

EXHIBIT B

CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 10/11/2006

Contract/Lease Control #: L07-0277-WS30-13

Bid #: N/A Contract/Lease Type: EXPENDITURE

Award To/Lessee: OKALOOSA COUNTY

Lessor: USAF

Effective Date: 10/2³/2006 \$13,184,613.00

Term: EXPIRES 9/30/2037

Description of Contract/Lease: LAND LEASE PRITCHETT WATER RECLAMATION FACILITY

Department Manager: WATER & SEWER

Department Monitor: J. LITTRELL

Monitor's Telephone #: 651-7172

Monitor's FAX #: 651-7193

Date Closed:

AMENDMENT NO. 2
TO
DEPARTMENT OF THE AIR FORCE LEASE
EGLIN AIR FORCE BASE, FLORIDA
LEASE NO. AFMC-EG-1-06-001

THIS AMENDMENT NO. 2 TO DEPARTMENT OF THE AIR FORCE LEASE (“**Amendment**”) is made effective as of this 5th day of July, 2011, (the “**Effective Date**”), by and between THE UNITED STATES OF AMERICA, acting by and through THE SECRETARY OF THE AIR FORCE (the “**Secretary**” or the “**Government**”) and OKALOOSA COUNTY BOARD OF COUNTY COMMISSIONER, a political subdivision of the State of Florida (the “**Lessee**”). The Government and Lessee may sometimes be referred to jointly as the “**Parties**,” and each separately may be referred to as a “**Party**.”

PRELIMINARY

- A. On October 3, 2006, the Government and Lessee entered into that certain Department of the Air Force Lease, Lease No. AFMC-EG-1-06-001 (the “**Lease**”), under which Lessee leased from the Government the certain real property, as described the Lease.
- B. Effective October 3, 2007, the Parties entered into that certain Amendment No. 1 to the Lease.
- C. The Parties desire to further amend the Lease as set forth below.

AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

- 1. As of the Effective Date, Condition 8 of the Lease, which was previously designated as “Reserved,” is replaced with the following:

CONDITION 8.

TAXES.

Lessee shall pay to the proper authority, when due and payable, all taxes, assessments, and similar charges that may be imposed on Lessee or the Project. Each Party shall have the right, but not the obligation, at its own expense, to take such actions as may be necessary and appropriate (i) to contest the validity, applicability or amount thereof; (ii) minimize such taxes, assessments or charges; or (iii) assert any exemption which may be available with respect to taxes, assessments or charges imposed on the Project. If and to the extent the

ORIGINAL

Leased Premises are made taxable by State or local governments under an Act of Congress, this Lease shall be renegotiated pursuant to 10 U.S.C. § 2667(f).

2. Condition 20.1 is amended to update the address for the Government.

CONDITION 20.

NOTICES

If intended for the Secretary of the Air Force:

Department of the Air Force
Director, Air Force Real Property Agency
2261 Hughes Avenue, Ste. 121
Lackland AFB, TX 78236-9821

With Copies to:

Air Force Real Property Agency
Chief Financial Officer
2261 Hughes Avenue, Ste. 121
Lackland AFB, TX 78236-9821

3. All other Conditions of the Lease remain unchanged.
4. This Amendment may be executed in multiple counterparts, each of which is deemed an original and all of which shall constitute one and the same instrument.

[Signature pages follow.]

ORIGINAL

**Government Signature Page to Amendment No. 2 to Department of the Air Force
Lease AFMC-EG-1-06-001**

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their duly authorized officers as of the dates indicated below.

GOVERNMENT:

THE UNITED STATES OF AMERICA acting by and through the
Secretary of the Air Force



ROBERT M. MOORE, SES, DAF
Director, Air Force Real Property Agency

Date: 12 MAY 2011

ORIGINAL

**Lessee Signature Page to Amendment No. 2 to Department of the Air Force Lease
AFMC-EG-1-06-001**

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their duly authorized officers as of the dates indicated below.

LESSEE:

OKALOOSA COUNTY BOARD OF COUNTY
COMMISSIONERS

By: _____

Jan Campbell



Title: _____

Chairman

Date: _____

BCC approval 7-5-1



DEPARTMENT OF THE AIR FORCE
AIR FORCE REAL PROPERTY AGENCY

12 MAY 11

AFRPA/DR
2261 Hughes Avenue Suite 121
Lackland AFB, TX 78236-9821


Mr. Jeff Littrell
Okaloosa County
Director, Water and Sewer System
1804 Lewis Turner Boulevard Suite 300
Fort Walton Beach, FL 32547

Dear Mr. Littrell:

It has recently come to the attention of the Air Force Real Property Agency (AFRPA) that language as required by 10 USC 2667 (f) was inadvertently omitted from the Department of Air Force Lease No. AFMC-EG-1-06-001 with Okaloosa County for the Arbennie Pritchett Water Reclamation Facility, Eglin Air Force Base, FL. To correct the omission, language has been inserted at Condition 8 (previously "Reserved") of the Lease on the enclosed Amendment 2.

Two (2) copies of Amendment 2 containing the original signature of the Department of the Air Force are enclosed for the County's signature. Please sign both copies of the Amendment, retain one fully executed original for your records, and return one fully executed original via Fed Ex or UPS for receipt on or before May 16, 2011, to the attention of Ms. Linda Brophy AFRPA/RPM, 3515 S. General McMullen, Door 2, San Antonio, TX 78226-1858. Please contact Ms. Brophy at 210-395-9499, if you have any questions.

Sincerely,


ROBERT M. MOORE
Director

Enclosure
Lease Amendment 2

cc: 96CEG/CEAR, B.Brandt
SAF/GCN, Corina Castillo-Johnson

AMENDMENT NO. 1

TO

**DEPARTMENT OF THE AIR FORCE LEASE
AFMC-EG-1-06-001**

EGLIN AIR FORCE BASE, FLORIDA

This Amendment made and entered into between the Secretary of the Air Force and the Okaloosa County Board of County Commissioners, Crestview, Florida,

WITNESSETH THAT:

WHEREAS, on October 3, 2006, Lease AFMC-EG-1-06-001 was approved by the Secretary of the Air Force, providing the Okaloosa County Board of County Commissioners the use of approximately 255 acres, more or less, of real property on Eglin Air Force Base for the purposes of maintaining a sewage effluent disposal field and constructing and operating a Wastewater Treatment Plant (WWTP) on approximately 20 acres and a Rapid Infiltration Basin Effluent Disposal System (RIBS) on the remaining 235 acres, more or less, for a thirty (30) year term; and

NOW THEREFORE, the parties do mutually agree that Lease AFMC-EG-1-06-001 is amended in the following particulars only, effective October 3, 2007.

1. The existing Exhibit F is superseded and replaced by the Second Escrow Agreement, Exhibit F-1, attached hereto and made a part hereof.
2. All other Conditions of the Lease remain unchanged.

[Remainder of page intentionally left blank]

**LEASE #
C07-0277-WS30-13**

IN WITNESS THEREOF, the United States of America has executed this Amendment No. 1 to Lease AFMC-EG-06-001 effective October 3, 2007.

Signed, sealed and delivered in the presence of:

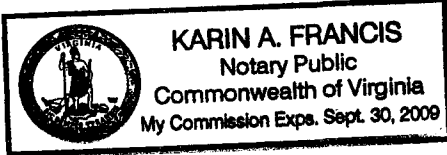
THE UNITED STATES OF AMERICA, acting by and through the Secretary of the Air Force

By: Jeffrey P. Domm
Jeffrey P. Domm
Deputy Deputy
Air Force Real Property

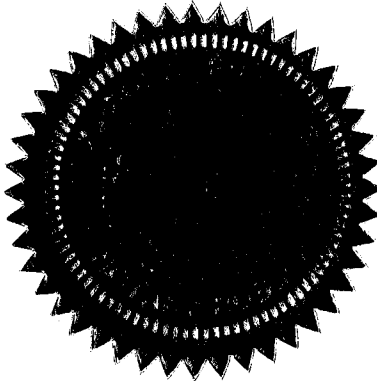
COMMONWEALTH OF VIRGINIA)
) SS.:
COUNTY OF ARLINGTON)

On the 23rd day of September, 2007, before me, Karin A. Francis, the undersigned Notary Public, personally appeared Jeffrey P. Domm, personally known to me to be the person whose name is subscribed to the foregoing Amendment No. 1, and personally known to me to be the Director, Air Force Real Property Agency, and acknowledged that the same was the act and deed of the Secretary of the Air Force and that she executed the same as the act of the Secretary of the Air Force for the purposes and consideration cited therein.

Karin A. Francis
Notary Public, Commonwealth of Virginia
My commission expires: 9/30/2009
My registration number is: 364704



[Remainder of page intentionally left blank]




This Amendment No. 1 to the Lease AFMC-EG-06-001 is also executed by the Lessee effective as of this 3rd day of October 2007.

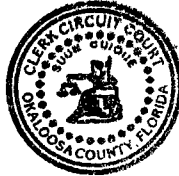
OKALOOSA COUNTY

By: 
DON AMUNDS
CHAIRMAN



ATTEST:


DON HOWARD
Clerk of Circuit Court



SECOND ESCROW AGREEMENT

THIS SECOND ESCROW AGREEMENT ("Agreement") is made and entered into between the Secretary of the Air Force ("Secretary" or the "Government") and the Okaloosa County Board of County Commissioners ("County"), Crestview, Florida,

WITNESSETH THAT:

WHEREAS, on 3 October 2006, the Air Force granted to the County a Lease, No. AFMC-EG-1-06-001, and on even date therewith entered into the Escrow Agreement for Government Lease Payment Account as Exhibit F to the lease;

NOW THEREFORE, the parties do mutually agree that the Escrow Agreement attached to Lease AFMC-EG-1-06-001 as Exhibit F is superseded and replaced by the Second Escrow Agreement, Exhibit F-1, in the following particulars only, effective on October 3, 2007:

1. Establishment of Escrow; Release of Funds. The County will on October 3rd of each year beginning on October 3, 2007 until October 2, 2036 deliver to the Escrow Agent the sums identified in the Rent Schedule and such funds shall upon receipt become the "Escrow Funds." At all times during the term of this Agreement, the Escrow Agent shall hold the Escrow Funds in an interest-bearing account ("Escrow Account"), and all interest earned on this Account shall be added to and shall be deemed to be a part of the Escrow Account for all purposes. The Escrow Funds shall be owned and held by the Escrow Agent solely for the purposes specified herein. The County acknowledges and agrees that the Escrow Funds may be made available and disbursed as payment for In-Kind Consideration provided by or on behalf of the County, or any subsidiary or affiliate of the County for purposes of this Agreement and as the context shall so require, pursuant to any one or more Site Work Agreements (defined in Section 3, below) entered into between the Government and the County. All Rent payments deposited by the County into escrow with Escrow Agent shall constitute payment by the County under the Lease as of the date paid to the Escrow Agent and shall be deemed, constitute and be credited against payments of Rent amounts required to be made by the County under the Lease. The Government and the County shall have only those rights in or to the Escrow Account (defined in Section 3, below) and the Escrow Funds (defined in Section 3, below) deposited and held in and/or disbursed from the Escrow Account from time to time, as are expressly provided herein.

Upon receipt of written direction by the County and the 96th Civil Engineering Group Commander (the "Commander"), which shall be signed by both parties, the Escrow Agent shall disburse the Escrow Funds to the individuals or entities who have provided in-kind goods or services as identified by the Commander in the amounts specified by the Commander. The County will pay solely from the Escrow Funds all fees charged by the Escrow Agent in connection with the services provided for in this Agreement.

2. Duties of Escrow Agent. The duties of Escrow Agent under this

Agreement are not discretionary, and are limited specifically to the duties expressly stated herein. Escrow Agent shall not be responsible and liable for the sufficiency, correctness, genuineness and validity of any certification, release or other instrument tendered to it hereunder or with respect to the form or execution of the same, or the identity, authority, or rights of any person executing or depositing the same. Escrow Agent shall be protected in acting upon any certification, release, waiver, consent, receipt of other paper or document believed by Escrow Agent to be genuine and to be signed by the proper party or parties. Escrow Agent shall not be liable for any error of judgment or for any act done or steps taken or omitted by it in good faith, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, except its own willful misconduct. Escrow Agent may consult with legal counsel in the event of any dispute or question as to the construction of the Escrow Agent's duties hereunder, and the Escrow Agent shall incur no liability and shall be fully protected, in acting in accordance with the opinion and instructions of such counsel. Escrow Agent need not take notice of the provisions of any agreement, documents or contracts other than this Escrow Agreement and the certifications, waivers and other documents to be tendered to it as a condition to any payment out of the Escrow Account, or the instructions or demands of any other person or entity, whether written or oral. If the Escrow Agent is uncertain as to its duties or actions hereunder, or receives conflicting instructions or notices from the County and the Government, or instructions or notices which, in the reasonable opinion of the Escrow Agent, are in conflict with any of the provisions of this Agreement, the Escrow Agent shall be entitled to take any of the following courses of action: (i) hold the Escrow Funds as provided above in this Agreement and decline to take further action until the Escrow Agent receives joint written direction from the County and the Government or an order of a court of competent jurisdiction directing the disbursement of the Escrow Funds, in which case the Escrow Agent shall then disburse the Escrow Funds in accordance with such direction; (ii) in the event of litigation between the County and the Government, deliver the Escrow Funds and all interest thereon to the clerk of any court in which such litigation is pending; or (iii) deliver the Escrow Funds and all interest thereon to a Federal court of competent jurisdiction in the State of Florida, and commence an action for interpleader in such court.

3. Disbursements of Escrow Funds.

3.1 Purposes for Which Escrow Funds May Be Used. The Government and the County intend and agree that the Escrow Funds may be made available and disbursed to either (a) the Government pursuant to and in accordance with the provisions hereof, or (b) the County as payment for In-Kind Consideration provided by the County pursuant to any one or more Site Work Agreement(s). For purposes hereof, the term "Site Work Agreement" shall mean any agreement entered into between the Government and the County, pursuant to which the County agrees to undertake, perform and complete Site Work in accordance with and as described therein, which Site Work may (but shall not be required to) include, without limitation, development, construction and management services in connection with improvements to be constructed on the Lease Premises. "Site Work" shall mean In-Kind Consideration provided by the County to the Government and shall consist of and include any work or

services provided, undertaken and performed by the County on or with respect to Eglin Air Force Base pursuant to any Site Work Agreement, including without limitation new construction of facilities on and within Eglin Air Force Base, up-grade of existing facilities on and within Eglin Air Force Base, repair and maintenance of existing facilities, property management services, engineering services, master planning services, landscaping services, waste management, perimeter fence upgrades, and security upgrades and other services as provided for in 10 U.S.C. §2667 (c)(1).

3.2 Disbursement of Escrow Funds in Payment of Rent. As provided above, it is the intent of the parties that this Agreement facilitate the collection of the Rent due under the Lease by "in kind" payments as authorized by Section 2667 and as provided in the Lease. The Government shall enter into good faith negotiations with the County from time to time in order to reach agreement on Site Work that will constitute appropriate In-Kind Consideration and the value of such In-Kind Consideration. Notwithstanding anything contained herein to the contrary, at the written election of the Government, any Escrow Funds held by Escrow Agent in the Escrow Account shall be paid from the Escrow Account to the Government within fifteen (15) days after the receipt by the County and Escrow Agent of written notice from the Government of such election; provided that such cash payments shall not exceed the balance of the Escrow Funds then held in the Escrow Account less any portion of Escrow Funds required to be disbursed to the County as payment for any previously agreed to In-Kind Consideration. Cash payments of Escrow Funds required to be disbursed to the Government pursuant to this Section 3.2 shall be made by check payable upon written direction of the 96th Civil Engineering Group Commander ("the Commander"), all of which checks shall include the lease number assigned to the Lease to ensure proper processing by the Government.

3.3 Disbursement of Escrow Funds to Pay for In-Kind Consideration. The exact form of In-Kind Consideration to be provided by the County and for which the Escrow Funds may be used to pay the County shall be mutually determined by the Government and the County and set forth in a Site Work Agreement executed by both the Government and the County. All In-Kind Consideration shall be provided by the County; provided, however, that the County shall have the right to engage contractors and subcontractors to perform and complete the respective aspects and components of the Site Work to be performed by the County under any one or more Site Work Agreements. If, in connection with negotiating any Site Work Agreement, the County and the Government have a dispute regarding how to price any construction work that is provided directly by the County and not by a subcontractor of the County, then the County shall either competitively bid such work to determine the appropriate price or agree to subcontract for the provision of such work; it being understood, however, that the executed Site Work Agreement (and not this Agreement) shall specify the price of such work or the method agreed upon for determining the pricing. Under no circumstances shall the County be required to provide In-Kind Consideration in excess of the Escrow Funds then available for payment to the County. The County agrees to use Escrow Funds disbursed from the Escrow Account as compensation pursuant to the applicable Site Work Agreement for providing In-Kind Consideration. In-Kind Consideration shall be requested by the Government and provided by the County during any Lease Year (defined in the Lease) up

to the amount of all Lease Payments paid into the Escrow Account in respect of such Lease Year; provided, however, at the Government's election, Escrow Funds held in the Escrow Account that have not been expended for In-Kind Consideration in respect of any Lease Year may be carried over to and made available for payment of In-Kind Consideration provided by the County in subsequent Lease Year(s). In no event shall the County be required to provide In-Kind Consideration with a value (as determined by agreement between the Government and the County) in excess of the total amount of Escrow Funds then held in the Escrow Account.

3.4 Disbursement Procedures for In-Kind Consideration. The County shall have the right, exercisable not more frequently than once every thirty (30) days, to submit to Escrow Agent (with a simultaneous copy to the Government) a Draw Request (hereinafter defined) for payment of any amounts due and payable under any Site Work Agreement in connection with the completion or partial completion of any Site Work provided by the County as In-Kind Consideration. Within ten (10) business days after receipt of a properly prepared and delivered Draw Request, the Government shall grant or withhold its approval, with a statement of the reasons for withholding such approval, to the County and Escrow Agent simultaneously. Escrow Agent shall disburse to the County from Escrow Funds then held in the Escrow Account the amount to which the County is entitled pursuant to the Draw Request, as long as the Government has granted approval to Escrow Agent. For purposes of this Agreement, the term "Draw Request" shall mean and include (a) a written request from the County for a disbursement from the Escrow Account of funds equal to the amount to which the County is entitled under the applicable Site Work Agreement in connection with the completion or partial completion of any Site Work provided by the County as In-Kind Consideration pursuant to one or more Site Work Agreement(s), which request shall include the document number assigned to the applicable Site Work Agreement(s) to ensure proper processing by the Government, and (b) a statement from the County that the conditions, under the applicable Site Work Agreement, to payment of the amount requested in the Draw Request have occurred.

3.5 Accounting. Escrow Agent shall maintain complete and accurate records of the Lease Payments deposited into the Escrow Account, the interest earnings thereon, and the disbursements of Escrow Funds out of the Escrow Account for the payment of In-Kind Consideration provided by the County and, to the extent applicable, cash payments disbursed from Escrow Funds to the Government pursuant to subparagraph 3.2, above. Not later than 5 business days following the end of each October, and not more than 5 business days after receipt of a written request from the Government, Escrow Agent shall submit to the Government and the County a report for the preceding fiscal year ending September 30 setting forth a detailed description of (a) the Lease Payments paid into the Escrow Account during such period and interest earnings thereon, (b) Escrow Funds disbursed to the County in respect to In-Kind Consideration provided during such period and disbursed to the Escrow Agent in payment of its fees hereunder, (c) Escrow Funds disbursed to the Government during such period pursuant to Section 3.2, above, and (d) any balance remaining in the Escrow Account.

4. Notices. All notices, communications and statements to be given by the

parties under this Agreement will be given, furnished or served by facsimile, by personal delivery, by United States certified mail, postage prepaid, return receipt requested, or by a nationally recognized overnight carrier and addressed to the parties at the following addresses:

Air Force: Air Force Real Property Agency
1700 N. Moore St., Suite 2300
Arlington, VA 22209-2802
FAX: (703) 696-0981
Attn: Director

and 96th Civil Engineer Group
ATTN: 96 CEG/CERR
510 De Leon Street, Suite 100
Eglin AFB, FL 32542-5133

the County: Okaloosa County Water & Sewer Company
1804 Lewis Turner Blvd., Suite 300
Ft. Walton Beach, FL 32547
FAX: (850) 671-7193
Attn: Director

Escrow Agent: SunTrust Bank
Attn: Gloria Reyes
200 South Orange Avenue
SOAB 8th Fl
Orlando, FL 32801

All notices, communications or statements under this Agreement shall be deemed as having been received at the time that the same shall have been personally delivered with evidence of receipt, three (3) business days after the same shall have been deposited in the United States mail as provided in this Section, one (1) business day after delivery by an overnight carrier, or one (1) business day after the date of transmission by facsimile if there is evidence of receipt prior to 5 p.m. on a regular business day, or if there is evidence of receipt after 5 p.m. on a regular business day or evidence of receipt on any day other than a regular business day, then the faxed notice shall be deemed as having been received two (2) business days following transmission by facsimile. Should the address of any party for the purposes herein change, such party shall give written notice to the others of the new address.

