



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.12.

9/13/2022

Subject:

Approval RE: Resolution and Lease for a portion of Space Coast Communities Sports Complex to Space Coast Full Throttle Speedway, Inc for asphalt kart racing. (District 1)

Fiscal Impact:

\$2,400 annually

Dept/Office:

Parks and Recreation

Requested Action:

It is requested the Board of County Commissioners approve and authorize the Chair to execute the Lease with Space Coast Full Throttle Speedway, Inc. for asphalt kart racing at Space Coast Communities Sports Complex.

It is further requested the Board approve and authorize the Parks and Recreation Director to execute a renewal and amendments upon County Attorney Office and Risk Management approval.

Summary Explanation and Background:

Space Coast Communities Sports Complex is a 207+ acre regional park located off Canaveral Groves Boulevard in Sharpes. An amateur go-kart track is one of the amenities located in the Park.

An Invitation to Quote was advertised by The Central Services Department / Purchasing August 3 through August 17, 2022. Space Coast Full Throttle Speedway, Inc. was the only respondent. Space Coast Full Throttle Speedway, Inc., a Not for Profit organization, has partnered with Brevard County Parks and Recreation Department since the mid-1990's to provide karting classes and oversee asphalt kart racing for participants with a wide range of skill sets from novice to stock and heavy sidewinders.

The resulting Lease with the contractor will be for a term of two years with the option of a one-year renewal.

The awarded contractor will be responsible for providing adequate personnel for crowd and traffic control, payment of all public utility charges and for all facilities and track maintenance in accordance with the National Karting Alliance, Inc. specifications. Lease payment will be due on the 6th day of each month or the first working day thereafter.

Clerk to the Board Instructions:

Please provide a copy of the Clerk's memorandum to MaryEllen.Donner@BrevardFL.gov or call 321-633-2046 when Lease is ready for pick up.

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: Space Coast Full Throttle Speedway, Inc.		2. Amount: \$2,400	
3. Fund/Account #:		4. Department Name: Parks & Recreation	
5. Contract Description: Provide recreational karting at Space Coast Communities Sports Complex			
6. Contract Monitor: Mary Ellen Donner		8. Contract Type: LEASE/RENTALS	
7. Dept/Office Director: Mary Ellen Donner			
9. Type of Procurement: Quote			

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>
	<u>YES</u>	<u>NO</u>	
User Agency	☒	☐	
Purchasing	☐	☐	
Risk Management	☐	☐	
County Attorney	☐	☐	

SECTION III - REVIEW AND APPROVAL TO EXECUTE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>
	<u>YES</u>	<u>NO</u>	
User Agency	☒	☐	Donner, Mary Ellen Digitally signed by Donner, Mary Ellen Date: 2022.08.29 10:02:08 -04'00'
Purchasing	☒	☐	Bowers, Mary Digitally signed by Bowers, Mary Date: 2022.09.02 08:10:49 -04'00'
Risk Management	☒	☐	<i>Summer, Wylie-Vitt</i> Digitally signed by Wylie-Vitt, Summer Date: 2022.08.31 12:07:43 -04'00'
County Attorney	☒	☐	<i>[Signature]</i>

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

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



September 14, 2022

M E M O R A N D U M

TO: Mary Ann Donner, Parks and Recreation Director

RE: Item F.12., Resolution and Lease for a Portion of Space Coast Sports Complex with Full Throttle Speedway, Inc. for Asphalt Kart Racing

The Board of County Commissioners, in regular session on September 13, 2022, approved and adopted Resolution No. 22-106; approved and authorized the Chair to execute the Lease with Space Coast Full Throttle Speedway, Inc. for asphalt kart racing at Space Coast Communities Sports Complex; and approved and authorized you to execute a renewal and amendments upon County Attorney's Office and Risk Management approval. Enclosed are fully-executed Resolution and Lease.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

A handwritten signature in cursive script, reading "Kimberly Powell", is written over the typed name and title.

