sanitary sewer system at the Airport which will damage such drains or system or will result in environmental pollution passing through such drain or system.

c. No person shall use a comfort station or restroom toilet or lavatory facility at the Airport other than in a clean and sanitary manner.

d. Any solid or liquid material, which may be spilled at the Airport, shall immediately be cleaned up by the person responsible for such spillage and reported immediately to the Airport Manager and in no case shall any refuse be burned at the Airport except as specifically authorized by the County Manager or designee.

e. No person shall unnecessarily, or unreasonably, or in violation of law, cause any smoke dust, fumes, gaseous matter or particular to be emitted into the atmosphere or be carried by the atmosphere. This restriction is not intended to forbid normal emissions from internal combustion engines nor emission of smoke from cigarettes, cigars, and pipes.

f. Any person discarding chemicals, paints, oils or any products which may not be discarded in a routine manner will adhere to all applicable State, Local, and Federal laws and regulations.

#### **4. ANIMALS**

a. Except for animals that are to be or have been transported by air and are properly confined for air travel, no person shall permit any animal under his or her control or custody to enter the Airport unless in a suitable container or on a leash in direct control of an adult/owner. Regardless of this provision, animals shall be allowed to the extent mandated by applicable law, including "service animals" pursuant to the Americans with Disabilities Act.

b. No person other than in conduct of an official act shall intentionally hunt, pursue, trap, catch, injure or kill any animal on the Airport.

c. No person other than in the conduct of an official act shall feed or do any other act to encourage the congregation of birds or other animals on the Airport.

#### **5. FIREARMS AND WEAPONS**

No person, except those persons to the extent then authorized by Federal Law and/or Florida Statutes (F.S.), may carry or transport any firearm or weapon on the Airport except when such firearm or weapon is properly encased for shipment or is part of a survival kit and is properly packed with such items. The County reserves the right to restrict the carrying of firearms and weapons on Airport property.

- a. For the purpose of this section, a firearm means: (i) any weapon, including a starter gun, which will, or is designed to, or may readily be converted to expel a projectile by the action of an explosive other than flare guns, (ii) any firearm muffler or firearm silencer, or (iii) any destructive device.
- b. For the purpose of this section, a weapon means any dirk, metallic knuckles, any slingshot, billy, tear gas gun, chemical weapons, electric weapon, or device or any other deadly weapon as defined as such by any Federal, State or Local Law.
- c. No person shall discharge any firearm or weapon on the Airport except in the performance of official duties requiring discharge thereof.
- d. No person shall furnish, give, sell or trade any firearm or weapon on the Airport without prior written authorization from the County. No such activity shall be favored and no such permission shall be granted without a showing of good cause to do so.

**6. PRESERVATION OF PROPERTY**

No person other than in the conduct of an official act may destroy, injure, deface or disturb any building, sign, equipment, marker, or other structure, tree, flower, lawn, and/or other tangible property on the Airport.

- a. Except as otherwise provided herein, no person other than in the conduct of an official act shall travel upon the Airport other than on roads, walks or other marked rights-of-way provided for such specific purpose.
- b. No person shall alter, add to or erect any buildings or sign on the Airport or make any excavation on the Airport without prior expressed written approval from the County or the County Manager to the extent such permission can be authorized by the County Manager or designee.
- c. Any person causing or being responsible for injury, destruction, damage, or disturbance at the Airport shall immediately report such incident to the Airport Manager.

**7. ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES**

- a. No person under the influence of liquor or narcotic drugs shall operate any motor vehicle or aircraft of any type at the Airport.
- b. The consumption of alcoholic beverages on Airport property is highly discouraged except for those areas as may be designated by the County for the sale and/or consumption of alcoholic beverages.

**C. FIRE AND SAFETY**

**1. GENERAL**

- a. All persons using the Airport or any facilities at the Airport shall exercise the utmost care to guard against fire and injury to persons and/or property.
- b. All applicable codes, standards and recommended practices of Local, State or Federal agencies now in existence or hereafter promulgated and not in conflict herewith, or not in conflict with Federal Aviation Regulations, are hereby adopted by reference as part of the Rules and Regulations of this Airport.

**2. FUELING OPERATIONS**

**a. Aircraft Engines**

- 1. No aircraft shall be fueled or de-fueled with any fuel other than Jet A while one or more of its engines are running or the aircraft is then being warmed by external heat, except in an emergency.
- 2. No person shall start the engine of an aircraft if there is any gasoline or other volatile fluid on the ground or otherwise within the vicinity of the aircraft and starting the engine could ignite such fuel.