5. The Escrow Agent.

5.1 Appointment of Escrow Agent. The Government and the County hereby appoint SunTrust Bank, Orlando, Florida, as Escrow Agent under this Agreement and by execution of this Agreement, the Escrow Agent accepts the duties and obligations as Escrow Agent hereunder. The Escrow Agent further represents that it has all requisite power, and has taken all corporate actions necessary, to execute and perform its duties hereunder.

5.2 Liability of Escrow Agent. The Escrow Agent shall not be liable for any loss resulting from any investment made pursuant to the terms and provisions of this Agreement.

5.3 Successor Escrow Agent. (a) The Escrow Agent, at the time acting hereunder, may at any time resign and be discharged from the trusts hereby created by giving not less than sixty (60) days written notice to the Government and the County, specifying the date when such resignation will take effect, but no such resignation shall take effect unless a successor Escrow Agent shall have been appointed as hereinafter provided and such successor Escrow Agent shall have accepted such appointment, in which event such resignation shall take effect immediately upon the appointment and acceptance of a successor Escrow Agent.

(b) The Escrow Agent may be removed at any time by an instrument in writing, executed by the Government, such instrument to be filed with the County, not less than 60 days before such removal is to take effect as stated in such instrument.

(c) In the event the Escrow Agent hereunder shall resign or be removed, or be dissolved, or shall be in the course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case the Escrow Agent shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the Government, with the approval of the County.

(d) In the event that no appointment of a successor Escrow Agent shall have been made pursuant to the foregoing provisions of this Section within sixty (60) days after the written notice of removal or resignation or other act causing the need for appointment of a successor Escrow Agent occurs, the retiring Escrow Agent may apply to any court of competent jurisdiction for the appointment of a successor Escrow Agent and such court may thereupon, after such notice, if any, as it shall deem proper, appoint such successor Escrow Agent.

(e) No successor Escrow Agent shall be appointed unless such successor Escrow Agent shall be a corporation with trust powers organized under the banking laws of the United States or any state, and shall be bound by this Agreement and have at the time of appointment capital and surplus of not less than \$25,000,000 or is a

member of a bank group or bank holding company with aggregate capital and surplus of not less than \$25,000,000.

(f) Every successor Escrow Agent appointed hereunder shall execute, acknowledge and deliver to its predecessor and to the Government and the County, an instrument in writing accepting such appointment hereunder and thereupon such successor Escrow Agent, without any further act, deed or conveyance, shall be bound by this Agreement and become fully vested with all the rights, immunities, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of such successor Escrow Agent or the Government or the County, execute and deliver an instrument transferring to such successor Escrow Agent all the estates, properties, rights, powers and trust of such predecessor hereunder; and every predecessor Escrow Agent shall deliver all securities and moneys held by it hereunder to its successor; provided, however, that before any such delivery shall be made the fee of the retiring or removed Escrow Agent set forth in Section 5.4 hereof if fully paid in advance shall be pro rata refunded by such Escrow Agent to the Government and the Government shall reimburse the retiring or removed Escrow Agent for any expenses it has incurred. Such proration shall be computed based upon the time such Escrow Agent served as such compared to the period from the date hereof until the final payment is due under the Lease as provided in the Rent Schedule. Should any transfer, assignment or instrument in writing from the Government or the County be required by any successor Escrow Agent the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor Escrow Agent, any such transfer, assignment and instruments in writing shall, on request, be executed, acknowledged and delivered by the Government or the County.

(g) Any corporation into which the Escrow Agent, or any successor to it in the trusts created by this Agreement, may be merged or converted or with which it or any successor to it may be consolidated, or any corporation resulting from any merger, conversion, consolidation or reorganization to which the Escrow Agent or any successor to it shall be a party shall be the successor Escrow Agent under this Agreement without the execution or filing of any paper or any other act on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

5.4 Payment to Escrow Agent. The Escrow Agent shall be entitled to a fee for its services rendered hereunder of \$1200 payable on execution and delivery hereof by the County and \$1200 payable annually thereafter during the term of this Agreement. Payment shall be made from the Escrow Account if funds are available therein and shall be paid by the County if funds are not available in the Escrow Account.

5.5 Indemnification. (a) To the extent permitted by law, the Government shall indemnify and exonerate, save and hold harmless the County and the Escrow Agent, their agents and employees from and against any and all claims, demands, expenses (including counsel fees and expenses) and liabilities, obligations, losses, damages, penalties, claims, actions and suits of any and every nature which the County or the Escrow Agent may sustain or incur or which may be asserted against the County or the Escrow

Agent as a result of any action taken or omitted by the County or the Escrow Agent hereunder without bad faith, negligence or willful misconduct.

6. Waiver. Any waiver by any party hereto of any breach of any term or condition of this Agreement shall not operate as a waiver of any other breach of such term or condition or of any other term or condition, nor shall any failure to enforce such provision hereof operate as waiver of such provision or of any other provision hereof, nor constitute nor be deemed a waiver or release of any other party for anything arising out of, connected with or based upon this Agreement.

7. Successors and Assigns. No party hereto may assign, transfer, pledge, hypothecate or otherwise dispose of this Agreement, or any interest herein without the prior written consent of the other parties. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their permitted successors and assigns.


8. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto and supersedes any and all prior or contemporaneous written or oral agreements between the parties hereto with respect to the subject matter hereof. This Agreement may be executed in any number of counterparts with the same effect as if the parties hereto had signed the same document. All counterparts will be construed together and shall constitute one agreement.

9. Severability. In the event that any provision of this Agreement violates any applicable statute, ordinance or rule of law, such provision shall be ineffective to the extent of such violation without invalidating any other provision herein.

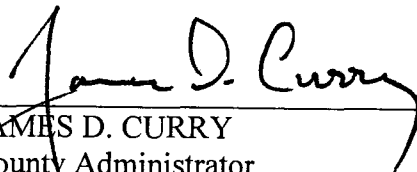
10. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the United States.

THIS ESCROW AGREEMENT is effective as of October 3, 2007.

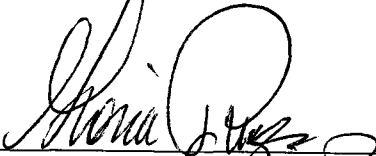
THE UNITED STATES OF AMERICA,
by the Secretary of the Air Force

By: 
JEFFREY B. DOMM
Deputy Director
Air Force Real Property Agency

OKALOOSA COUNTY, FLORIDA

By: 
JAMES D. CURRY
County Administrator

SUNTRUST BANK

By: 
Printed Name: Gloria Pease
Title: Assistant Vice President

United States Department of the Air Force



THE ARBENNIE PRITCHETT WATER RECLAMATION FACILITY Lease Agreement

L07-0277-WS30-13
LESSOR: USAF
LAND LEASE PRITCHETT WTR
RECLAMATION FACILITY
EXPIRES: 9/30/2037

**DEPARTMENT OF THE AIR FORCE
LEASE AGREEMENT**

**THE ARBENNIE PRITCHETT
WATER RECLAMATION FACILITY**

TABLE OF CONTENTS

CONDITION 1. TERM AND DELIVERY OF POSSESSION.....	2
CONDITION 2. EASEMENTS AND RIGHTS OF WAY.....	2
CONDITION 3. CONDITION OF LEASED PREMISES	3
CONDITION 4. RENT.....	4
CONDITION 5. OPERATING AGREEMENT.....	5
CONDITION 6. USE OF LEASED PREMISES	5
CONDITION 7. DEFAULT, REMEDIES, AND TERMINATION	6
CONDITION 8. [RESERVED].....	
CONDITION 9. RESTORATION AND SURRENDER.....	8
CONDITION 10. ENVIRONMENTAL PROTECTION	10
CONDITION 11. MAINTENANCE OF LEASED PREMISES	16
CONDITION 12. COMPLIANCE WITH APPLICABLE LAWS	16
CONDITION 13. ACCESS AND INSPECTION.....	17
CONDITION 14. GENERAL INDEMNIFICATION BY LESSEE.....	18
CONDITION 15. INSURANCE	18
CONDITION 16. [RESERVED].....	
CONDITION 17. CONSTRUCTION OF LEASED PREMISES IMPROVEMENTS AND ALTERATIONS.....	21
CONDITION 18. UTILITIES AND SERVICES.....	24
CONDITION 19. OPERATION AND MANAGEMENT OF THE PROPERTY	25
CONDITION 20. NOTICES	25
CONDITION 21. ASSIGNMENT, SUBLEASES, AND LICENSES	26
CONDITION 22. LIENS AND MORTGAGES	26
CONDITION 23. DISPUTES	29
CONDITION 24. GENERAL PROVISIONS.....	30
CONDITION 25. SPECIAL PROVISIONS	34
CONDITION 26. REPORTING PROVISIONS	35
CONDITION 27. RIGHTS NOT IMPAIRED	36
CONDITION 28. RENEWAL OF THE LEASE	37
CONDITION 29. GOVERNMENT REPRESENTATIVES AND THEIR SUCCESSORS.....	37
CONDITION 30. AMENDMENTS.....	37
CONDITION 31. EXHIBITS.....	37
CONDITION 32. [RESERVED].....	
CONDITION 33. [RESERVED].....	
CONDITION 34. DEFINED TERMS.....	38

LIST OF EXHIBITS

Exhibit A - Description and Map of Leased Premises

Exhibit A-1 - Non-Exclusive List of Outgrants

Exhibit B - Environmental Baseline Survey

Exhibit C - Rent Schedule

Exhibit D - Design Criteria Package

Exhibit E - Operating Agreement

Exhibit F - Escrow Agreement

DEPARTMENT OF THE AIR FORCE
LEASE OF PROPERTY
THE ARBENNIE PRITCHETT
WATER RECLAMATION FACILITY

THIS LEASE OF PROPERTY ("Lease") is made to be effective as of October 3, 2006, (the "Effective Date"), by and between THE UNITED STATES OF AMERICA, acting by and through THE SECRETARY OF THE AIR FORCE (the "Secretary" or the "Government") and Okaloosa County, a County Government created under the laws of the State of Florida, with its principal offices located at 101 East James Lee Boulevard, Crestview, Florida, 32457 ("Lessee"). The Government and the Lessee may sometimes be referred to jointly as the "Parties," and each separately may be referred to as a "Party."

Recital

The Secretary, under the authority contained in 10 U.S.C. § 2667, has determined:

(i) that the Leased Premises is not excess property as defined by the Federal Property and Administration Services Act of 1949, as amended (40 U.S.C. § 102(e)), and is not at this time needed for other public use;

(ii) that a lease of the Leased Premises is advantageous to the United States; and

(iii) that a lease of the Leased Premises on the terms set forth in this Lease is in the public interest.

Leased Premises

NOW, THEREFORE, the Government, by virtue of the authority conferred by law, for the consideration set out below, hereby leases to the Lessee the property as more specifically described in **Exhibit A** to this Lease (the "Leased Premises"), which consists of one parcel of land situated within the boundaries of Eglin AFB, for purposes of maintaining a sewage effluent disposal field and constructing and operating a Wastewater Treatment Plant (WWTP) on approximately 20 acres and a Rapid Infiltration Basin Effluent Disposal System (RIBS) on the remaining 235.51 acres, more or less, as more fully provided in the Design Criteria Package. The term "Project" shall refer collectively to the Leased Premises and the Leased Premises Improvements.

AND GRANTS TO LESSEE the right to gain access to the Leased Premises through a route or routes designated from time to time by the Government, and to use such specifically designated streets, driveways, sidewalks, and walkways on Eglin AFB for the purposes of pedestrian and vehicular ingress and egress to and from the Leased Premises in order to fulfill its contractual obligations for completion, operation, and maintenance of the Project, as more fully provided in the Design Criteria Package. The Government reserves the right to change, modify, or eliminate, or temporarily to close, any portion or portions of streets, driveways, sidewalks, and walkways. Provided, however, the Government agrees that it will not change, modify, or eliminate, or temporarily to close such streets, driveways, sidewalks, and walkways in a manner

that will unreasonably interfere with the Lessee's use or the value of the Leased Premises under this Lease.

RESERVING, HOWEVER, unto the Government general access to the Leased Premises for the purpose of exercising the rights, interests, privileges, and benefits described herein, to the extent that those rights interests, privileges, and benefits go across, include, or encompass all or part of the Leased Premises, and to the extent they are needed by the Government for the operation, security, or safety of Eglin AFB, or its assigned personnel, or for any other reasonable purpose.

THIS LEASE is granted subject to the following conditions:

CONDITION 1.

TERM AND DELIVERY OF POSSESSION

1.1. THIS LEASE shall be for a term beginning at 12:01 a.m., October 3, 2006, ("Term Beginning Date") and of a duration of Thirty (30) years ending at 12:00 p.m., October 2, 2036 ("Term Expiration Date"), unless sooner terminated in accordance with the terms contained in this Lease. The period from the Term Beginning Date through the Term Expiration Date shall be referred to as the "Lease Term."

1.2. Possession of the Leased Premises under this Lease will be delivered to the Lessee on the Term Beginning Date.

1.3. The parties agree that License AFMC-EG-3-04-001, will be modified to remove the Leased Premises from the licensed Premises.

CONDITION 2.

EASEMENTS AND RIGHTS OF WAY

2.1. This Lease is subject to all existing easements, rights in the nature of easements, rights of way, licenses, and other property rights and interests (collectively, "Outgrants"), whether of public record or not, for any purpose with respect to the Leased Premises. The Government shall have the right to reserve unto itself, or to grant to third parties, additional Outgrants. However, any such additional Outgrants shall not unreasonably interfere with the Lessee's use under this Lease or the value of the Leased Premises.

In addition, the Government may not unreasonably withhold or delay Outgrants for utilities and other purposes reasonably necessary to the construction and maintenance of utilities on the Leased Premises by the Lessee; however, any such additional Outgrants shall not interfere with the operations of the Government on portions of Eglin AFB not within the Leased Premises. Obtaining or procuring any Outgrants over real property not owned or controlled by the Government shall be the responsibility of the Lessee, at the Lessee's sole cost and expense.

2.2. The holders of Outgrants, present or future shall have reasonable rights of ingress and egress over the Leased Premises in order to carry out the purpose of such Outgrants.

A non-exclusive list of the Outgrants is attached as **Exhibit A-1** hereto. These rights may also be exercised by workers engaged in the construction, installation, maintenance, operation, repair, or replacement of facilities located on the Outgrants, and by any Federal, state, or local official engaged in the official inspection thereof. Such additional Outgrants (i) shall not unreasonably interfere with the Lessee's interest in the Leased Premises, or the quiet enjoyment of Sublessees; and (ii) shall be on commercially reasonable terms.

CONDITION 3.

CONDITION OF LEASED PREMISES

3.1. The Lessee has inspected, knows, and accepts the condition and state of repair of the Leased Premises. It is understood and agreed that the Leased Premises are leased in an "AS IS," "WHERE IS" condition, without any representation or warranty by the Government concerning their condition, and without obligation on the part of the Government to make any alterations, repairs, or additions. Except as set forth in **Condition 10.7**, the Government shall not be liable to the Lessee for any damages or losses, whether direct or consequential, incurred by the Lessee as the result of the discovery of any latent or patent defect in or on the Leased Premises. The Lessee acknowledges that the Government has made no representation or warranty concerning the condition and state of repair of the Leased Premises, or any agreement or promise to alter, improve, adapt, or repair them that has not been fully set forth in this Lease.

3.2. The Lessee represents, warrants, and acknowledges that it has entered into this Lease on the basis of its own full investigation of all facts relating to, and conditions underlying, the Leased Premises and the development and use of the Leased Premises, including without limitation, environmental conditions, and that it has solely relied upon its own investigation. Given the Lessee's deemed knowledge of the facts and conditions affecting the Leased Premises, the Lessee shall exercise an appropriate level of care when conducting any ground-disturbing activities to ensure that such activities do not result in the unmanaged release of any hazardous substances, materials, or waste of any kind, including, but not limited to, pesticides, asbestos, and lead-based paint. The Lessee shall also be responsible for exercising an appropriate level of care with respect to any underground pipes and related infrastructure that may exist within the Leased Premises. The Lessee waives any claim or cause of action the Lessee may have against the Government under any Federal, state, or local law, ordinance, rule, or regulation now existing or hereafter enacted or promulgated, relating to environmental matters or conditions, in, on, under, about, or migrating from or onto, the Leased Premises, or by virtue of any common law right related to environmental conditions or matters in, on, under, about, or migrating from or onto, the Leased Premises except for (i) pre-existing environmental conditions that are attributable to the Government and that are not exacerbated by the Lessee, and that the Government specifically accepts responsibility for under **Condition 10** of this Lease; and (ii) Hazardous Substance releases caused by the Government that migrate onto the Leased Premises and that are not exacerbated by the Lessee. The provisions of this **Condition 3.2** shall survive the expiration or earlier termination of this Lease.

3.3. A Physical Condition Report was not prepared for this Lease as all improvements on the property were constructed or installed by the Lessee prior to the Term

Beginning Date and are the property of the Lessee, which is solely responsible for their condition.

3.4. The Phase I Environmental Baseline Report, dated April 2003 and the Phase II Environmental Baseline Survey ("EBS") for Okaloosa County Wastewater Treatment Facility, comprising the Leased Premises at Eglin AFB dated January 2004 has been delivered to the Lessee. The EBS sets forth those environmental conditions and matters on and affecting the Leased Premises as of the Term Beginning Date, as determined from the records and analyses reflected therein. The Lessee has been in control and possession of the Leased Premises prior to and subsequent to the completion of the EBS and, therefore, any change in the condition of the Leased Premises not reflected in the EBS shall be deemed the result of Lessee's activities on the Leased Premises. The EBS is not, and shall not constitute, a representation or warranty on the part of the Government regarding the environmental or physical condition of the Leased Premises and the Government shall have no liability in connection with the accuracy or completeness thereof. In this regard the Lessee acknowledges and agrees that the Lessee has relied, and shall rely, entirely on its own investigation of the Leased Premises in determining whether to enter into this Lease. An EBS will be prepared by the Government, after the expiration or earlier termination of this Lease ("Final EBS"). Such Final EBS will document the environmental conditions and matters on and affecting the Leased Premises on the ending date of this Lease as determined from the records and analyses reflected therein. The Final EBS will be used by the Government in determining whether the Lessee has fulfilled its obligations to maintain and restore the Leased Premises under this Lease including without limitation, **Condition 9** and **Condition 10**.

CONDITION 4.

RENT

4.1. **Base Rent.** The Government shall receive rent ("Base Rent") in the form of in-kind consideration as set forth in the detailed Rent Schedule at Exhibit C. Beginning on the one-year anniversary of the Term Beginning Date and continuing annually thereafter, the amount of the Base Rent shall be increased by two percent (2%) from the Term Beginning Date. The parties agree that appropriate in-kind consideration shall consist only of those categories of goods and services identified in 10. U.S.C. § 2667(c)(1), as amended.

4.2. **Additional Rent.** The following events shall constitute Additional Rent or cause the Base Rent to increase: (i) any interest earned on the funds in the Government Lease Payment Account ("GLPA"), which interest shall remain in the GLPA; (ii) in the event the Lessee at any time during the term of this Lease intends to expand operations beyond those described in the Design Criteria Package, the Government and the Lessee shall in good faith negotiate an equitable adjustment to the total Base Rent set forth in section 4.1 above.

4.3. **Late Charges and Default Interest.** If any installment of Rent is not paid into the GLPA within ten (10) business days after its due date, then such arrearage shall, consistent with the Debt Collection Act of 1982 (31 U.S.C. § 3717), (i) bear interest from the due date at the rate prescribed by the Secretary of the Treasury for amounts past due to the Federal government until paid in full; (ii) include an administrative charge to cover the costs of

processing and handling delinquent debts; and (iii) include an assessment of an additional penalty charge on any portion of a debt that is more than 90 days past due.

4.4. Rent Payments. All Rent shall be paid into the GLPA without deduction, offset, prior notice, or demand as directed pursuant to this Lease.

CONDITION 5.

OPERATING AGREEMENT

5.1. The Operating Agreement dated of even date herewith is hereby incorporated into and made a part of this Lease (the "Operating Agreement"). The Operating Agreement sets forth certain detailed procedures and requirements to be followed by the Lessee in designing, demolishing, constructing, renovating, operating, and maintaining the Leased Premises. In the event of any amendment of the Operating Agreement, the amended Operating Agreement will be deemed to be substituted in lieu of the existing one.

5.2. The Lessee shall operate the Project in accordance with the Design Criteria Package and the Operating Agreement.

5.3. In the event of any inconsistency between any provisions of the Operating Agreement, as it presently exists or may be amended in the future, and any provisions of this Lease, the provisions of this Lease will control.

CONDITION 6.

