



# ONEIDA COUNTY BOARD OF LEGISLATORS

ONEIDA COUNTY OFFICE BUILDING ♦ 800 PARK AVENUE ♦ UTICA, N.Y. 13501-2977

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Susan L. Crabtree  
Clerk  
(315) 798-5901

James M. D'Onofrio  
Majority Leader

Michael J. Hennessy  
Minority Leader

## COMMUNICATIONS FOR DISTRIBUTION NOVEMBER 12, 2008 (Correspondence relating to upcoming legislation, appointments, petitions, etc)

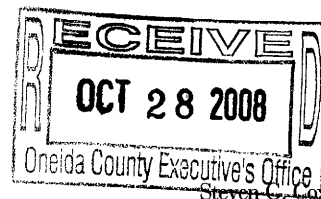
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ONEIDA COUNTY  
OFFICE OF THE DISTRICT ATTORNEY

Scott D. McNamara  
District Attorney

Michael A. Coluzza  
First Assistant

Kurt D. Hameline  
Timothy P. Fitzgerald  
Dawn Catera Lupi  
Laurie Lisi  
Paul J. Hernon  
Matthew P. Worth  
Joseph A. Saba  
Grant J. Garramone



Steven C. Cox  
Stacey L. Paolozzi  
Bernard L. Hyman Jr.  
Carla V. DiMarco  
Douglas M. DeMarche' Jr.  
Todd C. Carville  
Robert L. Bauer  
Michael R. Nolan  
Kurt D. Schultz  
Kara E. Wilson

October 23, 2008

7N2008-475

The Honorable Anthony J. Picente, Jr.  
Oneida County Executive  
800 Park Avenue  
Utica, New York 13501

**PUBLIC SAFETY**

**WAYS & MEANS**

Dear Mr. Picente:

By this letter, I am requesting your approval as well as that of the Board of Legislators for the following supplemental appropriation from the forfeiture cost center to purchase weapon holsters for the Yorkville Police Department:

TO:

A1162.295 Other Equipment \$1,500

This supplemental appropriation will be fully supported by forfeiture funds that are already on deposit.

A1207 Law Enforcement, Approp. F.B. Year Forfeitures \$1,500

At your earliest convenience, please submit this request to the Board of Legislators for their approval.

If you have any questions or concerns, please contact me.

Thank you for your time and assistance in this matter.

Very truly yours,

Scott D. McNamara  
Oneida County District Attorney

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ONEIDA COUNTY LEGISLATURE

2008 OCT 31 AM 10:53

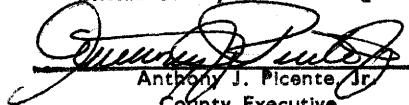
se

2.

The Honorable Anthony J. Picente, Jr.  
October 23, 2008  
Page Two

cc: Hon. Gerald Fiorini, Chairman  
Hon. James D'Onofrio, Majority Leader  
Hon. Michael Hennessy, Minority Leader  
Hon. Les Porter, Chairman, Ways & Means Comm.  
Hon. Brian Miller, Chairman, Public Safety  
Thomas Keeler, Budget Director

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by

  
\_\_\_\_\_  
Anthony J. Picente, Jr.  
County Executive

Date 10/29/08

3.

# Oneida County Department of Public Works

ANTHONY J. PICENTE JR.  
County Executive

JOHN J. WILLIAMS  
Commissioner

6000 Airport Road  
Oriskany, New York 13424  
Phone:(315) 793-6200  
Fax: (315) 768-6299

DIVISIONS:  
Buildings & Grounds  
Engineering  
Highways, Bridges & Structures  
Reforestation

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ONEIDA COUNTY LEGISLATURE  
2008 NOV -4 AM 10:28

October 16, 2008

7N2008-476

**PUBLIC WORKS**

**WAYS & MEANS**

Anthony J. Picente, Jr.  
Oneida County Executive  
800 Park Ave.  
Utica, NY 13501

Dear County Executive Picente,

Oneida County currently leases approximately 15,000 square feet of office space in downtown Rome at 228 Liberty Plaza for various DSS, OFA, and Health Department offices. The lease agreement for this space will expire on November 30, 2008.

The Department of Public Works is currently evaluating the existing leased space, the County's current and future needs, the County's operations in Rome, and the possibility of alternate sites for leased space. This is a time consuming process that will not be completed by the above mentioned lease termination date.

Therefore, I recommend execution of the enclosed amendment to the current lease that would provide a one (1) year extension with the same terms and conditions set forth in the original lease agreement and subsequent amendments. The total cost would be \$174,912.00 (approximately 50% Federal Aid, 20% State Aid, 25% County) which is included in the proposed 2009 Budget.

A one (1) year extension would provide the time required to perform a proper evaluation as noted above and engage the Oneida County Board of Legislators as required if it is determined that the existing lease agreement should be modified or if alternate sites should be evaluated in detail.

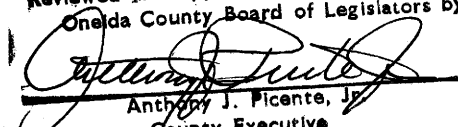
If you agree, please forward the enclosed Extension and Amendment of Lease Agreement to the Oneida County Board of Legislators for consideration with presentation to the Board on or before November 26, 2008.

Thank you for your support.

Sincerely,



John J. Williams  
Commissioner of Public Works

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by  
  
Anthony J. Picente, Jr.  
County Executive  
Date 10/31/08

cc: Mark E. Laramie, P.E., Deputy Commissioner

4.

Oneida County Department: Public Works

Competing Proposal \_\_\_\_\_  
Only Respondent \_\_\_\_\_  
Sole Source RFP \_\_\_\_\_

## Oneida County Board of Legislators Contract Summary

Name of Proposing Organization: Downtown Rome Properties, Inc.  
245 Oxford Road, New Hartford, NY 13413

Title of Activity or Service: **Extension and Amendment of Lease Agreement**

Client Population/Number to be Served: N/A

Summary Statements:

1) Narrative Description of Proposed Services:

**One (1) year extension of Lease Agreement for office space in downtown Rome at 228 Liberty Plaza. All terms and conditions of original lease and subsequent amendments remain in effect.**

2) Program/Service Objectives and Outcomes:

N/A

3) Program Design and Staffing Level:

N/A

Total Funding Requested: **\$174,912.00**

Oneida County Department Funding Recommendation: **\$174,912.00** Account # **A1620.417**

Proposed Funding Source: Federal +/-50% State +/-25% County +/-25%

Cost Per Client Served: N/A

Past Performance Data: N/A

Oneida County Department Staff Comments

5.

## EXTENSION AND AMENDMENT OF LEASE AGREEMENT

**THIS EXTENSION and AMENDMENT OF LEASE AGREEMENT** entered into this \_\_\_ day of December, 2008, by and between the **COUNTY OF ONEIDA**, with offices located at 800 Park Avenue, Utica, New York, 13501, hereinafter referred to as "**Tenant**" and **DOWNTOWN ROME PROPERTIES, INC.**, with offices located at 245 Oxford Road, New Hartford, New York, 13413, hereinafter referred to as "**Landlord**".

### WITNESSETH

WHEREAS, the Landlord and the Tenant entered into a lease agreement dated January 15, 1987, ("Original Lease") which lease was subsequently amended in 1991, 1994, 1998 and 2004, and

WHEREAS, the parties now wish to make a limited extension of the term of the lease agreement

NOW THEREFORE, in consideration of the premises, the Landlord and Tenant agree as follows:

1. The term of this agreement as set forth in the Original Lease and all amendments thereto shall be and is extended for a period of one (1) year commencing on December 1, 2008 and ending on November 30, 2009 unless further extended or terminated by the parties in accordance with the Original Lease and all amendments thereto.
2. As a point of clarification, Paragraph 5 of the Second Amendment to Lease dated October 28, 1998, excludes from the Landlord's obligation to maintain and repair the premises those conditions which may arise from the negligent or intentional acts of the Tenant, its agents, employees or invitees. The parties acknowledge and agree that the janitorial service provided by the Landlord shall occur only after normal working hours and that any janitorial service required during the Tenant's normal business hours shall be the responsibility of the Tenant. This provision in no way relieves the Landlord from its responsibility to maintain the sidewalks adjacent to the leased premises and to keep same free of snow as provided in Paragraph b (2) of the Second Amendment to Lease.

3. In the event that the Tenant County purchases, lease-purchases, rehabilitates or constructs any County space adequate to house the offices and functions that currently occupy the demised premises under the terms of the Original Lease and any amendment thereto, the Tenant may give the Landlord one hundred and eighty (180) days written notice of termination of this lease agreement and, in such event, this lease shall terminate on the expiration date of such notice.
4. In all other respects, the terms and conditions set forth in the Original Lease and all amendments to the Lease, which have not been amended herein, shall remain in full force and effect.

IN WITNESS WHEREOF, THE Landlord and Tenant have executed this Extension and Amendment of Lease Agreement on the day and year first above written.

Landlord-Downtown Rome Properties, Inc.

Tenant-County of Oneida

by: Bruce Fow  
Name: BRUCE FOW  
Title: VP

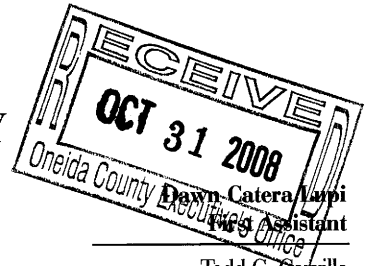
by: \_\_\_\_\_  
Anthony J. Picente, Jr.  
County Executive

Approved as to form only

\_\_\_\_\_  
Oneida County Attorney

ONEIDA COUNTY  
OFFICE OF THE DISTRICT ATTORNEY

Scott D. McNamara  
District Attorney



Michael A. Coluzza  
First Assistant

Kurt D. Hameline  
Timothy P. Fitzgerald  
Laurie Lisi  
Paul J. Hernon  
Matthew P. Worth  
Joseph A. Saba  
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Bernard L. Hyman, Jr.

Dayn Catera/Lupi  
First Assistant  
Todd C. Carville  
Robert L. Bauer  
Michael R. Nolan  
Kurt D. Schultz  
Kara E. Wilson  
John J. Raspante  
Joshua L. Bauer  
Patrick F. Scully  
Christopher D. Hameline

October 23, 2008

7N2008-477  
**PUBLIC SAFETY**

The Honorable Anthony J. Picente, Jr.  
Oneida County Executive  
800 Park Avenue  
Utica, New York 13501

**WAYS & MEANS**

Dear Mr. Picente:

The Drug Task Force is in need of new desks, and chairs, along with the replacement of outdated computer equipment.

In addition, I am requesting to purchase one (1) used vehicle to assist in drug and gang investigations.

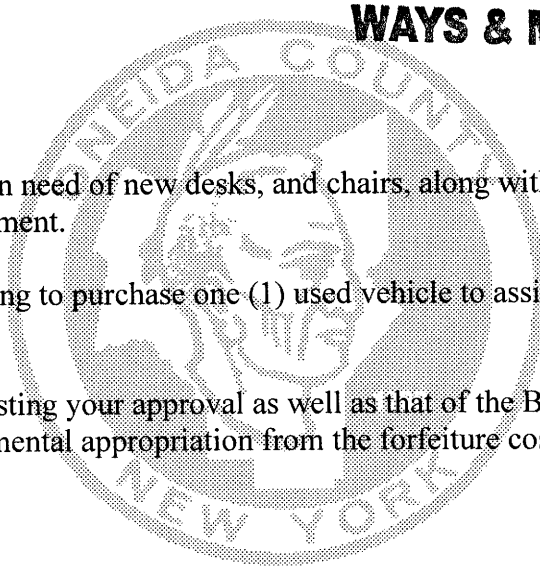
By this letter, I am requesting your approval as well as that of the Board of Legislators for the following supplemental appropriation from the forfeiture cost center to cover said costs:

TO:  
A3430.295 \$10,000.00

This supplemental appropriation will be fully supported by forfeiture funds that are already on deposit.

A2678 Task Force, Federal Seizures \$10,000.00

At your earliest convenience, please submit this request to the Board of Legislators for their approval.



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ONEIDA COUNTY LEGISLATURE  
2008 NOV -4 AM 10:33

8.

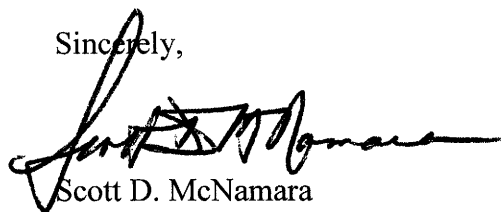


The Honorable Anthony J. Picente, Jr.  
October 23, 2008  
Page Two

If you have any questions or concerns, please contact me.

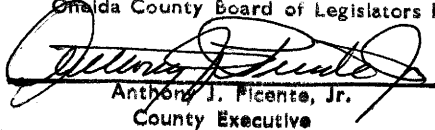
Thank you for your time and assistance in this matter.

Sincerely,



Scott D. McNamara  
Oneida County District Attorney

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by



Anthony J. Picente, Jr.  
County Executive

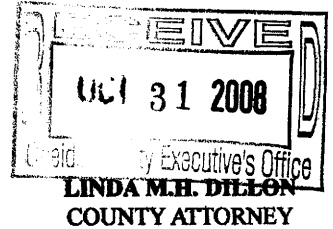
Date 10/31/08

9.



**ONEIDA COUNTY DEPARTMENT OF LAW**

Oneida County Office Building  
800 Park Avenue ♦ Utica, New York 13501-2975  
(315) 798-5910 ♦ fax (315) 798-5603



**ANTHONY J. PICENTE JR.**  
COUNTY EXECUTIVE

October 31, 2008

*7N 2008-478*

**COURTS, LAWS & RULES**

Anthony J. Picente, Jr.,  
Oneida County Executive  
800 Park Avenue  
Utica, NY 13501

**WAYS & MEANS**

Dear County Executive Picente,

Additional expenses were incurred by the Law Department in Account #A1420.1951, Other Fees & Services, to cover the cost in the conduct of arbitration hearings and in paying for transcription services necessitating a transfer of \$12,000 to satisfy end of year obligations.

I respectfully request that the following transfer of funds be forwarded to the Board of Legislators for action.

FROM:	
A1930.1951, Judgments & Claims	\$12,000
TO:	
AA#A1420.1951, Other Fees & Services	\$12,000

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2008 NOV -4 AM 10: 26

Thank you for your consideration.

Respectfully submitted,

LINDA M.H. DILLON  
County Attorney

cc: Thomas Keeler, Budget Director

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by

Anthony J. Picente, Jr.  
County Executive

Date 10/31/08

Anthony J. Picente Jr.  
County Executive



Lucille A. Soldato  
Commissioner

**ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES**  
County Office Building, 800 Park Avenue, Utica, NY 13501  
Phone (315) 798-5733 Fax (315) 798-5218

October 13, 2008

*7/12008-479*

Honorable Anthony J. Picente Jr.  
Oneida County Executive  
800 Park Avenue  
Utica, New York 13501

**HUMAN RESOURCES  
WAYS & MEANS**

Dear Mr. Picente:

I am submitting the following Purchase of Services Agreement for review and approval by the Board of Legislators per Board Resolutions and Local Law #3 of 2001, amending Article VIII, Section 802 of the Administrative Code.

This is a request to renew Purchase of Services Agreement for United Cerebral Palsy Center Day Care 1020 Mary Street, Utica, New York which we have contracted with since 1992. This center provides safe Day Care Services at (6) sites for children 6 weeks to 12 years.

The Department pays for the care of children from eligible families. This resource helps to ensure safe care of children while their families participate in training and/or employment.

The term of the Agreement is December 1, 2008 through November 30, 2009. The rates for Day Care are the "Market Rates" determined by New York State Office of Children and Family Services.

The total paid to the United Cerebral Palsy Center for Day Care Services for September 19, 2007 through September 18, 2008 was \$ 149,884 with a local share of 3.2% or \$ 4,796.

I am respectfully requesting that this matter be forwarded to the Board of Legislators for action as soon as possible. Thank you for your consideration.

Sincerely,

Lucille A. Soldato  
Commissioner

LAS/tms  
attachment

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2008 NOV -6 AM 10:37

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by  
  
Anthony J. Picente, Jr.  
County Executive  
Date 11/5/08 11.

10/13/08  
# 23102

**Oneida Co. Department Social Services**

**Competing Proposal \_\_\_\_\_**  
**Only Respondent \_\_\_\_\_**  
**Sole Source RFP \_\_\_\_\_**

**Oneida County Board of Legislators**  
**Contract Summary**

**Name of Proposing Organization:** United Cerebral Palsy Center  
1020 Mary Street  
Utica, New York 13501

**Title of Activity or Services:** Day Care Services

**Proposed Dates of Operations:** 12/1/2008 - 11/30/2009

**Client Population/Number to be Served:** Licensed for a total of 423 Children 6 weeks to 12 years.

**SUMMARY STATEMENTS**

**1). Narrative Description of Proposed Services**

Day Care Services are located at:

New Discoveries Day Care Center  
1601 Armory Drive  
Utica, New York 13501

New Discoveries Day Care Center  
Rainbow Day Care Center  
10708 N. Gage Road  
Barneveld, New York 13304

New Discoveries Day Care Center  
326 Catherine Street  
Utica, New York 13501

New Discoveries Day Care Center  
130 Brookley Road  
Rome, New York 13441

New Discoveries Day Care Center  
75 Chenango Avenue  
Clinton, New York 13323

New Discoveries Day Care Center  
3390 Brooks Lane  
Chadwicks, New York 13319

**2). Program/Service Objectives and Outcomes**

To provide safe quality day care services to eligible low income employed families or public assistance recipients involved in approved educational, vocational job search or work experience activities.

**3). Program Design and Staffing Level -**

12.

**Total Funding Requested:** New York State Market Rates.

**Oneida County Dept. Funding Recommendation:** Account # A6055.495

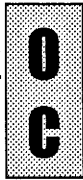
**Proposed Funding Source (Federal \$ /State \$ / County \$):**

<b>Federal</b>	75.0 %	\$ 112,413
<b>State</b>	21.8 %	\$ 32,675
<b>County</b>	3.2 %	\$ 4,796

**Cost Per Client Served:** Paid a total of \$ 149,884 for the period 9/19/07-9/18/08. The Department had an average of (29) children per month.

**Past performance Served:** The department has held an agreement with United Cerebral Palsy since 1992.

**O.C. Department Staff Comments:** The Department contracts with a number of providers to insure the availability of services.

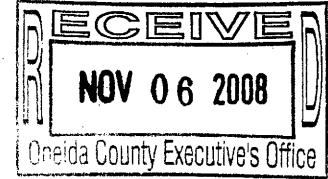


November 6, 2008

7N2008-480

Anthony J. Picente, Jr.  
County Executive  
Oneida County  
800 Park Avenue  
Utica, New York 13501

EDUCATION, YOUTH & AGRICULTURE  
**WAYS & MEANS**



Dear County Executive:

In reviewing the Students in Other Community Colleges cost center it is estimated there will be a shortfall for the year of approximately \$69,000. This is a result of more students opting to attend other community colleges instead of attending Mohawk Valley Community College and increases in the tuition reimbursements throughout New York State.

It is also necessary to transfer funds to cover anticipated shortfalls in various accounts due to the increased number of students attending other Community Colleges above the originally budgeted increased amount. Fortunately, there appears to be funds available in a contingency account which will not be used in its entirety.

I therefore request your Board approval for the following 2008 fund transfer:

TO:

AA# A2490.4941- Students in Other Community Colleges, All Other C.C. ....	\$ 29,000.
AA# A2490.4943 - Students in Other Community Colleges, Onondaga C.C. ....	12,000.
AA# A2490.4944 - Students in Other Community Colleges, Fashion Institute Tech. ....	<u>28,000.</u>
Total:	\$ 69,000.

FROM:

AA# A1992.9- Budget – Special Items – Contingency, Salaries .....	\$ 69,000.
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Respectfully submitted,

Thomas B. Keeler  
Budget Director

Attach.

Cc: County Attorney  
Comptroller  
Budget Director

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
NOV 10 7 AM '08

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by

  
Anthony J. Picente, Jr.  
County Executive

Date 11/6/08

14.

## Revenue / Appropriation Analysis Report

Reporting for all funds, selected departments, for dates from 01/01/08 to 12/31/08 for fiscal year 2008

Department : 2490 - Budget - Students in Other Comm Colleges

## Appropriation Analysis

Account	Description	Budget	Expenditures	Outstanding	Unencumbered	Percentages		
		Amount		Encumbrances	Balance	Used	Remaining	
A2490.4941	All Other Community Colleges	\$224,479.00	\$252,088.87				112.30	-12.30
A2490.4942	Herkimer County Community College	\$852,975.00	\$844,981.99		\$7,993.01		99.06	0.94
A2490.4943	Onondaga Community College	\$130,356.00	\$140,776.49				107.99	-7.99
A2490.4944	Fashion Institute Technology	\$87,463.00	\$114,939.90				131.42	-31.42
	A2490.4:	\$1,295,273.00	\$1,352,787.25	\$0.00	(\$57,514.25)		104.44	-4.44
	Total:	\$1,295,273.00	\$1,352,787.25	\$0.00	(\$57,514.25)			

15.

End of report



# ONEIDA COUNTY BOARD OF LEGISLATORS

ONEIDA COUNTY OFFICE BUILDING • 800 PARK AVENUE • UTICA, N.Y. 13501-2977

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Susan L. Crabtree  
Clerk  
(315) 798-5901

James M. D'Onofrio  
Majority Leader

Michael J. Hennessy  
Minority Leader

*7N2008-481*

November 10, 2008

## INTERNAL AFFAIRS

Oneida County  
Board of Legislators  
800 Park Avenue  
Utica, New York 13501

## COURTS, LAWS & RULES

## WAYS & MEANS

Honorable Members:

Please find a proposed Local Law from Sandra J. DePerno regarding an increase in fees for the recording of instruments in the Office of the County Clerk.

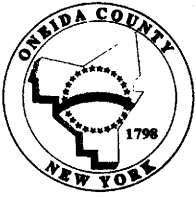
I hereby submit the aforementioned to the appropriate committees and request that it be considered by the full Board of Legislators at the meeting of **December 10, 2008**.

Respectfully submitted,

Gerald J. Fiorini  
Chairman of the Board

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2008 NOV 10 AM 10:19





COUNTY OF ONEIDA  
**OFFICE OF THE COUNTY EXECUTIVE**

**ANTHONY J. PICENTE JR.**

County Executive  
ce@ocgov.net

ONEIDA COUNTY OFFICE BUILDING  
800 PARK AVENUE  
UTICA, NEW YORK 13501  
(315) 798-5800  
FAX: (315) 798-2390  
www.ocgov.net

November 10, 2008

Board of Legislators  
Oneida County  
800 Park Avenue  
Utica, New York, 13501

RE: Certificate of Necessity-Local Law Providing for Enhanced Personal Privacy Protection for Documents in the Office of the County Clerk and Authorizing an Increase in Fees Collected for Recording, Entering, Indexing and Endorsing a Certificate on any Instrument

Honorable Members:

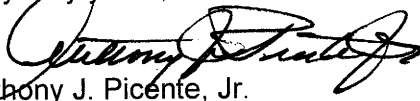
The above referenced legislation has been submitted to you by Sandra J. DePerno, Oneida County Clerk, for enactment before the end of this year.

It is important that this legislation be passed as soon as possible so that County Clerk's revenue projections included in the 2009 budget, may be realized as soon as we enter the 2009 fiscal year. Towards that end and in accordance with Section 20(4) of the Municipal Home Rule Law, I certify to the necessity of the immediate passage of this local law.

I ask that this local law be enacted at the **December 10, 2008** meeting of the Board of Legislators in 2008.

Thank you for the Board's kind attention to this matter.

Very truly yours,

  
Anthony J. Picente, Jr.  
Oneida County Executive

Cc: Hon. Sandra J. DePerno

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2008 NOV 10 AM 9:54

17.

Sandra J. DePerno  
County Clerk

Diane B. Abraham  
1st Deputy Clerk



Deputy County Clerks  
Gary Artessa  
Nancy Gelfuso  
Brenda Breen  
Patricia Ferrone  
Lynarda J. Girmonde  
Mary Bowee

## CLERK OF ONEIDA COUNTY

County Office Building ♦ 800 Park Avenue ♦ Utica, New York 13501

Phone: (315) 798-5790 ♦ Fax: (315) 798-6440

November 6, 2008

Hon. Gerald J. Fiorini  
Chairman  
Board of Legislators  
Oneida County  
800 Park Avenue  
Utica, New York, 13501

RE: Local Law-Recording Fee Increase-County Clerk's Office

Dear Mr. Fiorini:

I enclose herewith a draft of the above referenced local law which has been prepared by the County Law Department.

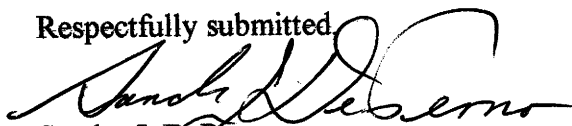
This law, if enacted, will provide enhanced personal privacy protections for documents placed on record with the office of the Oneida County Clerk. The law also increases the fees collected for indexing and endorsing a certificate on any instrument.

Info Quick Solutions performed an analysis for my department using the recordings entered from July, 2007 through July, 2008. Based on same, we estimate that the enactment of this local law will increase revenue by approximately \$834,000.

As this additional revenue is included in the 2009 budget estimates, I ask that this local law be presented to the Board of Legislators, along with a message of necessity submitted by the County Executive pursuant to Section 20(4) of the Municipal Home Rule Law and that the law be passed no later than the **last regular Board session of December, 2008.**

Thank for the Board's kind attention to this request.

Respectfully submitted,

  
Sandra J. DePerno  
Oneida County Clerk

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2008 NOV - 7 AM 8:50

# **ONEIDA COUNTY BOARD OF LEGISLATORS**

## **RESOLUTION NO.**

**INTRODUCED BY: Mrs. Mandryck, Mr. Waterman, Mr. Porter  
2ND BY:**

### **LOCAL LAW INTRODUCTORY “ ” OF 2008**

#### **LOCAL LAW NO. OF 2008**

**RE: LOCAL LAW INTRODUCTORY “ ” OF 2008 PROVIDING FOR ENHANCED PERSONAL PRIVACY PROTECTION FOR DOCUMENTS IN THE OFFICE OF THE COUNTY CLERK AND AUTHORIZING AN INCREASE IN FEES COLLECTED FOR RECORDING, ENTERING, INDEXING AND ENDORSING A CERTIFICATE ON ANY INSTRUMENT**

Legislative Intent: This local law is intended to provide for enhanced personal privacy protection for documents recorded in the office of the county clerk and to authorize an increase in fees collected by the county clerk for recording, entering, indexing and endorsing a certificate on any instrument.

BE IT ENACTED by the Board of County Legislators of the County of Oneida, State of New York, as follows:

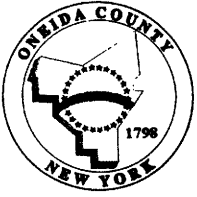
1. In accordance with subparagraph (2) of paragraph 4 of subdivision (a) of section 8021 of the New York State Civil Practice Laws and Rules, as amended by Chapter 78 of the Laws of 1989, the Oneida County Board of Legislators authorizes the Oneida County Clerk to increase the fees charged for certain documents recorded in the county clerk's office.
2. For recording, entering, indexing or endorsing a certificate on any instrument, the fee is increased from five dollars to twenty dollars and, in addition thereto, is increased from three dollars to five dollars for each page or portion thereof. For the purpose of determining the appropriate recording fee, the fee for any cover page shall be deemed an additional page of the instrument.
3. A cover page shall not include any social security account number or date of birth. To the extent that the Oneida County Clerk has placed an image of such cover page online, the county clerk shall make a good faith effort to redact such information.
4. If any section, subsection, sentence, clause, phrase or other portion of this local law is for any reason declared invalid or unconstitutional, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such invalidity or unconstitutionality shall not affect the validity of the remaining portions of this local law which remaining portions shall remain in full force and effect.
5. The cover page filing fee set forth in paragraph 3 of Local Law No. 5 of 1996 shall be and is superseded by paragraph 2 of this local law as of the effective date hereof.
6. This local law shall take effect on January 1, 2009.

APPROVED: Courts, Laws and Rules Committee ( )  
Ways & Means Committee ( )

DATED:

Adopted by the following roll call vote:

AYES \_\_\_ NAYS \_\_\_ ABSENT \_\_\_



COUNTY OF ONEIDA  
**OFFICE OF THE COUNTY EXECUTIVE**

**ANTHONY J. PICENTE JR.**

County Executive  
ce@ocgov.net

ONEIDA COUNTY OFFICE BUILDING  
800 PARK AVENUE  
UTICA, NEW YORK 13501  
(315) 798-5800  
FAX: (315) 798-2390  
www.ocgov.net

7N2008-482

**ECONOMIC DEVELOPMENT  
& TOURISM**

**COURTS, LAWS & RULES**

**WAYS & MEANS**

November 10, 2008

Board of Legislators  
Oneida County  
800 Park Avenue  
Utica, New York, 13501

RE: Local Law Extending the Hotel Occupancy Tax in Oneida County

Honorable Members:

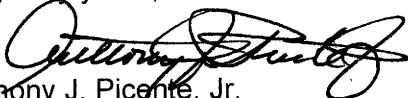
The above referenced legislation is attached herewith for immediate enactment.

It is important that this legislation be passed as soon as possible so that hotel occupancy revenue, included in the 2009 budget, may continue to be collected for the next three fiscal years. Towards that end and, in accordance with Section 20(4) of the Municipal Home Rule Law, I certify to the necessity of the immediate passage of this local law.

I ask that this local law be enacted at the **December 10, 2008** meeting of the Board of Legislators in 2008.

Thank you for the Board's kind attention to this matter.

Very truly yours,

  
Anthony J. Picente, Jr.  
Oneida County Executive

Cc: Hon. Sandra J. DePerno

2008 NOV 10 AM 9:54  
RECEIVED  
ONEIDA COUNTY LEGISLATURE

21.

# ONEIDA COUNTY BOARD OF LEGISLATORS

## RESOLUTION NO.

INTRODUCED BY: Messrs. Damsky, Waterman, Porter  
2ND BY:

### LOCAL LAW INTRODUCTORY “ ” OF 2008

#### LOCAL LAW NO. OF 2008

**RE: LOCAL LAW INTRODUCTORY “ ” OF 2008 EXTENDING THE HOTEL OCCUPANCY TAX CURRENTLY IMPOSED BY LOCAL LAW NO. 5 OF 2005 PURSUANT TO CHAPTER 644 OF THE LAWS OF 1984, AS AMENDED**

Legislative Intent: The intent of this Local Law is to extend the Oneida County Hotel Occupancy Tax, the purpose of such tax being to promote Oneida County, its cities, towns and villages in order to increase convention, trade show and tourist business in the County.

BE IT ENACTED by the Board of County Legislators of the County of Oneida, State of New York, as follows:

1. Section 24 of Local law No. 3 of 1993, as previously amended by Local Law No. 5 of 2005, is hereby amended to read as follows:
  24. This Local Law shall remain in full force and effect only through December 31, 2011.

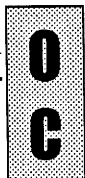
This Local Law shall take effect on January 1, 2009.

APPROVED: Economic Development & Tourism Committee ( )  
                  Courts, Laws and Rules Committee ( )  
                  Ways & Means Committee ( )

DATED:

Adopted by the following roll call vote:  
AYES \_\_\_ NAYS \_\_\_ ABSENT \_\_\_

*22.*



*JN2008-483*

November 10, 2008

**COURTS, LAWS & RULES**

Board of Legislators  
Oneida County  
800 Park Avenue  
Utica, New York, 13501

**WAYS & MEANS**

RE: Local Law Repealing Local Law No. 2 of 1983-Sharing of OTB Revenue

Honorable Members:

During the 2008 Ways and Means deliberations on the 2009 Oneida County Budget, one of proposals made was that the Board of Legislators repeal the 1983 enactment by which the County shared OTB revenues with the municipalities.