**b. Distance From Buildings**

- 1. Aircraft being fueled shall be positioned so that aircraft fuel system vents or fuel tank openings are not closer than fifty (50) feet from any hangar, or building.
- 2. Fuel trucks, whether loaded or empty, shall never be in hangers nor be parked unattended within a distance of less than fifty (50) feet from

hangars, paint and dope shops, fuel storage systems, or any other building or structure where any individual may be present therein.

**c. Spillage of Fuel**

1. No fuel, grease, oil, dopes, paints, solvents, acid, flammable liquids or contaminants of any kind shall be suffered or allowed to flow into or be placed in any Airport sanitary or storm drain system.

2. Any persons, including the owner or operators of aircraft, causing overflowing or spilling of fuel, oil, grease, or other contaminants anywhere on the Airport, shall be responsible for expeditious notification to the Airport Manager of said spillage and will be held responsible for immediate cleanup of the effected area. When fuel spills occur, fueling shall stop immediately.

3. In the event of spillage, fuel delivery devices and other vehicles shall not be moved or operated in the vicinity of the spill until the spillage is removed. A fireguard shall be promptly posted.

**d. Passengers**

No aircraft shall be fueled or de-fueled while any person is on board.

**e. Static Bonding / Aircraft Grounding**

Prior to fueling of aircraft, the aircraft and the transfer fuel apparatus shall be adequately bonded or grounded as specified herein below.

1. Prior to making any fueling connection to the aircraft, the fueling equipment shall be physically bonded or grounded to the aircraft being fueled by use of a cable, thus providing a conductive path to equalize the potential between the fueling equipment and the aircraft. The bond or ground shall be maintained until fueling connections have been removed.

2. When fueling over a wing, the nozzle shall be bonded or grounded with a nozzle bond or ground cable having a clip or plug to a metallic component of the aircraft that is metallically connected to the tank filler port. The bond or ground connection shall be made before the filler cap is removed. If there is no plug receptacle or means for attaching a clip, the Operator shall touch the filler cap with the nozzle spout before removing the cap so as to equalize the potential between the nozzle and the filler port. The spout shall be kept in contact with the filler neck until the fueling is completed.

3. When a funnel is used in Aircraft fueling, it shall be kept in contact with the filler neck and the fueling nozzle spout or the supply container to avoid the possibility of a spark at the fill opening. Only metal funnels shall be used.

4. Each hose, funnel, or apparatus used in fueling or de-fueling aircraft shall be maintained in good condition and must be properly bonded to prevent ignition of volatile liquids.

#### **f. Positioning of Equipment For Fueling**

Positioning of aircraft fuel servicing vehicles shall be as follows:

1. Aircraft fuel servicing vehicles shall be positioned so that they can be moved promptly after all aircraft fuel hoses have been disconnected and stowed.

2. The drive engine of the fuel pump of the aircraft fuel servicing vehicles shall not be positioned under the wing of aircraft during over wing fueling or where aircraft fuel system vents are located on the upper wing surface. Aircraft fuel servicing vehicles shall not be positioned within a 10 feet (3 meters) radius of aircraft fuel system vent opening.

3. Hand brakes shall be set on fuel servicing vehicles before operators leave the vehicle cab.

4. No fueler shall be backed up within twenty (20) feet of an aircraft unless a person is posted to assist or guide the movement of that fueling vehicle or fueling object.

#### **g. Fire While Fueling**

When a fire occurs in a fuel delivery device while servicing an aircraft, fueling shall be discontinued immediately and all emergency valves and dome covers shall be shut down at once and the Fire Department and the Airport Manager shall be notified immediately.

#### **h. Operation of Fuel Tenders On Runways & Taxiways**

No fuel vehicle designed for or employed in the transportation of fuel shall be operated on a taxiway or runway at any time without the express prior permission from the Airport Manager to operate that vehicle in that place at that time.

#### **i. Fire Extinguishers**

No person shall engage in aircraft fueling or de-fueling operations without adequate and fully functioning fire extinguishing equipment being present and

being readily accessible at the points of fueling. All fire extinguishing equipment shall be recertified annually and all persons shall be trained in the use of the equipment and recertified annually.