USE OF LEASED PREMISES

6.1 The sole purpose for which the Leased Premises and the Leased Premises Improvements may be used, in the absence of prior written approval of the Government for any other use, is for maintaining a sewage effluent disposal field and the construction and operation of a Wastewater Treatment Plant (WWTP) with a capacity of 10 Million Gallons per Day ("MGD") on approximately 20 acres and construction and operation a Rapid Infiltration Basin System ("RIBS") for the effluent from the WWTP on approximately 235.51 acres, as described in the Design Criteria Package. The Lessee shall not use or occupy the Leased Premises in any manner that is unlawful or dangerous or that shall constitute waste, unreasonable annoyance, or a nuisance to the Government.

Unless a waiver is granted by the Government, in no event shall the Leased Premises be used by the Lessee for any of the following:

Ultra-hazardous activities involving the storage, treatment, transportation, disposal, or manufacture of hazardous materials, hazardous substances, or hazardous wastes.

Activities that adversely affect the health, safety, morals, welfare, morale, and discipline of the Armed Forces.

Partisan political activities.

CONDITION 7.

DEFAULT, REMEDIES, AND TERMINATION

7.1. Any one or more of the following shall constitute an event of default (“Event of Default”) under this Lease by the Lessee:

7.1.1. The Lessee’s failure to comply with any provision of this Lease, where such failure to comply continues for thirty (30) days after delivery of written notice thereof by the Government to the Lessee and all Approved Mortgagees. If, however, such default is not reasonably susceptible to cure within such thirty (30) day period, the Lessee shall have such longer period as may be approved in writing in advance by the Government, which approval shall not be unreasonably withheld, to cure such default so long as the Lessee commences curing such default within the initial thirty (30) day period and diligently prosecutes such cure to completion in accordance with a schedule approved in writing by the Government, which approval shall not be unreasonably withheld.

7.1.2. The failure of the Lessee to pay Rent, when due and such failure remains uncured for a period of ten (10) days after written notice to the Lessee by the Government of the Lessee’s failure to pay such amount.

7.1.3. The Lessee voluntarily files for bankruptcy protection under the United States Bankruptcy Code (the “Bankruptcy Code”) or voluntarily becomes subject to any reorganization, receivership, insolvency proceeding, or other similar proceeding pursuant to any other federal or state law affecting debtor and creditor rights, or an involuntary case is commenced against the Lessee by any creditor of the Lessee pursuant to the Bankruptcy Code or other federal or state law affecting debtor and creditor rights and is not dismissed or discharged within sixty (60) days after filing.

7.1.3.1. If any voluntary or involuntary petition is filed under the Bankruptcy Code by or against the Lessee (other than an involuntary petition filed by or joined in by the Government), the Lessee shall not assert, or request any other party to assert, that the automatic stay under the Bankruptcy Code shall operate or be interpreted to stay, interdict, condition, reduce, or inhibit the ability of the Government to enforce any rights it has by virtue of any agreement between the Parties, or any other rights that the Government has, whether now or hereafter acquired, against any party responsible for the debts or obligations of the Lessee under such agreements. Furthermore, the Lessee shall not seek a supplemental stay or any other relief, whether injunctive or otherwise, pursuant to the Bankruptcy Code, to stay, interdict, condition, reduce, or inhibit the ability of the Government to enforce any of its rights under such agreements against any party responsible for the debts or obligations of the Lessee. The waivers contained in this Condition are a material inducement to the Government’s willingness to enter into this Lease and the Lessee acknowledges and agrees that no grounds exist for equitable relief that will bar, delay, or impede the exercise by the Government of its rights and remedies under such agreements against the Lessee or any party responsible for the debts or obligations of the Lessee.

7.1.3.2. If any or all of the Project or any interest in the Project becomes the property of any bankruptcy estate or subject to any state or Federal insolvency proceeding, then the Government shall immediately become entitled, in addition to all other relief to which the Government may be entitled under any agreement between the Parties, to obtain (i) an order from the Bankruptcy Court or other appropriate court granting immediate relief from the automatic stay pursuant to the Bankruptcy Code so as to permit the Government to pursue its rights and remedies at law and in equity under applicable state law, and (ii) an order from the Bankruptcy Court prohibiting the Lessee's use of all "cash collateral," as defined under the Bankruptcy Code. In connection with such Bankruptcy Court orders, the Lessee shall not contend or allege in any pleading or petition filed in any court proceeding that the Government does not have sufficient grounds for relief from the automatic stay. The Lessee acknowledges and agrees that any bankruptcy petition or other action taken by the Lessee to stay, condition, or prevent the Government from exercising its rights or remedies under this Lease or any other agreement between the Parties shall be deemed to be in bad faith.

7.1.4. At the election of the Government and upon written notice thereof to the Lessee, the occurrence of a "Government Lease Payment Account ("GLPA") Event of Default." As used in this **Condition 7.1.4**, a "GLPA Event of Default" means failure to comply with the GLPA Requirements identified in **Condition 25**.

7.2. No Event of Default shall be deemed to have occurred for any period of time during which an "Excusable Delay," as defined in **Condition 34**, exists or the Lessee and the Government are attempting to resolve a dispute about an alleged default as provided in **Conditions 23.1** or **23.2**. For an Excusable Delay, the Lessee's period for cure shall be tolled for the period of time that the Excusable Delay exists. For a dispute, if, pursuant to the dispute resolution procedures set forth in **Conditions 23.1** and **23.2**, a default is determined to have occurred, the Lessee's period for cure shall not begin until the day after the final decision on the dispute is issued, and such default shall not become an Event of Default until any applicable cure period has expired.

7.3. Subject to **Condition 22.7**, this Lease may be terminated as provided below:

7.3.1. The Government may terminate this Lease upon written notice to the Lessee, and without any cost or liability to the Government, if an Event of Default exists. Such notice shall be referred to as a "Default Termination Notice" and shall be effective as of the date specified therein, which shall be at least five (5) but not more than thirty (30) days after its receipt by the Lessee.

7.3.2. Either the Government or the Lessee may terminate this Lease upon written notice to the other Party in the event of Extensive Damage or Destruction of Improvements, as that term is defined in **Condition 15.5.2**. Such notice shall be referred to as a "Termination Notice for Extensive Damage or Destruction of Improvements" and shall be effective as of the date to be specified therein, which shall be at least thirty (30) days but not more than forty five (45) days after its receipt by the Lessee.

7.4. The Lessee hereby waives any claims or suits against the Government arising out of any termination of this Lease pursuant to **Condition 7.3**.

7.5. If an Event of Default exists and all notices of such Event of Default required by this Lease have been given, the Government shall have the following rights and remedies in addition to all other rights and remedies available to the Government at law or in equity:

7.5.1. The Government shall have the right to enforce specific performance by the Lessee of its obligations under this Lease in any state or federal court of competent jurisdiction.

7.5.2. The Government shall have the right to take possession of the Project and operate, repair, restore, maintain, manage, and use the Project in accordance with the provisions of this Lease.

7.5.3. The Government shall have the right to obtain the appointment of a receiver to take possession of the Project and operate, repair, restore, maintain, manage, and use the Project in accordance with the provisions of this Lease.

7.5.4. The Government shall have the right to terminate any management agreement relating to the Project without payment of any termination fee or other similar fee or premium.

7.5.5. The Lessee shall reimburse the Government for the cost of all repairs and maintenance incurred by the Government.

7.5.6. The Government shall have the right to pursue more than one right or remedy at the same time.

7.6. The Lessee hereby grants the Government a security interest in all its property, and all property of the Lessee shall be subject to a continuing lien for any sums due from the Lessee in accordance with the provisions of this Lease. Such lien shall be subordinate to any lien approved by the Government pursuant to **Condition 22**, and any sums secured by such lien shall be subject to a late charge and default interest, as provided in **Condition 4.3**.

CONDITION 8. [Reserved]

CONDITION 9.

RESTORATION AND SURRENDER

9.1. No later than one hundred eighty (180) days after the Lease Termination Date or the effective date of a Default Termination Notice pursuant to **Condition 7.3.1** or a Termination Notice for Extensive Damage or Destruction of Improvements pursuant to **Condition 7.3.2**, as applicable, or a date mutually agreed to by Lessee and the Government (the "Restoration Deadline"), the Lessee shall remove all of the Leased Premises Improvements and its other property from the Leased Premises and restore the Leased Premises to the reasonable satisfaction of the Government.

9.2. Except to the extent not required because of a Government Retention Notice pursuant to **Condition 9.3**, no later than five (5) years prior to the Lease Termination Date or

within forty-five (45) days after Lessee's receipt of a Default Termination Notice or a Termination Notice for Extensive Damage or Destruction of Improvements, the Lessee shall provide to the Government (a) a report (an "Improvement Removal Report") prepared by a construction and demolition expert approved by the Government, such approval not to be unreasonably withheld or delayed, which report details and estimates the cost of removing all Leased Premises Improvements on the Leased Premises and (b) a written plan which sets forth how Lessee proposes to discharge its removal and restoration obligations pursuant to this **Condition 9**.

9.3. Notwithstanding anything to the contrary in this **Condition 9**, no later than one (1) year prior to the Lease Termination Date or concurrently with the delivery to Lessee of a Default Termination Notice or a Termination Notice for Extensive Damage or Destruction of Improvements, as applicable the Government may provide written notice to Lessee of its election to require that all or any portion of the Leased Premises Improvements revert or be transferred to the Government, at no cost, on the Lease Termination Date or the effective date of any Default Termination Notice or Termination Notice for Extensive Damage or Destruction (a "Government Retention Notice").

9.4. If the Government delivers a Government Retention Notice to Lessee in accordance with **Condition 9.3**, for all or any portion of the Leased Premises Improvements and the personal property of the Lessee located therein, then on the Lease Termination Date, or the effective date of a Default Termination Notice pursuant to **Condition 7.3.1** or a Termination Notice for Extensive Damage or Destruction of Improvements pursuant to **Condition 7.3.2**, the Lessee shall terminate its operations on the Leased Premises and vacate and surrender possession of the Leased Premises and the Leased Premises Improvements and any personal property of the Lessee located therein described in the Government Retention Notice to the Government. Such reversion or transfer shall be automatic and at no cost to the Government. The Lessee shall execute any documentation reasonably requested by the Government to confirm or effect such conveyance, which conveyance shall be free and clear of any and all encumbrances other than those approved by the Government pursuant to **Condition 22**.

9.5. After completion of any demolition required pursuant to this **Condition 9** of all or any portion of the at grade, above-grade and below-grade structures, buildings and improvements of any kind whatsoever placed or maintained on the Leased Premises, whether placed thereon or maintained by Lessee or others before or after the Term Beginning Date, including, but not limited to, concrete foundations, pilings, piping, structures and buildings, Lessee shall immediately restore, and quit, and peacefully surrender possession of, the Leased Premises to the Government in good, usable, and buildable condition, consisting of a level, graded buildable pad with no excavations, hollows, hills or humps other than those existing prior to the removal of such structures.

9.6. If the Lessee fails, refuses, or neglects to satisfy its removal and restoration obligations pursuant to this **Condition 9**, then at the option of the Government and subject to the liens of any Approved Mortgagee, the Leased Premises Improvements and the personal property of the Lessee located therein shall either become the property of the Government without compensation therefore, or the Government may cause it to be removed and/or destroyed and the Leased Premises to be so restored at the expense of the Lessee, and no claim for damages against

the Government, its officers, employees, agents, or contractors shall be created by or made on account of such removal and/or destruction and restoration work. The Lessee shall reimburse the Government for any expenses it incurs to restore the Leased Premises to the condition required by this **Condition 9** within thirty (30) days after the Government provides written notice to Lessee of the reimbursement amount together with reasonable documentary support for the reimbursement amount.

9.7. Unless the Government delivers a Government Retention Notice to Lessee for all of the Leased Premises Improvements, then during the period after the Lease Termination Date, the effective date of a Default Termination Notice or the effective date of a Termination Notice for Extensive Damage or Destruction of Improvements, as applicable, until the date on which Lessee satisfies its obligations under **Condition 9.1** or such later date as may be provided, all obligations set forth in **Conditions 10,12, 14, 15.2.2, 15.3.3 and 15.4** shall remain in full force and effect.

CONDITION 10.

ENVIRONMENTAL PROTECTION

10.1. The Lessee shall comply with all Applicable Laws that are or may become applicable to Lessee's activities on the Leased Premises.

10.2. The Lessee shall obtain at its cost and expense any environmental permits required for its operations under this Lease, independent of any existing permits.

10.3. The Lessee shall indemnify, defend, save, and hold harmless the Government from any claims for damages, response, remediation or other costs, expenses, liabilities, fines, or penalties resulting in any way from releases, discharges, emissions, spills, storage, handling, disposal, or any other acts or omissions by the Lessee, its officers, agents, employees, contractors, subcontractors or any Sublessees or licensees, or the invitees of any of them, giving rise to Government liability, civil or criminal, or responsibility under Applicable Laws.

10.3.1. This **Condition 10.3** shall survive the expiration or termination of this Lease, and the Lessee's obligations under this **Condition 10.3** shall apply whenever the Government incurs costs or liabilities of the types described in this **Condition 10**.

10.3.2. Asbestos-Containing Materials (ACM). The Lessee is warned that the Leased Premises contains improvements, such as buildings, facilities, equipment, and pipelines, above and below the ground that may contain ACM. The Lessee is cautioned to use due care during property development activities that may uncover pipelines or other buried ACM. Prior to undertaking such development activities, the Lessee is responsible for determining whether there are records of the location, type, quantity, and characteristics of asbestos in any improvements prior to renovation, maintenance, repairs, or construction that may disturb suspect materials. If the records are inadequate to substantiate the status or presence of ACM, the Lessee is required to obtain the necessary confirmatory samples and obtain analysis by a Florida certified laboratory for the analysis of bulk materials for asbestos. The Government is not responsible for any handling, removal or containment of asbestos or ACM, or to the extent

consistent with applicable law, for any liability related thereto. The Lessee will perform any and all asbestos work in accordance with all applicable laws. Lessee personnel will be trained and certified as required in accordance with Applicable Law. The Lessee will be responsible for removal and disposal of all ACM in the improvements on the Leased Premises and will incorporate an asbestos disposal plan in the plans for renovation or demolition on the Leased Premises to be submitted to the Government in accordance with **Condition 9.2** of this Lease. The asbestos disposal plan will identify the proposed disposal site for the asbestos. Removal and disposal of ACM must be carried out in compliance with all applicable federal, state, and local laws, rules, regulations, and standards. The Lessee further acknowledges that the Government assumes no liability for property damages or damages for personal injury, illness, disability, or death to the Lessee, or to any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on or from the Leased Premises, whether the Lessee has properly warned, or failed to properly warn, the persons injured.

10.4. **[Reserved]**

10.4.1. Lead-Based Paint. The Lessee recognizes and acknowledges that lead based paint materials ("LBP") may be present on exterior and interior surfaces of facilities within the Leased Premises or in the soil. The Lessee will be responsible at its sole cost and expense for the management, maintenance, removal and disposal of all LBP either located in or attributable to the Leased Premises Improvements. Management, maintenance, removal and disposal of LBP must be carried out in compliance with all Applicable Laws.

10.4.2. **[Reserved]**

10.5. Notwithstanding any other provision of this Lease to the contrary and except as provided in this **Condition 10**, the Lessee, as between the Parties, does not assume any liability (including liability to third parties) or responsibility for environmental impacts and damage caused by the Government's use of toxic or hazardous wastes, substances, or materials on any portion of Eglin AFB, including the Leased Premises; provided, however, this provision shall not apply if the Lessee was responsible for or contributed to the release, storage, disposal or use of such toxic or hazardous wastes, substances or materials.. Subject to the proviso above, the Lessee has no responsibility or obligation under this Lease to undertake the defense of any claim or action, whether in existence now or brought in the future, alleging environmental impacts and damage solely arising out of the use of or release of any toxic or hazardous wastes, substances, or materials on or from any part of Eglin AFB, including the Leased Premises. Further, subject to the proviso above, the Lessee shall have no obligation to undertake environmental response, remediation, or cleanup relating to such use or release. As used in this **Condition 10**, the terms "toxic or hazardous wastes, substances or materials" shall include any flammables, explosives, radioactive materials, or other hazardous wastes, substances, or materials including, without limitation, substances defined as "hazardous substances," "hazardous materials," or "toxic substances" in the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("CERCLA")(42 U.S.C. §§ 9601-9675), the Hazardous Materials Transportation Act, and the Resource Conservation and Recovery Act ("RCRA"), all as now or hereafter amended. The Government acknowledges that pursuant to section 120 of CERCLA, the Government is subject

to liability imposed by section 107 of CERCLA to the extent that it is responsible for the release or disposal of a hazardous substance on the Leased Premises. The Government agrees, as between the Parties, that it will not consider or seek to have others consider, the Lessee a potentially responsible party solely due to the presence of a hazardous substance on the Leased Premises on the Term Beginning Date, provided that the Lessee did not by its acts or omissions cause a release or disposal of such toxic or hazardous wastes, substances or materials, or increase the cost of a required response action. Nothing in this acknowledgment shall be construed to affect the liability of any person or entity, including the Lessee, under sections 106 or 107 of CERCLA.

10.5.1. For the purposes of this **Condition 10**, “defense” or “environmental response, remediation, or cleanup” includes liability and responsibility for the costs of damage, penalties, legal, and investigative services relating to such use or release. “Occupancy” or “use” shall mean any activity or presence (including preparation and construction) in or upon the Leased Premises.

10.5.2. This Condition does not relieve the Lessee of any obligation or liability the Lessee might have or acquire with regard to third parties or regulatory authorities by operation of law.

10.5.3. This Condition shall survive the expiration or termination of this Lease.

10.6. The Lessee must comply with all Applicable Laws relating to occupational safety and health, the handling and storage of hazardous materials, and the proper generation, handling, accumulation, treatment, storage, disposal, and transportation of hazardous wastes.

10.7. **Hazardous Waste.** Except as provided in this **Condition 10.7** authorizing the storage and temporary accumulation of toxic or hazardous material on the Leased Premises which are required for the operation of the WWTP or RIBS, the Lessee must obtain written Government approval, as required by 10 U.S.C. § 2692, prior to storing, treating, or disposing of any toxic or hazardous waste, substance or material on the Leased Premises. Toxic or hazardous waste, substance or material includes any material that is a “hazardous substance” under section 101(14) of CERCLA, or designated a “hazardous substance” by the U.S. Environmental Protection Agency under section 102 of CERCLA. The Lessee shall strictly comply with the hazardous waste permit requirements under RCRA, as amended, or its Florida equivalent and all Applicable Laws. The Lessee shall be liable for any violations of the requirements set forth in this **Condition 10.7**. The Lessee shall be liable for the cost of proper disposal of any hazardous waste generated by any Sublessee in the event of failure by the Sublessee to dispose of such wastes properly.

10.7.1. The Lessee must provide, at its own expense, such hazardous waste accumulation points, complying with all laws and regulations, as it may need for the temporary accumulation of hazardous wastes prior to such wastes being disposed of in accordance with Applicable Laws. The Lessee will not use Government accumulation points for hazardous and wastes and the Lessee will not permit its hazardous waste to be commingled with hazardous wastes of the Government.

10.7.2. Any violation of the requirements of this **Condition 10.7** shall constitute a material breach of this Lease.

10.8. On or before the Effective Date, the Government shall provide the Lessee access to the Eglin AFB Installation Restoration Program ("IRP") records, if any, and thereafter shall provide to the Lessee a copy of any amendments to or restatements of the Eglin AFB IRP records affecting the Leased Premises. The Lessee expressly acknowledges that it fully understands that some or all of the response actions to be undertaken with respect to the Eglin AFB IRP may impact the Lessee's quiet use and enjoyment of the Leased Premises. The Lessee agrees that notwithstanding any other provision of this Lease, the Government shall have no liability to the Lessee or its Sublessees should implementation of the Eglin AFB IRP or other hazardous waste cleanup requirements, whether imposed by law, regulatory agencies, or the Government or the Department of Defense, interfere with the Lessee's or its Sublessee's use of the Leased Premises. The Lessee shall have no claim or cause of action against the United States, or any officer, agent, employee, contractor, or subcontractor thereof, on account of any such interference, whether due to entry, performance of remedial or removal investigations, or exercise of any right with respect to the Eglin AFB IRP or under this Lease or otherwise.

10.9. The Government and its officers, agents, employees, contractors, and subcontractors shall have the right, upon reasonable notice to the Lessee, to enter upon the Leased Premises for the purposes enumerated in this Condition.

10.9.1. To conduct investigations and surveys, including, where necessary, drilling, soil and water samplings, testpitting, testing soil borings, and other activities related to the Eglin AFB IRP;

10.9.2. To inspect field activities of the Government and its contractors and subcontractors in implementing the Eglin AFB IRP;

10.9.3. To conduct any test or survey related to the implementation of the Eglin AFB IRP or environmental conditions at the Leased Premises or to verify any data submitted to the United States Environmental Protection Agency (EPA) or the Florida Department of Environmental Protection by the Government relating to such conditions; and

10.9.4. To construct, operate, maintain, or undertake any other response or remedial action as required or necessary under the Eglin AFB IRP, including, but not limited to, monitoring wells, pumping wells, and treatment facilities.