Kimberly Powell, Clerk to the Board

Encls. (2)

/tr

cc: Contracts Administration
Finance
Budget

EXHIBIT "A"

RESOLUTION NO. 2022-106

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

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

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

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

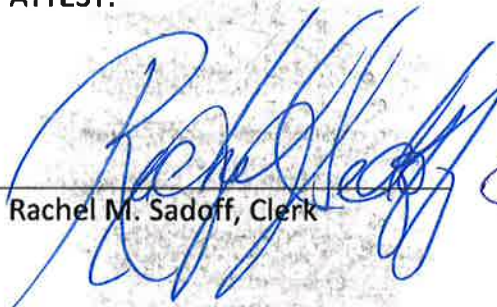
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, THAT:

1. The Space Coast Communities Sports Complex is a County owned facility and was constructed for the purpose of being used for public recreational activities.
2. The County has determined that the Property located at Space Coast Communities Sports Complex is not needed by the County.
3. The Lessee shall operate and maintain the Property for the benefit and enjoyment of the citizens of Brevard County.
4. The Lessee shall provide recreational karting and related activities.
5. The County shall enter into a lease, attached here to as Exhibit "A", with the Lessee beginning on September 13, 2022 for a term of two (2) years and may request renewal for an additional one (1) year term.
6. The Consideration for the Lease shall be \$200.00 per month.

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

DONE, ORDERED AND ADOPTED THIS 13TH DAY OF SEPTEMBER 2022.

ATTEST:



Rachel M. Sadoff, Clerk

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA



Kristine Zonka, Chair

As approved by the board on 09/13/2022

Lease

THIS LEASE made and entered into this day of September 13, 2022 by and between the **BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida, hereinafter referred to as "County", and **SPACE COAST FULL THROTTLE SPEEDWAY, INC.**, a Not for Profit corporation organized under the laws of the state of Florida (hereinafter referred to as "Lessee").

WITNESSETH:

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

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

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

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

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

1. Leased Property

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

2. Representation by Lessee

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

3. Term

This Lease shall be effective from September 13, 2022 for a period of two (2) years. It is hereby mutually agreed and understood that the Lessee may request renewal of this Lease for an additional two (2) year term and a subsequent renewal for an additional one (1) year term by submitting a request in writing at least thirty days prior to the date of termination of the current lease. The Parks and Recreation Director (herein referred to as the "Director" shall be authorized to execute any renewals. The Lessee agrees it shall not be entitled to the renewal and agrees it shall not be entitled to any monies or damages should the Director, designee or County decide not to renew the Lease. The decision to renew this lease shall be in the sole discretion of the County.

4. Use of Property

The County hereby agrees to permit the Lessee exclusive use of the Property to provide recreational karting and related activities to the citizens of Brevard County. Use of other parks or portions of parks must have prior approval of the Area Manager and are subject to the fees and charges outlined in the Brevard County Parks and Recreation Department Fee Schedule adopted by the Board of County Commission and in effect at the time of the requested use.

5. Rent

The rent for the property in this Lease shall be Two Hundred Dollars (\$200) per month, plus applicable Florida Sales Tax due on the 6th day of each month or the first working day thereafter. If payment is made by check, checks shall be made to Brevard County Parks and Recreation Department, North Area Parks Operations, 475 North Williams Avenue, Titusville, Florida 32796. In the event payment is not properly made by the Lessee, the County is under no obligation to provide access or use of the Property at the time of the first event for which payment is not properly made nor at any other subsequent month during the term of the Lease. At the County's option, the entire Lease terminates at the time payment is not properly made.

6. Utilities

The Lessee shall pay costs of all public utility charges which shall include but not limited to telephone, electric, gas, water, sanitary sewer and garbage, as applicable which are provided to the Property by the County, City or any other public agency or public utility. Lessee shall be responsible for causing such utilities and services to be changed to the County's name at the termination or expiration of this Lease, at no cost to the County. County shall be liable for and shall pay all utility bills for services incurred upon the termination of this Lease.

7. Americans with Disabilities Act Compliance

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

8. Attorney's Fees

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

9. Background Investigation Check

The Lessee, at their sole cost, shall perform a High Level (Level One) background screening on the Lessee's employees, contractors, subcontractors, agents, representatives and volunteers and other persons providing services at the Property at no cost to the County and at a background screening vendor of the County's choosing.

The Lessee shall not and shall not allow any employees, contractors, subcontractors, agents, representatives or volunteer to work unsupervised with at risk populations prior to such person successfully completing a High Level (Level One) background screening.