I attach herewith the draft repeal enactment for the Board's review and approval.

Very truly yours,

Thomas B. Keeler  
Budget Director

Cc: Hon. Anthony J. Picente, Jr.

w/attach

2008 NOV 10 AM 10:01  
RECEIVED  
ONEIDA COUNTY LEGISLATURE

*23*







# ONEIDA COUNTY BOARD OF LEGISLATORS

ONEIDA COUNTY OFFICE BUILDING • 800 PARK AVENUE • UTICA, N.Y. 13501-2977

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Susan L. Crabtree  
Clerk  
(315) 798-5901

James M. D'Onofrio  
Majority Leader

Michael J. Hennessy  
Minority Leader

November 10, 2008

*7N2008-484*

**PUBLIC SAFETY**

**COURTS, LAWS & RULES**

**WAYS & MEANS**

Board of Legislators  
800 Park Ave  
Utica, NY 13501

Honorable Members:

I am forwarding for Board action the attached proposed Local Law submitted by Legislator Welsh that would prohibit text messaging while driving.

Thank you for your consideration.

Sincerely,

Gerald J. Fiorini  
Chairman

*AS.*



# ONEIDA COUNTY BOARD OF LEGISLATORS

*Edward P. Welsh ♦ PO Box 8015 ♦ Utica, NY 13505-8015 ♦ 941-6036*

November 7, 2008

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2008 NOV 10 AM 11:21

Chairman Gerald J. Fiorini  
Board of Legislators  
800 Park Ave.  
Utica, NY 13501

Dear Chairman Fiorini,

Oneida County, under your leadership was a catalyst in New York State's ban on cell phone usage while driving. Statistics have proven that this ban has saved lives through improved traffic safety. For all of the good this legislation provided to the traveling public, it failed to address text messaging or emailing while driving. I am concerned that with improved technology and the emergence of PDA's, this form of communication maybe more distracting and dangerous than talking on the phone while driving.

I fully understand that this legislation would only prohibit text messaging and emailing while driving in Oneida County, and could lead to a patchwork of laws throughout the State of New York, but I believe this is a necessary move to force the State of New York to take action. This law will help reduce unnecessary fatalities, and will improve traffic safety in Oneida County.

Therefore, I respectfully request that the Oneida County Department of Law draft a local law aimed at banning text messaging and emailing while driving to be voted on by the Board of Legislators. I also request that the maximum penalty be instituted as provided by law. This is too important of a public safety issue to ignore.

Thank you in advance for your consideration.

Sincerely,

Edward Welsh  
Oneida County Legislator

Cc: County Attorney

26.

**INTRODUCTORY**

**No.**

**F.N.**

**ONEIDA COUNTY BOARD OF LEGISLATORS**

**RESOLUTION NO.**

**INTRODUCED BY:**

**2ND BY:**

**LOCAL LAW INTRODUCTORY " " OF 2008**

**LOCAL LAW NO. OF 2008**

**A LOCAL LAW IN RELATION TO PROHIBITING TEXT MESSAGING WHILE DRIVING WITHIN THE COUNTY OF ONEIDA**

Legislative Intent: The Board of Legislators finds that the popularity of text messaging has created a distraction for drivers, especially young drivers, and has led to accidents, many of them fatal, nationwide. Text messaging while driving may decrease driver awareness and safety on the roads and affect reaction time and attention to surrounding environments and the roadways. In order to protect the health, safety and well being of persons within the County of Oneida and to ensure that individuals are not distracted while driving, this local law seeks to prohibit text messaging while driving.

BE IT ENACTED by the Board of County Legislators of the County of Oneida, State of New York, as follows:

1. Definitions.

As used in this local law, the following terms shall have the meanings indicated:

- a. "Authorized Emergency Vehicle" shall mean every ambulance, police vehicle or bicycle, correction vehicle, fire vehicle, civil defense emergency vehicle, emergency ambulance service vehicle and environmental emergency response vehicle.
- b. "Text Message", also referred to as "Short Messaging Service" (SMS), shall mean the process by which users send or receive messages on wireless handsets. For the purposes of this local law, an e-mail shall also be considered a "text message".

- c. "Use" or "using" shall mean holding a wireless handset while operating a motor vehicle on any public street or public highway within this county and activating, deactivating or initiating functions or keys on a wireless handset in order to send or receive text messages on a wireless handset.
- d. "Voice recognition" shall mean the capability by which wireless handsets can be activated and controlled by voice commands.
- e. "Wireless handset" shall mean a portable computing device, including cellular telephones, handheld mobile telephones and personal digital assistants capable of transmitting data in the form of e-mail or text message.

2. Prohibition.

No person shall use a wireless handset to compose or send a text message while operating a motor vehicle on any public street or public highway within the County of Oneida; provided, however, that the operator of an authorized emergency vehicle, when using such wireless handset in furtherance of his or her sworn duties, shall be exempt from the provisions of this title. This prohibition shall not apply to text messages composed via any voice recognition technology.

3. Enforcement.

This local law shall be enforced by the Oneida County Sheriff's Department and sworn officers, as defined in Section 1,20(34) of the New York State Criminal Procedure Law, of an authorized police department or police force of a city, town or village within the geographic boundaries of Oneida County. This local law may be enforced anywhere within the geographic boundaries of Oneida County.

4. Penalties.

Any violation of section two of this local law shall constitute an offense and shall be punishable by a fine not to exceed one hundred and fifty dollars for each violation. Each such violation shall constitute a separate and distinct offense.

5. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or

unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence paragraph, subdivision, section or part of this local law or in its application thereof to the person, individual, corporation, firm, partnership, entity or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

6. This local law shall become effective sixty days after it shall have become a law.

APPROVED: Courts, Laws and Rules Committee ( )  
Ways & Means Committee ( )

DATED:

Adopted by the following roll call vote:  
AYES\_\_\_NAYS\_\_\_ABSENT\_\_\_



# ONEIDA COUNTY BOARD OF LEGISLATORS

ONEIDA COUNTY OFFICE BUILDING • 800 PARK AVENUE • UTICA, N.Y. 13501-2977

Gerald J. Fiorini  
Chairman  
(315) 798-5900

Susan L. Crabtree  
Clerk  
(315) 798-5901

James M. D'Onofrio  
Majority Leader

Michael J. Hennessy  
Minority Leader

*7N2008-485*

## WAYS & MEANS

November 10, 2008

Board of Legislators  
County of Oneida  
800 Park Avenue  
Utica, New York 13501

Honorable Members:

The second regularly scheduled meeting in December of the Oneida County Board of Legislators falls on December 24, 2008, the day before Christmas. I would respectfully recommend that we reschedule the meeting to convene on Tuesday, December 30, 2008 at 2:00 PM with Ways & Means at 11:00 AM on said date.

I hereby refer this matter to the Ways & Means Committee and the full Board for consideration at the meeting of November 26, 2008.

Respectfully submitted,

Gerald J. Fiorini, Chairman  
Oneida County Board of Legislators

GJF:pp

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
2008 NOV 10 PM 12:14

**ONEIDA COUNTY BOARD OF LEGISLATORS**

**RESOLUTION NO.**

**INTRODUCED BY: Mr. Porter  
2ND BY:**

**RE: RESOLUTION RESCHEDULING THE SECOND DECEMBER MEETING OF THE  
WAYS & MEANS COMMITTEE AND THE BOARD OF LEGISLATORS MEETING TO  
TUESDAY, DECEMBER 30, 2008**

**WHEREAS,** The regularly scheduled meeting of the Oneida County Board of Legislators for December 24, 2008 coincides with the Christmas Holiday and it is, therefore, the recommendation of Chairman Gerald J. Fiorini, that the Board of Legislators reschedule its meeting to convene on Tuesday, December 30, 2008 at 2:00 PM with Ways & Means at 11:00 AM on said date, now, therefore, be it hereby

**RESOLVED,** That the regularly scheduled meeting of the Oneida County Board of Legislators for December 24, 2008 is hereby rescheduled to convene on Tuesday, December 30, 2008 at 2:00 PM with the Ways & Means Committee meeting at 11:00 AM on said date.

APPROVED: Ways & Means Committee ( )

DATED: November 26, 2008

Adopted by the following v.v. vote:  
AYES:    NAYS:    ABSENT:

# ONEIDA COUNTY HEALTH DEPARTMENT

Adirondack Bank Building, 5<sup>th</sup> Floor, 185 Genesee St., Utica, NY 13501

ANTHONY J. PICENTE, JR.  
ONEIDA COUNTY EXECUTIVE

NICHOLAS A. DEROSA  
DIRECTOR OF HEALTH

## ADMINISTRATION

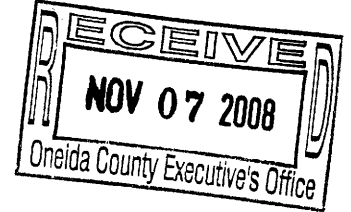
Phone: (315) 798-6400 Fax: (315) 266-6138



**Public Health**  
Prevent. Promote. Protect.

November 5, 2008

7N 2008-486



Anthony J. Picente Jr., County Executive  
Oneida County Office Building  
800 Park Avenue  
Utica, New York 13501

## PUBLIC HEALTH WAYS & MEANS

Dear Mr. Picente:

The Health Department's *Division of Community Wellness* provides Physical, Occupational and Speech Therapies; Medical Social Worker and Special Instruction Services to the Early Intervention Program for children birth through three. Due to the increased in client visits we will required additional funds into the account that support these contractual services.

To accommodate this increase we are requesting the following supplemental appropriation for the **2008** fiscal year.

To: A4021.19511 – Individual Therapies..... \$27,000

This appropriation will be supported by revenue in A1635 – Reimbursement – From EI to Community Wellness for \$27,000.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Nicholas A. DeRosa  
Director of Public Health

Cc: T. Keeler, Director of Budget

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by

Anthony J. Picente, Jr.  
County Executive

Date 11/7/08

2008 NOV 11 AM 11:30  
ONEIDA COUNTY BOARD OF LEGISLATURE



**ONEIDA COUNTY DEPARTMENT OF HEALTH**

**Date: 11-05-08**

**ONEIDA COUNTY BOARD OF LEGISLATORS**

**APPROPRIATION / SUMMARY**

**Appropriation X**  
**Transfer**  
**Fiscal Year 2008**

**1.) Appropriation or Transfer Description –**

**Cost Center: Public Health-Community Wellness / 4021**

**To: Individual Therapies.....\$27,000**

**2.) Activity or Service –**

**Contracts with individual therapists to provide Physical, Occupational and Speech Therapies; Medical Social Worker and Special Instruction Services to the Early Intervention Program**

**3.) Client population to be served –**

**Children age three or younger with disabilities or developmental delays that are enrolled in the county administered Early Intervention Program.**

**Explanation of Appropriation /Transfer –**

**There has been and increase in the number of services (client visits) provide by contractual therapists to children in the EI program. During the month of July and August we have experience a 40% increase in the number of visits provided. If this trend continues we will lack the funds need to support these services. In our 2008 budget we anticipate 2,784 visits to be provided, we now are projecting this number to increase to 3,107 or a 12% increase.**

**5.) Funding Source –**

**We can support this appropriation by reimbursement provided to the Community Wellness Division at \$70.00 per visit**

**Oneida County Department Staff Comments**

# Oneida County Department of Aviation

## Griffiss International Airport (KRME)

592 Hangar Road, Suite 200

Rome, New York 13441

Phone: (315) 736-4171 Fax: (315) 736-0568

airport@ocgov.net

ANTHONY J. PICENTE, JR.  
County Executive

VACANT  
Commissioner

RECEIVED  
ONEIDA COUNTY LEGISLATURE  
NOV 10 AM 11:30

October 31, 2008

FN 2008-487

AIRPORT

Anthony J. Picente, Jr.  
Oneida County Executive  
800 Park Ave.  
Utica, NY 13501

### WAYS & MEANS

Dear County Executive Picente,

The Board of Acquisition of Acquisition and Contract approved on June 27, 2007 an agreement with C&S Engineers for the *design* of the Runway 15-33 Navigational Aids (NAVAIDS) project. Subsequently, the Board of Legislator provided their approval ( F.N. 2007-257, Res. No. 269).

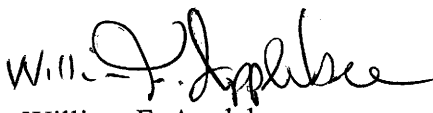
The Federal Aviation Administration has now provided a *construction* grant and the Department of Aviation is submitting for approval a Cost plus Fixed Fee Consultant Agreement with C&S Engineers, Inc., for the *Construction Observation and Administration* of the Runway 15-33 NAVAIDS Project. Their maximum amount payable under this agreement is \$335,000.00. (Construction cost is \$4,173,830.45, Bid Ref. No. 1318). An independent fee estimate has been performed by McFarland Johnson, Inc. and C&S Engineers' fee is determined reasonable. The County Board of Acquisition and Contract approval was received September 10, 2008.

FAA and the Oneida County Board of Legislators (F.N.2006-350, Res. No. 318) have approved C&S Engineers, Inc. as Oneida County's designated Airport Consultant for a term ending September 31, 2009.

The Department of Aviation recommends acceptance of the agreement from C&S Engineers for \$335,000.00 to provide Construction Observation & Administration Services associated with the Runway 15-33 NAVAIDS Project. Funding is provided through an FAA Airport Improvement Program grant at 95% Federal (\$318,250) and 2.5% State (\$8,375) participation with 2.5% local (\$8,375) match. Capital Account H-339 is established to accomplish this project.

Please consider the enclosed agreement with C&S Engineers and if acceptable present to the Oneida County Board of Legislators for approval. Should you have any question, please contact me. Thank you.

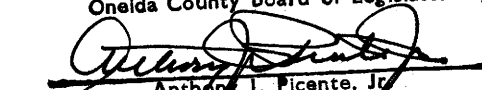
Sincerely,



William F. Applebee  
Assistant Engineer

RBS:wfa  
Attach.

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by



Anthony J. Picente, Jr.  
County Executive

Date 11/7/08

35.

Oneida County Department: Aviation

Competing Proposal \_\_\_\_\_  
Only Respondent \_\_\_\_\_  
Sole Source RFP \_\_\_\_\_

## Oneida County Board of Legislators Contract Summary

Name of Proposing Organization: C&S Engineers  
Title of Activity or Service: **Professional Consulting Services**  
Client Population/Number to be Served: N/A

Summary Statements:

1) Narrative Description of Proposed Services:  
**Provide Professional Construction Observation & Administration Services for the construction of Runway 15-33 Navigational Aids project.**

2) Program/Service Objectives and Outcomes:  
**Redevelopment of Griffiss Airfield for aviation and economic development purposes.**

3) Program Design and Staffing Level:  
N/A

Total Funding Requested: **\$335,000.00**

Oneida County Department Funding Recommendation: **\$335,000.00** Account # **H-339**

Proposed Funding Source: Federal \$318,250 State \$8,375 County \$8,375

Cost Per Client Served: N/A

Past Performance Data: N/A

Oneida County Department Staff Comments: Approved by Acquisition & Contract 9/10/08.

**COST PLUS FIXED FEE**

**CONSULTANT AGREEMENT**

**FOR**

**CONSTRUCTION OBSERVATION & ADMINISTRATION**

**OF THE**

**RUNWAY 15-33 NAVAIDS PROJECT**

**AT**

**GRIFFISS AIRFIELD**

**ONEIDA COUNTY, NEW YORK**

**FAA AIP NO. 3-36-0119-\_\_-08**

**NYS DOT NO. \_\_\_\_\_**

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**COST PLUS FIXED FEE CONSULTANT AGREEMENT  
FOR  
CONSTRUCTION OBSERVATION & ADMINISTRATION**

**PROJECT: Runway 15-33 NAVAIDS  
Griffiss Airfield**

This Agreement, made effective this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, is by and between the County of Oneida, a New York municipal corporation, having an address at 800 Park Avenue, Utica, New York 13501 (hereinafter referred to as the "SPONSOR"), and C&S Engineers, Inc., a New York business corporation having its principal offices at 499 Col. Eileen Collins Boulevard, Syracuse, New York 13212 (hereinafter referred to as the "CONSULTANT").

**WITNESSETH:** That the SPONSOR and the CONSULTANT, for and in consideration of the mutual obligations set forth herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, agree as follows:

**ARTICLE 1—DESCRIPTION OF SERVICES TO BE PERFORMED**

The SPONSOR hereby retains the CONSULTANT because of its ability and reputation, and the CONSULTANT accepts such retention, to perform for the SPONSOR the services of the Project more particularly described in Schedule "A", which is attached hereto and made a part hereof (the "Basic Services"). The SPONSOR's resolution or other authorization for retaining the CONSULTANT is attached hereto and made a part hereof as Schedule "E". The SPONSOR has completed, a "Certification for Selection of Consultant" in connection with the execution of this Agreement, a copy of which is attached hereto and made a part hereof as Schedule "D".

**ARTICLE 2—PROVISION FOR PAYMENT – TIME FOR PERFORMANCE**

**A. Basis for Payment—**The SPONSOR shall pay the CONSULTANT, and the CONSULTANT shall accept, as full compensation for the performance by the CONSULTANT of the Basic Services under this Agreement, the following:

**Item I:** Direct Technical Salaries of all employees assigned to the Project on a full-time basis for all or part of the term of this Agreement, plus properly allocable partial salaries of all employees working part-time on the Project, all subject to audit. Overtime in accordance with the terms of this Agreement shall be charged under this Item.

The cost of Principals' salaries (or allowable portion thereof) included in Direct Technical Salaries during the period that they are working specifically on the Project (productive time) are eligible if their comparable time is also charged directly to other projects in the same manner. Otherwise, Principals' salaries are only eligible as an overhead cost.

**Item II—**Actual Direct Nonsalary Costs incurred during the term of this Agreement, as defined in Schedule "B", which is attached hereto and made a part hereof, all subject to audit.

**Item III—**Overhead Allowance based on agreed upon overhead during the term of this Agreement, as set forth in Schedule "C", which is attached hereto and made a part hereof.

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**Item IV—Fixed Fee**—A negotiated lump sum fee, which in this Agreement shall equal \$40,120.00. This Fixed Fee is not subject to audit, and is not subject to review or modification unless the SPONSOR determines that such review or modification is justifiable and advisable.

A summary of the monies due the CONSULTANT under Items I, II, III, and IV is set forth in Schedule “B”.

**Item V**—In the event of any claims being made or actions being brought against the Project, the CONSULTANT agrees to render assistance to the SPONSOR in responding to the claim or action. Such assistance, and the costs associated therewith, shall be an Additional Service as described in Article 11 hereof.

- B. Partial Payments**—The CONSULTANT shall be paid in monthly progress payments based on actual allowable costs incurred during the month in accordance with Section “A” of this Article. Monthly invoices shall clearly identify the costs of the services performed. A percentage of the Fixed Fee described in Section “A”, Item IV, of this Article shall be paid with each monthly progress payment. The percentage to be used in calculating the monthly payment under Section “A”, Item IV, shall equal the ratio of the costs expended during the billing period to the maximum amount payable (exclusive of Fixed Fee) allocated to fulfill the terms of this Agreement as established herein.

Accounts of the CONSULTANT shall clearly identify the costs of the services performed under this Agreement and may be subject to periodic and final audit by the SPONSOR, the New York State Department of Transportation (NYSDOT), and the Federal Aviation Administration (FAA). Such an audit shall not be a condition for making partial payments.

- C. Final Payment**—Payment of the final invoice shall be made upon completion and acceptance of the Project by the SPONSOR, the NYSDOT, and the FAA.

The maximum amount payable under this Agreement, including the CONSULTANT’s fixed fee, shall be \$335,000.00, unless there is a substantial change in the scope, complexity, character, or duration\* of the Basic Services.

\*Duration is applicable to construction observation only.

Execution of this Agreement by the SPONSOR and the CONSULTANT constitutes the SPONSOR’s written authorization to the CONSULTANT to proceed as of the above-written date with the performance of Basic Services as set forth in Schedule “A”. The estimated time for completion of the Basic Services under this Agreement, subject to the provisions of the following paragraph and of Articles 12, 13 and 23 hereof, shall be as recorded in Schedule “A”.

If the SPONSOR fails to make any payment due the CONSULTANT for services and expenses within forty-five (45) days after receipt of the CONSULTANT’s invoice therefor, then the amounts due the CONSULTANT shall be increased at the rate of 1.5% per month from said forty-fifth (45<sup>th</sup>) day. Payments will be credited first to principal and then to interest. Additionally, the CONSULTANT may, after giving seven (7) days’ notice to the SPONSOR, suspend services under this Agreement until the invoice is paid. Upon payment in full by the SPONSOR, the CONSULTANT shall resume performance or furnishing of services under this Agreement, and the time schedule set forth in Schedule “A” and compensation set forth in Schedule “B” hereto shall be equitably adjusted to compensate for the period of suspension.



### **ARTICLE 3—STANDARD OF CARE, STANDARD PRACTICES, AND REQUIREMENTS**

The standard of care for all engineering and related services performed or furnished by the CONSULTANT under this Agreement shall be the care and skill ordinarily used by members of the CONSULTANT's profession practicing under similar conditions at the same time and in the same locality. Before beginning to perform or furnish any service hereunder, the CONSULTANT shall ascertain the standard practices of the SPONSOR, the New York State Department of Transportation (the "NYSDOT"), and the Federal Aviation Administration (the "FAA"), if any, for projects of a type similar to this Project. Where the CONSULTANT deems it practicable to do so, the services to be provided or furnished under this Agreement shall be performed in accordance with these standard practices as long as they are consistent with the standard of care. If any of these standard practices are inconsistent with the CONSULTANT's standard of care or are in conflict with one another, or if strict adherence to the same is impossible or undesirable, then the CONSULTANT's services may vary or deviate from such standards.

### **ARTICLE 4—ENTIRE AGREEMENT**

This Agreement, with its accompanying Schedule or Schedules, constitutes the entire agreement between the SPONSOR and the CONSULTANT with respect to its subject matter, and supersedes any prior agreement, whether written or verbal, with respect to that subject matter. This Agreement may be amended or modified only by written instrument signed by the SPONSOR and the CONSULTANT.

### **ARTICLE 5—TAXES, ROYALTIES, AND EXPENSES**

The CONSULTANT shall pay all taxes, royalties, and expenses incurred by the CONSULTANT in connection with performing its services under this Agreement, unless otherwise provided in Article 2.

### **ARTICLE 6—CONSULTANT LIABILITY**

To the fullest extent permitted by law, the CONSULTANT shall indemnify the SPONSOR against, and hold it harmless from, any suit, action, actual damage, and cost resulting solely from the negligent performance of services or omission of the CONSULTANT under this Agreement, up to the limits of any available insurance. Negligent performance of services, within the meaning of this Article, shall include, in addition to negligence founded upon tort, negligence based upon the CONSULTANT's failure to meet professional standards and resulting in obvious or patent errors in the services performed hereunder.

Nothing in this Article or in this Agreement shall create or give to third parties any claim or right of action against the CONSULTANT or the SPONSOR beyond such as may legally exist irrespective of this Article or this Agreement.

### **ARTICLE 7—LABOR LAW REQUIREMENTS**

The CONSULTANT, and any subconsultant or subcontractor retained by it in connection with the performance or furnishing of services under this Agreement, shall comply with the requirements of state or federal statutes, regulations, or orders applicable to the employment of employees, as set forth in Schedules "H" and "I", which are attached hereto and made a part hereof.

The SPONSOR recognizes that the CONSULTANT will be required by the New York State Department of Labor (the "NYSDOL") to compensate its personnel performing field survey work in accordance with applicable

state wage rates in effect at the same time services are performed. The SPONSOR understands that the CONSULTANT has no control over these labor rates and their periodic increases. Therefore, the SPONSOR agrees to compensate the CONSULTANT for field survey services included as a part of this Agreement in accordance with the NYSDOL Prevailing Rate Schedule, which is incorporated by reference into this Agreement. Furthermore, the SPONSOR shall compensate the CONSULTANT for all increases in labor costs, including applicable overhead and profit, when those increases occur by direction of the NYSDOL. Billings for, and payments by the SPONSOR of, these increases will take place routinely in accordance with the appropriate terms of this Agreement and these increases will be paid as an additional cost over and above the agreed amount.

#### **ARTICLE 8—NONDISCRIMINATION PROVISIONS**

During the performance of its services under this Agreement, the CONSULTANT, and any subconsultant, subcontractor, or vendor retained by it, shall comply with the nondiscrimination requirements set forth in Schedules "H" and "I" hereto, as applicable to this Project.

The CONSULTANT will include the provisions of Schedules "H" and "I" in every subconsultant agreement, subcontract, or purchase order in such a manner that such provisions will be binding upon each subconsultant, subcontractor, or vendor as to operations to be performed within the State of New York. The CONSULTANT will take such action in enforcing such provisions of such subconsultant agreement, subcontract, or purchase order as the SPONSOR may direct, including sanctions or remedies for non-compliance. If the CONSULTANT becomes involved in or is threatened with litigation by a subconsultant, subcontractor, or vendor as a result of such direction by the SPONSOR, the CONSULTANT shall promptly so notify the SPONSOR's legal counsel, requesting such counsel to intervene and protect the interests of the SPONSOR.

#### **ARTICLE 9—WORKER'S COMPENSATION AND LIABILITY INSURANCE**

The CONSULTANT agrees to procure and maintain at its own expense, and without direct expense to the SPONSOR, until final acceptance by the SPONSOR of the services covered by this Agreement, insurance of the kinds and in the amounts hereafter provided, written by insurance companies authorized to do business in the State of New York. Before commencing the performance of services hereunder, the CONSULTANT shall furnish the SPONSOR a certificate or certificates, in form satisfactory to the SPONSOR, showing that it has complied with this Article, which certificate or certificates shall provide that the policies shall not be changed or canceled until thirty (30) days' written notice has been given to the SPONSOR. The kinds and amounts of insurance required are as follows:

- A. Policy or policies covering the obligations of the CONSULTANT in accordance with the provisions of any applicable worker's compensation or disability benefits law, including for the State of New York Chapter 41, Laws of 1914, as amended, known as the Workers' Compensation Law, and amendments thereto, and Chapter 600 of the Laws of 1949, as amended, known as the Disability Benefits Law, and this Agreement shall be void and of no effect unless the CONSULTANT procures such policy or policies and maintains the same in force during the term of this Agreement.
- B. Policy or policies of commercial general liability insurance, with broad form endorsement covering, among other things, the CONSULTANT's obligation under Article 6 hereof, with limits of liability of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injury, including death at any time resulting therefrom sustained by one (1) person in any one (1) accident; and, subject to that limit for each person; not less than Three Million Dollars (\$3,000,000) for all damages arising out of bodily injury, including death at any time resulting therefrom, sustained by two (2) or more persons in any one (1) accident; and not less than One Million Dollars (\$1,000,000) for all damages arising out of injury to or destruction of property in any one (1) accident, and, subject to that limit per

accident, not less than Three Million Dollars (\$3,000,000) for all damages arising out of injury to or destruction of property during the policy period.

1. Liability insurance issued to and covering the liability of the CONSULTANT's subconsultants and subcontractors, having the same policy limits as those set forth above, with respect to all services or work performed by said subconsultants or subcontractors under this Agreement.
2. Protective liability insurance issued to and covering the liability of the CONSULTANT with respect to all services under this Agreement performed for the CONSULTANT by subconsultants or subcontractors.
3. Professional liability insurance issued to and covering the liability of the CONSULTANT with respect to all professional services performed by it under this Agreement.

The SPONSOR, the NYSDOT, and the FAA shall be named as additional insureds, as their interests may appear, under the insurance coverages described in Paragraph B above, except for the coverage described in Subparagraph (3), which coverages shall be subject to all of the terms, exclusions, and conditions of the applicable policy.

#### **ARTICLE 10—ASSIGNMENT REQUIREMENTS**

The CONSULTANT specifically agrees that:

- A. It is prohibited from assigning, transferring, conveying, subletting, or otherwise disposing of this Agreement or of its right, title, or interest herein, or its power to execute this Agreement, to any other person, company, or corporation without the previous consent in writing of the SPONSOR, the Commissioner of the NYSDOT, and the FAA.
- B. If this provision of the Agreement is violated, the SPONSOR may terminate this Agreement for cause in accordance with the provisions of Article 12. Furthermore, the SPONSOR shall be relieved from any liability and obligation hereunder to the person, company, or corporation to whom the CONSULTANT shall assign, transfer, convey, sublet, or otherwise dispose of this Agreement in violation of the foregoing paragraph (A), and such transferee shall forfeit and lose all monies assigned to it under this Agreement, except so much as may be required to pay its employees.

#### **ARTICLE 11—ADDITIONAL SERVICES**

If authorized in writing by the SPONSOR through a Supplemental Agreement, the CONSULTANT shall furnish or obtain from others any service that is beyond the scope of Schedule "A" ("Additional Services"). The scope and time for performance of, and payment from the SPONSOR to the CONSULTANT for, any Additional Services (which shall be on the basis set forth in Schedule "B") shall be set forth in such Supplemental Agreement.

43.

## ARTICLE 12—ABANDONMENT OR AMENDMENT OF PROJECT AND TERMINATION

A. ABANDONMENT OR AMENDMENT OF THE PROJECT—The SPONSOR shall have the absolute right to abandon or to amend its Project or to change the general basis of performance at any time, and such action on its part shall in no event be deemed a breach of this Agreement. If the SPONSOR amends its Project or changes the general basis thereof, and the CONSULTANT is of the opinion that Additional Services are made necessary thereby, then provisions of Article 11 of this Agreement with respect to Additional Services shall apply. If the Sponsor abandons the Project, then the provisions of Paragraph B(1)(b) below shall govern payment to the CONSULTANT.

### B. TERMINATION

The obligation to provide further services under this Agreement may be terminated:

#### 1. For Cause:

- a. By either party upon thirty (30) days' prior written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement through no fault of the terminating party. Notwithstanding the foregoing, this Agreement will not terminate as the result of such substantial failure if the party receiving notice begins, within seven (7) days after receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within thirty (30) days of such receipt; provided that, if and to the extent that such substantial failure cannot reasonably be cured within such thirty (30) day period, and if the party has diligently attempted to cure the failure and thereafter continues diligently to cure the problem, then the cure period may, in the discretion of the terminating party, be extended to sixty (60) days after the receipt of notice.
- b. By the CONSULTANT upon seven (7) days' written notice if (a) the CONSULTANT believes that it is being requested by the SPONSOR to perform or furnish services contrary to or in conflict with the CONSULTANT's responsibilities as a licensed design professional or the standard of care set forth in Article 3 hereof; or (b) the CONSULTANT's services are delayed or suspended for more than ninety (90) days, consecutively or in the aggregate, for reasons beyond the CONSULTANT's control; or (c) the SPONSOR has abandoned, or is considered to have abandoned, the Project.