**j. Use of Radio, Radar, And Electrical Systems**

No person shall operate a radio transmitter or receiver or switch electrical appliances on or off in an aircraft while the aircraft is being fueled or being de-fueled.

**l. Thunderstorm Activity**

Fueling or de-fueling operations shall not be conducted during periods of thunderstorm activity on or in the vicinity of the Airport.

**3. FUEL FARMS AND BULK FUEL INSTALLATIONS**

- a. There shall always be NO SMOKING within one hundred (100) feet of less or a fuel farm or a bulk fuel installation.
- b. Fire extinguishers shall always be maintained in an accessible position, and in an operable condition with a then un-expired certification date.
- c. No fuel or fuel-transporting vehicle shall be left unattended during loading or unloading of fuel at a fuel farm or bulk installation.
- d. All fuel farms and bulk fuel installations shall be operated under a quality control, maintenance, and inspection program of a licensed and bonded fuel supplier, or the State of Florida.

**4. FUEL TRANSPORTING VEHICLES**

- a. Each tank vehicle shall be conspicuously marked on both sides and rear of the cargo tank with the word "FLAMMABLE", "NO SMOKING" and "FUEL TYPE".
- b. Emergency operating devices on all fuel tank vehicles shall be conspicuously marked "EMERGENCY SHUT OFF".
- c. The propulsion and pumping engine on all tank vehicles shall have safeguards to reduce ignition sources to a minimum.
- d. The carburetor on all fuel tank vehicles shall be fitted with an approved back-flash arrester.

e. The wiring on all fuel tank vehicles shall be adequately insulated and fastened to eliminate chafing, and affixed to terminal connections by tight-fitting snap or screw connections with rubber or similar insulating and shielding covers and molded boots.

f. Two fire extinguishers should be conspicuously apparent on all tank vehicles.

g. Each hose, funnel, or apparatus on a fuel truck used in fueling or de-fueling aircraft shall be maintained in good condition.

h. Maintenance and testing of aircraft fueling systems shall be conducted under controlled conditions and in accordance with National Fire Protection Association Guidelines.

i. Fuel tank vehicles shall be stored and maintained outdoors in areas authorized by the Airport Manager.

**5. SMOKING**

Smoking or carrying lighted smoking materials or striking matches or other incendiary devices shall not be permitted on Airport apron areas, nor within 100 feet of parked aircraft, nor during fueling or de-fueling, nor during the loading or unloading of fuel tank trucks or tank car nor within 100 feet of a flammable liquid spill, nor in any area on the Airport where smoking is prohibited by the County by means of posted signs, nor in any hangar, shop, or other building in which aircraft or flammable liquids are stored.

**6. OPEN FLAME OPERATIONS**

All repairing of aircraft requiring the use of open flames, spark producing devices or the heating of parts above 500° Fahrenheit shall be done in the open or in an area conforming to the provisions of the building code for hazardous occupancy.

**7. STORAGE OF MATERIALS**

a. No person shall keep or store material or equipment in such manner as to constitute a fire hazard or be in violation of applicable Town and/or County Codes, or Rules and Regulations of the County.

b. Gasoline, kerosene, ethyl, jet fuel, ether, lubricating oil or other flammable gases or liquids including those used in connection with the process of "doping" shall be stored in accordance with the applicable Town and/or County Codes.

c. No person shall keep, transport, or store lubricating oils on the Airport except in containers and receptacles designed for such purposes and in areas specifically approved for such storage in compliance with the applicable Town and/or County Codes and FAA regulations.

**8. HAZARDOUS MATERIALS**

a. No person shall, without prior permission from the County Manager transport, handle, or store at, in or upon the Airport any cargo of explosives or other hazardous articles which is barred from loading in, or for transportation by Civil Aircraft in the United States under the current provisions of Regulations promulgated by the Department of Transportation, the Federal Aviation Administration, or by any other competent authority. Compliance with said regulations shall not constitute or be construed to constitute a waiver of the required notice or an implied permission to keep, transport, handle or store such explosives or other dangerous articles at, in or upon the Airport. Twenty-four hours advance notice shall be given the County Manager or designee to investigate and clear any operation requiring a waiver of this rule.

b. No person may offer, and no person may knowingly accept, any hazardous article for shipment at the Airport unless the shipment is handled and stored in full compliance with the current provisions of the Federal Aviation Regulations.

c. Any person engaged in transportation of hazardous articles shall have designated personnel at the Airport authorized and responsible for receiving and handling such shipments in compliance with the prescribed regulations.

d. Any person engaged in the transportation of hazardous articles shall provide storage facilities which reasonably insure against unauthorized access, or exposure to persons and against damage to shipments while in the Airport.