Any investigations and surveys, drilling, testpitting, test soil borings, and other activities undertaken pursuant to this Condition shall be conducted in a manner that is as inconspicuous as practicable. Any monitoring wells, pumping wells, and treatment facilities required pursuant to this Condition shall be designed and installed to be as inconspicuous as practicable. The Government shall attempt to minimize any interference with the Lessee's quiet use and enjoyment of the Leased Premises arising as the result of such wells and treatment facilities. The Government shall, subject to the availability of appropriations therefor, repair any damage caused by its exercise of the rights in this paragraph.

10.10. The Lessee agrees to comply with the provisions of any health or safety plan in effect under the Eglin AFB IRP, or any hazardous substance remediation or response agreement of the Government with environmental regulatory authorities during the course of any of the above-described response or remedial actions. Any inspection, survey, investigation, or other response or remedial action will, to the extent practicable, be coordinated with representatives designated by the Lessee. The Lessee and any Sublessees, assignees, licensees, or invitees shall have no claim on account of such entries against the United States or any officer, agent, employee, contractor, or subcontractor thereof, except to the extent permitted under Federal law, including the Federal Tort Claims Act.

10.11. The Lessee must maintain and make available to the Government all records, inspection logs, and manifests that track the generation, handling, storage, treatment, and disposal of hazardous waste, as well as all other records required by Applicable Laws. The Government's rights under this Lease specifically include the right for Government officials to inspect the Leased Premises, upon reasonable notice as provided under **Condition 13**, for compliance with Applicable Laws, including environmental laws, rules, regulations, and standards, particularly those relating to the generation, handling, storage, treatment, and disposal of hazardous waste, as well as to the discharge or release of hazardous substances, whether or not the Government is responsible for enforcing them. Such inspections are without prejudice to the right of duly constituted enforcement officials to make such inspections. Violations identified by the Government will be reported to the Lessee and to appropriate regulatory agencies, as required by applicable law. The Lessee will be liable for the payment of any fines and penalties that may be imposed as a result of the actions or omissions of the Lessee.

10.12. The Lessee shall have an approved plan prior to commencement of operations on the Leased Premises for responding to hazardous waste, fuel, and other chemical spills. The plan shall comply with all applicable requirements and shall be updated as required to comply with changes in site conditions or applicable requirements and shall be approved by all agencies having regulatory jurisdiction over such plan. The plan shall be independent of Government spill prevention and response plans. The Lessee shall not rely on use of Eglin AFB personnel or equipment in execution of its plan. The Lessee shall file a copy of the approved plan and approved amendments thereto with the Government within fifteen (15) days of approval. Should the Government provide any personnel or equipment, whether for initial fire response and/or spill containment or otherwise on request of the Lessee or because the Lessee was not, in the opinion of the Government, conducting timely cleanup actions, the Lessee shall reimburse the Government for its costs as Supplemental Rent, and in accordance with all Applicable Laws.

10.13. Prior to the storage, mixing, or application of any pesticide, as that term is defined under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), the Lessee shall prepare a plan for storage, mixing, and application of pesticides ("Pesticide Management Plan"). The Pesticide Management Plan shall be sufficient to meet all Applicable Laws. The Lessee shall store, mix, and apply all pesticides within the Leased Premises only in strict compliance with the Pesticide Management Plan. The pesticides will only be applied by a licensed applicator.

10.14. The Lessee shall comply with all requirements of the Federal Water Pollution Control Act, the National Pollutant Discharge Elimination System (NPDES), and any applicable

state or local requirements. If the Lessee discharges wastewater to a publicly or federally owned treatment works, the Lessee must submit a Pretreatment Permit Application prior to the Term Beginning Date. The Lessee will be responsible for meeting all applicable wastewater discharge permit standards. The Lessee will not discharge wastewater under the authority of any NPDES permit, pretreatment permit, or any other permit issued to Eglin AFB. The Lessee or its Sublessees shall make no use of any septic tank installed on Eglin AFB.

10.15. The Lessee must notify the Government of the Lessee's intent to possess, store, or use any "licensed or licensable source or by product materials," as those terms are defined under the Atomic Energy Act and its implementing regulations; of the Lessee's intent to possess, use, or store radium; and of the Lessee's intent to possess or use any equipment producing ionizing radiation and subject to specific licensing requirements or other individual regulations, at least sixty (60) days prior to the entry of such materials or equipment upon Eglin AFB. Upon notification, the Government may impose such requirements, including prohibition of possession, use, or storage, as deemed necessary to adequately protect health and the human environment. Thereafter, the Lessee must notify the Government of the presence of all licensed or licensable source or by product materials, of the presence of all radium, and of the presence of all equipment producing ionizing radiation and subject to specific licensing requirements or other individual regulation; provided, however, that the Lessee need not make either of the above notifications to the Government with respect to source and by product material that is exempt from regulation under the Atomic Energy Act. The Lessee shall not, under any circumstances, use, own, possess, or allow the presence of special nuclear material on the Leased Premises.

10.16. **[Reserved]**

10.17. The Lessee will use all reasonable means available to protect environmental and natural resources, consistent with Applicable Laws and this Lease. Where damage nevertheless occurs, arising from the Lessee's activities, the Lessee shall be fully liable for any such damage.

10.18. The Lessee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural, or other cultural artifacts, relics, remains, or objects of antiquity. In the event such items are discovered on the Leased Premises, the Lessee shall immediately notify the Government and protect the site and the material from further disturbance until the Government gives clearance to proceed.

10.19. **[Reserved]**

10.20. Required Notices. If at any time either Party shall become aware, or have reasonable cause to believe, that any toxic or hazardous wastes, substances, or materials have been released or have otherwise come to be located on or beneath the Leased Premises in amounts greater than either the reportable quantities or a level requiring response action(s) under an Applicable Law, such Party shall immediately upon discovering the release or the presence or suspected presence of the toxic or hazardous wastes, substances, or materials, give written notice of that condition to the other Party. In addition, the Party first learning of the release or presence of any toxic or hazardous wastes, substances, or materials on or beneath the Leased Premises, shall immediately notify the other Party in writing of: (i) any enforcement, cleanup, removal, or other governmental or regulatory action instituted, completed, or threatened pursuant to any

Applicable Law;(ii) any claim made or threatened by any person against the Government, the Lessee, or the Leased Premises arising out of, or resulting from, the release or presence of toxic or hazardous wastes, substances, or materials; and (iii) any reports made to any local, state, or Federal environmental agency arising out of, or in connection with, any toxic or hazardous wastes, substances, or materials.

CONDITION 11.

MAINTENANCE OF LEASED PREMISES

11.1. The Lessee, at no expense to the Government, shall at all times preserve, maintain, repair, and manage the Leased Premises and Leased Premises Improvements in an acceptable, safe, and sanitary condition in accordance with this Lease and the Operating Agreement.

11.1.1. The Lessee shall be responsible for the operation and maintenance of the utility distribution systems owned by it within the Leased Premises, including, but not limited to, water, gas, TV, electric, sanitary sewer, and stormwater systems. The Government assumes no responsibility under this Lease for maintenance and operation of utility systems not owned by the Government.

11.1.2. The Lessee shall at all times maintain all roads, streets, curbing, sidewalks, parking areas, access drives, and appurtenant drainage thereto within the Leased Premises in good condition and keep them free of debris and obstructions of any kind. The Lessee shall keep roads, streets, and common paved areas (including common sidewalks) free of ice and snow.

11.1.3. [Reserved]

11.2. If the Lessee damages or destroys any real or personal property of the Government other than as contemplated by the Design Criteria Package, the Lessee shall promptly repair or replace such real or personal property to the reasonable satisfaction of the Government. In lieu of such repair or replacement, the Lessee shall, if so required by the Government, pay to the Government money in an amount sufficient to compensate for the loss sustained by the Government by reason of damage or destruction of Government property, including natural resources.

CONDITION 12.

COMPLIANCE WITH APPLICABLE LAWS

12.1. The Lessee shall comply, at its sole cost and expense (except for matters for which the Government remains obligated hereunder pursuant to **Condition 10.5**), with all Applicable Laws.

12.2. The Lessee shall comply with all Applicable Laws with regard to construction, sanitation, licenses, or permits to do business, protection of the environment, pollution control and abatement, occupational safety and health, and all other related matters. The Lessee shall be

responsible for determining whether it is subject to local building codes and building permit requirements .

12.3. The Lessee's use of the Leased Premises, including construction, demolition, and disposal, use, operation, maintenance, repair, and replacement of buildings and facilities, shall at a minimum conform to the Design Criteria Package. In the event of conflict among any of the construction requirements, the most stringent requirement shall govern.

12.4. The Lessee will be responsible for and obtain, at its sole expense, prior to the commencement of construction and demolition, and upon completion of the building of the Leased Premises Improvements, any approvals, permits, or licenses that may be necessary to construct, occupy, and operate the Project in compliance with all Applicable Laws.

12.5. Nothing in this Lease shall be construed to constitute a waiver of Federal supremacy or Federal sovereign immunity or County sovereign immunity. Only laws and regulations applicable to the Leased Premises under the Constitution and statutes of the United States and the State of Florida are covered by this Condition. The United States presently exercises proprietary Federal jurisdiction over the Leased Premises.

12.6. Responsibility for compliance as specified in this **Condition 12** rests exclusively with the Lessee. The Government assumes no enforcement or supervisory responsibility, except with respect to matters committed to its jurisdiction and authority. The Lessee shall be liable for all costs associated with compliance, defense of enforcement actions or suits, payment of fines, penalties, or other sanctions and remedial costs related to the Lessee's use and occupation of the Leased Premises.

12.7. The Lessee shall have the right to contest by appropriate proceedings diligently conducted in good faith, without cost or expense to the Government, the validity or application of any law, ordinance, order, rule, regulation, or requirement of the nature referred to in this **Condition 12**. The Government shall not be required to join in or assist the Lessee in any such proceedings.

CONDITION 13.

ACCESS AND INSPECTION

13.1. Any agency of the United States, its officers, agents, employees, contractors, and subcontractors may enter upon the Leased Premises and into Leased Premises Improvements, at all times for any purposes not inconsistent with the Lessee's quiet use and enjoyment of them under this Lease, including but not limited to confirming compliance by the Lessee with the terms of this Lease. The Government normally will enter the Leased Premises during regular business hours and give the Lessee at least twenty four (24) hours prior notice of its intention to do so, unless it determines the entry is required for safety, environmental, operations, or mission security purposes. The Lessee shall have no claim on account of any entries against the United States or any officer, agent, employee, contractor, or subcontractor thereof.

CONDITION 14.

GENERAL INDEMNIFICATION BY LESSEE

14.1. Except as otherwise provided in this Lease, the Government shall not be responsible for damages to property or injuries or death to persons that may arise from, or be attributable or incident to, the condition or state or repair of the Leased Premises, or the use and occupation of the Leased Premises, or for damages to the property of the Lessee, or injuries or death of the Lessee's officers, agents, servants, employees, or Sublessees, or others who may be on the Leased Premises at their invitation or the invitation of any one of them.

14.2. Except as otherwise specifically provided in this Lease, the Lessee agrees to assume all risks of loss or damage to property and injury or death to persons by reason of, or incident to, the possession and/or use of the Leased Premises by the Lessee, the Lessee's officers, agents, servants, employees, or others (excluding those employees or agents of the Government who are on the Leased Premises for the purpose of performing official duties) who may be on the Leased Premises at their invitation or the invitation of any one of them (the "Lessee Parties"), or the activities conducted by or on behalf of the Lessee Parties under this Lease. The Lessee expressly waives all claims against the Government for any such loss, damage, bodily injury, or death caused by, or occurring as a consequence of, such possession and/or use of the Leased Premises by the Lessee Parties, or the conduct of activities or the performance of responsibilities under this Lease. The Lessee further agrees, to the extent permitted by Applicable Laws, including those relating to the waiver of sovereign immunity in tort actions, to indemnify, save, and hold harmless the Government, its officers, agents, and employees, from and against all suits, claims, demands or actions, liabilities, judgments, costs, and attorneys' fees arising out of, claimed on account of, or in any manner predicated upon. bodily injury, death, or property damage resulting from, related to, caused by, or arising out of the possession and/or use of any portion of the Leased Premises, or any activities conducted or services furnished by or on behalf of the Lessee Parties in connection with, or pursuant, to this Lease, and all claims for damages against the Government arising out of, or related to, the Lease. This provision shall not be construed as a waiver of sovereign immunity by either party. The agreements of Lessee contained in this **Condition 14.2** do not extend to claims caused by the gross negligence or willful misconduct of officers, agents, contractors, or employees of the United States without contributory fault on the part of any other person, firm, or corporation. The Government will give the Lessee notice of any claim against it covered by this indemnity as soon as practicable after learning of it.

CONDITION 15.

INSURANCE

15.1. The Lessee shall in any event and without prejudice to any other rights of the Government bear all risk of loss or damage or destruction to the Leased Premises, and any building(s), improvements, fixtures, or other property thereon, arising from any causes whatsoever, with or without fault by the Government, provided, however, the Government shall not be relieved of responsibility for loss or damage that is solely the result of the gross

negligence or willful misconduct of the Government to the extent such loss or damage is not covered by coverage of insurance required under this Lease.

15.2. During the entire Lease Term, the Lessee, at no expense to the Government, shall carry and maintain the following insurance:

15.2.1. All-risk property insurance, including loss of rents for actual loss sustained with an extended period of indemnity of one hundred eighty (180) days, on a replacement cost basis, with no coinsurance, for full replacement value of the Leased Premises Improvements. Such insurance shall have: (i) a deductible no greater than \$50,000, unless otherwise approved in writing by the Government; (ii) earthquake, flood, sewer backup, boiler, and machinery coverage with commercially available limits and deductibles; and (iii) terrorism insurance if commercially available at reasonable rates.

15.2.2. Commercial general liability insurance, on an occurrence basis, insuring against claims for bodily injury, death and property damage, occurring upon, in or about the Leased Premises, including any building thereon and adjoining sidewalks, streets, and passageways. Such insurance must be effective at all times throughout the Lease Term, with limits of not less than One Million Dollars (\$1,000,000) per occurrence, and include coverage for fire, legal liability, and medical payments. The Government and any Approved Mortgagee shall be named as additional insureds. The additional insureds shall have equal standing with the named insureds for the purpose of submitting claims directly with the insurer. This coverage may be provided under primary liability and umbrella excess liability policies, and shall include business auto liability insurance that insures against claims for bodily injury and property damage arising from the use of "any auto" with a combined single limit of \$1,000,000 per accident. Limits of environmental policies, if available, shall be determined and approved by the Government. All liability policies shall be primary and non-contributory to any insurance maintained by the Government or any Approved Mortgagee.

The insurance carried and maintained by the Lessee pursuant to this Condition shall provide coverage to protect the Government from any damage and liability for which the Lessee is liable or responsible or agrees to hold harmless and indemnify the Government under this Lease. Proceeds under all policies of insurance carried and maintained to provide the coverage required by **Condition 15.2.2** shall be available only for that purpose.

15.3. During the Lease Term, the Lessee either shall carry and maintain the insurance required at its expense, or require any contractor performing work on the Leased Premises to carry and maintain such insurance at no expense to the Government:

15.3.1. Commercial general liability and business auto liability insurance provided for in **Condition 15.2.2** shall be maintained for the limits specified above, and shall provide coverage for the mutual benefit of the Lessee, and the Government and any Approved Mortgagee as additional insureds.

15.3.2. Fire and any other applicable insurance provided for in **Condition 15**, which, if not then covered under the provisions of existing policies, shall be covered by special endorsement thereto in respect to any improvements, structures, alterations, or additions, or

installations, including all materials and equipment therefor, incorporated in, on, or about the Leased Premises (including excavations, foundations, and footings) under a broad form all-risks builder's risk completed-value form or equivalent thereof; and

15.3.3. Workers' compensation or similar insurance covering all persons employed in connection with the work and with respect to whom death or bodily injury claims could be asserted against the Government or the Lessee, in form and amounts required by law, and employers' liability, with limits of \$500,000 each coverage and policy limit.

15.4. All policies of insurance that this Lease requires the Lessee to carry and maintain, or cause to be carried or maintained pursuant to this **Condition 15**, shall be effected under valid and enforceable policies, in such forms and amounts as may, from time to time, be required under this Lease, issued by Qualified Insurers (as defined below). "Qualified Insurers" are insurers authorized to do business and to issue the insurance policies required under this **Condition 15** in Florida. The Qualified Insurers for a majority of the coverage shall have a long-term unsecured debt rating from a Rating Agency as follows: (i) if from Standard & Poors of no lower than BBB-, or (ii) if from Moody's Investors Services no lower than Baa3. As used in this Lease, "Rating Agency" means any nationally recognized credit rating service that at the time has one or more outstanding ratings of any securities issued by the Lessee to fund construction of the Project. All policies issued by the respective insurers for commercial general liability insurance and for the all-risk property insurance provided for above in this **Condition 15** shall be for the mutual benefit of the Government, any Approved Mortgagee, and the Lessee and will name the Government and any Approved Mortgagee as additional insureds or loss payees as to their respective interests. Each such policy shall provide that any losses shall be payable notwithstanding any act or failure to act or negligence of the Lessee, the Government, any Approved Mortgagee, or any other person; provide that no cancellation, reduction in amount, or material change in coverage thereof shall be effective until at least sixty (60) days after receipt by the Government and any Approved Mortgagee of written notice thereof; provide that the insurer shall have no right of subrogation against the Government or any Approved Mortgagee; and be reasonably satisfactory to the Government in all other respects. All property insurance coverage required by **Condition 15.2.1** shall be payable solely to the Government and any Approved Mortgagee in accordance with this Lease. In no circumstances will the Lessee be entitled to assign to any third-party rights of action that the Lessee may have against the Government. Notwithstanding the foregoing, any cancellation of insurance coverage based on nonpayment of the premium shall be effective upon ten (10) days' written notice to the Government and any Approved Mortgagee. The Lessee understands and agrees that cancellation of any insurance coverage required to be carried and maintained by the Lessee under this **Condition 15** will constitute a failure to comply with the terms of this Lease, and the Government shall have the right to terminate this Lease for default and breach pursuant to **Condition 7** upon receipt of any such cancellation notice, but only if the Lessee fails to cure such noncompliance to the extent allowed under **Condition 7**. The Lessee shall deliver or cause to be delivered upon execution of this Lease (and thereafter not less than fifteen (15) days prior to the expiration date of each policy furnished pursuant to this **Condition 15**), at the Government's option, a certified copy of each policy of insurance required by this Lease as soon as each such policy is made available by the insurer, or a certificate of insurance evidencing the insurance required by this Lease, in a form acceptable to the Government, and including such

endorsements necessary to afford additional insured or loss payee status or evidence other conditions as required per provisions above, or both.

15.5. In the event that any part of the Project is damaged (except de minimis damage) or destroyed, the risk of which is assumed by the Lessee under **Condition 15.1** ("Damaged or Destroyed Property"), the Lessee shall promptly give notice thereof to the Government and all Approved Mortgagees.

15.5.1. The Lessee shall, as soon as reasonably practicable after the casualty, restore the Damaged or Destroyed Property as nearly as possible to the condition that existed immediately prior to such loss or damage, subject to **Condition 15.5.2**.

15.5.2. In the event that the Government and any Approved Mortgagees in consultation with the Lessee determine that the magnitude of Damaged or Destroyed Property is so extensive that the Project cannot be used by the Lessee for its operations and the repairs, rebuilding, or replacement of the Damaged or Destroyed Property cannot reasonably be expected to be substantially completed within nine (9) months of the occurrence of the casualty ("Extensive Damage or Destruction of Improvements"), either Party may terminate this Lease as provided in **Condition 7.3.2**. In the event that the Government shall determine that an Extensive Damage or Destruction of Improvements has not occurred, then neither Party shall have the right to terminate this Lease. In the event the Government determines that such an event has occurred, and the Approved Mortgagee disagrees with that determination, then the matter shall be determined pursuant to the provisions of **Condition 23** of this Lease. If the Parties and any Approved Mortgagees mutually agree to repair, rebuild, and replace less than all Damaged or Destroyed Property, then neither Party shall have the right to terminate this Lease as provided in **Condition 7.3.2** with respect to the Leased Premises on which the Damaged or Destroyed Property that will be repaired, rebuilt, and replaced is situated.

Unless this Lease is terminated pursuant to **Condition 7.3.2**, any insurance proceeds received as a result of any casualty loss to the Project shall be applied in the following order of priority: (i) first, to restoring the damaged area and removing any related debris to the reasonable satisfaction of the Government; (ii) second, to repairing, rebuilding, and/or replacing the Leased Premises Improvements and the damaged area to the reasonable satisfaction of the Government; (iii) third, if required by the Government or any Approved Mortgagee, to the payment of any outstanding liens held by the Government or any Approved Mortgagee, in accordance with the order of priority of such liens, until all such liens are fully satisfied and released, and (iv) fourth, the excess, if any, shall be paid to the Lessee. If this Lease is terminated pursuant to **Condition 7.3.2**, then any insurance proceeds received as a result of any casualty loss to the Project shall be applied to the restoration of the Leased Premises in accordance with **Condition 9** after repayment of any outstanding Mortgage on the Project.