#### 2. For convenience by the SPONSOR, effective upon the receipt of notice by the CONSULTANT.

### C. PAYMENTS UPON TERMINATION

#### 1. For Cause:

- a. By the SPONSOR: If the SPONSOR terminates this Agreement for cause upon completion of any phase of Basic Services, then progress payments due the CONSULTANT in accordance with this Agreement for all such services performed by or furnished through the CONSULTANT and its subconsultants, subcontractors, and vendors through the completion of such phase shall constitute total payment for such services. If the SPONSOR terminates this Agreement for cause during any phase of Basic Services, the CONSULTANT will also be paid for such services performed or furnished in accordance with this Agreement by the CONSULTANT during that phase through the date of termination on the basis specified in Schedule "B". The CONSULTANT will also be paid for the charges of its subconsultants, subcontractors, or vendors who performed or furnished Basic Services to the extent that such services have been performed or furnished in accordance with this Agreement through the effective date of the termination. The SPONSOR shall also pay the CONSULTANT for all unpaid Additional Services and unpaid Reimbursable Expenses.
- b. By the CONSULTANT: If the CONSULTANT terminates this Agreement for cause upon completion of any phase of Basic Services, then progress payments due the CONSULTANT in

accordance with this Agreement for all such services performed or furnished by the CONSULTANT and its subconsultants, subcontractors, or vendors through the completion of such phase shall constitute total payment for such services. The CONSULTANT shall also be paid for all unpaid Additional Services and unpaid Reimbursable Expenses, as well as for the CONSULTANT's reasonable expenses directly attributable to termination in accordance with the rates for Additional Services set forth in Schedule "B" measured from the date of termination, including fair and reasonable sums for overhead and profit and the costs of terminating the CONSULTANT's contracts with its subconsultants, subcontractors, or vendors.

## 2. For convenience

- a. If the SPONSOR terminates this Agreement for convenience upon completion of any phase of Basic Services, then progress payments due the CONSULTANT in accordance with this Agreement for all such services performed by or furnished through the CONSULTANT through the completion of such phase shall constitute total payment for such services. If the SPONSOR terminates this Agreement for convenience during any phase of Basic Services, the CONSULTANT will also be paid for such services performed or furnished in accordance with this Agreement by the CONSULTANT during that phase through the date of termination on the basis specified in Schedule "B". Additionally, the CONSULTANT will be paid for the charges of its subconsultants, subcontractors, or vendors who performed or furnished Basic Services through the effective date of termination. The SPONSOR shall also pay the CONSULTANT for all unpaid Additional Services and unpaid Reimbursable Expenses, as well as for the CONSULTANT's reasonable expenses directly attributable to termination in accordance with the rates for Additional Services set forth in Schedule "B" measured from the date of termination, including fair and reasonable sums for overhead and profit and the costs of terminating the CONSULTANT's contracts with its subconsultants, subcontractors, or vendors.

## ARTICLE 13—SUSPENSION OF SERVICES

If the CONSULTANT's services hereunder are delayed or suspended, in whole or in part, by the SPONSOR for more than thirty (30) calendar days, consecutively or in the aggregate, through no fault of the CONSULTANT, then the CONSULTANT shall be entitled to equitable adjustments of rates and amounts of compensation to reflect, among other things, reasonable costs incurred by the CONSULTANT in connection with the delay or suspension and reactivation and the fact that the time for performance of the CONSULTANT's services hereunder has been revised. If the delay or suspension persists for more than ninety (90) days, consecutive or in the aggregate, then the CONSULTANT may consider the Project to have been abandoned by the SPONSOR and may terminate this Agreement for cause.

Upon the SPONSOR's resumption of its Project, and if the CONSULTANT has not terminated this Agreement for cause, the CONSULTANT shall resume its services under this Agreement until the services are completed and accepted, subject to any adjustment in the rates set forth in Schedule "B" because of the passage of time.

## ARTICLE 14—INTERCHANGE OF DATA

During the performance of this Agreement, all technical data in regard to the Project whether (a) existing in the office of the SPONSOR or (b) existing in the office of the CONSULTANT, shall be made available to the other party to this Agreement without expense to such other party.

## **ARTICLE 15—DISPOSITION OF PROJECT DOCUMENTS**

At the time of completion of its services and upon payment in full therefor, the CONSULTANT shall make available to the SPONSOR copies of documents prepared as the result of this Agreement. These documents shall then become the property of the SPONSOR and the maintenance of the data therein shall be the sole responsibility of the SPONSOR. Any reuse of the documents by the SPONSOR or others on extensions of the Project, or on any other project, without written verification or adaptation by the CONSULTANT and its subconsultants, subcontractors, or vendors, as appropriate, for the specific purpose intended will be at the SPONSOR's sole risk and expense and without liability or legal exposure to the CONSULTANT or its subconsultants, subcontractors, or vendors. The SPONSOR shall indemnify the CONSULTANT, its subconsultants, subcontractors, and vendors against, and hold them harmless from, all claims, damages, losses, and expenses (including reasonable expert and attorney's fees) arising out of or resulting from such reuse.

In the event that this Agreement is terminated for any reason, then within ten (10) days after such termination, the CONSULTANT shall make available to the SPONSOR all data and material prepared under this Agreement, including cover sheets, in accordance with and subject to the terms of the above paragraphs.

## **ARTICLE 16—CODE OF ETHICS**

The CONSULTANT specifically agrees that this Agreement may be canceled or terminated if any service under this Agreement is in conflict with the provisions of Section 74 of the New York State Public Officers' Law, as amended, and Schedule "G", which is attached hereto and made apart hereof.

## **ARTICLE 17—INDEPENDENT CONTRACTOR**

The CONSULTANT, in accordance with its status as an independent contractor, shall conduct itself consistent with such status; shall neither hold itself out as nor claim to be an officer or employee of the SPONSOR by reason hereof; and shall not, by reason hereof, make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the SPONSOR, including, but not limited to, workers' compensation coverage, unemployment insurance benefits, Social Security coverage, or retirement membership or credit.

## **ARTICLE 18—PATENT RIGHTS AND COPYRIGHTS**

Any patentable result arising out of this Agreement, as well as all information, designs, specifications, know-how, data, and findings, shall be made available without cost to the State of New York or its licensees and the FAA for public use. No material prepared in connection with this Project shall be subject to copyright. The State and the FAA shall have the right to publish, distribute, disclose, or otherwise use any material prepared under this Project, subject to the provisions of Article 15 hereof.

## **ARTICLE 19—NEW YORK STATE PARTICIPATION**

The services to be performed in this Agreement are included in a NYSDOT Project, which is being undertaken and accomplished by the SPONSOR and the State of New York and pursuant to which the State of New York has agreed to pay a certain percentage of the allowable Project costs. The State of New York is not a party to this Agreement and no reference in this Agreement to the Commissioner of Transportation or any representative thereof, or to any rights granted to the Commissioner of Transportation or any representative thereof or the State of New York by the Agreement, makes the State of New York a party to this Agreement.

The CONSULTANT and the SPONSOR agree that properly authorized officials of the State of New York may from time to time inspect all Project documents for the purpose of insuring compliance with New York State laws and protecting the interests of the State of New York.

#### ARTICLE 20—FEDERAL PARTICIPATION

The FAA is not a party to this Agreement, although the Project work program covered by this Agreement is to be financially aided in part by a Grant Agreement between the SPONSOR and the FAA as provided for under the Airport and Airway Development Act of 1970 (P.L. 91258). The SPONSOR and the CONSULTANT hereby agree to comply fully with the conditions set forth in detail in the Grant Agreement as though they were set forth in detail in this Agreement, including the requirements set forth in Schedules "D", "F", "G", and "H" hereto. The CONSULTANT further agrees that, by reason of complying with the conditions of the Grant Agreement, no obligation is entailed on the part of the FAA to the CONSULTANT.

The CONSULTANT and the SPONSOR agree that properly authorized officials of the FAA may from time to time inspect all Project documents for the purpose of insuring compliance with Federal laws and protecting the interests of the FAA.

#### ARTICLE 21—MISCELLANEOUS

- A. The CONSULTANT shall require all persons employed to perform services hereunder, including its subconsultants or subcontractors, vendors, agents, officers, and employees, to comply with applicable laws in the jurisdiction in which the Project is located.
- B. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.
- C. By execution of this Agreement, the CONSULTANT represents that it has not paid, and also agrees not to pay, any bonus or commission for the purpose of obtaining any approval of this Agreement.
- D. Any notice required under this Agreement shall be in writing, addressed to the appropriate party at the address set forth above (as modified in writing from time to time by such party), and shall be given personally; by registered or certified first-class mail, postage prepaid and return receipt requested; by facsimile transmission, with confirmation of receipt; or by a nationally-recognized overnight courier service, with proof of receipt. Notice shall be effective upon the date of receipt. For purposes of this Agreement, failure or refusal to accept receipt shall constitute receipt nonetheless. Either party may change its address for notice by giving notice to the other in accordance with the terms of this paragraph.
- E. This Agreement, and the interpretation and enforcement of the provisions hereof, is governed by the laws of the State of New York.

#### ARTICLE 22 — SUBCONSULTANTS/SUBCONTRACTORS

All subconsultants and subcontractors performing services for or work on this Project shall be bound by the same required provisions of this Agreement as is the CONSULTANT. As set forth above, all agreements between the CONSULTANT and a subconsultant, subcontractor, or vendor shall include all standard required contract provisions, and such agreements shall be subject to review by the NYSDOT and the FAA.

47.

**ARTICLE 23 — FORCE MAJEURE**

Any delay in or failure of performance of any party to this Agreement shall not constitute a default under this Agreement nor give rise to any claim for damage, if and to the extent such delay or failure is caused by occurrences or events beyond the control of the party affected, including, but not limited to, acts of God; expropriation or confiscation of facilities or compliance with any order or request of government authority, affecting to a degree not presently existing, the supply, availability, or use of personnel or equipment; loss of utility services; blizzard; flood; fire; labor unrest; strikes; war; riot; or any cause the party is unable to prevent with reasonable diligence. A party who is prevented from performing for any reason shall immediately notify the other in writing of the reason for the nonperformance and the anticipated extent of any delay. Additionally, if the delay resulting from any of the foregoing increases the cost of or time required by Consultant to perform its services hereunder in an orderly and efficient manner, then Consultant shall be entitled to an equitable adjustment in schedule and/or compensation.

**ARTICLE 24 — DISPUTE RESOLUTION**

- A. SPONSOR and the CONSULTANT agree to negotiate in good faith for a period of thirty (30) days from the date of notice of disputes between them prior to exercising their right under the following paragraph. The thirty-day (30) period may be extended upon mutual agreement of the parties.
- B. If any dispute cannot be resolved pursuant to the above paragraph, and only if mutually agreed by SPONSOR and CONSULTANT, said dispute and all unsettled claims, counterclaims, and other matters in question between them arising out of or relating to this Agreement or the breach of any provision hereof ("disputes") shall be submitted to mediation by a mediator, to be selected by the parties jointly, prior to a party initiating a legal action against the other, unless initiating mediation would irrevocably prejudice one of the parties. It is the intention of the parties that any agreement reached at mediation become binding. The cost of mediation shall be shared equally between the parties.

IN WITNESS WHEREOF, this Agreement has been executed by the SPONSOR, acting by and through the County Executive, who has caused the seal of his or her office to be affixed hereto, and by the CONSULTANT, acting by and through a duly-authorized officer, effective the day and year first above- written, subject to the approval of the Commissioner of the NYSDOT, the StateComptroller, and the FAA.

**SPONSOR**  
**ONEIDA COUNTY**

**CONSULTANT**  
**C&S ENGINEERS, INC.**

By: \_\_\_\_\_  
Anthony J. Picente, Jr.

By: Mark Petranich  
Mark F. Petranich

Title: County Executive

Title: Manager, Airport Services Group

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

Date: 9/12/08



## SCHEDULE A

### SCOPE OF WORK

**Project Title:** Runway 15-33 NAVAIDS  
**Airport Name:** Oneida County Airport – Griffiss Airfield  
**Services Provided:** Construction Observation & Administration

**Project Description:**

The CONSULTANT shall provide the following services, including construction contract administration and full-time construction observation, during construction of the Runway 15-33 NAVAIDS. The Project will be constructed by the SPONSOR with grant assistance from the Federal Aviation Administration (FAA) Airport Improvement Program (AIP) and the New York State Department of Transportation (NYSDOT).

This project includes the installation of the following navigational aids: Category 1 Instrument Landing System (ILS) on Runway 33 which generally includes a Glide Slope (GS), Localizer (LS) and Distance Measuring Equipment (DME); Medium Intensity Approach Lighting System with Sequenced Flashers (MALSR) on Runway 33; Precision Approach Path Indicator System (PAPI) on Runways 15 and 33; and Runway End Identifier Lights (REIL) on Runway 15. And removal/relocation of the following navigational aids: Decommission/remove Runway 15 USAF ILS (GS and LOC) and SSALS; Decommission/remove Runway 33 USAF ILS (GS and LOC) and ALSF1; Decommission/remove Runway 15 & 33 USAF PAPI; and Relocate supplemental windcone 33.

In general, the work of the above shall include items applicable to each system including foundations for shelters, light units/arrays, towers, and antennas; underground wiring and ductwork for electrical power, communications, and monitoring; access roadways, site grading, drainage, and surface restoration; installation of antenna, electronic equipment, shelters, light units/arrays and related items to provide for completely operational systems. The existing facilities will be decommissioned and dismantled, and the sites will be restored to original condition.

There will be no government furnished equipment or material for this project. The Contractor will procure and install all NAVAID electronic equipment and antennas'.

Services to be provided by the CONSULTANT shall include the following:

**CONSTRUCTION CONTRACT ADMINISTRATION PHASE**

The Construction Contract Administration Phase shall consist of observation of the construction to become generally familiar with the progress and quality of the Contractor's work to determine if the work is proceeding in general conformity with the Contract Documents. In addition, the CONSULTANT shall aid the SPONSOR by acting as its liaison and Project coordinator with the NYSDOT and the FAA during the construction of the Project. Construction Contract Administration includes the following services:

1. Provide consultation and advice to the SPONSOR during construction, including the holding of a pre-construction conference, weekly construction coordination meetings, and other meetings required during the course of construction. Prepare and distribute minutes of all meetings.
2. Review, approve, or take other appropriate action on all Contractor-required submittals, such as construction schedules and phasing programs, shop drawings, product data, catalog cuts, and samples.
3. Review alternative construction methods proposed by the Contractor and advise the SPONSOR of the

impact of these methods on the schedule and quality of the Project.

4. Prepare supplemental drawings and change orders necessary to execute the work properly within the intended scope. Assist the SPONSOR in resolving contractor claims and disputes.
5. Provide interpretation of the Contract Document requirements and advise the Contractor of these on behalf of the SPONSOR when necessary.
6. Furnish the SPONSOR one reproducible set of the record drawings for the completed Project taken from the annotated record drawings prepared by the resident inspector based upon Contractor-provided information.
7. Prepare reimbursement request packages; coordinate their execution by the SPONSOR; and submit to the funding agencies.
8. Conduct pre-final and final inspections of the completed Project with the SPONSOR's airport personnel, the FAA, and the Contractor.
9. Issue certificates of construction completion to the SPONSOR, the FAA, and the NYSDOT.
10. Perform an orderly closeout of the Project as required by the SPONSOR, the FAA, and the NYSDOT.
11. Provide assistance to the SPONSOR as a witness in any litigation that may arise from the development or construction of the Project. Payment for this service will be as stated in Article 2(A), Item V, of the CONSULTANT Agreement for the Project, of which this Schedule forms a part.
12. During the Administration Phase, to aid the SPONSOR by acting as its liaison and Project coordinator with the FAA Eastern Region NAVAIDS Engineering Center. This will include required paperwork and data gathering for the transfer agreement and system commissioning.

#### **CONSTRUCTION OBSERVATION PHASE**

The construction observation phase shall consist of construction observation by a full-time resident engineer or inspector and supporting staff who will also:

1. Maintain a Project record in accordance with the Manual of Uniform Record Keeping (MURK) requirements of the NYSDOT for aviation capital projects.
2. Review documents and submissions by Contractor(s) pertaining to scheduling and advise the SPONSOR as to their acceptability.
3. Observe the Work to determine general conformity with the Contract Documents and to ascertain the need for correction or rejection of the Work. Neither the activities of the resident engineer or inspector and/or supporting staff nor the presence of any of them at a construction/Project site shall relieve Contractor of its obligations, duties, and responsibilities, including, but not limited to, construction means, methods, sequences, techniques, or procedures necessary for performing, superintending, or coordinating the Work in accordance with the Contract Documents and any health or safety precautions or measures required by regulatory agencies. The resident engineer or inspector and supporting staff have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures.
4. Attend and conduct pre-construction, pre-paving and pre-installation conferences; weekly progress meetings; and final inspection of the completed Project.

5. Observe testing and inspection. Arrange for, conduct, or witness field, laboratory, or shop tests of construction materials as required by the plans and specifications for the Project; monitor the suitability of materials on the Project site or brought to the Project site to be used in construction; interpret the contract plans and specifications and check the construction activities for general compliance with the design intent; measure, compute, or check quantities of Work performed and quantities of materials in-place for partial and final payments to the Contractor.
6. Prepare and submit inspection reports of construction activity and problems encountered as required by the SPONSOR, the NYSDOT, and the FAA.
7. Prepare, review, and approve monthly and final payments to Contractor(s).
8. Prepare and implement a Quality Control and Assurance Plan as required by the FAA for monitoring material requirements and properties throughout the course of construction.
9. Asbestos Abatement Air Sampling and Project Monitor Visual Inspections. Arrange for an independent firm to perform required sampling and testing during asbestos abatement to buildings #855,858 and 859 (existing ILS/ALS generator buildings to be demolished). The scope of services includes:
  - a. NYSDOL Air Sampling Technician: Straight Time-56 hrs, Overtime-10 hrs
  - b. NYSDOL Project Monitor: Straight Time: 20 hrs
  - c. Laboratory Services: Air Sample Analysis (Phase Contrast Microscopy-NIOSH method 7400), 48 hr TAT-55 samples; 4 hr TAT-20 samples; Weekend TAT-8 samples
  - d. Equipment/Travel/Generator/etc.

**Exclusions:**

The specific services to be excluded from this Project are the following:

1. FAA re-design efforts required for modifications/changes to the final Contract Documents during construction. The FAA Reimbursable Agreement for design review was not finalized during design of this project. Therefore, FAA review comments at the time of design were not received. Any significant changes required by the FAA as a result of design reviews during construction may require additional scope and fee. FAA comments must be addressed and accounted for prior to FAA take-over for operation and maintenance.

The CONSULTANT agrees to perform the services in the Construction Observation Phase of this Project during the construction contract period estimated to be as follows:

Pre-Construction:        Inspection Supervisor, 5 days

                                 Resident Engineer, 10 days

Inspection:                Inspection Supervisor, 20 days

                                 Resident Engineer, 120 days @ 10 hrs/day

Rain Days:                Resident Engineer, 5 days @ 8hrs/day

Post-Construction:        Inspection Supervisor, 5 days

                                 Resident Engineer, 10 days

57.

## RESPONSIBILITIES/DUTIES OF INSPECTION STAFF

In general, the on-site inspection staff is responsible for monitoring construction activity on a project and documenting their observations in a formal project record. The Project record contents and its preparation shall be in accordance with the NYSDOT M.U.R.K.

The M.U.R.K. System consists of the following records and duties:

1. Engineer's Daily Project Diary
2. Inspector's Daily Reports
3. Summary of Inspector's Daily Reports
4. Preparation of FAA Weekly Reports
5. Prime/Subcontractor Work Summary
6. Preparation of Material Acceptance Reports
7. Preparation of Certification and Testing Log Book
8. Review Subcontractor approval forms
9. Prepare statement of days charged on a weekly basis
10. Conduct Wage Rate Interviews with prime/subcontractors employees
11. Conduct Project meetings with Sponsor and Contractors
12. Field measure quantities on a daily basis
13. Collect and monitor weekly payrolls for Davis Bacon Act Compliance
14. Preparation of Periodic Payment Request for Contractor
15. Record deviations from the contract plans for preparation of record drawings
16. Preparation and review of Change Orders/Force Account Work

The Resident Inspector will assist the SPONSOR and Contractor regarding construction activity as it relates to aircraft operations and coordination of Notice to Airmen (NOTAMS) as required.

END OF SCHEDULE



# ARCHITECTURAL/ENGINEERING COST SUMMARY SCHEDULE "B-1" INSPECTION PHASE

PROJECT NAME: Runway 15-33 NAVAIDS  
 PROJ DESCRIPTION Runway 15-33 NAVAIDS

DATE: 16-May-08  
 A/E: C & S ENGINEERS, INC.  
 PROJECT NO: 146.074.002  
 C&S CONTACT: RALPH E NAPOLITANO

CLIENT: Oneida County  
 CLIENT MANAGER: Bill Applebee

**I. DIRECT SALARY COSTS:**

	TITLE	MAXIMUM RATE OF PAY (\$/HR)	AVERAGE RATE OF PAY (\$/HR)	@	HOURS		COST
A.	SERVICE GROUP MANAGER	\$73.20	\$63.30	X	0	=	\$0.00
B.	DEPARTMENT MANAGER	\$63.30	\$48.30	X	40	=	\$1,932.00
C.	MANAGING ENGINEER	\$45.50	\$44.10	X	120	=	\$5,292.00
D.	CHIEF ENGINEER	\$45.00	\$43.00	X	0	=	\$0.00
E.	SENIOR PROJECT ENGINEER	\$39.90	\$35.90	X	288	=	\$10,339.00
F.	PROJECT ENGINEER	\$38.10	\$32.50	X	0	=	\$0.00
G.	ENGINEER	\$34.10	\$31.60	X	80	=	\$2,528.00
H.	STAFF ENGINEER	\$28.40	\$24.70	X	0	=	\$0.00
I.	SENIOR DESIGNER	\$34.10	\$29.40	X	0	=	\$0.00
J.	DESIGNER	\$28.40	\$22.60	X	40	=	\$904.00
K.	CADD OPERATOR	\$20.30	\$18.70	X	0	=	\$0.00
L.	ADMINISTRATIVE ASSISTANT	\$22.50	\$18.70	X	80	=	\$1,496.00
M.	GRANTS ADMINISTRATOR	\$33.60	\$30.20	X	70	=	\$2,114.00
N.	MANAGER AIRPORT PLANNING	\$50.80	\$48.80	X	0	=	\$0.00
O.	SENIOR PLANNER	\$50.90	\$40.10	X	0	=	\$0.00
P.	PLANNER	\$35.70	\$33.10	X	0	=	\$0.00
Q.	STAFF PLANNER	\$27.30	\$25.20	X	0	=	\$0.00
R.	SENIOR PROJECT ARCHITECT	\$37.30	\$34.40	X	0	=	\$0.00
S.	PROJECT ARCHITECT	\$31.50	\$29.90	X	0	=	\$0.00
T.	MANAGING GEOLOGIST (SOILS ENG)	\$47.70	\$45.60	X	0	=	\$0.00
U.	GEOLOGIST	\$22.90	\$21.50	X	0	=	\$0.00
V.	ENVIRONMENTAL SCIENTIST	\$29.40	\$25.80	X	0	=	\$0.00
W.	SENIOR CONSTRUCTION SUPERVISOR	\$56.70	\$54.60	X	280	=	\$15,288.00
X.	CONSTRUCTION SUPERVISOR	\$45.50	\$44.10	X	0	=	\$0.00
Y.	RESIDENT ENGINEER	\$39.80	\$37.90	X	1450	=	\$54,955.00
Z.	CHIEF INSPECTOR	\$31.50	\$29.90	X	0	=	\$0.00
AA.	SENIOR INSPECTOR	\$28.10	\$24.20	X	0	=	\$0.00
BB.	INSPECTOR	\$28.40	\$25.20	X	0	=	\$0.00
CC.	JUNIOR INSPECTOR	\$17.90	\$16.80	X	0	=	\$0.00
DD.	SENIOR TECHNICAL ADMINISTRATOR	\$26.80	\$25.20	X	80	=	\$2,016.00
EE.	PARTY CHIEF	\$48.90	\$46.80	X	0	=	\$0.00
FF.	INSTRUMENT MAN	\$46.10	\$44.00	X	0	=	\$0.00
GG.	RODMAN	\$46.10	\$44.00	X	0	=	\$0.00

TOTAL ESTIMATED DIRECT SALARY COST: \$96,864.00

**II. OVERHEAD EXPENSES & PAYROLL BURDEN PER SCHEDULE "C" -**  
 (AUDITABLE, ESTIMATED AND EXPRESSED AS A PERCENTAGE  
 OF DIRECT SALARY COST):

160.00% \$154,982.00

**III. SUBTOTAL OF ITEMS I & II:**

\$251,846.00

54.

IV. ESTIMATE OF DIRECT EXPENSES:

A.	TRAVEL, BY AUTO:	145	TRIPS @	100	MILES/TRIP @	\$0.505	=	\$7,322.50
B.	TRAVEL, ON SITE, BY AUTO:	125	DAYS @	20	MILES/DAY @	\$0.505	=	\$1,262.50
C.	TRAVEL, BY AIR:	0	TRIPS @	0	PERSONS @	\$0.00	=	\$0.00
D.	PER DIEM (MEALS ONLY):	125	DAYS @	1	PERSONS @	\$39.00	=	\$4,875.00
E.	CELL PHONE:			7	MONTHS@	\$200.00	=	\$1,400.00
F.	MISCELLANEOUS:						=	<u>\$759.00</u>

TOTAL ESTIMATE OF DIRECT EXPENSES: \$15,619.00

V. FIXED FEE (PROFIT, LUMP SUM):

A.	LABOR PLUS OVERHEAD:	15%	(OF III.)	\$37,777.00
B.	DIRECT EXPENSES:	15%	(OF IV.)	<u>\$2,343.00</u>

TOTAL FIXED FEE: \$40,120.00

VI. SUBCONTRACTS:

A.	ESTIMATE OF CUT & FILL SURVEYS:							\$5,000.00
B.	ESTIMATE OF CONSTRUCTION TESTING SERVICES:							
1	ASPHALT TECHNICIAN (PLANT):	7	DAYS @	\$500.00	=	\$3,500.00		
2	SOILS/CONCRETE TECHNICIAN:	15	DAYS @	\$450.00	=	\$6,750.00		
3	ADDITIONAL PAVEMENT CORES:	5	EACH @	\$50.00	=	\$250.00		
4	TRIP CHARGE:	15	EACH @	\$60.00	=	\$900.00		
5	MECHANICAL ANALYSIS:	10	EACH @	\$35.00	=	\$350.00		
6	HYDROMETER ANALYSIS:	2	EACH @	\$60.00	=	\$120.00		
7	ATTERBERG LIMITS:	10	EACH @	\$55.00	=	\$550.00		
8	LABORATORY PROCTORS:	10	EACH @	\$100.00	=	\$1,000.00		
9	CONCRETE COMPRESSIVE STRENGTH:	20	EACH @	\$6.00	=	\$120.00		
10	CONCRETE FLEXURAL STRENGTH:	20	EACH @	\$6.00	=	\$120.00		
11	TOPSOIL (pH):	3	EACH @	\$15.00	=	\$45.00		
12	LA ABRASION:	10	EACH @	\$180.00	=	\$1,800.00		
13	MAGNESIUM SULFATE SOUNDNESS:	10	EACH @	\$185.00	=	\$1,850.00		
14	NATURAL MOISTURE CONTENT:	10	EACH @	\$6.00	=	\$60.00		

TOTAL ESTIMATED CONSTRUCTION TESTING SERVICES: \$17,415.00

C.	ESTIMATE OF CES ASBESTOS AIR TESTING:							<u>\$5,000.00</u>
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VII. TOTALS:

A.	ESTIMATE OF MAXIMUM TOTAL COST FOR INSPECTION SERVICES, AGREEMENT TOTAL & FAA ELIGIBLE:							<u>\$335,000.00</u>
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535.

**SCHEDULE "C"**

**C&S ENGINEERS, INC**  
**PROJECTED ALLOWABLE OVERHEAD**  
**FYE 12/31/08**

	<b>ALLOWABLE COST</b>	<b>% OF DIRECT LABOR</b>
<b>SALARY OVERHEAD (PAYROLL BURDEN)</b>		
Vacation & Holiday	1,700,000.00	13.49%
Sick & Personal	375,000.00	2.98%
FICA Taxes	1,450,000.00	11.51%
U. E. Taxes	220,000.00	1.75%
WC Insurance	120,000.00	0.95%
Group Insurance	1,360,000.00	10.79%
Bonus	550,000.00	4.37%
Employee Benefits	639,000.00	5.07%
Payroll Preparation	30,000.00	0.24%
<b>TOTAL SALARY OVERHEAD</b>	<b>6,444,000.00</b>	<b>51.14%</b>
 <b>GENERAL &amp; ADMINSTRATIVE OVERHEAD</b>		
Indirect Labor	1,512,000.00	12.00%
Clerical & Administrative	2,450,000.00	19.44%
Project Development	2,600,000.00	20.63%
Meetings Conventions & Education	300,000.00	2.38%
Office Supplies & Equipment Leases	3,000,000.00	23.81%
Travel & Auto Expenses	775,000.00	6.15%
Insurance	350,000.00	2.78%
Depreciation	525,000.00	4.17%
Rent , Janitorial, & Maintenance	1,231,000.00	9.77%
Utilities	250,000.00	1.98%
Telephone	350,000.00	2.78%
Dues & Fees	85,000.00	0.67%
Workshops, Seminars, & Education	153,500.00	1.22%
Legal & Accounting	135,000.00	1.07%
<b>TOTAL GENERAL &amp; ADMINSTRATIVE</b>	<b>13,716,500.00</b>	<b>108.86%</b>
 <b>TOTAL ALLOWABLE OVERHEAD</b>	<b>20,160,500.00</b>	<b>160.00%</b>
 <b>TOTAL DIRECT LABOR</b>	<b>12,600,000.00</b>	
 <b>TOTAL PAYROLL</b>	<b>21,537,000.00</b>	
<b>DIRECT LABOR %</b>	<b>58.50%</b>	

56.



## SCHEDULE "D"

**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
AIRPORT IMPROVEMENT PROGRAM  
SPONSOR CERTIFICATION**

### SELECTION OF CONSULTANTS

Oneida County

*(Sponsor)*

Griffiss Airfield

*(Airport)*

3-36-0119-

*(Project Number)*

*(Work Description)*

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). General standards for selection of consultant services within Federal grant programs are described in Title 49, Code of Federal Regulations (CFR), Part 18.36. Sponsors may use other qualifications-based procedures provided they are equivalent to specific standards in 49 CFR 18 and FAA Advisory Circular 150/5100-14, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects.

Except for the certified items below marked not applicable (N/A), the list includes major requirements for this aspect of project implementation, although it is not comprehensive, nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standard.

	Yes	No	N/A
1. Solicitations were (will be) made to ensure fair and open competition from a wide area of interest.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. For contracts over \$100,000, consultants were (will be) selected using competitive procedures based on qualifications, experience, and disadvantaged enterprise requirements with the fees determined through negotiations.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. A record of negotiations has been (will be) prepared reflecting considerations involved in the establishment of fees, which are not significantly above the sponsor's independent cost estimate.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. If engineering or other services are to be performed by sponsor force account personnel, prior approval was (will be) obtained from the FAA.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. The consultant services contracts clearly establish (will establish) the scope of work and delineate the division of responsibilities between all parties engaged in carrying out elements of the project.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Costs associated with work ineligible for AIP funding are (will be) clearly identified and separated from eligible items in solicitations, contracts, and related project documents.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

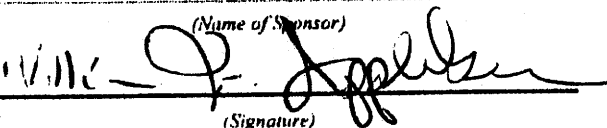
57.