**9. MOTORIZED GROUND EQUIPMENT AROUND AIRCRAFT**

No person shall park motorized ground equipment near any aircraft in such manner so as to prevent it or the other ground equipment from being readily driven or towed away from the Aircraft in case of an emergency.

**10. AIRCRAFT ELECTRICAL AND ELECTRONIC SYSTEMS**

Radio transmitters and similar equipment in aircraft shall not be tested or operated within a hangar with dynamotors running unless all parts of antenna system are at least one (1) foot removed from any other object. No aircraft shall be placed, at any time, so that any fabric-covered surface is within one (1) foot of an antenna system.

**11. ELECTRICAL EQUIPMENT AND LIGHTING SYSTEM**

a. Vapor or explosive-proof electrical equipment and lighting systems shall be exclusively used within hangars or maintenance shelters when required under

NFPA standards. No portable lamp assembly shall be used without a proper protective guard or shield over such lamp assemblies to prevent breakage.

b. All power operated equipment or electrical devices shall be shut off when not in actual use.

c. The aircraft electrical system shall be de-energized on any aircraft upon which work is being done within any hanger or structure by disconnecting the battery or power source.

## **12. HEATING HANGARS**

Heating systems or devices in any hangar shall only be approved systems or devices as listed by the Underwriters Laboratories, Inc. as suitable for use in aircraft hangars and shall be installed in the manner prescribed by the Underwriters Laboratories, Inc.

## **13. USE OF CLEANING FLUIDS**

Cleaning of aircraft parts and other equipment shall preferably be done with non-flammable cleaning agents or solvents. When the use of flammable solvents cannot be avoided, only liquids having flash points in excess of 100 degrees F shall be used and special precautions shall be taken to eliminate ignition sources in compliance with good practice recommendations of the NFPA.

## **14. APRONS, BUILDINGS, AND EQUIPMENT**

a. All persons on the Airport shall keep all areas of the premises leased or used by them clean and free of oil, grease and other flammable material. The floors of hangars and other buildings shall be kept clean and continuously kept free of rags, waste materials or other trash or rubbish. Approved metal receptacles with a self-extinguishing cover shall be used for the storage of oily waste rags and similar materials. The contents of these receptacles shall be removed daily by persons occupying space and kept clean at all times; and clothes lockers shall be constructed at metal or fire-resistant material. Only approved boxes, crates, paints, or varnish cans, bottles or containers shall be stored in or about a hangar or other buildings on the Airport.

b. No person shall use flammable substances for cleaning hangars or other buildings on the Airport.

## **15. CONTAINERS**

a. No tenant, licensee, lessee, concessionaire, or other occupant or user of the Airport or facility at the Airport or agent thereof doing business on the Airport, may keep uncovered trash containers adjacent to sidewalks or roads in any public area of the Airport.

b. No person shall spill dirt or any other material from a vehicle operated on the Airport. The individual who may cause or suffer any such spill will be responsible to clean up and remove the spill at his/her expense.

**16. FIRE EXTINGUISHERS**

All tenants, including hangar tenants, shall supply and maintain at least one readily accessible and operational 2A020 B:C fire extinguisher. Such fire extinguisher shall be fully charged at all times. All tenants shall instruct their employees at the Airport in the proper use of fire extinguishers and shall conduct such periodic fire drills as the County Manager or designee may prescribe. Fueling vehicles designed for the transport and transfer of fuel shall carry on board at least two (2) fire extinguishers, one (1) located on each side of the vehicle. Extinguishers shall conform to then current applicable NFPA Standards. Fire extinguishing equipment at the Airport shall not be tampered with at any time nor used for any purpose other than fire fighting or fire prevention. All such equipment shall be maintained in accordance with then current NFPA Standards. Tags showing the date of the last inspection shall be attached to each unit or immediately available records acceptable to Fire Underwriters shall be kept nearby showing the then current status of such piece of equipment.

**D. AERONAUTICAL**

**1. GENERAL RULES**

**a. Compliance With Orders**

All aeronautical activities at the Airport shall be conducted in compliance with the then current and applicable Federal Aviation Regulations (FAR), Aeronautical Information Manual (AIM) and Airport/Facility Directory (AFD).