CONDITION 16. [Reserved]

CONDITION 17.

CONSTRUCTION OF LEASED PREMISES IMPROVEMENTS AND ALTERATIONS

17.1. This Lease is subject to, and conditioned on, the Lessee's satisfying the requirements of the Operating Agreement. It is specifically understood that (i) the Lessee's activities undertaken pursuant to this Lease constitute a private undertaking; (ii) title to the Leased Premises Improvements shall be vested in the Lessee, subject to the terms of this Lease; and (iii) the Government's sole and exclusive interest in and liability under this Lease are limited to that of lessor of the Leased Premises. The Lessee shall not be entitled to receive from the Government and the Government shall not be obligated to pay to the Lessee any monetary consideration for the Lessee's activities undertaken pursuant to this Lease.

17.1.1. The Design Criteria Package has been approved by the Government. The Lessee's development activities undertaken pursuant to this Lease shall be performed as specified in the approved Design Criteria Package.

17.1.2. If at any time the Lessee wants to propose changes to the Design Criteria Package previously approved by the Government, the Lessee shall submit the proposed changes ("Plan Alterations") to the Government. Plan Alterations must be prepared, signed and [sealed] [certified] by a duly qualified architect or engineer registered in the State of Florida.

17.2. If the Government believes that any Plan Alterations submitted to it for its review and approval are not consistent with the scope of development activities previously approved, the Government may, in its sole discretion, disapprove such Plan Alterations or provide written notice to the Lessee of such inconsistency and any corrective action proposed by the Government (a "Plan Alterations Exception Notice"). If within twenty (20) days after delivery to the Lessee of a Plan Alterations Exception Notice the Lessee and the Government are unable to agree on whether the plans can be made consistent the development activities previously approved, such Plan Alterations shall be deemed disapproved.

17.3. [Reserved]

17.4. [Reserved]

17.5. [Reserved]

17.6. The Government and its representatives, agents, and employees shall have access to the Leased Premises and Leased Premises Improvements before, during, and after construction of the Leased Premises Improvements for purposes of monitoring, observing, making inquiries, and taking samples of materials for testing as may be necessary to evaluate the physical characteristics of such Leased Premises Improvements, as well as such other matters as the Government deems to be reasonably necessary for the Government to determine the Lessee's compliance with the Design Criteria Package. The Parties expressly understand and agree that: (i) any such inspection activity by the Government shall not relieve the Lessee of its responsibility for constructing, operating, maintaining, and managing the Leased Premises Improvements pursuant to, and in accordance with, the Design Criteria Package; (ii) failure of the Government to make any such on-site inspection or conduct such testing shall not limit, or be construed to limit, any of the Government's rights under this Lease, including its right to require the Lessee to construct the Leased Premises Improvements in accordance with the Design Criteria Package; and (iii) no action by the Government shall be deemed to be confirmation that

the Leased Premises Improvements comply with the Design Criteria Package and Applicable Laws. Failure to complete the development activities undertaken pursuant to this in accordance with the Design Criteria Package shall constitute an Event of Default if the Lessee does not correct such failure within the cure period provided in **Condition 7.1.1**.

17.7. The Government shall be invited to attend pre-construction conferences to acquaint the Government with the construction management plan.

17.8. **[Reserved]**

17.9. Any Leased Premises Improvements that will be demolished by the Lessee shall be demolished in accordance with a demolition plan prepared by the Lessee and approved by the Government.

17.10. All matters of ingress, egress, contractor haul routes, construction activity, and disposition of excavated material in connection with this Lease shall be approved in advance by the Government.

17.11. Subject to **Conditions 7 and 9**, the Lessee shall have the right at its sole cost and expense, to install such of its own machinery and equipment, to make improvements, and to attach such removable fixtures in or upon the Leased Premises as may be necessary for its use of the Leased Premises pursuant to this Lease; and to remove such machinery, equipment, minor improvements, and removable fixtures at any time prior to the expiration or earlier termination by the Lessee of this Lease.

17.12. The Lessee shall not construct any permanent structure on the Leased Premises except as set forth in the Design Criteria Package, and shall not construct any temporary structure or advertising sign on them, or make structural modifications, alterations, or additions to them, without the prior written consent of the Government, which shall not be unreasonably withheld or delayed.

17.13. All construction provided for in the Design Criteria Package shall be without cost or expense to the Government, unless otherwise agreed in writing by the Parties.

17.14. Subject to **Condition 9**, title to all Leased Premises Improvements shall be vested in the Lessee throughout the Lease Term.

17.15. **[Reserved]**

17.16. Upon "Substantial Completion," as defined below, of the Leased Premises Improvements, the Lessee shall furnish to the Government: (i) certificates of each of a duly qualified architect or engineer registered in the State of Florida, a duly qualified structural engineer registered in the State of Florida, any inspecting architect or engineer, and the Construction Consultant, confirming that the Leased Premises Improvements have been completed in accordance with the Design Criteria Package, subject to punch list items approved in writing by the Government ("Approved Punch List Items"); (ii) a true, correct and complete copy of the permits and licenses, if any, that were required in connection with the construction, renovation, and demolition of any of the Leased Premises Improvements; (iii) an as-built plat of

survey (prepared, to the maximum extent practicable, in accordance with ALTA/ACSM Standards) of the Leased Premises detailing easements, the parcel boundaries and any encroachments to the boundaries, certified to the Lessee, any Approved Mortgagees, and the Government; (iv) an electronic record contained within a Geographic Information System in a format, and with the level of detail, specified by the Government, in its reasonable discretion, providing as-built drawings of the Leased Premises Improvements; (v) evidence, which may consist of UCC searches or releases signed by suppliers and service providers indicating that the Leased Premises Improvements and the Leased Premises are free and clear of all liens (other than liens approved in accordance with **Condition 22.2**) arising out of, or connected with, the construction, renovation, and demolition of the Leased Premises Improvements; and (vi) a certificate of the Lessee confirming that the Lessee is not in default under any provisions of this Lease; provided, however, that items (iii), (iv) and (v) shall only be provided at the end of construction. All of the foregoing shall be satisfactory to the Government in its reasonable discretion. "Substantial Completion" shall mean completion of all of the Leased Premises Improvements as approved by the Government in accordance with the Design Criteria Package, except for the Approved Punch List Items.

17.17. [Reserved]

17.18. [Reserved]

CONDITION 18.

UTILITIES AND SERVICES

18.1. The Parties understand that the Government will not provide utilities to the Leased Premises.

18.1.1. The Parties understand and agree that the construction, maintenance, and repair of all utility distribution systems, all connections to the facilities, conduits, and the connections to existing utility mains, and the purchase, installation, maintenance, and repair of all meters on the Leased Premises, shall be without cost to the Government.

18.1.2. The Lessee shall be responsible for the expenses of all utilities used on the Leased Premises.

18.1.3. The Lessee shall be responsible at its expense for all janitorial services, refuse collection, building maintenance, and grounds maintenance for the Leased Premises.

18.1.4. [Reserved]

18.1.5. The Parties understand and agree that the Government in no way warrants the continued provision, maintenance, or adequacy of any utilities or services to the Leased Premises or Lessee.

18.2. [Reserved]

CONDITION 19.

OPERATION AND MANAGEMENT OF THE PROPERTY

19.1. The Lessee, at its sole cost and expense, shall operate and maintain the Leased Premises and the Leased Premises Improvements in accordance with all Applicable Laws; the Operating Agreement identified in **Condition 5**; and all of the terms and conditions of this Lease. The Lessee shall have a fully operational maintenance function, as agreed upon in the Property Management Plan, upon commencement of occupancy of the Leased Premises Improvements.

19.2. The name used by the Lessee for any portion of the Project shall be "*The Arbennie Pritchett Water Reclamation Facility*."

19.3. [Reserved]

CONDITION 20.

NOTICES

20.1. Whenever the Government or the Lessee shall desire to give or serve upon the other (or in the case of the Government, also any Approved Mortgagee) any notice, demand, order, direction, determination, requirement, consent or approval, request, or other communication with respect to this Lease or with respect to the Leased Premises and any improvements located thereon, each such notice, demand, order, direction, determination, requirement, consent or approval, request, or other communication shall be in writing and shall not be effective for any purpose unless same shall be given or served by personal delivery to the Party or Parties to whom such notice, demand, order, direction, determination, requirement, consent or approval, request, or other communication is directed or by mailing the same, in duplicate, to such Party or Parties through a national recognized and reputable overnight delivery service at the regular mailing address for the parties specified below. In the latter case, delivery shall be effective on the date confirmed by the records of such service.

If intended for the Lessee¹:

With a copy to:

If intended for the Secretary of the Air Force:

Department of the Air Force
Director, Air Force Real Property Agency
1700 N. Moore St., Suite 2300
Arlington, VA 22209-2802

(all notices, requests and other communications to any party except for financial records and reports)

with copies to:

AFRPA/CFO
Attn: Portfolio Manager
1700 N. Moore St., Suite 2300
Arlington, VA 22209-2802

and

96 CEG/CERR,
96th Civil Engineering Group
501 Deleon Street, Bldg. 1, Suite 101
Eglin AFB, Florida

If intended for Okaloosa County:

Okaloosa County
Director, Water and Sewer System
101 East James Lee Boulevard, Ste 300
Crestview, FL 32536

If to an Approved Mortgagee:

(The address provided to the Government pursuant to Condition 22.6.1.)

or at such other address or addresses as the Government, the Lessee, or any Approved Mortgagee may from time to time designate by notice given by certified mail.

20.2. If Notice is tendered under the provisions of this Lease and is refused by the intended recipient of the Notice, the Notice shall nonetheless be considered to have been given, and shall be effective as of the date provided in this Lease.

CONDITION 21.

ASSIGNMENT, SUBLEASES, AND LICENSES

21.1. The Lessee shall not assign this Lease or any interest therein, or in any property on the Leased Premises.

21.1.1. Failure to comply with this **Condition 21.1** shall constitute a breach of this Lease by the Lessee. The Government shall not be obligated to recognize any right of any person or entity to an interest in this Lease, or to own or operate any facilities and/or improvements or conduct any other activity or activities on the Leased Premises authorized under this Lease acquired in violation of this **Condition 21**.

CONDITION 22.

LIENS AND MORTGAGES

22.1. Except as provided in **Condition 22.2**, the Lessee shall not: (i) engage in any financing or other transaction creating any mortgage or security interest upon the Leased Premises or any Leased Premises Improvements; (ii) place or suffer to be placed upon the Leased Premises or any Leased Premises Improvements any lien or other encumbrance; (iii) suffer any levy or attachment to be made on the Lessee's interests in the Leased Premises or any Leased Premises Improvements; or (iv) pledge, mortgage, assign, encumber, or otherwise grant a security interest in the Leased Premises or any Leased Premises Improvements or the rents, issues, profits, or other income of the Leased Premises or any Leased Premises Improvements located thereon.

22.2. During the Lease Term, the Lessee may encumber by mortgage, deed of trust, or security agreement its interest in the Leased Premises or any Leased Premises Improvements to secure one or more loans, subject to **Condition 22.3**. The proposed holder of any such mortgage, deed of trust, or security agreement must be approved in writing by the Government prior to the execution of such loan, which approval shall not be unreasonably withheld or delayed. Any mortgagee approved by the Government or successor or assignee of such mortgagee approved by the Government shall be referred to in this Lease as an "Approved Mortgagee." The Government agrees to execute an Estoppel Certificate and any other similar documentation as may reasonably be required by an Approved Mortgagee to evidence the Government's consent to the conditional assignment or mortgage of the Lessee's interest in this Lease and to certify the status of this Lease and performance by the Lessee of its obligations under this Lease as of the date of such certification. Notwithstanding any foreclosure, the Lessee shall remain liable for the performance of all the terms, covenants, and conditions of this Lease, which by the terms hereof are to be carried out and performed by the Lessee.

22.3. No mortgage or deed of trust shall extend to or affect the fee, the reversionary interest, or the estate of the Government in the Leased Premises. No mortgage, deed of trust, or security agreement shall be binding upon the Leased Premises until it is approved by the Government and a copy thereof has been delivered to the Government.

22.4. The Lessee shall notify the Government promptly of any lien or encumbrance on the Leased Premises, or the Lessee's interest in the Leased Premises or any Leased Premises Improvements, whether created by act of the Lessee or otherwise, of which the Lessee has notice.

22.5. If an Approved Mortgagee or an Approved Mortgagee Affiliate (defined below) acquires the Lessee's interest in the Leased Premises or the Leased Premises Improvements by deed-in-lieu, at a foreclosure of its mortgage or deed of trust, or otherwise, this Lease shall continue in full force and effect. The acquisition of the Lessee's interest in the Leased Premises or Leased Premises Improvements, by anyone other than an Approved Mortgagee or an Approved Mortgagee Affiliate shall require the prior written approval of the Government. No agent or nominee shall be appointed to operate and manage any portion of the Leased Premises or the Leased Premises Improvements without obtaining the prior written approval of the Government. Such approval shall not be unreasonably withheld or delayed so long as the proposed agent or nominee has demonstrated experience or expertise in the development, management, and operation of facilities similar to the Leased Premises and the Leased Premises Improvements. Notwithstanding anything to the contrary contained in this Condition 22.5, the

Government may withhold approval of any purchaser of the Lessee's interest in the Leased Premises (other than with respect to an Approved Mortgagee or Approved Mortgagee Affiliate) if in the Government's sole discretion such purchaser could pose a threat or breach of security by its ownership or use of the Leased Premises at Eglin AFB. As used in this Condition 22.5, "Approved Mortgagee Affiliate" means a corporation, limited liability company, or other entity that controls, is owned or controlled by, or is under common ownership and control with, an Approved Mortgagee.

22.6. With respect to the Approved Mortgagees, the following shall apply:

22.6.1. If an Approved Mortgagee has given written notice to the Government of its address, any notice to the Lessee given pursuant to this Lease, including, without limitation, notice of a default or a termination of this Lease shall be delivered simultaneously to such Approved Mortgagee, and no notice of default or termination of this Lease given by the Government to the Lessee shall be deemed effective until like notice is given to such Approved Mortgagee.

22.6.2. An Approved Mortgagee shall have the same rights to cure any default as the Lessee has under this Lease with such additional time as may be afforded to an Approved Mortgagee pursuant to this **Condition 22** and the Government shall accept performance by such Approved Mortgagee as if the Lessee had performed.

22.6.3. The Government will not accept any cancellation of this Lease by the Lessee, or materially modify this Lease, without the prior written consent of each Approved Mortgagee. The Lessee shall provide each Approved Mortgagee with notice of any proposed material modification or cancellation.

22.6.4. No Approved Mortgagee, or purchaser at a foreclosure sale who has been approved by the Government as required by **Condition 22.5**, shall be required to cure any "personal default," as defined below, of the Lessee. As used in this Condition 22, "personal default" means any default of the Lessee that cannot be cured by the payment of money or performance of the development activities undertaken pursuant to this Lease, including any bankruptcy of the Lessee. Examples of personal defaults include, without limitation, defaults in **Conditions 24.1 through 24.4, and 24.6 and 24.7** of this Lease. Defaults under **Condition 26** also shall constitute personal defaults to the extent records are not available to prepare the reports required by that Condition.

22.7. If the Government elects to terminate this Lease pursuant to **Condition 7.3**, each Approved Mortgagee shall have the right to postpone ("Mortgagee's Right to Postpone") and extend the termination date specified in the notice of termination by the Government to the Lessee ("Termination Notice"), subject to the following conditions:

22.7.1. Prior to the termination date specified in the Termination Notice, the Approved Mortgagee must give the Government written notice of its exercise of the Mortgagee's Right to Postpone and simultaneously cure all monetary defaults and deliver to the Government as security for the cure of all other defaults other than personal defaults an amount sufficient to effect such cure.

22.7.2. The Mortgagee's Right to Postpone shall extend the date specified in the Termination Notice for the termination of this Lease for a period of up to six (6) months, or such longer period as may be reasonably requested by the Approved Mortgagee and approved by the Government, which approval shall not be unreasonably withheld. The Government will grant a reasonable extension of the date for termination of this Lease pursuant to the Mortgagee's Right to Postpone ("Lease Termination Extension Date") so long as the Approved Mortgagee (i) promptly commences all steps necessary to cure any default other than personal defaults of the Lessee, including such steps as may be required for the Approved Mortgagee to obtain possession or control of the Leased Premises, and diligently prosecutes the same to completion; and (ii) provides the Government with monthly updates in writing that describe in reasonable detail the steps the Approved Mortgagee has taken and will take in the future to cure any such defaults, and the anticipated time-frame for curing such defaults.

22.7.3. Prior to the termination date specified in the Termination Notice, such Approved Mortgagee shall assume performance and observance of the covenants and other agreements of the Lessee in this Lease.

22.7.4. If prior to the Lease Termination Extension Date, all defaults under this Lease other than personal defaults are cured or otherwise resolved as memorialized in a written agreement, then the Government shall withdraw the Termination Notice.

22.8. Nothing in this Condition 22 shall be deemed to impose any obligation on the part of the Government to deliver physical possession of the Leased Premises or any Leased Premises Improvements located thereon to such Approved Mortgagee.

22.9. If more than one Approved Mortgagee shall seek to exercise any of the rights provided for in this **Condition 22**, the holder of the mortgage or deed of trust having priority of lien over the other Approved Mortgagees shall be entitled, as against the others, to exercise such rights. Should a dispute arise among the Approved Mortgagees regarding the priority of their respective liens, all of the Approved Mortgagees must provide written confirmation to the Government that they have settled that dispute.

22.10. In the event this Lease is terminated by the Government for any reason or is rejected in bankruptcy, the Approved Mortgagee(s) in the order of the priority of their respective mortgages, may request a new lease ("New Lease") from the Government, and the Government shall execute and deliver such New Lease; provided the applicable Approved Mortgagee (i) pays all past due amounts due to the Government pursuant to the terms of this Lease, and (ii) cures or otherwise resolves in a manner acceptable to the Government any non-monetary defaults, except for personal defaults, of the Lessee under this Lease. Such New Lease shall be for the remaining term of this Lease and shall be on the same terms and conditions as set forth in this Lease.

CONDITION 23.

DISPUTES

23.1. Disputes valued at \$10,000 or less (exclusive of interest). Except as otherwise provided in this Lease, any dispute between the Government and the Lessee arising under or

related to this Lease involving \$10,000.00 (exclusive of interest) or less shall be decided by the Director, Air Force Real Property Agency (AFRPA). The Director, AFRPA shall reduce his or her decision to writing and mail or otherwise furnish a copy to the Lessee. With respect to any such dispute, the Lessee agrees that the decision of the Director, AFRPA shall be final and conclusive and shall not be appealable or otherwise subject to challenge.

23.2. Disputes valued at more than \$10,000 (exclusive of interest). The Lessee and the Government agree that the following procedures constitute the administrative procedures that must be exhausted with respect to any dispute arising under or related to this Lease involving more than \$10,000 (exclusive of interest) before the Lessee or the Government may pursue any other remedy that is available to it pursuant to this Lease or law.

23.2.1. Any dispute involving more than \$10,000.00 (exclusive of interest) shall be decided by the Director, AFRPA. The Director, AFRPA, shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Lessee. The decision of the Director, AFRPA, shall be final and conclusive unless, within thirty (30) calendar days from the date of receipt of the decision, the Lessee appeals the decision, by certified mail, to the Secretary, and delivers a copy of its appeal to the Director, AFRPA, by certified mail.

23.2.2. The Secretary or his or her authorized representative shall render a decision by a date mutually agreed upon by the Parties. Except as provided in **Condition 17.2**, either Party shall have the right to appeal the decision to a court of competent jurisdiction in a timely manner, consistent with **Condition 23.3**; otherwise the decision shall be final.

23.3. Judicial Review. Except as provided in **Condition 17.2**, the Lessee or the Government, after exhausting the administrative remedies specified in **Condition 23.2.2**, may:

23.3.1. Pursue any remedy available to it under the law; or

23.3.2. Before or in conjunction with pursuing any remedy that is available to it under law, by mutual agreement, submit the dispute to an alternative dispute resolution procedure, other than binding arbitration, authorized by the Administrative Dispute Resolution Act of 1996, 5 U.S.C. §§ 571-581).

23.4. The Parties understand and agree that the Government's obligation to make any payment pursuant to this Lease is contingent upon the availability of appropriated funds proper for such payment.

23.5. In connection with any dispute between the Parties, each of the Lessee and the Government shall be afforded an opportunity to be heard and to offer evidence in support of its position.

CONDITION 24.