	Yes	No	N/A
7. Mandatory contract provisions for grant-assisted contracts have been (will be) included in consultant services contracts.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. The cost-plus-percentage-of-cost methods of contracting prohibited under Federal standards were not (will not be) used.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. If the services being procured cover more than the single grant project referenced in this certification, the scope of work was (will be) specifically described in the advertisement, and future work will not be initiated beyond five years.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and have prepared documentation attached hereto for any item marked "no" that is correct and complete.

Oneida County

(Name of Sponsor)



(Signature)

William F. Applebee

(Typed Name of Sponsor's Designated Official Representative)

Oneida County Airport Engineer

(Typed Title of Sponsor's Designated Official Representative)

(Date)

END OF SCHEDULE

58.

**SCHEDULE E**

**(RESOLUTION TO BE INSERTED)**

59.

## SCHEDULE G

### CERTIFICATION OF CONSULTANT

I hereby certify that I am the Manager of the Airport Services Group and a duly authorized representative of the firm of C&S Engineers, Inc., whose address is 499 Col. Eileen Collins Blvd., Syracuse, New York, 13212 and that neither I nor the above firm I here represent has:

- A. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Contract.
- B. agreed, as an express or implied condition for obtaining this Contract, to employ or retain the services of any firm or person in connection with carrying out the Contract, or
- C. paid or agreed to pay to any firm, organization, or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Contract; except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the FAA of the United States Department of Transportation, in connection with this Contract, involving participation of Airport Improvement Program (AIP) funds and is subject to applicable state and Federal laws, both criminal and civil

9/12/08

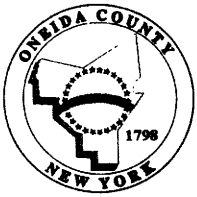
Date

Mark Petranich

Mark F. Petranich  
Airports Service Group Manager

END OF SCHEDULE

600



COUNTY OF ONEIDA  
**OFFICE OF THE COUNTY EXECUTIVE**

ONEIDA COUNTY OFFICE BUILDING  
800 PARK AVENUE  
UTICA, NEW YORK 13501  
(315) 798-5800  
FAX: (315) 798-2390  
www.ocgov.net

**ANTHONY J. PICENTE JR.**  
County Executive  
ce@ocgov.net

7N2008-488

**AIRPORT**

**WAYS & MEANS**

November 10, 2008

Hon. Anthony J. Picente, Jr.  
Oneida County Executive  
800 Park Avenue  
Utica, New York, 13501

Reviewed and Approved for submittal to the  
Oneida County Board of Legislators by

Anthony J. Picente, Jr.  
County Executive

Date 11/10/08

**RE: Proposed Long Term Lease Agreement between Oneida County and  
Empire Aero Center Inc.-Building 100 at Griffiss International Airport**

Dear Mr. Picente:

Over the past several months, the County of Oneida and Empire Aero Center, Inc. (EAC) have been in negotiations regarding the terms for the proposed long term lease agreement for EAC's use and occupation of Building 100 at the Griffiss International Airport. This lease agreement is now ready for review and approval by the Board of Legislators and I respectfully request you forward same to that body for their consideration. The following will serve to summarize the key points of this agreement for your ease of understanding:

**Demised Premises**

This lease agreement will allow EAC to continue conducting their maintenance, repair and overhaul operations in Building 100. There are two "phases" included within the lease to allow for certain renovations to take place. During the Renovation Phase, the rental space EAC occupies shall consist of the West Hangar Bay and the Ancillary Office Space. In the Post-Renovation Phase, the occupied rental space will include the West Hangar Bay, the Ancillary Office Space, and the East Hangar Bay.

In addition, Empire Aero Center, Inc. will also have a non-exclusive right (in common with others including the County) to use the Common Area and the overflow parking area. They will have the exclusive right to use up to 150 parking spaces located in the Building 100-Vehicle Parking Area.

**Option to Lease Available Office Space**

During the term of this agreement, Empire Aero Center, Inc. will have the option to expand the Demised Premises to include all or some portion of the Available Office Space. In the event that EAC exercises this option, the space will be added to and become

cel.

a part of the total leased premises under the term of this agreement, except that the Annual Base Rent will be calculated by multiplying the acquired square feet by the Applicable Lease Rate. In addition, EAC will not have any construction and/or renovation obligations with respect to such Available Office Space.

**Lease Term**

This lease will be for an initial term of twenty years with the potential for three renewal terms of ten, ten and five years respectively. The original term of this lease commences on October 1, 2008 and ends on September 30, 2028, unless terminated in accordance with the obligatory provisions contained within the lease.

**Rental Terms**

The lease rent is calculated on a "square foot" basis. As the square footage of space occupied by Empire Aero Center increases, the rent will be recalculated accordingly. The rates are as follows:

Lease year 1:	\$3.00/sq.ft.
Lease years 2-3:	\$3.75/sq.ft.
Lease years 4-11:	\$4.00/sq.ft.
Lease years 12-17:	\$4.25/sq.ft.
Lease years 18-20:	\$4.50/sq.ft.

If EAC elects to renew, there is an escalator clause which causes the rent to increase according to the CPI index. The formula for the calculations of that increase is contained herein.

**Alteration by Lessee**

If the tenant desires to make any Non-Structural Alterations to the Demised Premises, they may do so without the County's prior consent. However, any changes of a structural nature, regardless of how minor, must not be undertaken without first obtaining the County's written consent.

**Maintenance and Repairs**

The County of Oneida is required to make such repairs as may be necessary from time to time to keep Building 100's major structural components, Building 100's roof, the West Hangar Bay hangar bay door (on the northwest side of Building 100), the East Hangar Bay hangar bay door (on the northeast side of Building 100), Building 100's mechanical and electrical systems (including AFFF and HVAC), the Building 100-Vehicle Parking Area, and all utility laterals to Building 100 which are located on the Griffiss Airfield in good order and repair, except for those repairs which are necessitated by the act or omission of EAC or EAC's agents, servants, employees, contractors and/or invitees.

**Additional Lessee Responsibilities**

In addition, Empire Aero Center, Inc. is to pay for all utilities under separate agreements they establish with the appropriate utility providers. However, in the event that the exterior door renovations have not been completed prior to the "activation" of the steam heat for the upcoming winter season, the tenant shall be entitled to a rent credit of

62.

\$16,362.25 per month until the doors renovations are completed. The tenant is also responsible for snow removal and maintenance for certain outdoor areas as set forth in the lease.

#### **Environmental Protections**

While the County of Oneida is primarily responsible to contain, abate and properly dispose of any hazardous substances present at the Demised Premises prior to the First Rent Commencement Date; once the lease term begins, this responsibility shifts to Empire Aero Center, Inc. The terms of this agreement dictate that EAC will comply, at their own cost and expense, with all Federal, State and local environmental laws, regulations, and standards that are or may become applicable to the Demised Premises and/or to their activities at, on or in the same.

The terms of this agreement include that Empire Aero Center, Inc. is solely responsible for obtaining any environmental permits required by rule, law or regulation at their own cost and expense. They must, also, to the extent permitted under applicable law, indemnify, defend and hold harmless the County from any and all damages, costs, expenses (including reasonable attorneys' fees, reasonable environmental engineers' fees and reasonable experts' fees), liabilities, fines, and penalties resulting from their activities.

#### **Default Terms**

If, after commencement of the Term, the Demised Premises remain vacant, abandoned or deserted for a period of thirty (30) days or more after notice from Lessor, or the Demised Premises are used for some purpose other than a use permitted under this Lease or for some purpose restricted under this Lease, and any such use continues for more than thirty (30) days after notice from Oneida County, or Empire Aero Center shall default in fulfilling any of the covenants of this Lease (or any of the other Lease Documents), other than the provisions for the payment of Annual Base Rent or additional rent, for more than thirty (30) days after notice from Oneida County then, at the County's option on the day specified in a notice to EAC of the County's exercise of such option, cease, and EAC shall immediately quit and surrender the Demised Premises to the County, but EAC shall remain liable as hereinafter provided.

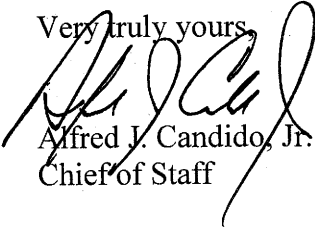
In the event that this occurs, Empire Aero Center, Inc. shall remain liable for any deficiency. In the event the Term shall cease as provided in this Article, then whether or not the Demised Premises are occupied by another tenant, Empire Aero Center, Inc. shall remain liable for, and they agree to pay to Oneida County until the time when this Lease would have expired but for such termination or early expiration, the equivalent of the amount of all the Annual Base Rent and additional rent reserved herein, less the avails of reletting, if any, and the same will be due and payable by EAC to Oneida County on the several rent days above specified.

Oneida County agrees to give notice to EAC of the amount so paid and such amount will be deemed additional rent due and payable concurrently with the monthly installment of

Annual Base Rent due in the second (2<sup>nd</sup>) full month following the month in which Oneida County gives Empire Aero Center the aforesaid notice.

If there are any questions regarding this document or the information contained herein, relevant members of your administration will be available to discuss the terms in greater detail at the Board's convenience. I respectfully request this lease agreement be forwarded to the Board of Legislators for their approval.

Very truly yours,



Alfred J. Candido, Jr.  
Chief of Staff

Cc: Law Department  
Shawna Papale

Attachment

RECEIVED  
ONIEDA COUNTY LEGISLATURE

2008 NOV 10 PM 2:12

64.



## LEASE AGREEMENT

**THIS LEASE AGREEMENT** (the "Lease"), dated as of \_\_\_\_\_, 2008, is by and between **COUNTY OF ONEIDA**, a municipal corporation organized and existing under the laws of the State of New York with offices at County Office Building, 800 Park Avenue, Utica, New York 13501 ("Lessor" or "County") and **EMPIRE AERO CENTER, INC.**, a corporation organized and existing under the laws of the State of Delaware and duly authorized to do business in the State of New York with offices at 394 Hangar Road, Rome, New York 13441 ("Lessee" or "EAC").

### WITNESSETH:

In consideration of the sum of One and 00/100ths Dollars (\$1.00), paid by Lessee to Lessor, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

### ARTICLE 1 - DEFINITIONS

1.1 As used in this Lease, the following underlined capitalized words in this Section "1.1" shall have the following meanings:

ACM – means asbestos containing materials.

Adjoining Area – means that certain 240,000± square foot concrete apron and/or ramp area adjoining Building 100 (on the north side thereof) and designated as the "Adjoining Area" on the "General Plan of Griffiss Airfield", annexed hereto and made a part hereof as **Exhibit A**

Agency - the Oneida County Industrial Development Agency, a New York public benefit corporation with offices at 153 Brooks Road, Rome, New York 13441, and its successors and assigns.

Airfield Operator – means either (a) the County or (b) some other qualified airport operator (e.g., an airport authority), as operator of the Griffiss Airfield.

Air Force - the United States of America, acting by and through the Secretary of the Air Force and/or the Air Force Real Property Agency (f/k/a Air Force Base Conversion Agency).

Air Force Deed – shall have the meaning ascribed to such term in Section 2.3 hereof.

Ancillary Office Space – means, collectively, the First Floor Office Annex Area, the Second Floor Office Annex Area, the Third Floor Office Annex Area, and the Building 100 Core Office/Conference Areas and exclusive of the attached lean-to area of Building 100 located on the east side of Building 100 and identified on Exhibit B-1 as "TSA Screening Area".

65.

Annual Base Rent – means the annual base rent due from Lessee to Lessor pursuant to this Lease, as set forth in Article 6 hereof.

Applicable Lease Rate – means, with respect to the Lease Year in question, the Annual Base Rent charged by Lessor to Lessee pursuant to this Lease for each square foot of space in Building 100 which Lessee leases from Lessor during such Lease Year, all as is more particularly hereinafter set forth:

<u>Lease Year in Question</u>	<u>Annual Base Rent</u>
Lease Year 1	\$ 3.00/sq. ft.
Lease Years 2 and 3, inclusive	\$ 3.75/sq. ft.
Lease Years 4 through 11, inclusive	\$ 4.00/sq. ft.
Lease Years 12 through 17, inclusive	\$ 4.25/sq. ft.
Lease Years 18 through 20, inclusive	\$ 4.50/sq. ft.

Architects/Engineers – means C & S Engineers, Inc., 409 Col. Eileen Collins Blvd., Syracuse, New York 13212.

Available Office Space – means, collectively, the Building 100 Annex–Available Office Space and Building 100 Core–Available Office Space.

Bid or Bids – shall have the meanings ascribed to such term as described in Section 8.4 hereof.

Building 100 – that certain 155,000± square foot hangar building commonly known as Air Force Building 100 situate at 592 Hangar Road, Rome, New York 13441.

Building 100 Annex – means that certain three (3) story high portion of Building 100 (located on the west side of the West Hangar Bay). The Building 100 Annex contains the First Floor Office Annex Area, the Second Floor Office Annex Area, the Third Floor Office Annex Area, and the Building 100 Annex–Available Office Space. Building 100 Annex shall not include Area 7, as shown on Exhibit B-1, which area, known as the “Wash Bay”, shall be retained by the Lessor.

Building 100 Annex–Available Office Space – means that certain office space located on the first, second and third floors of the Building 100 Annex which is available for lease (as of the Lease Execution Date). The location of the Building 100 Annex–Available Office Space is designated as Areas 2, 3 and 4 on the Building 100 Floor Plans annexed hereto as **Exhibit B-1**, **Exhibit B-2** and **Exhibit B-3**.

Building 100 Core – means that certain three (3)-story portion of Building 100 (located in the center thereof between the West Hangar Bay and the East Hangar Bay).

Building 100 Core–Available Office Space – means that certain office space located on the first, second and third floors of the Building 100 Core which is unoccupied and available for lease (as of the Lease Execution Date and thereafter). The approximate location of the Building 100 Core–Available Office Space is as set forth on Exhibits B-1, B-2 and B-3.

66.

Building 100 Core Office/Conference Areas – means those certain office and conference areas situate on the first floor of the Building 100 Core and containing an aggregate of 2227 square feet of floor area. The Building 100 Core Office/Conference Areas are collectively designated as “Area 5” on the Building 100–First Floor Plan annexed hereto and made a part hereof as **Exhibit B-1**

Building 100–First Floor Plan – means that certain map or sketch depicting the layout of the first-floor space in Building 100 (as such layout exists on the Lease Execution Date), which map or sketch is annexed hereto and made a part hereof as **Exhibit B-1**

Building 100 Floor Plans – means, collectively, the Building 100–First Floor Plan, the Building 100–Second Floor Plan, and the Building 100–Third Floor Plan.

Building 100–Second Floor Plan - means that certain map or sketch depicting the layout of the second-floor space in Building 100 (as such layout exists on the Lease Execution Date), which map or sketch is annexed hereto and made a part hereof as **Exhibit B-2**

Building 100–Third Floor Plan - means that certain map or sketch depicting the layout of the third-floor space in Building 100 (as such layout exists on the Lease Execution Date), which map or sketch is annexed hereto and made a part hereof as **Exhibit B-3**

Building 100-Vehicle Parking Area – means that certain vehicle parking area located adjacent to Building 100 (on the south side thereof) and designated as the “Building 100-Vehicle Parking Area” on the Survey Map annexed hereto and made a part hereof as **Exhibit C** The Building 100-Vehicle Parking Area consists of       + square feet of concrete apron and/or ramp area and contains at least 232 standard-size vehicle parking spaces.

Building 101 – means that certain 455,875.4± square foot hangar building commonly known as Air Force Building 101 situate at 394 Hangar Road, Rome, New York 13441. Lessee currently occupies 346,239.1± square feet of space in Building 101 pursuant to the Building 101 Sublease.

Building 101 Sublease – means that certain Sublease Agreement, dated as of April 14, 2003, by and between 394 Hangar Road Corporation, as sublessor, and Lessee, as sublessee, as the same has been amended from time to time.

Business Day – means a day other than a Saturday, Sunday or any other day on which commercial banks located in the State of New York are authorized by law to close. Any reference in this Lease to “days” shall mean calendar days unless Business Days are clearly specified.

City – means the City of Rome, a New York municipal corporation with offices at City Hall, 198 North Washington Street, Rome, New York 13440.

Common Area – means that certain hallway located on the first floor of the Building 100 Core. The approximate location of the Common Area is as set forth and identified on the Building 100–First Floor Plan, which is annexed hereto and made a part hereof as **Exhibit B-1**. Lessor reserves the right to relocate the Common Area at any time as long as such relocation does not in any way

diminish or interfere with Lessee's use of the Demised Premises for the purposes set forth herein. Lessee shall have the non-exclusive right (in common with others) to use the Common Area for the purposes of ingress to each of the Hangar Bays from the Building 100-Vehicle Parking Area and egress from each of the Hangar Bays to the Building 100-Vehicle Parking Area.

County – means the County of Oneida, a municipal corporation organized and existing under the laws of the State of New York with offices at 800 Park Avenue, Utica, New York 13501. The County is the Lessor hereunder.

County Airfield Regulations – means the County's rules and regulations for the Griffiss Airfield, as such rules and regulations may now exist or hereafter be adopted or amended including, without limitation, any such rules and regulations which impose aircraft parking and/or storage fees and as more fully set forth on **Exhibit D** attached herewith and made a part hereof.

County Party and County Parties – shall have the meanings ascribed to such terms in Section 13.1 hereof.

County's Explanatory Statement - shall have the meaning ascribed to such term in Section 11.3 hereof.

Demised Premises – during the Renovation Phase, the Demised Premises shall consist of the West Hangar Bay and the Ancillary Office Space. During the Post-Renovation Phase, the Demised Premises shall consist of the West Hangar Bay, the Ancillary Office Space and the East Hangar Bay. In the event that Lessee exercises Lessee's Option to Lease Available Office Space, any such Available Office Space so leased by Lessee shall be added to and become a part of the Demised Premises in accordance with the provisions of Section 11.2 hereof.

EAC – means Lessee, and its permitted successors and assigns. EAC is the Lessee hereunder.

East Hangar Bay – means that certain portion of Building 100 (located on the east side thereof) containing 50,990± square feet of floor area and commonly referred to as the "East Hangar Bay". The East Hangar Bay is designated as Area 6 on the Building 100-First Floor Plan annexed hereto and made a part hereof as **Exhibit B-1**.

East Hangar Bay Availability Date – means the date upon which the East Hangar Bay will be available for Lessee's use, possession and occupancy. Lessor and Lessee agree that, as of the East Hangar Bay Availability Date, the East Hangar Bay will be "substantially completed", as such term is defined in Section 8.2 hereof

East Hangar Bay Occupancy Date – means the date specified by Lessee in its Notice of East Hangar Bay Occupancy as the date upon which Lessee intends to take occupancy of the East Hangar Bay. The East Hangar Bay Occupancy Date specified by Lessee must fall within the 180-Day Window. In the event that (a) Lessee fails to give Lessor a timely Notice of East Hangar Bay Occupancy or (b) Lessee gives Lessor a timely Notice of East Hangar Bay Occupancy but either fails to specify the East Hangar Bay Occupancy Date therein or specifies an East Hangar Bay Occupancy

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Date therein which falls outside of the 180-Day Window, then, and in such event, the first day of the 180-Day Window shall be deemed to be the East Hangar Bay Occupancy Date. In no event shall the East Hangar Bay Occupancy Date be later than the last day of the 180-Day Window.

East Hangar Bay Tenant Improvements – means those certain renovations and/or improvements to be made to the East Hangar Bay by or for the benefit of Lessee (utilizing the East Hangar Bay Tenant Improvements Allowance) during the Renovation Phase including, without limitation, the installation of wiring for telecommunications and data transmission, the installation of door locks, the installation of cable reels and signage, and interior painting. The East Hangar Bay Tenant Improvements shall exclude any renovations and/or improvements being made to the East Hangar Bay by Lessor as part of Lessor's Building 100 Work. Before they are undertaken, the East Hangar Bay Tenant Improvements to be made shall first be agreed upon by Lessor and Lessee, in writing. In the event that Lessee elects to undertake any or all of such East Hangar Bay Tenant Improvements itself (and seek reimbursement therefor from Lessor out of the East Hangar Bay Tenant Improvement Allowance), Lessee shall follow the same competitive bidding and other procedures that Lessor would be obligated to follow if Lessor were directly contracting for the work in question, which procedures are more particularly set forth in Section 100 et seq. of the General Municipal Law.

East Hangar Bay Tenant Improvements Allowance – means that certain allowance made by Lessor for the benefit of Lessee, in the maximum aggregate sum of \$200,000.00, to pay for and/or credit the Lessee for the cost of the East Hangar Bay Tenant Improvements.

Environmental Reports – means the environmental reports, audits, assessments, studies, investigations and the like performed prior to the Lease Execution Date by or for the Air Force, GLDC, the County, Mohawk Valley EDGE, 394 Hangar Road Corporation or any other person or entity with respect to the Demised Premises or any part thereof including, without limitation, the Environmental Reports annexed hereto as **Exhibit E**. The Lessor makes no warranty or representation as to the completeness or accuracy of any Environmental Report.

Estoppel Certificate – shall have the meaning ascribed to that term in Section 46.1 hereof.

FAA – means the Federal Aviation Administration, an agency of the United States government.

First Floor Office Annex Area – means that certain portion of Building 100 (located on the west side thereof) containing 7,792± square feet of floor area and commonly referred to as the "First Floor Office Annex Area". The First Floor Office Annex Area is designated as "Area 2" on the Building 100-First Floor Plan as more fully set forth on **Exhibit B-1**.

First Renewal Term – means that certain ten (10) year renewal term of this Lease more particularly described in Section 5.1 hereof. The twentieth (20<sup>th</sup>) anniversary of the First Rent Commencement date, i.e., the first (1<sup>st</sup>) day of the twenty-first (21<sup>st</sup>) Lease Year, would be the first (1<sup>st</sup>) day of the First Renewal Term.

First Rent Commencement Date – means October 1, 2008

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GLDC – means Griffiss Local Development Corporation, a local development corporation organized and existing under the laws of the State of New York with offices at 153 Brooks Road, Rome, New York 13441. At present, GLDC's normal business hours are 8:00 o'clock A.M. to 5:00 o'clock P.M. Monday through Friday, except holidays. GLDC employs personnel who are capable of providing various facility repair and/or maintenance services throughout Griffiss AFB, which includes, but is not limited to, the Griffiss Airfield and the Griffiss Business Park. GLDC makes such services available during its normal business hours and at all other times on an "emergency" basis. Owners, tenants and other occupants of facilities at Griffiss AFB may retain GLDC as an independent contractor to provide any such facility repair and/or maintenance services which GLDC is not otherwise obligated to provide.

Griffiss AFB – means the former Griffiss Air Force Base, Rome, New York.

Griffiss Airfield – means that certain 1,593± acre portion of the former Griffiss AFB which currently is certificated under Part 139 of the FAA Regulations as a Class IV airport. A map of Griffiss AFB showing the approximate location of the Griffiss Airfield is annexed hereto as **Exhibit F**.

Griffiss Business Park – means that certain 1,562± acre portion of the former Griffiss AFB commonly known as the Griffiss Business & Technology Park. A map of Griffiss AFB showing the approximate location of the Griffiss Business Park is as set forth on **Exhibit F**.

GUSC – means Griffiss Utility Services Corporation, a local development corporation organized and existing under the laws of the State of New York with offices at 153 Brooks Road, Rome, New York 13441. At present, GUSC's normal business hours are 8:00 o'clock A.M. to 5:00 o'clock P.M. Monday through Friday, except holidays. GUSC employs personnel who are capable of providing or arranging for the provision of repair and/or maintenance services to the various utility systems located throughout Griffiss AFB. GUSC makes such services available during its normal business hours and at all other times on an "emergency" basis. Owners, tenants and other occupants of facilities at Griffiss AFB may retain GUSC as an independent contractor to provide any such repair and/or maintenance services which GUSC is not otherwise obligated to provide.

Hangar Bays – means the East Hangar Bay and the West Hangar Bay of Building 100

Hazardous Substances - means, without limitation, any flammable explosives, radon, radioactive materials, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls, petroleum, petroleum constituents, petroleum products, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, pollutants, toxic pollutants, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601 *et seq.*), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801, *et seq.*), the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (42 U.S.C. Sections 6901, *et seq.*), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, *et seq.*), the Federal Water Pollution Control Act, as amended (33 U.S.C. Sections 1251 *et seq.*), Articles 17 and 27 of the New York State Environmental Conservation Law or any other applicable environmental law and the regulations promulgated thereunder.

IAI - means Israel Aerospace Industries Ltd., a corporation organized and existing under the laws of the State of Israel with offices at Ben-Gurion International Airport, 70100 ISRAEL. Lessee is an indirect, wholly-owned subsidiary of IAI.

Lease - means this Lease by and between the Lessor, as lessor, and the Lessee, as lessee, with respect to the Demised Premises.

Lease Documents - means this Lease, (including the exhibits thereto), dated as of even date herewith, by and between Lessor and Lessee, that certain Environmental Compliance and Indemnification Agreement, dated as of even date herewith, by and between Lessor and Lessee, and any other documents executed and delivered by the parties hereto in connection with or pursuant to this Lease.

Lease Execution Date - means the day and year first above-written.

Lease Month - means each of the twelve (12) months which comprise a Lease Year.

Lease Year - means each period of twelve (12) consecutive months occurring during the Term, the first (1<sup>st</sup>) Lease Year to commence on the First Rent Commencement Date and each subsequent Lease Year to commence on each subsequent anniversary of the First Rent Commencement Date. By way of illustration, if the First Rent Commencement Date were October 1, 2008, the first (1<sup>st</sup>) Lease Year would commence on October 1, 2008 and end on September 30, 2009, inclusively, and the second (2<sup>nd</sup>) Lease Year would commence on October 1, 2009 and end on September 30, 2010, inclusively.

Lessee - means Empire Aero Center, Inc., a corporation organized and existing under the laws of the State of Delaware and duly authorized to do business in the State of New York with offices at 394 Hangar Road, Rome, New York 13441, and its permitted successors and assigns.

Lessee's Available Office Space Option Exercise Notice - means the written notice given by Lessee to Lessor pursuant to Section 11.2 hereof, stating that Lessee intends to exercise Lessee's Option to Lease Available Office Space with respect to all or some portion of such Available Office Space.

Lessee's Options - means any option granted to Lessee under this Lease including, without limitation, the options to renew for the First Renewal Term and the Second Renewal Term, and Lessee's Option to Lease Available Office Space.

Lessee's Option to Lease Available Office Space - means Lessee's option to lease all or some portion of the Available Office Space from Lessor upon the terms and conditions specified in Article 11 hereof.

Lessee's Plans and Specifications - means the plans and specifications for any alterations to the Demised Premises to be undertaken by the Lessee pursuant to the provisions of Article 12 below.

Lessor – means the County of Oneida, a municipal corporation organized and existing under the laws of the State of New York with offices at County Office Building, 800 Park Avenue, Utica, New York 13501, and its successors and assigns.

Lessor's Building 100 Plans and Specifications – means those certain plans and specifications for the construction and/or renovation of Building 100 prepared by the Architects/Engineers. The Lessor's Building 100 Plans and Specifications are collectively annexed hereto and made a part hereof as **Exhibit G**. Lessee hereby acknowledges that it has reviewed Lessor's Building 100 Plans and Specifications and any modifications thereof and has agreed to the same.

Lessor's Building 100 Work – means the work Lessor is required to perform, or to have performed, according to Lessor's Building 100 Plans and Specifications in connection with constructing and/or renovating Building 100.

Lessor's Insurance – means the all-risk replacement cost property insurance which Lessor is required to maintain in force pursuant to the provisions of Article 20 hereof.

Lessor's Plans and Specifications – means Lessor's Building 100 Plans and Specifications.

Lessor's Pro-Forma Budget – means the amount budgeted by Lessor for Lessor's Building 100 Work.

Lessor's Representatives – means Lessor's consultants, accountants, attorneys, bankers and other representatives.

Lessor's Work – means Lessor's Building 100 Work.

Material Default: means the type and extent of default as more particularly described by Article 25 of this lease agreement.

Mohawk Valley EDGE – means Economic Development Growth Enterprises Corporation, d/b/a Mohawk Valley EDGE, a not-for-profit corporation organized and existing under the laws of the State of New York with offices at 153 Brooks Road, Rome, New York 13441.

MRO Facility – means an aircraft maintenance, repair and overhaul facility.

90-Day Notice Period – means that certain 90-day period of time commencing on the date that Lessor gives Lessee the Notice of East Hangar Bay Availability.

NMPC – means Niagara Mohawk Power Corporation, a National Grid Company.

Notice of East Hangar Bay Availability – means the written notice to be given by Lessor to Lessee, in accordance with the provisions of Section 8.1 hereof, advising Lessee of the East Hangar Bay Availability Date.



Notice of East Hangar Bay Occupancy – means the written notice to be given by Lessee to Lessor, in accordance with the provisions of Section 8.1 hereof, advising Lessor of the East Hangar Bay Occupancy Date.

180-Day Window – means that certain 180-day period of time commencing on the date immediately following the expiration of the 90-Day Notice Period.

Oneida Parties – means the County, GLDC, Mohawk Valley EDGE, the Agency, 394 Hangar Road Corporation and GUSC.

Original Term – means the original twenty (20) year term of this Lease beginning on the First Rent Commencement Date, all as is more particularly described in Section 4.1 hereof. By way of illustration, if the First Rent Commencement Date were October 1, 2008, the Original Term would begin on October 1, 2008 and end on September 30, 2028, inclusively.

Permitted Alterations – shall have the meaning ascribed to such term as described in Section 12.1 hereof.

Post-Renovation Phase – means that portion of the Term beginning on the Second Rent Commencement date and ending on the last day of the Term, inclusively.

Proposed County Use – shall have the meaning ascribed to such term as described in Section 11.3 hereof.

PSC – means the New York State Public Service Commission.

Punch List – means a list of minor details of construction, mechanical adjustments, decorations or the like remaining to be done after Lessor has “substantially completed” Lessor’s Building 100 Work. The term “substantially completed” shall be defined as set forth in Section 8.2 herein.

Renewal Term – means the First Renewal Term and/or the Second Renewal Term and/or the Third Renewal Term, as the case may be.

Renovation Phase – means that portion of the Term beginning on the First Rent Commencement Date and ending on the date immediately preceding the Second Rent Commencement Date, inclusively.

Renovation Project – means Lessor’s Building 100 Work.

Rent Credit – means that certain credit in the sum of Eighty Thousand and 00/100ths Dollars (\$80,000.00) to be given by Lessor to Lessee against the Annual Base Rent due from Lessee to Lessor during the first three (3) Lease Years (as reimbursement to Lessee for Lessee’s installation of the West Hangar Bay Floor Coating in the West Hangar Bay). The Rent Credit shall be given in thirty-six (36) equal monthly installments of \$2,222.22 each beginning on the First Rent Commencement Date.

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Second Floor Office Annex Area – means that certain portion of Building 100 (located on the west side thereof) containing 5,138± square feet of floor area and commonly referred to as the “Second Floor Office Annex Area”. The Second Floor Office Annex Area is designated as “Area 3” on the Building 100 – Second Floor Plan annexed hereto and made a part hereof as **Exhibit B-2**

Second Renewal Term – means that certain ten (10) year renewal term of this Lease, more particularly described in Section 5.2 hereof. The thirtieth (30<sup>th</sup>) anniversary of the First Rent Commencement date, i.e., the first (1<sup>st</sup>) day of the thirty-first (31<sup>st</sup>) Lease Year would be the first (1<sup>st</sup>) day of the Second Renewal Term.

Second Rent Commencement Date – means the East Hangar Bay Occupancy Date.

Secretary – means the Secretary of the Air Force and his or her successors in office.