**b. Hold Harmless**

To the greatest extent allowed by law, each and every aircraft owner or co-owner, pilot, agent, employee, or his or her duly authorized representative(s) releases and/or discharge(s) the County, each member of its Board, its officers, and all of its employees, including the County Manager and Airport Manager, of and from any and all tort liability for any damage to or destruction which may be suffered

by any aircraft and/or its equipment and for personal injury or death to any individual(s).

**c. Negligent Operations Prohibited**

1. No person shall operate aircraft at the Airport in a careless manner or in disregard of the rights and safety of others.
2. All individuals using the Airport shall be held liable for any property damage caused intentionally or by carelessness or by negligence on or over the Airport. Each person liable for such damage agrees to indemnify fully and to save and hold harmless the County, its Board and each member of its Board, its officers and all of its employees from all claims, liabilities, and causes of action of every kind, character, and nature, and from all costs and fees (including attorney's fees – including all appeals) directly or indirectly connected therewith, and from all expenses of any investigation(s) thereof.

**d. Denial of Use of Airport**

The County Manager or designee shall have the right at any time to close the Airport in its entirety or any portion thereof to air traffic, and/or to delay or restrict any flight or other aircraft operation, to direct refusal of takeoff permission to aircraft, and to deny the use of the Airport or any portion thereof to any specified class of aircraft, or to any individual(s) or group(s), when he (or she) considers any such action(s) to be necessary or desirable to avoid endangering any persons or any property, and to be consistent with the safe and proper operation(s) of the Airport. In the event the County Manager or designee believes the condition of the Airport to then be unsafe for landings or takeoffs, it shall be within his or her authority to issue, or cause to be issued, a Notice to Airmen (NOTAM) closing the Airport or any portion thereof until such time that such restrictions are terminated.

**e. Aircraft Accidents or Incidents**

The pilot or operator of any aircraft involved in an accident or incident on the Airport causing personal injury and/or any property damage, in addition to all other reports required by other agencies, shall make a prompt and complete written report concerning said accident or incident to the Airport Manager within forty-eight (48) hours of the time that the accident or the incident first occurred. When a written report of any accident or incident is required by Federal Aviation Regulations, a copy of such report may be submitted to the Airport Manager in lieu of the report required immediately above. In either instance, the written report shall be filed with the Airport Manager within forty-eight (48) hours from the time the accident or incident first occurred. Upon the occurrence of an aircraft accident or incident the Airport Manager shall be notified immediately.

**f. Disabled Aircraft**

Subject to compliance with then applicable Federal Regulations, the aircraft owner shall be responsible for the prompt removal of all disabled aircraft and its parts at the Airport, when directed by the County Manager or designee. In the event of the owner's failure or refusal to comply with removal orders, all disabled Aircraft or any and all the parts thereof may be removed by employees of the County or by persons contracted to do so, all at the owner's expense and without any liability to the County for any damage which may be incurred by the aircraft owner(s) as result of such removal.

**g. Tampering With Aircraft**

No person shall interfere or tamper with any aircraft or put in motion such aircraft, or use or remove any aircraft, aircraft parts, instruments, or tools without positive evidence of permission of the owner thereof to do so.

**h. Cleaning, Maintenance and Repair of Aircraft**

No person shall clean, paint, wash, polish, or otherwise maintain an aircraft, other than in areas approved (and the manner designated) by the County.

**i. Hand Propping of Aircraft**

Hand propping is not allowed unless there is then no other means of starting the aircraft and a second person is in the cockpit of the aircraft. The pilot is responsible for any and all liability resulting from this type of action.

**j. Certification of Aircraft and Licensing of Pilots**

To the extent required by the FAA, all operational (e.g., complete, not under construction) aircraft at the Airport shall display on board the aircraft a valid Airworthiness Certificate issued by the FAA or appropriate foreign government and shall display on the exterior of the aircraft a valid registration number issued by the FAA or appropriate foreign government. To the extent required by the FAA, all persons operating aircraft on the Airport shall possess an appropriate certificate or license, issued by the FAA or appropriate foreign government. The operator shall, upon request of the County Manager or designee, produce the operator's license and airworthiness certificate.