The Director may deny the Lessee and / or deny the Lessee the ability to utilize a staff member, volunteer or any other person providing a public recreation program / service based on the results of the background screening, at the Director's discretion. The Director shall abide by Brevard County's current policy for Background Investigation Checks, in determining if a person shall be disqualified from working volunteering at the Park.

- Brevard County Clerk of Courts – Brevard Electronic Court Application
- Fingerprinting (Florida Department of Law Enforcement and National FBI Criminal check through VECHS)

- Department of Juvenile Justice check on individuals under the age of 18 when applicable and allowed in lieu of fingerprinting
- National Sex Offender Public Website – www.nsopw.gov
- Reference Checks
- Prior Employment checks
- Education / Licensing verification (case-by-case)
- Driver's License check (case-by-case)
- Drug Testing (case-by-case)

10. Copyright

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

11. Construction of Lease

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

12. Covenants or Conditions

The failure of either party to insist on strict performance of any covenant or condition hereof, or to exercise any option herein contained, shall not be construed as a waiver of such covenant, condition, or option in any other instance. This Lease cannot be changed or terminated orally.

The Lessee, its successors or assigns, shall not assign any rights under this Lease nor allow same to be assigned by operation of law without express written approval of the County. The Lessee may not assign any right to use the Property, any part thereof, or any right or privilege connected therewith, or to allow any other individual, group, or Lessee to occupy the Property or any part thereof without prior written consent from the Area Manager. No fees or charges of any kind shall be levied by the Lessee for use of the Property except direct costs as necessary for the operation of the Property and provision of the approved public recreation program. Such fees or charges must be approved in advance by the County.

13. Dissolution

In the event the Lessee is dissolved or becomes inactive, all liabilities and obligations owed to the County at the time shall be discharged in accordance with Chapter 617, Florida Statutes.

Any County assets or equipment held by the Lessee upon condition requiring return must be returned in accordance with such requirements and the requirements of Chapter 617, Florida Statutes.

14. E-Verify

- A. In accordance with Chapter 448.095, Florida Statutes, the contractor shall register and utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of this Contract; and
- B. The Contractor shall expressly require any subcontractors performing work or providing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Contract; and
- C. The Contractor agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the County consistent with the terms of the Contractor's enrollment in the program. This includes maintaining a copy of proof of the Contractor's and subcontractors' enrollment in the E-Verify Program.
- D. Compliance with the terms of this section is made an express condition of this Contract and the County may treat a failure to comply as a material breach of this Contract.
- E. A contractor who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E verify program, the contractor hires or employs a person who is not eligible for employment.
- F. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

15. Emergencies

In the case of a declared state of emergency in Brevard County by the Board of County Commissioners, the County retains the right to immediate resume occupation, management, and maintenance of the Property, to use the Property to meet any emergency needs of the citizens of Brevard County for the period of that emergency and a reasonable period of time thereafter as deemed necessary by the County. The County shall not be responsible for the damage, loss of property or income created by the use of the Property by agencies which support the emergency response and recovery such as Red Cross, Federal Emergency Management Agency and others. The County and Lessee shall work directly with such support

agencies to recover the cost of restoration, lost equipment, and supplies used. During the period in which the County or other governmental or non-governmental agency occupies or manages the Property, Lessee occupancy and any duties or obligations hereunder will be suspended. Any maintenance, damage, restoration, or repair necessitated during any suspension of the Lessee's occupancy under this Lease will be the responsibility and the expense of the County. Repairs, rehabilitation, restoration or maintenance, the need for which arises as a result of such emergency suspension of the Lessee's occupancy, shall all be diligently completed by the County, at the expense of the County prior to the Lessee reoccupying the Property.

16. Entire Lease

This Lease shall constitute the entire Lease between the Parties with respect to the matters addressed herein and supersedes any prior Leases or understandings. Any prior understanding or representation of any kind, relating to the matters addressed herein, preceding the date of this Lease shall not be binding upon either party and is expressly terminated by the execution of this Lease.