Survey Map – means that certain survey map entitled “Property Map Showing a Portion of Lands Owned by the County of Oneida on the Griffiss Airfield (Building 100 Parcel), City of Rome, County of Oneida, State of New York” made by \_\_\_\_\_, P.L.S. \_\_\_\_\_, dated \_\_\_\_\_, 2008.

Temporary Use Agreement - means that certain agreement signed by the Lessor and Lessee on June 13, 2007 which agreement sets forth the terms and conditions of Lessee’s temporary occupancy of certain areas of Building 100 effective February 15, 2007.

Term – means the Original Term of this Lease and, if and when in effect, the Renewal Terms of this Lease, unless expressly stated otherwise or unless the context clearly indicates otherwise.

Third Floor Office Annex Area – means that certain portion of Building 100 (located on the west side thereof) containing 4,432± square feet of floor area and commonly referred to the “Third Floor Office Annex Area”. The Third Floor Office Annex Area is designated as “Area 4” on the Building 100–Third Floor Plan annexed hereto and made a part hereof as B-3

Third-Party Offer - shall have the meaning ascribed to such term as described in Section 12.3 hereof.

Third Renewal Term - means that certain five (5) year renewal term of this Lease, more particularly described in Section 5.3 hereof. The fortieth (40<sup>th</sup>) anniversary of the First Rent Commencement date, i.e., the first (1<sup>st</sup>) day of the forty-first (41<sup>st</sup>) Lease Year would be the first (1<sup>st</sup>) day of the Third Renewal Term.

TSA – means the Transportation Security Agency, an agency of the United States government.

Wash Bay - shall mean that certain area located on the first floor on the north side of Building 100 that is retained by the Lessor for airport purposes and identified as Area 7 on **Exhibit B-1**.

West Hangar Bay – means that certain three (3)-story high portion of Building 100 (located on the west side thereof) containing 56,830± square feet of floor area) and commonly referred to as the “West Hangar Bay”. The West Hangar Bay is designated as “Area 1” on the Building 100–First Floor Plan annexed hereto and made a part hereof as **Exhibit B-1**

West Hangar Bay/Ancillary Office Space Tenant Improvements – means those certain renovations and/or improvements to be made to the West Hangar Bay and/or Ancillary Office Space by or for the benefit of Lessee (with the West Hangar Bay/Ancillary Office Space Tenant Improvements Allowance) during the Renovation Phase including, without limitation, the fit-out of office space, the installation of wiring for telecommunications and data transmission, the installation of door locks, the installation of cable reels and signage, and interior painting. The West Hangar Bay/Ancillary Office Space Tenant Improvements shall exclude any renovations and/or improvements being made to the West Hangar Bay and/or the Ancillary Office Space by Lessor as part of Lessor’s Building 100 Work. Before they are undertaken, the West Hangar Bay/Ancillary Office Space Tenant Improvements to be made shall first be agreed upon by Lessor and Lessee, in writing. In the event that Lessee elects to undertake any or all of such West Hangar Bay/Ancillary Office Space Tenant Improvements itself (and seeks reimbursement therefor from Lessor out of the West Hangar Bay/Ancillary Office Space Tenant Improvements Allowance), Lessee shall follow the same competitive bidding and other procedures that Lessor would be obligated to follow if it were directly contracting for the work in question, which procedures are particularly set forth in Section 100 et seq. of the General Municipal Law.

West Hangar Bay/Ancillary Office Space Tenant Improvements Allowance – means that certain allowance made by Lessor by or for the benefit of Lessee, in the maximum aggregate sum of \$200,000.00, to pay for and/or reimburse the cost of the West Hangar Bay/Ancillary Office Space Tenant Improvements.

West Hangar Bay Floor Coating – means that certain epoxy floor coating installed in the West Hangar Bay by Lessee, at its own cost and expense.

## **ARTICLE 2 – LEASE OF DEMISED PREMISES; USE OF OTHER AREAS**

2.1 Subject to the terms and provisions of this Lease, Lessor hereby leases to Lessee, and Lessee hereby hires and takes from Lessor, the Demised Premises. Lessee acknowledges and agrees that (a) during the Renovation Phase, the Demised Premises shall consist of the West Hangar Bay and the Ancillary Office Space and (b) during the Post-Renovation Phase; the Demised Premises shall consist of the West Hangar Bay, the Ancillary Office Space, and the East Hangar Bay. Lessee further acknowledges and agrees that in the event that Lessee exercises Lessee’s Option to Lease Available Office Space, any such Available Office Space so leased by Lessee shall be added to and become a part of the Demised Premises in accordance with the provisions of Section 11.1 hereof. Lessee shall also have a non-exclusive right (in common with others including Lessor) to use (x) the Common Area and the overflow parking area and (y) the exclusive right to use up to 150 parking spaces located in the Building 100-Vehicle Parking Area.

2.2 Lessee shall have a non-exclusive right (in common with others, including Lessor) to use the Adjoining Area for purposes which are reasonably related to its use of the Demised Premises subject, however, to (a) the terms and provisions of this Section 2.2, (b) the County’s rules and

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regulations for the Griffiss Airfield (the "County Airfield Regulations") attached hereto and made a part hereof as **Exhibit D**, as such County Airfield Regulations may now exist or hereafter be adopted or amended including, without limitation, any such County Airfield Regulations which impose aircraft parking and/or storage fees, and (c) applicable FAA Regulations. Lessor, acting in its sole discretion, shall schedule and coordinate all uses of the Adjoining Area, whether by Lessee or others (including Lessor). In each instance where Lessee intends to exercise its non-exclusive right to use the Adjoining Area, regardless of whether such exercise will involve the movement, parking or storage of an aircraft, or some other use permitted under this Lease, Lessee shall provide Lessor with as much advance notice thereof as reasonable under the circumstances. If Lessee's use of the Adjoining Area conflicts or may conflict with the use thereof by another non-governmental person or entity, Lessor shall make a reasonable effort to grant Lessee a preference when it schedules and/or coordinates such conflicting or potentially conflicting uses.

2.3 The Lessee covenants and agrees to occupy the Demised Premises and use the same for the purposes specified in Section 3.1 below. Lessee's use, possession and occupancy of the Demised Premises shall be subject to all easements, agreements, rights, rights-of-way, conditions, restrictions and/or covenants of record applicable to and/or affecting the Demised Premises, Building 100, the Griffiss Business Park, the Griffiss Airfield, or Griffiss AFB, including, without limitation the easements, rights-of-way, conditions, restrictions and/or covenants set forth in that certain New York Quitclaim Deed from The United States of America, acting by and through the Secretary of the Air Force to the County of Oneida, dated May 17, 2004 and recorded June 18, 2004 in the Oneida County Clerk's Office as Instrument No. 2004-014061 (the "Air Force Deed"). Lessee's use, possession and occupancy of the Demised Premises shall also be subject to all governmental laws, rules and regulations including, without limitation, FAA Regulations and to any state of facts that would be disclosed by an accurate survey.

### **ARTICLE 3 – RESTRICTIONS ON USE**

3.1 Subject to and in accordance with all rules, regulations, laws, ordinances, statutes and requirements of all governmental authorities and the Board of Fire Underwriters and any similar bodies having jurisdiction, Lessee shall use the Demised Premises solely to manufacture aviation products and operate a full service aircraft maintenance, repair and overhaul facility ("MRO Facility") providing aircraft maintenance, repair and overhaul services and other aviation related services. Without limiting the generality of the foregoing, the Lessee shall use the Demised Premises to provide aircraft painting and stripping services, avionics repair services, engine testing and overhaul services, aircraft modifications including aircraft customization/conversions, and to operate an aviation education/training center, and to furnish other services incidental to any of the foregoing or which provide support to Lessee's customers.

3.2 Lessor warrants and represents to Lessee that, under federal, state and local laws, rules, regulations and ordinances, Lessee may use the Demised Premises for the purpose or purposes specified in Section 3.1 above provided that Lessee complies in all respects with the provisions of such laws, rules, regulations and ordinances which are or may become applicable to it and its business operations.

3.3 Notwithstanding anything to the contrary herein contained, the Lessee shall have access to the Demised Premises and may conduct its business operations at the Demised Premises and at the

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Griffiss Airfield twenty four (24) hours per day, seven (7) days per week, three hundred sixty five (365) days per year.

#### **ARTICLE 4 – ORIGINAL TERM**

4.1 The original term (the "Original Term") of this Lease shall be for a period of twenty (20) years commencing on October 1, 2008 (the "First Rent Commencement Date") and ending on September 30, 2028, inclusively, unless sooner terminated in accordance with the provisions hereof.

#### **ARTICLE 5 – RENEWAL TERMS**

5.1 In the event Lessee is not then in default of any Lessee's obligations under this Lease, upon the expiration of the Original Term Lessee shall have the right to renew this Lease for a first (1<sup>st</sup>) renewal term (the "First Renewal Term") of ten (10) years upon all of the same terms and conditions as were applicable during the Original Term, except as hereinafter provided as to Annual Base Rent. In order to exercise such right of renewal, Lessee must give Lessor notice of Lessee's election to renew at least nine (9) months prior to the expiration of the Original Term.

5.2 In the event Lessee is not then in default of any of Lessee's obligations under this Lease, upon the expiration of the First Renewal Term Lessee shall have the right to renew this Lease for a second (2<sup>nd</sup>) renewal term (the "Second Renewal Term") of ten (10) years upon all of the same terms and conditions as were applicable during the Original Term, except as hereinafter provided as to Annual Base Rent and except Lessee shall have no further right to renew this Lease upon the expiration of the Second Renewal Term. In order to exercise such right of renewal, Lessee must give Lessor notice of Lessee's election to renew at least nine (9) months prior to the expiration of the First Renewal Term.

5.3 In the event Lessee is not then in default of any of Lessee's obligations under this Lease, upon the expiration of the Second Renewal Term, Lessee shall have the right to renew this Lease for a third (3<sup>rd</sup>) renewal term (the "Third Renewal Term") of five (5) years upon all of the same terms and conditions as were applicable during the Original Term, except as hereinafter provided as to Annual Base Rent and except Lessee shall have no further right to renew this Lease upon the expiration of the Third Renewal Term. In order to exercise such right of renewal, Lessee must give Lessor notice of Lessee's election to renew at least nine (9) months prior to the expiration of the Second Renewal Term.

#### **ARTICLE 6 – ANNUAL BASE RENT**

6.1 During each Lease Year of the Original Term hereof and, if Lessee exercises its option to renew pursuant to Section 5.1 above, during each Lease Year of the First Renewal Term and, if Lessee exercises its option to renew pursuant to Section 5.2 above, during each Lease Year of the Second Renewal Term and, if Lessee exercises its option to renew pursuant to Section 5.3 above, during each Lease Year of the Third Renewal Term, Lessee shall pay to Lessor, without notice from or demand by Lessor, and without setoff or deduction by Lessee, annual base rent ("Annual Base Rent") in monthly installments in accordance with the following formula, with each such monthly installment

being due on the first (1<sup>st</sup>) day of each month, in advance, beginning on the First Rent Commencement Date:

The Annual Base Rent for the Demised Premises so leased shall be computed by multiplying the number of square feet comprising such Demised Premises by the Applicable Lease Rate as indicated below for each Lease Year in question as follows:

<u>Lease Year</u>	<u>Lease Rate</u>
1st Lease	\$3.00 psf
2nd Lease Year	\$3.75 psf
3rd Lease Year	\$3.75 psf
4th Lease Year	\$4.00 psf
5th Lease Year	\$4.00 psf
6th Lease Year	\$4.00 psf
7th Lease Year	\$4.00 psf
8th Lease Year	\$4.00 psf
9th Lease Year	\$4.00 psf
10th Lease Year	\$4.00 psf
11 <sup>th</sup> Lease Year	\$4.00 psf
12 <sup>th</sup> Lease Year	\$4.25 psf
13 <sup>th</sup> Lease Year	\$4.25 psf
14 <sup>th</sup> Lease Year	\$4.25 psf
15 <sup>th</sup> Lease Year	\$4.25 psf
16 <sup>th</sup> Lease Year	\$4.25 psf
17 <sup>th</sup> Lease Year	\$4.25 psf
18 <sup>th</sup> Lease Year	\$4.50 psf
19 <sup>th</sup> Lease Year	\$4.50 psf
20 <sup>th</sup> Lease Year	\$4.50 psf

6.2 Sixty days prior to the expiration of each Lease Year, the Lessor and Lessee shall reconfirm the Demised Premises square footage occupied by Lessee and multiply same by the Applicable Lease Rate which rate shall be applied to the subsequent Lease Year. In the event that, during any Lease Year hereof, the square footage of the Demised Premises increases as provided for under any article or section contained herein, the Annual Base Rent for the remainder of any such Lease Year shall be recalculated by multiplying the new total square footage by the Applicable Lease Rate, divided by 12, and such recalculated Annual Base Rent shall be applied to the remaining months of such Lease Year and shall take effect on the first day of the next succeeding month. Lessee shall notify the Lessor in writing, directed to its Airport Commissioner, of any use, need or demand for increased square footage within Building 100.

6.3 Annual Base Rent during each of the First Renewal Term and the Second Renewal Term shall be determined in accordance with the following formula:

6.3.1 For the purposes of this formula, "index" shall mean the Consumer Price Index for Wage Earners and Clerical Workers, CPIW, U.S. City Average All Items (1982-84=100) now published by the U.S. Department of Labor or any replacement thereof comprising the same component factors. If the "index" is not published, Lessor and Lessee shall use a comparable index.

6.3.2 For the purpose of this formula, the first (1<sup>st</sup>) day of the First Renewal Term, the first (1<sup>st</sup>) day of the Second Renewal Term and the first (1<sup>st</sup>) day of the Third Renewal Term shall each be referred to as an "adjustment date".

6.3.3 For the purpose of this formula, "base index" shall refer to the index existing on the first (1<sup>st</sup>) day of

- (a) the Original Term, when calculating the Annual Base Rent due during the First Renewal Term; and
- (b) the First Renewal Term, when calculating the Annual Base Rent due during the Second Renewal Term.
- (c) the Second Renewal Term, when calculating the Annual Base Rent due during the Third Renewal Term.

6.3.4 For the purposes of this formula, "current index" shall refer to the index applicable on the adjustment date in question.

6.3.5 If, upon the adjustment date in question, the current index shall be greater than the base index, then

6.3.5.1 The current index shall be divided by the base index and the result shall be called the quotient.

6.3.5.2 The amount of Annual Base Rent due during the last Lease Year of the Original Term or the last Lease Year of the Renewal Term preceding the Renewal Term in question shall be multiplied by the quotient and the product shall be the Annual Base Rent for the Renewal Term which commences on the adjustment date in question, which Annual Base Rent shall be due and payable in twelve (12) monthly installments, in advance, on the first (1<sup>st</sup>) day of each and every month during said Renewal Term, provided, however, that under no circumstances shall the Annual Base Rent for a particular Renewal Term be less than the Annual Base Rent due during the last Lease Year of the Original Term or the last Lease Year of the Renewal Term preceding the Renewal Term in question.

6.4 Lessor shall invoice Lessee prior to the beginning of each Lease Month during the Term hereof for the monthly installment of Annual Base Rent and any items of additional rent due hereunder for such Lease Month. Lessor's failure to invoice Lessee as aforesaid shall not relieve Lessee of its obligation to pay Annual Base Rent and all items of additional rent due hereunder when due.

6.5 Notwithstanding anything to the contrary hereinabove set forth, if the Second Rent Commencement Date occurs on a day other than the first (1<sup>st</sup>) day of a month, Lessee shall pay Lessor Annual Base Rent from such Second Rent Commencement Date up to and including the last day of the month in which said Second Rent Commencement Date occurs at the per diem rate calculated as follows: no. of sq.ft.occupied by Lessee x applicable lease rate psf ÷ 365, together with such items of additional rent as may be due hereunder. Thereafter, Lessee shall pay Lessor the Annual Base Rent due pursuant to this Lease in the regular monthly installments provided for herein.

#### **ARTICLE 7 – LESSEE’S OBLIGATION TO COOPERATE DURING RENOVATION PHASE**

7.1 Lessee shall cooperate with Lessor, and its agents, employees, contractors and other representatives to facilitate the scheduling, sequencing and performance of Lessor’s Building 100 Work. To the extent reasonably practicable, Lessor shall schedule, sequence and/or perform Lessor’s Building 100 Work in a manner which minimizes the disruption of and/or interference with Lessee’s use and occupancy of the West Hangar Bay and the Ancillary Office Space as well as its use of the Common Area and/or the Adjoining Area. However, Lessee acknowledges that Lessor’s Building 100 Work is likely, from time to time and at various times, to disrupt and/or interfere with Lessee’s use and occupancy of the West Hangar Bay and the Ancillary Office Space as well as its use of the Common Area and/or Adjoining Area. Lessee agrees that any such disruption of and/or interference with its use and occupancy of the West Hangar Bay or the Ancillary Office Space, or its use of the Common Area or the Adjoining Area, caused by or attributable to Lessor’s Building 100 Work shall not constitute a constructive eviction. Lessee further agrees that no diminution or abatement of Annual Base Rent or additional rent or suspension of any of Lessee’s other obligations under this Lease shall be allowed for any reason or circumstance whatsoever arising from or relating to Lessor’s Building 100 Work unless Lessor’s Building 100 Work shall result in Lessee’s being denied access to or use of a portion of the Demised Premises for the purposes set forth in Article 2 hereof.

#### **ARTICLE 8 – LESSOR’S BUILDING 100 WORK**

8.1 Within two (2) months after the date the parties execute and deliver this Lease, Lessor shall, at its own cost and expense, commence performing Lessor's Building 100 Work in accordance with the Lessor's Building 100 Plans and Specifications. All construction shall be performed in a professional and workmanlike manner in compliance with all applicable federal, state and local laws, rules, regulations, orders and codes. All materials used shall be of new and acceptable quality. Lessor shall “substantially complete” Lessor's Building 100 Work on or before May 1, 2009, and shall “fully complete” Lessor's Building 100 Work within a reasonable time thereafter. Lessor shall give Lessee written notice of the date upon which the East Hangar Bay shall be “substantially complete” and, thus, ready for Lessee’s temporary use, Then, within thirty (30) days after Lessor gives Lessee such notice, Lessee shall vacate the West Hangar Bay and transfer its MRO activities to the East Hangar Bay until such time as the Lessor’s Building 100 work in the West Hangar Bay is substantially completed. Upon Lessor’s notice to Lessee of substantial completion of the West Hangar Bay renovations, the Lessee shall, within thirty (30) days thereafter, vacate the East Hangar Bay and recommence occupancy of the West Hangar Bay. In the event that the Lessee shall fail to vacate the East Hangar Bay and relocate its operations to the West Hangar Bay, the Lessee shall be charged at the annual Applicable Lease Rate for the total combined square footage of both the West and East Hangar Bays effective upon the expiration of the thirty (30) day notice period.

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8.1.1 Notwithstanding any provision or condition of Section 8.1 above to the contrary, Lessor shall serve upon Lessee Notice of East Hangar Bay Availability and thereafter, the Lessee shall have thirty (30) days to serve upon the Lessor written notice (the "Notice of East Hangar Bay Occupancy") specifying the date upon which the Lessee intends to take use, possession and occupancy of the East Hangar Bay (the "East Hangar Bay Occupancy Date") The East Hangar Bay Occupancy shall be within 180 days from the expiration of the 90 days constituting the Notice of East Hangar Bay Availability period.

8.1.2 In the event that the Lessee fails to occupy the East Hangar Bay within such 180 day period, then the Lessee shall commence paying rent at the Applicable Lease Rate for such hangar space as of the first day following the expiration of the 180 day period.

8.1.3 Upon Lessee's vacating the West Hangar Bay and occupying of the East Hangar Bay, Lessee shall receive a reduction in rent which shall be calculated by the difference in square footage between the two hangar bay spaces by the Applicable Lease Rate.

8.2 Lessor's Building 100 Work shall be deemed "substantially completed" upon the occurrence of all of the following: (i) construction by Lessor of Lessor's Building 100 Work in accordance with Lessor's Building 100 Plans and Specifications to the extent that the remaining work to be done consists solely of a list of minor details of construction, mechanical adjustments, decoration or the like (the "Punch List") which will not materially interfere with Lessee's use and enjoyment of the Demised Premises; (ii) the utility service lines contemplated by such Lessor's Building 100 Plans and Specifications, if any, being fully installed and operational for use by Lessee; (iii) all proposed means of ingress, egress and parking necessary for Lessee's use of the Demised Premises being available therefor, (iv) the issuance of a temporary or permanent Certificate of Occupancy for the Demised Premises by the governmental authority having jurisdiction thereof, and (v) certification by the Architects/Engineers that Lessor's Building 100 Work is "substantially complete" as aforesaid, except for Punch List items.

8.3 At or about the time that Lessor's Building 100 Work is "substantially completed", Lessor and Lessee shall jointly prepare the Punch List and Lessor shall submit said Punch List to the general contractor or contractors who performed Lessor's Building 100 Work for completion. Lessor shall see to it that the items on the Punch List are "fully completed" by said general contractor or contractors to the reasonable satisfaction of Lessee within a reasonable time after the Lessor's Building 100 Work is "substantially completed".

8.4 Notwithstanding anything to the contrary herein contained, if, upon the opening of the Bids, Lessor desires to reject all of the same solely because the amount of each of such Bids exceeds the amount budgeted by Lessor for Lessor's Building 100 Work (the "Lessor's Pro-Forma Budget"), Lessor shall, before it rejects such Bids, give notice to Lessee of its intention to do so, whereupon Lessor and Lessee shall immediately enter into good faith negotiations to modify this Lease so that it contains such terms and provisions (including those relating to the payment of Annual Base Rent) as may be satisfactory to both parties and which make it possible for Lessor to stay at or under the amount of Lessor's Pro-Forma Budget and still accept the lowest responsible Bid.

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8.5 Lessor shall keep Lessee apprised of the progress of Lessor's Building 100 Work and shall invite Lessee to attend the periodic construction meetings which Lessor intends to hold with the general contractor or contractors while Lessor's Building 100 Work is underway.

#### **ARTICLE 9 – SUBORDINATION TO LESSOR/AGENCY TRANSACTION**

9.1 Lessor has advised Lessee that Lessor may, in the future, enter into a sale-leaseback, lease-leaseback or other arrangement or agreement with the Agency relating to all or some portion of the Griffiss Airfield for the purpose of obtaining one or more forms of financial assistance from the Agency including, without limitation, relief from real property taxes. This Lease automatically shall be subject and subordinate to any such sale-leaseback, lease-leaseback or other arrangement or agreement between the Agency and Lessor. This subordination shall be self-operative. However, Lessee shall execute and deliver such agreements, documents and/or instruments as Lessor may request to confirm and/or evidence said subordination.

#### **ARTICLE 10 – LIMITED OBLIGATIONS**

10.1 Lessee acknowledges and agrees that Lessor shall have no obligation with respect to the Demised Premises, the Adjoining Area, the Common Area, and/or the Building 100-Vehicle Parking Area except if, and as may be, specifically and expressly provided in this Lease.

#### **ARTICLE 11 – LESSEE'S OPTION TO LEASE AVAILABLE OFFICE SPACE**

11.1 During the Term hereof, the Lessee shall have the option of expanding the Demised Premises to include all or some portion of the Available Office Space (the "Lessee's Option to Lease Available Office Space") upon the same terms and conditions as are set forth in this Lease (with coterminous expirations and renewals) except that (a) the Annual Base Rent for the Available Office Space so leased shall be computed by multiplying the number of square feet comprising such Available Office Space (as certified by the Architects/Engineers) by the Applicable Lease Rate and (b) Lessor shall have no construction and/or renovation obligations with respect to such Available Office Space.

11.2 In order to exercise the Lessee's Option to Lease Available Office Space, the Lessee shall give the Lessor at one (1) months' prior written notice thereof (the "Lessee's Available Office Space Option Exercise Notice"). Upon receipt of the Lessee's Available Office Space Option Exercise Notice, Lessor and Lessee shall enter into a written agreement modifying this Lease as soon as is reasonably practicable so as to add the Available Office Space in question to the Demised Premises. Such modification agreement shall reflect and be governed by the terms and provisions of this Lease, with the appropriate increases being made thereto (including, without limitation, the appropriate adjustments to the Annual Base Rent schedule set forth in Section 6.1 hereof). Lessee acknowledges and agrees that, notwithstanding anything to the contrary herein contained, Lessor shall not be obligated to grant Lessee the use, possession and occupancy of such Available Office Space until such time as the parties have entered into the aforesaid modification agreement.

11.3 If Lessor receives a bona-fide third-party offer to lease all or any portion of the Available Office Space which it is willing to accept (the "Third-Party Offer"), or if Lessor desires to use all or any portion of the Available Office Space for its own purposes (the "Proposed County Use"),

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it shall give Lessee written notice thereof together with either (a) a copy of such Third-Party Offer or (b) a explanatory statement regarding the Proposed County Use (the "County's Explanatory Statement"), as the case may be. Upon its receipt of said notice and copy of the Third-Party Offer or the County's Explanatory Statement, as the case may be, Lessee shall have a period of thirty (30) days in which to exercise Lessee's Option to Lease Available Office Space by giving Lessor Lessee's Available Office Space Option Exercise Notice. If Lessee fails to exercise Lessee's Option to Lease Available Office Space within said thirty (30) day period, Lessor may enter into a lease with the third-party upon the terms and conditions set forth in the Third-Party Offer or may commence using the Available Office Space for the Proposed County Use, as the case may be, whereupon Lessee's Option to Lease Available Office Space shall automatically terminate as to the Available Office Space in question. Lessee shall execute any instruments or documents requested by the Lessor or such third-party in order to evidence and/or acknowledge said termination. In the event that any third party occupant shall cease leasing the Available Office Space or same is not required for Lessor's use, then the Lessor may, at its option and in its discretion, resurrect Lessee's Option to Lease Available Office Space under the same terms and conditions set forth herein.

#### **ARTICLE 12 – ALTERATIONS BY LESSEE**

12.1 If Lessee desires to make any Non-Structural Alterations (the "Permitted Alterations") to the Demised Premises, it may do without Lessor's prior consent.

12.2 If Lessee desires to make any Minor Structural Alterations to the Demised premises, it must first obtain the Lessor's prior written consent which consent the Lessor may not unreasonably withhold, condition or delay. Lessee shall give Lessor prior written notice of any Minor Structural Alterations which it proposes to make to the Demised Premises together with two (2) sets of Lessee's Plans and Specifications therefore, stamped by a New York State licensed architect and/or engineer. Lessor shall have a period of seven (7) business days after its receipt of such notice and Lessee's Plans and Specifications in which to grant or refuse or condition its consent. If the Lessor fails to respond to Lessee's written notice and Lessee's submission of its Plans and Specifications within said seven (7) business day period, Lessor shall be deemed to have given its consent to the Minor Structural Alteration proposed therein.

12.2.1 Such work shall be performed in a professional and workmanlike manner, and shall not weaken or impair the structural strength of Building 100 or any part thereof or change the purposes for which the Demised Premises may be used.

12.2.2 Before the commencement of such work and except in the case of Permitted Alterations, the Lessee shall, if requested, give Lessor surety company performance and payment bonds from a responsible insurance company authorized to do business in the State of New York, in the amount specified by Lessor, guaranteeing (a) the completion of such work in accordance with Lessee's Plans and Specifications therefor, free and clear of all liens, encumbrances, security agreements, chattel mortgages and conditional bills of sale, and (b) payment of the cost of such work and containing such other terms and provisions as may be required by Lessor; and

12.2.3 If required by Lessor, any contract or agreement for labor, services, materials or supplies in connection with any alterations, building construction, reconstruction,

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building, rebuilding, renovation, replacement, change, addition or improvement shall provide that the contractor or supplier shall not place any mechanic's lien against the Demised Premises or any part thereof or any of the equipment thereof. Lessee shall deliver to Lessor either a duplicate original of such contract or a written waiver by the architect, engineer, contractor, materialman, mechanic, person or corporation named in such contract of all right of lien which he, she or it might otherwise have upon or against the Demised Premises or any part thereof or any equipment therein, or the interest of Lessor in any of the foregoing on account of any work, labor, materials or other thing done or provided with respect thereto.

12.3 Nothing contained in Section 12.1 or elsewhere in this Lease shall be deemed or construed in any way as constituting the consent or request of Lessor, expressed or implied, for the performance of any labor or the furnishing of any materials for the specific improvement, alteration or repair of or to the Demised Premises, or as giving the Lessee the right, power or authority to contract for or permit the rendering of any services or the furnishing of any material that would give rise to the filing of any liens against the Demised Premises or any part thereof.

### **ARTICLE 13 - INDEMNITY**

13.1 To the fullest extent permitted by law, Lessee agrees to indemnify and save Lessor, its officers, employees, agents, servants, contractors, invitees and/or representatives (each, a "County Party" and, collectively, the "County Parties") harmless from and against any and all claims, demands, costs, expenses (including reasonable attorneys' fees and disbursements) and liabilities (except such as result from the intentional or negligent act of such County Party or County Parties or the failure of such County Party or County Parties to perform any act or do anything required of such County Party or County Parties under this Lease) for or in connection with any accident, injury or damage whatsoever caused to any person or property arising or occurring at, on, or in the Demised Premises, the Adjoining Area, the Common Area, the Building 100-Vehicle Parking Area or the Griffiss Airfield, directly or indirectly out of the business or occupation conducted, or the improvements or alterations made by the Lessee at, on or in the Demised Premises, the Adjoining Area, the Common Area, the Building 100-Vehicle Parking Area or the Griffiss Airfield or arising from any act or omission of Lessee or any director, officer, employee, servant, agent, representative, invitee, contractor, subcontractor, materialman, supplier, vendor or concessionaire of Lessee or their respective agents, servants and employees or in any other respect associated with, occurring at, on or in, or relating to the Demised Premises, the Adjoining Area, the Common Area, the Building 100-Vehicle Parking Area or the Griffiss Airfield during the Term hereof.

13.2 To the fullest extent permitted by law, Lessor agrees to indemnify and save Lessee, its officers, employees, agents, servants, contractors, invitees and/or representatives (each, an "EAC Party" and, collectively, the "EAC Parties") harmless from and against any and all claims, demands, costs, expenses (including reasonable attorneys' fees and disbursements) and liabilities (except such as result from the intentional or negligent act of such EAC Party or EAC Parties or the failure of such EAC Party or EAC Parties to perform any act or do anything required of such EAC Party or EAC Parties under this Lease) for or in connection with any accident, injury or damage whatsoever caused to any person or property arising or occurring at, on, or in the Demised Premises, the Adjoining Area, the Common Area, the Building 100-Vehicle Parking Area or the Griffiss Airfield or arising from any act or omission of Lessor or any director, officer, employee, servant, agent, representative, invitee,

contractor, subcontractor, materialman, supplier, vendor or concessionaire of Lessor or their respective agents, servants and employees or in any other respect associated with, occurring at, on or in, or relating to the Demised Premises, the Adjoining Area, the Common Area, the Building 100-Vehicle Parking Area or the Griffiss Airfield during the Term hereof.

Notwithstanding anything to the contrary contained in this Lease, the Lessee's obligations pursuant to Sections 13.1 and 13.2 above shall remain in full force and effect after the expiration or other termination of this Lease until the expiration of the period stated in the applicable statute of limitations during which a claim, cause of action or prosecution relating to the matters herein described may be brought and payment in full or the satisfaction of such claim, cause of action or prosecution relating to the matters herein described and the payment of all reasonable attorneys' fees and disbursements incurred by either party relating to the enforcement of the provisions herein specified.