**2. AIRPORT OPERATIONAL RESTRICTION**

**a. General**

All aeronautical activities at the Airport shall be conducted in conformity with applicable provisions of the Federal Aviation Regulations (FAR), Aeronautical Information Manual (AIM) and Airport/Facility Directory (AFD)

**b. Glider Operations**

All glider operations must be conducted in accordance with current Federal Aviation Regulations Part 91.

**c. Ultra-Light Vehicles**

All ultra-light operations must meet or exceed all requirements contained in Federal Aviation Regulations Part 103.

**d. Take Offs and Landings**

1. All traffic pattern operations shall be in strict adherence with the Federal Aviation Regulations (FAR), Aeronautical Information Manual (AIM) and Airport/Facility Directory (AFD).

2. Runway 14/32 is designated as the primary runway for all fixed wing aircraft. As a voluntary noise abatement procedure, pilots are encouraged to land on the primary runway unless, in their opinion conditions dictate landing on the alternate runway.

3. Persons landing an aircraft at the Airport shall make the landing runway available to other aircraft by leaving said runway as promptly as possible, consistent with safety.

4. Any person operating or controlling an aircraft landing at or taking off from the Airport shall maintain engine noise within applicable aircraft engine noise limits as promulgated by the Federal Government.

5. As a voluntary noise abatement procedure, pilots are encouraged to perform touch-and-go operations only on the primary runway (Runway 14/32) unless, in the pilot's opinion, existing conditions dictate landing on the alternate runway.

**e. Banner Towing Prohibited**

Airplane tow banner pickups and drop-offs from or on the Airport are prohibited without prior written authorization of the County Manager or designee.

**f. Kites, Models, Balloons Prohibited**

No kites, model airplanes, tethered balloons or other objects constituting a hazard to Aircraft operations shall be flown on or within the vicinity of the Airport without prior authorization of the County Manager or designee.

**g. Parachute Jumping Prohibited Without Prior Approval**

No parachute jumping shall be permitted without prior approval from the County Manager or designee. All parachute operations must meet or exceed all requirements contained in Federal Aviation Regulations Part 105.

**h. Aircraft Weighing 12,500 Pounds or More**

All aircraft weighing 12,500 pounds or more must have prior approval of the County Manager or designee to land at the Airport except in an emergency situation. Except in an emergency situation, aircraft weighing more than runway, taxiway and apron load bearing capacity are prohibited.

**3. TAXI AND GROUND RULES**

**a. Aircraft Parking**

1. No person shall park an aircraft in any area on the Airport except those designated, and in the manner prescribed, by the County. If any person uses unauthorized area for aircraft parking, the aircraft so parked may be removed by or at the direction of the County Manager or designee at the risk and expense of the owner thereof.
2. No aircraft shall be left unattended on the Airport unless it is in a hangar or adequately locked, and tied down.
3. Aircraft and the contents thereof are the sole responsibility of the aircraft owner/pilot. Theft or vandalism is not the County's responsibility.

**b. Derelict Aircraft**

1. No person shall park or store any aircraft in non-flyable condition on Airport property, other than within the confines of a leased hangar or tie down space, without permission from the County Manager or designee.
2. No person shall store or retain aircraft parts or components being held as inventory anywhere on the Airport, other than in an enclosed, authorized facility, or in a manner approved by the County Manager or designee.
3. Whenever any aircraft is parked, stored, or left in non-flyable condition on the airport in violation of the provisions of this Section the County shall so notify the owner or operator thereof by certified or registered mail, requiring

removal of said aircraft within fifteen (15) days of receipt of notice, or if the owner or operator is unknown or cannot be found the County shall conspicuously post and affix notice to the said aircraft, requiring removal of said aircraft within fifteen (15) days from date of posting.

**4. ROTORCRAFT OPERATIONS RULES**

In addition to all other Rules and Regulations set out herein, the following rules shall apply to rotorcraft:

- a. Rotorcraft shall not be taxied, towed, or otherwise moved with rotors turning unless there is a clear area of at least thirty (30) feet in all directions from the outer tips of the rotors.
- b. Rotorcraft shall not be operated within forty (40) feet of any areas on the Airport where unsecured light aircraft are parked.