17. Fees

The County hereby agrees to permit the Lessee to collect fees from its members, participants, or spectators at events and other related activities; provided, however, that the Lessee presents a schedule of such fees to Brevard County Parks and Recreation Department, North Area Parks and Operations Manager on an annual basis each October 1st. Said fee schedule shall be subject to approval by the Parks and Recreation Director.

18. Florida Public Records Law

Pursuant to Section 119.0701, Florida Statutes, a request to inspect or copy public records relating to this Contract must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Contractor of the request and the Contractor shall provide the records to the County or allow the records to be inspected or copied within twenty-four hours (not including weekends or legal holidays) of the request so the County can comply with the requirements of Chapter 119, Florida Statutes, Florida Public Records Law. The Contractor may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the County's public records custodian designated below.

If Contractor fails to provide the requested public records to the County within a reasonable time, the Contractor may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties pursuant to Section 119.10, Florida Statutes. Contractor's failure to comply with public records requests is considered a material breach of this Contract and grounds for termination. If Contractor claims certain information is exempt and/or confidential, it must cite to specific statutory provisions or case law in order to justify removal or redaction of said information.

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

If the Contractor has questions regarding the application of Chapter 119 Florida Statutes, to the Contractor's duty to provide Public Records relating to this Contract, contact the Custodian of Public Records:

Brevard County Parks and Recreation
2725 Judge Fran Jamieson Way, B203
Viera, Florida
Maryellen.Donner@brevardfl.gov
Phone: (321) 633-2046

19. Governing Law

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

20. Illegal, Unlawful or Improper Use

The Lessee shall not make any unlawful, immoral, improper, or offensive use of the Property nor allow said Property to be utilized for any purpose other than that hereinabove set forth. Failure of the Lessee to comply with this provision shall be considered a material breach of this Lease and subject same to immediate termination by the County, where upon the County shall be entitled to immediately re-enter and retake possession of the Property and terminate this Lease.

21. Improvements

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

Any improvements or repairs to the Property by the Lessee must be requested in writing to the County and mutually agreed upon by the County and the Lessee, with written permission granted by the Director, prior to any actual work. Said request shall state the party responsible for funding such improvements. The plans, specifications, and location for all improvements, structures, landscaping, and facilities made by the Lessee to the Property shall be submitted in writing to and approved by the Director prior to the construction or installation of such improvement, structure, landscaping or facility. It is hereby mutually agreed and understood that any building, structure, or facility located thereon and permanently attached thereto shall become the property of the fee simple title holder.

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

the same waiver by any subcontractors which the contractor may hire in any contract the contractor executes with any subcontractors.

22. Indemnification and Insurance: Brevard County

The Lessee agrees to indemnify and hold harmless the County and its employees from any and all liability, claims, damages, expenses (including attorney's fees and costs), proceedings and causes of action of every kind and nature, arising out of or connected with the Lessee or Lessee's employees, contractors, subcontractors, agents, representatives or volunteer's use, occupation, management or control of the Park or any improvements thereon or any furniture, furnishing, equipment and fixtures utilized in connection therewith. The Lessee agrees that it will, at its own expense, defend any and all actions, suits or proceedings which may be brought against the County in connection with the said facilities arising from the Lessee's activities and that it will satisfy, pay, and discharge any and all judgments that may be entered against the County in any such action or proceeding. It is agreed by the parties hereto that specific consideration has been paid under this Lease for this indemnification and hold harmless provision.

The Lessee agrees to provide and maintain at all times during the term of this Lease, without cost or expense to the County, policies of insurance generally known as comprehensive general liability policies insuring the Contractor against any and all claims, demands, and causes of action whatsoever for injuries received and damage to property and any improvements thereon by the Lessee. Such policies of insurance shall insure the Lessee in the amount of not less than Five Million Dollars per occurrence to cover any and all claims and costs arising in connection with any and all liability claims arising in connection with any particular accident or occurrence. The Lessee shall provide fire damage liability coverage in the amount of no less than One Million Dollars per occurrence to provide for the replacement cost of any structure damaged due to fire. The Lessee shall provide Sexual Abuse and Molestation coverage in the amount of One Million Dollars. The Parks and Recreation Department is to provide the Lessee with a replacement cost for the highest valued structure subject to this Lease. Said Insurance policies shall provide that Brevard County is named as an additional insured and shall include all Endorsements associated with the policies. The County shall be entitled to thirty-day prior notice of any changes or cancellation in said policies.