#### **ARTICLE 14 - EXCULPATION**

14.1 The term "Lessor" as used in this Lease shall mean the County so long as it has not transferred its right, title and interest in the Demised Premises and, should it make any such conveyance, the County shall thereupon be entirely released from all covenants and other obligations of the Lessor under this Lease (except for covenants or obligations upon which the Lessor is in default on the date of such conveyance) and the term "Lessor" shall apply to the grantee of such conveyance, and the benefits of this Section 14.1 shall apply to such grantee and subsequent grantees, if any.

14.2 Neither the Lessor nor any of the other County Parties shall be responsible or liable to Lessee for any injury or damage resulting from acts or omissions of persons occupying property adjoining the Demised Premises (including the Adjoining Area and/or the Building 100-Vehicle Parking Area), or for any injury or damage resulting to Lessee or its property from bursting, stoppage, or leaking of water, gas, sewer or steam pipes, except when such loss or damage arises from the intentional or grossly negligent conduct of Lessor or such other County Party.

14.3 In the event of any default by Lessor in performing any of Lessor's obligations under this Lease, Lessor shall have no personal liability on account thereof and Lessee shall, as Lessee's sole remedy, look solely to Lessor's right, title and interest in the Demised Premises or to any insurance proceeds received by Lessor relating to the Demised Premises.

#### **ARTICLE 15 - UTILITIES AND SERVICES**

15.1 Lessee shall, at Lessee's own cost and expense, make its own arrangements directly with each utility service provider for the connection and provision of utility services to the Demised Premises including, without limitation, steam, water, sewer, electric and telecommunications services. Lessee shall pay or cause to be paid all connection charges and charges for utility services used or consumed by it or others on, in, or at the Demised Premises or rendered or supplied to the Demised Premises before such charges shall become delinquent, and shall indemnify Lessor and save it harmless against any liability or damage on such account.

15.2 Lessor agrees that, in the event the door repairs and door and building insulation improvements to the West Hangar Bay have not been completed before the onset of the period in which

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the steam heat provided to Building 100 is activated for the 2008-2009 fall/winter season, Lessor shall allow Lessee a rent credit of \$16,362.25 in each of the months in which these named improvements have not been substantially completed by the Lessor.

15.3 Lessee shall, at Lessee's own cost and expense, provide and pay for all other services used or consumed by the Lessee at, in or about the Demised Premises including, without limitation, janitorial services, refuse disposal, building security and security of the aircraft parked on any adjoining area and grounds maintenance (e.g., snow removal from parking lots, apron areas, ramps, driveways and walkways which are a part of the Demised Premises and/or Adjoining Area, which snow removal areas are as more fully set forth on **Exhibit H**, attached hereto and made a part hereof this lease agreement).

15.4 Water and sanitary sewer services are currently available at the Demised Premises through the City of Rome. Electric service is available at the Demised Premises through GUSC, which currently acquires electricity from Niagara Mohawk Power Corporation, a National Grid Company ("NMPC"). NMPC is a public utility company. Both NMPC and GUSC, as electric service providers, are subject to regulation by the New York State Public Service Corporation (the "PSC"). Telephone Service is currently available at the Demised Premises through Northland Communications and other PSC-regulated telecommunication service providers.

#### **ARTICLE 16 – MAINTENANCE AND REPAIRS**

16.1 Lessor shall, at its own cost and expense, undertake and make such repairs as may be necessary to keep Building 100's major structural components, Building 100's roof, the West Hangar Bay hangar bay door (on the northwest side of Building 100), the East Hangar Bay hangar bay door (on the northeast side of Building 100), Building 100's mechanical and electrical systems (including AFFF and HVAC), the Building 100-Vehicle Parking Area, and all utility laterals to Building 100 which are located on the Griffiss Airfield in good order and repair, except for those of such repairs which are necessitated by the act or omission of the Lessee or the Lessee's agents, servants, employees, contractors and/or invitees.

16.2 Lessee shall, at its own cost and expense, undertake and make (a) all repairs as may be necessary to keep the Demised Premises in good order and repair and not specifically and expressly required to be made by Lessor under Section 16.1 above and (b) all repairs to the Demised Premises, Building 100, and the Building 100 Vehicle Parking Area which are necessitated by the act or omission of the Lessee or the Lessee's agents, servants, employees, contractors and/or invitees. Without limiting the generality of the foregoing, Lessee shall, at its own cost and expense, undertake and make all necessary interior maintenance and repairs to the Demised Premises, including repairs to and repainting and resurfacing of the Hangar Bay floors, cause the AFFF system to be inspected on an annual basis, provide routine annual maintenance of the Hangar Bay doors.

16.3 Lessee shall cause no waste or injury to the Demised Premises and shall quit and surrender the same at the end or other expiration of the Term broom clean and in good order and in the same condition as existed at the commencement of the Original Term, normal wear and tear and damage by the elements excepted, and shall remove all alterations to the Demised Premises made by Lessee and all trade fixtures or equipment located therein belonging to Lessee, and restore the Demised

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Premises to the condition they were in before such alterations were made and/or trade fixtures installed, all at Lessee's own cost and expense, unless otherwise agreed upon between the Lessor and Lessee. If Lessee fails or refuses to remove such alterations to the Demised Premises and/or its trade fixtures or equipment and restore the Demised Premises to the condition they were in before such alterations were made or trade fixtures or equipment installed, Lessor may, at its option, (a) assume ownership of such alterations and/or trade fixtures or equipment or (b) arrange for the removal of such alterations and/or trade fixtures or equipment and restoration of the Demised Premises to the condition they were in before such alterations were made and/or trade fixtures or equipment installed, all at Lessee's own cost and expense. This Section shall survive the expiration or earlier termination of this Lease.

#### **ARTICLE 17 - CASUALTY LOSS**

17.1 Lessee shall give Lessor immediate notice of any fire or other damage to, or destruction of, the Demised Premises or any other part of Building 100. Lessor shall, at Lessor's own cost and expense, in the event of damage to or destruction of the Demised Premises or any other part of Building 100 by fire or other cause, repair or rebuild the same within a reasonable time (Lessor's recovery of insurance proceeds shall be a factor considered in determining a reasonable time) provided, that if such cause is not insured against under Lessor's Insurance or otherwise and is due to the fault of Lessee or Lessee's agents, servants, employees, or invitees, Lessor shall have no such duty to repair or rebuild. No claim shall be made by Lessee against Lessor in any case for compensation or damages by reason of interruption of Lessee's business, practice or occupation as a result of any damage to, or destruction of, the Demised Premises or any other part of Building 100 by fire or other cause, or arising from the necessity of repairing and rebuilding the same. Lessee shall be entitled to equitable abatement of rent during any period of time that Lessee is unable to use the Demised Premises for those purposes permitted under Section 3.1 by reason of damage thereto or destruction thereof by fire or other cause, provided that such damage or destruction is not attributable to any fault of the Lessee. Notwithstanding any provision of this Section 18.1 hereinbefore to the contrary, if more than twenty five percent (25%) of the Demised Premises or of Building 100 is damaged or destroyed, even if, in the case of such damage or destruction of Building 100, the Demised Premises are not so damaged or destroyed, or if such damage or destruction to the Demised Premises or Building 100 shall occur during the last Lease Year of the Term and there is no renewal right which Lessee has elected, or can elect, to exercise, Lessor shall have the right, upon notice to Lessee, to terminate this Lease, upon which termination neither Lessor nor Lessee shall have any further rights or obligations under this Lease or to or with respect to each other, provided, however that Lessee shall not be relieved of any obligation of which Lessee was in default at the time of such termination, which obligation shall survive such termination, and provided further, that Lessor shall be entitled to receive, as Lessor's sole and exclusive property, all insurance proceeds payable by reason of such damage to or destruction of the Demised Premises or any other part of Building 100. In order to exercise the right of termination provided by this Section 17.1, Lessor shall give Lessee notice thereof within thirty (30) days after damage to or destruction of the Demised Premises or Building 100 by fire or other cause.

17.2 In the event that the Demised Premises or any other part of Building 100 is damaged or destroyed, Lessee shall have the right to terminate this Lease (i) if such damage or destruction materially impairs Lessee's ability to make use of the Demised Premises in the customary operation of Lessee's business thereat and (ii) the Demised Premises cannot within a period of nine (9) months be repaired or restored to the same or better condition than it was in immediately prior to the occurrence of such damage

or destruction.

### **ARTICLE 18 – EMINENT DOMAIN**

18.1 If the whole of Building 100 shall be taken and condemned by any competent authority for any public use or purpose, the Term shall cease at the time of such taking or condemnation.

18.2 If part, but not the whole, of Building 100 shall be taken and condemned by any competent authority for any public use or purpose, and Lessee is unable to substantially use the Demised Premises for the uses it was making thereof immediately prior to such taking or condemnation, the Term shall cease at the time of such taking or condemnation.

18.3 If part, but not the whole, of Building 100 shall be taken and condemned by any competent authority for any public use or purpose, and Lessee is still substantially able to use the Demised Premises for the uses it was making thereof immediately prior to such taking or condemnation, this Lease and the Term shall continue and rent shall be equitably abated; provided, however, that in such event, Lessor shall, at Lessor's own cost and expense, make all necessary repairs or alterations to Building 100 so as to constitute that portion of Building 100 not taken a complete architectural unit and as nearly similar in character to Building 100 immediately prior to the taking, provided, however, that more than one (1) Lease Year remains in the Term at the time of the taking and provided further that such repairs or alterations are reasonably feasible. If, during the period of any such repair or alterations, Lessee is prevented from using the Demised Premises in whole or in part by reason thereof, rent shall be equitably abated while Lessee is so prevented.

18.4 Any award resulting from any taking or condemnation of any part or the whole of Building 100 (including any part or the whole of the Demised Premises) by any competent authority for any use or purpose shall belong to, and be the sole and exclusive property of, Lessor. Lessee hereby assigns to Lessor all right and claim which Lessee may otherwise have to such award and agrees to execute any and all instruments or other documents which at any time may be necessary or requested therefor. Notwithstanding any provision of this Section 18.4 herein before to the contrary, Lessee shall be entitled to recover any relocation expense or moving expense which the law provides to a tenant upon a taking or condemnation, as well as payment for any trade fixtures and equipment which are not or do not become the property of Lessor under the terms of this Lease provided, however that Lessor's award is not thereby diminished.

18.5 If the Term shall cease due to a taking or condemnation as provided in this Article 18, rent, minimum or additional, shall be apportioned accordingly to the date the Term ceases.

### **ARTICLE 19 - NEGATIVE COVENANT**

19.1 Lessee shall not deface or disfigure the Demised Premises or any part thereof or suffer the same to be done. Lessee shall not do anything, or suffer anything to be done, which causes or may cause structural injury to the Demised Premises or any part thereof provided, however that Lessee shall not be liable for any structural injury to the Demised Premises or any part thereof by reason of any act performed with Lessor's prior written consent and not performed in a negligent fashion.

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19.2 Lessee shall take all necessary and accepted measures to not permit any noxious or other annoying odors to emanate out of Building 100 or otherwise disturb the other owners, lessees or occupants of the Griffiss Airfield, the Griffiss Business Park or the Griffiss AFB.

## ARTICLE 20 - INSURANCE

20.1 In addition to its other obligations under this Lease including, without limitation, its obligation to indemnify the Lessor and the other County Parties pursuant to Section 13.1 above, Lessee shall, at Lessee's own cost and expense, at all times beginning when Lessee takes occupancy of all or any portion of the Demised Premises and thereafter during the Term, provide and keep in force:

(a) a Commercial General Liability insurance policy with a combined single limit of at least Five Million Dollars (\$5,000,000.00), for injury or death to any one or more persons and damage to property, all with respect to any one (1) accident protecting and indemnifying the Lessor, Mohawk Valley EDGE, the Agency, the County, 394 Hangar Corporation, GUSC, GLDC and the Lessor and any designees of Lessor (e.g., mortgagees) from liability for injuries to persons or damage to property occurring in, at or about the Demised Premises under any form reasonably acceptable to Lessor as "Additional Insureds- Managers or Lessors of Premises" thereunder and shall be primary to and not contributing with any insurance maintained by such Additional Insureds in their own behalf. Such liability insurance shall include broad form property damage, contractual liability to include coverage for the terms of this agreement, fire damage legal liability insurance with a limit of at least \$500,000 and completed operations insurance, which shall be maintained for a period of at least two (2) years following the termination of this and all replacement leases and may provide for a commercially reasonable deductible in an amount reasonably satisfactory to Lessor;

(b) an Airfield Liability insurance policy, with a combined single limit of at least Ten Million Dollars (\$10,000,000.00) for injury or death to any one or more persons and damage to property, all with respect to any one (1) accident. protecting and indemnifying Mohawk Valley EDGE, the Agency, the County, GUSC, GLDC, 394 Hangar Road Corporation and the Lessor from liability for injuries to persons or damage to property occurring in, at or about the Demised Premises under any form reasonably acceptable to Lessor as "Additional Insureds, Managers or Lessors of Premises" thereunder and shall be primary to and not contributing with any insurance maintained by such Additional Insureds in their own behalf. Such liability insurance shall include broad form property damage, contractual liability to include coverage for the terms of this agreement, and completed operations insurance, which shall be maintained for a period of at least two (2) years following the termination of this and all replacement leases and may provide for a commercially reasonable deductible in an amount reasonably satisfactory to Lessor; and

(c) an Automobile Liability insurance policy with a combined single limit for bodily injury and property damage of at least One Million Dollars (\$1,000,000.00) for injury or death to any one or more persons and damage to property, all with respect to any one (1) accident. Such liability insurance to include coverage for all owned, non-owned, leased, rented or borrowed vehicles and protecting and indemnifying Mohawk Valley EDGE, the Agency, the County, GUSC, GLDC, 394 Hangar Road Corporation and the Lessor from liability for injuries to persons or damage to property occurring in, at or about the Demised Premises as "Additional Insureds, Managers or Lessors of Premises" thereunder and shall be primary to and not contributing with any insurance maintained by such Additional Insureds in their own behalf and may provide for a commercially reasonable deductible in an amount reasonably

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satisfactory to Lessor.

20.2 Lessee shall, at Lessee's own cost and expense, at all times during the Term, provide and keep in force an all-risk property insurance policy with extended coverage endorsement on all of Lessee's trade fixtures, equipment and leasehold improvements located at the Demised Premises in an amount equal to the full replacement cost thereof and with respect to Lessor's property, any loss under such insurance shall be adjusted with and payable solely to Lessor. Without limiting the generality of the foregoing, the Lessee shall maintain a hangar keepers' liability policy with coverage in the amount of at least \$10,000,000.00 per aircraft.

20.3 Lessee shall, prior to taking occupancy of all or any portion of the Demised Premises deliver to Lessor, together with proof of payment of the premium therefor, duplicate originals or a certificate of all policies of insurance required to be provided by Lessee under this Article 21, which policies shall include an endorsement which states that such insurance may not be canceled except on at least thirty (30) days' prior written notice to Mohawk Valley EDGE, the Agency, the County, GLDC, 394 Hangar Road Corporation, the Lessor and the Lessor's designees. All such policies shall be approved in form and amount by Lessor and shall be written by one or more insurance companies approved by Lessor. At least twenty (20) days prior to expiration of each such policy, Lessee shall deliver to Lessor a duplicate original or a certificate of all policies procured in replacement or renewal thereof, which policy or policies, if in replacement, shall have a similar cancellation provisions.

20.4 During the Term, the Lessor, at Lessor's own cost and expense, shall arrange for and maintain all-risk replacement cost property insurance (the "Lessor's Insurance") with respect to the buildings which are part of the Demised Premises, and provide proof thereof to the Lessee. The Lessor, at its election, may satisfy its obligation to arrange for and maintain the Lessor's Insurance by either (i) obtaining a separate policy of property insurance for the Demised Premises or (ii) by designating the Demised Premises as an insured property on the policy of property and casualty insurance (the "Property Policy") which it currently keeps in force with respect to the properties which it manages or controls. All policies of Lessor's Insurance so obtained and maintained by Lessor shall be written by one or more responsible insurance companies authorized to do business in the State of New York.

20.5 Lessor and Lessee, on behalf of themselves, their successors and assigns, release unto each other, their successors and assigns, all right to claim damages for injuries to employees or for any damage to the Demised Premises or the buildings or to other improvements located on the Demised Premises or for the personal property owned by the Lessee, the amount of which has been paid either to the Lessor, Lessee or to any other person, firm or corporation having an interest in said buildings or personal property under the terms of any fire, extended coverage or other policy of insurance. Insurance policies in effect on the buildings and personal property provided above shall permit or shall be endorsed to permit a waiver of subrogation.

20.6 Lessee's liability insurance covering work performed under Lessee's Plans and Specifications shall meet the requirements of paragraph 21.1 and 21.3 with the exception that the Additional Insureds provided for under 21.1 shall be covered as Additional Insureds with respect to work performed by Lessee, and with the additional exception that such liability insurance shall include broad form property damage, contractual liability, and completed operations insurance, which shall be maintained for a period of at least two (2) years following the completion of the project. Lessor's

liability insurance covering work performed under Lessor's Building 100 Plans and Specifications shall meet the requirements of Article 21 with the exception that the Lessee shall be covered as Additional Insured with respect to work performed by Lessor, and with the additional exception that such liability insurance shall include Owner's and Contractor's Protective Liability Insurance in the limits specified, to cover the Lessor, Mohawk Valley EDGE, the Agency, the County, 394 Hangar Corporation, GLDC and Lessor's designees which shall be maintained for a period of at least two (2) years following the completion of the project.

20.7 If, during the Term of this Lease, higher limits of insurance than those provided for herein are, in the reasonable opinion of the Lessor, appropriate, customary and generally required for like premises utilized for similar uses as the Demised Premises, Lessee shall, upon Lessor's request, procure such increased insurance limits.

20.8 Lessee shall have the option of furnishing Lessor with a policy or policies of insurance procured by IAI provided that such policy or policies of insurance designate the Lessee as a "named insured" thereon, designate the Lessor and the other County Parties as "Additional Insureds" thereon, and which otherwise meets all of the requirements relating to insurance which are set forth in this Lease.

20.9 Notwithstanding anything to the contrary hereinabove contained, in lieu of providing the aforesaid completed operations insurance itself or through IAI, the Lessee may require its contractors, subcontractors, etc. to provide the aforesaid completed operations insurance.

#### **ARTICLE 21 - REAL ESTATE TAXES, ASSESSMENTS, ETC.**

21.1 Lessor shall bear, pay and discharge punctually during the Term all real estate taxes, service fee payments, payments-in-lieu-of-real estate taxes, and assessments assessed, levied or otherwise imposed upon or payable with respect to the Demised Premises and provide Lessee with evidence of the real estate taxes, service fee payments, payments in-lieu-of taxes, and assessments so due and the payment thereof within thirty (30) days following Lessee's written request therefor. In the event Lessor desires to challenge the amount of the assessed value of the Demised Premises for real estate tax or payment in-lieu-of tax purposes, Lessee agrees to cooperate in signing any documents necessary for the purpose of such challenge, provided, however, Lessor holds Lessee harmless from, and indemnifies Lessee against, any cost or expense (including reasonable attorneys' fees and disbursements) which Lessee incurs in connection with such challenge.

21.2 Notwithstanding anything to the contrary herein contained, Lessee shall bear, pay and discharge punctually during the Term its pro-rata share of all general and special assessments levied or otherwise imposed upon the Demised Premises which provide a greater benefit to it as the occupant or user of the Demised Premises than the benefit provided thereby to the owner of the Demised Premises. The Lessee shall provide the Lessor with evidence of such payment within thirty (30) days following Lessor's written request therefor. In the event that the parties disagree over whether Lessee is obligated hereunder to pay a pro-rata share of a particular general or special assessment, or the amount of such pro-rata share, the dispute shall be determined by arbitration in accordance with the provisions of Article 27 hereof. Notwithstanding anything to the contrary hereinabove contained, the Lessee acknowledges that it shall be obligated to pay any charges imposed upon it or with respect to the

Demised Premises by virtue of the formation of any governmental district and/or improvement area (e.g., a lighting district, water district, drainage district, sewer district, etc.).

## **ARTICLE 22 – ENVIRONMENTAL PROTECTION**

22.1 To the extent that it is legally required to do so, the Lessor, at its own cost and expense, shall either contain, or abate and properly dispose of, any Hazardous Substances present at the Demised Premises on the First Rent Commencement Date. Notwithstanding anything to the contrary herein contained, the Lessor shall be responsible for the removal or containment of asbestos or asbestos-containing material (collectively, "ACM") existing at the Demised Premises on the First Rent Commencement Date, if any, but only when such ACM is damaged or deteriorated to the extent that it creates a potential source of airborne fibers. The Lessor may choose the most economical means of abating any such damaged or deteriorated ACM, which may include removal or containment, or a combination of removal and containment. The foregoing Lessor obligation does not apply to ACM which is not damaged or deteriorated to the extent that it creates a potential source of airborne fibers at the time the Lessee takes possession of the Demised Premises and which may become damaged or deteriorated by the Lessee or the Lessee's activities. ACM which later during the Term of this Lease becomes damaged or deteriorated as a consequence of the Lessee's activities under this Lease shall be abated by the Lessee at its sole cost and expense. ACM which later during the Term of this Lease becomes damaged or deteriorated solely through the passage of time shall be abated by the Lessor at its sole cost and expense, provided however that Lessee has given Lessor written notice of such damage or deterioration.

22.2 The Lessee shall comply, at its own cost and expense, with all Federal, State, and local environmental laws, regulations, and standards that are or may become applicable to the Demised Premises and/or to the Lessee's activities at, on or in the Demised Premises.

22.3 The Lessee shall be solely responsible for obtaining, at its own cost and expense, any environmental permits required by law, rule or regulation for its operations at or in the Demised Premises under this Lease, independent of any existing permits. At Lessee's request, Lessor shall assist Lessee by attempting to arrange preliminary meetings with state and local agencies to review the requirements for and obtain any air permits or discharge permits necessary in order for Lessee to conduct its business operations at the Demised Premises. Lessor shall make available to Lessee any information in its possession which Lessee reasonably believes would be of assistance to it in applying for and/or obtaining environmental permits.

22.4 Lessee shall, to the extent permitted under applicable law, indemnify, defend, and hold harmless the Agency and Lessor against and from any damages, costs, expenses (including reasonable attorneys' fees, reasonable environmental engineers' fees and reasonable experts' fees), liabilities, fines, or penalties resulting from releases, discharges, emissions, spills, storage, treatment, or disposal caused by Lessee, or which result from any other acts or omissions by the Lessee, its officers, agents, employees, contractors, or licensees, or the invitees of it or any of them at, on, over, under or in the Demised Premises, or within the vicinity thereof giving rise to Lessor liability, civil or criminal, or responsibility under Federal, State, or local environmental laws. Lessee shall execute and deliver to Lessor an Environmental Compliance and Indemnification Agreement in the same form as the sample Environmental Compliance and Indemnification Agreement annexed hereto and made a part hereof as

**Exhibit I.** This Article shall survive the expiration or termination of this Lease, and Lessee's obligations hereunder shall apply whenever the Lessor incurs costs or liabilities for the Lessee's actions of the types described in this Article 22.

22.5 Notwithstanding any other provision of this Lease, the Lessee does not assume any liability or responsibility for environmental impacts and damage caused prior to the first (1<sup>st</sup>) day of Lessee's occupation or use of any portion of the Demised Premises by the Air Force's or any other entity's use of toxic or hazardous wastes, substances, or materials on any portion of Griffiss AFB, including the Demised Premises. The Lessee has no obligation under this Lease to undertake the defense of any claim or action, whether in existence now or brought in the future, solely arising out of the use of or release of any toxic or hazardous wastes, substances, or materials on or from any part of the Griffiss AFB, including the Demised Premises, which occurred prior to the first day of Lessee's occupation or use of any portion of the Demised Premises. Further, the Lessee has no obligation under this Lease to undertake environmental response, remediation, or cleanup relating to such use or release.

(a) For the purposes of this Section 22.5, "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. "Occupation" or "use" shall mean any activity or presence (including preparation and construction) in or upon such portion of, or such building, facility, or other improvement on the Demised Premises.

(b) This Section 22.5 does not relieve the Lessee of any obligation or liability it might have or acquire with regard to third parties or regulatory authorities by operation of law.

(c) The Lessee has been advised and hereby acknowledges that, pursuant to the Air Force Deed, the Air Force recognizes and acknowledges its obligations under Section 330 of the National Defense Authorization Act, 1993, Pub. L. No. 102-484, as amended (10 U.S.C. §2687 note), which provides for indemnification of certain transferees of closing defense property.

(d) This Section 22.5 shall survive the expiration or earlier termination of this Lease.

### **ARTICLE 23 – GRIFFISS AIRFIELD**

23.1 Lessee acknowledges that the Griffiss Airfield is currently certificated under Part 139 of the FAA Regulations as a Class IV airport. Nothing contained herein shall be deemed to limit or restrict the ability of the County or any other qualified airfield operator (e.g., an Airport Authority) from operating the Griffiss Airfield as a public airport.

23.2 (a) This Lease shall be subordinate to the provisions of any existing or future agreements between the County and the United States of America relative to the operation and maintenance of the Griffiss Airfield, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Griffiss Airfield. All provisions of this Lease shall be subordinate to any right of the United States of America to lease or otherwise assume control over the Griffiss Airfield, or any part thereof, during time of war or national emergency for military use and any provisions of this Lease inconsistent with the provisions of such lease to, or assumption of control by, the United States of America shall be suspended.

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(b) This Lease shall be amended by the parties from time to time in order to comply with Federal laws, regulations or policies as they may be enacted, issued or amended from time to time. The parties agree that nothing in this Lease shall compel a party to comply with a provision that is then in violation of or conflict with Federal Laws, regulations or policies as they may be enacted, issued or amended from time to time.

#### **ARTICLE 24 - ASSIGNMENT AND SUBLETTING**

24.1 Lessee shall not, whether voluntarily, involuntarily, or by operation of law, assign or encumber this Lease, sublet all or any part of the Demised Premises, or permit any other person to occupy the same without Lessor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Lessor's consent to any assignment or subletting shall not release Lessee from any of its obligations hereunder including, without limitation, the payment of Annual Base Rent, additional rent or other sums provided for herein. Lessor's acceptance of Annual Base Rent, additional rent or other sums from any other person shall not be deemed a waiver of any provision hereof or a consent to the assignment or subletting of the Demised Premises.

24.2 The sale, issuance or transfer of more than forty nine percent (49%) of the voting capital stock of Lessee shall be deemed to be an assignment of this Lease which requires the Lessor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary contained herein, the Lessee may assign this lease in its entirety or sublet all or any part of the Demised Premises to IAI or any one of IAI's Affiliates without the Lessor's prior consent.

24.3. In the event that the Lessee desires to assign this Lease or sublet all or any part of the Demised Premises to any third person or entity, it shall give the Lessor at least twenty-one (21) days prior written notice thereof, which notice shall specify the date on which such assignment or subletting is to take place together with a copy of the proposed assignment and/or sublease and copies of the annual financial statements of the proposed assignee and/or sublessee for the three (3) fiscal years immediately preceding the date of the said assignment or subletting. Lessor may, by giving written notice to the Lessee within said twenty one (21) day period after it receives notice, elect to enter into a direct sublease or other arrangement with a prospective third party assignee or subtenant. If the assignment or sublease is for the entire Demised Premises, and the Lessor has given Lessee the notice described herein, the term of this Lease shall end on the effective date of such assignment or sublease between the Lessor and such third party. If this such assignment or sublease is for less than the entire Demised Premises, Lessee's rent shall be adjusted proportionately based on the number of square feet of building space retained by the Lessee.

24.4 Notwithstanding the provisions of Section 24.3 above, in the case of an assignment permitted or consented to hereunder (but not in the case of a sublease), the Lessor shall release the Lessee of and from any further duty or obligation under the Lease effective as of the date of such assignment, provided, however, that the assignee thereof executes an agreement in form and substance satisfactory to the Lessor, in its sole discretion, wherein it expressly assumes the Lease and unconditionally agrees to perform all of the Lessee's duties and obligations thereunder and assignee furnishes to the Lessor an irrevocable letter of credit in form and substance and issued by a United State commercial bank, satisfactory to the Lessor, in its sole discretion.

## ARTICLE 25 - DEFAULT

25.1 If, before or after the commencement of the Term, Lessee shall file in any court pursuant to any statute, either of the United States or of any state or foreign country, a petition in bankruptcy or insolvency, or for reorganization or arrangement, or for appointment of a receiver or trustee of all or any portion of such person's property, or a petition in bankruptcy or insolvency shall be filed against Lessee in any court pursuant to any statute, either of the United States or of any state or foreign country and such petition shall not be dismissed within one hundred twenty (120) days after the filing thereof, the Term shall thereby, at the option of Lessor, cease, and Lessee shall immediately quit and surrender the Demised Premises to Lessor, and in that case, neither Lessee nor anybody claiming under or through Lessee shall be entitled to possession, or to go into possession, of the Demised Premises, except for the temporary purpose of removing any alterations or personalty which it is permitted or required to remove under this Lease.

25.2 If, after commencement of the Term, (i) any of the events mentioned in the immediately preceding Section 25.1 shall occur, (ii) the Demised Premises remain vacant, abandoned or deserted for a period of thirty (30) days or more after notice from Lessor, (iii) the Demised Premises are used for some purpose other than a use permitted under this Lease or for some purpose restricted under this Lease, and any such use continues for more than thirty (30) days after notice from Lessor, (iv) any execution, attachment or other process of law which deprives Lessee of Lessee's estate created by this Lease is issued and Lessee fails to vacate or set aside such execution, attachment or other process within thirty (30) days after notice from Lessor, (v) Lessee shall default in fulfilling any of the covenants of this Lease (or any of the other Lease Documents), other than the provisions for the payment of Annual Base Rent or additional rent, for more than thirty (30) days after notice from Lessor, (vi) Lessee shall fail to pay any item of Annual Base Rent or additional rent or any part of either for a period of more than thirty (30) days after notice from Lessor, or (vii) Lessee shall default in the bonding or removal of a mechanic's lien within the thirty (30) day time period specified in Article 30 hereof, then, in any of such events, the Term shall thereby, at the option of Lessor, on the day specified in a notice to Lessee of exercise of such option, cease, and Lessee shall immediately quit and surrender the Demised Premises to Lessor, but Lessee shall remain liable as hereinafter provided.

25.3 If Lessor has exercised the option to cause the Term to cease as hereinbefore provided in this Article 25, Lessor may immediately or at any time thereafter, re-enter the Demised Premises and remove all persons and all or any property therefrom, either by summary proceedings or by any suitable action or proceeding at law, or by force or otherwise, without being liable, in the case of summary proceedings, for indictment, prosecution or damages therefor, and may repossess and enjoy the Demised Premises. If Lessor exercises such option to cause the Term to cease, Lessor may either relet the Demised Premises or any part or parts thereof for Lessor's own account, or may, at Lessor's option, relet the Demised Premises or any part or parts thereof as the agent of Lessee, and, in either such event, receive the rents therefrom, applying the same first to payment of such expenses as Lessor may have incurred in reletting, then to the fulfillment of Lessee's covenants herein and, if there be any excess then remaining, such excess shall belong to Lessor. Lessee shall remain liable for any deficiency. Lessor may relet the Demised Premises for a term extending beyond the Term and Lessee shall nevertheless remain liable as hereinafter provided. In the event the Term shall cease as provided in this Article 25, then whether or not the Demised Premises be relet, Lessee shall remain liable for, and Lessee hereby agrees to pay to Lessor until the time when this Lease would have expired but for

such termination or early expiration, the equivalent of the amount of all the Annual Base Rent and additional rent reserved herein, less the avails of reletting, if any, and the same shall be due and payable by Lessee to Lessor on the several rent days above specified, that is, upon each of such rent days Lessee shall pay to Lessor the amount of the deficiency then existing. Lessee hereby expressly waives any and all right of redemption granted by or under any present or future laws in case Lessee shall be dispossessed by judgment or warrant of any court or judge and Lessee shall waive and hereby waives all right to trial by jury in any summary proceedings hereafter instituted by Lessor against Lessee with respect to the Demised Premises. The words "re-enter" and "re-entry" as used in this Lease are not restricted to their technical legal meanings.