**5. USE OF HANGARS**

- a. Hangars shall not be used for any purpose that would constitute a nuisance or interfere in any way with the use and occupancy of other buildings and structures in the immediate neighborhood of the leased premises.
- b. No alterations will be made to the hangar structure without written approved by the County. Any alterations are subject to removal by the County at the occupant's expense, upon thirty (30) days written notice, for the purpose of repair, construction or other purposes deemed necessary by the County.
- c. No flammable material or refuse will be stored or allowed to accumulate in hangars, except occupant may store not more than ten (10) gallons of flammable fluids inclusive of aircraft lubricants, within the premises, provided that all such storage shall be limited to NFPA approved containers, or unopened original containers.
- d. Aircraft are not to be washed with running water in hangars when such washing will cause drainage into its hangar or through or to any other hangar.
- e. Except as otherwise provided herein, no tools, equipment, or material will be used in the hangars that could constitute a fire hazard.
- f. No smoking is permitted in hangars.
- g. All occupants shall exercise care to keep oil, grease, etc. off the floor(s).
- h. Occupants will see that electric current and water, if available, is not used excessively.

i. No signs will be erected, painted or otherwise displayed on the exterior or interior of any hangar without prior approval by the County Manager or designee.

j. No aircraft or vehicle is to be parked by a hangar, in such a manner as to block access to adjoining hangar space(s), or to cause inconvenience(s) to other occupants. All vehicles parked for more than a 24 hour period must be parked inside the hangar or designated parking area.

k. Occupants will not be permitted to perform repair service on automobiles or automotive equipment of any kind other than authorized motorized vehicles.

## **E. MOTOR VEHICLES**

### **1. GENERAL TRAFFIC REGULATIONS**

#### **a. Storing, Parking or Repairing Vehicles**

No motor vehicles shall be stored, parked, or repaired on Airport property, except in areas so designated for such uses by the Airport Manager, except for minor repairs necessary with respect to a temporarily disabled vehicle.

#### **b. Off Road Vehicles**

The operation of any off road vehicles which includes but is not limited to dirt bikes and 3 and 4 wheelers is strictly prohibited on the Airport, except for official use as authorized by the County Manager or designees.

### **2. LICENSING**

No person shall operate a vehicle or motorized equipment on the Airport without a valid operator's license for that operator and for that type of vehicle. All vehicles on the Airport must be properly registered with a current license plate and tag issued by a State Department of Motor Vehicles.

### **3. PROCEDURE IN CASE OF ACCIDENTS**

The driver of any vehicles involved in an accident on the Airport which results in injury to or death of any persons or property damage shall immediately stop such vehicle at the scene of the accident and shall render reasonable assistance. The driver shall immediately, by the quickest means of communications, give notice of the accident to the Brevard County Sheriff's Office and to the Airport Manager. The driver of each vehicle involved shall furnish the name and address of owner and the driver of the vehicle, the operator's license and vehicle registration and the name of the liability insurance carrier

for the vehicle, to any person injured, the driver or occupant of the vehicle damage, and to any law enforcement officer and to the Airport Manager.

4. **VEHICLE OPERATIONS ON AIR OPERATIONS AREA**

**a. Permission**

No motor vehicle shall be permitted on the AOA unless permission has been granted to operate such vehicle at such places by the Airport Manager. Such vehicles shall at all times yield right-of-way to aircraft.

**b. Rules of Operation**

1. No motor vehicle shall be parked on any portion of the AOA except trucks and other vehicles necessary for the servicing and maintenance of aircraft and transportation of passengers on the Airport.

2. No person shall park a vehicle in any manner so as to block or obstruct (1) fire hydrants and the approaches thereto, (2) the gates or emergency exits, and/or (3) building entrances or exists.

3. Aircraft taxiing on any runway, taxiway, or apron area shall always have the right-of-way over any and all vehicular traffic.

4. Motor vehicles or persons capable of receiving and transmitting on the airport UNICOM/CTAF frequency, or vehicles or persons under escort by a vehicle or person so equipped, may be on, or traverse across, an active runway.

5. **PUBLIC PARKING**

a. Operators of motor vehicles using the public parking facilities at the Airport shall observe and comply with all traffic signs.

b. No vehicle shall remain in any public parking facility on the Airport for more than thirty (30) consecutive days.

**F. PENALTIES AND REMEDIES**

1. **CEASE AND DESIST ORDERS**

The County Manager or his/her designee may order any person to cease and desist any activities or conduct in violation of or in noncompliance with the County's Rules and Regulations. The cease and desist order shall be in writing, unless the

circumstances require immediate correction in which case a verbal order shall suffice, and give the person a reasonable time to correct the violation.