GENERAL PROVISIONS

24.1. Covenant Against Contingent Fees. The Lessee warrants that it has not employed or retained any person or agency to solicit or secure this Lease upon an agreement or

understanding for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Government the right to annul this Lease without liability or in its discretion to recover from the Lessee the amount of such commission, percentage, brokerage, or contingent fee, in addition to the consideration herewith set forth. This warranty shall not apply to commissions payable by the Lessee on the Lease secured or made through bona fide established commercial agencies retained by the Lessee for the purpose of doing business. "Bona fide established commercial agencies" has been construed to include licensed real estate brokers engaged in the business generally.

24.2. Officials Not to Benefit. No Member of, or Delegate to the Congress, or resident commissioner, shall be admitted to any part or share of this Lease or to any benefit that may arise therefrom, but this provision shall not be construed to extend to this Lease if made with a corporation for its general benefit.

24.3. Facility Nondiscrimination. As used only in this Condition, the term "Facility" means lodgings, stores, shops, restaurants, cafeterias, restrooms, and any other facility of a public nature in any building covered by, or built on land covered by, this Lease.

24.3.1. The Lessee agrees that it will not discriminate against any person because of race, color, religion, sex, or national origin in furnishing, or by refusing to furnish, to such person or persons the use of any Facility, including any and all services, privileges, accommodations, and activities provided on the Leased Premises. This does not require the furnishing to the general public the use of any Facility customarily furnished by the Lessee solely for use by the Sublessees or their guests and invitees.

24.3.2. The Parties agree that in the event of the Lessee's noncompliance, the Government may take appropriate action to enforce compliance, and, subject to **Condition 22.7**, may terminate this Lease for default and breach as provided in **Condition 7**, or may pursue such other remedies as may be provided by law.

24.4. Gratuities.

24.4.1. The Government may, by written notice to the Lessee, terminate this Lease if, after notice and hearing, the Secretary or his or her authorized representative determines that the Lessee, or any agent or representative of the Lessee, offered or gave a gratuity (e.g., an entertainment or gift) to any officer, official, or employee of the Government and intended, by the gratuity, to obtain a lease or other agreement or favorable treatment under a lease or other agreement, except for gifts or benefits of nominal value offered to Tenants of the Leased Premises in the ordinary course of business.

24.4.2. The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

24.4.3. If this Lease is terminated under **Condition 24.4.1**, the Government shall be entitled to pursue the same remedies against the Lessee as in a breach of this Lease by the Lessee, and in addition to any other damages provided by law, to exemplary damages of not fewer than three (3), or more than ten (10), times the cost incurred by the Lessee in giving gratuities to the person concerned, as determined by the Government.

24.4.4. The rights and remedies of the Government provided in this Condition shall not be exclusive, and are in addition to any other rights and remedies provided by law or under this Lease.

24.5. No Joint Venture. Nothing contained in this Lease will make, or will be construed to make, the Parties partners or joint venturers with each other, it being understood and agreed that the only relationship between the Government and the Lessee under this Lease is that of landlord and tenant. Nothing in this Lease will render, or be construed to render, either of the Parties liable to any third party for the debts or obligations of the other Party.

24.6. Records and Books of Account. The Lessee agrees that the Secretary of the Air Force, the Comptroller General of the United States, or the Auditor General of the United States Air Force, or any of their duly authorized representatives, shall, until the expiration of three (3) years after the expiration or earlier termination of this Lease, have access to, and the right to examine, any directly pertinent books, documents, papers, and records of the Lessee involving transactions related to this Lease.

24.7. Remedies Cumulative; Failure of Government to Insist on Compliance. The specified remedies to which the Government may resort under the terms of this Lease are distinct, separate, and cumulative, and are not intended to be exclusive of any other remedies or means of redress to which the Government may be lawfully entitled in case of any breach or threatened breach by the Lessee of any provisions of this Lease. The failure of the Government to insist in any one or more instances upon strict performance of any of the terms, covenants, or conditions of this Lease shall not be construed as a waiver or a relinquishment of the Government's right to the future performance of any such terms, covenants, or conditions, but the obligations of the Lessee with respect to such future performance shall continue in full force and effect. No waiver by the Government of any provisions of this Lease shall be deemed to have been made unless expressed in writing and signed by an authorized representative of the Government.

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

24.9. Counterparts. This Lease is executed in three (3) counterparts, each of which is deemed an original of equal dignity with the other and which is deemed one and the same instrument as the other.

24.10. Personal Pronouns. All personal pronouns used in this Lease, whether used in the masculine, feminine, or neuter gender, will include all other genders.

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

expressly set forth in this Lease. This instrument may only be modified or amended by mutual agreement of the Parties in writing and signed by each of the Parties.

24.12. **Partial Invalidity.** If any term or provision of this Lease, or the application of the term or provision to any person or circumstance, is, to any extent, invalid or unenforceable, the remainder of this Lease, or the application of the term or provision to persons or circumstances other than those for which the term or provision is held invalid or unenforceable, will not be affected by the application, and each remaining term or provision of this Lease will be valid and will be enforced to the fullest extent permitted by law.

24.13. **Interpretation of Lease.** The Parties and their legal counsel have participated fully in the negotiation and drafting of this Lease. This Lease has been prepared by the Parties equally, and should be interpreted according to its terms. No inference shall be drawn that this Lease was prepared by, or is the product of, either Party.

24.14. **Recording.** A Memorandum of this Lease dated of even date herewith shall be filed for record in the appropriate real estate records on or after the Term Beginning Date.

24.15. **Identification of Government Agencies, Statutes, Programs and Forms.** Any reference in this Lease, by name or number, to a government department, agency, statute, regulation, program, or form shall include any successor or similar department, agency, statute, regulation, program, or form.

24.16. **Approvals.** Any approval or consent of the Parties required for any matter under this Lease shall be in writing and shall not be unreasonably withheld or delayed unless otherwise indicated in this Lease.

24.17. **Third Party Beneficiaries.** Except as otherwise expressly provided with respect to Approved Mortgagees, and solely with respect to **Condition 22** (i) there shall be no third party beneficiaries of this Lease and (ii) none of the provisions of this Lease shall be for the benefit of, or enforceable by, any creditors of the Lessee.

24.18. **No Individual Liability of Government Officials.** No covenant or agreement contained in this Lease shall be deemed to be the covenant or agreement of any individual officer, agent, employee, or representative of the Government, in his or her individual capacity, and none of such persons shall be subject to any personal liability or accountability by reason of the execution of this Lease, whether by virtue of any constitution, statute, or rule of law, or by the enforcement of any assessment or penalty, or otherwise.

24.19. **Non-Merger.** Notwithstanding anything contained in this Lease to the contrary, it is the intention of the Parties that the interests created under this Lease shall remain separate and distinct interests, and the leasehold interest of Lessee shall not merge with the fee title in the event that the Lessee becomes the owner of the Leased Premises.

24.20. [Reserved]

24.21. **Payments to the Government.** All payments to the Government shall be made by electronic funds transfer as directed by the Government in writing.

CONDITION 25.

SPECIAL PROVISIONS

25.1. Required Accounts. During the Lease Term, the Lessee shall maintain a GLPA, in accordance with the following terms.

25.2. GLPA Requirements: Immediately following the Term Beginning Date, the Lessee must create a GLPA to receive and hold the Base Rent due and owing under this Lease. This account must meet the following criteria: (i) it must be a Federally insured depository account; (ii) the funds in it will remain the property of, and be owned solely by, the Lessee; (iii) during the Lease Term, the Lessee must pledge and grant to the Government a continuing first lien security interest in and to all of the Lessee's right, title, and interest in and to the account, as well as all funds held, or designated for deposit in, it, whether now owned, existing, or hereafter acquired, and regardless of where located; (iv) the Lessee shall not grant or allow any other security interests in, liens to, or encumbrances on the GLPA or the funds in it; (v) the Lessee shall not commingle funds in the GLPA with funds from any other source; (vi) the Lessee shall deliver to the Government for filing one or more financing statements, as necessary, in connection with the GLPA in the form reasonably required by the Government to properly perfect its security interest in the GLPA, and shall keep the lien secured by such statement(s) perfected at all times during the existence of the GLPA in accordance with the laws of Florida; (vii), the Lessee shall deliver to the Government within ten (10) days after filing the original and any amendments to, and continuations of, any financing statement; and the parties will execute an Escrow Agreement in the form at Exhibit F.

25.2.1. Priority of GLPA: During the Lease Term, the Lessee shall make annual payments into the GLPA for the full amount of the Base Rent due before making any principal and interest payments to the Project lenders or bondholders.

25.2.2. Investment of Funds in the GLPA: The Lessee shall deposit cash insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with direct obligations of (including obligations issued or held in book entry form on the books of) the U.S. Department of the Treasury.

25.3. Required Reports on the GLPA: The Lessee shall deliver to the Government, not more than five (5) business days after the end of October of each year and not more than five (5) business days after receipt of a written request from the Government, an account balance which summarizes activity in the GLPA, which includes the current balance and deposits and withdrawals. Such records and reports should be delivered to the Government. Failure of the Lessee to provide such reports in a timely manner will constitute an Event of Default.

25.4. Disbursement of Funds from the GLPA. Disbursements from the GLPA shall be made pursuant to the terms of the Escrow Agreement. The disbursements shall be used to pay the cost of providing in-kind consideration at Eglin AFB. Disbursement requests may be made from time to time at the discretion of the Government.

CONDITION 26.

REPORTING PROVISIONS

26.1. At all times during the Lease Term, the Lessee shall maintain at its principal place of business or such other place as agreed to by the Parties, a complete and accurate set of files, books and records of all business activities and operations conducted in connection with performance under this Lease. The Lessee's records and accounts shall reflect, with respect to each asset subject to this Lease, all items of revenue and expense allocable to the management and disposition of such asset, as well as information regarding the status of each such asset including appraisal, title to improvements, marketing and other information as required. At all times during the Lease Term, the Government may, at such reasonable times, inspect and request copies of any of the Lessee's records, files, reports, and related material pertaining to the assets and to the performance under this Lease.

26.1.1. [Reserved]

26.1.2. [Reserved]

26.2. Additional Record Keeping and Delivery. The Lessee agrees that the Government, the Comptroller General of the United States or the Auditor General of the United States Air Force, or any of its duly authorized representatives, shall, until the expiration of three (3) years after the expiration or earlier termination of this Lease, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Lessee involving transactions related to the Leased Premises. The Lessee shall keep and maintain accurate, true, and complete books and records (hereinafter collectively referred to as "books and records"), which shall fully reflect the financial condition, occupancy, physical condition, maintenance, and operational status of the Project, together with all business licenses and permits required to be kept and maintained pursuant to the provisions of any applicable state or local law, regulation, or rule now or hereafter in effect. All books and records shall be kept at the Lessee's principal office, or at the Project, or at such other place as the Government and the Lessee both agree upon in writing. A complete duplicate set of the books and records shall be kept at a separate location mutually agreeable to the Parties. The Government is herewith granted the right to photocopies of same, at the sole expense of the Lessee. The Lessee shall deliver to the Government, upon such schedule as the Government may establish from time to time, and in such media, including electronic media as the Government shall select, all information and supporting documentation which the Lessee has maintained, or which the Government needs in order for the Government to file any report to the Department of the Air Force, the Department of Defense, or required to be submitted by the Government to any governmental or nongovernmental agency, or which the Government needs to assess the financial condition, performance, occupancy, physical condition, maintenance and operational status of the Project. Such items shall: (a) be in a form satisfactory to the Government, (b) be certified to the Government as true, complete, and accurate in all material respects by the Lessee, and (c) be taken from the books and records maintained by the Lessee as aforesaid. The Lessee shall furnish to the Government all of the following documents, statements, reports, and other information in the manner provided below:

26.2.1. At any time upon the request of the Government:

26.2.1.1. [Reserved]

26.2.1.2. [Reserved]

26.2.1.3. [Reserved]

26.2.1.4. [Reserved]

26.2.1.5. [Reserved]

26.2.1.6. within fifteen (15) days following Lessee's receipt of same, copies of any and all default or deficiency notices provided to the Lessee by any mortgagee on an approved loan, any government agency, insurance company or other party; and

26.2.1.7. within ten (10) days after receipt of a request by the Government, such additional information, as reasonably requested by the Government.

CONDITION 27.

RIGHTS NOT IMPAIRED

27.1. Nothing contained in this Lease shall be construed to diminish, limit, or restrict any right, prerogative, or authority of the Government over the Leased Premises relating to the security or mission of Eglin AFB, the health, welfare, safety, or security of persons on Eglin AFB, or the maintenance of good order and discipline on Eglin AFB, as established in law, regulation, or military custom.

27.2. Eglin AFB Access. The Lessee acknowledges that it understands that the Eglin AFB is an operating military installation that could remain closed to the public and accepts that the Lessee's operations may from time to time be restricted temporarily due to the needs of national defense. Access to the installation may also be restricted due to inclement weather and natural disasters. The Lessee further acknowledges that the Government strictly enforces Federal laws and Air Force regulations concerning controlled substances (drugs) and personnel, vehicles, supplies, and equipment entering the installation are subject to search and seizure, under 18 U.S.C. § 1382. The Government will use reasonable diligence in permitting the Lessee access to the Leased Premises at all times, subject to the provisions of this paragraph. Notwithstanding the foregoing, the Lessee agrees the Government will not be responsible for lost time or costs incurred due to delays in entry, temporary loss of access, barring of individual employees from the base under Federal laws authorizing such actions, limitation, or withdrawal of an employee's on-base driving privileges, or any other security action that may cause employees to be late to, or unavailable at, their work stations, or delay arrival of parts and supplies. The Government retains the right to refuse access to the Leased Premises by the Lessee Parties. The Lessee, its Sublessees, employees, and invitees fully agree to abide with all access restrictions imposed by the Government in the interest of national defense.

27.3. Anything contained in this Lease to the contrary notwithstanding, the Government has the right at all times to order the permanent removal and barment of anyone from Eglin AFB, including but not limited to Sublessees, if in the sole discretion of the

installation commander, the continued presence on Eglin AFB of that person represents a threat to the security or mission of Eglin AFB, poses a threat to the health, welfare, safety, or security of persons occupying Eglin AFB, or compromises good order and/or discipline on Eglin AFB.

27.4. Except as provided in **Condition 27.1**, nothing in this Lease shall be construed to diminish, limit, or restrict any right of the Lessee under this Lease, or the rights of Sublessees as prescribed under their leases or Applicable Laws.

CONDITION 28.

RENEWAL OF THE LEASE

28.1. The Parties agree that at any time during the Lease Term, a renewal of this Lease may be negotiated and entered into by the Parties, provided that the Project is being operated and maintained as required by this Lease, and the Lessee is not in default of any of its obligations under this Lease.

CONDITION 29.

GOVERNMENT REPRESENTATIVES AND THEIR SUCCESSORS

29.1. The Government, acting through the Secretary of the Air Force, may delegate certain of its responsibilities under this Lease to its duly appointed representatives.

CONDITION 30.

AMENDMENTS

30.1. Subject to **Condition 22.6.3**, this Lease may be amended at any time by mutual agreement of the Parties in writing and signed by a duly authorized representative of each of the respective Parties. Amendments to this Lease executed on behalf of the Government must be signed at the level of the Director, Air Force Real Property Agency, or higher. Such amendments may include, but are not limited to, extensions of the Lease Termination Date.

CONDITION 31.

EXHIBITS

31.1. Nine (5) exhibits are attached to and made a part of this Lease, as follows:

- Exhibit A - Description and Map of Leased Premises
- Exhibit A-1 - Non-Exclusive List of Outgrants
- Exhibit B - Environmental Baseline Survey
- Exhibit C - Rent Schedule
- Exhibit D - Design Criteria Package
- Exhibit E - Operating Agreement
- Exhibit F - Escrow Agreement

CONDITION 32.

[Reserved]

CONDITION 33.

[Reserved]

CONDITION 34. DEFINED TERMS

34.1. Capitalized terms set forth below shall have the following meanings:

“ACM” means, collectively, asbestos or asbestos-containing material (ACM).

“Additional Rent” means all sums other than Base Rent and Supplemental Rent payable by the Lessee to the Government under this Lease, including but not limited to all items of reimbursement, such as reimbursement for police and fire protection services provided by the Government.

“Applicable Laws” means, collectively, all present and future laws, ordinances, rules, requirements, regulations, and orders of the United States, the state where the Leased Premises are located and any other public or quasi-public Federal, state, or local authority, and/or any department or agency thereof, having jurisdiction over the Project and relating to the Project or imposing any duty upon the Lessee with respect to the use, occupation, or alteration of the Project during the Lease Term.

“Approved Mortgagee” means any mortgagee approved by the Government or successor or assignee of such mortgagee approved by the Government.

“Approved Mortgagee Affiliate” means a corporation, limited liability company, or other entity which controls, is owned or controlled by, or his under common ownership and control with, an Approved Mortgagee.

“Approved Punch List Items” means punch list items approved in writing by the Government.

“Bankruptcy Code” means the United States Bankruptcy Code.

“Base Rent” means the cash or in-kind consideration rent paid to the Government by the Lessee on the Lease Term Beginning Date as set forth in the detailed Rent Schedule at Exhibit C.

“Certificate of Development Completion” means the Certificate of Compliance when construction is complete.

“Completion Date” means the date a Certificate of Compliance is issued.

“Construction Consultant” means a certified professional retained by the Lessee who is not affiliated with the Lessee or any of the Lessee’s affiliates, to administer the Lessee’s quality control program. Such professional shall be approved by the Government and the Approved Mortgagee and shall perform inspections, and provide certifications of compliance with the construction requirements as requested by the Government or any Approved Mortgagee.

“Damaged or Destroyed Property” means any part of the Project that is damaged (except de minimis damage) or destroyed.

“Day” means a calendar day unless otherwise specified in writing in the project document.

“Default Purchaser” means any party (other than the Government) who acquires the interest of the Lessee in this Lease pursuant to the exercise of remedies by an Approved Mortgagee, whether such acquisition is the result of a foreclosure, deed-in-lieu of foreclosure, sale or otherwise.

“Default Termination Notice” means the Government’s written notice to the Lessee that terminates this Lease, without any cost or liability to the Government, if an Event of Default exists. Such notice shall be effective as of the date specified therein, which shall be at least five (5) but not more than thirty (30) days after its receipt by the Lessee.

“EBSEBS” means the Environmental Baseline Survey for Enhanced Use Lease at Eglin AFB, dated April 2004 delivered to the Lessee.

“Effective Date” means October 3, 2006.

“Event of Default” means the following:

The Lessee’s failure to comply with any provision of this Lease, where such failure to comply continues for thirty (30) days after delivery of written notice thereof by the Government to the Lessee and all Approved Mortgagees. If, however, such default is not reasonably susceptible to cure within such thirty (30) day period, the Lessee shall have such longer period as may be approved in writing in advance by the Government, which approval shall not be unreasonably withheld, to cure such default so long as the Lessee commences curing such default within the initial thirty (30) day period and diligently prosecutes such cure to completion in accordance with a schedule approved in writing by the Government, which approval shall not be unreasonably withheld.

The failure of the Lessee to pay Rent, when due and such failure remains uncured for a period of ten (10) days after written notice to the Lessee by the Government of the Lessee’s failure to pay such amount.

The Lessee voluntarily files for bankruptcy protection under the United States Bankruptcy Code (the “Bankruptcy Code”) or voluntarily becomes subject to any reorganization, receivership, insolvency proceeding, or other similar proceeding pursuant to any other federal or state law affecting debtor and creditor rights, or an involuntary case is commenced against the Lessee by any creditor of the Lessee pursuant to the Bankruptcy Code or other federal or state

law affecting debtor and creditor rights and is not dismissed or discharged within sixty (60) days after filing.

If any voluntary or involuntary petition is filed under the Bankruptcy Code by or against the Lessee (other than an involuntary petition filed by or joined in by the Government), the Lessee shall not assert, or request any other party to assert, that the automatic stay under the Bankruptcy Code shall operate or be interpreted to stay, interdict, condition, reduce, or inhibit the ability of the Government to enforce any rights it has by virtue of any agreement between the Parties, or any other rights that the Government has, whether now or hereafter acquired, against any party responsible for the debts or obligations of the Lessee under such agreements. Furthermore, the Lessee shall not seek a supplemental stay or any other relief, whether injunctive or otherwise, pursuant to the Bankruptcy Code, to stay, interdict, condition, reduce, or inhibit the ability of the Government to enforce any of its rights under such agreements against any party responsible for the debts or obligations of the Lessee. The waivers contained in this Condition are a material inducement to the Government's willingness to enter into this Lease and the Lessee acknowledges and agrees that no grounds exist for equitable relief that will bar, delay, or impede the exercise by the Government of its rights and remedies under such agreements against the Lessee or any party responsible for the debts or obligations of the Lessee.