25.4 If not already provided in this Lease, if Lessee shall default in performing any covenant contained in this Lease (or any of the other Lease Documents) on Lessee's part to be performed, Lessor shall have the right, but not the obligation, immediately or at any time thereafter, without notice, to perform the same for the account of Lessee, and, in the event Lessor pays any monies in connection with such performance on account of Lessee, it shall give notice to Lessee of the amount so paid and such amount shall be deemed additional rent due and payable concurrently with the monthly installment of Annual Base Rent due in the second (2<sup>nd</sup>) full month following the month in which Lessor gives Lessee the aforesaid notice.

25.5 In the event of the breach by Lessee of any of the covenants and conditions of this Lease, Lessor shall have the right of injunction and a right to invoke any remedy at law or in equity as if re-entry, summary proceedings and other remedies were not provided herein.

25.6 In the event the Demised Premises shall become vacant by reason of Lessee's removal therefrom, whether with respect to a default or not, Lessor shall have no obligation to attempt to relet the Demised Premises or to repair any damages thereto caused by Lessee.

25.7 Notwithstanding anything to the contrary herein contained, in the event the Term shall cease as provided in this Article 25 due to Lessee's failure to pay any item of Annual Base Rent or additional rent or any part of either for a period of more than thirty (30) days after notice from Lessor, or for any other reason, then, whether or not the Demised Premises be relet, Lessee shall remain liable for, and Lessee hereby agrees to pay to Lessor all the Annual Base Rent and additional rent which would have been due during the period from the date of such default until the date that the then current Original Term or Renewal Term, as the case may be, would have expired but for such termination or early expiration, less the avails of reletting, if any, and the same shall be immediately due and payable, in full, by Lessee to Lessor upon notice of such acceleration and demand for immediate payment by Lessor to Lessee.

25.8 No receipt of monies by Lessor from or for the account of Lessee or from anyone in possession or occupancy of the Demised Premises after the termination of this Lease or after the giving of any notice of termination shall reinstate, continue or extend the Term or affect any notice given to Lessee prior to the receipt of such money.



## **ARTICLE 26 – DEFAULT CURE PERIOD**

26.1 Notwithstanding anything to the contrary contained in this Lease, each defaulting party hereto shall have a period of thirty (30) days after notice is given by the non-defaulting party to the defaulting party of any monetary or non-monetary default or event of monetary or non-monetary default under this Lease, in which to effect a cure thereof.

## **ARTICLE 27– DISPUTE RESOLUTION**

27.1 In any dispute between Lessor and Lessee wherein Lessee alleges a default under this Lease on Lessor's part, Lessee and Lessor may, by mutual consent have the matter decided by arbitration as set forth in Section 27.3 below provided, however, that Lessee has paid and continues to pay to Lessor, during the pendency of any such arbitration proceeding, all Annual Base Rent, additional rent and other sums due under the Lease.

27.2 In any dispute between Lessor and Lessee wherein Lessor alleges a default under this Lease on Lessee's part, the Lessor and the Lessee may, by mutual consent have the matter decided by arbitration as set forth in Section 27.3 below.

27.3 In any case where the Lessor and Lessee agree to arbitration pursuant to Sections 27.1 and 27.2 above or a provision contained elsewhere in this Lease specifies that a dispute is to be decided by arbitration, such arbitration shall be conducted by one (1) arbitrator (unless the parties agree to more than one arbitrator) in the City of Rome, New York in accordance with the existing rules of the American Arbitration Association, and judgment upon the arbitration award may be entered in any court of competent jurisdiction. The parties shall bear equally the arbitrator's fees and the other expenses incident to the proceedings, except that each party shall pay the cost of its own counsel and the fees of expert witnesses and other witnesses called by it.

27.4 If either party hereto elects to commence litigation against the other in connection with any matter relating to or arising out of this Lease (or any of the other Lease Documents), it shall do so in a New York State Court of competent jurisdiction sitting in Oneida County, New York or in the United States District Court for the Northern District of New York.

## **ARTICLE 28 – SUBORDINATION TO MORTGAGES**

28.1 This Lease shall be subject and subordinate to the lien of any mortgages now existing or which Lessor may hereafter place upon the Demised Premises, or any part thereof, and to all terms, conditions or other provisions of such mortgage(s), and to any renewals, extensions, modifications or replacements thereof. This subordination shall be self-operative. However, Lessee agrees to execute, acknowledge and deliver any and all documents which may be reasonably requested by Lessor in order to confirm and/or evidence the aforesaid subordination.

28.2 The Lessee shall not act or fail to act in a manner which would cause a default under any mortgages now existing or which any of the Prime Lessors or Lessor may hereafter place upon the Demised Premises or any part thereof.

28.3 The Lessee acknowledges and agrees that the Lessor shall have the right to mortgage, hypothecate, grant a lien upon or security interest in, or otherwise encumber, its leasehold and/or fee interest in the Demised Premises.

#### **ARTICLE 29 - ATTORNMENT**

29.1 In the event the Demised Premises or any part thereof is sold voluntarily or pursuant to any mortgage foreclosure sale, or pursuant to the exercise of any power of sale under any mortgage made by Lessor covering the Demised Premises or any part thereof, Lessee shall attorn to the purchaser at such sale and recognize such purchaser as the "Lessor" under this Lease.

#### **ARTICLE 30 - MECHANIC'S LIEN**

30.1 If a notice of mechanic's lien be filed against the Demised Premises or any part thereof for, or purporting to be for, labor or materials alleged to have been furnished to or for the Demised Premises at the request of Lessee, Lessee shall remove, "bond off" or discharge the same within thirty (30) days thereafter, and if Lessee shall fail to remove or discharge such lien within such thirty (30) day period, Lessor shall have the right, but not the obligation, to pay the amount of such lien, or discharge the same by deposit or bonding proceedings, without regard to the validity of such lien, and, in the event of such deposit or bonding proceedings, Lessor may require the lienor to prosecute an appropriate action to enforce the lienor's claim. In such case, Lessor may pay any judgment recovered on such claim. Any liability or expense paid by Lessor as provided in this Section 30.1 shall be deemed additional rent and shall be due and payable from Lessee to Lessor concurrently with the next monthly installment of Annual Base Rent due after Lessor gives Lessee notice of such payment by Lessor.

#### **ARTICLE 31 - INSPECTION**

31.1 Subject to the provisions of Section 31.7 below, the Lessor's agents or designated representatives shall be permitted to enter the Demised Premises at all reasonable times during Lessee's usual business or office hours, and, in the case of an emergency, at any time, for the purpose of inspecting the Demised Premises and making any necessary repairs thereto or rebuilding thereof and performing any work therein which Lessor desires to make that may be necessary by reason of Lessee's default under the terms of this Lease. Nothing herein shall imply any duty on the part of Lessor to do any work which under any provision of this Lease the Lessee is required to perform, and the performance thereof by Lessor shall not constitute a waiver of any default by Lessee. The Lessor shall not be liable for any inconvenience, annoyance, disturbance, loss of business or other damage to Lessee by reason of making such repairs or performing any such work on or in the Demised Premises, or on account of bringing materials, supplies, tools, or equipment into or to the Demised Premises during the course of such work, and the obligations of Lessee under this Lease shall not thereby be relieved, diminished or otherwise affected in any manner.

31.2 During the last nine (9) months of the Original Term, provided that Lessee has not exercised its right to renew for the First Renewal Term, Lessor shall have the right, at reasonable times, upon prior notice to Lessee, provided it does not unreasonably interfere with the business or occupation of Lessee, to enter the Demised Premises and show the same to prospective lessees thereof and may, during such final nine (9) month period, affix to any suitable part of the Demised Premises a notice of

letting of the Demised Premises or any part thereof and shall have the right to keep the same affixed without hindrance or molestation, provided no such sign shall unreasonably interfere with light coming into the Demised Premises or with any sign of Lessee at the Demised Premises.

31.3 During the last nine (9) months of the First Renewal Term, provided that Lessee has not exercised its right to renew for the Second Renewal Term, Lessor shall have the right, at reasonable times, upon prior notice to Lessee, provided it does not unreasonably interfere with the business or occupation of Lessee, to enter the Demised Premises and show the same to prospective lessees thereof and may, during such final nine (9) month period, affix to any suitable part of the Demised Premises a notice of letting of the Demised Premises or any part thereof and shall have the right to keep the same affixed without hindrance or molestation, provided no such sign shall unreasonably interfere with light coming into the Demised Premises or with any sign of Lessee at the Demised Premises.

31.4 During the last nine (9) months of the Second Renewal Term, provided that Lessee has not exercised its right to renew for the Third Renewal Term, Lessor shall have the right, at reasonable times, upon prior notice to Lessee, provided it does not unreasonably interfere with the business or occupation of Lessee, to enter the Demised Premises and show the same to prospective lessees thereof and may, during such final nine (9) month period, affix to any suitable part of the Demised Premises a notice of letting of the Demised Premises or any part thereof and shall have the right to keep the same affixed without hindrance or molestation, provided no such sign shall unreasonably interfere with light coming into the Demised Premises or with any sign of Lessee at the Demised Premises.

31.5 (a) Lessee shall permit an inspection of the Demised Premises by or on behalf of prospective purchasers of all or any portion of the Demised Premises at all reasonable times upon prior notice to Lessee, provided such inspection does not unreasonably interfere with the business or occupation of Lessee.

(b) At any time during the last nine (9) months of the Original Term or the First Renewal Term or the Second Renewal Term as the case may be, Lessor may affix to any suitable part of the Demised Premises a notice that the Demised Premises or some portion thereof is for sale and shall have the right to keep the same affixed without hinderance or molestation, provided no such sign shall unreasonably interfere with light coming into the Demised Premises or with any sign of Lessee at the Demised Premises. Except as set forth in this Section 31.5 (b), the Lessor shall be free to advertise the Demised Premises for sale at any time and in any manner and by any means it sees fit including, without limitation, trade publications, real estate listings, newspaper advertisements, internet postings, and free standing or other signage.

31.6 Notwithstanding anything to the contrary contained in this Article 31, except in cases of emergency, the Lessor's agents and designated representatives shall not enter the Demised Premises unless accompanied by Lessee's agents or designated representatives. Lessee shall make its agents or designated representatives available at all times during its usual business or office hours to accompany the Lessor's agents or designated representatives.

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**ARTICLE 32 - NOTICE**

32.1 All notices, demands or other communications hereunder shall be in writing and shall be either delivered personally or sent by certified mail, postage prepaid, return receipt requested or by a nationally recognized overnight courier service (e.g., UPS, Airborne or Federal Express) paid by shipper, receipt requested, addressed as follows or to such other address as either party may specify in writing to the other:

If to Lessor:

County of Oneida  
County Office Building  
800 Park Avenue  
Utica, New York 13501  
Attention: Anthony J. Picente, Jr.  
Oneida County Executive

With a copy (which shall not constitute notice) to:

Office of the County Attorney  
County Office Building  
800 Park Avenue  
Utica, New York 13501

Airport Commissioner  
Oneida County Airport  
592 Hangar Road-Suite 200  
Rome, New York 13441

If to Lessee:

Empire Aero Center, Inc.  
394 Hangar Road  
Rome, New York 13441  
Attention: Brian Olsen, President

With a copy (which shall not constitute notice) to:

Empire Aero Center, Inc.  
394 Hangar Road  
Rome, New York 13441  
Attention: Michael Migliore, Chief Financial Officer

Any such notice which is personally served or delivered by a nationally-recognized overnight courier service shall be deemed given when received by the addressee. Any such notice which is mailed shall be deemed given on the date which is five (5) calendar days after the date said notice is deposited with the United States Postal Service, except that if such day is a Sunday or national holiday, it shall be

deemed given on the first Business Day thereafter and except that a notice of change of address shall be deemed given when delivered to the addressee or to the addressee's last designated address.

### **ARTICLE 33 - PAYMENT**

33.1 All payments or evidence of payment required to be made or provided by Lessee to Lessor shall be made and provided to Lessor at its 592 Hangar Road, Suite 200, Rome, New York, 13441, Attention: Airport Commissioner or at such other place or places of which Lessor may from time to time give notice to Lessee. All payments shall be in lawful money of the United States of America. With the exception of Annual Base Rent, all monetary sums due to Lessor from Lessee pursuant to this Lease shall be deemed additional rent. No endorsement or statement on any check or other communication accompanying a check for payment of any amounts payable hereunder shall be deemed an accord and satisfaction, and Lessor may accept such check in payment without prejudice to Lessor's right to recover the balance of any sums owed by Lessee hereunder or to pursue any other remedy available in this Lease, or under law, against Lessee.

33.2 If, in any given Lease Month, the Lessee tenders payment to the Lessor in an amount which is less than the full amount of the Annual Base Rent and additional rent due in such Lease Month, the Lessor shall have the right to apply such partial payment to Lessee's then outstanding obligations in whatever manner it deems advisable notwithstanding any notation, legend or instruction of the Lessee thereon to the contrary, which notations, legends and instructions shall be null and void.

### **ARTICLE 34 - SIGNS**

34.1 Lessee may place or install signs at the Demised Premises only upon Lessor's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, and any such sign placed or installed by Lessee at the Demised Premises shall conform in every way with the rules and regulations of any governmental department or agency having jurisdiction thereover, and with any law of the state, county and/or municipality with regard thereto.

### **ARTICLE 35 - RELATIONSHIP**

35.1 No provision of this Lease is intended to create a partnership or agency relationship between Lessor and Lessee, or make Lessor and Lessee joint venturers, or make Lessor and Lessee in any way responsible for the debts or losses of the other.

### **ARTICLE 36 - SECURITY**

36.1 Lessor shall comply with all applicable TSA and FAA requirements related to the security of the Griffiss Airfield including, without limitation, arranging for the Griffiss Airfield perimeter to be completely enclosed with FAA-approved security fencing in the approximate location as shown on a map entitled "Map showing Griffiss Airfield Perimeter Security Fencing", a copy of which is annexed hereto as Exhibit J and either a manned or keypad/electronic card operated security gate located at the Otis Street entrance to the Griffiss Airfield which meets FAA requirements.

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36.2 Notwithstanding anything to the contrary herein contained, Lessor shall have no obligation of any kind to keep the Demised Premises or any specific aircraft secure, such obligation being the sole responsibility of Lessee. Without limiting the generality of the foregoing, Lessee shall be responsible for the security of the Demised Premises and all aircraft which it arranges to have brought to the Griffiss Airfield, regardless of where such aircraft are located while at the Griffiss Airfield.

36.3 Lessee, its agents, employees, contractors, customers and invitees shall comply with all applicable TSA and FAA requirements related to the security of the Griffiss Airfield.

### **ARTICLE 37 - INVALIDITY**

37.1 If any provision of this Lease is determined to be invalid, illegal or unenforceable, the remaining provisions of this Lease shall remain in full force, if the essential terms and conditions of this Lease remain valid, binding and enforceable.

### **ARTICLE 38 - WAIVER**

38.1 Failure of Lessor to insist in any one or more instances upon strict performance of any of the covenants of this Lease which Lessee is required to perform, or to exercise any option herein contained, shall not be considered or construed as a waiver or relinquishment for the future of such covenants or option, but the same shall continue and remain in full force and effect. Receipt by Lessor of Annual Base Rent or additional rent with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach and no waiver by Lessor of any provision of this Lease shall be deemed to have been made unless clearly expressed in writing, signed by Lessor. Any written consent by Lessor required under this Lease shall not, if given, be construed as a waiver of the need for such consent in the future.

38.2 Failure of Lessee to insist in any one or more instances upon strict performance of any of the covenants of this Lease which Lessor is required to perform, or to exercise any option herein contained, shall not be considered or construed as a waiver or relinquishment for the future of such covenants or option, but the same shall continue and remain in full force and effect. No waiver by Lessee of any provision of this Lease shall be deemed to have been made unless clearly expressed in writing, signed by Lessee. Any written consent by Lessee required under this Lease shall not, if given, be construed as a waiver of the need for such consent in the future.

### **ARTICLE 39 - GENERAL**

39.1 Any covenant mentioned in this Lease shall be deemed a condition as well as a covenant. All monetary sums due to Lessor under this Lease which do not constitute Annual Base Rent shall be deemed to constitute additional rent.

39.2 Notwithstanding anything to the contrary herein contained, the Lessee shall have no right to exercise a Lessee Option hereunder if it is then in default under this Lease

### **ARTICLE 40 - REAL ESTATE BROKER**

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40.1 Lessor and Lessee each warrant and represent to the other that no real estate broker or any other person entitled to a commission has been instrumental in bringing about this Lease.

40.2 If any person makes claim for a brokerage commission in connection with this Lease and either party is required to pay for the same or incur any expense in connection therewith on account of it being established that such person was retained by the other party or acted at the other party's request, expressed or implied, the party responsible therefor shall hold the other party harmless therefrom and indemnify such other party for any payment or expense which such other party is required to so make or incur.

#### **ARTICLE 41 - QUIET ENJOYMENT**

41.1 Except as may otherwise be provided herein, Lessee, upon paying the Annual Base Rent and additional rent and other charges provided for by this Lease, and performing all the other terms of this Lease on Lessee's part to be performed, shall quietly have, hold and enjoy the Demised Premises during the Term without hindrance or molestation, subject, however, to the reservations and conditions of this Lease and any mortgage to which this Lease is now or hereafter may be subordinate.

#### **ARTICLE 42 - ATTORNEYS' FEES**

42.1 Except as may otherwise be provided in this Lease, in the event Lessor retains one or more attorneys to bring any legal action (whether informally by way of telephone conferences, meetings, correspondence, etc. or formally by way of an arbitration or administrative proceeding or court proceeding) to recover any monies due from Lessee under this Lease, or to compel Lessee to perform any other covenant and/or condition which Lessee is obligated to perform under this Lease, or in the event Lessor retains one or more attorneys to defend against any obligation imposed or intended to be imposed upon Lessor on account of Lessee's failure or alleged failure to perform Lessee's obligations under this Lease or on account of any other act or failure to act on the part of Lessee, Lessee shall be responsible for, and pay to Lessor, reasonable attorneys' fees and any other reasonable costs and disbursements incurred by Lessor in connection therewith, provided, however, that Lessor is the successful or prevailing party. The amount of such attorneys' fees and other costs and disbursements shall be deemed additional rent and shall be due and payable by Lessee to Lessor on the first (1<sup>st</sup>) day of the second month after Lessor gives Lessee notice of the amount thereof and demand therefor.

42.2 Except as may otherwise be provided in this Lease, in the event Lessee retains one or more attorneys to bring any legal action (whether informally by way of telephone conferences, meetings, correspondence, etc. or formally by way of an arbitration or administrative proceeding or court proceeding) to recover any monies due from Lessor under this Lease, or to compel Lessor to perform any other covenant and/or condition which Lessor is obligated to perform under this Lease, or in the event Lessee retains one or more attorneys to defend against any obligation imposed or intended to be imposed upon Lessee on account of Lessor's failure or alleged failure to perform Lessor's obligations under this Lease or on account of any other act or failure to act on the part of Lessor, Lessor shall be responsible for, and pay to Lessee, reasonable attorneys' fees and any other reasonable costs and disbursements incurred by Lessee in connection therewith, provided, however, that Lessee is the successful or prevailing party. The amount of such attorneys' fees and other costs and disbursements

shall be credited to the Lessee by the Lessor in Lessee's rent payments on the first (1<sup>st</sup>) day of the second month after Lessor gives Lessee notice of the amount thereof and demand therefor.

#### **ARTICLE 43 - BANKRUPTCY AND INSOLVENCY**

43.1 Lessee's interest in this Lease shall not pass to any trustee or receiver or assignee for the benefit of creditors or otherwise by operation of law, except as may specifically be provided pursuant to the Bankruptcy Code (11 USC 101, et. seq.), as the same may be amended from time to time.

(a) Upon the filing of a petition by or against Lessee under the Bankruptcy Code, Lessee, as debtor and as debtor-in-possession, and any trustee who may be appointed with respect to the assets of or estate in bankruptcy of Lessee agree to pay monthly, in advance, on the first (1<sup>st</sup>) day of each month, as reasonable compensation for the use and occupancy of the Demised Premises, an amount equal to all Annual Base Rent, additional rent and other charges otherwise due pursuant to this Lease.

(b) Lessee, as debtor and as debtor-in-possession, and any trustee who may be appointed with respect to the assets of or estate in bankruptcy of Lessee, agree that they will take all steps necessary to cause the Bankruptcy Court to enter an order, within sixty (60) days of the date of commencement of the bankruptcy proceeding, declaring this Lease to be either assumed or rejected. Lessee, as debtor and as debtor-in-possession, and any such trustee hereby agree to consent to any and all actions of Lessor taken with regard to the procurement of such an order. In the event that such an order shall not be entered within the time period set forth above, then Lessee, as debtor and as debtor-in-possession, and any such trustee hereby specifically agree to consent to the entry by such Bankruptcy Court of an order rejecting this Lease.

(c) Included within and in addition to any other conditions or obligations imposed upon Lessee or its successor in the event of assumption and/or assignment of this Lease are the following: (i) the cure of any monetary defaults and reimbursement of pecuniary loss within not more than thirty (30) days of assumption and/or assignment; (ii) the deposit of an additional sum equal to not less than three (3) months' Annual Base Rent, which sum shall be determined by Lessor, in its sole discretion, to be a necessary deposit to secure the future performance under the Lease of Lessee or its assignee; (iii) the use of the Demised Premises as set forth in Article 3 of this Lease; and (iv) obtaining the prior written consent of any mortgagee to which this Lease may have been assigned as collateral security.

#### **ARTICLE 44 - WAIVER OF JURY TRIAL**

44.1 Lessor and Lessee hereby waive, to the extent not prohibited by law, the right to a jury trial in any action, summary proceeding or legal proceeding between them arising out of or related to this Lease, Lessee's occupancy of the Demised Premises or Lessee's right to occupy the Demised Premises. Lessee hereby waives the right to interpose a counterclaim or cross claim in any summary proceeding instituted by Lessor against Lessee or in any action instituted by Lessor for unpaid Annual Base Rent, additional rent or other charges due under this Lease. This shall not be construed as a waiver of Lessee's right to assert such claims in any separate action brought by Lessee. However, Lessee shall not move to consolidate any such separate action with a summary proceeding instituted by Lessor against Lessee or any



action instituted by Lessor for unpaid Annual Base Rent, additional rent or other changes due under this Lease.

#### **ARTICLE 45 – FORCE MAJEURE**

45.1 If the Lessor is delayed, hindered or prevented from performing any act required under this Lease by reason of the concerted acts of workmen or other industrial disturbances, fires, explosions, floods or other natural catastrophes, civil disturbances, terrorism, war or other armed conflict whether declared or undeclared, curtailment, shortage, rationing or allocation of normal sources of supply of labor, materials, transportation, energy or utilities, accidents, acts of God, delays of subcontractors or vendors (where any such delay is due to a force majeure event), strikes, lockouts, labor troubles, restrictive government laws or regulations, riots, the act, failure to act or default of the Lessee, or other reason beyond Lessor's reasonable control, then performance of the act shall be excused for the period of the delay. In that event, the period for the performance of the act shall be extended for a period equivalent to the period of the delay.

45.2 Notwithstanding the provisions of Section 45.1 above, if the Lessor is delayed, hindered or prevented from performing any act required under this Lease by reason of a force majeure event, it shall so notify the Lessee and shall undertake to perform the act in question within a commercially reasonable period of time if such commercially reasonable period of time would be shorter than the extended period allowed for Lessor's performance under said Section.

#### **ARTICLE 46 – LESSEE ESTOPPEL CERTIFICATES**

46.1 Lessee shall, within ten (10) Business Days after a request by Lessor, execute, acknowledge and deliver to Lessor a written statement (the "Estoppel Certificate") certifying that this Lease is unmodified and in full force and effect (or that it is in full force and effect as modified, listing the instruments of modification), the dates to which the rent and other charges have been paid, whether or not to the best of Lessee's knowledge, Lessor is in default hereunder (and, if so, specifying the nature of each default), and whether or not the Lessee has any setoff, counterclaim or defense (and, if so, specifying the nature of such setoff, counterclaim or defense). The Estoppel Certificate shall be in substantially the same form as the sample Estoppel Certificate annexed hereto as **Exhibit K**

#### **ARTICLE 47 – COUNTERPARTS**

47.1 This Lease may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

#### **ARTICLE 48 – GOVERNING LAW**

48.1 All matters arising out of or relating to this Lease shall be governed by, construed and enforced in accordance with the law of the State of New York, without reference to its choice of law rules or principles.

## **ARTICLE 49 - CAPTIONS**

49.1 The Article and Section captions contained in this Lease are for convenience only and do not define, limit or construe the contents of such Articles and Sections and are in no way to be construed as part of this Lease.

## **ARTICLE 50 - REFERENCES**

50.1 Wherever in this Lease the singular number is used, the same shall include the plural, and the masculine, feminine and neuter gender shall include each other, if otherwise applicable or appropriate. Any reference in this Lease to "Section" or "Article", unless expressly indicated otherwise, refers to a Section or Article of this Lease.

## **ARTICLE 51 - HOLDOVER**

51.1 Should Lessee continue to occupy the Demised Premises after expiration of the Term, or after a forfeiture incurred, whether with or without the consent of Lessor, then, unless expressly provided otherwise in a writing signed by Lessor, such tenancy shall be from month-to-month and in no event from year-to-year or term-to-term, and such month-to-month tenancy shall be under all the terms, covenants and conditions of this Lease, except that (a) the Lessee's Options, if any, shall be deemed to have expired or been terminated and (b) the Lessee shall, in the case of expiration, pay one hundred fifteen percent (115%) of the monthly minimum rent payable immediately preceding such expiration plus any additional rent which is due and, in the case of forfeiture, one hundred fifteen percent (115%) of the monthly minimum rent which would thereafter have been payable but for such forfeiture plus any additional rent which is due.

## **ARTICLE 52- CHANGES**

52.1 This Lease may not be modified, changed, discharged or terminated except by a written instrument executed by both Lessor and Lessee expressly so providing.

## **ARTICLE 53 - LATE CHARGES; INTEREST**

53.1 Any item of Annual Base Rent and additional rent becoming due under this Lease and not paid within ten (10) days of the date when due shall bear interest from the date upon which the Lessor gives the Lessee written notice that such payment is past due until received by the Lessor in immediately available funds at the rate of eighteen percent (18%) per annum or at the highest lawful rate of interest permitted by law at the time, whichever rate is lower.

## **ARTICLE 54 - MISCELLANEOUS**

54.1 Lessor and Lessee acknowledge and agree that this Lease has been freely negotiated by both parties and that in any controversy, dispute or contest over the meaning, interpretation, validity, or enforceability of this Lease or any of its terms and provisions, there shall be no inference, presumption or conclusion drawn whatsoever against either party by virtue of that party having drafted this Lease or any portion thereof.

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54.2 Any and all rights and remedies which the Lessor may have under this Lease and at law or in equity shall be cumulative and shall not be deemed inconsistent with each other, and any two or more or all of such rights and remedies may be exercised at the same time.

54.3 With respect to any provision of this Lease which provides, in effect, that Lessor shall not unreasonably withhold, delay or condition any consent or approval, Lessee, in no event, shall be entitled to make, nor shall Lessee make, any claim for, and Lessee hereby waives any claim for, money damages; nor shall Lessee claim any money damages by way of setoff, counterclaim or defense, based on any claim or assertion by Lessee that Lessor has unreasonably withheld, delayed or conditioned any consent or approval; but Lessee's sole remedy shall be an action or proceeding to enforce any such provisions, or for specific performance, injunction or declaratory judgment.

54.4 Lessee represents and warrants to Lessor that (i) Lessee's execution and delivery of each of the Lease Documents was duly authorized by all necessary corporate, shareholder and/or legal action, (ii) that each of the Lease Documents was duly executed and delivered by Lessee's duly authorized officer, and (iii) that each of the Lease Documents is Lessee's legal and valid binding obligation and is enforceable against it in accordance with its respective terms.

54.5 Notwithstanding anything to the contrary contained in this Lease (or in any other Lease Document), this Lease shall not take effect until it is first duly authorized and approved by the Oneida County Board of Legislators in accordance with applicable law.

#### **ARTICLE 55 - LESSOR'S NON-LIABILITY**

55.1 Lessor shall not be liable to Lessee for any shortage or failure of heat, utilities or services at or in the Demised Premises or for interference with other incorporeal hereditaments, regardless of the cause therefor, unless caused by Lessor's intentional act or negligence. No diminution or abatement of Annual Base Rent or additional rent or any of Lessee's other obligations hereunder shall be allowed for any reason or circumstance whatsoever unless expressly provided for in this Lease. No interruption or curtailment of any utilities including, without limitation, steam, water and/or sewer, electricity or telecommunications services shall be deemed a constructive eviction.

55.2 No claim shall be made by Lessee against Lessor in any case for compensation or damages by reason of interruption of Lessee's business or occupation as a result of any damage to, or destruction of, the Demised Premises or any part thereof by fire or any other cause, or arising from the necessity of repairing and rebuilding the same.

55.3 Lessor shall not be liable to Lessee for any loss or damage occasioned by or through the acts or omissions of other tenants or occupants of the Griffiss Business Park or the Griffiss Airfield.

#### **ARTICLE 56 - CONDITION OF DEMISED PREMISES**

56.1 Subject to the terms and provisions of this Lease, the Lessor shall deliver to the Lessee possession of the Demised Premises on the Second Rent Commencement Date in "good working order". The Lessee shall inspect, know, and accept the condition and state of repair of the Demised Premises as of the Second Rent Commencement Date. By taking possession of the Demised Premises

on the Second Rent Commencement Date, Lessee shall be deemed to have acknowledged and accepted that the Demised Premises is in "good working order" subject only to Lessor's (a) "final correction and/or completion" of the items on the Punch List and (b) obligation to repair any "latent defects" to the reasonable satisfaction of Lessee. The Lessor shall not be liable for any business losses or lost profits or opportunity or any other loss, expense or damage attributable or incident to the condition or state of repair of the Demised Premises. The Lessee acknowledges that the Lessor has not made any representation or warranty, express or implied, concerning the condition and/or state of repair of the Demised Premises nor has it made any agreement or promise to alter, improve, adapt or repair the Demised Premises which has not been expressly set forth in this Lease.

#### **ARTICLE 57 - COMPLIANCE WITH LAWS AND REGULATIONS**

57.1 Lessee shall, at Lessee's own cost and expense, execute and comply with all laws, orders, ordinances and regulations at any time issued or in force applicable to the Demised Premises, made by any governmental body and each and every department, official and bureau thereof, and by the appropriate Board of Fire Underwriters or similar authority relating to Lessee's use and occupancy of the Demised Premises or any condition caused therein by Lessee. The provisions of this Section 57.1 shall require Lessee to remove and dispose of, at its own cost and expense, any Hazardous Substances, originated and/or generated as a result of Lessee's use of the Demised Premises. Without limiting the generality of the foregoing, the Lessee shall, at Lessee's own cost and expense, recognize, execute and comply with any and all federal, state and/or local laws, orders, ordinances, regulations and rules, including, without limitation, County, FAA and/or other federal agency regulations which are related to the use and operation of an airport, imposed on, affecting, governing or otherwise applicable to the Griffiss Airfield and/or the Demised Premises.