2. **REMOVAL FROM OR DENIAL OF ACCESS TO AIRPORT**

The County Manager or his or her designee may order any person(s) who knowingly fails to comply with a cease and desist order within the time specified for correction removed from or denied access to the Airport. An order of removal from or denial of access to the Airport shall be issued by the County Manager or designee and written orders may be hand delivered or sent by certified mail to the person's last known address. Such order shall set forth the reasons for and dates on which removal or denial of access shall begin and end.

3. **REVIEW OF ORDERS**

a. Upon receipt of an order described above issued from the County Manager or designee, the person may submit, within ten (10) days of receipt of such an order, a written request for review of that order to the County Manager. Such request shall be hand delivered to the Office of the County Manager and be signed for by an employee of the County Manager or must be mailed to the County Manager by certified mail, must be in writing, and shall specify in detail all of the reasons why the order should be changed or modified. Within ten (10) days of actual receipt of the request for review, the County Manager should mail a written decision on the request by certified mail to the person requesting such review.

b. The County Manager's decision is final, unless within ten (10) days from the County Manager's decision, the person requests in writing, by hand delivery as specified in subsection (a) above, or by certified mail actually received within the ten (10) day period, that a hearing be held on the matter. Within ten (10) days of actual receipt of such request, the County Manager shall mail or otherwise deliver to the person, written notice of the appointment of a special magistrate. Thereafter, the special magistrate or County Manager or designee shall schedule a hearing and hand deliver or send a written notice of the time and place of hearing to the requesting party. At the hearing, the requesting party may attend, may give testimony, may present witnesses and other evidence, and may cross-examine witnesses, and may be represented by counsel. Costs of transcription of any testimony taken shall be borne by the person requesting the transcript. At the conclusion of the hearing, the special magistrate shall prepare a recommended order setting forth findings of fact, based on evidence of record, and conclusions of law, and affording the proper relief consistent with the penalties as set forth herein. If the special magistrate finds that a violation has occurred, he or she shall recommend the following penalties:

1. For a first time violation, a suspension of airport use privileges for a period not to exceed thirty days.

2. For a second time violation, a suspension of airport use privileges for a period not to exceed six months.

3. For a third or subsequent violation, a suspension of airport use privileges for a period up to and including permanent suspension.

c. The recommended order of the special magistrate shall be submitted to the Board of County Commissioners. The special magistrate's findings of fact shall not be subject to change by the Board. However, the conclusions of law may be changed by the Board if the Board's application of the findings of fact to the applicable rules and regulations is based on an interpretation of the rules and regulations that differs from that of the special magistrate. The Board may also decrease the recommended penalty. The Board's decision shall be effective immediately and shall be final.

d. An aggrieved party may seek declaratory review and/or injunctive relief in a court of law of proper jurisdiction in accordance with the then applicable laws of the State of Florida and the United States.

4. **PENALTIES**

a. Each violation of these Rules and Regulations may be referred by the County Manager or designee to the State Attorney, FAA, or other appropriate authority for prosecution to the extent said violation constitutes a violation of applicable federal or state law or regulation, or County ordinance.

b. Nothing herein shall prohibit the County from enforcing any violation of any of these rules by any other lawful means, including applying to a court of competent jurisdiction to obtain an injunction and/or any other appropriate and available judicial relief.

5. **REMOVAL OF PROPERTY**

a. Law enforcement may remove or cause to be removed from any restricted or reserved areas, any roadway or right-of-way, or any other unauthorized area or structure at the Airport, any property which is disabled, abandoned or which creates an operations problem, nuisance security or safety hazard or which otherwise is placed in an illegal, improper, or unauthorized manner. Any such property may be removed or caused to be removed by law enforcement.

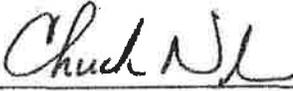
b. The County shall not be liable for any damage, which may be caused to the property or loss or diminution of value, which maybe caused by the act of removal.

6. **INTENT**

Nothing in the preceding sections is intended to preclude any authorized County personnel from taking other action authorized by law or ordinance.

**IV. RESERVATION OF AUTHORITY**

The authority to issue or review this policy is reserved to the Board of County Commissioners.

  
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Chuck Nelson, Chairman  
Board of County Commissioners  
Brevard County, Florida

As approved by the Board on **NOV 10 2009**

Attest:  
  
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Scott Ellis, Clerk