If any or all of the Project or any interest in the Project becomes the property of any bankruptcy estate or subject to any state or Federal insolvency proceeding, then the Government shall immediately become entitled, in addition to all other relief to which the Government may be entitled under any agreement between the Parties, to obtain (i) an order from the Bankruptcy Court or other appropriate court granting immediate relief from the automatic stay pursuant to the Bankruptcy Code so as to permit the Government to pursue its rights and remedies at law and in equity under applicable state law, and (ii) an order from the Bankruptcy Court prohibiting the Lessee's use of all "cash collateral," as defined under the Bankruptcy Code. In connection with such Bankruptcy Court orders, the Lessee shall not contend or allege in any pleading or petition filed in any court proceeding that the Government does not have sufficient grounds for relief from the automatic stay. The Lessee acknowledges and agrees that any bankruptcy petition or other action taken by the Lessee to stay, condition, or prevent the Government from exercising its rights or remedies under this Lease or any other agreement between the Parties shall be deemed to be in bad faith.

At the election of the Government and upon written notice thereof to the Lessee, the occurrence of a "Government Lease Payment Account ("GLPA") Event of Default." As used in this Condition 7.1.4, a "GLPA Event of Default" means failure to comply with the GLPA Requirements identified in Condition 25.

"Excusable Delay" means the Government and Lessee shall be excused from performing an obligation or undertaking provided for in this Lease, and the period for the performance of any such obligation or undertaking shall be extended for a period equivalent to the period of such delay, so long as such performance is prevented or unavoidably delayed, retarded or hindered by an act of God, fire, earthquake, flood, explosion, war, invasion, insurrection, riot, mob violence, sabotage, act of terrorism, inability to procure or a general shortage of labor, equipment, facilities, materials or supplies in the open market, failure or unavailability of transportation, strike, lockout, action of labor unions, a taking by eminent domain, requisition, laws, orders of

government or of civil, military or naval authorities (but only such orders of a general nature pertaining to the Property and comparable properties in the State of Florida), governmental restrictions (including without limitation, access restrictions imposed by the Government and arising without fault or negligence on the part of the Lessee that significantly hinder the Lessee's ability to access the Leased Premises and perform its construction responsibilities in a timely manner), required environmental remediation or any other cause, whether similar or dissimilar to the foregoing not within the reasonable control and without the fault or negligence of the Government or the Lessee, as the case may be, and/or any or any of their respective officers, agents, servants, employees and/or any others who may be on the Leased Premises at the invitation of the Lessee or the invitation of any of the aforementioned persons, specifically excluding, however, delays for adjustments of insurance and delays due to shortage or unavailability of funds.

"Extensive Damage or Destruction of Improvements" means the magnitude of Damaged or Destroyed Property, as determined by the Government and any Approved Mortgagees in consultation with the Lessee, is so extensive that the Project cannot be used by the Lessee for its operations and the repairs, rebuilding, or replacement of the Damaged or Destroyed Property cannot reasonably be expected to be substantially completed within nine (9) months of the occurrence of the casualty.

"Facility" means, only for the purposes of Condition 24.3, lodgings, stores, shops, restaurants, cafeterias, restrooms, and any other facility of a public nature in any building covered by, or built on land covered by, this Lease.

"Fair Market Rental Value of the Leased Premises" means the annual fair market rental value of the Leased Premises, exclusive of the Leased Premises Improvements, as determined by a duly licensed and qualified appraiser mutually acceptable to the Government and Default Purchaser using the Uniform Standards of Professional Appraisal issued by the American Institute of Real Estate Appraisers and based on the then current use of the Leased Premises.

"Final PCR" means a PCR prepared by the Government and signed by the Parties within ten (10) days after the expiration or earlier termination of this Lease for each respective parcel of the Leased Premises.

"Final Plans" means the Design Criteria Package that are 100% complete.

"Final Plan Decision" means the decision (i) of the Government for (a) any Plan Dispute involving \$10,000 (exclusive of interest) or less or, (b) any Plan Dispute involving more than \$10,000 that is not timely appealed to the Secretary; or (c) of the Secretary for any Plan Dispute involving more than \$10,000 (exclusive of interest) that is timely appealed.

"GLPA" means the Government Lease Payment Account for the deposit of the Rent by the Lessee and the making of disbursements only with the prior approval of the Government, and that the Lessee is required to establish and maintain in accordance with Condition 25.2.

"GLPA Event of Default" means failure to comply with the GLPA Requirements in Condition 25.2.

“Government” means the United States of America acting by and through the Secretary of the Air Force.

“Government Retention Notice” means the Government’s written notice to Lessee of the Government’s election to require that all or any portion of the Leased Premises Improvements and the personal property of the Lessee located therein revert or be transferred to the Government, as applicable, on the Lease Termination Date or the effective date of any Default Termination Notice or Termination Notice for Extensive Damage or Destruction.

“Hazardous Substance” shall have the meaning defined in section 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S. C. § 9601(14)).

“Improvement Removal Report” means a report provided by the Lessee to the Government that is prepared by a construction and demolition expert approved by the Government, such approval not to be unreasonably withheld or delayed, which report details and estimates the cost of removing all improvements on the Leased Premises.

“IRP” means the Eglin Installation Restoration Program (IRP).

“LBP” means lead-based paint materials (LBP).

“Leased Premises” means the real property described in Exhibit A to this Lease.

“Leased Premises Improvements” means those improvements and personal property, if any, existing on the Leased Premises on the Term Beginning Date that are owned by the Government together with all improvements and personal property that may be constructed or placed on the Leased Premises by the Lessee.

“Lease Term” means the period from the Term Beginning Date through the Term Expiration Date.

“Lease Termination Extension Date” means a reasonable extension of the date for termination of this Lease granted by the Government pursuant to the Mortgagee’s Right to Postpone.

“Lessee” means Okaloosa County, a County Government created under the laws of the State of Florida, with its principal offices located at Crestview, Florida.

“Lessee Parties” means the Lessee, the Lessee’s officers, agents, servants, employees, or others (excluding those employees or agents of the Government who are on the Leased Premises for the purpose of performing official duties, and not as Tenants) who may be on the Leased Premises at their invitation or the invitation of any one of them.

“Mortgagee’s Right to Postpone” means the right of each Approved Mortgagee, subject to the conditions set forth in Condition 7.3, to postpone and extend the termination date specified in the Termination Notice.

“New Lease” means a new lease requested by the Approved Mortgagee(s) in the order of the priority of their respective mortgages, in the event this Lease is terminated by the Government for any reason or is rejected in bankruptcy.

“Operating Agreement” means the Operating Agreement dated of even date with this Lease, which is incorporated into and made a part of this Lease.

“Outgrants” means, collectively, easements, rights in the nature of easements, rights of way, licenses, or other property rights or interests, whether or not of public record, reserved or granted pursuant to the first paragraph of Condition 2.1.

“Parties” means the Government and the Lessee, jointly.

“Party” means the Government and the Lessee, separately.

“Personal default” means any default of the Lessee that cannot be cured by the payment of money or performance of demolition, design, construction, renovation, operation, and maintenance work, including any bankruptcy of the Lessee. Examples of personal defaults include, without limitation, defaults in Conditions 24.1 through 24.4, 24.6, and 24.7 of this Lease. Defaults under Condition 26 also shall constitute personal defaults to the extent records are not available to prepare the reports required by that Condition.

“Pesticide Management Plan” means a plan for storage, mixing, and application of pesticides that the Lessee shall prepare prior to the storage, mixing, or application of any pesticide, as that term is defined under FIFRA. The Pesticide Management Plan shall be sufficient to meet all Applicable Laws.

“Plan Alterations” means the Lessee’s proposed changes to the Design Criteria Package previously submitted to the Government.

“Plan Alterations Exception Notice” means the Government’s written notice to the Lessee that any of the Plan Alterations submitted to the Government for its review are inconsistent with the scope of the Design Criteria Package.

“Plan Dispute” means within twenty (20) days after delivery to the Lessee of a Plan Alterations Exception Notice, the Lessee and the Government are unable to agree on whether the plans satisfy the Design Criteria.

“Pre-Construction Conference” means a pre-construction conference that the Lessee, the Lessee’s general contractor, if any, and the Government attend to acquaint the Lessee, the Government and the other participants with the Construction Management Plan.

“Pretreatment Permit Application” means an application for the Lessee’s discharge that the Lessee shall submit prior to the Term Beginning Date if the Lessee discharges wastewater to a publicly owned treatment works.

“Project” means, collectively, the Leased Premises and the Leased Premises Improvements.

“Project Documents” refer to this Lease and all documents attached to this Lease.

“Qualified Insurers” means insurers authorized to do business and to underwrite insurance in Florida.

“Qualified Surety” means a corporate surety or insurer authorized to do business and underwrite payment and performance bonds in the State of Florida, and possessing a long-term unsecured debt rating from any Rating Agency of no lower than two rating categories below the highest rating outstanding on the securities backed by this transaction.

“Rating Agency” means any nationally recognized credit rating service that at the time has one or more outstanding ratings of any securities issued by the Lessee to fund construction of the Project.

“Rent” means, collectively, Base Rent, Additional Rent, and Supplemental Rent.

“Restoration Deadline” means the date by which the Lessee shall remove all of the Leased Premises Improvements and its other property from the Leased Premises and restore the Leased Premises to the reasonable satisfaction of the Government, which date shall be no later than one hundred eighty (180) days after the Lease Termination Date, or the effective date of a Default Termination Notice pursuant to Condition 7.3.1 or a Termination Notice for Extensive Damage or Destruction of Improvements pursuant to Condition 7.3.2, as applicable, or a date mutually agreed to by Lessee and the Government.

“Secretary” means the United States of America acting by and through the Secretary of the Air Force.

“Site Design Plans” means the site design plans and specifications (which shall include utilities systems and landscaping.)

“Substantial Completion” means completion of all of the Leased Premises Improvements for the applicable Construction Phase or such smaller portion of the Project as approved by the Government in accordance with the Construction Requirements, except for the Approved Punch List Items.

“Sublessee” means a tenant of the Lessee.

“Term Beginning Date” means 12:01 a.m. local time, October 3, 2006.

“Term Expiration Date” means 11:59 p.m. local time, October 2, 2036, unless sooner terminated in accordance with the terms contained in this Lease.

“Termination Notice” means the Government’s notice of termination to the Lessee when the Government elects to terminate this Lease pursuant to Condition 7.3.

“Termination Notice for Extensive Damage or Destruction of Improvements” means written notice by the Government or the Lessee to the other Party that terminates this Lease in the event of Extensive Damage or Destruction of Improvements. Such notice shall be effective as of the

date to be specified therein, which shall be at least thirty (30) but not more than forty five (45) days after its receipt by the Lessee.

“Utility Costs” means the cost of obtaining electricity (and natural gas, as applicable) by the Lessee.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the United States of America has executed this Lease on September 21, 2006.

Signed, sealed and delivered in the presence of:

THE UNITED STATES OF AMERICA, acting by and through the Secretary of the Air Force

Kathy M. Halvorson

Kathryn M. Halvorson
Director
Air Force Real Property Agency)

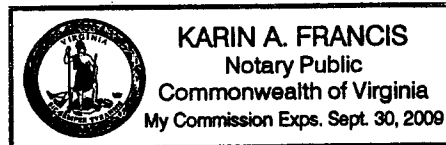
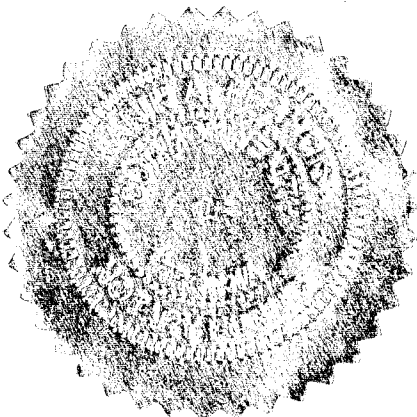
COMMONWEALTH OF VIRGINIA)
) SS.:
COUNTY OF ARLINGTON)

On the 21st day of September, 2006, before me, Karin A. Francis, the undersigned Notary Public, personally appeared Kathryn M. Halvorson, personally known to me to be the person whose name is subscribed to the foregoing Lease, and personally known to me to be the Director, Air Force Real Property Agency, and acknowledged that the same was the act and deed of the Secretary of the Air Force and that he executed the same as the act of the Secretary of the Air Force for the purposes and consideration cited therein.

Karin A. Francis

Notary Public, Commonwealth of Virginia

My commission expires: *9/30/2009*



THIS LEASE is also executed by the Lessee this 3rd day of October, 2006.

OKALOOSA COUNTY

(SEAL)

By: Sherry S. Campbell
SHERRY S. CAMPBELL
CHAIRMAN



ATTEST:

Don W. Howard
DON W. HOWARD
Clerk of Circuit Court



EXHIBIT C
RENT SCHEDULE

Payment #	Due Date	Rent
1	10/1/2007	\$325,000.00
2	10/1/2008	\$331,500.00
3	10/1/2009	\$338,130.00
4	10/1/2010	\$344,892.60
5	10/1/2011	\$351,790.45
6	10/1/2012	\$358,826.26
7	10/1/2013	\$366,002.79
8	10/1/2014	\$373,322.84
9	10/1/2015	\$380,789.30
10	10/1/2016	\$388,405.08
11	10/1/2017	\$396,173.19
12	10/1/2018	\$404,096.65
13	10/1/2019	\$412,178.58
14	10/1/2020	\$420,422.15
15	10/1/2021	\$428,830.60
16	10/1/2022	\$437,407.21
17	10/1/2023	\$446,155.35
18	10/1/2024	\$455,078.46
19	10/1/2025	\$464,180.03
20	10/1/2026	\$473,463.63
21	10/1/2027	\$482,932.90
22	10/1/2028	\$492,591.56
23	10/1/2029	\$502,443.39
24	10/1/2030	\$512,492.26
25	10/1/2031	\$522,742.11
26	10/1/2032	\$533,196.95
27	10/1/2033	\$543,860.89
28	10/1/2034	\$554,738.10
29	10/1/2035	\$565,832.87
30	10/1/2036	\$577,149.52

DEPARTMENT OF THE AIR FORCE
EGLIN AIR FORCE BASE
EASEMENT NO. 40/2-93-0009

EASEMENT FOR WATER LINE RIGHT-OF-WAY

Sup 1
30
29 SEP 97
THE SECRETARY OF THE AIR FORCE, under and by the virtue of the authority vested in him by Title 10, United States Code, Section 2669, having found that the granting of this easement will be in the public interest and will not substantially injure the interest of the United States in the property affected thereby, hereby grants to the City of Fort Walton Beach, Okaloosa County, Florida, hereinafter designated as the grantee, for a period not exceeding ~~five (5) years~~ beginning 30 SEPTEMBER 1992 and ending ~~29 SEPTEMBER 1997~~, a 15-foot wide easement for a right-of-way for construction, operation, repair and maintenance of water pipelines over, across, in, and upon land of the United States at the location shown and described on Exhibits A and B attached hereto and made a part hereof:

THIS EASEMENT is granted subject to the following conditions:

1. The installation and/or operation and maintenance of said line shall be accomplished without cost or expense to the United States under the general supervision and subject to the approval of the officer of the Air Force having immediate jurisdiction over the property, and in such manner as not to endanger personnel or property of the United States on the said United States land or obstruct travel on any road thereon. The grantee shall have the right of ingress and egress for such purposes.

Sup 1
2. The use and occupation of said land incident to the exercise of the privileges hereby granted shall be subject to the general supervision and approval of the Air Force and subject to the rules and regulations which the Air Force acting by and through the ~~646th Air Base Wing/CE (Base Civil Engineer), Eglin AFB, hereinafter designated "said officer"~~ may prescribe. Any reference to the Secretary of the Air Force or Base Civil Engineer shall extend to and include their duly appointed successors and authorized representatives.

3. The grantee shall supervise the said line and cause it to be inspected at reasonable intervals, and shall immediately repair any leaks found therein as a result of such inspection, or when requested by said officer to repair any defects. Upon completion of the installation of said line and the making of any repairs thereto, the premises shall be restored immediately by the grantee, at the grantee's own expense, to the same condition as that in which they existed prior to the commencement of such work, to the satisfaction of the said officer.

COPY

4. The grantee shall, at its own expense, promptly repair or replace to the satisfaction of the said officer any United States property damaged, destroyed, or unlawfully polluted or contaminated by the grantee incident to the exercise of the privileges granted. This responsibility shall exist even if such damage, discretion, pollution or contamination is not even discovered until after the expiration or termination of the easement. Instead, and if required by the said officer, the grantee shall pay the United States money in an amount sufficient to compensate for the loss sustained by the United States for damage, destruction, unlawful pollution or contamination of United States property.

5. The United States reserves to itself the right to construct, use, and maintain across, over, and/or under the right of way hereby granted, electric transmission, telephone, telegraph, water, gas, oil and sewer lines, and other facilities, in such manner as not to create any unreasonable interference with the use of the right of way herein granted.

6. The United States shall not be responsible for damages to property or injuries which may arise from or be incident to the use and occupation of the said premises, nor for damages to the property of the grantee, or for injuries to the person of the grantee (if an individual), nor for damages to the property or injuries to the person or the grantees officers, agents, servants, or employees, or others who may be on said premises at their invitation or the invitation of any one of them, arising from or incident to government activities, and the grantee shall hold the United States harmless from any and all such claims.

7. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the construction, maintenance, and use of said line.

8. The grantee shall furnish through said line such service as may be required from time to time for governmental purposes on said land, provided that payment for such service will be made by the United States at rates which shall never exceed the most favorable rates granted by the grantee for similar service.

9. If all or any portion of said land occupied by said line shall be needed by the United States, or if said line shall be considered detrimental to governmental activities, the grantee shall, from time to time, upon notice to do so, and as often as so notified, remove said line and related facilities to such other location(s) on said land as may be designated by said officer, or reconstruct said facilities underground on said land as may be directed by said officer. Such removals, relocations, and reconstructions shall be at no expense to the United States. In the event said line shall not be removed or relocated within ninety (90) days after any aforesaid notice, the United States may cause the same to be done at the expense of the grantee, provided, however, that if directed to reconstruct its facilities underground the grantee may, at its option, in lieu of taking such

action, wholly remove its facilities from lands of the United States as described herein, at which time the right granted herein shall cease but the restoration obligation set forth in Condition No. 11 hereof shall remain.

10. This easement may be terminated by the Secretary of the Air Force upon a reasonable notice to the grantee if the Secretary of the Air Force determines that the right-of-way interferes with the use or disposal of said land or any part thereof by the United States, or it may be terminated by the Secretary of the Air Force for failure, neglect, or refusal by the grantee fully and promptly to comply with any and all of the conditions of this grant, or for nonuse, or for abandonment.

11. Upon the expiration or termination of this grant, the grantee shall, without expense to the United States, and within such time as the Secretary of the Air Force may indicate, remove the said line from said land and restore the premises to a condition satisfactory to the said officer. In the event the grantee shall fail or refuse to remove the said line and so restore the premises, the United States shall have the option either to take compensation therefore, or to remove the said line and perform the restoration work at the expense of the grantee. In no event shall the grantee have a claim for damages against the United States or its officers or agents, on account of the taking over of said line or on account of its removal.

Sup!
12. The conditions of this instrument shall extend to and be binding upon and shall inure to the benefit of the ~~heirs and representatives of the grantee.~~

Sup!
13. The grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural or other cultural artifacts, relics, vestiges, remains or object of antiquity. In the event such items are discovered on the premises, the grantee shall immediately notify the ~~said officer and the site shall be protected by the grantee from further disturbance until a professional examination of them can be made or until clearance to proceed is authorized.~~

14. It is understood that this instrument is effective only insofar as the rights of the United States in the said property are concerned; and that the grantee shall obtain such permission as may be necessary on account of any other right-of-way hereby granted.

15. This easement is granted subject to all conveyances, restrictions, licenses and easements of record over and across and affecting the area covered by the right-of-way hereby granted.

16. The right-of-way hereby granted shall not occupy more land than is reasonably necessary for such purposes, as determined by the said officer.

17. That the grantee shall comply with all applicable federal laws and regulations of the state, county, and municipality wherein the premises are located.

Sup 1
18. ~~The grantee shall not unlawfully pollute the air, ground, or water, or create a public nuisance. The grantee shall at no cost to the United States promptly comply with present and future federal, state and local laws, ordinances, regulations, or instructions controlling the quality of the environment. The grantee shall obtain, at grantee's expense, any permits or other authorizing documents as may be required for grantee's use or possession of the property. These responsibilities do not affect the grantee's right to contest the validity or applicability of any state or local laws, ordinances, regulations or instructions.~~

19. Grantee shall reimburse, indemnify, hold harmless and defend the grantor against any and all claims, lawsuits, or enforcement actions as to actual or alleged environmental pollution resulting from grantee's use or possession of U.S. Government property. The grantee's obligation to indemnify shall apply to actions brought by private or governmental entities, and shall extend beyond the termination or expiration of the easement.

Sup 1
20. ~~Any notices to said officer shall be addressed, 646th Air Base Wing/CE, Eglin AFB, FL 32542-5000.~~

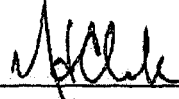
Sup 1
21. That the grantee shall neither transfer nor assign this easement or any part hereof, nor grant any interest or privilege whatsoever in connection with this easement without permission in writing from the ~~646th Air Base Wing/CE.~~

This easement is not subject to Title 10, United States Code, Section 2662.