The Lessee shall notify the County immediately in writing and by telephone or email of any potentially hazardous condition existing on or about the premises utilized in conjunction of said activities. The Lessee shall provide the described insurance on policies and with insurers

acceptable to the County. These insurance requirements shall not relieve or limit the liability of the Lessee. The County does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect the Lessee's interests or liabilities but are merely minimums. A certificate of insurance, including all Endorsements, indicating that the Lessee has coverage in accordance with the requirements of the Lease shall be furnished by the Lessee to Brevard County Parks and Recreation Department, North Area Parks Operations, 475 North Williams Avenue, Titusville, Florida 32780.

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

The Lessee will retain title to all personal property purchased by the Lessee and placed at the Property, unless otherwise agreed to by the parties. The Lessee will obtain approval from the Director prior to placing any personal property or equipment on the Property. All personal property belonging to the Lessee will be marked in a manner consistent with the character of the property. Lessee shall provide an annual inventory of all personal property located at the Property by March 15th of each year.

23. Independent Contractor

The Lessee shall perform the terms and conditions of this Lease as an independent contractor, and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this Lease shall, in any way, be construed to constitute the Lessee or any of its agents or employees as the representative agents or employees of the County.

24. Licenses, Permits and Taxes

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

25. Modification

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

26. Music Performance

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

27. Notice

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

28. No Use that Increases Insurance Risk

The Lessee shall not use the Property in any manner, even in its use for the purposes for which the Property is leased, that will increase the risk covered by insurance on the building where the Property is located, so as to increase the rate of insurance on the Property, or cause cancellation to any insurance policy covering the building. Lessee further agrees not to keep at the Property, or permit to be kept, used, or sold thereon, anything prohibited by the policy of fire insurance covering the Property. Lessee shall comply, at its own expense, with all requirements of insurers necessary to keep in force the fire and public liability insurance covering the Property.

29. Obligations of the Lessee

- a. Use of Property by the Lessee shall comply with all National Karting Alliance, Inc., sanctioned rules and regulations during events. The County reserves the right to disapprove any and all activities held on the Property which may be in conflict with the County's Administrative Orders or policies and agrees to furnish the Lessee with a copy of such rules and regulations, policies and procedures and any amendments thereto. Failure to comply with this provision or the County's request to terminate a particular

activity shall be considered a material breach of this Lease and the Lease shall be subject to immediate termination by the County, whereupon the County shall immediately re-enter and take possession.

- b. The Lessee shall provide and administer adequate personnel to supervise all activities sponsored or sanctioned by the Lessee, which take place at the Property. Said personnel shall supervise or provide the following services as required:
 - 1. Crowd Control
 - 2. Traffic Control
 - 3. Collection and disposal of garbage and trash
 - 4. Maintain track and related facilities described in Exhibit "B" equal to or better than the condition at the time of use and in compliance with National Karting Alliance, Inc. specification.
- c. A maintenance plan, traffic control plan, sanitation plan, and security plan shall all be submitted to North Area Parks Operation for approval prior to the first event and shall be binding on the Lessee for all events unless altered in writing by written agreement of the County and the Lessee.
- d. The Property is to be left by the Lessee in a clean and sanitary manner.
- e. The Lessee shall be responsible for providing sufficient personal sanitation units for use by participants and spectators as needed for events and shall be responsible for any costs for said units, including installation and maintenance thereof.
- f. All participants, spectators, members of the Lessee's organization shall enter the Property through the main gate off of Canaveral Groves Boulevard.
- g. The Lessee shall provide lock and chain for the gate, provide emergency medical personnel during practice and events, provide a monthly attendance report reflecting participants, spectators and volunteers for each day of use on the sixth day of the following month or first working day thereafter, mailed to Brevard County Parks and Recreation Department, North Area Parks Operations, 475 North William Avenue, Titusville, Florida 32796.
- h. Annual financials will be presented to Brevard County Parks and Recreation Department, North Area Parks Operations, 475 North Williams Avenue, Titusville, Florida 32796 on October 1st or first working day thereafter.
- i. All scheduled activities must be ended by 10:00 p.m. and all spectators and participants in the events shall vacate the Property by 11:00 p.m.