#### **ARTICLE 58 - BINDING EFFECT**

58.1 This Lease shall be binding upon and inure to the benefit of the Lessor and its successors and assigns, and Lessee and its permitted successors and assigns. If there be more than one person jointly referred to as "Lessee", each such person so jointly referred to shall be jointly and severally liable for all of the covenants, agreements and obligations of this Lease required to be performed or observed by the Lessee.

#### **ARTICLE 59 - ENTIRE AGREEMENT**

59.1 This Lease (including the exhibits thereto) contains the entire agreement of the parties with respect to the subject matter hereof and no oral statement or written matter prior to the date of this Lease shall have any effect or force. The submission by Lessor of the within Lease in draft form shall be deemed submitted solely for Lessee's consideration and not for acceptance, and execution shall confer no rights or impose any obligations, including brokerage obligations, upon either Lessor or Lessee or assignees unless and until Lessor and Lessee shall both have executed this Lease and duplicate originals thereof shall have been delivered to and received by each. Lessee acknowledges that Lessor, its agents, employees and representatives, have made no representations, warranties or promises, express or implied, with respect to the Demised Premises or any other matter whatsoever except as may be expressly set forth herein.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Lease on the day and year first above written.

**LESSOR:**

**COUNTY OF ONEIDA**

By: \_\_\_\_\_  
Anthony J. Picente, Jr.  
Oneida County Executive

**LESSEE:**

**EMPIRE AERO CENTER, INC.**

By: \_\_\_\_\_  
Brian Olsen  
President

By: \_\_\_\_\_  
Michael Migliore  
Chief Financial Office

109.

**EAC LEASE AGREEMENT  
LIST OF EXHIBITS**

EXHIBIT "A"	GENERAL PLAN OF GRIFFISS AIRFIELD
EXHIBIT "B-1"	DIAGRAM-BUILDING 100-FIRST FLOOR PLAN
EXHIBIT "B-2"	DIAGRAM-BUILDING 100-SECOND FLOOR PLAN
EXHIBIT "B-3"	DIAGRAM-BUILDING 100-THIRD FLOOR PLAN
EXHIBIT "C"	DIAGRAM OF BLDG. 100 VEHICLE PARKING PLAN
EXHIBIT "D"	GRIFFISS AIRFIELD REGULATIONS (not attached herewith – available from Airport Commissioner upon Lessee's request to inspect)
EXHIBIT "E"	ENVIRONMENTAL REPORTS (to be provided)
EXHIBIT "F"	MAP OF GRIFFISS AIRFIELD AND GRIFFISS BUSINESS PARK
EXHIBIT "G"	LESSOR'S BUILDING 100 PLANS AND SPECIFICATIONS (to be provided)
EXHIBIT "H"	DIAGRAM OF SNOW REMOVAL AREAS
EXHIBIT "I"	SAMPLE ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION
EXHIBIT "J"	MAP SHOWING GRIFFISS AIRFIELD PERIMETER SECURITY FENCING
EXHIBIT "K"	SAMPLE ESTOPPEL CERTIFICATE

EXHIBIT "A"

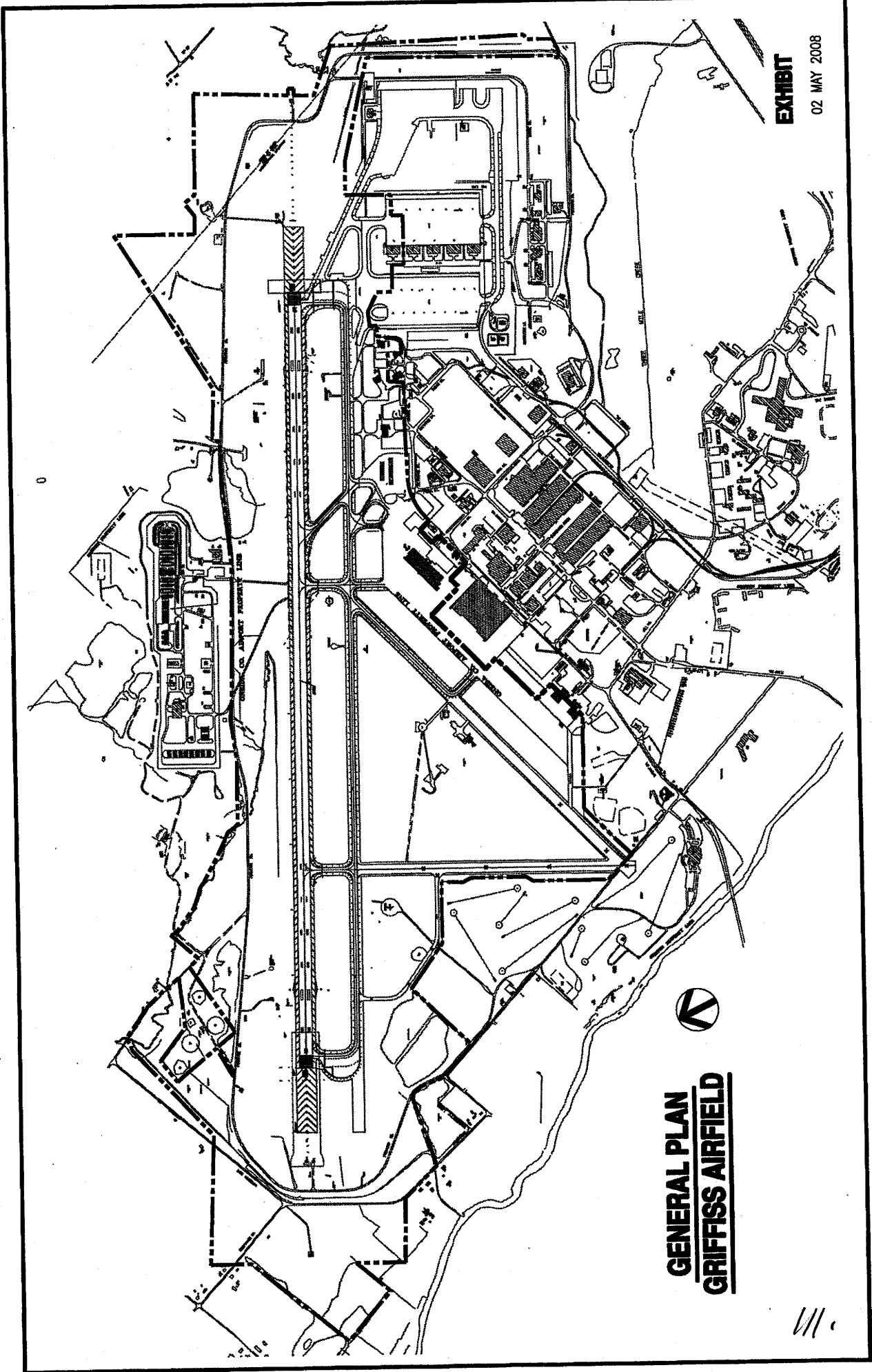
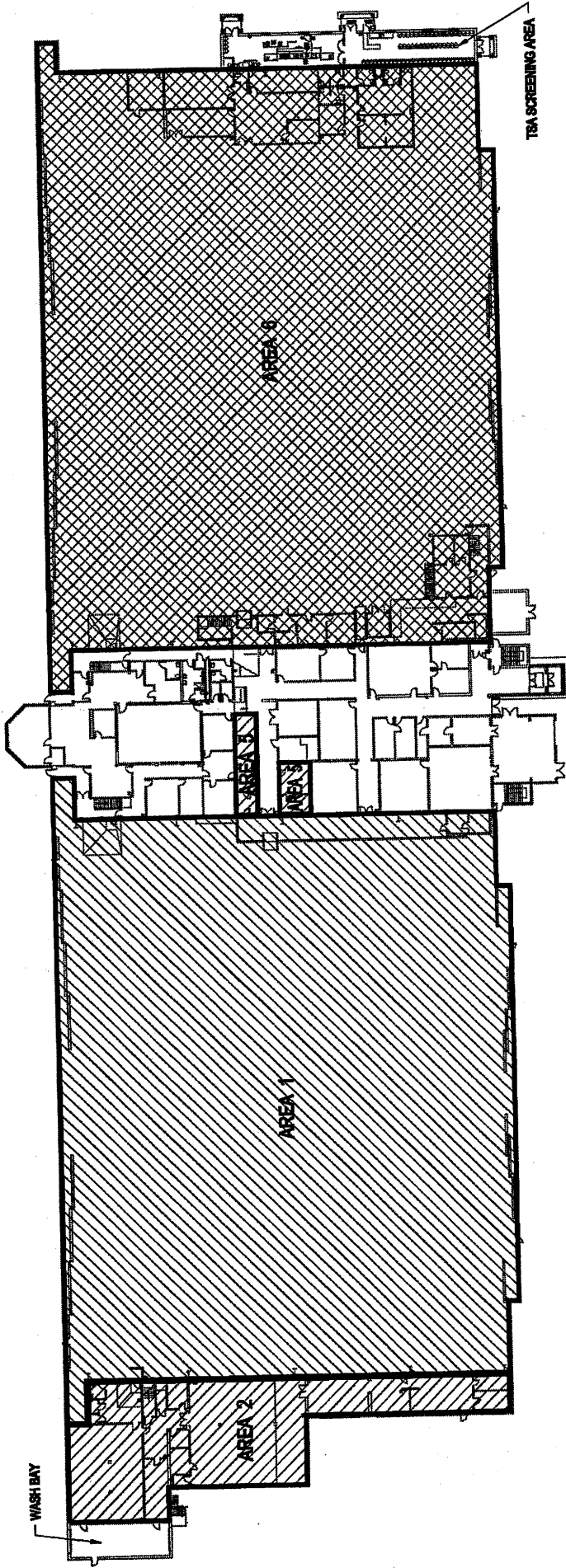


EXHIBIT  
02 MAY 2008

**GENERAL PLAN**  
**GRIFFISS AIRFIELD**

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EXHIBIT "B-1"



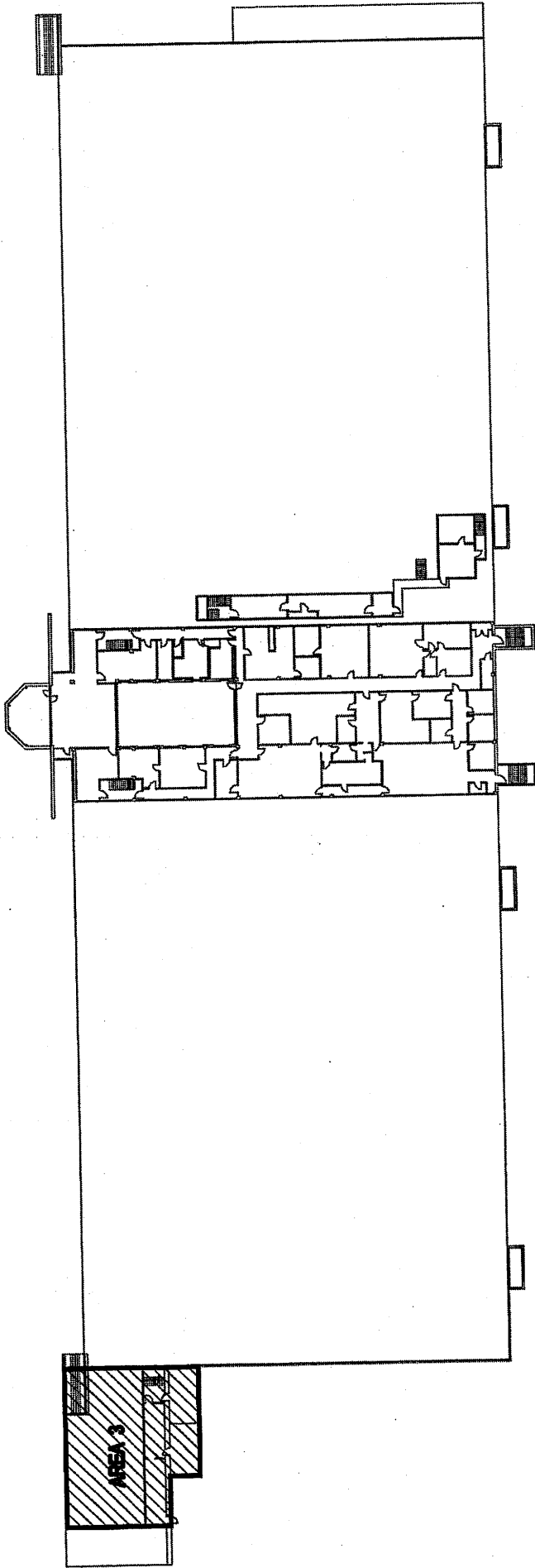
**BUILDING 100**  
**FIRST FLOOR PLAN**

INITIAL LEASE AREAS	
AREA No. 1	56,885 SF
AREA No. 2	7,805 SF
AREA No. 3	4,261 SF
AREA No. 4	3,115 SF
AREA No. 5	827 SF
AREA No. 6	58,065 SF
<b>TOTAL AREA</b>	<b>130,968 SF</b>

EXHIBIT B-1  
 02 MAY 2008

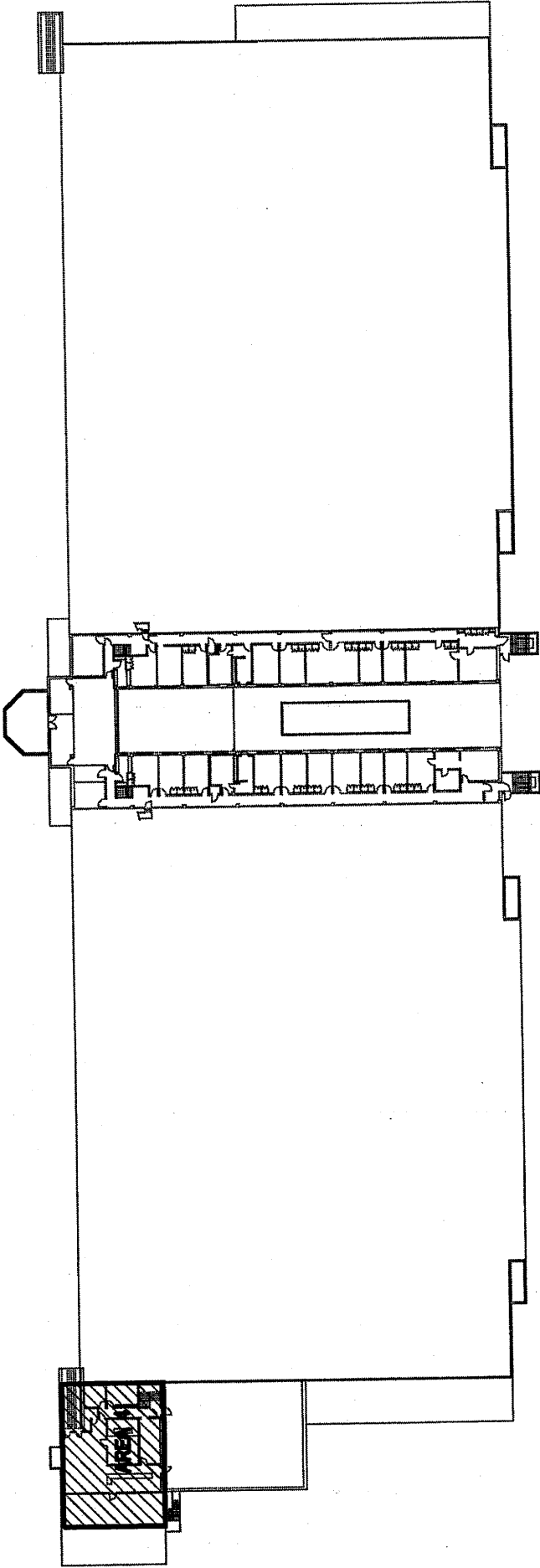
112.





**BUILDING 100**  
**SECOND FLOOR PLAN**

EXHIBIT 'B-3'



**BUILDING 100**  
**THIRD FLOOR PLAN**

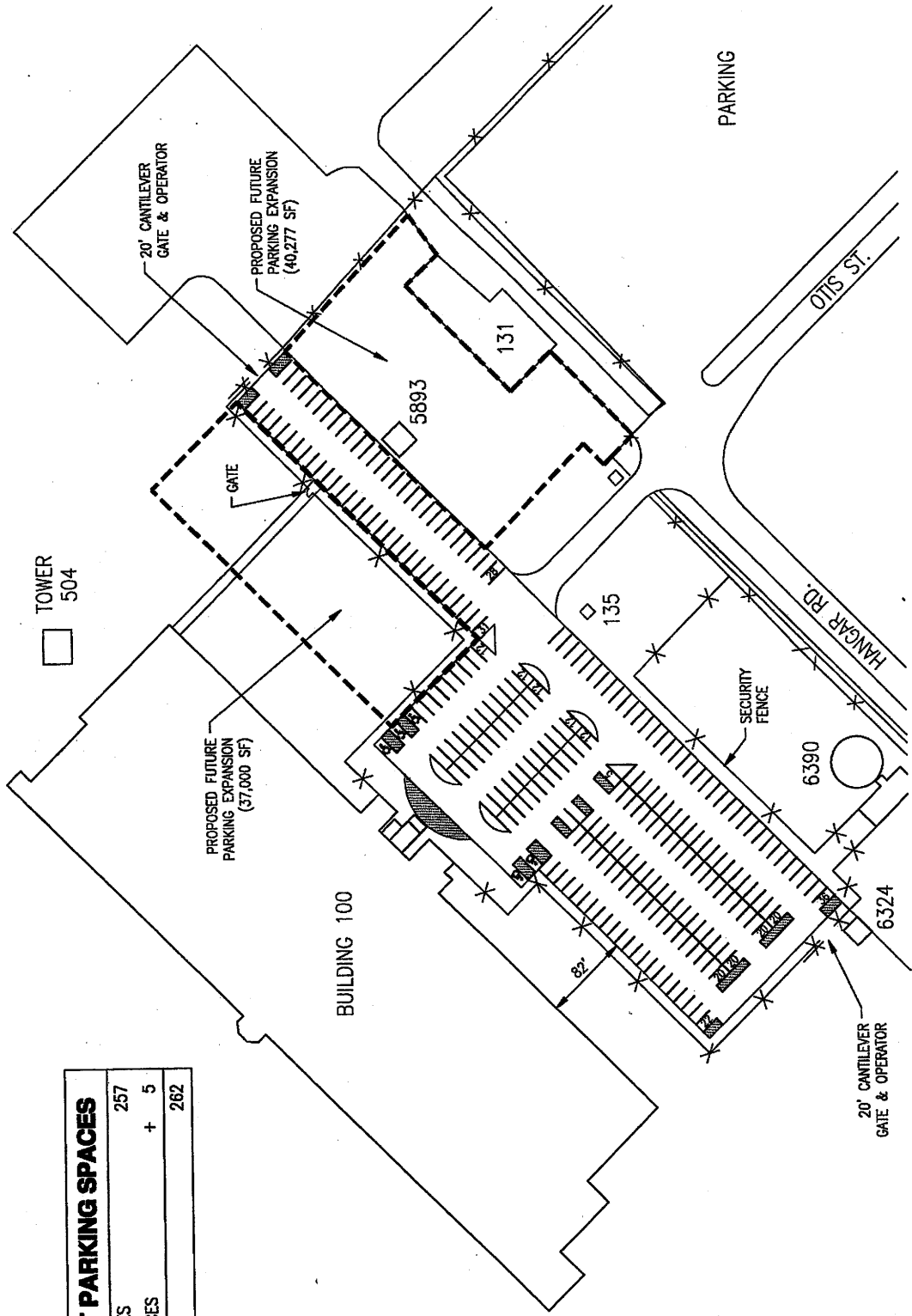


114.

EXHIBIT B-3

02 MAY 2006

EXHIBIT "C"



CURRENT PARKING SPACES	
PARKING SPACES	257
HANDICAP SPACES	+ 5
TOTAL SPACES	262

**BUILDING 100  
VEHICLE PARKING PLAN**

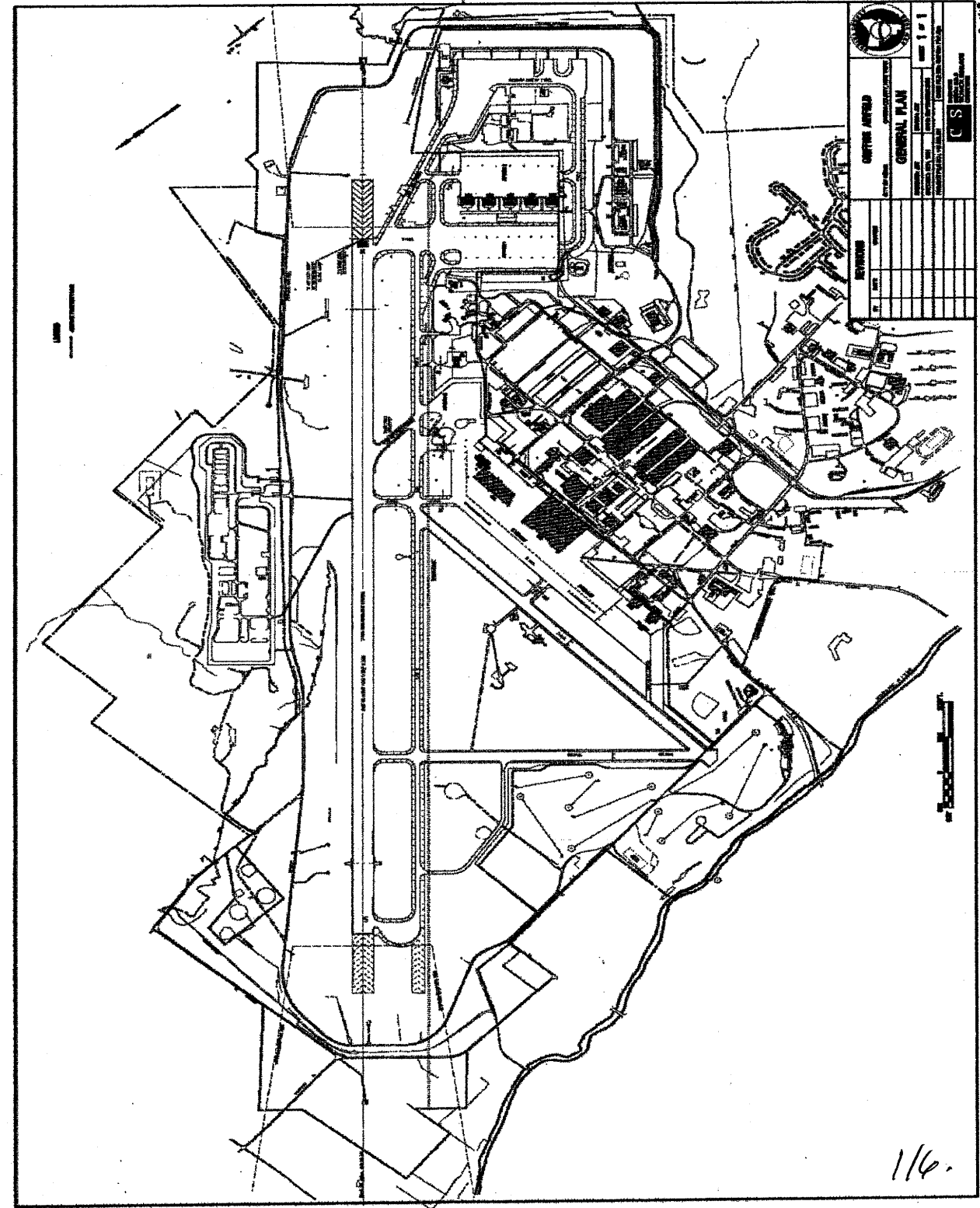


EXHIBIT

02 MAY 2008

115.

EXHIBIT "F"

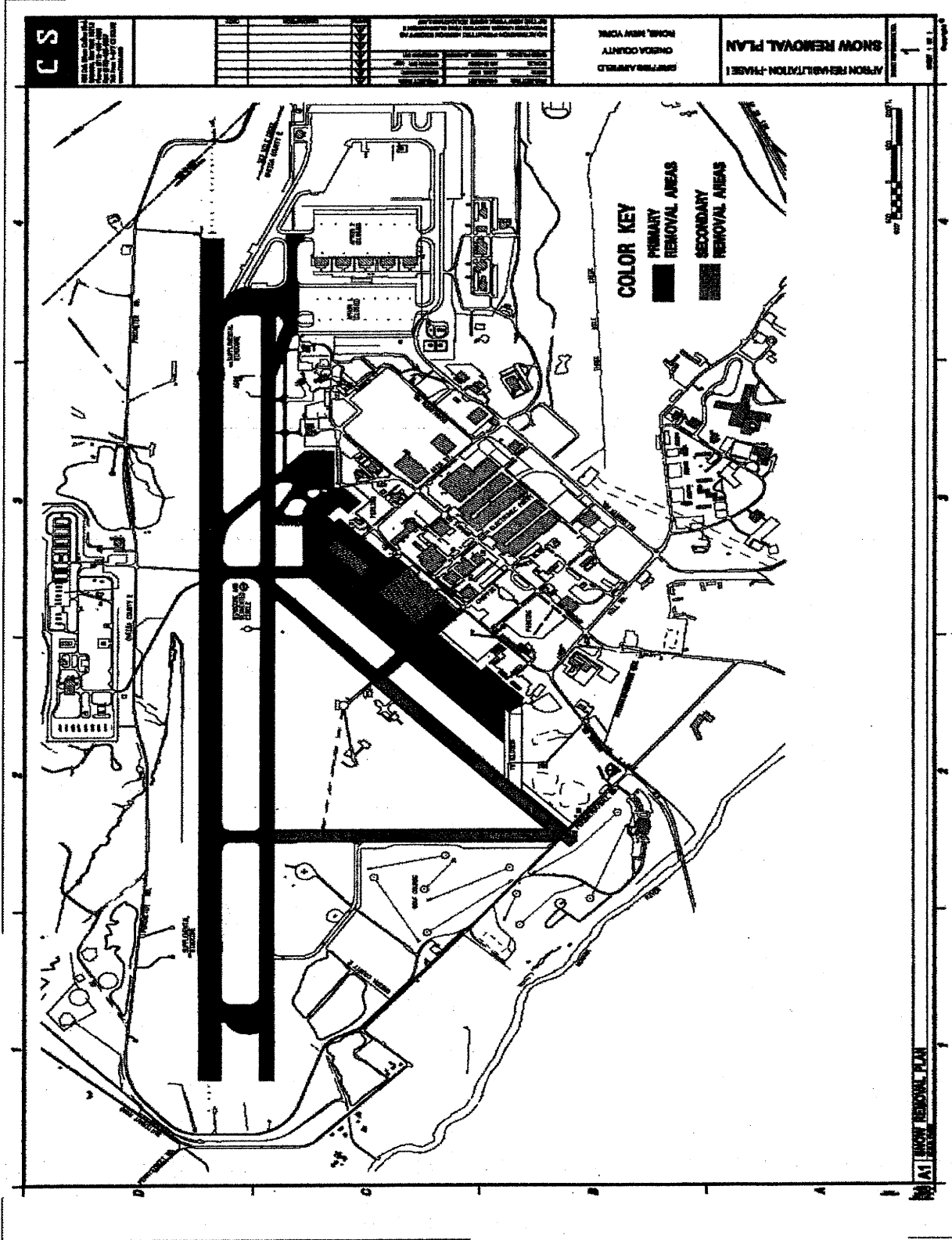


305-6

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

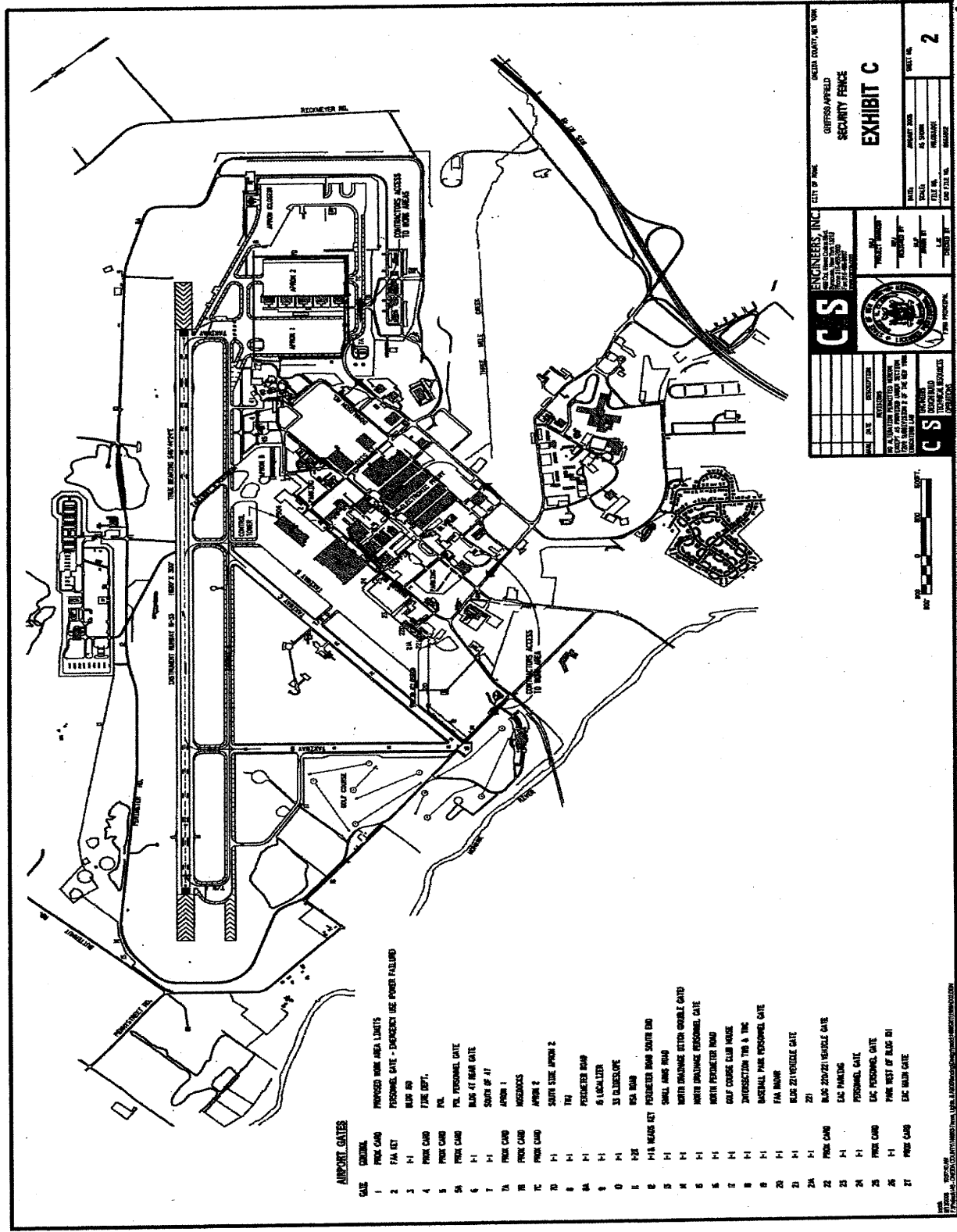
Revision Date: \_\_\_\_\_

EXHIBIT "H"



117.

EXHIBIT "J"



**C S ENGINEERS, INC.** CITY OF ANNE ARBOR, MICHIGAN  
 SECURITY FENCE  
**EXHIBIT C**

DATE: \_\_\_\_\_  
 DRAWN BY: \_\_\_\_\_  
 CHECKED BY: \_\_\_\_\_  
 SCALE: AS SHOWN  
 SHEET NO. 2  
 OF TOTAL SHEETS

335-2

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

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

118.