Sup 1 22. Added

COPY

IN WITNESS WHEREOF I have hereunto set my hand by authority of
the Secretary of the Air Force this 30TH day of SEPTEMBER,
1992.



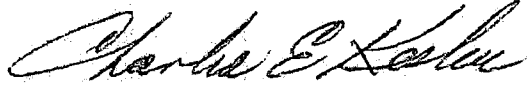
MICHAEL J. CLARK, P.E.

Title DEPUTY BASE CIVIL ENGINEER

ATTEST



The above instrument together with all conditions thereof, is
hereby accepted this 30th day of September,
1992.



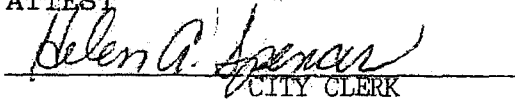
Name CHARLES E. KEELER

CITY MANAGER

Title CITY OF FORT WALTON BEACH
P O BOX 4009

FORT WALTON BEACH, FL 32549
Address

ATTEST



CITY CLERK

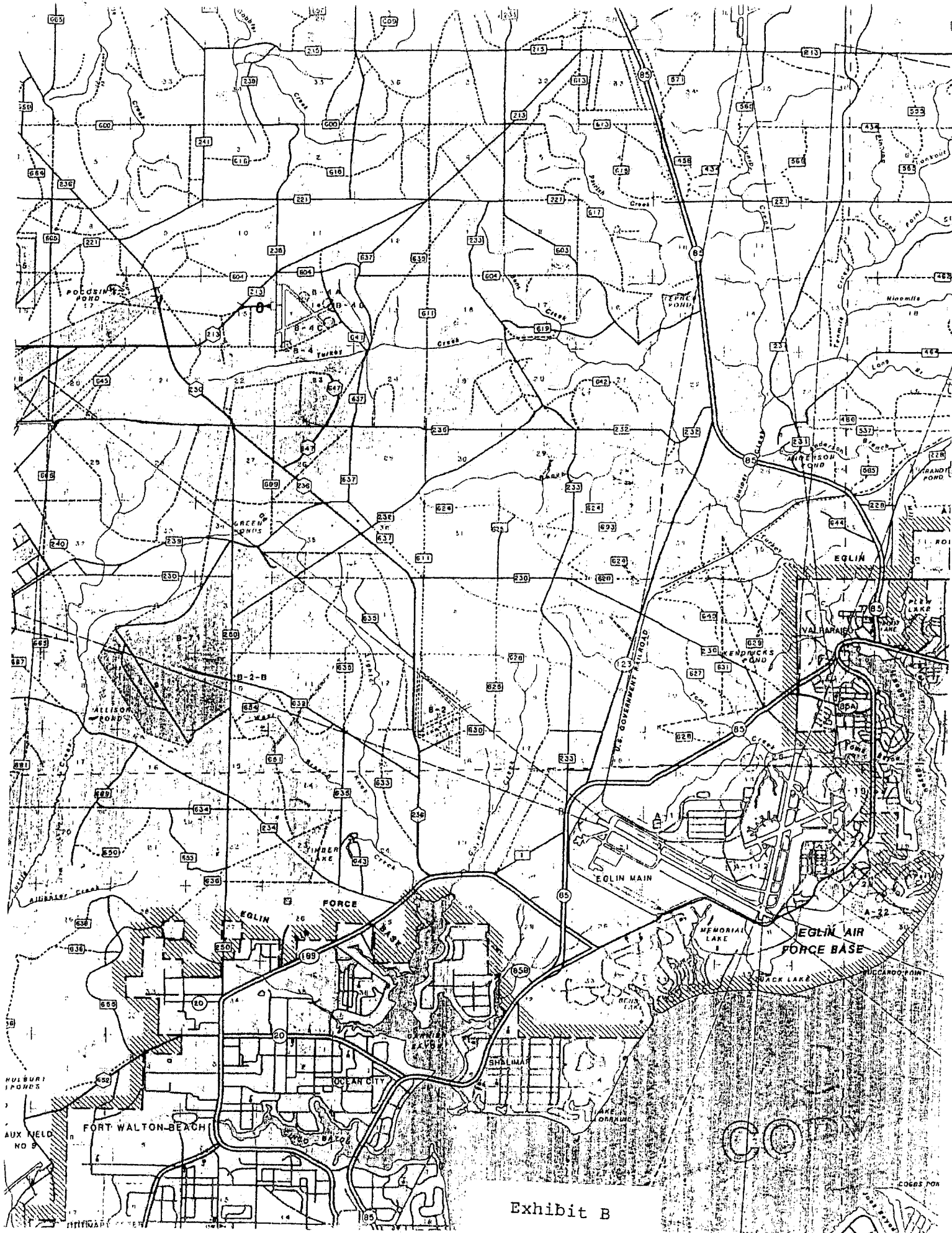


Exhibit B

ORIGINAL

SUPPLEMENTAL AGREEMENT NO. 1
EASEMENT NO. 40/2-93-0009
EGLIN AIR FORCE BASE
FLORIDA

THIS SUPPLEMENTAL AGREEMENT made and entered into between the Secretary of the Air Force, party of the first part, and The City of Fort Walton Beach, Florida, party of the second part, WITNESSETH:

WHEREAS, the party of the first part, hereinafter called the Government, granted the party of the second part, hereinafter called the grantee, a 15 foot wide easement for a right-of-way for construction, operation, repair and maintenance of water pipelines over, across, in and upon certain land of the United States at Eglin Air Force Base, for a period of five (5) years, beginning 30 September, 1992 and ending 29 September, 1997; and

WHEREAS, it has been determined that it is in the interest of both parties to extend the term of the easement for an additional twenty five (25) years and to make certain other changes in identification of parties and procedures set forth in the easement.

NOW THEREFORE, in consideration of the premises, the parties hereto do mutually agree that Easement No. 40/2-93-0009 is amended in the following respects and in the following respects only, effective retroactively to 30 September 1997:

1. Delete that portion of the granting clause that reads "for a period not exceeding five (5) years beginning 30 September 1992 and ending 29 September 1997" and substitute therefor, "for a period not exceeding thirty (30) years beginning 30 September 1992 and ending 29 September 2022."

2. Delete that portion of Condition No. 2 that reads, "through the 646th Air Base Wing/CE (Base Civil Engineer), Eglin AFB, hereinafter designated "said officer" may prescribe. Any reference to the Secretary of the Air Force or Base Civil Engineer shall extend to and include their duly appointed successors and authorized representatives." and substitute therefor, "through the Commander, Air Armament Center, Eglin AFB, hereinafter designated "said officer" may prescribe. Any reference to the Secretary of

COPY

the Air Force or Installation Commander shall extend to and include their duly appointed successors and authorized representatives."

3. Delete that portion of Condition No. 12 that reads "heirs and representatives" and substitute therefor "agents, successors, transferees and assignees."

4. Delete that portion of Condition No. 13 that reads "said officer and the site shall be protected by the grantee from further disturbance until a professional examination of them can be made or until clearance to proceed is authorized" and substitute therefor "Base Historical Preservation Officer at (850) 882-8454 and protect the site and material from further disturbance until said officer gives clearance to proceed."

5. Delete Condition No. 18 in its entirety and substitute therefor "The grantee shall comply with any laws, regulations, conditions or instructions affecting this easement if and when such laws, regulations, conditions or instructions are issued by the Environmental Protection Agency or any federal, state, interstate or local governmental agency. Such regulations, conditions or instructions in effect or prescribed by said Environmental Protection Agency or any federal, state, interstate or local governmental agency are hereby made a condition of this easement. The grantee's protection of the premises shall include, but not be limited to, the following:

a. The grantee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance.

b. The disposal of any toxic or hazardous materials within the premises is specifically prohibited.

c. The use of any pesticides or herbicides within the premises shall be in conformance with all applicable federal, state, interstate and local laws and regulations. The grantee must obtain approval in writing from the Installation Commander, or his designated representative, before any pesticides or herbicides are applied to the premises.

d. The grantee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs arising from the grantee's

activities, the grantee shall be liable to restore the damaged resources."

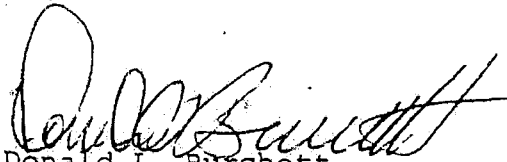
6. Delete Condition No. 20 in its entirety and substitute therefor "All correspondence and notices to be given pursuant to this easement shall be addressed, if to the grantee, to City Manager, City of Fort Walton Beach, P.O. Box 4009, Fort Walton Beach, FL 32549 with copy to Okaloosa County Water and Sewer System, 1804 Lewis Turner Boulevard, Suite 300, Fort Walton Beach, FL 32547, and if to the United States, to the Commander, Air Armament Center, 101 West D Avenue, Suite 116, Eglin AFB Florida 32542-5495. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid, and deposited, postage prepaid, in a post office regularly maintained by the United States Postal Service."

7. Delete that portion of Condition No. 21 which reads "646th Air Base Wing/CE" and substitute therefor "Installation Commander or his designated representative."

8. Add as Condition No. 22 the following language "The grantee shall not discriminate against any person or persons because of race, color, age, sex, handicap, national origin or religion. The grantee, by acceptance of this easement is receiving a type of federal assistance and therefore, hereby gives assurance that it will comply with the provisions of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. Section 6102); the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794); and all requirements imposed by or pursuant to the Directive of the Department of Defense (32 CFR Part 300) issued as Department of Defense Directive 5500.11. This assurance shall be binding on the grantee, its agents, successors, transferees and assigns."

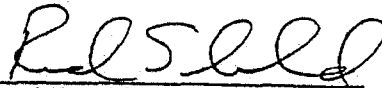
This supplemental agreement is not subject to Title 10, - United States Code, Section 2662.

IN WITNESS WHEREOF, I have hereunto set my hand by authority of the Secretary of the Air force this the 14 day of June, 2000.



Donald L. Burchett
Chief, Real Estate Division
U.S. Army Engineer District, Mobile

THIS SUPPLEMENTAL AGREEMENT is also executed by the lessee this the 8th day of June, 2000.



Reid Silverboard
City Manager
City of Fort Walton Beach
P.O. Box 4009
Fort Walton Beach, FL 32549

Witness: Helen A. Spencer

Witness: Quane Van Den

OPERATING AGREEMENT
BETWEEN
THE DEPARTMENT OF THE AIR FORCE
AND
OKALOOSA COUNTY, FLORIDA

Table of Contents:

1. PURPOSE.....	3
2. GENERAL OBLIGATIONS OF THE PARTIES.....	3
3. TERM	3
4. REPRESENTATIVES.....	4
5. MANAGEMENT REVIEW COMMITTEE (MRC).....	4
6. ACCESS TO LEASED PREMISES.....	5
7. TERMINATION AND MODIFICATION.....	5
8. NOTICES.....	6
9. DISPUTES.....	6

OPERATING AGREEMENT
BETWEEN
THE DEPARTMENT OF THE AIR FORCE
AND
OKALOOSA COUNTY, FLORIDA

This Operating Agreement ("Operating Agreement") is made effective as of this 2nd day of October, 2006, between the Department of the Air Force (the "Government") and Okaloosa County, Florida, (the "Lessee") organized under the laws of the State of Florida. The Government and the Lessee may be referred to jointly as the "Parties" and each separately as a "Party." Any capitalized terms not otherwise defined herein shall have the meaning set forth in the Lease (as defined below).

1.0 PURPOSE

This Operating Agreement implements the terms and conditions of Lease No. AFMC-EG-1-06-001 (the "Lease") entered into on October 2 2006, by the Government and the Lessee for purposes of constructing and operating a Wastewater Treatment Plant (WWTP) on approximately 20 acres and a Rapid Infiltration Basin Effluent Disposal System (RIBS) on the remaining 235.51 acres, more or less on Eglin Air Force Base (AFB). The Operating Agreement, AFMC-EG-1-05-001, between the 96th Air Wing Base Wing and Okaloosa County, is hereby terminated by this agreement.

2.0 GENERAL OBLIGATIONS OF THE PARTIES

2.1. The Lessee shall, at all times, operate and manage the Leased Premises (as defined in the Lease) and the Leased Premises Improvements, according to industry standards and consistent with the requirements of this Operating Agreement, its attachments, and the Lease. The term "Leased Premises Improvements" means the leasehold improvements described in Section 6.1 of the Lease. The Lessee shall operate the project in accordance with the Lease and Design Criteria Package attached to the Lease and made a part of this Operating Agreement as if fully set forth herein.

2.2 The Lessee shall operate and maintain the Leased Premises and the Leased Premises Improvements, at no expense to the Government. The Government shall in no case be responsible for or pay or reimburse the Lessee for costs associated with the operation and maintenance of the Leased Premises, or for any tenant defaults.

2.3 The Lease incorporates this Operating Agreement by reference. In the event of any inconsistency between the provisions of the Lease and those of this Operating Agreement, the provisions of the Lease will govern.

3.0 TERM

This Operating Agreement shall be effective from the date of execution by the Parties and shall terminate upon the expiration or earlier termination of the Lease.

**ESCROW AGREEMENT
FOR
GOVERNMENT LEASE PAYMENT ACCOUNT**

THIS ESCROW AGREEMENT ("Agreement") is made as of the 3rd day of October, 2006, between THE UNITED STATES OF AMERICA acting by and through THE SECRETARY OF THE AIR FORCE (the "Secretary" or the "Government") and Okaloosa County, a County Government created under the laws of the State of Florida ("Okaloosa County" or the "County"), with its principal offices located at 101 East James Lee Boulevard, Crestview, Florida, 32457 ("Lessee") and SunTrust Bank ("Escrow Agent").

RECITALS

A. The Air Force has granted to the County a Lease, No. AFMC-EG-1-06-001, of even date herewith (the "Lease").

B. As part of the consideration for the Lease, the County is to pay the Air Force rent as set forth in the Rent Schedule of the Lease, which amounts the Air Force and the County have agreed to escrow and have disbursed in accordance with the terms and conditions of the Lease and this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Establishment of Escrow; Release of Funds. The County will on October 3rd¹ of each year beginning on October 3, 2007 until October 2, 2036 deliver to the Escrow Agent the sums identified in the Rent Schedule and such funds shall, upon receipt become the "Escrow Funds." At all times during the term of this Agreement, the Escrow Agent shall hold the Escrow Funds in an interest-bearing account ("Escrow Account"), and all interest earned on this Account shall be added to and shall be deemed to be a part of the Escrow Account for all purposes. The Escrow Funds will remain the property of, and be owned solely by, the County. During the term of this Agreement, the County must pledge and grant to the Government a continuing first lien security interest in and to all of the County's right, title, and interest in and to the account, as well as all funds held, or designated for deposit in, the account, whether now owned, existing, or hereafter acquired, and regardless of where located. Upon receipt of written direction by the County and the 96th Civil Engineering Group Commander (the "Commander"), which shall be signed by both parties, the Escrow Agent shall disburse the Escrow Funds to the individuals or entities who have provided in-kind goods or services as identified by the Commander in the amounts specified by the Commander. The County will pay all fees charged by the Escrow Agent in connection with the services provided for in this Agreement.

2. Duties of Escrow Agent. The Escrow Agent shall deliver to the Government, not more than five (5) business days after the 3rd of October of each year, and not more than five (5) business days after receipt of a written request from the Commander, an account balance which summarizes activity in the Escrow Account, which includes the current balance, and deposits and withdrawals. The duties of Escrow Agent under this Agreement are discretionary, and are limited specifically to the duties expressly stated herein. Escrow Agent shall not be responsible

and liable for the sufficiency, correctness, genuineness and validity of any certification, release or other instrument tendered to it hereunder or with respect to the form or execution of the same, or the identity, authority, or rights of any person executing or depositing the same. Escrow Agent shall be protected in acting upon any certification, release, waiver, consent, receipt of other paper or document believed by Escrow Agent to be genuine and to be signed by the proper party or parties. Escrow Agent shall not be liable for any error of judgment or for any act done or steps taken or omitted by it in good faith, or for any mistake of fact or law, or for anything which it may do or refrain from doing in connection herewith, except its own willful misconduct. Escrow Agent may consult with legal counsel in the event of any dispute or question as to the construction of the Escrow Agent's duties hereunder, and the Escrow Agent shall incur no liability and shall be fully protected, in acting in accordance with the opinion and instructions of such counsel. Escrow Agent need not take notice of the provisions of any agreement, documents or contracts other than this Escrow Agreement and the certifications, waivers and other documents to be tendered to it as a condition to any payment out of the Escrow Deposit, or the instructions or demands of any other person or entity, whether written or oral. If the Escrow Agent is uncertain as to its duties or actions hereunder, or receives conflicting instructions or notices from the County and the Air Force, or instructions or notices which, in the reasonable opinion of the Escrow Agent, are in conflict with any of the provisions of this Agreement, the Escrow Agent shall be entitled to take any of the following courses of action: (i) hold the Escrow Funds as provided above in this Agreement and decline to take further action until the Escrow Agent receives joint written direction from the County and the Government or an order of a court of competent jurisdiction directing the disbursement of the Escrow Funds, in which case the Escrow Agent shall then disburse the Escrow Funds in accordance with such direction; (ii) in the event of litigation between the County and the Government, deliver the Escrow Funds and all interest thereon to the clerk of any court in which such litigation is pending; or (iii) deliver the Escrow Funds and all interest thereon to a Federal court of competent jurisdiction in the State of Florida, and commence an action for interpleader in such court.

3. Notices. All notices, communications and statements to be given by the parties under this Agreement will be given, furnished or served by facsimile, by personal delivery, by United States certified mail, postage prepaid, return receipt requested, or by a nationally recognized overnight carrier and addressed to the parties at the following addresses:

Air Force: Air Force Real Property Agency
1700 N. Moore St., Suite 2300
Arlington, VA 22209-2802
FAX: (703) 696-0981
Attn: Director

and 96th Civil Engineering Group
Eglin AFB, FL 32542-5000
Attn: Commander

the County: Okaloosa County Water & Sewer System
1804 Lewis Turner Blvd., Suite 300
Ft. Walton Beach, FL 32547
FAX: (850) 671-7193
Attn: Director

Escrow Agent: SunTrust Bank
225 East Robinson Street Ste 250
Orlando, FL 32801
FAX: 407-237-4240
Attn: Gloria Reyes

All notices, communications or statements under this Agreement shall be deemed as having been received at the time that the same shall have been personally delivered with evidence of receipt, three (3) business days after the same shall have been deposited in the United States mail as provided in this Section, one (1) business day after delivery by an overnight carrier, or one (1) business day after the date of transmission by facsimile if there is evidence of receipt prior to 5 p.m. on a regular business day, or if there is evidence of receipt after 5 p.m. on a regular business day or evidence of receipt on any day other than a regular business day, then the faxed notice shall be deemed as having been received two (2) business days following transmission by facsimile. Should the address of any party for the purposes herein change, such party shall give written notice to the others of the new address.

4. Waiver. Any waiver by any party hereto of any breach of any term or condition of this Agreement shall not operate as a waiver of any other breach of such term or condition or of any other term or condition, nor shall any failure to enforce such provision hereof operate as waiver of such provision or of any other provision hereof, nor constitute nor be deemed a waiver or release of any other party for anything arising out of, connected with or based upon this Agreement.

5. Successors and Assigns. No party hereto may assign, transfer, pledge, hypothecate or otherwise dispose of this Agreement, or any interest herein without the prior written consent of the other parties. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their permitted successors and assigns.


6. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto and supersedes any and all prior or contemporaneous written or oral agreements between the parties hereto with respect to the subject matter hereof. This Agreement may be executed in any number of counterparts with the same effect as if the parties hereto had signed the same document. All counterparts will be construed together and shall constitute one agreement.

7. Severability. In the event that any provision of this Agreement violates any applicable statute, ordinance or rule of law, such provision shall be ineffective to the extent of such violation without invalidating any other provision herein.

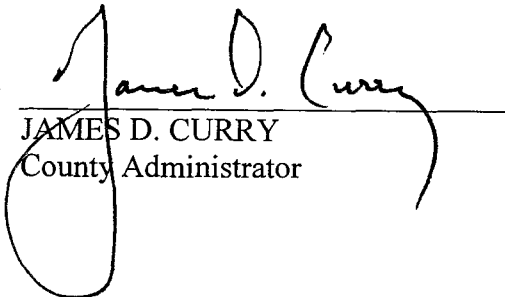
8. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the United States.

THIS ESCROW AGREEMENT is executed and delivered as of the date first above written.

THE UNITED STATES OF AMERICA,
by the Secretary of the Air Force

By: 
KATHRYN M. HALVORSON
Director
Air Force Real Property Agency

OKALOOSA COUNTY,

By: 
JAMES D. CURRY
County Administrator

SUNTRUST BANK,

By: _____
Printed Name: Gloria Reyes
Title: Assistant Vice President