30. Partial Destruction of Premises

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

31. Public Entity Crimes

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

32. Repairs and Maintenance

The Lessee shall be responsible for the full and entire maintenance of the Property including but not limited to mowing, blowing, edging, weed control, fencing, paving, building maintenance including walls and keeping the Property clean and free of litter, rubbish, or any obstacles that are generated by the Lessee and disposing of said trash.

33. Responsibility

The Lessee's President shall be responsible for ensuring the Lease is abiding by the terms of this Lease. The Area Manager shall be responsible for assuring the contents of the Lease are properly applied.

34. Reverter and Right of Re-Entry and Repossession

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

35. Right to Audit Records

In performance of this Lease, the Lessee shall keep books, records, and accounts of all activities related to this Lease in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the Lessee in conjunction with this Lease and the performance of this Lease shall be open to inspection during regular business hours by an authorized representative of the County. The Lessee shall retain all documents, books and records for a period of five years after termination of this Lease, unless such records are exempt from section 24(a) of Article I of the State Constitution and Chapter 119, Florida Statutes. All records or documents created by or provided to the Lessee by the County in connection with this Lease are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the County in a format compatible with the information technology systems of the County.

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

36. Right of Entry by County

The County or its agents may at any time enter in and on the Property for the purpose of inspection of same including any area therein and performing such other duties as are required by the terms of this Lease and the rules, regulation, ordinances and laws of any governmental body. The County or its agents reserves the right to perform required maintenance and repair, or to make additions or alterations to any part of the building in which the Property under Lease is located and Lessee agrees to permit the County to do so.

37. Severability

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

38. Statutes, Laws, Rules and Regulations

The Lessee's use of the Property will be in accordance with all applicable laws, rules, regulations, policies and procedures approved by the Department and / or the County and prescribed safety rules and regulations. The County reserves the right to disapprove any and all activities held at the Property, which may be in conflict with the Department's and / or the County's Policies and Administrative Orders and agrees to furnish the Lessee with a copy of such rules, regulations, policies, procedures, and amendments thereto. It shall be the Lessee's responsibility to be aware of and comply with all statutes, ordinances, rules, orders, regulations and requirements of all local, state and federal agencies as applicable.

39. Successors in Interest

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

40. Surrender of Premises

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

41. Termination for Convenience

This Lease may be terminated by either party upon thirty days written notice to the other party. When it is determined to be in the best interest of the County, the Parks and Recreation Department Director may terminate this Lease upon providing written notice to the Lessee. In the event of a termination for convenience, the parties agree that the only termination damages payable by either party will be prorated rent up to the date of termination. Upon the expiration of the term of this Lease or upon its termination for any cause, Lessee shall restore the Property to the condition that the Lessee received the Property, reasonable wear and tear excepted unless the County advises Lessee to not remove any structural changes. Upon termination of this Contract, the Contractor shall have fifteen days within which to remove any personal property from any Property. Any personal property not removed within said fifteen-day period shall become the property of the County.

42. Unauthorized Alien Workers

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

43. Venue and WAIVER OF TRIAL BY JURY

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 **BOTH PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY.**

44. Violation of Provisions

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

WHEREFORE, County and Space Coast Full Throttle Speedway, Inc. have caused this Agreement to be executed, sealed and delivered as of the day and year written below.

ATTEST:



Date: 9/13/2022

COUNTY:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

By:


Kristine Zonka, Chair

As approved by the Board on 9/13/2022

WITNESS:



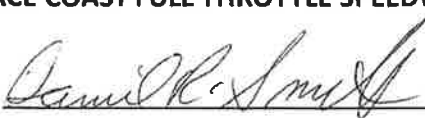
Print Name: MARY ELLEN DONNER



Print Name: Leona Loweree

SPACE COAST FULL THROTTLE SPEEDWAY, INC.:

By:



Print: Daniel R. Smith

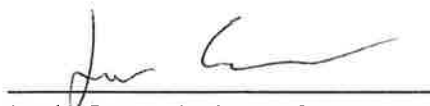
Title:

President

Date: 9/7/2022

(CORPORATE SEAL)

Review for legal form and Content:



Justin Caron, Assistant County Attorney